



## INTRODUCTION

The Claim Objections<sup>2</sup> are well grounded in law and in fact. They are not, as the Trustee and Receiver argue, vexatious or retaliatory. The Claim Objections are the necessary consequence of (i) the adversary proceedings filed by the Trustee against the Seg 1 Claimants (the “Adversary Proceedings”) in which the Trustee seeks to recover not only the post-petition distributions received by the customers of the Seg 1 Claimants but all prepetition withdrawals made during the preference period, net of new value, coupled with (ii) the failure of the Trustee to pursue, or even address, the prepetition distributions made to any customers of the Debtor other than certain Seg 1 Customers.

Because of the nature of its customers’ businesses, Sentinel advertised and offered immediate liquidity and same day withdrawals. Thus, with limited exceptions not relevant to the Objection, all withdrawals prior to Sentinel’s August 13, 2007 announcement that it was suspending redemptions were received on the day the request was made and are textbook examples of “ordinary course of business” payments under section 547(c)(2) of the Bankruptcy Code. The Trustee, however, has sued the Seg 1 Claimants to avoid prepetition withdrawals on the theory that the “ordinary course of business” defense does not apply. Indeed, in his Omnibus Response to Defendant’s Motion to Stay Adversary Proceedings, the Trustee argued that Sentinel was a Ponzi or other fraudulent scheme, stating that “when there is a massive fraud like the one committed here by certain of Sentinel’s insiders, then the ordinary course defense does not apply as a matter of law.” Trustee’s Omnibus Response, p. 10.

Based on the Trustee’s no “ordinary course of business” theory (an unsupportable theory which the Seg 1 Claimants disagree with), no prepetition withdrawals would have the benefit of an “ordinary course” defense, and all prepetition withdrawals, net of new value, would be avoidable as preferences regardless of whether the customers’ funds were in Seg 1, Seg 3, or another segregated account. Consequently, preference litigation initiated by the Trustee against the Seg 3 Customers is inevitable. To date, however, the Trustee has sued only the Seg 1 Claimants and one other Seg 1 customer, TradeMaven, for avoidance of prepetition withdrawals.

---

<sup>2</sup> The Seg 1 Claimants have filed objections to Proofs of Claim No. 27, 28, 29, 30, 33, 36, 37, 39, 106, 107, 108, 109, 110, 111, 112, 114, 123, 125, 129 and 130 (collectively, the “Claim Objections”).

As preference litigation against the Seg 3 Customers is inevitable, the Trustee should not be making distributions to such customers on account of their claims pursuant to section 502(d) of the Bankruptcy Code. The Trustee argues that he “will take avoidance actions into account when making interim distributions [to Seg 3 Customers] and will consider the claims of the recipients of such transfers to be ‘disputed’ for purposes of calculating and taking reserves against distributions.” *See* Trustee Motion, pp. 9-10. However, the Trustee has stated on the record that he is anxious to dismiss the Claim Objections so that he can make distributions to Seg 3 customers as soon as the Third Amended Plan of Liquidation (the “Plan”) is confirmed.<sup>3</sup> If the Trustee intended to hold back distributions to the holders of Seg 3 claims that received avoidable preferences, he should not be in any hurry to dismiss the Claim Objections since the holder of each claim objected to received preferences, net of new value, and each claim should be “disputed” by the Trustee and not eligible to receive a distribution. Given the Trustee’s apparent zeal to make distributions and protect the interests of Seg 3 Customers at the expense of other customers, the Seg 1 Claimants had no choice but to pursue the Claim Objections to prevent distributions to Seg 3 Customers that may be required to return pre-petition withdrawals. No distributions should be made to Seg 3 Customers until a determination is made regarding the avoidability of the withdrawals received by them in the preference period.

Contrary to the arguments made in the Motions, the Claim Objections are well grounded in law and in fact. First, as creditors of Sentinel and parties in interest in this bankruptcy case, the Seg 1 Claimants have standing to bring the Claim Objections. Second, objections to claims pursuant to section 502(d) of the Bankruptcy Code may be brought by any party in interest in a bankruptcy case and are not restricted to situations where there is a pending judgment. Third, based on the (incorrect) theory advanced by the Trustee against the Seg 1 Claimants, the creditors subject to the Claim Objections also received avoidable transfers of property of the Debtor. Fourth, even *if* this Court confirms the Plan, the Seg 1 Claimants would still be entitled to pursue the Claim Objections since the objections were filed before confirmation. Fifth, the Trustee’s decision regarding whether he will treat all recipients of pre-petition withdrawals the same by suing all customers, and not just the Seg 1 Claimants, will have enormous financial

---

<sup>3</sup> See Transcript of proceedings before Hon. John H. Squires, November 13, 2008 at p. 9. A copy of the relevant portion of the Transcript is attached hereto as Exhibit A.

consequences for all creditors in this case. In sum, the Seg 1 Claimants should be allowed to pursue the Claim Objections, and the Motions should be denied.

## ARGUMENT

### As Parties In Interest, The Seg 1 Claimants May Assert Claim Objections

It is well established that pursuant to section 502(a) of the Bankruptcy Code, any party in interest may submit an objection to a claim or interest, proof of which has been filed under section 501 of the Bankruptcy Code. *See* 11 U.S.C. § 502(a). “Any party in interest may object to a claim.” *In re Solutia, Inc.*, No. 05-01202, 2006 WL 2640641, at \*1 (Bankr. S.D.N.Y. Sept. 14, 2006); *In re Manchester Gas Storage, Inc.*, 309 B.R. 354, 369 (Bankr. N.D. Okla. 2004) (“[s]ection 502(a) provides that any ‘party in interest’ may object to a claim.”). Although the term “party in interest” is not defined in the Bankruptcy Code, section 1109(b) flushes out its meaning in chapter 11 cases. *Solutia*, 2006 WL 2640641, at \*1. Section 1109(b) provides, in pertinent part:

A party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or an indenture trustee, may raise and may appear and be heard on any issue in a case under this chapter.

11 U.S.C. § 1109(b). Each of the Seg 1 Claimants is a creditor of the Debtor. Each Seg 1 Claimant has filed a proof of claim in the Debtor’s bankruptcy case and has been scheduled by the Trustee as holding a deficiency claim. As such, the Seg 1 Claimants are parties in interest in this case and are entitled to file objections to claims and be heard on any issues in this case.

The Trustee’s argument that only he may pursue claim objections in this case is simply wrong. First, the Trustee’s reliance on *Collier on Bankruptcy* and the advisory committee notes to Bankruptcy Rule 3007 is misplaced. *See* Trustee Motion at p 5. Indeed, *Collier* and the advisory committee notes to Bankruptcy Rule 3007 provide that the plain language of Section 502(a), recognized by a litany of cases, clearly state that *any* party in interest may file an objection to a claim. *See* 4 COLLIER ON BANKRUPTCY ¶502.02[2][d] (“In fact, the right of a creditor to object to the allowance of another creditor’s claim should be undisputed on principle.”); Fed R. Bankr. P. 3007 advisory committee notes (“Pursuant to §502(a) of the Code, however, any party in interest may object to a claim.”); 11 U.S.C. §502(a).

Second, *In re Thompson*, cited by the Trustee, dealt with the right of a Chapter 7 Trustee to file objections to claims and relied on section 704(5) of the Bankruptcy Code for the authority that only the Trustee could object to a claim absent court permission. *See Kowal v. Malkemus (In re Thompson)*, 965 F. 2d 1136, 1147 (1<sup>st</sup> Cir. 1992). Here, Sentinel’s bankruptcy is being administered under chapter 11 of the Bankruptcy Code. In addition, limiting the right to object to claims to the Trustee would be inconsistent with section 1109(b) of the Bankruptcy Code which allows any party in interest to raise, appear and be heard on any issue in a case under chapter 11. *See* 11 U.S.C. § 1109(b).

### **Seg 1 Claimants May Object to Claims Under Section 502(d)**

#### **The Plain Language of Section 502 of the Bankruptcy Code Allows the Seg 1 Claimants to File Claim Objections**

The Seg 1 Claimants may object to claims under the plain language of section 502 of the Bankruptcy Code. *See U.S. v. Ron Pair Ent., Inc.* 489 U.S. 235, 242 (1989) (holding that the plain language of a statute is conclusive, except in the rare cases in which the literal application of a statute will produce a result “demonstrably at odds with the intentions of its drafters”). As discussed above, section 502(a) of the Bankruptcy Code states that any party in interest may bring an objection to a claim. Section 502(d) provides:

Notwithstanding subsections (a) and (b) of this section, the court shall disallow any claim of any entity from which property is recoverable under section 542, 543, 550, or 553 of this title or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of this title, unless such entity or transferee has paid the amount, or turned over any such property, for which such entity or transferee is liable under section 522(i), 542, 543, 550, or 553 of this title.

11 U.S.C. §502(d). Nowhere does the statutory language of section 502(d) purport to limit which parties in interest may bring an objection under that section. Instead, section 502(a) states that any party in interest may bring an objection to a claim. Section 502(d) provides such parties in interest with additional grounds to object to allowance of a claim, namely failure to repay an avoidable transfer to the estate. Nowhere does section 502(a), section 502(d) or any other provision of the Bankruptcy Code limit the scope of who may bring an objection under section 502(d). If Congress’s intention was to limit the right to bring an objection under section 502(d), then there should be specific language limiting parties’ rights. No such language is present. In

the absence of such specific language, the inference is that the general language of section 502(a) allowing any party in interest to bring an objection would apply.

In addition, while sections 544, 545, 547, 548 and 549 of the Bankruptcy Code specifically authorize only the Trustee to pursue such avoidance actions, the language of section 502(d) does not contain any such limitation. Indeed, where the party bringing the 502(d) objection does not seek the avoidance of any transfer or the turnover of any property, a separate adversary proceeding or other action under section 544, 545, 547, etc. is not needed to disallow a claim under section 502(d). *See In re Stoecker*, 143 B.R. 118, 132-133 (Bankr. N.D. Ill. 1992). Here, the Seg 1 Claimants do not seek the turnover or avoidance of any property. They merely seek the disallowance of claims pending a determination of the avoidability of the pre-petition withdrawals made by the holders of the claims subject to the Claim Objections. Since no adversary proceeding is needed to pursue a 502(d) objection, the Trustee is not a necessary party for such action.

The Trustee relies on two decisions from other circuits, *Energy Income Fund, L.P. v. Compression Solutions Co., L.L.C. (In re Magnolia Gas Co., L.L.C.)*, 255 B.R. 900, 915 (Bankr N.D. Okla. 2000) and *United Jersey Bank v. Morgan Guar. Trust Co. of New York (In re Prime Motor Inns, Inc.)* 135 B.R. 917, 920-21 (Bankr S.D. Fla. 1992), for his argument that a creditor's lack of standing to prosecute avoidance actions means that a creditor lacks standing to file an objection under section 502(d). The *Magnolia Gas* decision, relying on the holding in the *Prime Motor Inns* case, held that because section 502(d) does not incorporate the "any party in interest" language found in section 502(a), then only a Trustee, debtor in possession or estate representative may bring a 502(d) objection since only those parties may assert an objection under section 547.

*Magnolia Gas* and *Prime Motor Inns* are contrary to the plain language of the Bankruptcy Code and accepted canons of statutory construction. Part (a) of section 502 is the only part of section 502 that contains the "party in interest" language. Section 502(a) gives parties in interest general standing to object to any claim on any valid basis. Other subparts of section 502 go on to provide additional bases for and limitations on claim objections. There is no basis to believe, for example, that any party in interest could not object to a claim pursuant to section 502(e) (claim of an entity that is liable with the debtor) or 502(g) (lease claims) even though these sections also do not contain the "party in interest" language.

The Supreme Court has counseled that statutory construction is a “holistic endeavor.” *United Sav. Ass’n of Texas v. Timbers of Inwood Forest Associates, Ltd.*, 484 U.S. 365, 371 (1988). It would make no sense for the “party in interest” language to apply to sections 502(e), 502(g) and other subparts of 502, but not to section 502(d), despite no limiting language in 502(d). The proper interpretation of section 502 is that the “party in interest” language contained in section 502(a) applies to all parts of section 502, including objections to specific types of claims outlined in parts (d), (e) and (g) of section 502. The Seg 1 Claimants therefore have standing to file the Claim Objections.

**The Absence of a Requirement that the Underlying Transfer be Avoided Supports the Standing of the Seg 1 Claimants**

This Court has held that an objection under section 502(d) is valid even if the underlying avoidable transfer that is the basis for the objection has not been avoided and there is no pending adversary proceeding to avoid the transfer. *See Stoecker*, 143 B.R. at 131; *see also In re Mid Atlantic Fund, Inc.*, 60 B.R. 604, 609 (Bankr. S.D.N.Y.1986). So long as the transfer is avoidable, an objection to a transferee’s claim under section 502(d) is valid. There is no requirement that the transfer actually be avoided. In both *Stoecker* and *Mid Atlantic*, for example, the Trustee was allowed to use section 502(d) defensively to object to allowance of claims even though there was no pending adversary proceeding and the statute of limitations set forth in section 546 of the Bankruptcy Code for bringing an adversary proceeding to avoid the allegedly preferential transfer had expired. *Stoecker*, 143 B.R. at 131; *Mid Atlantic*, 60 B.R. at 609. In addition, there is no requirement that there be an actual judgment avoiding a claim before the claim can be subject to disallowance under section 502(d). *See, e.g., In re Red Dot Scenic, Inc.*, 313 B.R. 181 (Bankr S.D.N.Y. 2004); *In re Southern Air Transport, Inc.*, 294 B.R. 293 (Bankr. S.D. Ohio 2003). If an objection under section 502(d) is valid even if the statute of limitations to bring an action under section 547 has run and an adversary proceeding cannot be brought, it would clearly be inconsistent for the statutory language of section 547 limiting standing to the Trustee to bar another party from bringing a 502(d) objection. In short, nothing in section 502(d) prevents any party in interest from bringing an objection under that section.

In the Receiver Motion, the Receiver argues that an objection to a claim under section 502(d) is valid only if the claimant has already been adjudged liable. The Receiver further argues that *Stoecker*, *Red Dot*, and *Southern Air Transport* do not support the Seg 1 Claimants’

position. A review of those cases, along with other case law shows that a final adjudication of liability is not needed to disallow a claim under section 502(d). A claim may be disallowed temporarily, subject to reconsideration, upon an allegation of an avoidable transfer and an opportunity for the court to determine if there has been an avoidable transfer. In *Red Dot*, for example, the court stated:

[S]ection 502(d) of the Bankruptcy Code does not even necessarily require the entry of a judgment, let alone the failure to enforce one, for a claim to be disallowed: “To assure the effectuation of the purpose of this section, a claim may be disallowed at least temporarily and for certain purposes, subject to reconsideration, simply upon the allegation of an avoidable transfer. But to prevent abuse of this section this initial disallowance should be made by judicial determination, whether it be obtained in a claim objection or by some form of declaratory judgment action.”

*Red Dot*, 313 B.R. at 186, citing 4 COLLIER ON BANKRUPTCY ¶ 502.05[2][a] at 502-59. In *Southern Air Transport*, the court likewise held that while a judicial determination on the preference matter was necessary before the court could allow or disallow the claim, the court would hold its decision on allowance or disallowance of the claim in abeyance pending adjudication of liability under section 547 in an adversary proceeding pending against the claimant. *Southern Air Transport*, 294 B.R. at 297. Moreover, in *Stoecker*, while the claimants conceded that they had received a preferential transfer, the court nevertheless stated that it would have found that they had received a preference had the point not been conceded since the Trustee had made a *prima facie* showing that the transfers were preferential. *Stoecker* 143 B.R. at 131.

Here, the Seg 1 Claimants are requesting that the Claim Objections be sustained temporarily pending either the dismissal of the preference claims against the Seg 1 Claimants or the initiation of preference suits against the holders of the claims subject to the Claim Objections by the Trustee. To the extent this Court rules that the property transferred to the Seg 1 accounts prepetition was property of the Debtor’s estate and is a preference, then the Court should also find that the holders of the claims subject to the Claim Objections also received a preference. Indeed, if the Trustee’s argument that the ordinary course defense does not apply is correct, there can be no dispute that the holders of the claims subject to the Claim Objections also received preferential transfers. Under the Trustee’s argument, every customer of Sentinel that withdrew funds, net of new value, prior to the date Sentinel filed for bankruptcy relief (i) received redemptions of property of the Debtor, (ii) on account of an antecedent debt owed to such

creditor, (iii) while Sentinel was insolvent, (iv) within 90 days of the petition date and (v) that enabled such customer to receive more than it would have received if the transferred property had remained in the bankruptcy estate and was distributed under Chapter 7 of the Bankruptcy Code.

### **Confirmation of the Plan Will Not Impact Standing to Pursue the Claim Objections**

The Trustee argues that once the Plan is confirmed, he will have exclusive authority to object to claims and that the Seg 1 Claimants will not have standing to pursue the Claim Objections. The Trustee is wrong.

First, the Claim Objections were filed prior to confirmation of the Plan. Until the Plan is confirmed, it is of no impact and any creditor or other party in interest has standing to file objections to claims. Indeed, it is axiomatic that a plan that has not yet been confirmed is not binding on parties in interest. *See Abbatiello v. Monsanto Co.*, 2007 WL 747804, at \*3 (S.D.N.Y. Mar. 8, 2007). After confirmation, the terms of the Plan provide that the Trustee, in consultation with the Post-Confirmation Committee, will have exclusive authority to object to claims. Confirmation will not, however, allow the Trustee to commandeer objections filed prior to confirmation. Because the Seg 1 Claimants filed the Claim Objections prior to confirmation of the Plan, they are entitled to pursue those objections to a ruling notwithstanding the terms of the as-yet-unconfirmed plan.

Second, Bankruptcy Rule 2002(c)(3) requires that if a plan proposes to enjoin conduct not otherwise enjoined by the Code, the notice of confirmation hearing must advise of the nature of the proposed injunction and the parties to be enjoined in conspicuous language (bold, italicized or underlined text). Fed R. Bankr. P. 2002(c)(3). Since the Bankruptcy Code permits a creditor to object to a claim, a plan that grants the Trustee the exclusive right to object to claims is enjoining conduct not otherwise enjoined by the Code, and the plan proponent must comply with Rule 2002(c)(3). *In re Manchester Gas Storage*, 309 B.R. 354, 369 n. 10 (Bankr. N.D. Okla. 2004). In *Manchester Gas*, the court held that creditors were authorized to pursue claim objections under section 502(a) because the plan gave the plan agent the right, but not the exclusive right, to file claim objections. The court also reasoned that, if the plan had given the plan agent the exclusive right, the plan proponents failed to give sufficient notice in accordance with Bankruptcy Rule 2002(c)(3) to parties in interest that the plan would enjoin their right under section 502(a) to object to claims. Here, the notice sent to creditors also failed to state in bold

and conspicuous language that the right to object to claims would be abridged. In any event, since the Claim Objections were filed before Plan confirmation, confirmation has no bearing on the Seg 1 Claimants right to pursue their claim objections.

**The Trustee's Expanded Theory of the Case Compelled the Seg 1 Claimants to File the Objections to Claims**

The question regarding whether the Trustee will bring avoidance actions against all recipients of prepetition withdrawals is not academic or merely one of fairness. The question has enormous financial consequences. For some Seg 1 Claimants, the preference issue is more significant than the customer property/property of the estate dispute. The case of IFX Financial Markets is one such example. If the Trustee is able to avoid all postpetition transfers made to Seg 1 accounts, and to avoid all prepetition transfers made to all customers of the Debtor, including Seg 1 and Seg 3 customers, then along with available cash, the Trustee would likely be able to make a distribution totaling approximately 66%, more than IFX has received to date, even accounting for prepetition withdrawals made in the preference period.<sup>4</sup> Thus, in such a situation, IFX would not be required to return any money, but would actually receive a larger distribution than it has already received.

Other Seg 1 Claimants are similarly situated. Yet others have preference exposure similar to their postpetition exposure. A few have preference exposure much larger than their postpetition exposure. None can intelligently and meaningfully quantify its exposure or even determine how to respond to the Adversary Proceedings until it knows whether the Trustee will seek to avoid only postpetition distributions and prepetition withdrawals that were not clearly ordinary course or will, as he has now done with the Seg 1 Claimants, seek to avoid all prepetition withdrawals in the preference period, net of new value.

The objections are not, as the Trustee argues, premature and a waste of resources. They were filed to prevent distributions to customers that allegedly have received avoidable preferences. Now that the Trustee has raised the Ponzi scheme issue, it is so significant that the

---

<sup>4</sup> This calculation assumes that all customer claims, including claims net of post-petition transfers (\$923.1 million), claims resulting from redemption of post-petition redemptions (\$211.8 million) and claims resulting from avoidance of preferences (\$846.9 million) will total \$1,981.8 million. It further assumes that the Trustee will have \$1,351.7 million available for distribution, including available cash of \$257 million, avoidance of postpetition transfers of \$211.8 million, and avoidance of prepetition preferences totaling \$846.9 million. Thus the percentage distribution would be \$1,351.7 million/\$1,981.8 million which equals 66.4%.

Seg 1 Claimants have no choice but to confront it directly. It is not an issue that can be left hanging or raised against some, but not all, of the customers. The Seg 1 Claimants need to know immediately whether the Trustee is serious about recovering clearly ordinary course prepetition withdrawals. Indeed, all customers need to know.

The Seg 1 Claimants are well aware that the Trustee wants to make an interim distribution to Seg 3 Customers as soon as the proposed Plan of Liquidation may be confirmed. The Court has stated that it expects to rule on confirmation before the end of the year. Unquestionably, however, some Seg 3 Customers will receive more in an interim distribution, even if the distribution were only, as expected, approximately 25%, than they would be entitled to receive if the Trustee is correct and the ordinary course defense is not applicable to prepetition withdrawals.

Take, the Lee B. Stern Trusts, for example, which filed a motion to dismiss the objections to their claims. A list of all withdrawals and deposits made in the preference period by the Stern entities is included in Exhibit B hereto. Each has a claim that is significantly smaller than the amount of its withdrawals, net of new value, in the preference period. If each had to repay its alleged preferences, each would receive less in distributions than it had to repay to the estate. If each participated in an interim distribution at 25%, each would be subject to disgorgement should the Trustee pursue the preference claims. The Trustee may say that he will take alleged preferences into account when making interim distributions, but the Seg 1 Claimants are not required to assume that he will indeed do so, especially since he seeks complete control of the claims objection process subject only to consultation with the Liquidation Trust Committee, which will be controlled by Seg 3 Customers.

This is especially so since the Trustee's actions rebut what he says. In his Omnibus Response to the Seg 1 Claimants Motion to Stay, for example, he argued: "Not only did the Defendants choose not to settle, they also insisted that the Trustee set up a \$40 million reserve for property they claim was theirs, thus making litigation inevitable." Trustee's Omnibus Response, p. 11. He repeated this argument in the Trustee Motion, claiming that he was forced to sue the Seg 1 Claimants selectively because they "insisted that the Trustee set up a reserve with respect to \$40 million the Trustee proposed to distribute to other creditors but which the Seg 1 Claimants asserted was their property. As a result, the Trustee was required to sue the

Defendants for a declaration that the \$40 million held in reserve was property of the estate and could be distributed.” Trustee Motion, P. 8.

On November 24, 2008, however, he sued another Seg 1 Customer, TradeMaven, to recover alleged preferential payments. TradeMaven, closed its account before the bankruptcy filing, and has nothing whatsoever to do with the reserve about which the Trustee complains<sup>5</sup>. The Trustee has still not sued a single Seg 3 Customer for preferences. The fact that the suit against TradeMaven so totally rebuts the Trustee’s explanation for why he has sued only Seg 1 Customers, makes the Seg 1 Claimants uneasy indeed.

The Trustee’s argument that he needs time to evaluate new value and that the Seg 1 Claimants have not evaluated new value is wrong. The Seg 1 Claimants did evaluate new value. The Debtor’s Statement of Financial Affairs lists each and every deposit and withdrawal, by account, date and amount, in the preference period, and it is easy enough, if tedious, to evaluate new value. Exhibit B is a list of each withdrawal and deposit by the customers against whom the Seg 1 Claimants filed objections to claims. The Seg 1 Claimants believe that the Statement of Financial Affairs may list only U.S. dollar transactions and may exclude euro transactions, but they do not believe that including euro transactions will materially change the calculations. Needless to say, each Seg 3 Customer against whom a claim objection has been filed can readily determine its preferences, net of new value, and move to dismiss the objection if it has no preference exposure. The Seg 1 Claimants believe that it is telling that not one of the Seg 3 Customers has done so.

Moreover, the Seg 1 Claimants are aware that the Trustee has calculated each of Sentinel’s customer’s preference exposure, net of new value. In fact, such analysis was done as early as February 2008. The Seg 1 Claimants believe that the only reason the Trustee has not filed avoidance actions against the Seg 3 Customers is because, despite the Adversary Proceedings against the Seg 1 Claimants, he has not actually decided whether he will pursue ordinary course prepetition withdrawals against Seg 3 Customers, not because he has not had time to evaluate new value.

---

<sup>5</sup> The bulk, but not all, of Trade Maven’s alleged preferences were received on August 15, 2007, before the bankruptcy filing but after the suspension of withdrawals. The Trustee may argue that Trade Maven is uniquely situated, but some Seg 3 customers also withdrew their entire balances prepetition.

The Seg 1 Claimants would like to think that the Trustee's effort to recover clearly ordinary course withdrawals is ill-thought out and that the Trustee will not ultimately advance this dubious theory. The reality is, however, that the Trustee has filed preference claims against the Seg 1 Claimants and is pursuing them, even opposing the Seg 1 Claimants' Motion to Stay the Adversary Proceedings. All customers, not just the Seg 1 Claimants, must now deal with the issue.

Accordingly, the Motions to dismiss the Claim Objections should be denied.

Dated: December 4, 2008  
Chicago, Illinois

Respectfully submitted,  
COUNTRY HEDGING, INC., FRONTIER  
FUTURES, INC., FC STONE, LLC,  
FORTIS CLEARING AMERICAS, LLC,  
ALARON TRADING CORPORATION,  
CADENT FINANCIAL SERVICES, LLC,  
RAND FINANCIAL SERVICES, INC.,  
VELOCITY FUTURES, LP, CROSSLAND  
CUSTOMER SEGREGATED,  
PEREGRINE FINANCIAL GROUP, INC.,  
PENSON GHCO, PENSON FINANCIAL  
FUTURES, INC., FARR FINANCIAL,  
INC. AND IPGL LTD.

By: /s/ Ryan T. Schultz  
Counsel for Country Hedging, Inc.

By: /s/ Geoffrey S. Goodman  
Counsel for Frontier Futures, Inc

By: /s/ Geoffrey S. Goodman  
Counsel for FC Stone, LLC

By: /s/ Geoffrey S. Goodman  
Counsel for Fortis Clearing  
Americas, LLC

By: /s/ Geoffrey S. Goodman  
Counsel for Alaron Trading  
Corporation

By: /s/ Geoffrey S. Goodman  
Counsel for Cadent Financial  
Services, LLC

By: /s/ Geoffrey S. Goodman  
Counsel for Rand Financial Services,  
Inc.

By: /s/ Geoffrey S. Goodman  
Counsel for Velocity Futures LP

By: /s/ Geoffrey S. Goodman  
Counsel for Crossland Customer  
Segregated

By: /s/ Geoffrey S. Goodman  
Counsel for Peregrine Financial  
Group, Inc.

By: /s/ Timothy R. Casey  
Counsel for Penson GHCO

By: /s/ Timothy R. Casey  
Counsel for Penson Financial  
Futures, Inc.

By: /s/ Robert V. Shannon  
Counsel for Farr Financial, Inc.

By: /s/ Robert V. Shannon  
Counsel for IPGL Ltd.

**FOLEY & LARDNER LLP**

Mark L. Prager (ARDC No. 2246503)  
Stephen P. Bedell (ARDC No. 3125972)  
William J. McKenna (ARDC No. 3124763)  
Geoffrey S. Goodman (ARDC No. 6272297)  
321 N. Clark Street, Suite 2800  
Chicago, Illinois 60654  
Tel: (312) 832-4500  
Fax: (312) 832-4700  
Counsel for FRONTIER FUTURES, INC., FC  
STONE, LLC, FORTIS CLEARING  
AMERICAS, LLC, ALARON TRADING  
CORPORATION, CADENT FINANCIAL  
SERVICES, LLC, RAND FINANCIAL  
SERVICES, INC., VELOCITY FUTURES  
LP, CROSSLAND CUSTOMER  
SEGREGATED, AND PEREGRINE

**DRINKER BIDDLE & REATH LLP**

Michael Barry (ARDC # 3121539)  
Timothy R. Casey (ARDC # 6180828)  
Andrew E. Weissman (ARDC # 6273246)  
191 North Wacker Dr.  
Suite 3700  
Chicago, Illinois 60606  
Tel: (312) 569-1000  
Fax: (312) 569-3000  
Counsel for PENSON GHCO and PENSON  
FINANCIAL FUTURES, INC.

FINANCIAL GROUP, INC.

**MCDERMOTT WILL & EMERY LLP**

Nathan F. Coco (ARDC # 6236870)

Ryan T. Schultz (ARDC # 6288585)

227 W. Monroe Street

Chicago, Illinois 60606

Tel: (312) 372-2000

Fax: (312) 984-7700

Counsel for COUNTRY HEDGING, INC.

**BELL BOYD & LLOYD LLP**

Robert V. Shannon (ARDC # 3127440)

70 West Madison Street

Suite 3100

Chicago, Illinois 60602

Tel: (312) 372-1121

Fax: (312) 872-8000

Counsel for FARR FINANCIAL, INC. and  
IPGL LTD.

# **EXHIBIT A**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

In re: )  
 ) No. 07 B 14987  
SENTINEL MAGAGEMENT GROUP, INC., )  
 ) Chicago, Illinois  
 ) November 13, 2008  
Debtor. ) 9:30 a.m.

TRANSCRIPT OF PROCEEDINGS BEFORE THE  
HONORABLE JOHN H. SQUIRES

APPEARANCES:

MR. VINCENT LAZAR  
on behalf of the trustee;

MR. GREDE  
trustee;

MR. MARC FENTON  
on behalf of the committee;

MR. PETER SIDDIQUI  
on behalf of Discus Masters, SMW Trading, Jump  
Trading, CF Special Situations, and Hedge Gateway;

MR. MIKE XU  
on behalf of Lee B. Stern Delta Trust, Epsilon  
Trust, Revocable Trust, and LBS Limited Partnership;

MS. TIFFANY REDDING  
on behalf of Lee B. Stern Trusts;

MR. PATRICK CLISHAM  
on behalf of Robb Evans & Associates;

MR. ROBERT SHANNON  
on behalf of IFX, IPGL, and Farr Financial;

MR. WILLIAM MCKENNA  
on behalf of the ad hoc committee of Seg 1  
creditors;

1 before the holidays, really get into high gear, I  
2 can conceivably do it later that week. What's your  
3 pleasure? I don't want to rush anybody or interfere  
4 with anybody else's holiday plans.

5 MR. SHANNON: I think, Your Honor, early  
6 in the new year would be better. Some of these will  
7 be discussed, actually, in connection with the  
8 motion to stay. I mean, this whole question of the  
9 claims and the treatment of preferences has enormous  
10 significance for individual defendants and  
11 creditors. So I think a little extra time on this  
12 would be good.

13 MR. LAZAR: Your Honor, if we're going to  
14 have the briefing done on that Monday, it's really a  
15 question of, you know, how quickly you can get to  
16 it. We'd prefer the 18th, if you can do it.

17 THE COURT: Okay.

18 MR. LAZAR: Our only concern would be,  
19 Your Honor, if we get an order confirming a plan,  
20 there's an awful lot of people waiting for very  
21 large distributions, and I wouldn't want these  
22 objections tying those up in any way.

23 THE COURT: Okay.

24 Mr. Xu?

25 MR. XU: I agree.

## EXHIBIT B

LBS Limited Partnership  
House Funds Account  
Claim No. 27

5/31/07	\$670,000
5/31/07	(\$4,000)
6/4/07	(\$75,000)
6/8/07	\$25,000
6/14/07	\$150,000
6/29/07	(\$4,000)
7/5/07	(\$100,000)
7/19/07	\$75,000
7/31/07	(\$5,000)
8/1/07	(\$50,000)
8/6/07	(\$900,000)

Lee B. Stern Revocable Trust  
Claim No. 28

5/21/07	(\$200,000)
6/14/07	(\$169,500)
7/12/07	\$200,000
7/23/07	\$125,000
7/25/07	(\$38,000)
8/6/07	(\$275,000)

Lee B. Stern Epsilon Trust  
Claim No. 29

8/6/07	(\$100,000)
--------	-------------

Lee B. Stern Delta Trust  
Claim No. 30

5/31/07	(\$15,000)
6/19/07	(\$100,000)
6/26/07	(\$250,000)
7/3/07	(\$5,000)
7/6/07	(\$15,000)
7/24/07	(\$107,000)

CGP Capital Gain Perspective Ltd.  
Claim No. 33

7/24/07	(\$2,500,000)
7/26/07	(\$2,500,000)
8/7/07	1,400,000

Alpha Plus Fund Class B  
Claim No. 36

5/24/07	(\$3,418.48)
6/1/07	\$757,000.00
6/6/07	\$330,000.00
7/10/07	(\$60,000.00)

Hedge Gateway Fund LLC  
Claim No. 37

Alpha Plus Fund Class A  
Claim No. 39

5/23/07	\$100,818.69	5/24/07	(\$16,366.94)
5/25/07	\$500,000.00	5/29/07	(\$15,061.12)
5/29/07	\$50,000.00	5/29/07	(\$1,378.46)
5/30/07	\$73,000.00	5/30/07	(\$313,847.00)
5/31/07	(\$100,000.00)	5/30/07	(\$131,147.00)
5/31/07	(\$500,000.00)	5/30/07	(\$202,196.00)
5/31/07	(\$73,875.00)	5/30/07	(\$118,932.00)
5/31/07	(\$314,366.00)	5/30/07	(\$93,164.00)
5/31/07	(\$49,250.00)	5/30/08	(\$240,715.00)
5/31/07	(\$48,750.00)	6/13/07	(\$25,775.71)
5/31/07	(\$408,314.00)	6/13/07	(\$33,607.76)
5/31/07	(\$172,055.00)	6/13/07	(\$14,043.11)
5/31/07	(\$428,615.00)	6/13/07	(\$21,652.25)
5/31/07	(\$330,615.00)	6/13/07	(\$12,735.39)
5/31/07	(\$171,061.00)	6/13/07	(\$9,977.02)
6/6/07	\$3,033,374.35	6/14/07	\$23,028.69
6/20/07	(\$472,000.00)	6/15/07	(\$575,000.00)
6/25/07	\$1,250,000.00	6/15/07	(\$102,723.91)
6/25/07	(\$590,130.00)	7/20/07	\$225,249.38
6/28/07	\$150,000.00	7/20/07	(\$190,000.00)
6/29/07	(\$61,563.00)		
6/29/07	(\$804,840.00)		
6/29/07	(\$368,160.62)		
6/29/07	(\$272,330.00)		
6/29/07	(\$161,563.00)		
6/29/07	(\$123,125.00)		
6/29/07	(\$193,125.00)		
6/29/07	(\$49,250.00)		
7/3/07	\$98,000.00		
7/5/07	\$23,229.78		
7/12/07	\$287,897.32		
7/12/07	(\$8,320.00)		
7/17/07	\$322,066.40		
7/20/07	(\$23,437.54)		
7/25/07	\$152,622.00		
7/27/07	(\$125,700.00)		
7/27/07	(\$722,000.00)		
7/30/07	(\$59,600.00)		
7/30/07	(\$126,000.00)		
7/30/07	(\$100,000.00)		
7/30/07	(\$50,000.00)		
7/30/07	(\$150,000.00)		
7/30/07	(\$122,272.76)		
7/31/07	\$10,614.05		
8/7/07	(\$165,000.00)		

Lake Shore Alt. Finance  
 Asset Ltd. Operation  
 Claim No. 106

Lake Shore Alt. Finance Asset Ltd. Income  
 Claim No. 107

5/23/07	\$31,572.12	6/5/07	(\$426,071.88)
5/23/07	(\$100,000.00)	6/20/07	(\$379.73)
5/25/07	\$205,918.00		
5/25/07	\$4,000.00		
5/25/07	(\$1,373,139.23)		
5/26/07	\$49,996.20		
5/30/07	\$30,009.60		
5/31/07	(\$537,307.96)		
5/31/07	(\$1,029,889.29)		
5/31/07	(\$3,000.00)		
5/31/07	(\$2,107.58)		
6/1/07	\$5,732.50		
6/1/07	\$8,690.38		
6/1/07	\$732.50		
6/1/07	\$8,732.61		
6/1/07	\$4,482.50		
6/1/07	\$63,888.95		
6/1/07	\$1,107.50		
6/1/07	\$20,002.00		
6/4/07	\$1,000.00		
6/4/07	\$1,500.00		
6/6/07	\$11,345.85		
6/6/07	(\$10,145.09)		
6/6/07	(\$30,000.00)		
6/7/07	\$9,948.52		
6/8/07	\$78,500.00		
6/8/07	\$78,500.00		
6/8/07	\$78,500.00		
6/11/07	\$200,000.00		
6/11/07	\$10,151.58		
6/13/07	(\$9,367.59)		
6/13/07	(\$10,279.61)		
6/13/07	(\$100,000.00)		
6/14/07	\$35,000.00		
6/18/07	\$840,000.00		
6/18/07	\$10,148.18		
6/18/07	\$2,186.38		
6/18/07	\$2,582.77		
6/18/07	\$8,749.11		
6/20/07	(\$30,952.64)		
6/20/07	(\$15,414.12)		
6/20/07	(\$70,000.00)		
6/20/07	(\$2,552.44)		
6/21/07	\$10,005.00		
7/2/07	\$27,170.62		
7/2/07	\$732.50		
8/1/07	\$732.50		

Lake Shore Alt. Finance Asset Ltd.  
Trading 2  
Claim No. 108

Income LS III  
Claim No. 109

6/20/07	(\$52,739.81)	6/5/07	(\$382,509.81)
		6/7/07	(\$16,489.01)
		6/20/07	(\$344.52)

Operating LS III  
Claim No. 110

5/22/07	\$10,002.00	6/13/07	(\$12,000.00)
5/23/07	(\$4,000.00)	6/18/07	\$10,050.00
5/23/07	(\$10,648.15)	6/20/07	\$10,218.10
5/24/07	\$4,000.00	6/20/07	(\$10,425.69)
5/25/07	\$274,558.00	6/20/07	(\$15,749.88)
5/25/08	\$65,000.00	6/20/07	(\$10,317.62)
5/25/07	(\$10,030.00)	6/20/07	(\$526,119.44)
5/30/07	\$23,790.00	6/20/07	(\$10,858.01)
5/30/07	\$9,976.20	6/20/07	(\$500.00)
5/30/07	(\$10,447.31)	6/20/07	(\$25,360.72)
5/30/07	(\$10,322.63)	6/20/07	(\$10,442.45)
5/30/07	(\$75,563.09)	6/20/07	(\$10,870.20)
5/30/07	(\$10,869.12)	6/20/07	(\$22,136.48)
6/4/07	\$2,500.00	6/20/07	(\$1,042.25)
6/5/07	\$100,000.00	6/21/07	\$10,317.62
6/6/07	(\$10,625.91)	6/26/07	\$10,000.00
6/6/07	(\$14,000.00)	6/26/07	\$100,000.00
6/6/07	(\$21,243.41)	6/28/07	\$50,000.00
6/6/07	(\$100,000.00)	7/2/07	\$8,732.61
6/8/07	\$10,221.25	7/2/07	\$4,482.50
6/8/07	\$39,980.00	7/2/07	\$8,690.83
6/13/07	(\$21,389.95)	7/3/07	\$8,322.83
6/13/07	(\$21,179.54)	8/1/07	\$8,732.61
6/13/07	(\$10,696.17)	8/1/07	\$4,482.50
6/13/07	(\$52,901.28)	8/1/07	\$8,690.83
6/13/07	(\$10,714.31)	8/2/07	\$8,322.83
6/13/07	(\$15,713.46)		

Trading LS III  
Claim No. 111

Lake Shore Alt. Finance Fund IV Ltd. Income  
Claim No. 112

6/20/07	(\$231,848.78)	6/5/07	(\$273,843.80)
		6/7/07	(\$12,577.10)
		6/20/07	(\$363.24)
		6/20/07	\$379.73

Lake Shore Alt. Finance Fund IV Ltd.  
 Trading  
 Claim No. 114

6/20/07 (\$151,964.96)

Discus Master Fund  
 Claim No. 123

5/25/07 (\$7,000,000.00)  
 6/18/07 (\$4,221,511.00)  
 6/21/07 (\$311,842.31)  
 7/3/07 (\$7,000,000.00)  
 7/11/07 (\$3,983,251.00)

CF Special Situation Fund I LLC  
 Claim No. 125

5/22/07 (\$5,100,000)  
 5/23/07 \$10,000,000  
 5/24/07 (\$5,000,000)  
 5/30/07 \$1,500,000  
 6/7/07 (\$4,500,000)  
 7/5/07 (\$1,000,000)  
 8/3/07 \$3,500,000  
 8/6/07 (\$5,100,000)

Jump Trading  
 Claim No. 129

5/22/07	\$17,200,000	7/13/07	\$3,000,000
5/24/07	(\$11,500,000)	7/16/07	\$3,600,000
5/25/07	\$7,000,000	7/16/07	(\$1,000,000)
5/29/07	(\$3,200,000)	7/17/07	\$2,900,000
5/30/07	\$3,000,000	7/18/07	(\$5,600,000)
5/31/07	(\$10,000,000)	7/19/07	\$7,600,000
6/4/07	(\$1,000,000)	7/20/07	(\$6,000,000)
6/5/07	(\$4,000,000)	7/23/07	\$5,600,000
6/6/07	\$13,000,000	7/24/07	(\$5,800,000)
7/8/07	(\$10,000,000)	7/24/07	(\$5,000,000)
6/12/07	\$6,800,000	7/25/07	\$600,000
6/13/07	\$5,700,000	7/26/07	\$400,000
6/14/07	(\$8,500,000)	7/27/07	\$9,600,000
6/15/07	(\$7,000,000)	7/30/07	(\$14,100,000)
6/18/07	\$14,000,000	7/31/07	\$4,000,000
6/19/07	(\$14,000,000)	8/1/07	\$13,700,000
6/20/07	\$2,600,000	8/2/07	\$500,000
6/22/07	\$12,800,000)	8/3/07	(\$9,000,000)
6/25/07	\$4,500,000	8/6/07	\$12,500,000
6/26/07	(\$1,300,000)	8/7/07	(\$28,600,000)
6/27/07	(\$18,200,000)	8/8/07	\$3,400,000

6/28/07	\$8,500,000	8/9/07	(\$3,470,000)
6/29/07	(\$2,000,000)	8/10/07	\$18,500,000
7/3/07	\$7,500,000		
7/5/07	\$4,200,000		
7/10/07	(\$6,700,000)		
7/11/07	(\$8,000,000)		
7/12/07	\$2,900,000		

SMW Trading Company Inc. House  
Claim No. 130

5/21/07	(\$135,000)*	7/2/07	(\$2,550,000)*
5/21/07	(\$2,750,000)	7/2/07	(\$175,000)
5/22/07	\$6,160,000	7/3/07	\$8,135,000*
5/22/07	(\$185,000)*	7/3/07	(\$5,690,000)
5/23/07	\$380,000*	7/5/07	\$6,715,000
5/23/07	(\$7,075,000)	7/5/07	(\$5,835,000)*
5/24/07	\$688,000	7/6/07	(\$500,000)*
5/24/07	(\$210,000)*	7/6/07	(\$5,320,000)
5/25/07	(\$425,000)*	7/9/07	\$1,175,000*
5/25/07	(\$2,575,000)	7/9/07	(\$5,180,000)
5/29/07	\$1,165,000*	7/10/07	\$750,000*
5/29/07	\$7,290,000	7/10/07	\$725,000
5/30/07	(\$4,855,000)	7/11/07	\$1,125,000
5/31/07	(\$165,000)*	7/11/07	(\$1,755,000)*
5/31/07	(\$890,000)	7/12/07	\$1,355,000*
6/1/07	\$290,000	7/12/07	(\$12,400,000)
6/4/07	\$285,000*	7/13/07	\$6,575,000
6/4/07	(\$3,945,000)	7/13/07	(\$525,000)*
6/5/07	\$3,100,000	7/16/07	(\$3,375,000)
6/5/07	(\$490,000)*	7/17/07	\$835,000*
6/6/07	\$265,000*	7/17/07	(\$1,710,000)
6/6/07	\$350,000	7/18/07	\$19,240,000
6/7/07	(\$5,470,000)	7/18/07	(\$1,555,000)*
6/8/07	\$18,700,000	7/19/07	(\$625,000)*
6/8/07	(\$3,250,000)*	7/19/07	(\$10,040,000)
6/11/07	(\$9,915,000)	7/20/07	(\$11,675,000)
6/12/07	\$4,200,000	7/23/07	\$675,000*
6/12/07	(\$695,000)*	7/23/07	\$8,845,000
6/13/07	(\$825,000)*	7/24/07	\$17,010,000
6/13/07	(\$3,250,000)	7/24/07	(\$970,000)*
6/14/07	(\$1,070,000)*	7/25/07	(\$185,000)*
6/14/07	(\$1,205,000)	7/25/07	(\$1,870,000)
6/15/07	(\$800,000)*	7/26/07	\$325,000*
6/15/07	(\$2,850,000)	7/26/07	(\$26,243,446.37)
6/18/07	\$1,775,000*	7/27/07	\$790,000*
6/18/07	(\$3,250,000)	7/27/07	\$9,415,000
6/19/07	\$260,000*	7/30/07	(\$295,000)*
6/19/07	\$1,910,000	7/30/07	(\$1,110,000)

6/20/07	\$575,000*	7/31/07	(\$8,310,679.71)
6/20/07	\$4,350,000	8/2/07	\$535,000*
6/21/07	\$570,000*	8/2/07	\$20,775,000
6/21/07	(\$9,785,000)	8/3/07	\$10,855,000
6/22/07	\$545,000*	8/3/07	(\$2,015,000)*
6/22/07	\$660,000	8/6/07	\$435,000*
6/25/07	\$200,000*	8/6/07	\$23,945,000
6/25/07	\$8,960,000	8/7/07	\$855,000*
6/26/07	\$410,000	8/7/07	\$1,550,000
6/26/07	(\$585,000)*	8/7/07	(\$28,995,000)
6/27/07	\$375,000*	8/8/07	\$345,000*
6/27/07	(\$7,185,000)	8/8/07	(\$8,055,000)
6/28/07	(\$255,000)*	8/9/07	\$6,260,000
6/28/07	(\$5,675,000)	8/9/07	(\$475,000)*
6/29/07	\$6,230,000	8/10/07	\$415,000*
6/29/07	(\$420,000)*	8/10/07	\$1,490,000
		8/17/07	(\$411,951.65)*

\*Transactions are to and from STC002, which was a Seg 1 account.