

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION
www.flsb.uscourts.gov

In re:

Chapter 11

PALM BEACH FINANCE PARTNERS, L.P.,
PALM BEACH FINANCE II, L.P.,

Case No.: 09-36379-PGH
Case No.: 09-36396-PGH
(Jointly Administered)

Debtors.

**LIQUIDATING TRUSTEE'S APPLICATION
TO EMPLOY JAY P. TARSHIS AND ARNSTEIN & LEHR LLP**

Barry E. Mukamal, in his capacity as liquidating trustee ("*Liquidating Trustee*") of the Palm Beach Finance Partners Liquidating Trust and Palm Beach Finance II Liquidating Trust, by and through undersigned counsel and pursuant to 11 U.S.C. § 327(a), *Fed. R. Bank. P.* 2014(a) and Local Rule 2014-1, respectfully requests that this Court enter an Order authorizing the employment of Jay P. Tarshis ("*Mr. Tarshis*") and the firm of Arnstein & Lehr LLP ("*A&L*") and collectively with Mr. Tarshis, the "*Applicant*"). In support, the Liquidating Trustee states as follows:

1. On November 30, 2009, the Debtors filed voluntary petitions under Chapter 11 of the United States Bankruptcy Code [ECF No. 1]. By subsequent Order of this Court, the cases are jointly administered.
2. On January 28, 2010, the Court entered the Agreed Order Directing Appointment of Chapter 11 Trustee and Denying United States Trustee's Motion to Convert Cases to Cases under Chapter 7 [ECF No. 100].
3. On January 29, 2010, the United States Trustee appointed the Liquidating Trustee as Chapter 11 Trustee in both of the Debtors' estates [ECF No. 107].

4. The Liquidating Trustee is the Liquidating Trustee by virtue of this Court's Order Confirming Second Amended Joint Plan of Liquidation dated October 21, 2010 [ECF No. 444].

5. Article 7.4(b) of the Liquidating Trust Agreements provide that the Liquidating Trustee may retain and consult with legal counsel, independent public accountants and other experts.

6. The Liquidating Trustee desires to employ the Applicant pursuant to section 327(e) of the Bankruptcy Code as special counsel and an expert, *nunc pro tunc* to the date of filing of this Application. The Applicant will assist the Liquidating Trustee with expert consulting services, and may in the future provide expert testifying services, in contested matters or one or more adversary proceedings commenced by the Liquidating Trustee.

7. Specifically, the Applicant will assist the Liquidating Trustee in an objective and independent evaluation of issues relating to charitable giving, non-profit corporate governance and tax controversy matters, as well as other related or similar analyses that the Liquidating Trustee may request, including issues relating to litigation currently pending against the National Christian Foundation.

8. Mr. Tarshis is a partner in the law firm of A&L. As set forth in the engagement letter attached hereto as Exhibit 1, Mr. Tarshis' hourly rate for this engagement will be \$465.

9. As set forth in detail in Mr. Tarshis' curriculum vitae, which is attached hereto as Exhibit 2, Mr. Tarshis has extensive experience in the matters upon which he is to be retained and is qualified to advise the Liquidating Trustee and to represent him and the Trusts in connection with such matters.

10. To the best of the Liquidating Trustee's knowledge, except as set forth in the Declaration of Jay P. Tarshis (the "***Tarshis Declaration***"), which is attached hereto as Exhibit 3,

the Applicant does not have any connection with the Debtors, the Liquidating Trustee, the Trusts, its creditors or interest holders, or any other parties in interest, or any of their respective attorneys and accountants. Moreover, the Applicant does not hold or represent any interest adverse to the Debtors, the Liquidating Trustee, the Trusts, their estates, or their creditors or other interested parties, with respect to the matters on which the Applicant is to be engaged, as required by section 327(e) of the Bankruptcy Code.

11. Subject to this Court's approval in accordance with applicable bankruptcy law, the Applicant shall be compensated for its legal services at its ordinary and customary hourly rates in effect at the time that the services are rendered, and as set forth in the Tarshis Declaration. Additionally, the Applicant intends to seek one-hundred (100%) reimbursement of all costs and expenses incurred in connection with its services.

12. The Liquidating Trustee believes that the employment of the Applicant is in the best interest of the Debtors' estates and their creditors.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WHEREFORE, the Liquidating Trustee respectfully requests the Court enter an Order (similar in form to the attached Exhibit 4) (i) authorizing the retention of the Applicant as his expert upon the terms and conditions set forth above *nunc pro tunc* to the date of filing of this Application; and (ii) for all other relief this Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on June 28, 2013, a true and correct copy of the foregoing was served via the Court's Notice of Electronic Filing upon all Registered Users listed on the attached Exhibit A and via U.S. Regular Mail upon all parties listed on the attached Exhibit B.

s/ Jessica L. Wasserstrom
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June 21, 2013

Mr. Barry E. Mukamal, in his capacity as
Liquidating Trustee of the Palm Beach Finance
Partners Liquidating Trust and the Palm Beach
Finance II Liquidating Trust
c/o Jessica Wasserstrom
Meland Russin Budwick
3200 Southeast Finance Center
200 S. Biscayne Boulevard
Miami, FL 33131

Re: Petters Bankruptcy/Litigation/Engagement Letter

Dear Jessica:

This Letter Agreement ("Agreement") is to confirm our understanding of the terms, nature and extent of legal services that Arnstein & Lehr LLP (the "Firm") will provide in connection with certain income tax issues relating to the Petters bankruptcy. It is our understanding that I will be asked to provide special counsel on the propriety of certain tax deductible gifts made to a donor advised fund sponsored by the National Christian Foundation and Fidelis Foundation.

The Firm has conducted a conflicts check in this matter. As of the date of this letter, the Firm is not aware of any conflict. However, the Firm has represented (and may currently be representing) U.S. Bank, N.A., HSBC, M&I Bank, BMO Harris Bank, and General Electric Credit Corporation, on matters unrelated to the matters for which we are being retained. Potential conflicts of interest are disclosed in order to comply with Article VIII of Illinois Supreme Court Rule 1.7 of the Code of Professional Conduct.

Our work on this matter will be charged at our hourly rates, which currently range between \$140 and \$250 per hour for legal assistants and \$270 and \$610 per hour for attorneys, depending upon their level of experience. My current hourly rate is \$465 per hour. Our standard rates are reviewed in the last quarter of each year and may be adjusted on January 1 of the following year. If our standard rates change while we are working on this matter, we will promptly notify you.

Each of our attorneys and legal assistants maintains detailed time records of services performed. This results in a monthly billing statement showing, on a daily basis, work performed by each billing professional, the time spent by such billing

CHICAGO HOFFMAN ESTATES SPRINGFIELD MILWAUKEE
FORT LAUDERDALE MIAMI TAMPA WEST PALM BEACH BOCA RATON
Arnstein & Lehr LLP is a member of the International Lawyers Network

ARNSTEIN & LEHR LLP
Mr. Barry E. Mukamal
c/o of Jessica Wasserstrom
June 21, 2013
Page 2

professional on each day and the total amount charged. To the extent practicable, this time is reported on the basis of one-tenth an hour increments.

In addition, we will charge for costs and expenses that we incur on behalf of this matter. These include messenger services, special postage charges, and in-house support services such as computerized research, and staff overtime when necessary. Expense items will be shown on our bills and may include a surcharge to recapture related overhead and expenses. While we try to bill all costs and expenses in the month they are incurred, normal accounting delays sometimes result in the billing of these matters in a subsequent month.

You may terminate the employment of the Firm at any time. After termination of our representation, if you wish us to return any documents to you, please let us know. We will maintain our files in accordance with our records retention program, which provides for destruction of files at designated periods, typically after 7 years.

When communicating with us electronically, you should use a secure electronic device in order to help insure confidentiality and privilege.

After you have reviewed this Agreement, please call me with any questions you may have. We invite any questions you may have concerning the terms of this agreement or any other aspect of our relationship. We believe that candid communication is essential and we welcome any suggestions you may have at any time as to how we might better be of service.


If the terms and conditions set forth above are acceptable, please sign, date and return a copy of this Agreement to me.

Sincerely yours,


Jay R. Tarshis

JPT:cap
Enclosure
cc: Franklin L. Zemel

Agreed to:



Barry E. Mukamal, in his capacity as
Liquidating Trustee of the Palm Beach
Finance Partners Liquidating Trust and the
Palm Beach Finance II Liquidating Trust
11037075.1

Date: 6/25/13



Jay P. Tarshis

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(312) 876-0288 fax
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Chicago, IL 60606-3910

www.arnstein.com

About Jay P. Tarshis

Mr. Tarshis is a partner in Arnstein & Lehr's Chicago office and head of its trusts and estates practice group. His practice focuses on estate planning and administration, taxation, and general corporate law. Mr. Tarshis' estate planning practice is concentrated on inter-generational wealth planning for family business owners and high net worth individuals. Mr. Tarshis frequently addresses business succession issues, asset protection planning, tax planning relating to liquidity events, family business transfers, charitable giving and tax controversy matters. Mr. Tarshis also represents various charitable organizations on planned giving, corporate governance, tax and other issues.

Mr. Tarshis' recent firm affiliations are as follows:

Arnstein & Lehr LLP (Chicago Office): April, 2005 through the present
Michael Best & Friedrich LLP (Chicago Office): May, 2001 through March, 2005
Schwartz & Freeman: September, 1993 through April, 2001
Gottlieb & Schwartz: January, 1989 through August, 1993

Professional Activities and Achievements

Mr. Tarshis was elected to the "Leading Lawyer Network" for estate planning attorneys. Mr. Tarshis has also served on planned giving committees for the Boy Scouts (Chicago Area Council) and the Glenwood School for Boys.

Publications and Speaking Engagements

Mr. Tarshis frequently speaks on tax, estate planning, asset protection, family wealth planning and related issues. Recent publications include an article in Chicago Lawyer titled, "Tax Issues Relating to Domestic Partner Benefits," a chapter titled "Naming Trusts as Beneficiary" in IICLE publication Retirement Benefits in Estate Planning and an article titled "Current Trends in Fiduciary Litigation: The Evolving Responsibility of the Trustee to Diversify its Portfolio" in Stout Risius Ross Summer 2009 Trust and Estates Journal. Mr. Tarshis has also frequently contributed to the Medical Economics magazine and related publications.

In the Summer, 2009 issue of Stout/Risius/Ross, Trusts & Estates Edition, co-authored an article *Current Trends in Fiduciary Litigation: The Evolving Responsibility of the Trustee to Diversify its Portfolio*.

Recent Seminars presented by Mr. Tarshis include:

October 20, 2011 – Northwest Suburban Estate Planning Council – "Designating a Beneficiary of Retirement Assets"

October 15, 2009 – Northwest Suburban Estate Planning Council – "Recent Developments Impacting IRAs"

February 12, 2009 – JPMorgan presentation – “Managing Fiduciary Risks: Diversification and Other Misnomers”

November 6, 2008 – Estate Plan classes for Oxford Investment Partners – “Introduction to Estate Planning” and After the Basic Estate Plan”

September 18, 2008 – Northwest Suburban Estate Planning Council - “Current Estate Planning Issues for IRAs”

May 6, 2008 – Chicago Bar Association – “Estate Planning with Retirement Benefits”

March 27, 2008 – Kane County Bar Association 2008 Estate & Probate Seminar, Geneva, IL – “A Short Course on Estate Planning with Retirement Benefits”

February 13, 2008 – Fifth Third Bank National Trust Officer Conference, Indianapolis, IN – re “Recent Trends in Fiduciary Litigation”

September 26, 2007 - Bank of America: national teleconference from Chicago – “Special Needs Trusts and Estate Planning for People with Disabilities”

June 11, 2007 – DFK Accountants (Nationwide Affiliated Accounting Firms) “Business Valuation and Litigation Services Fly-In” O’Hare Radisson, Chicago, IL - re: “409A Final Regulations: Valuation Issues”

June 5, 2007 – Renaissance Chicago Hotel, Northbrook, IL – Asset Protection Planning for Physicians

May 21, 2007 – O’Hare Marriot, Chicago, IL - Asset Protection Planning for Physicians

November 6, 2006 – Lisle - Asset Protection Planning for Physicians

October 25, 2006 – Oak Lawn - Asset Protection Planning for Physicians

September 29, 2005 – Chicago Business Succession Planning (sponsored by Northwest Chicago Industrial Council)

November 10, 2004 – Chicago - Asset Protection Planning for Accountants and Physicians

Education

University of Illinois College of Law (J.D., *cum laude*, 1980)

Northwestern University (B.S., 1976)

Bar Admissions

State of Illinois

U.S. District Court for the Northern District of Illinois

U.S. Tax Court

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PAL BEACH FINANCE II, L.P.,

Case No.: 09-36379-PGH
Case No.: 09-36396-PGH
(Jointly Administered)

Debtors.

_____ /

DECLARATION OF JAY P. TARSHIS

Jay P. Tarshis, being duly sworn, says:

1. I am over the age of eighteen and of sound mind.
2. I am a partner in the law firm of Arnstein & Lehr LLP with offices located, *inter alia*, at 120 S. Riverside Plaza, Suite 1200, Chicago, IL 60606 (the "***Firm***").
3. I am familiar with the matters set forth herein and make this Declaration in support of the Liquidating Trustee's Application to Employ Jay P. Tarshis and Arnstein & Lehr LLP (the "***Application***").
4. In support of the Application,¹ unless otherwise stated, this Declaration is based upon facts of which I have personal knowledge. I am an attorney admitted to practice in the State of Illinois, the United States District Court for the Northern District of Illinois, and the United States Tax Court.
5. Neither I nor the firm represent any interest adverse to the Debtors, the Liquidating Trustee, the Trusts, or their estates, or other interested parties with respect to the matters for which we are to be employed, pursuant to 11 U.S.C. §327(e).

¹ All capitalized terms utilized but not otherwise defined herein shall have the meaning ascribed to such terms in the Application.

6. Neither I nor the firm have connections with the Debtors, the Liquidating Trustee, the Trusts, their respective attorneys and accountants, the U.S. trustee, or any person employed in the office of the U.S. Trustee, other than the following:

The Firm has represented, continues to represent, and may represent in the future the entities described below in this paragraph 6 (or their affiliates) in connection with matters totally unrelated to the Debtors, their chapter 11 cases, the Liquidating Trustee, the Trusts or the matters upon which the Firm is to be retained herein. The Firm has not, does not, and will not represent any of the below entities, or any of their respective affiliates or subsidiaries, in matters directly related to the Debtors, their chapter 11 cases, the Liquidating Trustee, the Trusts or the matters upon which the Firm is to be retained.

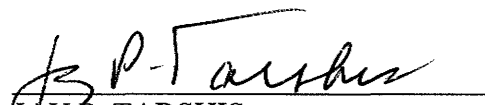
U.S. Bank, N.A., HSBC, M&I Bank, BMO Harris Bank and General Electric Credit Corporation.

7. Except for the representation of the Liquidating Trustee in connection with the special counsel and expert services set forth in the Application, neither I nor the firm has or will represent any other entity in connection with this case, and neither I nor the firm will accept any fee from any other party or parties in this case, except the Liquidating Trustee or the Trusts.

28 U.S.C § 1746 Declaration

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 27, 2013


JAY P. TARSHIS

:

11050724.1

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION
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In re:

Chapter 11

PALM BEACH FINANCE PARTNERS, L.P.,
PAL BEACH FINANCE II, L.P.,

Case No.: 09-36379-PGH
Case No.: 09-36396-PGH
(Jointly Administered)

Debtors.

_____ /

**ORDER AUTHORIZING THE EMPLOYMENT AND
RETENTION OF JAY P. TARSHIS AND ARNSTEIN & LEHR LLP**

THIS MATTER came before the Court on _____, __ 2013 at __ _:00 a/p.m., upon the Liquidating Trustee's Application to Employ Jay P. Tarshis ("**Mr. Tarshis**") and the firm of Arnstein & Lehr LLP ("**Arnstein**") and collectively with Mr. Tarshis, the "**Applicant**") [ECF No. ____] ("**Application**"). The Application seeks entry of an Order, pursuant to 11 U.S.C. §327(e), Fed. R. Bankr. P. 2014 and Local Rule 2014-1, authorizing the Liquidating Trustee¹ to employ

¹ All capitalized terms utilized but not otherwise defined herein shall have the meaning ascribed to such terms in the Application.

and retain the Applicant as special counsel and an expert to the Liquidating Trustee, *nunc pro tunc* to the date of filing of the Application; and upon the Declaration of Jay P. Tarshis (the “*Tarshis Declaration*”); and it appearing to the Court that representations have been made in the Application and in the Tarshis Declaration sufficient to demonstrate that the Applicant neither holds nor represents any interest adverse to the Debtors, the Liquidating Trustee, the Trusts, or their estates or interest holders, or other parties in interest with respect to the matters on which the Applicant is to be engaged as required by section 327(e), that the Applicant’s employment is in the best interests of the Debtors’ estates, the Trusts, their creditors, and all parties in interest, that all connections to the Debtors, the Liquidating Trustee, the Trusts, or their estates, or any other parties in interest have been sufficiently disclosed, that proper and adequate notice has been given and that no other or further notice is necessary; upon the record herein and after due deliberation thereon, the relief should be granted as set forth below. Accordingly, it is

ORDERED and ADJUDGED as follows:

1. The Application is **GRANTED**;
2. Pursuant to Section 327(e) of the Bankruptcy Code, the Liquidating Trustee is authorized to employ and retain the Applicant as its special counsel and expert for purposes of charitable giving, non-profit corporate governance and tax controversy matters as well as such other related or similar services that the Liquidating Trustee may request *nunc pro tunc* to the date of filing of the Application in accordance with the terms and conditions set forth in the Application.
3. The Applicant is authorized to render professional services to the Liquidating Trustee as set forth in the Application.

4. The Applicant shall apply for compensation for professional services rendered and reimbursement of expenses incurred in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, guidelines established by the Office of the United States Trustee for the Southern District of Florida, the Debtors' confirmed Plan and related documents, including the Liquidating Trust Agreements, and any other applicable procedures and orders of the Court.

5. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

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Submitted by:

s/ Jessica L. Wasserstrom

Jessica L. Wasserstrom, Esquire

Florida Bar No. 985820

jwasserstrom@melandrussin.com

MELAND RUSSIN & BUDWICK, P.A.

Attorneys for Liquidating Trustee

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Miami, Florida 33131

Telephone: (305) 358-6363

Telefax: (305) 358-1221

Copies Furnished To:

Jessica L. Wasserstrom, Esquire, is directed to serve copies of this Order on all parties in interest and to file a Certificate of Service.

Mailing Information for Case 09-36379-PGH

Electronic Mail Notice List

The following is the list of **parties** who are currently on the list to receive email notice/service for this case.

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