

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-EPK
Case No. 09-36396-EPK
(Jointly Administered)

Debtors.

/

**LIQUIDATING TRUSTEE'S MOTION (1) TO APPROVE SETTLEMENT
WITH SAMUEL MANSOUR; AND (2) TO APPROVE
PAYMENT OF CONTINGENCY FEE**

Any interested party who fails to file and serve a written response to this motion within 21 days after the date of service stated in this motion shall, pursuant to Local Rule 9013-1(D), be deemed to have consented to the entry of an order in the form attached to this motion. Any scheduled hearing may then be cancelled.

Barry E. Mukamal, in his capacity as liquidating trustee ("*Liquidating Trustee*") for the Palm Beach Finance Partners Liquidating Trust and the Palm Beach Finance Partners II Liquidating Trust (collectively, the "*Palm Beach Liquidating Trusts*"), by and through undersigned counsel, files this Motion (1) to approve settlement with Samuel Mansour ("*Mansour*" or "*Transferee*"); and (2) to approve payment of counsel's contingency fee ("*Motion*"). In support of this Motion, the Liquidating Trustee states:

Factual Background

A. Procedural Background

1. Prepetition, Palm Beach Finance Partners, L.P. and Palm Beach Finance II, L.P. (collectively, the "*Debtors*") operated as hedge funds. Together, David Harrold and Bruce Prevost managed the Debtors' fund raising and investment activities.

2. The principal investment strategy of the Debtors was to invest in purchase financing transactions supposedly sourced by Thomas Petters and his company, Petters Company, Inc. and its affiliated entities (collectively, “**PCI**”).

3. The reality, however, was that Mr. Petters and PCI were engaging in a massive *Ponzi* scheme.

4. On October 2, 2008, the United States of America filed under seal in the United States District Court for the District of Minnesota its Complaint for Permanent Injunctive Relief and Other Equitable Relief (the “**DOJ Complaint**”) pursuant to 18 U.S.C. § 1345. The parties to the DOJ Complaint included a number of parties implicated in the massive *Ponzi* scheme perpetrated by Mr. Petters, including Deanna Coleman; Frank E. Vennes, Jr.; Metro Gem, Inc. (“**MGI**”; and together with Mr. Vennes, the “**Vennes Parties**”); Robert White; Nationwide International Resources, Inc.; Larry Reynolds a/k/a Larry Reservitz; Michael Catain and Enchanted Family Buying Company (collectively, the “**Receivership Defendants**”).

5. On October 3, 2008, the United States District Court for the District of Minnesota (the “**Minnesota Court**”) entered a temporary restraining order, finding, among other things, that “[t]here is probable cause to believe that Defendants have conspired to commit and/or committed federal mail, wire, and/or banking fraud offenses.”

6. On October 6, 2008, the Minnesota Court entered an Order for Entry of Preliminary Injunction, Order Appointing Receiver, and Other Equitable Relief (including amendments thereto, the “**Petters Receivership Order**”).

7. The Petters Receivership Order appointed Douglas A. Kelley as the receiver for the Receivership Defendants (the “**Petters Receiver**”). Thereafter, the Petters Receiver filed voluntary Chapter 11 petitions in the United States Bankruptcy Court for the District of

Minnesota for PCI and was appointed Chapter 11 trustee for all such entities (in such capacity, the “*PCI Trustee*”; and at times together with the Liquidating Trustee, the “*Trustees*”).

8. On November 30, 2009, the Debtors filed voluntary Chapter 11 petitions in the United States Bankruptcy Court for the Southern District of Florida. By subsequent Order of this Court, the cases are jointly administered.

9. 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].

10. On October 21, 2010, this Court entered its Order Confirming Second Amended Plan of Liquidation [ECF No. 444], creating the Palm Beach Liquidating Trusts, appointing the Liquidating Trustee as Liquidating Trustee and appointing Geoffrey Varga as Trust Monitor.

B. The Vennes Litigation and the Adversary Proceeding

11. The Debtors introduction to Petters was made through and in connection with the Vennes Parties. This includes, after being introduced by the Vennes Parties, the Debtors invested hundreds of millions of dollars in fictitious PCI transactions.

12. On November 29, 2011, the Liquidating Trustee filed suit against the Vennes Parties, Adversary Case No. 11-03041-PGH-A (the “*Vennes Action*”). The Vennes Action seeks to avoid and recover transfers made to the Palm Beach Funds by the Vennes Parties and to hold the Vennes Parties liable in tort for material misrepresentations made by them to the Palm Beach Funds.

13. Concurrently with commencing his action against the Vennes Parties, the Liquidating Trustee also commenced suit against the Transferee, Adv. Case No. 11-02991 (Bankr. S.D. Fla.) (“*Adversary Proceeding*”). The Adversary Proceeding sought to avoid transfers made to or for the benefit of the Transferee by the Vennes Parties during the period

from approximately September of 2002 through and including approximately September of 2008 (the “*Transfers*”).

14. After the commencement of the Adversary Proceeding, on March 2, 2012, the PCI Trustee sent a letter to the Transferee indicating that he intends to pursue the Transferee for the recovery of the Transfers under 11 U.S.C. § 550 (the “*Letter Demand*”).

15. As set forth in the complaint filed in the Adversary Proceeding and the Letter Demand, the Trustees assert that the Transferee received in the aggregate, approximately \$2,777,000 in Transfers from the Vennes Parties that are subject to avoidance and recovery for the benefit of the victims of the Petters’ fraud.

16. The Transferee denies any liability in connection with the claims asserted in connection with these claims.

17. The Trustees entered into an agreement whereby they agreed to mediate jointly with the Transferee and other transferees of the Vennes Parties and allocate between themselves according to the terms of that agreement any settlement proceeds relating to the transfers (the “*Allocation Agreement*”). Under the terms of the Allocation Agreement, the parties agreed to share equally the first one million dollars of total aggregate recoveries relating to claims against the Vennes Parties and their transferees, and for recoveries in excess of one million dollars, the PCI Trustee receives sixty percent and the Liquidating Trustee receives forty percent. [See ECF No. 1282.]

Settlement

18. Certain key aspects of the Settlement as more fully stated in the Stipulation of Settlement attached as Exhibit 1, between the parties are the following:

- a) Within ninety (90) days following the execution of the Settlement, the Transferee shall pay \$227,547.00 to the Trustees as follows: \$91,018.80 to the Liquidating Trustee, and \$136,528.20 to the PCI Trustee (collectively, the “*Settlement Payment*”).

- b) Any portion of the Settlement Payment made prior to the approval of the Settlement by this Court will be held by counsel for the Liquidating Trustee.
- c) Thereafter, the Liquidating Trustee, on behalf of the Liquidating Trusts, shall dismiss the Adversary Proceeding with prejudice; and
- d) The Transferee shall not be entitled to any distribution from the Debtors' bankruptcy estates.

19. Pursuant to the Second Amended Joint Plan of Liquidation ("***Plan***"), approved by this Court's Order dated October 21, 2010 [ECF No. 444], all monetary consideration received in conjunction with the Settlement will be allocated and apportioned among the Debtors as follows: 18% to Palm Beach Finance Partners, L.P. and 82% to Palm Beach Finance II, L.P. ("***Pro Rata Allocation Formula***").

I. Relief Requested

20. The Liquidating Trustee seeks an Order from this Court approving the Stipulation and directing payment of the Contingency Fee (as defined below). Federal Rule of Bankruptcy Procedure 9019 provides in relevant part that "[o]n motion ... and after a hearing on notice to creditors; the debtor ... and to such other entities as the Court may designate, the Court may approve a compromise or settlement."

21. Approval of a settlement in a bankruptcy proceeding is within the sole discretion of the Court and will not be disturbed or modified on appeal unless approval or disapproval is an abuse of discretion. *In re Arrow Air*, 85 BR 891 (Bankr. S.D. Fla. 1988).

22. The standards for approval are well settled and require the Court to inquire into the reasonableness of the proposed settlement. *See, e.g., Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968); *In re W.T. Grant Co.*, 699 F.2d 599, 608 (2d Cir. 1983); *Florida Trailer and Equip. Co. v. Deal*, 284 F.2d 567, 571 (5th Cir. 1960). The inquiry need only determine whether the settlement falls below the

lowest point of the range of reasonableness. *See W.T. Grant Co.*, 699 F.2d at 608; *see also In re Martin*, 91 F.3d 389 (3rd Cir. 1996); *In re Louise's Inc.*, 211 B.R. 798 (D. Del. 1997) (setting forth considerations by the Court for approval of a settlement, including: (i) the probability of success in litigation, (ii) the likely difficulties in collection; (iii) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (iv) the paramount interest of the creditors.

A. The Settlement Ought to be Approved

23. Based upon the above legal principles, the Liquidating Trustee asserts that the Settlement falls well above the lowest point of the range of reasonableness and thus, should be approved.

Probability of success in litigation

24. The Liquidating Trustee could assert that the transfers made to the Transferee by the Vennes Parties were fraudulent transfers under federal or state law. The Liquidating Trustee believes that he has a significant likelihood of success in prosecuting such claims. Nonetheless, the Liquidating Trustee acknowledges that there are risks inherent in all litigation and there is the possibility that the Transferee, or other similarly situated parties, could raise certain issues or defenses that potentially could impact the Liquidating Trustee's claims. Some of those defenses have been set forth in the Transferee's court papers filed in the Adversary Proceeding.

Collectability

25. Collectability is always a significant consideration with respect to the resolution of litigation, and that is no different here. The Transferee resides outside of the State of Florida, and therefore the Liquidating Trustee believes that even if he has the financial wherewithal to satisfy a judgment, there would be significant expenses in connection with collection efforts.

Complexity of litigation and attendant expense, inconvenience and delay

26. This is a significant consideration that militates in favor of approval of the Settlement.

27. In sum, although many of the claims outlined above are typical claims litigated before this Court, they still will require retention of experts and extensive fact discovery before a trial could take place. Prosecution of this case will result in substantial attorney's fees and costs (including for experts, travel and deposition transcripts, and other typical and ordinary litigation-related expenses). The result of these costs which would be substantial would diminish the net result of any recovery.

28. The Settlement addresses all of these concerns. The parties avoid litigating fact-specific claims with the attendant expense and delay of such litigation being nullified.

Paramount interest of creditors

29. The Settlement Payment provides a meaningful payment on the Liquidating Trustee's potential claims against the Transferee when measured against the potential defenses and litigation risks, as well as the potential delay and professional costs associated therewith. Moreover, as a material creditor in the PCI bankruptcy cases, the Liquidating Trustee will receive a material percentage of the settlement payment to the PCI Trustee. As such, the Settlement is in the paramount interest of the Debtors' stakeholders.

B. *The Contingency Fee Ought to be Approved*

30. Pursuant to the Plan and this Court's Order Approving the Trustee's Motion to Approve Hybrid Form of Compensation [ECF No. 223], Meland Russin & Budwick, P.A. ("**MRB**") is entitled to a fee of 10% of any affirmative recovery received by the Debtors' estates from a litigation matter pursued by the firm without further order of the Court ("**Contingency Fee**").

31. The Liquidating Trustee requests that the Contingency Fee - in the amount of \$9,101.88 - be approved and that he be authorized and directed to pay this amount when the Settlement Payment is made.

WHEREFORE, the Liquidating Trustee respectfully requests that this Court (1) enter an Order as set forth in attached Exhibit 2 approving the Settlement and directing payment of the Contingency Fee; and (2) grant such other relief this Court deems just and proper.

Dated: October 27, 2017.

s/ Solomon B. Genet
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Solomon B. Genet, Esquire
Florida Bar No. 617911
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Miami, Florida 33131
Telephone: (305) 358-6363
Telecopy: (305) 358-1221

Attorneys for the Liquidating Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on October 27, 2017, via the Court's Notice of Electronic Filing upon the Registered Users listed on the attached Exhibit 3 and via Regular U.S. Mail upon the parties listed on the Court's Manual Notice List attached as Composite Exhibit 4, the Court's Matrices in Case No. 09-36379-BKC-EPK and Case No. 09-36396-BKC-EPK attached as Composite Exhibit 5¹, those additional addresses set forth on Composite Exhibit 6, and via e-mail on Steven M. Pincus, Esq., Anthony Ostlund Baer & Louwagie, 90 South 7th Street, 3600 Wells Fargo Center, Minneapolis, MN 55402, spincus@anthonyostlund.com.

s/ Solomon B. Genet
Solomon B. Genet, Esquire

¹ "ADDL" means these additional parties served as a courtesy. See Composite Exhibit 6.

"BAD" means that it is a known bad address; hence, no service by mail.

"DUP" means that the address appears more than once on this exhibit and is only being served one time by mail.

"INC" means that the Matrix contains an incomplete addresses; hence, no service by mail.

"NEF" means that service was made by Notice of Electronic Filing as set forth on Exhibits 3 and is not being additionally served by mail.

"NNR" means no notice is required. Examples are professionals retained.

"PBF" means that entity appears on both matrices and only being served once.

¹ See footnote 1.

STIPULATION OF SETTLEMENT

This Stipulation of Settlement ("*Stipulation*") is entered into on Oct. 15, 2017 by and between (a) Barry E. Mukamal, in his capacity as liquidating trustee (the "*Liquidating Trustee*") of the Palm Beach Finance Partners Liquidating Trust and the Palm Beach Finance II Liquidating Trust (collectively, the "*Liquidating Trusts*"), (b) Douglas A. Kelley, in his capacity as the Trustee of the PCI Liquidating Trust established pursuant to the Second Amended Chapter 11 Plan of Liquidation confirmed in the bankruptcy cases jointly-administered as *In re Petters Company Inc., et al.* (the "*PCI Trustee*"), and (c) Samuel Mansour ("*Mansour*" or the "*Transferee*") (the Liquidating Trustee, PCI Trustee, and the Transferee are at times individually referred to herein as a "*Party*" or collectively, the "*Parties*"). The terms of this Stipulation are as follows:

RECITALS

A. On November 30, 2009 ("*Petition Date*"), Palm Beach Finance Partners, L.P. and Palm Beach Finance II, L.P. (the "*Palm Beach Funds*") commenced Chapter 11 bankruptcy cases by filing voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Florida (the "*Florida Bankruptcy Court*"), Bky. Nos. 09-36379 and 09-36396 respectively (the "*Florida Bankruptcy Cases*");

B. On October 21, 2010, the Florida Bankruptcy Court entered its Order Confirming Second Amended Plan of Liquidation [Bky. No. 09-36379, ECF No. 444], creating the Liquidating Trusts and appointing the Liquidating Trustee as liquidating trustee;

C. In an action commenced by the United States of America, by an Order entered on October 6, 2008 and as subsequently amended, the Honorable Ann D. Montgomery, United States District Judge for the District of Minnesota, appointed Douglas A. Kelley as Receiver (the "*Receiver*") for, among others, Thomas J. Petters ("*Petters*"), Petters Company, Inc. ("*PCI*"),

Petters Group Worldwide, LLC ("**PGW**") and any affiliates, subsidiaries, divisions, successors, or assigns owned 100% or controlled by the foregoing. *United States v. Petters, et al.*, Case No. 0:08-cv-05348, ECF Nos. 12 and 127 (the "**Receivership Case**");

D. Pursuant to the authority granted to him under the Receivership Order, the Receiver filed petitions in the United States Bankruptcy Court for the District of Minnesota ("**Minnesota Bankruptcy Court**") commencing the Chapter 11 cases of PCI and PGW on October 11, 2008. Petitions commencing the voluntary Chapter 11 bankruptcy cases of PC Funding, LLC, Thousand Lakes, LLC, SPF Funding, LLC, PL Ltd., Inc., Edge One, LLC and MGC Finance, Inc. were filed on October 15, 2008. The petition commencing the Chapter 11 bankruptcy case of PAC Funding, LLC was filed on October 17, 2008. The petition commencing the Chapter 11 bankruptcy case of Palm Beach Finance Holdings, Inc. was filed on October 19, 2008. The above-referenced bankruptcy cases are being jointly administered under *In re Petters Company, Inc., et al.*, Bky. Case No. 08-45257 (the "**Minnesota Bankruptcy Cases**" or "**PCI/PGW Bankruptcy Estates**");

E. On February 26, 2009, the Minnesota Bankruptcy Court approved the Office of the United States Trustee for the District of Minnesota's appointment of Douglas A. Kelley, as the PCI Trustee;

F. On November 29, 2011, the Liquidating Trustee commenced litigation against Frank E. Vennes, Jr. ("**Vennes**") and Metro Gem, Inc. ("**Metro Gem**") on behalf of the Liquidating Trusts. *Mukamal v. Metro Gem, Inc. et al.*, Adv. No. 11-03041 (Bankr. S.D. Fla.). The Liquidating Trustee asserts claims arising in tort based on certain representations Vennes made to the Palm Beach Funds regarding their advances to Palm Beach Finance Holdings, Inc. and also for fraudulent transfers to recover certain investment transfers Vennes and Metro Gem received from the Palm Beach Funds as investors in the Palm Beach Funds;

G. On or about November 25, 2011, the Liquidating Trustee, on behalf of the Liquidating Trusts, commenced an Adversary Proceeding against the Transferee, *Mukamal v. Samuel P. Mansour*, Adv. No. 11-02991 (Bankr. S.D. Fla.), asserting several claims against the Transferee, including claims for the avoidance and recovery of fraudulent transfers and unjust enrichment (the "*Adversary*"), relating to funds the Transferee received from Frank Vennes or Metro Gem (the "*Transfers*");

H. On March 2, 2012, the PCI Trustee sent a letter to the Transferee indicating that he intends to pursue the Transferee for the recovery of the Transfers under 11 U.S.C. § 550 (the "*Letter Demand*"). The Adversary and the Letter Demand are collectively referred to herein as the "*Trustees' Claims*";

I. The Transferee expressly denies any liability arising from the Trustees' Claims;

J. The Parties have engaged in discussions in an attempt to resolve any and all issues, including the Trustees' Claims;

K. To avoid the continued expense of litigating the Trustees' Claims and the related risk of an adverse outcome arising from the Adversary, as well as incurring costs and expenses associated therewith, among other reasons, the Parties have agreed to resolve the Trustees' Claims pursuant to the terms and conditions of this Stipulation.

NOW, THEREFORE, it is stipulated, consented to, and agreed, by and among the Parties as follows:

I. **No admission of liability.** The Parties acknowledge that this Stipulation is a compromise and settlement of a controversy. No Party admits, and each expressly denies, any liability on its part.

2. **Entire agreement.** This Stipulation constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof, and there are no other stipulations, agreements, representations, or warranties other than those specifically set forth herein. All prior agreements and understandings between the Parties concerning the subject matter hereof are superseded by the terms of this Stipulation. Notwithstanding the foregoing, the Transferee is also a party to an Agreement with the PCI Liquidating Trustee related to an adversary proceeding filed in the United States Bankruptcy Court for the District of Minnesota, and that Agreement is not superseded by this Stipulation of Settlement and remains in effect.

3. **Settlement Payment Settlement Payment.** In full and final settlement of the Trustees' Claims, the Transferee will pay (or cause to be paid) \$227,547.00 (the "**Settlement Payment**") to the Trustees within ninety (90) days following the full execution of this Stipulation by all Parties. The Liquidating Trustee's portion of the Settlement Payment (\$91,018.80) will be paid to the Liquidating Trustee via (i) wire transfer pursuant to written instructions to be provided by the Liquidating Trustee or his counsel to the Transferee or his counsel; or (ii) check made payable to "Barry E. Mukamal, Liquidating Trustee" and delivered to Jessica L. Wasserstrom, Esq., Meland Russin & Budwick, P.A., 200 South Biscayne Blvd., Suite 3200, Miami, Florida 33131. The PCI Trustee's portion of the Settlement Payment (\$136,528.20) will be paid to the PCI Trustee on behalf of the PCI bankruptcy estate via (i) wire transfer pursuant to written instructions to be provided by the PCI Trustee or his counsel to the Transferee or his Counsel or (ii) check made payable to "Douglas A. Kelley, Trustee" and delivered to Josiah Lamb, Esq., Kelley, Wolter & Scott, P.A., 431 South Seventh Street, Suite 2530, Minneapolis, MN 55415. Any portion of the Settlement Payment made prior to the approval of this Stipulation by the Florida

Bankruptcy Court and the Minnesota Bankruptcy Court shall be placed into the trust account for counsel for the Liquidating Trustee or the PCI Trustee, as appropriate.

4. **No entitlement to distribution.** The Transferee agrees that he will not be entitled to any monetary distribution whatsoever, directly or indirectly, from the Liquidating Trusts, the Palm Beach Funds, or the PCI/PGW Bankruptcy Estates. To the extent that the Transferee was scheduled (i) by the Palm Beach Funds in the Florida Bankruptcy Cases, or (ii) by PCI, PGW or any of the related administratively-consolidated debtors in the Minnesota Bankruptcy Cases, as having a claim or has filed any proof of claim or proof of interest in the Palm Beach Funds bankruptcy cases or the Minnesota Bankruptcy Cases, the Transferee agrees such claims or interests are deemed withdrawn in their entirety and will be stricken or otherwise disallowed.

5. **General releases between the Parties.**

A. For purposes of this Stipulation, the term "**Claims**" means any obligations, claims (including those arising under section 502(h) of the Bankruptcy Code), causes of action, or demands of any type that a party may presently have, may have or have had in the past, upon or by reason of any matter, cause or thing whatsoever, including without limitation any and all obligations, claims, causes of actions, and demands of any kind whatsoever, at law or in equity, indirect, derivative, or direct, known or unknown, discovered or undiscovered, including, but not limited to, the Trustees' Claims.

B. Upon approval of this Stipulation by orders of the Florida Bankruptcy Court and payment of the Settlement Payment, the Liquidating Trustee, on behalf of the Liquidating Trusts and the Palm Beach Funds, and the PCI Trustee, on behalf of the PCI/PGW Bankruptcy Estates, each waives and releases, now and forever, the Transferee, as well as the Transferee's spouse, children, and trusts for the benefit of the Transferee's spouse and

children, from any and all Claims that the Liquidating Trustee, the Liquidating Trusts, the Palm Beach Funds, the PCI Trustee, or the PCI/PGW Bankruptcy Estates may presently have, may have or have had in the past, upon or by reason of any matter, cause or thing whatsoever, against the Transferee, as well as the Transferee's spouse, children, and trusts for the benefit of the Transferee's spouse and children; provided that nothing herein will be deemed to release, waive, or otherwise limit any rights or obligations arising out of this Stipulation.

C. Upon approval of this Stipulation by final order of the Florida Bankruptcy Court and payment of the Settlement Payment, the Transferee, as well as the Transferee's spouse, children, and trusts for the benefit of the Transferee's spouse and children, waive and release, now and forever, the Liquidating Trustee, the Liquidating Trusts, the Palm Beach Funds, the PCI Trustee, and the PCI/PGW Bankruptcy Estates from any and all Claims that the Transferee, as well as the Transferee's spouse, children, and trusts for the benefit of the Transferee's spouse and children, may presently have, may have or have had in the past, upon or by reason of any matter, cause or thing whatsoever, against the Liquidating Trustee, the Liquidating Trusts, the Palm Beach Funds, the PCI Trustee, and the PCI/PGW Bankruptcy Estates; provided that this provision does not release, waive, or otherwise limit any rights or obligations arising out of this Stipulation.

6. **Dismissal of Adversary.** Within ten (10) business days following the entry of final, non-appealable orders by the Florida Bankruptcy Court approving this Stipulation, the Liquidating Trustee, on behalf of the Liquidating Trusts, will prepare and file and the Parties shall, to the extent necessary, execute appropriate court papers and documents providing for the dismissal of the Adversary with prejudice, each Party to bear his/its own costs, expenses and fees.

7. **Representations of the Transferee.** The individual executing this Stipulation on behalf of the Transferee represents and warrants that he has the authority to execute this Stipulation on behalf of the applicable Party and bind it to its terms. Such individual further represents and warrants on behalf of the Transferee that the Transferee received \$1,310,941.00 in total net profits from Vennes or one of his related entities, including Metro Gem.

8. **Representations of the Liquidating Trustee and the PCI Trustee.** The Liquidating Trustee and the PCI Trustee signing below each represents and warrants that he has the authority to execute this Stipulation on behalf of the Liquidating Trusts and the PCI/PGW Bankruptcy Estates, respectively, and bind them to its terms.

9. **Allocation of Settlement Payment.** The Transferee's Settlement Payment is in settlement of claims for repayment of transfers paid to the Transferee by Vennes or one of his related entities, including Metro Gem, and reported to the Transferee as interest income in the years 2000, 2001, 2002, 2003, and 2004.

10. **Review/No Duress.** Each of the Parties acknowledges that he, she, or it has read all of the terms of this Stipulation, has had an opportunity to consult with counsel of his, her, or its own choosing or knowingly and voluntarily waived such opportunity, and enters into those terms voluntarily and without duress.

11. **Amendments, Waiver.** This Stipulation may not be terminated, amended, or modified in any way except in a writing signed by all the Parties. No waiver of any provision of this Stipulation shall be deemed to constitute a waiver of any other provision hereof, whether or not similar, nor shall such waiver constitute a continuing waiver.

12. **Assignability.** No Party hereto may assign its rights under this Stipulation without the prior written consent of each of the other Parties hereto.

13. **Successors Bound.** This Stipulation shall be binding upon and inure to the benefit of each of the Parties and their successors and permitted assigns, including any subsequently-appointed trustee in the Minnesota Bankruptcy Cases or trustee of the Liquidating Trusts.

14. **No Third-Party Beneficiary.** The Parties do not intend to confer any benefit by or under this Stipulation upon any person or entity other than the Parties hereto and their respective successors, permitted assigns and each and every one of their subsequent transferees.

15. **Attorneys' fees and costs.** Each Party shall bear his/its own attorneys' fees and costs in connection with the negotiation of this Stipulation and motions and orders as may be necessary to obtain the approval of this Stipulation by the Florida Bankruptcy Court and each Party shall bear any mediation fees incurred in accordance with the Mediation Procedures Order entered in the Adversary; provided that in the event of any litigation between the Parties under this Stipulation or arising as a result of a default under this Stipulation, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs related thereto, including, but not limited to, those incurred at all trial and appellate levels.

16. **Effective date.** This Stipulation shall be effective upon execution by all of the Parties hereto, subject only to approval of this Stipulation by final, non-appealable orders of the Florida Bankruptcy Court and payment of the Settlement Payment. Upon it becoming effective, this Stipulation shall be binding on all of the Parties' successors or assigns.

17. **No effect.** If the Florida Bankruptcy Court does not approve this Stipulation, then the Stipulation shall be of no further force or effect, the Parties shall be restored to their rights as they existed prior to the execution of this Stipulation, and the Settlement Payment shall be returned to the Transferee by the Liquidating Trustee and the PCI Trustee in the amounts stated in Paragraph 3, respectively. Notwithstanding the foregoing, if the Florida Bankruptcy Court does not approve

this Stipulation because any of the Parties has failed to provide the Florida Bankruptcy Court with adequate information to rule on the merits of the Stipulation, the Parties will use their best efforts to seek reconsideration of any order declining to approve the Stipulation, or to file an amended motion to approve the Stipulation.

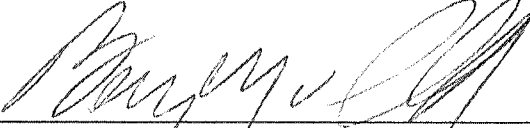
18. **Controlling law.** This Stipulation shall in all respects be construed in accordance with the laws of the State of Minnesota applicable to contracts made and to be performed wholly within the State of Minnesota and by federal law to the extent the same has preempted the laws of the State of Minnesota.

19. **Counterparts.** This Stipulation may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Stipulation. Delivery of an executed counterpart of a signature page to this Stipulation by facsimile shall be effective as delivery of a manually executed counterpart of this Stipulation.

20. **Construction.** This Stipulation shall be deemed to have been jointly drafted by the Parties, and in construing and interpreting this Stipulation, no provision shall be construed and interpreted for or against any of the Parties because such provision or any other provision of the Stipulation as a whole is purportedly prepared or requested by such Party.

21. **Jurisdiction.** Jurisdiction to enforce the terms of this Stipulation shall rest exclusively with the Florida Bankruptcy Court or the Minnesota Bankruptcy Court and the Parties agree to bring any controversy arising under this Stipulation only in either the Minnesota Bankruptcy Court or the Florida Bankruptcy Court.

STIPULATED AND AGREED TO BY:



Barry E. Mukamal, Liquidating Trustee

Date: 8/1/17

Douglas A. Kelley, PCI/PGW Trustee

Date: _____

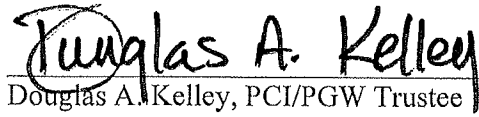
Samuel Mansour

Date: _____

STIPULATED AND AGREED TO BY:

Barry E. Mukamal, Liquidating Trustee

Date: _____



Douglas A. Kelley, PCI/PGW Trustee

Date: July 31, 2017

Samuel Mansour

Date: _____

STIPULATED AND AGREED TO BY:

Barry E. Mukamal, Liquidating Trustee

Date: _____

Douglas A. Kelley, PCU/PGW Trustee

Date: _____

Samuel Mansour
Samuel Mansour

Date: OCT. 27, 2017

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-EPK
Case No. 09-36396-EPK
(Jointly Administered)

Debtors.

_____ /

**ORDER GRANTING LIQUIDATING TRUSTEE'S MOTION
(1) TO APPROVE SETTLEMENT WITH SAMUEL MANSOUR;
AND (2) PAYMENT OF CONTINGENCY FEE [ECF NO. ____]**

THIS CAUSE came before the Court upon the Liquidating Trustee's Motion (1) to Approve Settlement with Samuel Mansour; and (2) to Approve Payment of Contingency Fee [ECF No. ____] ("**Motion**").¹ The Court, having reviewed the Motion and Movant by submitting this order having represented that the motion was served on all parties required by Bankruptcy Rule 2002 or Local Rule 2002-1(H), (I) or (J), that the 21-day response the time

¹ All capitalized terms not defined in this Order shall have the meaning ascribed to such term as set forth in the Motion.

provided by Local Rule 9013-1(D) has expired, that no one has filed, or served on the movant, a response to the motion, and that the form of order was attached as an exhibit to the motion, and any other applicable notice requirement, and accordingly, it is:

ORDERED as follows:

1. The Motion is **GRANTED**.
2. The Settlement is **APPROVED**.
3. The Settlement Payment will be allocated and apportioned among the Debtors as follows: 18% to Palm Beach Finance Partners, L.P. Liquidating Trust and 82% to Palm Beach Finance II, L.P. Liquidating Trust (the "*Pro Rata Allocation Formula*").
4. The Contingency Fee is approved. The Liquidating Trustee is authorized and directed to make payment of the Contingency Fee from each of the Trusts without the need of further Court Order, in accordance with the Pro Rata Allocation Formula, promptly upon receipt of the Settlement Payment.
5. The Court retains jurisdiction to enforce or interpret this Order.

###

Submitted By:

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Solomon B. Genet, Esquire, is directed to serve copies of this Order on all parties in interest and to file a Certificate of Service.

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Manual Notice List for both cases: 09-36379 and 09-36396
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Case 09-36379-EPK
Southern District of Florida
West Palm Beach
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