



ORDERED in the Southern District of Florida on September 07, 2011.

**Paul G. Hyman Jr., Chief Judge
United States Bankruptcy Court**

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

In re:
PALM BEACH FINANCE PARTNERS,
L.P., a Delaware limited partnership, et al.,

Chapter 11

Debtors,
_____ /

CASE NO. 09-36379-BKC-PGH
(Jointly Administered)

ORDER GRANTING THE LIQUIDATING TRUSTEE'S MOTION TO APPROVE SETTLEMENT WITH SIMS MOSS KLINE & DAVIS, LLP

THIS MATTER came before the Court on August 30, 2011, upon the *Liquidating Trustee's Motion to Approve Settlement with Sims Moss Kline & Davis, LLP* ("**SMKD**") (the "**Motion**") [ECF No. 675].¹ Based upon a review of the Motion and considering the arguments of counsel, it is -

ORDERED as follows:

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, and authority to enter this Order pursuant to 11 U.S.C. § 105(a).

2. The Motion is **GRANTED**.

3. The form and means of the notice of the Bar Order and the Motion are determined to have been the best notice practicable under the circumstances and to be good and sufficient notice to all persons whose interests would or could be affected by this Order.

4. The Court has been apprised of the negotiations that preceded the Stipulation and finds that the Motion and request for Bar Order is a result of arms'-length bargaining among the parties. There is no evidence that the settlement reached by the Trustee with SMKD is the result of collusion among the parties or that there has been any intent to prejudice any interested parties.

5. The Court finds that entry of this Order is appropriate in order to achieve the finality and repose that is contemplated as a term of the proposed settlement and that good cause therefore exists for the entry of this Order, and is fair and equitable. *See In re U.S. Oil & Gas Litigation*, 967 F.2d 489, 495-96 (11th Cir. 1992); *Munford, Inc. v. Munford, Inc.*, 97 F.3d 449, 454-55 (11th Cir. 1996); *In re Jiffy Lube Securities Litigation*, 927 F.2d 155 (4th Cir. 1991); *Eichenholtz v. Brennan*, 52 F.3d 478 (3d Cir. 1995).

The following additional definitions apply to the provisions of this Order barring certain claims as set forth in paragraph 6 below:

“**Releasers**” shall mean (1) the Debtors; (2) all creditors of either of the Debtors, including but not limited to Geoffrey Varga, as Joint Official Liquidator of Palm Beach Offshore Ltd. and Palm Beach Offshore II Ltd.; (3) all limited partners of either of the Debtors; (4) all general partner(s) of either of the Debtors; and (5) all entities acting on behalf of the limited and general partners of the Debtors.

“*SMKD Parties*” shall mean SMKD and its present and former officers, directors, members, partners, representatives, managers, agents, employees, attorneys, predecessors, successors, subsidiaries and affiliates, and indemnitors and insurers, including but not limited to Professionals Direct Insurance Company.

"*Barred Claims*" shall mean any and all direct, indirect and/or derivative Claims, whether known or unknown, by any and all Releasors against the SMKD Parties that relate in any manner whatsoever to the Debtors.

6. Except as expressly provided below, Releasors are permanently barred and enjoined from commencing, prosecuting, or asserting either directly or in any other capacity, against the SMKD Parties, any and all liabilities, judgments, rights, claims, cross-claims, counterclaims, third party claims, demands, suits, matters, obligations, damages, debts, losses, costs, actions and causes of action, of every kind and description, arising under common law, rule, regulation or statute, whether arising under state or federal law, whether presently known or unknown that any Releasor now has, ever had or may claim to have in the future that is a Barred Claim; provided that nothing in this Order shall (i) enjoin, impair or delay the Securities and Exchange Commission (“*SEC*”) from commencing or continuing any claims, causes of action, proceedings or investigations against any person or entity, including the SMKD Parties, or (ii) release or discharge any person or entity, including the SMKD Parties, from any claims, rights, powers or interests held or assertable by the SEC.

7. The Settlement is approved, with the sole modification being that the executed form of the Stipulation of Settlement contains a scrivener’s error and incorrectly provides that the Settlement Payment shall be made by wire transfer within twenty (20) days from the later of three events identified in paragraph 5 of the Stipulation of Settlement. The parties have agreed, and the Settlement is modified through this Order, so that the Settlement Payment will be made by check which shall be tendered within fifteen (15) days from the later of such three events.

8. The Settlement Payment 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. (the “*Pro Rata Allocation Formula*”), and the checks referenced in paragraph 7 as the mechanism for the Settlement Payment shall be made in the amounts in accordance with this allocation.

9. The Contingency Fee is approved. The Liquidating Trustee is authorized and directed make payment of the Contingency Fee without the need of further Court Order, in accordance with the Pro Rata Allocation Formula, promptly upon receipt of the Settlement Payment.

10. The Court retains jurisdiction to enforce or interpret this Order.

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Submitted By:

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Copies to:

Michael S. Budwick, Esq.
(Attorney Budwick is directed to mail a conformed copy of this Order upon all interested parties and to file a certificate of service.)