# 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 FOR APPROVAL OF SETTLEMENT WITH THE WALCHEK PARTIES AND 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 ("PBF Liquidating Trust") and Palm Beach Finance II Liquidating Trust ("PBF II Liquidating Trust"; and together with the PBF Liquidating Trust, the "Liquidating Trusts"), pursuant to Fed. R. Bankr. P. 9019, seeks an Order from this Court approving a settlement of claims arising from the settlement agreement previously approved by this Court at [ECF No. 2150] ("Initial Settlement") that could be asserted against the W Charitable Foundation, Walchek Family Revocable Trust dated November 19, 1998, Walchek Integrity L.P., Integrity Partners Investment Company, LLC and Scott and Kelli Walchek, both in their individual capacities and as trustees for the Trust (the foregoing parties are collectively referred to as the "Walchek Parties") as well as the allocation

of the settlement proceeds as between the Liquidating Trusts. In support of this relief, the Liquidating Trustee states the following:

#### I. Factual Background

- 1. The pre-petition activities of Palm Beach Finance Partners, L.P ("**PBF** I") and Palm Beach Finance, L.P ("**PBF** II"), predecessors of the Liquidating Trusts, and their relationship to the Walchek Parties are fully laid out in [ECF No. 2099].
  - 2. On January 30, 2014, this Court approved the Initial Settlement.

#### II. Settlement Terms

- 3. The Walchek Parties have provided financial disclosures which cast doubt on their collectability.
- 4. In or around October 2016, the Walchek Parties communicated to the Liquidating Trustee their inability to make payments pursuant to the parties' previously approved settlement agreement due to financial distress.
- 5. The Walchek Parties provided the Liquidating Trustee with certain financial statements evidencing the Walchek Parties financial status.
- 6. Based on these financial statements provided by the Walchek Parties and representations to the Liquidating Trustee, the Liquidating Trustee determined that in his business judgment it is in the best interest of the Liquidating Trusts to amend the terms of the prior settlement with the Walchek Parties.
- 7. After several months of negotiation, the parties have agreed to settle any claims that could arise from the Stipulation of Settlement. The key aspects of the new agreement between the parties ("Stipulation") are as follows:

<sup>&</sup>lt;sup>1</sup> A copy of the Stipulation is attached as <u>Exhibit 1</u>. To the extent the terms of the agreement differ with the terms set forth in this Motion, the agreement shall control.

- a. Payment of \$100,000 to the Liquidating Trusts within seven (7) days of this Court's approval of the terms of the Stipulation ("Initial Payment");
- b. Monthly payments of \$2,000 to the Liquidating Trusts on the first of each month commencing on January 1, 2018, for twenty-four (24) months ("Monthly Payments");
- c. Payment of \$50,000 to the Liquidating Trusts made on or before December 31, 2019 ("Final Payment" and together with the Initial Payment and Monthly Payments, "Settlement Payments");
- d. In the event the Walchek Parties fail to pay any of the Settlement Payments, the Liquidating Trustee will be entitled to a judgment against Mr. and Mrs. Walchek in the amount of \$2,000,000 less payments made ("Judgment").
- 8. Pursuant to the Second Amended Joint Plan of Liquidation, approved by this Court's Order dated October 21, 2010 [ECF No. 444], all monetary consideration received by the Liquidating Trusts in conjunction with the Stipulation will be allocated as follows: 18% to the PBF Liquidating Trust and 82% to the PBF II Liquidating Trust ("*Pro Rata Allocation Formula*").
- 9. Here, the Liquidating Trustee proposes to deviate from the Pro Rata Allocation Formula to take into account that any recovery related to the LP Claims would flow solely to PBF II Liquidating Trust while any recovery related to the Management Claims would be apportioned between the Liquidating Trusts pursuant to the Pro Rata Allocation Formula.
- 10. The Liquidating Trustee proposes that the amount of any recovery to be paid to the Liquidating Trusts be determined by modifying the Pro Allocation Formula as follows ("Modified Pro Allocation Formula"):

(Management Claims) X (Recovery) X 18% = Amount of Recovery (Management Claims + LP Claims) to PBF Liquidating Trust 11. By way of example, where the ratio of Management Claims to Management Claims plus LP Claims is approximately 24.52%, and if the recovery from the Walchek Parties is \$198,000, then the amount of consideration flowing to the PBF Liquidating Trust is \$8,738.76, with the balance flowing to the PBF II Liquidating Trust.

#### III. Relief Requested

- 12. The Liquidating Trustee seeks an Order from this Court (a) approving the Stipulation and (b) approving the Contingency Fee (as defined below).
- 13. Federal Rule of Bankruptcy Procedure 9019 provides in relevant part, "[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."
- 14. 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).
- 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 Stipulation Ought to be Approved

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

### Probability of Success in Litigation

- 17. The Liquidating Trustee, on behalf of the Liquidating Trusts, asserts that the Initial Settlement is enforceable.
- 18. The Liquidating Trustee believes that he will likely succeed in enforcing the Initial Settlement.

#### Collectability

- 19. Collectability is the concern.
- 20. The financial statements provided by the Walchek Parties establishes that the primary assets held by them are limited relative to the amount owed under the Initial Settlement and that such assets are difficult to value and illiquid in nature and potentially subject to multimillion taxing authority liens at the federal and state level that may be senior in priority to any judgment obtained by the Liquidating Trustee.
- 21. As such, assuming the Liquidating Trustee was successful in obtaining a judgment against any of the Walchek Parties, collection efforts would be hampered and ultimately could yield a *de minimis* recovery.

Complexity of litigation and attendant expense, inconvenience and delay

22. This is not a meaningful consideration.

#### Paramount interest of creditors

23. The Settlement Payments represent a reduced, yet meaningful, recovery of the amounts owed pursuant to the Initial Settlement. Although this recovery deviates from the proportion of recovery that the Liquidating Trustee has achieved in other similarly situated litigations, this deviation is appropriate in light of the collectability issues. Moreover, the Stipulation gives certainty to the estate and avoids the risk, expense and delay attendant with litigation. As such, the Stipulation is in the paramount interest of creditors and should be approved.

# B. The Contingency Fee Ought to be Approved

- 24. 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 contingency fee of 10% for any affirmative recovery it obtains on behalf of the Liquidating Trusts without further order of the Court ("Contingency Fee").
- 25. As such, MRB requests that the Contingency Fee be paid from the Settlement Payments when paid, without further Order from this Court, or in the event that the Settlement Payments are not made, from any recoveries achieved by MRB in collecting upon the Judgment.

WHEREFORE, the Liquidating Trustee requests that this Court enter an Order (similar in form to the Order attached as Exhibit 2) (1) approving the Stipulation; (2) approving the modification allocation of any recovery from the Walchek Parties between the Liquidating Trusts; (3) approving payment of the Contingency Fee and (4) granting such other relief this Court deems just and proper.

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#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on November 7, 2017, a true and correct copy of the foregoing was served via the Court's Notice of Electronic Filing on those parties listed on the attached Exhibit 3, via 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-PGH and Case No. 09-36396-BKC-PGH attached as Composite Exhibit 5<sup>2</sup>, and those additional addresses set forth on Composite Exhibit 6, and Scott Walchek via e-mail at scott@walchek.net.

s/ Joseph M. Wasserkrug
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Miami, Florida 33131
Telephone: (305) 358-6363
Telecopy: (305) 358-1221
Attorneys for Barry E. Mukamal,

Liquidating Trustee

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<sup>2 &</sup>quot;ADDL" means these additional parties served as a courtesy. See Composite Exhibit 5.

<sup>&</sup>quot;BAD" means that it is a known bad address; hence, no service by mail.

<sup>&</sup>quot;DUP" means that the address appears more than once on this exhibit and is only being served one time by mail.

<sup>&</sup>quot;INC" means that the Matrix contains an incomplete addresses; hence, no service by mail.

<sup>&</sup>quot;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.

<sup>&</sup>quot;NNR" means no notice is required. Examples are professionals retained.

<sup>&</sup>quot;N-WD" means no notice required as such party has filed a Notice of Withdrawal with this Court.

<sup>&</sup>quot;PBFP" means that entity appears on both matrices and only being served once.

<sup>&</sup>lt;sup>2</sup> See footnote 2.

#### STIPULATION OF SETTLEMENT

This Stipulation of Settlement ("Stipulation") is entered into on November 3., 2017, by and among (a) Barry E. Mukamal, in his capacity as liquidating trustee ("Liquidating Trustee") of the Palm Beach Finance Partners Liquidating Trust and the Palm Beach Finance II Liquidating Trust (collectively, the "Liquidating Trusts"); and (b) W Charitable Foundation, Walcheck Family Revocable Trust dated November 19, 1998 ("Trust"), Walchek Integrity L.P., Integrity Partners Investment Company, LLC and Scott and Kelli Walchek, both in their individual capacities and as trustees for the Trust (the foregoing parties are collectively referred to as the "Walchek Parties"; and the Liquidating Trustee and the Walchek Parties are at times individually referred to as a "Party" or collectively, the "Parties"). The terms of this Stipulation are as follows:

#### **RECITALS**

- C. On November 30, 2009 ("Petition Date"), Palm Beach Finance Partners, L.P. and Palm Beach Finance II, L.P. (collectively, 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 ("Bankruptcy Court");
- D. On October 21, 2010, the Bankruptcy Court entered its Order Confirming Second Amended Plan of Liquidation, creating the Liquidating Trusts and appointing the Liquidating Trustee as liquidating trustee;
- E. The Liquidating Trustee, on behalf of the Liquidating Trusts, filed lawsuits against the Walchek Parties in the Bankruptcy Court seeking to avoid and recover transfers allegedly made to or for their benefit by the Palm Beach Funds or affiliated entities: 11-2862-

BKC-PGH; 11-2880-BKC-PGH; 11-2864-BKC-PGH; and 11-3038-BKC-PGH (collectively, the "Litigation");

- F. The Walchek Parties expressly deny the claims that are asserted against them in the Litigation;
- G. The Parties, by stipulation of settlement dated December 17, 2013 ("Initial Stipulation"), resolved all issues regarding the Litigation;
- H. The Walchek Parties are unable to make the required payments under the Initial Stipulation;
- I. To avoid the expense and risk of adverse outcome arising from enforcement and collection pursuant to the Initial Stipulation, as well as incurring costs and expenses associated therewith, among other reasons, the Parties have agreed to resolve the Initial Stipulation pursuant to the terms of this Stipulation.

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

- 1. 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, and nothing in this Stipulation shall constitute an admission of any facts supporting such liability.
- 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, including the Initial Settlement, concerning the subject matter hereof are superseded by the terms of this Stipulation.

- 3. Financial Statements. The Walchek Parties shall provide to the Liquidating Trustee under penalty of perjury an updated balance sheet as of September 30, 2017 within 10 days of execution of this Stipulation.
  - 4. Consideration.
  - A. Stipulation to Entry of Judgment. Scott and Kelli Walchek stipulate to the entry of a final judgment in the form of Exhibit 1 attached hereto in the amount of \$2,000,000 ("Judgment"). As set forth below, the Liquidating Trustee shall only be permitted to enter or enforce the Judgment upon the occurrence of one or more of the conditions specified below, and then only on the terms set forth herein.
  - B. Satisfaction of Obligations. The Walchek Parties may satisfy their obligations under this Stipulation in the following manner: (a) by paying \$100,000 to the Liquidating Trustee within seven days of the Bankruptcy Court's approval of this agreement ("Initial Payment"); and (b) by making monthly payments in the amount of \$2,000 to the Liquidating Trustee for twenty-four months with the first payment to occur on or before January 1, 2018 ("Monthly Payments"); and (c) by paying \$50,000 to the Liquidating Trustee on or before December 31, 2019 ("Final Payment" and together with the Initial Payment and Monthly Payments, "Settlement Payments"). In the event the Walchek Parties do not timely make any of the Settlement Payments, the Walchek Parties consent to the entry of the Judgment and shall be liable for the full amount on the face of the Judgment less any payments made to the Liquidating Trustee pursuant to this Stipulation. Settlement Payments shall be made via (i) wire transfer pursuant to written instructions to be provided by the Liquidating Trustee or his counsel or (ii) check made payable to "Barry E. Mukamal, Liquidating Trustee" and delivered to Joseph M.

Wasserkrug, Esq., Meland Russin & Budwick, P.A., 200 South Biscayne Blvd., Suite 3200, Miami, Florida 33131.

5. No entitlement to distribution. The Walchek Parties agree they shall not be entitled to any monetary distribution whatsoever from the Liquidating Trusts or the Palm Beach Funds. To the extent the Walchek Parties have scheduled or filed any proof of claim or proof of interest in the Palm Beach Funds' bankruptcy cases, each such claim or interest shall be deemed disallowed in its entirety and be stricken.

#### 6. General releases between the Parties.

- A. For purposes of this Stipulation, the term "Claims" shall mean any obligations, claims, causes of action, 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.
- B. Upon approval of this Stipulation by final order of the Bankruptcy Court, the Liquidating Trustee, on behalf of the Liquidating Trusts and the Palm Beach Funds, waives and releases, now and forever, the Walchek Parties from any and all Claims that the Liquidating Trustee, the Liquidating Trusts or the Palm Beach Funds may have against the Walchek Parties; provided that that nothing herein shall be deemed to release, waive or otherwise limit any rights or obligations arising in this Stipulation, including the Judgment or any rights the Liquidating Trustee may have in connection with his executing upon the Judgment. The scope of the release in this paragraph shall not impact, impair or alter in any manner any Claims whatsoever that the Liquidating Trustee, on behalf of the Liquidating Trusts or the Palm Beach Funds, may have against

any parties, including, but not limited to, Claims against any alleged concurrent or consecutive tortfeasors, if any.

- C. Upon approval of this Stipulation by final order of the Bankruptcy Court and satisfaction of the Judgment, the Walchek Parties waive and release, now and forever, the Liquidating Trustee, the Liquidating Trusts and the Palm Beach Funds from any and all Claims that the Walchek Parties may have against the Liquidating Trustee, the Liquidating Trusts or the Palm Beach Funds; provided that this provision does not release, waive or otherwise limit any rights or obligations arising out of this Stipulation.
- 9. Authorization to bind. The individuals signing below represent and warrant that they have the authority to execute this Stipulation on behalf of the applicable Party and bind them to its terms.
- 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 voluntarily waived such right, and enters into those terms voluntarily and without duress.
- 11. Attorneys' fees and costs. Each Party shall bear 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 Bankruptcy Court; 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 reasonable attorneys' fees and costs related thereto from the party who defaulted, including, but not limited to, those incurred at all trial and appellate levels.
- 12. No waiver of modification. This Stipulation and any of the specific items, covenants, and conditions contained herein, may not be waived, changed, altered or modified

except by an instrument in writing signed by the Party against whom enforcement of such change is sought.

- 13. Binding. This Stipulation shall be binding upon execution by all of the Parties hereto, subject only to approval of this Stipulation by final order of the Bankruptcy Court. Upon entry of a final non-appealable Order approving this Stipulation, this Stipulation shall be binding on all of the Parties' successors or assigns.
- 14. No effect. If the Bankruptcy Court does not approve this Stipulation, then the Stipulation shall be of no further force or effect, and the Parties shall be restored to their rights as they existed prior to the execution of this Stipulation. Notwithstanding the foregoing, if the Bankruptcy Court does not approve this Stipulation because any of the Parties have failed to provide the Bankruptcy Court with adequate information to rule on the merits of the Stipulation, the Parties will use their reasonable efforts to seek reconsideration of any order declining to approve the Stipulation, or to file an amended motion to approve the Stipulation.
- 15. Controlling law. This Stipulation shall in all respects be construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed wholly within the State of Florida and by federal law, including bankruptcy law, to the extent the same has preempted the laws of the State of Florida.
- 16. 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.
- 17. 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.

18. **Jurisdiction.** The Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Stipulation.

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STIPULATED AND AGREED TO BY:		
Barry E. Mukamal, Liquidating Trustee	Date:	11/3/17
barry E. Tyddamar, Eddidaring Trustee		
SMILLER	Date:	Nov 1 2017
Scott Walchek, in his individual capacity and as trustee for the Walcheck Family		
Revocable Trust dated November 19, 1998		
Kell Walchek, in her individual capacity and as trustee for the Walcheck Family Revocable Trust dated November 19, 1998	Date:	Nov 1 2017
Walchek Integrity L.P.,	Date:	Nov 1 2017
SMILLED	Date:	Nov 1 2017
Integrity Partners Investment Company, LLC		

# 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 FOR APPROVAL OF SETTLEMENT WITH THE WALCHEK PARTIES AND PAYMENT OF CONTINGENCY FEE [ECF NO. XXXX]

THIS CAUSE came before the Court upon the Liquidating Trustee's Motion for Approval of Settlement with the Walchek Parties and Payment of Contingency Fee [ECF No. \_\_] (the "Motion"). The Court, having reviewed the Motion and noting that a Certificate of No Response and Request for Entry of Order has been filed, finds that the notice of the proposed compromise and

EXHIBIT 2

<sup>&</sup>lt;sup>1</sup> All capitalized terms not defined in this Order shall have the meaning ascribed to such term as set forth in the Motion.

settlement is sufficient to comply with Bankruptcy Rules 9019 and 2002(a)(3), Local Rule 9013-1(D) and any other applicable notice requirement, and accordingly, it is:

#### **ORDERED** as follows:

- 1. The Motion is **GRANTED**.
- 2. The Stipulation is **APPROVED**.
- 3. Scott and Kelli Walchek shall pay, or cause to be paid, the Settlement Payments in accordance with the terms and deadlines set forth in the Stipulation.
- 4. The Settlement Payments or any recoveries from collecting upon the Judgment will be allocated and apportioned between the Liquidating Trusts pursuant to the Modified Pro Allocation Formula.
- 5. MRB's Contingency Fee is approved. The Liquidating Trustee is authorized and directed to make payment of the Contingency Fee without the need of further Court Order, in accordance with the Modified Pro Rata Allocation Formula, promptly upon receipt of the Settlement Payments or from any recoveries obtained in collecting upon the Judgment.
  - 6. The Court retains jurisdiction to enforce the terms of the Stipulation.

###

#### **Submitted By:**

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Attorneys for the Liquidating Trustee

#### **Copies Furnished To:**

Joseph M. Wasserkrug, 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-EPK

#### **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.

- Melissa Alagna mma@gordichalagna.com, lag@gordichalagna.com
- Vincent F Alexander vfa@kttlaw.com, lf@kttlaw.com
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# Manual Notice Enst for 363th eases 109-369793370709-561396 11/07/17 Page 20 of 35

The following is the list of <u>parties</u> who are **not** on the list to receive email notice/service for this case (who therefore require manual noticing/service). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

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COMPOSITE EXHIBIT 4

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**NEF** 

**NEF** 

Label Matrix for local noticing
113C-9
Case 09-36379-EPK NNR
Southern District of Florida
West Palm Beach
Fri Sep 1 10:30:16 EDT 2017
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COMPOSITE EXHIBIT 5

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Case 09-36379-EPK Doc 3377 Filed 11/07/17 Page 29 of 35 Label Matrix for local noticing Geoff Varga, as Liquidator Palm Beach Finance II, L.P. **NNR** c/o Robin J. Rubens 3601 PGA Blvd 113C-9 **NEF NNR** Case 09-36396-EPK 201 S Biscayne Blvd 34 Fl Suite 301 Southern District of Florida Miami, FL 33131-4332 Palm Beach Gardens, FL 33410-2712 West Palm Beach Fri Sep 1 10:58:03 EDT 2017 ARIS Multi-Strategy Fund, LP US Trust, Co-Trustee of the Maxine B Adler T ARIS Capital Management 200 Biscayne Blvd. Way, # 4902 **DUP** Aris Capital Management 5200 Town Center Road #500 200 Biscayne Blvd. Way, # 4902 Boca Raton, FL 33486-1018 Miami, FL 33131-2165 Miami, FL 33131-2165 Alton Opitz Agile Safety Variable Fund, L.P. Agile Safety Fund (Master Fund) **PBFP** 144 Newhaven Ln 730 17th Street 730 17th Street **PBFP PBFP** Butler, PA 16001-7910 Suite 550 Suite 550 Denver, CO 80202-3539 Denver, CO 80202-3539 Barnett Capital Ltd. Barry Beal BayRoc Associates LLC **PBFP PBFP** c/o JamiScott LLC 450 Skokie Blvd, #604 104 S Pecos St Northbrook, IL 60062-7914 Midland, TX 79701-5021 15 West 53rd St #24-B New York NY 10019-5401 Bruce Prevost #15810-041 Blackpool Absolute Return Fund, LLC Blackpool Partners, LLC **PBFP** N-WD c/o John E. Page, Esquire 9595 West Quincy Avenue c/o John E. Page, Esquire N-WD Littleton, CO 80123-1159 Shraiberg, Ferrara & Landau, P.A. Shraiberg, Ferrara & Landau, P.A. 2385 N.W. Executive Center Drive, # 2385 N.W. Executive Center Drive, # Boca Raton, Florida 33431-8579 Boca Raton, Florida 33431-8579 Cohen Milstein Sellers & Toll, PLLC Centermark Asset Management Clarridge Associates LLC 21320 Baltic Dr c/o JamiScott LLC 1100 New York Avenue, N.W. **PBFP** Cornelius, NC 28031-6425 15 West 53rd St #24-B Suite 500, West Tower New York NY 10019-5401 Washington, D.C. 20005-3964 Attn: Andrew N. Friedman, Esq. David Harrold Douglas A. Kelley, Chapter 11 Trustee Compass Offshore Special Situations, PCC Attn: James A. Rubenstein, Esq. RRM Miami c/o Compass ITV LLC BAD Residential ReEntry Office 4800 Wells Fargo Center **PRFP** 245 Park Ave FL 13 90 South Seventh Street 401 N Miami Avenue New York, NY 10167-2300 Miami, FL 33128-1830 Minneapolis, MN 55402-3903 Frank Vennes #05123-059 Fulbright & Jaworski Douglas A. Kelley, Chapter 11 Trustee FPC Butner **PBFP** Norton Rose Fulgright US LLP Attn: Terrence J. Fleming, Esq. **PRFP PBFP** POB 1000 RBC Plaza 4200 IDS Center Butner NC 27509-1000 80 South Sixth Stt 80 South Eighth Street Minneapolis, MN 55402 Minneapolis, MN 55402-2100

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