

GWG Cuts Off Attorney Access to Creditor Matrix



Investors say the information is needed for cases against broker-dealers who sold them L Bonds that are in default.

By [Donna Horowitz](#)

June 21, 2022 12:53 PM

[GWG Holdings Inc.](#) L Bond investors have alleged the company has shut off access to attorneys who want creditors' names.

In a [Wednesday, June 15, bankruptcy court filing](#), four investors in GWG's L Bonds alleged the company wanted to prevent attorneys from soliciting clients and gathering evidence to support legal claims against the firm's sales force. The investors asked Judge Marvin Isgur of the U.S. Bankruptcy Court for the Southern District of Texas to make an unredacted creditors' matrix freely available to attorneys to advertise for clients and obtain witnesses and documents.

GWG countered that it is improper for attorneys to use its creditors' matrix to find clients and witnesses to cases not related to the bankruptcy. GWG complained it has been bombarded by attorneys seeking the unredacted creditor list and said it therefore has begun withholding it from attorneys it believes are using the information to improperly advertise for clients. The company wants Isgur to clarify a matrix order.

Goodman & Nekvasil PA in St. Petersburg, Fla., representing the investors, disagrees with GWG and contends that investors' arbitration claims and other litigation are related to GWG's bankruptcy, which [it filed April 20](#) after it defaulted on \$10.35 million in interest and \$3.25 million in principal for the L Bonds earlier this year.

"It would set a terrible precedent for investor rights," Kalju Nekvasil, an attorney with Goodman & Nekvasil, told The Deal about GWG's interpretation of proper use of the creditor matrix. "We believe it violates bankruptcy law and constitutional rights of lawyers to advertise."

He said in his filing that he sent letters to people whose names he obtained in the unredacted version of the creditor matrix.

Nekvasil represents four investors, all in their 80s and 90s, who he said he believes were sold unsuitable investments when they were advised to buy GWG's L Bonds. Brynolf Heikkinen, 81, invested \$235,000 in GWG's L Bonds; Albert Peake, 94, and Irene Peake, 91, invested \$475,000 in the bonds; and Mary Strom, 85, invested \$383,014.

"Given their advanced age and limited assets, they could not afford and did not want any high-risk investments," the filing said.

Furthermore, he said that Strom's financial adviser was barred from the industry partly due to his recommendation of the GWG L bonds, which were unsuitable for her. The brokerage firm did not disclose this to Strom, and when the bonds matured in 2019, she reinvested her money in them on the recommendation of a new adviser.

The financial advisers told the investor creditors that GWG invested in life insurance policies and their bond investments were safe. It never told them the company had changed its strategy and was no longer investing in life settlements but was offering liquidity for other illiquid assets.

After GWG defaulted on interest and principal payments for the L Bonds, a financial adviser wrote to Heikkinen and the Peakes saying that a "freight train load of cash" was headed their way and that all GWG L Bond holders would likely receive their principal and interest, Goodman & Nekvasil's filing said.

In February, Heikkinen and the Peakes also received a letter from GWG saying that it was working "to best conserve and maximize the value of GWG's assets," that interest would continue to accrue and they would be informed if, and when, the firm could restart the cash payments.

Heikkinen and the Peakes thus believed their investments were safe until Goodman & Nekvasil told them the "true facts," including that GWG no longer invested in life insurance policies, it had lost almost \$425 million between 2018 and 2020, its largest asset was intangible goodwill and it was under investigation by the Securities and Exchange Commission for the goodwill valuation and other issues.

Nekvasil wrote that the investor creditors have since filed arbitration claims against their broker-dealers, and they want to obtain additional witnesses, documents and information to help them prove their cases.

Nekvasil said that solicitation letters are one of the best ways to obtain information about potential witnesses that can help investors in their arbitrations or litigation.

He argued that GWG's view of the creditor matrix order is incorrect because attorney advertising about a bankruptcy and efforts to obtain witnesses about an investment in a bankruptcy are related to the bankruptcy.

GWG pointed out that the court gave it permission to redact personally identifiable information such as names and home addresses of certain creditors, mainly the L Bond creditors.

GWG, however, must provide an unredacted version of the creditor matrix to any interested party related to the Chapter 11 case subject to European General Data Protection Regulation restrictions. Whoever receives the unredacted document must not transfer it to anyone not a party to the request.

[GWG said in its May 25 motion](#) that it had been giving law firms an unredacted version of the creditor's matrix.

"Before long, the requests came flooding in," GWG said.

The company said it began receiving requests for the unredacted matrix even before the court issued its matrix order on April 20, and it continues to receive many requests almost daily, mainly from law firms purportedly representing interested parties in the Chapter 11 case.

GWG said certain law firms used the unredacted creditor matrix for "apparent self-gain" by mailing letters to solicit clients. GWG said it has received many complaints from creditors and bondholders whose personal information was used to solicit business.

GWG said it obtained copies of several letters, which told creditors of potential Financial Industry Regulatory Authority claims they may be able to make against brokers or broker-dealers. Other requestors said they planned to use the matrix to look for bondholders to serve as witnesses in cases against broker-dealers.

"The improper use of the unredacted creditor matrix has been a burden to the estate," GWG said, adding it has taken time and money to address confused investors, including bondholders who expressed privacy concerns. GWG also has had to address such issues with law firms seeking the matrix.

GWG said it contacted offending law firms to ask them to stop improper uses of the matrix. But the law firms allegedly argued they had acted ethically and had complied with the matrix order.

GWG said it has not been able to reach a resolution with law firms that appear to want to use the unredacted matrix for attorney advertising and refuse to limit its use.

GWG said it has begun requiring law firms to send a written statement including the name of the represented interested party and to attest that the matrix is for use in the bankruptcy case and not to be used for attorney advertising.

Thus, GWG said it has temporarily stopped providing the unredacted matrix to law firms that plan to use it improperly, and it would like the court to clarify its matrix order.

No hearing has been set on the issue.