

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

[www.flsb.uscourts.gov](http://www.flsb.uscourts.gov)

In re:

Chapter 11

PALM BEACH FINANCE PARTNERS, L.P.,  
a Delaware limited partnership, *et al.*,<sup>1</sup>

Case No. 09-36379-BKC-PGH

Jointly Administered

Debtors.

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**SUMMARY OF SIXTH POST-CONFIRMATION APPLICATION FOR ALLOWANCE AND PAYMENT OF COMPENSATION AND REIMBURSEMENT OF EXPENSES INCURRED BY KINETIC PARTNERS (CAYMAN) LTD., AS CONSULTANT FOR GEOFFREY VARGA, THE LIQUIDATING TRUST MONITOR FOR PALM BEACH FINANCE II, L.P. FOR THE PERIOD OF JULY 1, 2012 THROUGH OCTOBER 31, 2012**

1. Name of applicant: Kinetic Partners (Cayman) Ltd.
2. Role of applicant: Consultant for Geoffrey Varga, the Liquidating Trust Monitor for Palm Beach Finance II, L.P.
3. Name of certifying professional: Geoffrey E. Varga
4. Date case filed: November 30, 2009
5. Date of application for employment: December 27, 2010
6. Date of order approving employment: January 27, 2011, *nunc pro tunc* to November 1, 2010
7. Date of Disclosure of Compensation (FRBP 2016): N/A
8. Date of this Application: December 28, 2012
9. Dates of Services Covered: July 1, 2012 through October 31, 2012

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<sup>1</sup> The address and last four digits of the taxpayer identification number for each of the Debtors follows in parenthesis: (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).

**Fees Requested**

10. Total fees requested for this period	\$52,252.50
11. Balance remaining in fee retainer account, not yet awarded	\$0.00
12. Fees paid or advanced for this period, by other sources	N/A
<b>13. Net Amount of Fees Requested</b>	<b>\$52,252.50</b>

**Expenses Requested**

14. Total expense reimbursement requested	\$2,456.28
15. Balance remaining in expense retainer account, not yet received	N/A
16. Expenses paid or advanced for this period, by other sources	N/A
<b>17. Net Amount of Expense Reimbursements Requested</b>	<b>\$2,456.28</b>

**18. Gross award requested for this period (#10 + #14) \$54,708.78**

**19. Net award requested for this period (#13 + #17) \$54,708.78**

**20. If Final Fee Application, amounts of net awards requested in interim Applications, but not previously awarded (total from History of Fees and Expenses):**

**21. Final fee and expense award requested (#20 + #21)**

History of Fees and Expenses

1. Dates, sources, and amounts of retainers received: N/A
2. Dates, sources and amounts of third party payments received during the period:

Dates	Sources	Amounts	Fees or Costs?	Description	Period
8/15/2012	Barry E. Mukamal, as Liq. Trustee	\$1,418.95	Fees & Costs	18% due by Palm Beach Finance Partners, L.P.	July 2012
8/15/2012	Barry E. Mukamal, as Liq. Trustee	\$8,097.83	Fees & Costs	82% due by Palm Beach Finance II, L.P.	July 2012
9/14/2012	Barry E. Mukamal, as Liq. Trustee	\$1,857.78	Fees	18% due by Palm Beach Finance Partners, L.P.	August 2012
9/14/2012	Barry E. Mukamal, as Liq. Trustee	\$9,840.72	Fees	82% due by Palm Beach Finance II, L.P.	August 2012
10/15/2012	Barry E. Mukamal, as Liq. Trustee	\$3,820.50	Fees	18% due by Palm Beach Finance Partners, L.P.	September 2012
10/15/2012	Barry E. Mukamal, as Liq. Trustee	\$18,069.50	Fees	82% due by Palm Beach Finance II, L.P.	September 2012
11/15/2012	Barry E. Mukamal, as Liq. Trustee	\$2,019.78	Fees	18% due by Palm Beach Finance Partners, L.P.	October 2012
11/15/2012	Barry E. Mukamal, as Liq. Trustee	\$9,583.72	Fees	82% due by Palm Beach Finance II, L.P.	October 2012

3. Prior fee and expense awards:

Date Requested	Application	Order	Fees Awarded	Expenses Awarded
3/15/2011	First Post Confirmation Application	Order Approving First Post-Confirmation Application and Awarding Compensation and Reimbursement of Expenses Incurred by Kinetic Partners (Cayman) Ltd., as Consultant for Geoffrey Varga, the Liquidating Trust Monitor for Palm Beach Finance II, L.P. for the Period of November 1, 2010 through January 31, 2011 [ECF No. 633], dated April 13, 2011	\$35,065.00	\$0.00
8/1/2011	Second Post Confirmation Application	Order Approving Second Post-Confirmation Application and Awarding Compensation and Reimbursement of Expenses Incurred by Kinetic Partners (Cayman) Ltd., as Consultant for Geoffrey Varga, the Liquidating Trust Monitor for Palm Beach Finance II, L.P. for the Period of February 1, 2011 through June 30, 2011 [ECF No. 736], dated September 1, 2011	\$156,654.25	\$10.50
12/28/2011	Third Post Confirmation Application	Order Approving Third Post-Confirmation Application and Awarding Compensation and Reimbursement of Expenses Incurred by Kinetic Partners (Cayman) Ltd., as Consultant for Geoffrey Varga, the Liquidating	\$157,662.25	\$834.02

		Trust Monitor for Palm Beach Finance II, L.P. for the Period of July 1, 2011 through October 31, 2011 [ECF No. 1088], dated February 15, 2012.		
4/30/2012	Fourth Post Confirmation Application	Order Approving Fourth Post-Confirmation Application and Awarding Compensation and Reimbursement of Expenses Incurred by Kinetic Partners (Cayman) Ltd as Consultant for Geoffrey Varga, the Liquidating Trust Monitor for Palm Beach Finance II, L.P for the Period of November 1, 2012 through February 29, 2012 [ECF NO. 1260], dated May 31, 2012.	\$71,634.50	\$342.16
8/30/2012	Fifth Post Confirmation Application	Order Approving Fifth Post-Confirmation Application and Awarding Compensation and Reimbursement of Expenses Incurred by Kinetic Partners (Cayman) Ltd as Consultant for Geoffrey Varga, the Liquidating Trust Monitor for Palm Beach Finance II, L.P for the Period of March 1, 2012 through June 30, 2012 [ECF NO. 1430], dated September 26, 2012.	\$51,573.00	\$1,339.76

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a Delaware limited partnership, *et al.*,

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**SIXTH POST-CONFIRMATION APPLICATION FOR ALLOWANCE  
AND PAYMENT OF COMPENSATION AND REIMBURSEMENT OF  
EXPENSES INCURRED BY KINETIC PARTNERS (CAYMAN) LTD., AS  
CONSULTANT FOR GEOFFREY VARGA, THE LIQUIDATING TRUST  
MONITOR FOR PALM BEACH FINANCE II, L.P. FOR THE  
PERIOD OF JULY 1, 2012 THROUGH OCTOBER 31, 2012**

Kinetic Partners (Cayman) Ltd. (the “Firm” or the “Applicant”), as consultant for Geoffrey Varga, in his capacity as the Liquidating Trust Monitor for Palm Beach Finance II, L.P. (the “Monitor”), respectfully makes this application (the “Application”) for entry of an order, pursuant to 11 U.S.C. §330, 331, 503(b)(2), the Confirmation Order<sup>1</sup> and the Liquidating Trust Agreements for the Palm Beach Finance Partners and Palm Beach Finance II Liquidating Trusts, allowing and awarding to the Firm, as an administrative expense, the total amount of \$54,708.78 consisting of fees in the amount of \$52,252.500 and reimbursement for actual and necessary expenses incurred in the amount of \$2,456.28 during the period of July 1, 2012 through October 31, 2012 (the “Application Period”). In the Application Period, a total of 105.4 hours were expended by the Firm in its representation of the Monitor, for an average hourly rate of \$495.75 during the Application Period.

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<sup>1</sup> Capitalized terms not defined herein shall have the meaning given such terms in the Plan, as defined below.

Pursuant to Section 7.1.11 of 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 for Palm Beach Offshore, Ltd. and Palm Beach Offshore II, Ltd.* (the "Plan"), and the PBF II Liquidating Trust Agreement authorized thereunder, professionals retained by the Liquidating Trustee and Monitor are authorized to receive monthly interim compensation for fees and expenses incurred in carrying out their duties consistent with the Plan and Liquidating Trust Agreements from Trust Assets of the Liquidating Trusts, as long as: (i) notice of the fees and expenses are provided on a monthly basis to the Liquidating Trustee and U.S. Trustee; (ii) no written objections to the fees and expenses sought are received within 10 business days (if objections to the fees and expenses are timely made and cannot be resolved amicably, the Court is to hear and resolve the objections); and (iii) professionals submit applications to the Court for final approval of reimbursement of fees and expenses previously paid to them, no less than once every four (4) months. The Firm has already received payment from the Liquidating Trustee for services rendered to the Monitor during the Application Period and makes this Application to obtain final allowance of the fees and expenses already paid.

#### **I. JURISDICTION**

This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334, and the Court's retained jurisdiction pursuant to the Confirmation Order. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is core pursuant to 28 U.S.C. § 157(b)(2). The statutory predicate for the relief sought herein is sections 330, 331 and 503(b)(2) of the Bankruptcy Code.

## II. INTRODUCTION

### A. **Allocation of Request For Professionals' Fees And Reimbursement of Expenses**

In this Application, the Firm requests compensation and reimbursement of expenses in the amount of \$54,708.78 in connection with 105.4 hours worked and expenses incurred on behalf of the Monitor.

### B. **Retainer Paid To The Firm**

None.

### C. **The Exhibits To This Application**

There are a total number of 4 exhibits attached to this Application. The exhibits are as follows:

#### **EXHIBIT NO.**

Exhibit 1	Summary of Professional Time
Exhibit 2	Summary of Requested Reimbursement of Expenses
Exhibit 3	Certification
Composite Exhibit 4	Contemporaneous Time and Expense Records

## III. BACKGROUND

1. On November 30, 2009 (the "Petition Date"), Palm Beach Finance Partners, L.P. and Palm Beach Finance II, L.P. (the "Debtors") commenced these bankruptcy cases by each filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Florida, West Palm Beach Division.

2. On January 28, 2010, in connection with motions filed by the U.S. Trustee for the Southern District of Florida (the “U.S. Trustee”) and Geoffrey Varga, as Joint Official Liquidator of Palm Beach Offshore, Ltd. and Palm Beach Offshore II, Ltd. (the “JOL”), the Court entered an order granting the motion to appoint a Chapter 11 trustee and directed the U.S. Trustee to appoint a Chapter 11 trustee. On or about January 29, 2010, the U.S. Trustee selected Barry Mukamal as the Chapter 11 trustee of the Debtors (the “Chapter 11 Trustee”). This selection was approved on February 2, 2010 by Order of the Court.

3. On August 27, 2010, the Chapter 11 Trustee and the JOL, as co-plan proponents, filed their Amended Disclosure Statement and First Amended Plan, and, on September 3, 2010, the Plan Proponents filed their Second Amended Disclosure Statement and the Second Amended Plan (the “Plan”).

4. On October 21, 2010, following a hearing on October 19, 2010, the Court entered an order confirming the Plan.

5. Pursuant to the Plan, on the Effective Date of the Plan, the Chapter 11 Trustee, on behalf of the Debtors and the Beneficiaries, executed the Liquidating Trust Agreements thereby establishing the Liquidating Trusts for the estates of each of the Debtors.

6. Pursuant to the Plan, Barry Mukamal was appointed the Liquidating Trustee with the power and authority set forth in the Liquidating Trust Agreements, subject only (in the case of the PBF II Liquidating Trust Agreement) to the power and authority granted to the Monitor in the Plan and the PBF II Liquidating Trust Agreement. Pursuant to the Plan, Geoffrey Varga, as JOL was appointed the Monitor with the power and authority set forth in the PBF II Liquidating Trust Agreement.



7. The PBF II Liquidating Trust Agreement authorizes the Monitor to employ and pay reasonable compensation to attorneys, accountants, appraisers, expert witnesses, insurance adjusters or other persons whose services, in the sole judgment of the Monitor, may be reasonably necessary or advisable to advise or assist him in the discharge of his duties, or otherwise in the exercise of any powers vested in the Monitor.

8. On December 27, 2010, the Monitor filed the Application to Employ Geoffrey Varga and Kinetic Partners (Cayman) Ltd. as Consultant to the Liquidating Trust Monitor (the “Retention Application”) [ECF. No. 505]. On January 27, 2011, the Court entered an order approving the employment of Geoffrey Varga and Kinetic Partners (Cayman) Ltd., *nunc pro tunc* to November 1, 2010, pursuant to the terms of the Retention Application [ECF No. 555].

9. Pursuant to Section 7.1.11 of the Plan, professionals retained by the Liquidating Trustee and Monitor are authorized to receive monthly interim compensation for fees and expenses incurred in carrying out their duties consistent with the Plan and Liquidating Trust Agreements from Trust Assets of the Liquidating Trusts, as long as: (i) notice of the fees and expenses are provided on a monthly basis to the Liquidating Trustee and U.S. Trustee; (ii) no written objections to the fees and expenses sought are received within 10 business days (if objections to the fees and expenses are timely made and cannot be resolved amicably, the Court is to hear and resolve the objections); and (iii) professionals submit applications to the Court for final approval of reimbursement of fees and expenses previously paid to them, no less than once every four (4) months.

10. On March 15, 2011, the Firm filed its *First Post-Confirmation Application for Allowance and Payment of Compensation and Reimbursement of Expenses Incurred by Kinetic*

*Partners (Cayman) Ltd, as Consultant to Geoffrey Varga, the Liquidating Trust Monitor for Palm Beach Finance II, L.P. for the Period of November 1, 2010 Through January 31, 2011* seeking allowance and payment of fees in the amount of \$35,065.00 (the “First Post-Confirmation Application”) [ECF No. 613]. On April 13, 2011, the Court entered an order granting the First Post-Confirmation Application. [ECF No. 633].

11. On August 1, 2011, the Firm filed its *Second Post-Confirmation Application for Allowance and Payment of Compensation and Reimbursement of Expenses Incurred by Kinetic Partners (Cayman) Ltd, as Consultant to Geoffrey Varga, the Liquidating Trust Monitor for Palm Beach Finance II, L.P. for the Period of February 1, 2011 Through June 30, 2011* seeking allowance and payment of fees in the amount of \$156,664.75 (the “Second Post-Confirmation Application”) [ECF No. 678]. On September 1, 2011, the Court entered an order granting the Second Post-Confirmation Application. [ECF No. 736].

12. On December 28, 2011, the Firm filed its *Third Post-Confirmation Application for Allowance and Payment of Compensation and Reimbursement of Expenses Incurred by Kinetic Partners (Cayman) Ltd, as Consultant to Geoffrey Varga, the Liquidating Trust Monitor for Palm Beach Finance II, L.P. for the Period of July 1 2011 through October 31, 2011* seeking allowance and payment of fees in the amount of \$157,662.25 and \$834.02 in expenses (the “Third Post-Confirmation Application”) [ECF No. 1025]. On February 15, 2012, the Court entered an order granting the Third Post-Confirmation Application. [ECF No. 1088].

13. On April 30, 2012, the Firm filed its *Fourth Post-Confirmation Application for Allowance and Payment of Compensation and Reimbursement of Expenses Incurred by Kinetic Partners (Cayman) Ltd, as Consultant to Geoffrey Varga, the Liquidating Trust Monitor for*

*Palm Beach Finance II, L.P. for the Period of November 1, 2011 through February 29, 2012* seeking allowance and payment of fees in the amount of \$71,634.50 and \$342.16 in expenses (the “Fourth Post-Confirmation Application”) [ECF No. 1221]. On June 1, 2012, the Court entered an order granting the Fourth Post-Confirmation Application. [ECF No. 1260].

14. On August 30, 2012, the Firm filed its *Fifth Post-Confirmation Application for Allowance and Payment of Compensation and Reimbursement of Expenses Incurred by Kinetic Partners (Cayman) Ltd, as Consultant to Geoffrey Varga, the Liquidating Trust Monitor for Palm Beach Finance II, L.P. for the Period of March 1, 2011 through June 30, 2012* seeking allowance and payment of fees in the amount of \$51,573.00 and \$1,339.76 in expenses (the “Fifth Post-Confirmation Application”) [ECF No. 1381]. On September 26, 2012, the Court entered an order granting the Fifth Post-Confirmation Application. [ECF No. 1430].

15. Pursuant to Section 7.1.11 of the Plan, on August 15, 2012, the Firm submitted to the Liquidating Trustee and the U.S. Trustee its invoice for services rendered to the Monitor for the period July 1, 2012 through July 31, 2012 in the amount of \$9,516.78 (\$7,060.50 for fees and \$2,456.28 for expenses). No objection to the requested fees or costs was lodged. To date, \$9,516.78 has been paid to the Firm for services rendered to, or expenses incurred on behalf of, the Monitor from July 1, 2012 through July 31, 2012.

16. Pursuant to Section 7.1.11 of the Plan, on September 14, 2012, the Firm submitted to the Liquidating Trustee and the U.S. Trustee its invoice for services rendered to the Monitor for the period August 1, 2012 through August 31, 2012 in the amount of \$11,698.50 (\$11,698.50 for fees and \$0.00 for expenses). No objection to the requested fees was lodged. Accordingly,

\$11,698.50 has been paid to the Firm for services rendered to, or expenses incurred on behalf of, the Monitor for August 1, 2012 through August 31, 2012.

17. Pursuant to Section 7.1.11 of the Plan, on October 15, 2012, the Firm submitted to the Liquidating Trustee and the U.S. Trustee its invoice for services rendered to the Monitor for the period September 1, 2012 through September 30, 2012 in the amount of \$21,890.00 (\$21,890.00 for fees and \$0.00 for expenses). No objection to the requested fees or costs was lodged. Accordingly, \$21,890.00 has been paid to the Firm for services rendered to, or expenses incurred on behalf of, the Monitor for September 1, 2012 through September 30, 2012.

18. Pursuant to Section 7.1.11 of the Plan, on November 15, 2012, the Firm submitted to the Liquidating Trustee and the U.S. Trustee its invoice for services rendered to the Monitor for the period October 1, 2012 through October 31, 2012 in the amount of \$11,603.50 (\$11,603.50 for fees and \$0.00 for expenses). No objection to the requested fees or costs was lodged. Accordingly, \$11,603.50 has been paid to the Firm for services rendered to, or expenses incurred on behalf of, the Monitor for October 1, 2012 through October 31, 2012.

19. By this Application, the Firm seeks final allowance of payments already received for services rendered to the Monitor and expenses incurred in representing the Monitor during this fifth post-effective date period of July 1, 2012 through October 31, 2012 in the amount of \$54,708.78.

#### **IV. SERVICES RENDERED BY THE FIRM TO THE ESTATE**

During the Application Period, the Firm frequently conferred with the Liquidating Trustee and his counsel regarding pending issues, the status of matters, as well as overall litigation strategy regarding the numbers adversary proceedings filed by the Liquidating Trustee.

These communications often took the form of bi-weekly status calls. These calls involved the Monitor and his counsel as well as the Liquidating Trustee and his counsel.

During this period, the Firm reviewed and commented on draft pleadings, bar orders and settlement agreements prepared by the Liquidating Trustee's counsel, and participated in certain mediations.

During this period, the Firm participated in conference calls with the Monitor's and the Liquidating Trustee's respective counsel to discuss claims by the Liquidating Trusts against U.S. Bank and strategy related thereto. The Firm reviewed, analyzed, and summarized extensive documents related to U.S. Bank and reviewed and analyzed pertinent issues in connection with claims against and U.S. Bank.

During this period, the Firm participated in meetings and conference calls with the Monitor's and the Liquidating Trustee's respective counsels to discuss the strategy with respect to the litigation against Marshall & Ilsley Bank ("M&I"). In addition to these meetings, the Firm reviewed work product from counsel to the Liquidating Trustee in regards to the litigation against M&I.

During this period, the Firm participated in meetings and conference calls with the Monitor's and the Liquidating Trustee's respective counsels to discuss strategy with respect to potential litigation against other significant litigation targets.

During the Application Period, the Firm prepared monthly fee statements for submission to the Liquidating Trustee and U.S. Trustee as contemplated by the Plan and Liquidating Trust Agreements. Also as contemplated by the Plan and Liquidating Trust Agreements, the Firm

prepared and submitted its fifth post-confirmation fee application and appeared telephonically at a hearing on the same.

**V. ALLOWANCE AND EVALUATION OF SERVICES RENDERED BY THE FIRM**

Section 330(a) of the Bankruptcy Code provides, in relevant part:

- (a)(1) After notice to the parties in interest and the United States trustee and a hearing, and subject to sections 326, 328, and 329, the court may award to a trustee, an examiner, a professional person employed under Section 327 or 1103—
  - (A) reasonable compensation for actual, necessary services rendered by the trustee, examiner, professional person, or attorney and by any paraprofessional person employed by any such person; and
  - (B) reimbursement for actual, necessary expenses.
- (2) The court may, on its own motion or on the motion of the United States Trustee, the United States Trustee for the District or Region, the trustee for the estate, or any other party in interest, award compensation that is less than the amount of compensation that is requested.
- (3) In determining the amount of reasonable compensation to be awarded, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including—
  - (A) the time spent on such services;
  - (B) the rates charged for such services;
  - (C) whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title;
  - (D) whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed; and

- (E) whether the compensation is reasonable based on the customary compensation charged by comparably skilled practitioners in cases other than cases under this title.
- (4)(A) Except as provided in subparagraph (B), the court shall not allow compensation for –
- (i) unnecessary duplication of services; or
  - (ii) services that were not –
    - (I) reasonably likely to benefit the Debtors' estate; or
    - (II) necessary to the administration of the case.
- (B) In a chapter 12 or chapter 13 case in which the Debtors is an individual, the court may allow reasonable compensation to the Debtors' attorney for representing the interests of the Debtors in connection with the bankruptcy case based on a consideration of the benefit and necessity of such services to the Debtors and the other factors set forth in this section.
- (5) The court shall reduce the amount of compensation awarded under this section by the amount of any final compensation awarded under §331, and, if the amount of such final compensation exceeds the amount of compensation awarded under this section, may order the return of the excess to the estate.
- (6) Any compensation awarded for the preparation of a fee application shall be based on the level and skill reasonably required to prepare the application.

The Applicant believes that the requested fee of \$52,252.50 for 105.4 hours worked is reasonable considering the factors to be applied under 11 U.S.C. §330(a)(1) and the factors enumerated in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), made applicable to bankruptcy proceedings by *In re First Colonial Corp. of America*, 544 F.2d 1291 (5th Cir. 1977) as follows:

- a. The time and labor required;
- b. The novelty and difficulty of the questions presented;

- c. The skill required to perform the services properly;
- d. The preclusion of other employment due to acceptance of the case;
- e. The customary fee for similar work in the community;
- f. Whether the fee is fixed or contingent;
- g. Time limitations imposed by the client or by the circumstances;
- h. The amount involved and the results obtained;
- i. The experience, reputation and ability of the professional;
- j. The undesirability of the case;
- k. The nature and length of the professional relationship with the client;
- l. Awards in similar cases;
- m. Whether the services were necessary to the administration of, or beneficial at the time at which the service was rendered toward the completion of, a case under this title; and
- n. Whether the services were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed.

**Consideration of Section 330(a) and *The First Colonial Factors***

The foregoing description of the services rendered by the Firm during the Application Period, together with the more detailed description of time expended and services rendered set forth in the attached exhibits, describe the nature and extent of the professional services rendered by the Firm during the Application Period for the benefit of the bankruptcy estates.

The Firm's professionals possess a great deal of experience along with the skills and knowledge necessary to professionally and efficiently handle many of the issues arising in these bankruptcy cases. Specifically, Geoffrey Varga, the Monitor, is a Member of the Firm and leads



the Firm's Insolvency and Corporate Recovery practices in both New York and the Cayman Islands. He is a Chartered Accountant and has over 15 years of professional experience, the majority of which has been focused in the area of restructuring and insolvency. He is a licensed Canadian insolvency practitioner and has worked on large, international insolvency engagements in the United States, the Cayman Islands, Canada and New Zealand. Mr. Varga's average hourly billing rate during the Application Period was \$725.00.

Ann Gittleman is a Certified Public Accountant, Certified in Financial Forensics, and an attorney with over 10 years of experience in forensic accounting and litigation obtained from a Big 4 firm and a prominent New York City law firm. Ms. Gittleman has extensive experience in dealing with complex securities litigations, bankruptcy issues, financial reporting fraud, misappropriation of assets, auditor malpractice and internal investigations. Ms. Gittleman's average hourly billing rate during the Application Period was \$575.00.

Whenever possible, the Firm delegated work on the Monitor's legal matters to more junior personnel who have lower billing rates than Mr. Varga and Ms. Gittleman. Given the foregoing, the average billing rate for the Firm's consulting services to the Monitor during the application period is \$495.75 per hour.

The services rendered by the Firm were necessary to achieve the Monitor's goals and responsibilities at the time the services were rendered. Moreover, the services performed by the Firm were performed within a reasonable amount of time commensurate with the complexity, importance, and nature of the problem, issue, or task addressed.

With regard to the remaining *First Colonial* factors, the Firm's fees were fixed; the Firm was not precluded from other employment due to the acceptance of representation on behalf of

the Monitor in these cases; the cases were not undesirable; and the Firm, as Mr. Varga's direct employer, has previously assisted Mr. Varga in his various roles as court-appointed liquidator of offshore entities such as the Offshore Funds. Finally, the award requested by the Firm in this application is similar to awards made by this and other courts in similar cases.


## **VI. CONCLUSION**

For the foregoing reasons, the Firm respectfully requests that the Court enter an Order allowing and awarding the Firm, as an administrative expense, \$52,252.50 for services rendered by the Firm in connection with representation of the Monitor for the period of time from July 1, 2012 through October 31, 2012 and \$2,456.28 for reimbursement of actual and necessary expenses incurred by the Firm, for a total of \$54,708.78.

Dated: December 20, 2012

Respectfully submitted,

**KINETIC PARTNERS (CAYMAN) LTD.**  
*Consultants for Geoffrey Varga, as the  
Liquidating Trust Monitor for Palm Beach  
Finance II, L.P.*

By:   
\_\_\_\_\_  
Geoffrey Varga  
The Harbour Centre  
42 North Church Street  
P.O. Box 10387  
Grand Cayman, KY1-1004  
Cayman Islands  
P: 345.623.9900

**Exhibit 1****Summary of Professional Time**

<b><u>NAME</u></b>	<b><u>AVG. RATE</u></b>	<b><u>HOURS</u></b>	<b><u>AMOUNT</u></b>
Ann E. Gittleman	\$575.00	46.4	\$26,680.00
Geoffrey E. Varga	\$725.00	21.0	\$15,225.00
Jenna Gordish	\$255.00	11.7	\$2,983.50
Kathryn Latti	\$280.00	26.3	\$7,364.00
	<b>Totals:</b>	<b>105.4</b>	<b>\$52,252.50</b>

**Exhibit 2**

**Summary of Requested Reimbursement of Expenses**

<b>KINETIC EXPENSES</b>	
Sundry Expenses	\$1,811.06
Travel/Air/Ferry/Park	\$645.22
<b>Total:</b>	<b>\$2,456.28</b>

**Exhibit 3**

**Certification**

**Affidavit in Support of Certification**

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK )

Geoffrey E. Varga, being duly sworn, deposes and says:

I am over the age of 18 years old and have personal knowledge of the matters set forth in this affidavit. I make this affidavit in support of the application (the "Application") for entry of an order, pursuant to 11 U.S.C. §§ 330, 331, 503(b)(2), allowing and awarding to Kinetic Partners (Cayman) Ltd. (the "Firm"), as an administrative expense, fees and costs incurred in connection with the Firm's representation of the Monitor, as such term is defined in the Plan.

I am the person at the Firm responsible for the representation of the Monitor in these cases and, as such, I am designated by the Firm as the professional with responsibility in these cases for compliance with the "Guidelines for Fee Applications for Professionals in the Southern District of Florida in Bankruptcy Cases" (the "Guidelines").

I have read the Application. The Application complies with the Guidelines, and the fees and expenses sought fall within the Guidelines, except as may be specifically noted in this Affidavit and described in the Application.

The fees and expenses sought are billed at rates and in accordance with practices customarily employed by the Firm and generally accepted by the Firm's clients.

In seeking reimbursement for the expenditures described on Exhibit 2, the Firm is seeking reimbursement only for the actual expenditure and has not marked up the actual cost to provide a profit or to recover the amortized cost of investment in staff time or equipment or capital outlay.

In seeking reimbursement for any service provided by a third party, the Firm is seeking reimbursement only for the amount actually paid by the Firm to the third party.

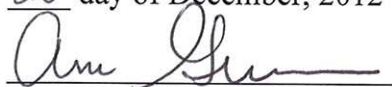
The following are the variances with the provisions of the Guidelines, the date of each court order approving the variance, and the justification for the variance: Not applicable.

FURTHER AFFIANT SAITH NAUGHT.



\_\_\_\_\_  
GEOFFREY E. VARGA

Sworn to before me this  
20 day of December, 2012

  
\_\_\_\_\_  
Notary Public

**ANN E. GITTLEMAN**  
**NOTARY PUBLIC-STATE OF NEW YORK**  
**Qualified In Nassau County**  
My Commission Expires October 29, 2016

**Composite Exhibit 4**

**Contemporaneous Time and Expense Records**



Kinetic Partners (Cayman) Ltd. -- July 2012 Detail Time Entries (PB1 & II)							Schedule A
Date	Category	Staff	Time	Rate	Fees	Description	
7/6/2012	Litigation Consulting-General	KI2	0.80	280.00	224.00	Review of Palm Beach docket and recent filings to stay up to date on the case	
7/8/2012	Litigation Consulting-General	KI2	1.00	280.00	280.00	Review of summary of recoveries and fee schedule	
7/10/2012	Litigation Consulting-General	KI2	2.00	280.00	560.00	Review of status memo prepared by counsel	
7/10/2012	Litigation Consulting-US Bank	KI2	2.00	280.00	560.00	Review of settlement and related docs and emails	
7/11/2012	Litigation Consulting-US Bank	KI2	0.50	280.00	140.00	Review of updated settlement doc for US Bank	
7/11/2012	Litigation Consulting M&I	KI2	3.00	280.00	840.00	Review of M&I MTD and related order dismissing case and counsel's memo	
7/13/2012	Fee Preparation	KI2	0.80	280.00	224.00	Prepared monthly time summaries and invoices	
7/16/2012	Litigation Consulting-US Bank	KI2	1.50	280.00	420.00	Numerous emails with counsel on [REDACTED]	
7/28/2012	Litigation Consulting-General	KI2	3.00	280.00	840.00	Review of all KBC cases and researched for additional docs	
7/28/2012	Litigation Consulting-General	GV	0.10	725.00	72.50	Signoff on FHR dismissal; general file matters	
7/4/2012	Litigation Consulting-US Bank	GV	0.10	725.00	72.50	Emails re US Bank settlement doc	
7/6/2012	Litigation Consulting M&I	GV	0.20	725.00	145.00	Review of M&I order	
7/6/2012	Litigation Consulting-General	GV	0.90	725.00	652.50	Weekly call with Trustee and counsel	
7/11/2012	Litigation Consulting-General	GV	0.10	725.00	72.50	Signoff on Johnson dismissal	
7/16/2012	Litigation Consulting-US Bank	GV	0.40	725.00	290.00	Settlement emails re Cayman funds; other dismissals	
7/16/2012	Litigation Consulting-General	GV	0.20	725.00	145.00	Emails re Minneapolis mediations	
7/20/2012	Litigation Consulting-General	GV	0.90	725.00	652.50	Weekly status call to discuss various matters	
				Total Fees	6,190.50		
<b>EXPENSES</b>							
6/6/2012	Sundry Expenses	GV			1,692.56	Travel & accommodations for trip to Minneapolis	
				Total Expenses	1,692.56		
				Total	7,883.06		

Schedule B  
Kinetic Partners (Cayman) Ltd. -- July 2012 Detail Time Entries (PB II Estate Only)

Date	Category	Staff	Time	Rate	Fees	Description
7/23/2012	Realization of Assets	GV	0.60	725.00	435.00	Call with ██████ re clawback claims
7/26/2012	Realization of Assets	GV	0.40	725.00	290.00	Emails re ██████ and question list
7/27/2012	Realization of Assets	GV	0.20	725.00	145.00	Emails re ██████ and question list
				<b>Total Fees</b>	<b>870.00</b>	
<b>Expenses</b>						
6/12/2012	Train/Plane/Ferry/Cost of Parking	GV			645.22	Travel to/from NYC/MIA for KBC mediation
7/24/2012	Sundry Expenses	GV			118.50	Lunch meeting with KBC re claims
				<b>Total Expenses</b>	<b>763.72</b>	
				<b>Total</b>	<b>1,633.72</b>	

Schedule A  
Kinetic Partners (Cayman) Ltd. - August 2012 Detail Time Entries (PB I & II)

Date	Category	Staff	Time	Rate	Fees	Description
8/1/2012	Litigation Consulting-General	GEV	0.10	725.00	72.50	settlement signoff
8/2/2012	Litigation Consulting-General	AEG	1.60	575.00	920.00	Review emails and the file to catch up on the case from leave.
8/3/2012	Litigation Consulting-General	AEG	2.00	575.00	1,150.00	Review the file in preparation for call. Call with the Trustee and counsel to discuss status of the litigations brought by the Trustee.
8/3/2012	Litigation Consulting-General	GEV	0.10	725.00	72.50	settlement signoff
8/7/2012	Litigation Consulting-General	AEG	1.60	575.00	920.00	Review emails and the file to catch up on the case from leave.
8/8/2012	Litigation Consulting-General	GEV	0.10	725.00	72.50	settlement signoff
8/10/2012	Litigation Consulting-General	AEG	1.00	575.00	575.00	Review emails and the file to catch up on the case from leave.
8/15/2012	Fee Preparation	KI2	0.70	280.00	196.00	Prepared time summaries
8/17/2012	Litigation Consulting M&I	JGO	2.00	255.00	510.00	Read reviewed and discussed the M&I complaint.
8/17/2012	Litigation Consulting M&I	KI2	1.50	280.00	420.00	Review of amended M&I complaint
8/17/2012	Litigation Consulting M&I	GEV	1.00	725.00	725.00	weekly status call with counsel and trustee
8/17/2012	Litigation Consulting M&I	GEV	0.20	725.00	145.00	review of MI complaint
8/20/2012	Litigation Consulting-General	AEG	1.00	575.00	575.00	Reviewed docket provided by counsel.
8/20/2012	Litigation Consulting-General	GEV	1.10	725.00	797.50	calls re [REDACTED] and possible consultant; related emails
8/24/2012	Litigation Consulting-General	GEV	0.20	725.00	145.00	follow up on [REDACTED] matters [REDACTED]; general file matters
8/29/2012	Litigation Consulting-General	AEG	2.00	575.00	1,150.00	Reviewed the 5th fee application to court and provided comments to counsel. (2.0)
8/30/2012	Litigation Consulting-General	AEG	1.00	575.00	575.00	Reviewed file in preparation for meeting with Trustee and counsel.
8/31/2012	Litigation Consulting-General	AEG	1.00	575.00	575.00	Meeting with Trustee and counsel.
8/31/2012	Litigation Consulting-General	GEV	1.00	725.00	725.00	weekly status call
				Total Fees	10,321.00	
				Total	10,321.00	

Schedule B  
Kinetic Partners (Cayman) Ltd. -- August 2012 Detail Time Entries (PB II Estate Only)

Date	Category	Staff	Time	Rate	Fees	Description
8/12/2012	Realization of Assets	GEV	0.20	725.00	145.00	emails re mediations; email re [REDACTED] settlement status
8/14/2012	Realization of Assets	GEV	0.10	725.00	72.50	emails re mediations; email re [REDACTED] settlement status
8/21/2012	Realization of Assets	GEV	0.10	725.00	72.50	email re KBC
8/22/2012	Realization of Assets	GEV	0.60	725.00	435.00	call re KBC and related matters
8/29/2012	Realization of Assets	GEV	0.40	725.00	290.00	call with [REDACTED] re [REDACTED]
8/30/2012	Realization of Assets	GEV	0.20	725.00	145.00	email re [REDACTED] and review of docs
8/31/2012	Realization of Assets	GEV	0.30	725.00	217.50	[REDACTED] review and response
				<b>Total Fees</b>	<b>1,377.50</b>	
				<b>Total</b>	<b>1,377.50</b>	

Schedule A  
Kinetic Partners (Cayman) Ltd. - September 2012 Detail Time Entries (PB I & II)

Date	Category	Staff	Time	Rate	Fees	Description
9/4/2012	Litigation Consulting - General	AEg	1.60	575.00	920.00	Reviewed emails from counsel re updates on the docket
9/4/2012	Litigation Consulting - General	GV	0.80	725.00	580.00	Calls re litigation; email re [REDACTED]. (4); Review email from counsel re update on
9/5/2012	Litigation Consulting - General	AEg	1.00	575.00	575.00	Review emails from counsel re [REDACTED]. (4); Review email from counsel re update on
9/5/2012	Fee Preparation	KL2	0.50	280.00	140.00	Preparing invoice schedules from August
9/6/2012	Realisation of Assets	AEg	0.20	575.00	115.00	Emails re remission process
9/10/2012	Litigation Consulting - General	AEg	1.00	575.00	575.00	Review complaint for call with counsel. (6) Call with counsel to discuss comments (4)
9/10/2012	Litigation Consulting - General	GV	0.20	725.00	145.00	Call re [REDACTED] litigation
9/13/2012	Litigation Consulting - General	AEg	1.60	575.00	920.00	Review the fee application (6); emails from counsel discussing pending litigation (4) Review the bar order language and emails discussing issues with Bar order (6)
9/13/2012	Litigation Consulting - General	GV	0.20	725.00	145.00	Mediation call with B. Mukamal
9/14/2012	Litigation Consulting - General	AEg	2.60	575.00	1,495.00	Review the file in preparation for call with Trustee of PBR&II. (1.0); Call with Trustee and counsel to discuss various issues, litigations. (8); Review of expert and communicated thoughts on expert to counsel. (8)
9/14/2012	Litigation Consulting - General	GV	0.80	725.00	580.00	Biweekly update call with Trustee and counsel
9/14/2012	Fee Preparation	JGO	1.20	255.00	306.00	Prepared, and updated Kinetic's finalized time summaries for the August invoices for RS
9/16/2012	Litigation Consulting - General	GV	0.50	725.00	362.50	Emails re Pelter lawsuit; review of complaint
9/17/2012	Litigation Consulting - General	AEg	3.40	575.00	1,955.00	Review emails from counsel re litigation issues (4); Review the transcript of the [REDACTED] deposition and exhibits (3)
9/18/2012	Litigation Consulting - General	AEg	0.60	575.00	345.00	Discussion with counsel re status of litigations
9/18/2012	Litigation Consulting - General	GV	0.30	725.00	217.50	Emails re Pelter lawsuit
9/18/2012	Fee Preparation	KL2	0.50	280.00	140.00	Review of monthly invoices and filing
9/19/2012	Litigation Consulting - General	AEg	0.60	575.00	345.00	Review emails from counsel re litigations
9/19/2012	Litigation Consulting - General	GV	0.50	725.00	362.50	Emails re Pelter lawsuit
9/20/2012	Litigation Consulting - General	AEg	4.60	575.00	2,645.00	Review file and docket for call with Trustee (1.0); review of docket for updates in advance of call (3) Call with counsel and Trustee to discuss various litigations (7); Review the [REDACTED] complaint and provide comments to counsel. (2.0); Review case law (6)
9/20/2012	Litigation Consulting - General	GV	0.70	725.00	507.50	Update call with trustee and counsel re litigations
9/20/2012	Litigation Consulting - General	JGO	3.00	255.00	765.00	Review [REDACTED] complaint and [REDACTED] transcript with exhibits
9/20/2012	Litigation Consulting - General	KL2	1.50	280.00	420.00	Review of [REDACTED] deposition
9/21/2012	Litigation Consulting - General	AEg	3.50	575.00	2,012.50	Continued to review, fact check and provide comments on the [REDACTED] complaint (1.5); Combine everyone's comments on the complaint and send to counsel (1.5); Drafted email to counsel with comments (5)
9/21/2012	Litigation Consulting - General	GV	0.60	725.00	435.00	Review of [REDACTED] complaint
9/21/2012	Litigation Consulting M&I	JGO	2.50	255.00	637.50	Read and review the defendant's MTD amended complaint
9/21/2012	Litigation Consulting - General	JGO	0.50	255.00	127.50	Update [REDACTED] complaint
9/21/2012	Litigation Consulting - General	KL2	2.00	280.00	560.00	Review of the [REDACTED] complaint and provided comments, [REDACTED]
9/24/2012	Litigation Consulting M&I	AEg	2.60	575.00	1,495.00	Review of amended M&I complaint. Review of M&I MTD of the amended complaint. Comments for counsel.
9/24/2012	Litigation Consulting - General	KL2	0.30	280.00	84.00	Review of finalized comments on [REDACTED] complaint
9/25/2012	Litigation Consulting - General	AEg	0.80	575.00	460.00	Review the docket of new filings and pending motions
9/26/2012	Litigation Consulting - General	AEg	0.50	575.00	287.50	Review the docket of new filings and pending motions
9/26/2012	Litigation Consulting M&I	KL2	1.50	280.00	420.00	Reviewed M&I MTD of amended complaint
9/26/2012	Litigation Consulting - General	GV	0.20	725.00	145.00	General file matters; expert selection
				Total	21,225.00	



Schedule A  
Kinetic Partners (Cayman) Ltd. - October 2012 Detail Time Entries (PB I & II)

Date	Category	Staff	Time	Rate	Fees	Description
10/1/2012	Litigation Consulting - M&I	AEG	0.80	575.00	460.00	Review and digest M&I MTD - review forensic role in the case
10/1/2012	Litigation Consulting - M&I	JGO	1.00	255.00	255.00	Reviewed M&I's motion to dismiss the Liquidating Trustee's amended complaint
10/3/2012	Litigation Consulting-General	AEG	1.20	575.00	690.00	Review of docket sent by counsel. (6)
10/4/2012	Litigation Consulting-General	GV	0.20	725.00	145.00	Emails re claim extension
10/5/2012	Litigation Consulting-General	GV	1.00	725.00	725.00	Weekly update call with Trustee and counsel
10/8/2012	Litigation Consulting-General	AEG	0.80	575.00	460.00	Review email sent from counsel re update on case
10/9/2012	Litigation Consulting-General	AEG	0.80	575.00	460.00	Review email sent from counsel re update on case
10/10/2012	Litigation Consulting-General	GV	0.10	725.00	72.50	Email re [REDACTED]
10/10/2012	Litigation Consulting-General	KL2	0.70	280.00	196.00	Review of recent docket filings and summary provided by counsel
10/12/2012	Litigation Consulting-General	AEG	1.80	575.00	1,035.00	Review of file in preparation for call with counsel (8); call with counsel to discuss bankruptcy and related litigations (1)
10/12/2012	Litigation Consulting-General	GV	1.30	725.00	942.50	Weekly update call with Trustee and counsel (1); call with [REDACTED] (3)
10/15/2012	Fee Preparation	AEG	0.60	575.00	345.00	Reviewed our fee application
10/15/2012	Litigation Consulting-General	GV	0.20	725.00	145.00	Emails re [REDACTED]
10/15/2012	Fee Preparation	KL2	1.00	280.00	280.00	Monthly invoice and fee preparation
10/16/2012	Litigation Consulting-General	GV	0.20	725.00	145.00	Emails re [REDACTED] claim
10/16/2012	Litigation Consulting-General	AEG	0.60	575.00	345.00	Conference call to discuss - [REDACTED] claim
10/18/2012	Litigation Consulting-General	GV	0.70	725.00	507.50	Call re [REDACTED] emails re [REDACTED] claim
10/19/2012	Litigation Consulting-General	AEG	0.60	575.00	345.00	Review email from counsel re update on status of case.
10/25/2012	Litigation Consulting-General	AEG	1.20	575.00	690.00	Review an email from counsel providing an update on the docket
10/25/2012	Litigation Consulting-General	KL2	1.50	280.00	420.00	Review of summary and recent filings provided by counsel
10/26/2012	Litigation Consulting-General	AEG	1.80	575.00	1,035.00	Review file to prepare for call. (6); call with Trustee and counsel to discuss the status of the bankruptcy and liquidation (1,2)
10/26/2012	Litigation Consulting-General	GV	1.30	725.00	942.50	Weekly update call with Trustee and counsel (1,2); emails re privilege (1)
10/30/2012	Litigation Consulting-General	GV	0.80	725.00	580.00	Call re [REDACTED] issue and [REDACTED] claim (6); email to [REDACTED] (2)
				<b>Total</b>	<b>11,221.00</b>	

Kinetic Partners (Cayman) Ltd. -- October 2012 Detail Time Entries (PB II Estate Only)  
Schedule B

Date	Category	Staff	Time	Rate	Fees	Description
10/18/2012	Realisation of Assets	JGO	1.50	255.00	382.50	Read and reviewed KBC Order and [REDACTED]
				Total	382.50	