

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., Case No. 09-36379-BKC-PGH  
a Delaware limited partnership, *et al.*,<sup>1</sup>  
Jointly Administered  
Debtors.

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**SUMMARY OF SEVENTH 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  
NOVEMBER 1, 2012 THROUGH FEBRUARY 28, 2013**

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: April 29, 2013
9. Dates of Services Covered: November 1, 2012 through February 28, 2013

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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	\$68,623.50
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>\$68,623.50</b>

**Expenses Requested**

14. Total expense reimbursement requested	\$0
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>\$0</b>
18. Gross award requested for this period (#10 + #14)	\$68,623.50
19. Net award requested for this period (#13 + #17)	\$68,623.50
20. If <u>Final</u> Fee Application, amounts of net awards requested in interim Applications, but <u>not previously awarded</u> (total from History of Fees and Expenses):	
21. Final fee and expense award requested (#20 + #21)	\$68,623.50

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
12/14/2012	Barry E. Mukamal, as Liq. Trustee	\$3,659.04	Fees	18% due by Palm Beach Finance Partners, L.P.	November 2012
12/14/2012	Barry E. Mukamal, as Liq. Trustee	\$18,008.96	Fees	82% due by Palm Beach Finance II, L.P.	November 2012
1/15/2013	Barry E. Mukamal, as Liq. Trustee	\$922.32	Fees	18% due by Palm Beach Finance Partners, L.P.	December 2012
1/15/2013	Barry E. Mukamal, as Liq. Trustee	\$13,391.68	Fees	82% due by Palm Beach Finance II, L.P.	December 2012
2/15/2013	Barry E. Mukamal, as Liq. Trustee	\$1,900.71	Fees	18% due by Palm Beach Finance Partners, L.P.	January 2013
2/15/2013	Barry E. Mukamal, as Liq. Trustee	\$8,658.79	Fees	82% due by Palm Beach Finance II, L.P.	January 2013
3/15/2013	Barry E. Mukamal, as Liq. Trustee	\$3,974.76	Fees	18% due by Palm Beach Finance Partners, L.P.	February 2013
3/15/2013	Barry E. Mukamal, as Liq. Trustee	\$18,107.24	Fees	82% due by Palm Beach Finance II, L.P.	February 2013

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 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.	\$157,662.25	\$834.02

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
12/28/2012	Sixth Post Confirmation Application	Order Approving Sixth 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 July 1, 2012 through October 31, 2012 [ECF NO. 1691], dated January 30, 2013.	\$52,252.50	\$2,456.28

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

Chapter 11

PALM BEACH FINANCE PARTNERS, L.P.,  
a Delaware limited partnership, *et al.*,  
  
Debtors.

Case No. 09-36379-BKC-PGH

Jointly Administered

**SEVENTH 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 NOVEMBER 1, 2012 THROUGH FEBRUARY 28, 2013**

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 \$68,623.50 consisting of fees in the amount of \$68,623.50 and reimbursement for actual and necessary expenses incurred in the amount of \$0.00 during the period of November 1, 2012 through February 28, 2013 (the "Application Period"). In the Application Period, a total of 142.7 hours were expended by the Firm in its representation of the Monitor, for an average hourly rate of \$480.89 during the Application Period.

<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 \$68,623.50 in connection with 142.7 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. On December 28, 2012, the Firm filed its *Sixth 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, 2012 through October 31, 2012* seeking allowance and payment of fees in the amount of \$52,252.50 and \$2,456.28 in expenses (the “Sixth Post-Confirmation Application”) [ECF No. 1585]. On January 30, 2013, the Court entered an order granting the Sixth Post-Confirmation Application. [ECF No. 1691].

16. Pursuant to Section 7.1.11 of the Plan, on December 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 November 1, 2012 through November 30, 2012 in the amount of \$21,668.00. No objection to the requested fees or costs was lodged. To date, \$21,668.00 has been paid to the

Firm for services rendered to, or expenses incurred on behalf of, the Monitor from November 1, 2012 through November 30, 2012.

17. Pursuant to Section 7.1.11 of the Plan, on January 15, 2013, the Firm submitted to the Liquidating Trustee and the U.S. Trustee its invoice for services rendered to the Monitor for the period December 1, 2012 through December 31, 2012 in the amount of \$14,314.00. No objection to the requested fees was lodged. Accordingly, \$14,314.00 has been paid to the Firm for services rendered to, or expenses incurred on behalf of, the Monitor for December 1, 2012 through December 31, 2012.

18. Pursuant to Section 7.1.11 of the Plan, on February 15, 2013, the Firm submitted to the Liquidating Trustee and the U.S. Trustee its invoice for services rendered to the Monitor for the period January 1, 2013 through January 31, 2013 in the amount of \$10,559.50. No objection to the requested fees or costs was lodged. Accordingly, \$10,559.50 has been paid to the Firm for services rendered to, or expenses incurred on behalf of, the Monitor for January 1, 2013 through January 31, 2013.

19. Pursuant to Section 7.1.11 of the Plan, on March 15, 2013, the Firm submitted to the Liquidating Trustee and the U.S. Trustee its invoice for services rendered to the Monitor for the period February 1, 2013 through February 28, 2013 in the amount of \$22,082.00. No objection to the requested fees or costs was lodged. Accordingly, \$22,082.00 has been paid to the Firm for services rendered to, or expenses incurred on behalf of, the Monitor for February 1, 2013 through February 28, 2013.

20. 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 seventh post-effective date period of November 1, 2012 through February 28, 2013 in the amount of \$68,623.50.

#### **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 numerous adversary proceedings filed by the Liquidating Trustee. These communications frequently took the form of bi-weekly status calls involving the Monitor and his counsel as well as the Liquidating Trustee and his counsel.

Specifically, 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"), General Electric Capital Corporation and Fulbright and Jaworski ("Fulbright"). In addition to these meetings, the Firm reviewed work product from the Liquidating Trustee's counsel in regards to the litigation against M&I and Fulbright. During the Application Period, the Monitor and Ann Gittleman of the Firm also attended a face-to-face meeting with the Liquidating Trustee and his professionals wherein a comprehensive discussion of status and strategy, as well as potential future distributions, was had.

During the Application Period, the Firm reviewed and commented on draft pleadings, bar orders, settlement agreements with investors and others; in particular, the Firm was extensively involved in the settlement with investor J. Umbach. The Firm undertook an extensive review and analysis of promissory notes and other documentation of the Onshore Funds as the same concerned clawback actions brought by the Liquidating Trustee. The Firm also undertook

regular and detailed review of filings in the Petters cases as the same may concern the Debtors' claims into those estates.

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 sixth 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 \$68,623.50 for 142.7 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, \$68,623.50 for services rendered by the Firm in connection with representation of the Monitor for the period of time from November 1, 2012 through February 28, 2013.

Dated: April 29, 2013

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	62.10	\$35,707.50
Geoffrey E. Varga	\$725.00	23.40	\$16,965.00
Jenna Gordish	\$255.00	2.6	\$663.00
Kathryn Latti	\$280.00	54.6	\$15,288.00
<b>Totals:</b>			<b>\$68,623.50</b>

**Exhibit 2**

**Summary of Requested Reimbursement of Expenses**

<b>KINETIC EXPENSES</b>	
Sundry Expenses	n/a
Travel/Air/Ferry/Park	n/a
<b>Total:</b>	<b>\$0</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.

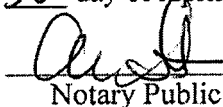
The following are the variances with the provisions of the Guidelines, the date of each court order approving the variance, and the justification for the variance: Not applicable.

FURTHER AFFIANT SAITH NAUGHT.



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

Sworn to before me this  
30<sup>th</sup> day of April, 2013

  
Notary Public

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

**Composite Exhibit 4**

**Contemporaneous Time and Expense Records**



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

Date	Category	Staff	Time	Rate	Fees	Description
11/5/2012	Litigation Consulting M&I	JGO	1.00	255.00	255.00	Read and reviewed Liquidating Trustee's response to M&I's motion to dismiss.
11/6/2012	Litigation Consulting-General	AEG	0.30	575.00	172.50	Correspondence with team to discuss various Onshore matters
11/6/2012	Litigation Consulting M&I	GV	0.20	725.00	145.00	Review of M&I filings
11/6/2012	Litigation Consulting M&I	JGO	0.50	255.00	127.50	Read and reviewed summary of Liquidating Trustee's response to M&I's motion to dismiss.
11/7/2012	Litigation Consulting M&I	AEG	0.80	575.00	460.00	Continue to review the M&I response to def motion to dismiss
11/7/2012	Realisation of Assets	GV	0.10	725.00	72.50	Emails re Umbach settlement
11/8/2012	Litigation Consulting-General	AEG	0.80	575.00	460.00	Review the docket to obtain an update on the case
11/8/2012	Realisation of Assets	GV	0.70	725.00	507.50	Emails/discussions re Umbach settlement
11/8/2012	Realisation of Assets	KL2	1.00	280.00	280.00	Start to review J. Umbach investor account
11/9/2012	Realisation of Assets	AEG	1.20	575.00	690.00	Review the Joe Umbach account for potential settlement.
11/9/2012	Realisation of Assets	GV	0.80	725.00	580.00	Emails re Umbach settlement; emails re litigation timing
11/9/2012	Realisation of Assets	KL2	2.50	280.00	700.00	Continue to review of J. Umbach investor accounts for settlement purposes
11/12/2012	Litigation Consulting-General	AEG	2.20	575.00	1,265.00	Review the file for meeting with Trustee and counsel. (1.2); Call with Trustee and counsel. (1.0)
11/12/2012	Litigation Consulting-General	GV	1.00	725.00	725.00	Update call with counsel and BM
11/12/2012	Realisation of Assets	GV	0.10	725.00	72.50	Emails/discussions re Umbach settlement
11/12/2012	Realisation of Assets	KL2	2.50	280.00	700.00	Continued review of Umbach investor files and call with J. Eaton to discuss settlement and proofs of claim and review of Umbach settlement and call with TL at Marcum to discuss ending positions
11/13/2012	Litigation Consulting-General	AEG	1.00	575.00	575.00	Search for documents related to a pending litigation
11/13/2012	Litigation Consulting-General	GV	0.10	725.00	72.50	Emails re F.J action
11/13/2012	Realisation of Assets	GV	0.10	725.00	72.50	Emails re Umbach
11/14/2012	Litigation Consulting-General	AEG	1.40	575.00	805.00	Review PBF media coverage (2) Call with the team to provide an update on the case and call with Trustee (4); Reviewed the Kelly v. BMO Harris complaint (8)
11/14/2012	Litigation Consulting M&I	GV	0.30	725.00	217.50	Emails re M&I case
11/15/2012	Fee Preparation	KL2	0.80	280.00	224.00	Monthly fee preparation
11/16/2012	Litigation Consulting-General	GV	1.00	725.00	725.00	Update call with counsel and BM re litigation matters
11/19/2012	Realisation of Assets	AEG	1.00	575.00	575.00	Research on Umbach POC re settlement
11/19/2012	Realisation of Assets	GV	0.50	725.00	362.50	Emails re Umbach litigation; review of related docs
11/20/2012	Realisation of Assets	AEG	1.80	575.00	1,035.00	Review Umbach files from Marcum
11/20/2012	Realisation of Assets	GV	1.20	725.00	870.00	Call/emails re Umbach litigation
11/20/2012	Litigation Consulting-General	GV	0.30	725.00	217.50	Emails/docs re FJ
11/20/2012	Realisation of Assets	KL2	2.00	280.00	560.00	Correspondence with Marcum, pulling proof of claims and cash analyses to prepare summary of claims and amounts relating to Umbach
11/26/2012	Litigation Consulting-General	AEG	2.20	575.00	1,265.00	Review of file to identify documents for complaint. (6) Review of potential complaint against Fulbright and provided thoughts to counsel. (1.8)
11/26/2012	Realisation of Assets	GV	0.80	725.00	435.00	Umbach considerations
11/26/2012	Realisation of Assets	KL2	1.00	280.00	280.00	Call with TL at Marcum to discuss document request in relation to Umbach claim and review of documents received
11/27/2012	Litigation Consulting-General	AEG	0.30	575.00	172.50	Call with USA to discuss remission process
11/27/2012	Realisation of Assets	AEG	3.00	575.00	1,725.00	Numerous call with counsel to discuss Umbach claim (1.6); Call with team to discuss Umbach (3), Review of documents re Umbach clawback (1.1)
11/27/2012	Realisation of Assets	GV	0.30	725.00	217.50	Call to discuss Umbach considerations
11/27/2012	Litigation Consulting-General	GV	0.20	725.00	145.00	Emails re FJ
11/27/2012	Realisation of Assets	KL2	1.80	280.00	504.00	Review of Umbach proofs of claim and analyze versus investor positions and transfers (1.5), call with AEG and GV to discuss findings (3)
11/28/2012	Litigation Consulting-General	AEG	0.80	575.00	460.00	Review of the revised Fulbright complaint.
11/28/2012	Litigation Consulting-General	GV	0.40	725.00	290.00	FJ lawsuit and related considerations
11/29/2012	Realisation of Assets	AEG	0.40	575.00	230.00	Update with GV to discuss Umbach discussion.
11/29/2012	Litigation Consulting-General	AEG	1.20	575.00	690.00	Review of the docket provided by counsel
11/29/2012	Litigation Consulting-General	GV	0.20	725.00	145.00	Emails re GECC
11/29/2012	Realisation of Assets	GV	0.10	725.00	72.50	Umbach considerations
11/30/2012	Litigation Consulting-General	AEG	0.30	575.00	172.50	Review email from counsel re update on status conference
				<b>Total</b>	<b>\$20,328.00</b>	

## Schedule B

Kinetic Partners (Cayman) Ltd. -- November 2012 Detail Time Entries (PB II Estate Only)						
Date	Category	Staff	Time	Rate	Fees	Description
11/20/2012	Realisation of Assets	AEG	1.60	575.00	920.00	Review KBC answer to the LT second amended complaint (1.0); search for letter for potential complaint. (.6)
11/26/2012	Realisation of Assets	KL2	1.50	280.00	420.00	Research PBF II recoveries and review of docket for additional settlements
				Total	\$ 1,340.00	

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

<b>Date</b>	<b>Category</b>	<b>Staff</b>	<b>Time</b>	<b>Rate</b>	<b>Fees</b>	<b>Description</b>
12/7/2012	Litigation Consulting-General	AEG	1.20	575.00	690.00	Review file in preparation for call with Trustee. (2); Call with Trustee and counsel to discuss various issues. (1)
12/7/2012	Litigation Consulting-General	GV	1.00	725.00	725.00	Weekly update call with trustee and counsel
12/13/2012	Litigation Consulting-General	AEG	2.60	575.00	1,495.00	Review of the Petters/Palm Beach docket for an update on the matters pending in bankruptcy court
12/13/2012	Fee Preparation	KL2	0.80	280.00	224.00	Monthly fee preparation
12/19/2012	Litigation Consulting-General	KL2	0.50	280.00	140.00	Review Petters docket for recent filings
12/20/2012	Fee Preparation	AEG	0.30	575.00	172.50	Review of fee application
12/20/2012	Litigation Consulting-General	AEG	1.40	575.00	805.00	Review emails from counsel re docket and recent filings
12/20/2012	Fee Preparation	KL2	2.50	280.00	700.00	Reviewed 6th post confirmation fee application and provided comments on the same
12/31/2012	Litigation Consulting - M&I	AEG	0.30	575.00	172.50	Review revised disclosures for M&I
				<b>Total</b>	<b>\$ 5,124.00</b>	

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

Date	Category	Staff	Time	Rate	Fees	Description
12/14/2012	Realisation of Assets	AEG	0.80	575.00	460.00	Search for Promissory notes and notes schedule
12/14/2012	Realisation of Assets	KL2	7.00	280.00	1,960.00	Review of offshore promissory notes and search for interest schedules and review of admiral documents - NAV packs and general ledgers
12/17/2012	Realisation of Assets	KL2	4.00	280.00	1,120.00	Review of NAV packs and general ledgers to assist in preparation of note schedule
12/18/2012	Realisation of Assets	AEG	0.60	575.00	345.00	Meeting with KL to discuss the promissory notes between PBFII and PBOI/PBOII
12/18/2012	Realisation of Assets	KL2	6.50	280.00	1,820.00	Continued review of NAV packs and general ledgers to assist in preparation of note schedule and begin preparing schedule of open notes and tracing to bank statements (5.9), meeting with AEG to discuss the same (.6)
12/19/2012	Realisation of Assets	AEG	1.60	575.00	920.00	Meeting with KL to discuss note schedule (.4) Review of the promissory notes schedule and provide to counsel (1.2)
12/19/2012	Realisation of Assets	KL2	3.00	280.00	840.00	Finalizing schedule of notes and tracing to bank statements (2.6), meeting with AEG to discuss the same (.4)
12/20/2012	Realisation of Assets	AEG	3.00	575.00	1,725.00	Continue to review the promissory note schedule for liquidation analysis
				<b>Total</b>	<b>\$ 9,190.00</b>	

**Schedule A**  
**Kinetic Partners (Cayman) Ltd. -- January 2013 Detail Time Entries (PB I & II)**

<b>Date</b>	<b>Category</b>	<b>Staff</b>	<b>Time</b>	<b>Rate</b>	<b>Fees</b>	<b>Description</b>
1/4/2013	Litigation Consulting - General	AEG	1.60	575.00	920.00	Review the file in preparation for call with Trustee and counsel. (.2); Call with Trustee and counsel. (1) Follow up on certain items from the call (.4)
1/4/2013	Litigation Consulting - General	GV	1.00	725.00	725.00	Weekly status call with Trustee
1/8/2013	Litigation Consulting - General	AEG	1.00	575.00	575.00	Emails with onshore counsel (.3); review of the docket - emails from counsel (.7)
1/8/2013	Litigation Consulting - General	GV	0.50	725.00	362.50	General file matters; review of filings
1/9/2013	Litigation Consulting - General	GV	0.50	725.00	362.50	Lunch meeting with investor
1/9/2013	Fee Preparation	KL2	0.50	280.00	140.00	Finalizing invoices
1/10/2013	Litigation Consulting - Insolvency	AEG	1.70	575.00	977.50	Call with counsel to discuss production of docs. (.2); Review documents in preparation for call with counsel/calls with KL. (1.0) Call with Solvency expert and counsel (.5)
1/10/2013	Litigation Consulting - General	GV	0.50	725.00	362.50	Meeting with counsel (.2), Related emails and discussion (.3)
1/10/2013	Litigation Consulting - Insolvency	KL2	2.00	280.00	560.00	Review of documents and analysis prior to call (.5), Call with AEG to discuss note analysis and review of analysis (1), call with Meland on analysis and insolvency matter (.5)
1/11/2013	Litigation Consulting - Petters	AEG	1.50	575.00	862.50	Review of the Petters docket to stay up to date on the case
1/14/2013	Litigation Consulting - Vennes	AEG	0.80	575.00	460.00	Review of the Vennes case - appt of expert -- review docket
1/14/2013	Litigation Consulting - General	GV	0.40	725.00	290.00	Call with investor
1/14/2013	Litigation Consulting - Vennes	KL2	1.50	280.00	420.00	Review of Vennes case and docket and research on expert witness
1/14/2013	Fee Preparation	KL2	1.20	280.00	336.00	Monthly invoices prepared
1/15/2013	Litigation Consulting - General	KL2	2.00	280.00	560.00	Review of status of onshore cases from summary provided by counsel
1/17/2013	Litigation Consulting - General	AEG	0.60	575.00	345.00	Reviewed email from counsel re update on the docket
1/18/2013	Litigation Consulting - General	GV	1.00	725.00	725.00	Weekly call with Trustee
1/21/2013	Litigation Consulting - General	AEG	0.60	575.00	345.00	Review of the docket from counsel
1/22/2013	Litigation Consulting - General	AEG	0.60	575.00	345.00	Review of the docket from counsel
1/25/2013	Litigation Consulting - General	AEG	0.60	575.00	345.00	Review of the docket from counsel
1/28/2013	Litigation Consulting - GECC	GV	0.50	725.00	362.50	Review of GECC MTD
1/29/2013	Fee Preparation	JGO	0.70	255.00	178.50	Prepare for and attend court call regarding fee applications
				<b>Total</b>	<b>\$ 10,559.50</b>	

**Schedule A**  
**Kinetic Partners (Cayman) Ltd. -- February 2013 Detail Time Entries (PB I & II)**

<b>Date</b>	<b>Category</b>	<b>Staff</b>	<b>Time</b>	<b>Rate</b>	<b>Fees</b>	<b>Description</b>
2/1/2013	Litigation Consulting-General	AEG	2.00	575.00	1,150.00	Review the file in prep for meeting with trustee (6); call with trustee and counsel to discuss various litigations and the bankruptcy proceeding. (6); Review of the docket provided by counsel. (8)
2/1/2013	Litigation Consulting-Insurance Claims	GV	0.10	725.00	72.50	Insurance settlement emails
2/1/2013	Litigation Consulting-General	GV	0.10	725.00	72.50	General file matters
2/1/2013	Fee Preparation	JGO	0.40	255.00	102.00	Reviewed Fee application for the order
2/4/2013	Administration	KL2	0.70	280.00	196.00	Correspondence with Karen at Marcum on tax forms and follow up with GV on the same, review of completed forms
2/5/2013	Litigation Consulting-General	AEG	1.10	575.00	632.50	Review of email from counsel re docket
2/5/2013	Realization of Assets	GV	0.10	725.00	72.50	Email re Ozcar
2/5/2013	Litigation Consulting-General	KL2	0.60	280.00	168.00	Review of email from counsel and related recent docketings
2/8/2013	Realization of Assets	GV	0.10	725.00	72.50	Newman settlement
2/11/2013	Litigation Consulting-General	KL2	2.00	280.00	560.00	Review of counsel's email of summary of filings and review of the GECC motion to dismiss
2/12/2013	Litigation Consulting-General	AEG	1.80	575.00	1,035.00	Review the file in preparation for meeting with trustee/ review spreadsheet of professional fees and recoveries into the onshore estate for potential interim distribution.
2/12/2013	Administration	KL2	0.50	280.00	140.00	Reconciliation of onshore payments to date
2/13/2013	Litigation Consulting-General	AEG	11.00	575.00	6,325.00	Travel to/from Miami review file in preparation for meeting with Trustee. (6.0) Meeting with Trustee and counsel to discuss various matters. (5.0)
2/13/2013	Litigation Consulting-General	GV	9.00	725.00	6,525.00	Status meeting with Ch 11 trustee and counsel (5); travel (4)
2/13/2013	Litigation Consulting-General	KL2	1.00	280.00	280.00	Research into and review of Petters claims into the Onshore Funds
2/14/2013	Litigation Consulting-General	KL2	0.50	280.00	140.00	Review of MB meeting notes from Florida meeting on status of case
2/15/2013	Litigation Consulting-General	AEG	1.20	575.00	690.00	Review of the docket (emails provided by counsel); review of the GECC filing
2/15/2013	Fee Preparation	KL2	1.00	280.00	280.00	Monthly invoicing
2/19/2013	Litigation Consulting-General	AEG	1.50	575.00	862.50	Review of the Vennes Transcript
2/21/2013	Litigation Consulting-General	AEG	0.80	575.00	460.00	Review emails from counsel re update on cases.
2/25/2013	Litigation Consulting - General Partners	AEG	0.80	575.00	460.00	Review docket provided by counsel
2/26/2013	Litigation Consulting M&I	GV	0.30	725.00	217.50	M&I decision and related emails
2/26/2013	Litigation Consulting M&I	KL2	1.20	280.00	336.00	Review counsel's email on M&I and start to review order on MTD
2/27/2013	Litigation Consulting - General Partners	AEG	0.80	575.00	460.00	Review of the docket
2/27/2013	Litigation Consulting M&I	GV	0.10	725.00	72.50	M&I decision and related emails
2/27/2013	Litigation Consulting M&I	KL2	1.00	280.00	280.00	Continue reviewing order on MTD
2/28/2013	Litigation Consulting-General	KL2	1.50	280.00	420.00	Review response to Fulbright MTD
				<b>Total</b>	<b>\$ 22,082.00</b>	