

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

In re:) Chapter 11
)
SENTINEL MANAGEMENT GROUP, INC.,) Case No. 07 B 14987
)
Debtor.) Hon. John H. Squires

NOTICE OF MOTION

PLEASE TAKE NOTICE that on Tuesday, February 10, 2009 at 9:30 a.m. or as soon thereafter as counsel may be heard, we shall appear before the Honorable John H. Squires in Courtroom 680 at 219 South Dearborn Street, Chicago, Illinois, or before any other judge who may be sitting in his place and stead, and present the attached **Trustee's Motion for Authority to Settle Certain § 547 Claims**, at which time and place you may appear if you so desire.

Chicago, Illinois
February 3, 2009

Respectfully submitted,

**FREDERICK J. GREDE, Liquidation
Trustee of Sentinel Liquidation Trust**

By: /s/ Vincent E. Lazar
One of his attorneys

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CERTIFICATE OF SERVICE

I, Vincent E. Lazar, an attorney, certify that I caused a copy of the **Notice of Motion and Trustee's Motion for Authority to Settle Certain § 547 Claims**, to be served upon the parties listed on the attached Service List, by First Class United States mail, on February 3, 2009.

/s/ Vincent E. Lazar

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Case No. 07-14987

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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Chapter 11
)
SENTINEL MANAGEMENT GROUP, INC.,) Case No. 07 B 14987
)
Debtor.) Hon. John H. Squires

**TRUSTEE’S MOTION FOR AUTHORITY
TO SETTLE CERTAIN § 547 CLAIMS**

Frederick J. Grede, the Liquidation Trustee (the “Trustee”) for the Sentinel Liquidation Trust (the “Trust”), by and through his undersigned counsel, hereby moves this Court for entry of an order, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”),¹ authorizing the Trustee to settle and resolve certain claims arising out of transfers made by the Debtor prior to August 13, 2007. In support thereof, the Trustee respectfully represents as follows:

Introduction

1. The Trustee has commenced adversary proceedings against a number of the Debtor’s former customers. Those lawsuits include claims under section 547 of the Bankruptcy Code seeking to avoid transfers made prior to the Debtor’s August 13, 2007 redemption freeze. Additional customers and creditors that are not defendants in pending litigation also may have received transfers prior to August 13, 2007 which may be avoidable under section 547 of the Bankruptcy Code. The Trustee believes that it is in the best interests of the estate and the Trust to settle and avoid the risk, expense and delay associated with pursuing such claims, and therefore seeks authority

¹ Authority under Bankruptcy Rule 9019 to enter into these settlements is not required under the Plan or the Liquidation Trust (each as defined herein). The Trustee is seeking such relief, however, because of the claims involved, the adversary proceedings pending before the Court, and the gross amounts involved in the settlements proposed by this motion.

to offer and enter into settlements, as described below, resolving certain claims under section 547 relating to transfers made prior to the August 13, 2007 redemption freeze.

Jurisdiction

2. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B), (F) and (O). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The basis for the relief sought herein is Bankruptcy Rule 9019, section 6.5 of the Fourth Amended Chapter 11 Plan of Liquidation (the “Plan”) and section 2.2 of the Agreement containing the Sentinel Liquidation Trust (the “Trust”).

Background

4. On August 13, 2007, Eric Bloom, President and Chief Executive Officer of the Debtor, sent a letter to Sentinel’s customers representing that because of the pending liquidity crisis in the credit markets, Sentinel was halting redemptions out of a concern that it would not be able to meet significant redemption requests without resorting to discount sales that would cause unnecessary losses to its customers (the “Redemption Freeze”).

5. Bloom did not disclose in his letter that Sentinel’s liquidity problems actually had been created by his and other insiders’ misuse of hundreds of millions of dollars deposited by customers, which they had used to engage in billions of dollars of undisclosed and unlawful leveraged securities transactions.

6. On August 17, 2007 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code (11 U.S.C. § 101, et seq., the “Bankruptcy Code”).

7. On August 28, 2007, the Trustee was appointed as the chapter 11 trustee of the Debtor by the United States Trustee.

8. On September 6, 2007, the United States Trustee appointed the Official Committee of Unsecured Creditors of the Debtor (the "Committee").

9. The Plan was confirmed by this Court on December 15, 2008 and became effective on December 17, 2008 (the "Effective Date"). As of the Effective Date, the Trustee has been acting as the Trustee of the Trust.

10. During the 90 day period prior to the Petition Date, a number of the Debtor's former customers received transfers which the Trustee asserts constituted transfers of interests of the Debtor in property that are avoidable under section 547 of the Bankruptcy Code.

11. The Trustee has commenced adversary proceedings against a number of the Debtor's customers, which lawsuits include claims under section 547 of the Bankruptcy Code seeking to avoid transfers made prior to the Debtor's Redemption Freeze.

12. Additional customers and creditors that are not currently defendants in litigation also received transfers prior to the Redemption Freeze which the Trustee asserts may be avoidable under section 547 of the Bankruptcy Code.

13. The Trustee believes that it is in the best interests of the estate and the Trust to settle and avoid the risk, expense and delay associated with pursuing certain claims under section 547 of the Bankruptcy Code arising from transfers made prior to the Redemption Freeze ("Pre-Redemption Freeze § 547 Claims"). Thus, the Trustee seeks this Court's authority to offer the settlement described below to certain of the Debtor's customers in order to resolve Pre-Redemption Freeze § 547 Claims against them.

The Settlement Proposal

14. With the exception of transferees specified in paragraph 15 below, the Trustee proposes to offer the following settlement terms to any customer that received a transfer prior to the Redemption Freeze:

(a) Pre-Redemption Freeze § 547 Claims shall be abandoned with respect to any customer that received Pre-Redemption Freeze transfers from their accounts on and after May 18, 2007 totaling, on a net basis after taking deposits on and after May 18, 2007 into account, less than (x) \$150,000, or (y) 15% of such customer's May 18, 2007 account balance(s).² This will include any Pre-Redemption Freeze § 547 Claims against "Seg 1" customers that fall within this category and are the subject of pending avoidance actions;

(b) Any Pre-Redemption Freeze § 547 Claims not abandoned pursuant to the foregoing subparagraph would be compromised at a discount of 75% deducted from the amount of the claim (the resulting net amount being the "Discounted Preference Recovery Amount"). For purposes of calculating the Discounted Preference Recovery Amount, any "new value" given to the Debtor would first be deducted from the amount of the claim, before applying the discount;

(c) Creditors would be entitled to a claim under section 502(h) of the Bankruptcy Code on account of the Discounted Preference Recovery Amount, to be added to their allowed claim, but only to the extent that the Discounted Preference Recovery Amount actually is paid to the Trustee (either in cash or through a deduction from distributions);³ and

² For the avoidance of doubt, with respect to Pre-Redemption Freeze § 547 Claims that are to be abandoned, as provided under the Plan, the Trustee has discretion in determining whether to commence or pursue such Claims and Causes of Action after considering any and all potential defenses and costs of litigation relative to the benefits sought to be achieved and is not required to seek Court approval.

³ For purposes of calculating the Release Distribution Threshold under the Plan, (i) the section 502(h) claim allowed under the settlement proposal would be disregarded, and (ii) with respect only to creditors who are

(d) In the event this Court or another court determines by final order, in connection with any litigation brought on behalf of the Debtor's estate or the Trust, that (i) transfers made to customers within 90 days prior to the Petition Date were not transfers of property of the estate, or (ii) the ordinary course of business defense under 547(c)(2) applies to transfers made by the Debtor to customers, then the Discounted Preference Recovery Amount would be returned or withheld distributions released (as the case may be), and the settlements would be deemed void as to any creditor with respect to which the Discounted Preference Recovery Amount was paid or withheld from distributions (as the case may be), with the parties returned to *status quo ante* immediately preceding the settlement and each party to bear its own fees and costs incurred. In order to ensure that the Trustee is able to satisfy the Trust's obligations should this occur, the Trustee would calculate the amounts to which creditors would have been entitled if the Pre-Redemption Freeze § 547 Claims had not been settled and, pending a final distribution of the estate and Trust's property, would not make any distributions that exceeded the amounts to which creditors would have been entitled if the Pre-Redemption Freeze § 547 Claims had not been settled.

15. The Trustee does not propose to offer this settlement to:

(a) any transferees that closed their accounts or received more than 80% of their account balance(s) measured using the highest daily account balance on any date on and after May 18, 2007;

(b) any transferees that, in the Trustee's judgment, may have had knowledge of the insiders' leveraging scheme and other misconduct;

(c) any transferees that, in the Trustee's judgment, may have received advance notice of the redemption freeze or the Debtor's deteriorating financial condition;

NonCitadel-Beneficiary Customers (as defined in the Plan), the actual amount of any Discounted Preference

(d) any transferees that, in the Trustee's judgment, appear to have received transfers outside of the ordinary course of business or financial affairs of the Debtor and the transferee, particularly when compared to the Debtor's conduct of business with other customers and creditors; and

(e) the Debtor's insiders, BONY, McGladrey, Citadel and any sellers of securities to Sentinel.

All other customers and creditors of the Debtor would be offered this settlement.

16. For purposes of clarity, this settlement proposal would apply only to Pre-Redemption Freeze § 547 Claims (claims on account of transfers that took place prior to August 13, 2007), and would not apply to any transfers made on or after the date of the Redemption Freeze.

17. The Trustee proposes to implement the settlements by, in the case of existing creditors entitled to distributions under the Plan, deducting and withholding the Discounted Preference Recovery Amount from any distributions that otherwise would be made to creditors eligible for distributions. If the Discounted Preference Recovery Amount exceeds the distribution to which the transferee is entitled, the difference between the Discounted Preference Recovery Amount and the distribution to which such transferee otherwise would be entitled, measured on any date distributions are made to creditors, would be delivered by the transferee to the Trustee.

Relief Requested

18. By this motion, the Trustee requests entry of an order authorizing the Trustee to offer the foregoing settlement proposal and to enter into such settlements with customers and creditors in order to resolve potential Pre-Redemption Freeze § 547 Claims against them.

Basis for Relief Requested

Recovery Amount paid to the Trustee or deducted from distributions would be disregarded.

19. Bankruptcy Rule 9019(a) authorizes this Court, after a hearing on appropriate notice, to approve a compromise or a settlement so long as “the settlement is in the best interests of the estate.” *In re Andreuccetti*, 975 F.2d 413, 421 (7th Cir. 1992); *In re Energy Co-op, Inc.*, 886 F.2d 921, 926-27 (7th Cir. 1989). To determine whether a settlement is in the best interests of the estate, the Court should consider the risks of the litigation, the cost of the litigation and any delay associated with continuing the litigation. *Andreuccetti*, 975 F.2d at 421. Approval of a settlement is committed to the sound discretion of the court. *Id.* Though a court should never simply “rubber stamp” a trustee’s decision to settle a claim, a court should refuse to authorize a settlement only if it “falls below the lowest point in the range of reasonableness.” *Energy Co-op*, 886 F.2d at 929.

20. Although here permission is not required under Bankruptcy Rule 9019 for the Trustee to enter into the proposed settlements, given the claims involved, the adversary proceedings pending before the Court and the potential amounts involved in the settlements and abandonments proposed by this motion, the Trustee is seeking such authority from this Court.

21. The Trustee respectfully submits that authorizing the Trustee to resolve Pre-Redemption Freeze § 547 Claims in accordance with the settlement proposal constitutes a fair and reasonable compromise, will expedite administration of the Debtor’s estate, and is in the best interests of the Debtor’s estate and the Trust in light of the costs of litigation, the time to pursue such litigation, and the attendant risks of litigation.

22. The settlement proposal is eminently reasonable and should be approved for a number of reasons. First, a large percentage of the existing creditor base received transfers prior to the Redemption Freeze, and therefore in a number of cases the recovery and redistribution of avoided preferential transfers would in large part be a wasteful circular exercise having little effect on ultimate distributions to creditors. Moreover, in many cases, the customer’s overall account position

did not materially improve as a result of transfers it received. Thus, abandoning Pre-Redemption Freeze § 547 Claims with respect to any existing customer that received transfers totaling, on a net basis, less than (x) \$150,000, or (y) 15% of such customer's account balance(s), will avoid costly litigation that is not likely to materially augment the Debtor's estate or increase the amount of distributions to creditors.

23. Further, with respect to claims that are not abandoned, the Trustee believes that several factors militate in favor of offering a steep discount to resolve Pre-Redemption Freeze § 547 Claims. A single defense -- the ordinary course of business defense -- is common to most Pre-Redemption Freeze § 547 Claims. Absent specific facts showing knowledge or other unusual circumstances, that defense likely will stand or fall on a common legal argument, namely that in situations involving fraud or Ponzi schemes, as a matter of law, no transfers to customers/investors are made in the ordinary course. Moreover, litigation of these claims will be costly and time-consuming given their fact-intensive nature.

24. In addition, it is likely that Pre-Redemption Freeze § 547 Claims will in fact be litigated to judgment against certain transferees. In order to induce a significant number of creditors to settle potential Pre-Redemption Freeze § 547 Claims against them now (minimizing the costs of litigation correspondingly), and particularly in light of the defenses that are common to most Pre-Redemption Freeze § 547 Claims (primarily the "property of the estate" and "ordinary course of business" defenses), the Trustee believes that the same settlement terms should be offered to all similarly-situated creditors, and that the "most favored nation" provisions concerning the "property of the estate" and "ordinary course of business" defenses set forth in paragraph 14(d) above should be integrated into the settlement proposal, such that creditors are not penalized for settling with the Trustee now instead of litigating. This too is in the best interests of the estate and the Trust because

such inducements to settle should result in more settlements with customers, which will avoid costly and time-consuming litigation and augment the estate and Trust assets.

Notice

25. The Trustee has served notice of the proposed settlement upon all parties-in-interest who have requested notice in this case. Given the nature of the settlement involved, the Trustee requests that the Court find that cause exists to limit notice to that already given by the Trustee.

WHEREFORE, the Trustee respectfully requests that the Court enter an order authorizing the Trustee to offer to settle and resolve, in accordance with the settlement proposal described herein, the Pre-Redemption Freeze § 547 Claims, and granting such other and further relief as this Court deems just and proper.

Dated: February 3, 2009

Respectfully submitted,

**FREDERICK J. GREDE, Liquidation Trustee of
the Sentinel Liquidation Trust**

By: /s/ Vincent E. Lazar
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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Chapter 11
)
SENTINEL MANAGEMENT GROUP, INC.,) Case No. 07 B 14987
)
Debtor.) Hon. John H. Squires

**ORDER GRANTING TRUSTEE'S MOTION FOR AUTHORITY TO
SETTLE CERTAIN § 547 CLAIMS**

This matter coming to be heard on the Motion for Authority to Settle Certain § 547 Claims (the "Motion"), filed by Frederick J. Grede, the Liquidation Trustee (the "Trustee") of the Sentinel Liquidation Trust (the "Trust"); due and sufficient notice of the Motion having been given under the circumstances; the relief requested in the Motion being in the best interests of the Debtor's estate, the Trust, their creditors and other parties in interest; and after due deliberation and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED in its entirety.
2. All objections to the Motion or the relief requested therein that have not been made, withdrawn, waived, or settled, and all reservations of rights included therein, hereby are overruled on the merits.
3. The Trustee is hereby authorized to compromise the Pre-Redemption Freeze § 547 Claims (as defined in the Motion) as contemplated by the Motion.
4. The Trustee is authorized and empowered to take such actions as may be reasonably necessary to implement and effectuate this Order.
5. The ten-day stay provided by Federal Rule of Bankruptcy Procedure 6004(h) shall not be applicable after the entry of this Order.

6. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: Chicago, Illinois
_____, 2009

THE HONORABLE JOHN H. SQUIRES
UNITED STATES BANKRUPTCY JUDGE