

**PUBLIC BANKRUPTCY REPORT**  
in the bankruptcy of

The limited liability company IIG Trade Opportunities Fund N.V.  
("TOF")  
(CUR201900079 and CUR2019H00104)

Report number: 5

Date: January 18, 2023.

Bankruptcy number : CUR201900079 and CUR2019H00104  
Date of court order : 3 September 2019  
Trustee : Ms. V.P. Maria, LL.M  
Supervisory judge : Ms. U.I.D. Luydens, LL.M

Activities of the organization : Investment institution. The bankrupt is an offshore company.

Turnover data : See first public report.

Average number of personnel :

Balance at end of report period : USD 6,677.07

Report period : January 27, 2022 – January 17, 2023

Hours spent in report period : Maria 52.3 P.M./Tromp 4.8 P.M.

Total hours spent : Maria 824.5 P.M./Tromp 222.40 P.M.

**1. Inventory**

1.1 Management and : See first public report.

1.2 organization :

Profit and Loss

1.3 Balance total :

1.4 Ongoing procedures : The existing stay for the Arbitration Procedure Girobank N.V. v IIG TOF et al has been extended until June 2, 2023, based on the status of related insolvency proceedings.

1.5 Insurances :

1.6 Lease :

1.7 Cause of bankruptcy :

The trustee informed in her second and third public report about the charges that have been filed by the Acting United States Attorney for the Southern District of New York against David Hu, and the fact that David Hu pled guilty before U.S. District Judge Alvin K. Hellerstein to investment adviser fraud, securities fraud, and wire fraud offenses in connection with an over USD 100 million scheme to defraud IIG's investment advisory fund clients and investors. In connection with his plea agreement, Hu has also agreed to forfeit more than USD 129 million representing proceeds traceable to the commission of the offenses.

Originally, sentencing before Judge Hellerstein was scheduled for June 17, 2021, at 9:00 a.m. thereafter for February 24<sup>th</sup>, 2022, and ultimately the sentencing took place on April 11, 2022. The Court sentenced David Hu to 12 years' imprisonment, and in addition Hu was ordered to serve three years of supervised release. Later, on July 6, 2022 the Court sentenced David Hu to 36 years of incarceration, followed by 9 years of supervised release and special assessment of USD 300.00 in the case related to his victims. According to an order of restitution dated July 1, 2022, the court ordered that David Hu shall pay restitution in the total amount of \$364,402,116.08 to the victims of the offense charged in Counts One through Three of the Information. David Hu is currently incarcerated at WXR - Lompoc FCI and is scheduled for release on November 4, 2032. Hu is not eligible for parole.

On April 13<sup>th</sup>, 2021, the aforementioned United States Attorney for the Southern District of New York, Audrey Strauss,

announced that Martin Silver, the other co-founder, managing partner and 50% co-owner of IIG, also pleaded guilty to adviser fraud, securities fraud, and wire fraud offenses in connection with an over USD 100 million scheme to defraud IIG's investment advisory fund clients and investors.

According to the press release the U.S. Attorney Audrey Strauss said: "Today, Martin Silver admitted to participating in a sophisticated, decade-long scheme to defraud IIG funds and investors, abandoning his fiduciary responsibilities to IIG's clients, and causing millions of dollars of losses."

The sentencing control date of Martin Silver before judge Hellerstein has been scheduled for November 16<sup>th</sup> 2021 at 11:00 a.m. On November 15, 2021, the United States Attorney requested Judge Hellerstein to adjourn the sentencing control date by approximately six months. The trustee has been informed that the sentencing of Martin Silver will be on February 8, 2023.

Also the SEC charged Martin Silver with fraud. According to the litigation release of the SEC of April 15<sup>th</sup>, 2021, SEC has "partially settled charges against Martin Silver in connection with a fraudulent scheme to overvalue assets held in a hedge fund offered by his investment advisory firm, International Investment Group (IIG). (...)"

"According to the SEC's complaint, from October 2013 to at least July 2018, Silver, the co-founder and chief operating officer of IIG, a formerly registered investment adviser, defrauded IIG's investment advisory clients by, among other things, grossly overvaluing the assets in IIG's flagship hedge fund. As alleged, the overvaluation of these assets resulted in the fund paying inflated fees to IIG, some of which went to Silver. The complaint further alleges that Silver falsely reported to investors that certain fake and overvalued loan assets that IIG sold

between funds it advised were legitimate assets and were fairly valued.”

“Silver, who is cooperating with the SEC, consented to a bifurcated settlement, agreeing to be permanently enjoined from violations of the charged provisions, with monetary relief in an amount to be determined by the court at a later date upon motion of the Commission.”

Also important to notice is that according to the SEC litigation release; “the SEC instituted settled administrative proceedings on July 22, 2020, against Carlos Cano, a former IIG employee, for aiding and abetting IIG and Hu's violations. The settled order against Cano imposed a cease-and-desist order, an associational bar, and a \$300,000 civil penalty.”

“According to the SEC's order, since at least 2014, Cano played a key role in perpetrating various frauds on IIG's investment advisory clients to hide heavy losses in the flagship fund that IIG advised. The order finds that Cano participated in the scheme by assisting in the acquisition and creation of shell companies to act as nominal borrowers of fake trade finance loans, obtaining fraudulent promissory notes purporting to memorialize the loans, and presenting forged loan documentation to advisory clients.”

Cano was an executive director of International Investment Group, LLC (IIG).

According to the litigation release of the SEC of December 22, 2020 the SEC charged Charles Samel, a former IIG consultant “for his role in an alleged fraud conducted by IIG to cover up tens of millions of dollars in investor losses and bad bets in order to keep its investment advisory business afloat.”

“As alleged in SEC’s complaint, Samel assisted IIG’s principals in concealing the fraudulent nature of a loan asset in the

[TOF's: addition trustee] fund's portfolio. The complaint alleges that when auditors asked questions about the prospects that the fake loan would be repaid, Samel helped prepare a sham agreement falsely documenting the sale of the fake loan by the fund. The sham agreement was allegedly provided to the auditors to resolve their concerns about the loan, and as a result, no issues about the loan were raised in the audit report that was sent to the fund investors."

"On August 23, 2021 a final judgment was entered by consent against Samel permanently enjoining him from future violations of Section 206(1) and 206 (2) of the Advisers Act in the civil action entitled Securities and Exchange Commission v. Charles Samel, 20 Civ. 10769 (DLC), in the United States District Court of the Southern District of New York."

## 2. Work force

- 2.1 Number of personnel at the time of bankruptcy :
- 2.2 Number of personnel in the year preceding bankruptcy :
- 2.3 Date of dismissal notice :
- Activities :

## 3. Assets

### *IMMOVABLE PROPERTIES*

- 3.1 Description : According to David Hu, TOF is the ultimate beneficiary owner of a property in the city of Mafra in Brazil. All the official documents mention IIG Capital as the legal owner of the property. IIG Capital has not paid the Property Tax (IPTU) arising from this property and owes to the City of Mafra a total of approximately BRL 90,000.00 (approximately USD 16,000.00), which includes the tax related to the fiscal years of 2015, 2016, 2017, 2018, 2019 and 2020.

Based on the information provided to the trustee by the lawyer's office in Brazil, the transaction documents regarding to above-mentioned property do not state that IIG Capital LLC was acting as

agent of a fund, reason why all documents, including the title record certificates of the property only mention IIG Capital LLC as the beneficiary.

Furthermore the attorney- in fact appointed by IIG, is not willing to continue to represent fiscally the entity of IIG Capital LLC as she was not remunerated for the past year for such services in Brazil.

- 3.2 Sales proceeds :
- 3.3 Amount of mortgage :
- 3.4 Estate contribution :

Activities : The Brazilian law firm, after consulting with the trustee, has engaged a real estate agent to find a buyer for the property. Someone has made an offer on the property. The trustee has not yet made a decision on this offer, now it must first be arranged that IIG Capital can be legally represented for the sale. The trustee is working on this together with Martin Silver's lawyer and hopes that all necessary documents will be ready before February 8, 2023.

#### *COMPANY ASSETS*

- 3.5 Description :
- 3.6 Sales revenue :
- 3.7 Estate contribution :
- 3.8 Right of seizure tax authorities :
- Activities :

#### *STOCK/WORK IN PROGRESS*

- 3.9 Description :
- 3.10 Sales revenue :
- 3.11 Estate contribution :
- Activities :

#### *OTHER ASSETS*

- 3.12 Description : In the fourth public report, the trustee announced the sale of Proexpo in Ecuador. Following this sale, two other companies related to Proexpo had to be liquidated. It concerns Polebrook International Inc., (“Polebrook”) a company incorporated in Panama and Relafir S.A. (“Relafir”) a company incorporated in Uruguay.

Polebrook was the owner of a shrimp processing and packing plant. The plant was operated and managed by Proexpo, based on a lease agreement

between the companies. The plant was sold to Proexpo before the sale of Proexpo to give Proexpo more "substance". This was one of the conditions of the buyer. The legal basis for the purchase and transfer of the plant to Proexpo was based on settlement of claims between Polebrook and Pro-Expo. As Polebrook had no assets, the following step was to liquidate Polebrook. The process for its liquidation has started in 2022. The trustee is awaiting its conclusion.

Relafir was the majority shareholder of Proexpo. The sale of Proexpo was done through the sale of the shares of Relafir in Proexpo. As a result, Relafir had no more assets and had to be liquidated. The status of the liquidation has been requested.

TOF was the beneficiary owner of both companies.

The trustee is in the process of selling another subsidiary of TOF. To avoid that the sales process is negatively impacted, information about the sale will not be shared in a public report until the sale have taken place. The creditor's committee of TOF and the supervisory judge are being informed and consulted about the developments.

3.13 Sales revenue :  
 Activities :

**4. Debtors**

4.1 Number of debtors : So far, the trustee has been able to identify two (2) debtors of the bankruptcy estate, being David Hu and Martin Silver for the damage they caused to IIG TOF. Section 1.7 reported on the trial against David Hu. It should be noted that IIG TOF, after receiving permission from the supervisory judge, has filed a Victim Impact Statement in the case against David Hu for an amount of USD 46,054,934. According to information received by the trustee, it is unlikely that David Hu's victims will receive any money back. So far, David Hu does not provide enough redress. Due to his imprisonment, he is also unable to generate income. A victim impact statement will also be filed in Martin Silver's case.

4.2 Revenue :  
 4.3 Asset contribution :  
 Activities :

## 5. Bank/Securities

5.1	Bank Claims	:
5.2	Lease contracts	:
5.3	Description of sureties	:
5.4	Secured creditors	:
5.5	Asset contributions	:
5.6	Conditional ownership	:
5.7	Right of recovery	:
5.8	Liens	:
	Activities	:

## 6. Company reorganization/continuation

### *CONTINUATION*

6.1	Exploitation/securities	:
6.2	Financial reporting	:
	Activities	:

### *REORGANIZATION*

6.3	Description	:
6.4	Accountability	:
6.5	Revenues	:
6.6	Asset contribution	:
	Activities	:

## 7. Legitimacy

7.1	Accounting obligation	:	The trustee is of the opinion that the fact that David Hu and Martin Silver pled guilty is enough indication that TOF, due to the unlawful acts of among others IIG, David Hu and Martin Silver, did not comply with the accounting obligation as stipulated by the laws of Curaçao. The trustee cannot base the liquidation of TOF on information provided in audited annual accounts or any other financial statement with the aim to inform the investors and other interested parties about the financial rights and obligations of TOF.
7.2	Annual accounts deposit	:	
7.3	Auditors' report	:	
7.4	Liability to pay-in capital shares	:	
7.5	Mismanagement	:	The bankruptcy trustee concludes that TOF has been mismanaged and that, pursuant to article 16, paragraphs 1, 2 and 9 of the Bankruptcy Code, the actual directors of TOF (IIG, Martin Silver and David Hu) are responsible for the shortfall, being

- the amount of the debts insofar as these are not settled by liquidation.
- 7.6 Fraudulent actions : The trustee refers to the information provided under point 1.7 of this report.
- Activities : The trustee has been invited by the United States Attorney to advise if TOF and other entities represented by the trustee were victims of the crimes to which David Hu has pleaded guilty, and to advise the United States Attorney of the amount of any losses with specific support for the loss calculation.

The trustee approached TOF's counsel in the U.S. to advise the trustee on the best way to approach this matter. After receiving this advice, and discussing said advice with the creditors' committee of TOF, the trustee decided to cooperate with the United States Attorney on this matter, after receiving the supervisory judge approval. The Attorneys of TOF have submitted the Victim Impact Statement on behalf of TOF to the United States Attorney on Friday, June 25<sup>th</sup>, 2021.

## 8. Creditors

- 8.1 Claims on the estate : Trustee's salary and disbursements (p.m.).  
BNY Mellon: USD 10.500,00.  
Trident Trust: (p.m.)
- 8.2 Preferential claim tax authorities : See first public report. The claim of the Internal Revenue service of NAF. 101,505.00 has to be checked.
- 8.3 Preferred claim SVB :
- 8.4 Other preferred creditors :
- 8.5 Number of ordinary creditors : There are a total of 52 unsecured creditors, including 36 redemption investors.
- 8.6 Amount outstanding ordinary creditors : USD 151,031,768.17 plus p.m. The claims haven't been verified by the trustee yet.<sup>1</sup>
- 8.7 Expected bankruptcy settlement method :  
Activities :

## 9. Procedures

- 9.1 Name counterparty(ies) : IIG Global Trade Finance Fund Ltd (GTFF) and IIG Structured Trade Finance Fund Ltd (STFF).
- 9.2 Type of procedure : Civil Case based on the law of New York, filed with the Supreme Court of The State of New York

---

<sup>1</sup> A creditors' list is attached to the second report as Appendix C.

County of New York: Commercial Division on December 27, 2019. According to their “Memorandum of law in Support of Plaintiffs’ motion for summary judgment in lieu of Complaint Pursuant to CPLR 3213”, Plaintiffs requested the Court an order: “1) *granting summary judgment in favor of Plaintiffs against Defendant in the amount of USD 14,339,479.97, plus (i) default interest accruing at eleven percent per annum (11 p.a.) from the date of Guarantor’s failure to pay under the Nonpayment Notice, i.e., December 13, 2019, until the date such obligations are paid in full and (ii) together with all costs and expenses incurred in collecting such past due amounts, consistent with the terms of the Guarantee, the Note and the Security Agreement, including attorneys’ fees and costs, on the grounds that this action is based upon an instrument for the payment of money only and Defendant cannot raise any triable issue of fact, and (2) awarding Plaintiffs such other and further relief as this Court deems just and proper.*”

- 9.3 Current stage in the procedure : This procedure has been preliminary stayed by a Court Order of March 5, 2020 in which the Court granted the Provisional Relief as requested by the trustee. The stay continued under the Order of the Court granting recognition and other relief in aid of a foreign main proceeding dated April 3, 2020 (for more info see 9.4 – 9.6). In the month of May, 2022 a status report of the liquidation of TOF has been filed with the bankruptcy court, on the court’s request.
- 9.4 Name counterparty(ies) : IIG Global Trade Finance Fund Ltd. (in Official Liquidation), et al., Debtors, IIG Global Trade Finance Fund Limited (in Official Liquidation) and IIG Structured Trade Finance Fund Ltd. (in Official Liquidation), Plaintiffs, v. Chaffetz Lindsey LLP, IIG TOF B.V., Trade Finance Trust, IIG Bank (Malta) Ltd., Trilinc Global Impact Fund – Trade Finance, Defendants.
- 9.5 Type of procedure : Adversary Proceeding No. 21-01215 (MEW) pursuant to that certain Order Regarding Interpleader (the “Interpleader Order”) in the Adversary Proceeding styled as IIG Global Trade Finance Fund Ltd. (in Official Liquidation), et al. v. Chaffetz Lindsey LLP, et al., Adv. Proc. No. 20-01215 (MEW) [Dckt. No. 29].
- 9.6 Current stage in the procedure : In short, this case concerns money in an escrow account of the law firm Chafetz Lindsey. It regards money from a settlement agreement between IIG TOF B.V. and the Vincetin Group. Vincetin Group

is a group of borrowers in Argentina. TOF, based on information obtained from, among others, Martin Silver, filed a statement of claim for an amount of equal to not less than USD 117,630.12 for legal and other fees and expenses incurred on behalf of the lenders in relation to the dispute between TOF BV and the Vicentin Group, after obtaining permission from the supervisory judge. TOF's claim has been disputed by the plaintiffs and TOF did not have sufficient evidence to make a defense. After discussing the case with TOF's lawyer, the trustee decided to not continue the case due to lack of evidence, the costs to be incurred if the trustee would proceed with the case and the possible "return on investment".

- 9.7 Name counterparty(ies) :
- 9.8 Type of procedure :
- 9.9 Current stage in the procedure :

## 10. Various

- 10.1 Term for completion bankruptcy proceedings : Unknown
- 10.2 Plan of action :
- 10.3 Next bankruptcy report due in Activities : May 2023
- 10.4 : The trustee met in September 2022 with Martin Silver and his lawyers in New York to obtain information and documentation with regards to outstanding matters that are important for the settlement of the bankruptcy. Martin Silver is doing his best to assist the trustee whether requested or not. His cooperation is currently very important for the sale of the property in Brazil, as indicated under section 3 of this report. The trustee hopes further that the sale of TOF's subsidiary as mentioned under section 3.12 of this report will be completed in the first half of this year. There will be a better picture with regard to the settlement of this bankruptcy, after the sale of these two assets.