

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.¹

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

Debtors.

**LYNN E. TURNER AND LITINOMICS, INC.'S
FINAL POST CONFIRMATION FEE APPLICATION**

1. Name of Applicant:	<i>LitiNomics, Inc.</i>
2. Role of Applicant:	<i>Liquidating Trustee's Expert</i>
3. Name of Certifying Professional:	<i>David Callaghan</i>
4. Date cases filed:	<i>November 30, 2009</i>
5. Date of order approving employment:	<i>June 8, 2016[ECF No. 2931]² nunc pro tunc to April 1, 2016</i>
IF INTERIM APPLICATION, COMPLETE 6, 7 AND 8 BELOW:	
6. Period for this Application:	<i>November 1, 2014 through February 28, 2015</i>
7. Amount of Compensation Sought:	\$ 522.50
8. Amount of Expenses Reimbursement Sought:	\$ 0.00
IF FINAL APPLICATION, COMPLETE 9 AND 10 BELOW:	
9. Total Amount of Compensation Sought during case:	\$5,585.00

¹The address and last four digits of the taxpayer identification number for each of the Debtors are as follows: (i) Palm Beach Finance Partners, L.P., 3601 PGA Blvd., Suite 301, Palm Beach Gardens, FL 33410, TIN 9943; and (ii) Palm Beach Finance II, L.P., 3601 PGA Blvd., Suite 301, Palm Beach Gardens, FL 33410, TIN 0680.

²Pursuant to the order [ECF No. 2931] the employment of LitiNomics ceased as of March 31, 2016. LitiNomics was replaced by Hemming Morse, LLP, as of April 1, 2016.

10.	Total Amount of Expense Reimbursement Sought During Case	\$	0.00
11.	Amount of Original Retainer (s) Please disclose both Fee Retainer and Cost Retainer if such a Retainer has been received:	\$	0.00
12.	Current Balance of Retainer (s) remaining:	\$	0.00
13.	Last monthly operating report filed (Month/Year and ECF No.):	PBF July 2017 [ECF No. 3286] PBF II July 2017 [ECF No. 113, Case 09-36396]	
14.	If case is Chapter 11, current funds in the Chapter 11 estate:	PBF	\$11,956,963.38 a/o 6/30/17
		PBFII	\$39,830.699.52 a/o 6/30/17
15.	If case is Chapter 7, current funds held by Chapter 7 trustee:		N/A

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PALM BEACH FINANCE II, L.P.³

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

Debtors.

**FINAL POST CONFIRMATION FEE APPLICATION FOR ALLOWANCE AND
PAYMENT OF COMPENSATION OF LYNN E. TURNER AND LITINOMICS, INC., AS
EXPERTS TO CHAPTER 11 LIQUIDATING TRUSTEE**

LitiNomics, Inc., (“*LitiNomics*”), having been approved by this Court as expert consultants for Chapter 11 Liquidating Trustee, Barry E. Mukamal (“*Trustee*”), applies for allowance of compensation for professional services rendered by LitiNomics between November 1, 2014 through February 28, 2015, and in support states:

1. On November 30, 2009, Palm Beach Finance Partners, L.P. (the “*Debtor*”) filed its Voluntary Petition for relief under chapter 11 of the United States Bankruptcy Code [ECF No. 1]. On December 1, 2009, this case was jointly administered with the estate of *In re Palm Beach Finance II, L.P.*, Case No. 09-36396-PGH [ECF No. 19].

2. On January 28, 2010, the Court entered the Agreed Order Directing Appointment of Chapter 11 Trustee and denying the United States Trustee’s Motion to Convert Cases to Cases under Chapter 7 [ECF No. 100].

³The address and last four digits of the taxpayer identification number for each of the Debtors are as follows: (i) Palm Beach Finance Partners, L.P., 3601 PGA Blvd., Suite 301, Palm Beach Gardens, FL 33410, TIN 9943; and (ii) Palm Beach Finance II, L.P., 3601 PGA Blvd., Suite 301, Palm Beach Gardens, FL 33410, TIN 0680.

3. On January 29, 2010, the United States Trustee appointed the Liquidating Trustee as Trustee in both estates [ECF No. 107].

4. On January 16, 2014, this Court entered an Order [ECF No. 2126] authorizing the Liquidating Trustee's retention of Lynn E. Turner and LitiNomics, Inc., *nunc pro tunc* to December 18, 2013, as expert consultants to the Liquidating Trustee.

5. At the confirmation hearing held on October 19, 2010, the Court confirmed the *Second Amended Joint Plan of Liquidation of Barry Mukamal, as Chapter 11 Trustee of Palm Beach Finance Partners, L.P. and Palm beach Finance II, L.P. and Geoffrey Varga, as Joint Official Liquidator of Palm Beach Offshore, Ltd. And Palm Beach Offshore II, Ltd.*, dated September 3, 2010 [ECF No. 245] (the "**Plan**") in the above referenced jointly administered bankruptcy proceeding.

The Plan defines Confirmation Date as "the date on which the Bankruptcy Court enters the Confirmation Order on its docket". The Order Confirming Second Amended Joint Liquidating Chapter 11 Plan [ECF No. 444] (the "**Confirmation Order**") was entered on the Court's docket on October 21, 2010.

6. Article 7 of the Plan provides:

7.1.4 *PBF Liquidating Trust Management.* Barry Mukamal shall be PBF Liquidating Trustee with the power and authority set forth in the PBF Liquidating Trust Agreement.

7.1.5 *PBF Liquidating Trust Structure.* As more fully set forth in the PBF Liquidating Trust Agreement, the PBF Liquidating Trustee shall oversee and direct the PBF Liquidating Trust's operations and activities, including the retention of counsel.

7.1.7 *PBF II Liquidating Trust Monitor.* Geoffrey Varga, as Joint Official Liquidator for Offshore Funds shall be the PBF II Liquidating Trust Monitor with the power and authority set forth in the PBF II Liquidating Trust Agreement.

7.1.11 *Compensation of Professionals Retained by the Liquidating Trustees and the PBF II Liquidating Trust Monitor.* Professionals retained by the PBF II

Liquidating Trust Monitor and the Liquidating Trustee shall be entitled to monthly interim compensation for fees and expenses incurred in carrying out their duties consistent with the Plan and the Liquidating Trust Agreements; provided, however, that the PBF II Liquidating Trust Monitor or the Liquidating Trustee shall provide to the other, and the United States Trustee, notice of such requested fees and expenses on a monthly basis. Following such notice, if no objections to the fees and expenses set forth in the monthly statement are received in writing within 10 business days, 100% of such professional's fees and expenses shall be paid. Notice of objections to such fees and expenses shall be made via e-mail and/or facsimile. If objections to the fees and expenses are made and cannot be resolved, such objections will be heard and resolved by the Bankruptcy Court. Any such fees and expenses shall be payable from the Trust Asset of the Liquidating Trusts. The PBF II Liquidating Trust Monitor and the Liquidating Trustee shall, no less frequently than once every four (4) months, submit applications to the Bankruptcy Court for final approval of reimbursement of fees and expenses paid to their professionals.

7. This application is submitted pursuant to 11 U.S.C. § 330 for the allowance and payment to LitiNomics in the total amount of \$522.50 for fees incurred between November 1, 2014 and February 28, 2015.

8. LitiNomics had submitted invoices through February 2015, which were paid in 2015, pursuant to the terms outlined in Article 7.1.11 of the Plan.

9. However, a fee application was not filed by LitiNomics as the aggregate amounts requested were less than \$3,500.00, and pursuant to the *Ex Parte* Order Granting Liquidating Trustee's Motion for Limited Modification to Compensation Procedures [ECF No. 2286], any professional may defer filing fee applications until the aggregate amount of fees and costs requested total at least \$3,500.00.

10. On April 29, 2016 the Liquidating Trustee filed the Motion to Amend Order Authorizing the Employment and Retention of Lynn E. Turner and LitiNomics, Inc. [ECF No. 2897].

11. On June 8, 2016, the Court entered the Order Granting Liquidating Trustee's Motion to Amend Order Authorizing the Employment and Retention of Lynn E. Turner and LitiNomics, Inc. [ECF No. 2931] (the "***Employment Order***"). Pursuant to the Employment Order, Lynn E. Turner continues to be retained by the Liquidating Trustee; however, the retention of LitiNomics ceased as of March 31, 2016.

12. Because LitiNomics concluded its employment for services performed on behalf of the Trustee over two years ago, Applicant submits its final fee application.

13. All of the services rendered by LitiNomics were performed for and on behalf of the Liquidating Trustee.

I. SUMMARY OF SERVICES RENDERED

14. LitiNomics rendered minimal services as experts on behalf of the Liquidating Trustee for the period of time from November 1, 2014 through February 28, 2015. LitiNomics is requesting \$522.50 in professional fees for services rendered. LitiNomics logged a total of 1.1 hours at the hourly rate of \$475 during the time period for which fees were required in this fee application.

15. LitiNomics devoted this time towards preparation for depositions in connection with the Trustee's action against General Electric Capital Corp., (Adv. Case No. 12-1979-PGH).

II. REQUEST FOR COMPENSATION

16. Pursuant to the decisions of the United States Court of Appeals for the Fifth Circuit in In re First Colonial Corp. of America, 544 F.2d 1291 (5th Cir. 1977); and In re Johnson v. Georgia Highway Express, Inc., 488 F.2d 714 (5th Cir. 1974), the applicant requests that this Court consider the following factors in determining the amount of compensation that is reasonable for the applicant's services in this case.

III. TIME AND LABOR REQUIRED

17. The transcribed time records and details of services rendered by LitiNomics are attached hereto as Exhibit 3. To preserve work product and maintain confidentiality, the records are redacted. Unredacted records have been shared with the Office of the U.S. Trustee and if the Court so requests, may be filed under seal. LitiNomics has devoted 1.1 hours in time in providing services to the Liquidating Trustee between November 1, 2014 through February 28, 2015.

18. The exhibits attached to this application, pursuant to the Guidelines, are:

Exhibits "1-A" and "1-B" - Summary of Professional and Paraprofessional Time;

Exhibit "2" - Summary of Requested Reimbursement of Expenses for this Time Period Only;

Exhibit "3" - The applicant's complete time records, in chronological order, by activity code category (if applicable), for the time period covered by this application. The requested fees are itemized to the tenth of an hour; and

Exhibit "4" - Fee Application Summary Chart.

19. All professionals of LitiNomics record the time expended in the rendition of professional services for the Liquidating Trustee by recording a detailed description of such professional services rendered.

20. All professionals involved in the rendering of services in this proceeding avoided any unnecessary duplication of work and time expended.

IV. NOVELTY AND DIFFICULTY OF THE ISSUES AND QUESTIONS PRESENTED

21. The Liquidating Trustee retained LitiNomics as advisors providing consulting services and possible expert testifying services in contested matters or one or more adversary proceedings commenced by the Liquidating Trustee on issues relating to financial, accounting and

auditing issues, as well as other related or similar analyses that the Liquidating Trustee deems necessary.

V. SKILL REQUISITE TO PERFORM THE LEGAL SERVICES PROPERLY

22. LitiNomics submits that the professionals assigned to these cases have the requisite experience, seniority and skills necessary to effectively and efficiently meet the requirements of the tasks required. LitiNomics believes it has demonstrated the requisite, substantial expertise to skillfully provide its services.

VI. PRECLUSION FROM OTHER EMPLOYMENT

23. Though LitiNomics has devoted time as consultants for the Liquidating Trustee as more fully set forth in Exhibit 3, LitiNomics has not been forced to decline other matters as a result of its accepting this employment.

VII. CUSTOMARY FEE

24. The hourly rate charged is LitiNomics' customary fee for services of the type rendered herein.

**VIII. TIME LIMITATIONS IMPOSED BY THE CLIENT
OR THE CIRCUMSTANCES**

25. LitiNomics has not been required to expend considerable time within short periods.

IX. THE EXPERIENCE, REPUTATION AND ABILITY OF THE PROFESSIONALS

26. LitiNomics is a well respected company that provides a wide range of consulting services relating to financial reporting and auditing requirements, as well as various aspects of corporate governance, securities litigation, accountant liability, and technical accounting matters. LitiNomics has substantial experience in the type of services required under this engagement. The quality of work performed by LitiNomics in this proceeding attests to the company's experience, reputation and ability.

27. Lynn E. Turner is the former Managing Director within the LitiNomics forensic accounting practice and has over forty years of business, regulatory, and academic experience as is a noted expert on financial reporting and auditing requirements. A copy of Mr. Turner's resume is attached to the Liquidating Trustee's Amended Application to Employ Lynn E. Turner and LitiNomics, Inc., *Nunc Pro Tunc* to December 18, 2013 [ECF No. 2053], and is incorporated herein by reference.

X. THE UNDESIRABILITY OF THE CASE

28. LitiNomics does not deem these cases to be undesirable and is honored to have been retained by the Liquidating Trustee.

XI. APPLICABLE LEGAL STANDARD

29. The amount requested by LitiNomics is reasonable in terms of awards in cases of similar magnitude and complexity. The compensation which LitiNomics is requesting comports with the mandate of the Bankruptcy Code, which directs that services be evaluated in light of comparable services performed in non-bankruptcy cases in the community. The fee requested by LitiNomics in the amount of \$522.50 for 1.1 hours of services is entirely appropriate.

30. LitiNomics considers the reasonable value of services rendered to this estate to be not less than \$522.50 for services rendered for the Fee Period.

XII. ALLOCATION BETWEEN DEBTORS' ESTATES

31. The Liquidating Trustee requests that 18% of the fee awarded be allocated to Palm Beach Finance Partners, L.P. ("**PBF**") and 82% of the fee awarded be allocated to Palm Beach Finance II, L.P. ("**PBF II**"). Section 1.76, entitled "Pro Rata Allocation Formula," of the Second Amended Joint Plan of Liquidation dated September 3, 2010 [ECF No. 245] provides for a *pro rata* allocation formula derived from the Compiled Financial Statements, dated April 30, 2008, for each

of the Debtors by Kaufman Rossin & Co. The data contained therein supports an 18%/82% allocation between PBF and PBF II, respectively, based upon the total assets of each entity as of the date of such compilations. Based on the circumstances and since the services provided by LitiNomics were performed on behalf of and benefitted both estates, the Liquidating Trustee believes that this formula is the proper methodology to allocate certain fees and expenses between the two estates, as indicated below:

Estate / Percentage	Fees	Costs
Palm Beach Finance Partners, L.P. (18%)	\$94.05	\$0.00
Palm Beach Finance II. L.P. (82%)	\$428.45	\$0.00
TOTAL FEES:	\$522.50	\$0.00

WHEREFORE, LitiNomics respectfully requests that it be allowed the full compensation and reimbursement of expenses sought under this application. LitiNomics requests this Court to award and interim and final award of \$522.50 for fees incurred between November 1, 2014 and February 28, 2015 and approve the allocation of fees and expenses between the estates. Additionally, LitiNomics requests this Court deem the prior interim post confirmation award as a final award, and for such other and further relief this Court deems just and proper.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

CERTIFICATION

1. I have been designated by LitiNomics, Inc., (the "Applicant") as the professional with responsibility in these cases for compliance with the current Mandatory Guidelines on Fees and Disbursements For Professionals In The Southern District of Florida Bankruptcy Cases (the "Guidelines").

2. I have read the Applicant's application for compensation and reimbursement of costs (the "Application").

3. To the best of my knowledge, information, and belief formed after reasonable inquiry, the Application complies with the Guidelines.

4. To the best of my knowledge, information, and belief formed after reasonable inquiry, the fees and disbursements sought fall within the Guidelines, except as specifically noted in this Certificate and described in the Application.

5. Except to the extent that fees or disbursements are prohibited or restricted by the Guidelines, the fees and disbursements sought are billed at rates and in accordance with practices customarily employed by the Applicant and generally accepted by the Applicant's clients.

6. In providing a reimbursable service or disbursement (other than time charged for paraprofessionals and professionals), the Applicant does not make a profit on that service or disbursement (except to the extent that any such profit is included within the permitted allowable amounts set forth in the Guidelines for photocopies and facsimile transmission).

7. In charging for a particular service or disbursement, the Applicant does not include in the amount for which reimbursement is sought the amortization of the cost of any investment, equipment or capital outlay (except to the extent that any such amortization is included within the permitted allowable amounts set forth herein for photocopies and facsimile transmission).

8. In seeking reimbursement for a service which the Applicant justifiably purchased or contracted for from a third party, the Applicant is requesting reimbursement only for the amount billed to the Applicant by the third-party vendor and paid by the Applicant to such vendor.

9. The trustee, the examiner (if any), the chairperson of each official committee (if any), the debtor, the U.S. Trustee, and their respective counsels, will be mailed, simultaneously with the filing of the Application with the Court, a complete copy of the Application (including all relevant exhibits).

10. The following are the variances with the provisions of the Guidelines, the date of the specific Court approval of such departure, and the justification for the departure: None.

I HEREBY CERTIFY that the foregoing is true and correct.

Mr. David Callaghan
for LitiNomics, Inc.
725 South Figueroa Street
Suite 2950
Los Angeles, CA 90017
T: 213-222-0882

By: 

David Callaghan

I HEREBY CERTIFY that, pursuant to that certain Order Authorizing Professionals Employed by the Liquidating Trustee and Monitor to Provide Notice of their Post Confirmation Fee Applications for Compensation in Summary Form [ECF No. 648], a Notice of Filing, which will include a Certificate of Service for the foregoing, will be filed at a later date.

s/ Michael S. Budwick
Michael S. Budwick, Esquire
Fla. Bar No. 938777
mbudwick@melandrussin.com
MELAND RUSSIN & BUDWICK, P.A.
3200 Southeast Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131
Telephone: (305) 358-6363
Telecopy: (305) 358-1221

EXHIBIT "1-A"**Summary of Professional and Paraprofessional Time
Total per Individual for this Period Only**

[If this is a final application, and does not cumulate fee details from prior interim applications, then a separate Exhibit 1-A showing cumulative time summary from all applications is attached as well.]

Name	Title	<u>Year Licensed</u>	<u>Total Hours</u>	<u>Hourly Rate</u>	<u>Total Fees</u>
David Callaghan	Expert Consultant	N/A	1.10	\$475.00	\$ 522.50
Blended Hourly Rate				\$475.00	
Total Fees			1.10		\$ 522.50

**EXHIBIT "1-A"
CUMULATIVE**

Name	Title	<u>Year Licensed</u>	<u>Total Hours</u>	<u>Hourly Rate</u>	<u>Total Fees</u>
Lynn Turner	Expert Consultant	N/A	0.10	\$750.00	\$ 75.00
David Callaghan	Expert Consultant	N/A	11.60	\$475.00	\$ 5,510.00
Blended Hourly Rate				\$477.35	
Total Fees			11.70		\$ 5,585.00

EXHIBIT "1-B"

**Summary of Professional and Paraprofessional Time
by Activity Code Category for this Time Period Only**

Professional Services				
	Name	Rate	Hours	Amount
Expert Consultant	David Callaghan	\$475.00	1.10	\$ 522.50
CATEGORY TOTALS:			1.10	\$ 522.50

EXHIBIT "2"
Summary of Requested Reimbursement Of Expenses
for this Time Period Only

[If this is a final application which does not cumulate prior interim applications, a separate summary showing cumulative expenses for all applications is attached as well]

1.	Filing Fees	\$ 0.00
2.	Process Service Fees	\$ 0.00
3.	Witness Fees	\$ 0.00
4.	Court Reporter & Transcripts	\$ 0.00
5.	Lien and Title Searches	\$ 0.00
6.	Photocopies (in-house copies) (copies @ 15¢)	\$ 0.00
7.	Photocopies (outside copies)	\$ 0.00
8.	Postage	\$ 0.00
9.	Overnight Delivery Charges	\$ 0.00
10.	Outside Courier/Messenger Services	\$ 0.00
11a.	Long Distance (a) Telephone Charges	\$ 0.00
11b.	Long Distance (b) Conference Calls	\$ 0.00
12.	Long Distance Fax Transmission @ \$1.00/pg.	\$ 0.00
13.	Computerized Research	\$ 0.00
14.	Out of Southern District of Florida Travel A. Transportation B. Lodging C. Meals	\$ 0.00
15.	Other (Not specifically disallowed; must specify and justify)	\$ 0.00
TOTAL "GROSS" AMOUNT OF REQUESTED DISBURSEMENTS		\$ 0.00

LITiNOMICS

FINANCIAL & ECONOMIC EXPERTS

INVOICE

March 18, 2015

Invoice #: 03.15.15-02

To: Solomon B. Genet, Esq.
 Meland Russin & Budwick
 200 South Biscayne Blvd.
 Miami, FL 33131
Via Email: sgenet@melandrussin.com; phornia@melandrussin.com

Re: In RE: Palm Beach Finance Matters

Statement for services performed during the period November 1, 2014 through February 28, 2015.
 See attached for detail of services performed.

	<u>Hours</u>	<u>Billing Rate</u>	<u>Fees</u>	<u>Expenses</u>	<u>Total</u>
David Callaghan	1.1	\$475	\$522.50	\$0.00	\$522.50
			Total Amount Due		\$522.50

Wire instructions:

For wire instructions, please contact
 us directly at 650.282.4400.

Remit check to:

LitiNomics, Inc.
 2570 W El Camino Real, Suite 650
 Mountain View, CA 94040
 Tax ID #: 20-5463415

DETAIL OF SERVICES PERFORMED

In RE: Palm Beach Finance Matters

Detail of services performed during the period November 1, 2014 through February 28, 2015:

David Callaghan		<i>Hours</i>
11/17	[REDACTED]	1.1
Total		1.1

FEE APPLICATION SUMMARY CHART												
REQUEST					APPROVAL				PAID		HOLDBACK	
Date Filed	ECF #	Period Covered	Fees Requested	Expenses Requested	Date Order Entered	ECF #	Fees Approved	Expenses Approved	Fees Paid	Expenses Paid	Fees Holdback	Expenses Holdback
12/19/2014	2506	7/1/14 - 10/31/14	\$ 5,585.00	\$ -	1/16/2015	2539	\$ 5,585.00	\$ -	\$ 5,585.00	\$ -	\$ -	\$ -
TOTALS:			\$ 5,585.00	\$ -			\$ 5,585.00	\$ -	\$ 5,585.00	\$ -	\$ -	\$ -

Invoicing Date:	Billing Period:	Fees and expenses requested:		Amount paid absent objection:	
12/5/2014	July 1, 2014 through October 31, 2014	\$	5,585.00	\$	5,585.00
3/18/2015	November 1, 2014 through February 28, 2015	\$	522.50	\$	522.50