

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION
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IN RE:

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

Debtors.

Chapter 11
CASE NO. 09-36379-EPK
CASE NO. 09-36396-EPK
(Jointly Administered)

**LIQUIDATING TRUSTEE'S ELEVENTH
POST CONFIRMATION APPLICATION FOR COMPENSATION**

Barry E. Mukamal, as liquidating trustee (“*Trustee*”), pursuant to Sections 326(a) and 330 of the United States Bankruptcy Code, files this Tenth Post Confirmation Application for Compensation (“*Application*”) for the period from July 1, 2021 through December 31, 2022 (“*Application Period*”) and states:

1. On November 30, 2009, Palm Beach Finance Partners, L.P. (“*PBFI*”) 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.* (“*PBFII*,” and together with PBF, the “*Palm Beach Funds*”), Case No. 09-36396-PGH. [ECF No. 19].

2. On January 28, 2010, the Court entered its *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].

3. On January 29, 2010, the United States Trustee appointed the Trustee as chapter 11 trustee in both estates. [ECF No. 107].

4. On September 3, 2010, the Trustee and Geoffrey Varga, as Joint Official Liquidator of Palm Beach Offshore, Ltd. and Palm Beach Offshore II, Ltd. (“*Offshore Funds*”),

filed 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. (“Plan of Liquidation”)*. [ECF No. 245].

5. On October 21, 2010, this Court entered its *Order Confirming Second Amended Joint Plan of Liquidation* [ECF No. 444] (“*Confirmation Order*”), creating the PBF Liquidating Trust and PBF II Liquidating Trust, appointing the Trustee as liquidating trustee and Mr. Varga as Trust Monitor. November 1, 2010 was the Plan’s Effective Date. [ECF No. 465].

6. In December 2018, Mr. Varga resigned as Trust Monitor. [ECF No. 3551].

7. PBF I and PBF II are not substantively consolidated.

8. During the Application Period, the Trustee made the following disbursements:

- a) PBF Liquidating Trust \$439,669.19¹; and
- b) PBF II Liquidating Trust \$10,624,656.20.²

9. Based on the compensation formula set forth in Section 326(a) of the Code, the Trustee seeks entry of an order awarding compensation as well as reimbursement of actual and necessary expenses, as detailed on attached Exhibit A as follows:

- a) Fee award of \$9,967.97 for the services rendered and \$0.00 for expenses incurred in the PBF Liquidating Trust; and
- b) Fee award of \$300,613.45 for the services rendered and \$0.00 for expenses incurred in the PBF II Liquidating Trust;

(“*Requested Relief*”).³

¹ Disbursement amount as reflected on the Trustee’s Quarterly Financial Reports from 7/1/21 through 12/31/22.

² Disbursement amount as reflected on the Trustee’s Quarterly Financial Reports from 7/1/21 through 12/31/22.

³ Section 7.1.11 of the PBF Plan provides for the Trustee to submit invoices to the United States Trustee’s Office (and prior to his resignation, the Trust Monitor) and may be paid requested amounts absent objection, subject to the subsequent submission of fee applications. Pursuant to this procedure, the Trustee’s invoices were submitted for payment in February 2023 and Trustee received aggregate compensation of \$9,967.97 in PBF and \$300,613.45 in PBF II.

10. As of the Trustee's appointment as chapter 11 trustee, the Debtors' estates had no available cash.

11. On the Petition Date, PBF had two bank accounts, each at U.S. Bank, N.A., and each (along with bank accounts belonging to other parties) frozen by Order of the District Court in the District of Minnesota in connection with Thomas Petters' criminal proceedings. [Case No. 09-36379, ECF No. 48 (Summary of Schedules)]. One account held \$6.06 and the second held \$131,000. These funds were not released until CY 2017, after the court-appointed receiver for Mr. Petters and federal law enforcement concluded their forensic analysis and provided their consent. The Palm Beach Funds' only other scheduled assets were limited unused pre-petition retainers that had been advanced to certain professionals and the promissory notes due from Petters Company, Inc. ("*PCI*"), an insolvent entity that had perpetrated a massive *Ponzi* scheme, defrauded the Palm Beach Funds, and filed for bankruptcy in the district of Minnesota.⁴

12. Similarly, on the Petition Date PBF II had two accounts at U.S. Bank, N.A., one with \$0 and the second with \$185,000. [Case No. 09-36396, ECF No. 19 (Summary of Schedules)]. Again, both accounts remained frozen through 2017. And as with PBF, the only other scheduled assets were unused retainers and promissory notes due from PCI.

13. To date, the Trustee has recovered approximately \$230 million for the benefit of the estates.

14. During the Application Period, the Trustee made substantial progress advancing the Palm Beach Funds' bankruptcy cases, including making fifth interim distributions to stakeholders.⁵

⁴ PCI pled guilty to its crimes. See *U.S.A. v. Petters Company, Inc.*, 08-364 (D. Minn.).

⁵ See ECF Nos. 3890 and 3891.

WHEREFORE, the Liquidating Trustee respectfully requests that this Court enter an Order granting this Application on a final basis as well as all such relief that this Court determines is just and proper.

I HEREBY CERTIFY that the foregoing is true and correct.

By: s/ Barry E. Mukamal (e-filed with consent)
Barry E. Mukamal, Liquidating Trustee

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/ Solomon B. Genet
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Liquidating Trustee's Fees & Expenses Summary: 07/01/21 through 12/31/22

PBF Liquidating Trust, 09-36379-EPK
PBF II Liquidating Trust, 09-36396-EPK

Barry E. Mukamal, Liquidating Trustee
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Summary of Liquidating Trustee 326(a) Fees Due for the period from 07/01/2021 through 12/31/22

	PBF	PBFII	Total
Total Disbursements from 07/01/21 through 12/31/22 (Based on TIP Reports):	\$ 439,669.19	\$ 10,624,656.20	\$ 11,064,325.39
Less Trustee Fees/Expenses Paid from 07/01/21 through 12/31/22: Date paid: 10/07/21. Court ordered ECF #3863	\$ (107,403.53)	\$ (604,207.90)	\$ (711,611.43)
Total Fees Paid to Trustee from 07/01/21 through 12/31/22:	<u>\$ (107,403.53)</u>	<u>\$ (604,207.90)</u>	<u>\$ (711,611.43)</u>
Total Compensable Disbursements from 07/01/21 through 12/31/22:	<u>\$ 332,265.66</u>	<u>\$ 10,020,448.30</u>	<u>\$ 10,352,713.96</u>
326(a) Fees (Statutory 3% of Compensable Disbursements):	<u>\$ 9,967.97</u>	<u>\$ 300,613.45</u>	<u>\$ 310,581.42</u>
Total Trustee Fees Due for the period from 07/01/21 through 12/31/22:	\$ 9,967.97	\$ 300,613.45	\$ 310,581.42
Total Expenses for the period from 07/01/21 through 12/31/22:	\$ -	\$ -	\$ -
Total Fees and Expenses for the period from 07/01/21 through 12/31/22:	\$ 9,967.97	\$ 300,613.45	\$ 310,581.42
Total Unpaid Fees & Expenses for the period 07/01/21 through 12/31/22	<u>\$ 9,967.97</u>	<u>\$ 300,613.45</u>	<u>\$ 310,581.42</u>

Expenses

Total Expenses for the period from 07/01/21 through 12/31/22	\$ -	\$ -	\$ -
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