

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

In re:

Chapter 11

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

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

Debtors.

**LIQUIDATING TRUSTEE'S APPLICATION TO EMPLOY
SONEET R. KAPILA AND KAPILA & COMPANY,
NUNC PRO TUNC TO OCTOBER 12, 2012**

Barry E. Mukamal, in his capacity as liquidating trustee (the "*Liquidating Trustee*") for the Palm Beach Finance Partners Liquidating Trust and Palm Beach Finance II Liquidating Trust, by and through undersigned counsel and pursuant to 11 U.S.C. § 327(a) and *Fed. R. Bank. P.* 2014(a), respectfully requests an that this Court enter an Order, *nunc pro tunc* to October 12, 2012, authorizing the employment of Soneet R. Kapila ("*Mr. Kapila*"), and the firm of Kapila & Company ("*Kapila & Co.*"; and together with Mr. Kapila, the "*Applicant*"). In support, the Liquidating Trustee states as follows:

1. On November 30, 2009, the Debtors filed voluntary petitions under Chapter 11 of the United States Bankruptcy Code [ECF No. 1]. By subsequent Order of this Court, the cases are jointly administered.
2. On January 28, 2010, the Court entered the Agreed Order Directing Appointment of Chapter 11 Trustee and Denying United States Trustee's Motion to Convert Cases to Cases under Chapter 7 [ECF No. 100].
3. On January 29, 2010, the United States Trustee appointed the Liquidating Trustee as Chapter 11 Trustee in both of the Debtors' estates [ECF No. 107].

4. The Liquidating Trustee is the Liquidating Trustee by virtue of this Court's Order Confirming Second Amended Joint Plan of Liquidation dated October 21, 2010 [ECF No. 444].

5. The Liquidating Trustee desires to employ the Applicant as an expert, *nunc pro tunc* to October 12, 2012, for the purposes of preparing an insolvency report and advising the Liquidating Trustee on related issues.

6. Mr. Kapila is the founding shareholder of Kapila & Co and his hourly rate for this engagement will be \$500.00. Mary M. McMickle, a principal at Kapila & Co., may assist Mr. Kapila in this engagement at an hourly rate of \$350.00. The hourly rates for Kapila & Co.'s staff, if utilized by Mr. Kapila, range from \$120.00 to \$300.00. The Liquidating Trustee believes that the Applicant is qualified to be retained by the Liquidating Trustee

7. To the best of the Liquidating Trustee's knowledge, the Applicant does not (i) have any connection with the Debtors or the Debtors' estates; or (ii) represent any interest adverse to the Liquidating Trustee, the Debtors or the Debtors' estates.

8. Attached as Exhibit 1 is Mr. Kapila's fully executed and notarized affidavit demonstrating that he is disinterested as required by 11 U.S.C. § 327(a) and a verified statement as required under *Fed. R. Bank. P. 2014*.

9. The Liquidating Trustee believes that the employment of the Applicant is in the best interests of the Debtors' estates and their creditors.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

WHEREFORE, the Liquidating Trustee respectfully requests the Court enter an Order (similar in form to Exhibit 2) (i) authorizing the retention of the Applicant, *nunc pro tunc* to October 12, 2012, as his expert upon the terms and conditions set forth above; and (ii) for all other relief this Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on October 17, 2012 a true and correct copy of the foregoing was served via the Court's Notice of Electronic Filing upon all Registered Users on the list attached as Exhibit 3 and was mailed via U.S. Regular Mail to all parties on the list attached as Exhibit 4.

Dated: October 17, 2012.

s/ Jonathan S. Feldman
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Attorneys for Liquidating Trustee

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

In Re:

Case No. 09-36379-BKC-PGH
Chapter 11

PALM BEACH FINANCE PARTNERS, L.P.

Debtor. /

AFFIDAVIT OF ACCOUNTANT

STATE OF FLORIDA)
COUNTY OF BROWARD)

SONEET R. KAPILA, being duly sworn, states:

1. I am a duly licensed certified public accountant in the State of Florida and a shareholder of the independent public accounting firm of Kapila & Company ("Kapila"), 1000 South Federal Highway, Suite 200, Fort Lauderdale, FL 33316. I am familiar with the matters set forth herein and make this affidavit in support of the application for approval of Kapila as accountants for the Trustee.

2. The Trustee has requested Kapila to represent him for the reasons stated in the said application.

3. While employed by the Trustee, Kapila will not represent any other entity having an adverse interest in connection with the case and we are disinterested persons as required by 11 U.S.C. 327(a). To the best of my knowledge, Kapila does not have nor has it had any connection with the Debtors, their affiliates, creditors and any of their attorneys or accountants in matters related to this case or with any person employed in the office of the U.S. Trustee, as required by Fed. R. Bank. ¶2014 except as set forth below.

4. Soneet R. Kapila is a member of the Chapter 7 Panel of Trustees in the Southern District of Florida. Should I or the firm become notified of any conflicts

asserted by a party with which the firm has a relationship, I will notify this Court immediately.

5. As part of its practice, Kapila appears in cases, proceedings, and transactions involving many different creditors, shareholders, attorneys, accountants, financial consultants, investment bankers, and other entities, some of which may be or may represent claimants and parties in interest in this case. Kapila has a widespread practice in insolvency and bankruptcy matters and I and the Firm participate in numerous cases in both the federal and state courts involving different professionals, including attorneys, accountants and financial consultants. Some of those professionals may represent parties-in-interest in this case. However, I am not advising any such entity and/or professional in connection with this Chapter 11 proceeding nor do I have a relationship with any such entity or professional which is adverse to the Debtor, its creditors or the estate.

6. Kapila is otherwise well-qualified to serve as accountants for the Trustee for the purpose required. Kapila has been retained as accountants and financial consultants to render professional services to trustees, debtors, creditors, creditors' committees, and others in numerous bankruptcy matters. Soneet R. Kapila is also a Certified Insolvency & Restructuring Advisor (CIRA), a Certified Fraud Examiner (CFE) and Certified in Financial Forensics (CFF).

FURTHER AFFIANT SAYETH NAUGHT.


SONEET R. KAPILA, C.P.A.

The foregoing instrument was acknowledged before me this 2ND day of October, 2012, by Soneet R. Kapila who is personally know to me.


Signature of Notary Public

My Commission Expires:



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., Case No.: 09-36379-PGH
PAL BEACH FINANCE II, L.P., Case No.: 09-36396-PGH
Debtors. (Jointly Administered)

_____ /

**ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION
OF SONEET R. KAPILA AND KAPILA & COMPANY,
NUNC PRO TUNC TO OCTOBER 12, 2012**

THIS CAUSE came before the Court on _____ upon the Liquidating Trustee's *Application to Employ Soneet R. Kapila ("Mr. Kapila") and Kapila & Company ("Kapila & Co.")*, *nunc pro tunc to October 12, 2012* [ECF No. ____] (the "*Application*"). Upon the representations that Mr. Kapila and Kapila & Co. (i) are duly qualified, (ii) hold no interest adverse to the Debtors' estates in the matters upon which they are engaged, (iii) are disinterested persons as required by 11 U.S.C. § 327(a), (iv) have disclosed any connections with parties set

forth in *Fed. R. Bankr. P.* 2014, and (v) their employment is necessary and would be in the best interests of the Debtors' estates and their creditors, it is

ORDERED as follows:

1. The Motion is **GRANTED**, *nunc pro tunc* to October 12, 2012.
2. The Liquidating Trustee is authorized to retain Mr. Kapila and Kapila & Co. as experts pursuant to 11 U.S.C. §§ 327, 330 and 331, and the terms set forth in the Application.

###

Submitted By:

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Copies Furnished To:

Attorney Jonathan S. Feldman is directed to serve copies of this Order on all parties in interest and to file a Certificate of Service.

Mailing Information for Case 09-36379-PGH

Electronic Mail Notice List

The following is the list of **parties** who are currently on the list to receive email notice/service for this case.

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