

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

In re:

Chapter 11

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

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

Debtors.

**LIQUIDATING TRUSTEE'S (I) MOTION TO MODIFY
COMPENSATION STRUCTURE FOR MELAND RUSSIN & BUDWICK, P.A.
AND (II) APPLICATION TO EMPLOY HARLEY TROPIN AND KOYZAK
TROPIN & THROCKMORTON, LLP *NUNC PRO TUNC* TO MARCH 10, 2017**

Barry E. Mukamal, in his capacity as liquidating trustee (“*Liquidating Trustee*”) of the Palm Beach Finance Partners Liquidating Trust and Palm Beach Finance II Liquidating Trust and pursuant to 11 U.S.C. § 327(a) and *Fed. R. Bank. P.* 2014(a), respectfully requests that this Court enter an Order, *nunc pro tunc* to March 10, 2017 authorizing the employment of Harley S. Tropin (“*Mr. Tropin*”) and the firm Koyzak Tropin & Throckmorton, LLP (the “*Firm*,” and with Mr. Tropin, the “*Applicant*”) and modifying the compensation structure for Meland Russin & Budwick, P.A. (“*MR&B*”) as it relates to the GECC Litigation (defined below). In support, the Liquidating Trustee states as follows:

General Background

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].

Retention of Meland Russin & Budwick, P.A. and Fee Structure

5. Pursuant to the Court's Order dated February 12, 2010 [ECF No. 121], the Liquidating Trustee employed Michael S. Budwick, Esq. and the law firm of MR&B as his attorneys in these bankruptcy proceedings including related contested matters and adversary proceedings.

6. On July 26, 2010, the Liquidating Trustee filed his *Motion to Approve Hybrid Form of Compensation for MR&B* [ECF No. 193], which this Court granted via an *Order Granting Motion to Approve Hybrid Form of Compensation for MR&B* [ECF No. 223] ("**Compensation Order**").

7. Pursuant to the Compensation Order, for most litigation matters, MR&B is compensated in a hybrid manner: (1) 75% of hourly rates; plus (2) 10% of any affirmative recovery. The adversary proceeding styled *Mukamal v. BMO Harris Bank N.A.*, Adv. Case No. 11-3015-PGH ("**M&I Litigation**"), which concluded in 2015 [see ECF No. 2689], was subject to this hybrid fee structure.¹

8. On November 2, 2011, the Court entered its *Order Granting Liquidating Trustee's Motion to Modify Compensation Structure for Meland Russin & Budwick, P.A. as to Certain Litigation Matters* [Motion: ECF No. 802, and Order: ECF No. 815] ("**Second Compensation Order**"). The Second Compensation Order provides, in pertinent part, that:

¹ Applicant will have no role in the M&I Litigation. The M&I Litigation is long concluded. Moreover, any Applicant attorneys that were involved in the M&I Litigation will be walled off from the GECC Litigation, as disclosed and more specifically described in the Affidavit of Mr. Tropin attached as Exhibit 2.

With respect to the GECC ... Claims, MR&B shall be compensated as follows: 33% of any affirmative recovery obtained by MR&B with respect to ... the GECC ... Claims, and, in the event of an appeal, MR&B will be entitled to an additional 5% of any affirmative recovery.

With respect to any costs or expenses associated with the GECC ... Claims MR&B will be entitled to one hundred percent (100%) reimbursement of all such costs and expenses incurred and allowed in connection with investigating, and if appropriate, prosecuting ... the GECC ... Claims.

The bankruptcy estates will bear the cost of any consulting or expert witness(es) retained in connection with the GECC ... Claims.

9. The adversary proceeding styled *Mukamal v. General Electric Capital Corporation*, Adv. Case No. 12-1979-PGH (“**GECC Litigation**”), is subject to this pure contingency fee structure.

10. On March 18, 2014, the Court entered its *Order Granting Liquidating Trustee’s (I) Motion to Modify Compensation Structure for Meland Russin & Budwick, P.A. as to Two Litigation Matters and (II) Application to Employ David S. Mandel and Mandel & Mandel LLP, nunc pro tunc to February 14, 2017 (“Third Compensation Order”)* [ECF No. 2197].

11. The Third Compensation Order provides in pertinent part with respect to the GECC Litigation that MR&B and Mandel & Mandel LLP (“**Mandel & Mandel**”) are compensated as follows:

- a. As to MRB, prior to the adjudication of all summary judgment motions, MR&B shall receive 27% of any affirmative recovery obtained. After the adjudication of all summary judgment motions, MR&B shall receive 24.75% of any affirmative recovery. In the event of an appeal, MR&B shall receive an additional 5% of any affirmative recovery.
- b. As to [Mandel & Mandel], prior to the adjudication of all summary judgment motions, [Mandel & Mandel] shall receive 6% of any affirmative recovery. After the adjudication of all summary judgment motions, [Mandel & Mandel] shall receive 8.25% of any affirmative recovery.

12. The Third Compensation Order further provided that with respect to the GECC Litigation, the estates shall continue to pay any associated costs or expenses, including those of experts and consultants, and that MR&B and Mandel & Mandel shall be reimbursed for any such costs or expenses which they advance or incur.

13. Finally, the Third Compensation Order provided that the 18%/82% Pro Rata Allocation Formula (as defined in the “*Motion and Application*” [ECF No. 2167]) shall apply to the costs of MR&B and Mandel & Mandel with respect to costs in the GECC Litigation.

Pending Motion to Modify the Third Compensation Order

14. Pursuant to the *Liquidating Trustee’s Motion to Modify Compensation Structure for Meland Russin & Budwick, P.A. And Mandel & Mandel LLP nunc pro tunc To March 10, 2017 (“Motion to Modify Third Compensation Order”)* [ECF No. 3198] filed on March 31, 2017, the Liquidating Trustee seeks to modify the Third Compensation Order.

15. As set forth in the Motion to Modify Third Compensation Order, the relief requested is estate neutral because the total contingency fee will remain the same: 33% through trial and an additional 5% in the event of an appeal.²

16. The Motion to Modify Third Compensation Order provides that MR&B will either perform those obligations in the GECC Litigation previously performed by Mandel & Mandel itself, or will seek the retention of another firm to assist MR&B as special co-counsel to the Liquidating Trustee.

² This Motion likewise is estate neutral, because it does not seek to modify the total contingency fee previously approved by the Court. Compensation for Applicant will come out of any recovery MR&B would otherwise be entitled if no special co-counsel were employed to assist MR&B with prosecution of the GECC Litigation.

17. As of the time of filing this Motion the Court has yet to hear and approve the relief requested in the Motion to Modify Third Compensation Order, but through this Motion, the Liquidating Trustee seeks to employ Applicant to assist MR&B as special co-counsel.

Retention of Koyzak Tropin & Throckmorton, LLP as Special Co-Counsel

18. Mr. Tropin has extensive experience litigating complex fraud, Ponzi schemes and professional malpractice cases. He has had a leading role in some of the significant Ponzi scheme cases in South Florida – *In Re U.S. Oil and Gas Litigation*, Case No. 83-1702-A1-CIV-WMH (USDC S.D.Fla.); *In Re: Premium Sales Corporation*, Case No. 93-12253-BKC-AJC (U.S. Bankruptcy Court, S.D. Fla.) and *Securities and Exchange Commission v. Premium Sales Corp., et al.*, Case No. 93-1092-CIV-MORENO (USDC S.D. Fla.) *Daccache v. Raymond James & Associates, Inc., et al.*, Case No. 16-cv-21575-FAM/JJO (USDC S.D. Fla.). Recently, in the cases styled *Razorback Funding LLC, et al. v. Scott W. Rothstein, et al.* Case No. 09-062943 19 (Fla. 17th Cir. Ct. 2009), *Don Beverly, et al. v. Bank of America, N.A.*, Case. No. CACE 14-006271 05 (Fla. 17th Cir. Ct. 2014); and *Kretschmar, et al. v. Bank of America, et al.*, Case No. CACE 14-006251 05 (Fla. 17th Cir. Ct. 2009), Mr. Tropin, as co-lead counsel representing investors in lawsuits against two banks in the \$1.2 billion Ponzi scheme operated by lawyer Scott Rothstein, recovered all of the investors’ losses and attorneys’ fees.

19. The Liquidating Trustee believes that the Applicant will well complement MR&B’s litigation team. The Liquidating Trustee believes that retention of the Applicant as co-counsel to work with MR&B in the GECC Litigation is in the best interests of the estates and should be approved pursuant to the economic terms identified below.

20. Attached as Exhibit 1 is the curriculum vitae of Mr. Tropin. Mr. Tropin's hourly rate is \$800. The hourly rates of associates and paraprofessionals, if utilized by Applicant, currently ranges from \$250 to \$550.

RELIEF REQUESTED

Proposed Form of Compensation for MR&B and Applicant

21. Solely with respect to the GECC Litigation, the Liquidating Trustee requests authority to retain the Applicant as special co-counsel and to compensate Applicant and MR&B as follows:

- a. The Applicant shall be compensated as follows: (i) 6% of any affirmative recovery obtained in a resolution reached before 7 days prior to the start of trial; or (ii) 7% of any affirmative recovery obtained on or after 7 days prior to the start of trial.
- b. Assuming the Court grants the relief requested in the Motion to Modify Third Compensation Order, MR&B shall be compensated as follows:
 - 24% of any affirmative recovery obtained in a resolution reached before 7 days prior to the start of trial and up to and including the Threshold Amount (as defined in the Motion to Modify Third Compensation Order);
 - 23% of any affirmative recovery obtained in a resolution reached before 7 days prior to the start of trial and over the Threshold Amount;
 - 23% of any affirmative recovery obtained in a resolution reached on or after 7 days prior to the start of trial and up to and including the Threshold Amount; or
 - 22% of any affirmative recovery obtained in a resolution reached on or after 7 days prior to the start of trial and over the Threshold Amount.

- c. The compensation of MR&B and Applicant combined (along with any compensation granted as a result of the Motion to Modify Third Compensation Order) shall in no event exceed the overall 33% cap on MR&B and any co-counsel compensation, but MR&B shall receive an additional 5% of any recovery obtained after an appeal is taken (if any), as set forth in the Third Compensation Order.

22. The estates shall continue to pay any associated costs or expenses, including those of experts and consultants. MR&B and the Applicant shall be reimbursed for any such costs or expenses which they advance or incur.

23. The Trustee's requested relief in this Motion is dependent on the Court's award of the requested relief in the Motion to Modify Third Compensation Order.

24. To the best of the Liquidating Trustee's knowledge, other than as disclosed on the attached Exhibit 2, 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.

25. Attached as Exhibit 2 is Mr. Tropin's fully executed and notarized Affidavit demonstrating that he is disinterested as required by 11 U.S.C. § 327(a) and presenting the verified statement as required by *Fed. R. Bankr. P.* 2014.

26. The Liquidating Trustee believes the employment of the Applicant as special co-counsel with respect to the GECC Litigation is in the best interests of the Debtors' estates and their creditors. Similarly, the Liquidating Trustee believes the proposed revised compensation structure is fair and reasonable and also in the best interest of the estates and their creditors.

27. Importantly, the revised compensation structure is estate neutral, as the total contingency fee will remain the same: 33% through trial and an additional 5% in the event of an appeal.

WHEREFORE, the Liquidating Trustee respectfully requests the Court enter an Order (similar in form to the attached Exhibit 3) (i) modifying the compensation structure for Meland Russin & Budwick, P.A. with respect to the GECC Litigation, and (ii) authorizing the retention of the Applicant with respect to the GECC Litigation upon the terms and conditions set forth above; and (iii) for all other relief this Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on April 5, 2017, via the Court’s Notice of Electronic Filing upon the Registered Users listed on the attached Exhibit 4, via Regular U.S. Mail upon the parties listed on the Court’s Manual Notice List attached as Composite Exhibit 5, the Court’s Matrices in Case No. 09-36379-BKC-PGH and Case No. 09-36396-BKC-PGH attached as Composite Exhibit 6³, and those additional addresses set forth on Composite Exhibit 7.

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

Attorneys for Liquidating Trustee

³ “ADDL” means these additional parties served as a courtesy. See Composite Exhibit 7.

“BAD” means that it is a known bad address; hence, no service by mail.

“DUP” means that the address appears more than once on this exhibit and is only being served one time by mail.

“NEF” means that service was made by Notice of Electronic Filing as set forth on Exhibit 4 and is not being additionally served by mail.

“NNR” means no notice is required.

“PBFP” means that entity appears on both matrices and only being served once.

“N-WD” means no notice required as such party has filed a Notice of Withdrawal with this Court.

Harley S. Tropin



Harley Tropin is President of Kozyak Tropin & Throckmorton. Mr. Tropin concentrates his practice on high stakes business litigation.

Harley was recognized by the American Jewish Committee for his outstanding legal work and community contributions with the 2016 Learned Hand award. He has been recognized by Best Lawyers in America since 1989 and is in the top-tier litigation category, "Bet-The-Company Litigators." He has been awarded "Lawyer of the Year" for Miami Mass Tort Litigation/Class Actions for both plaintiffs (2015, 2017) and defendants (2014). Chambers USA places him in its top "Tier 1" ranking and describes Harley as "one of the deans of the Florida Bar" and "a tremendous oral advocate—he's a very savvy and smart lawyer who knows which buttons to push and when." He is also listed in Florida Super Lawyers, Florida Trend's "Legal Elite," and one of fifty Florida Lawyers named to the Legal Elite Hall of Fame. Harley has been awarded with 2017 AV Preeminent Rating which is the highest possible rating in both legal ability and ethical standards that Martindale-Hubbell can bestow upon an attorney based solely on peer review. He is a member of the American Board of Trial Advocates, a Fellow of the International Academy of Trial Lawyers, and a member of its Board of Directors. Harley has taught trial advocacy at the University of Miami School of Law for the past twenty years, and is a member of the Federal Judicial Nominating Commission.

While the majority of Harley's practice now focuses on representing plaintiffs, he regularly represents defendants in their most serious and challenging commercial cases.

Harley lectures on a variety of issues in commercial litigation, including the management of complex litigation, the presentation of damages in commercial litigation, trial advocacy techniques, and fraud prosecution. He has chaired the NITA/Federal Court Program on trial advocacy, and regularly chairs an annual seminar, "Damages in Commercial Litigation," and has also participated in seminars and programs concerning the judicial appointment process.

Harley authored Florida Business Torts, a Lexis Nexis book published in March 2006, and the injunction chapter for Florida Civil Practice Before Trial, which is now a standard Florida litigation text. He teaches trial advocacy at the University of Miami School of Law, and is active in the University of Miami School of Law, the Greater Miami Jewish Federation, and Temple Beth Am.

Harley is a passionate advocate for greater access to mental health services. He currently serves as co-chair for the University of Miami Department of Psychiatry and Behavioral Sciences Advisory Board, has helped raise funds for a Day Treatment Medical Center for mental health patients, and has represented the department on a pro bono basis on legal issues involving mental health concerns.

Harley also has served on the Florida Supreme Court Committee on Gender Bias and Diversity and is an integral part of the KTT commitment to diversity in the workplace and community.

RESULTS

Fraud and Ponzi Schemes

Harley represented more than seventy investors, who collectively lost \$190 million investing with Ft. Lauderdale lawyer Scott Rothstein, who ran a Ponzi scheme, based on selling fictitious structured settlements. Typical recoveries in these cases range from 10-30%. Harley and his team recovered over 95% of losses, and are now seeking attorney's fees, the remainder of the damages and positive damages.

Corporate Disputes

Harley successfully represented a New York investor, and his closely held corporation, in a \$2.5 billion dispute with his CEO (and nephew) over entitlement to the proceeds of the sale of his oil and gas venture. After the sale, the CEO sued in multiple courts, arguing entitlement to half the proceeds, on the theory that he was a general partner of the venture. Harley and his team defeated the claims entirely, while obtaining sanctions against the CEO for discovery abuses, and recovering a favorable monetary settlement of the counterclaim.

Legal Malpractice Defense

Harley successfully represented a large Florida law firm, which was sued for malpractice relating to a resort development. He successfully argued that the claim was legally defective, resulting in a resolution of the claim, which included a public statement by the plaintiff admitting the law firm had done nothing wrong and affirming that the legal services rendered by the law firm were excellent.

Class Actions

On behalf of 700,000 physicians, and their medical societies, including Texas Medical Association, the California Medical Association and others, Harley acted as co-lead counsel in a national class action against the major HMOs including Aetna, Cigna, Humana and others for systematically denying doctors

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PRACTICE AREAS

Complex Litigation
 Fraud and Ponzi Schemes
 Corporate Shareholder and
 Partnership Disputes
 Legal Malpractice Defense
 Class and Group Actions
 Complex Health Care Litigation

**KOZYAK
 TROPIN
 THROCKMORTON**

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In re: Chapter 11
PALM BEACH FINANCE PARTNERS, L.P., Case No.: 09-36379-PGH
PALM BEACH FINANCE II, L.P., Case No.: 09-36396-PGH
Debtors. (Jointly Administered)

AFFIDAVIT OF PROPOSED SPECIAL COUNSEL FOR LIQUIDATING TRUSTEE

STATE OF FLORIDA)
)SS:
COUNTY OF MIAMI-DADE)

Harley S. Tropin, being duly sworn, says:

1. I am an attorney admitted to practice in the State of Florida and the United States District Court for the Southern District of Florida.
2. I am employed by the law firm of Kozyak Tropin & Throckmorton, LLP (“KTT”), with offices located at 2525 Ponce de Leon Blvd., 9th Floor, Coral Gables, FL 33134.
3. Subject to Bankruptcy Court approval, Barry E. Mukamal, in his capacity as Liquidating Trustee (“Liquidating Trustee”), has agreed to engage KTT as special litigation counsel to assist in the prosecution of the Liquidating Trustee’s claims in the GECC Litigation, as that term is defined in the *Liquidating Trustee’s (I) Motion to Modify Compensation Structure for Meland Russin & Budwick, P.A. and (II) Application to Employ Harley Tropin and Kozyak Tropin & Throckmorton, LLP, Nunc Pro Tunc to March 10, 2017* (ECF No.) (the “KTT Retention Application”). The terms of the proposed engagement are set forth in the KTT Retention Application, which is incorporated herein by reference.

4. Neither I nor KTT holds or represents any interest adverse to the estate on the matters for which we are to be employed. We are disinterested persons as required by 11 U.S.C. § 327(a), as qualified by 11 U.S.C. § 327(c), which states that a person is not disqualified for employment under § 327 solely because of such person's employment by or representation of a creditor unless there is objection by another creditor or the United States Trustee, in which case the court shall disapprove such employment if there is an actual conflict of interest.

5. To the best of my knowledge after diligent inquiry, including inquiry from all KTT attorneys and a search of KTT's computerized conflicts database, KTT has no connections with the Debtors, Liquidating Trustee, creditors, any other party in interest, their respective attorneys and accountants, the U.S. Trustee, or any person employed in the office of the U.S. Trustee, within the meaning of Fed.R.Bankr.P. 2014, except as follows:

A. KTT occasionally represents Mr. Mukamal or other members of his firm, usually in their capacity as a receiver or bankruptcy trustee. KTT also occasionally employs Mr. Mukamal or other members of his accounting firm as expert witnesses. Current, active representations in both of these categories are identified in the attached Schedule 1.

B. KTT previously represented BMO Harris Bank, N.A. (as successor to M&I Marshall & Ilsley Bank)("BMO") and Christopher Flynn ("Flynn"), as defendants in the following adversary proceedings brought by the Liquidating Trustee in these cases: (i) *Mukamal v. BMO Harris Bank, N.A.*, Adv. Case No. 11-3015-PGH and (ii) *Mukamal v. BMO Harris Bank, N.A.*, Adv. Case No. 14-1660-PGH (collectively, the "M&I Litigation"). The M&I Litigation was settled in 2015 and the adversary proceedings have been closed. KTT has terminated its representation of BMO and Flynn. Neither I nor the KTT attorneys who will assist me in the GECC Litigation performed legal work in the M&I Litigation, and the three attorneys who

worked on the M&I Litigation, Charles W. Throckmorton, Corali Lopez-Castro, and Vincent Alexander, will have no involvement in the GECC Litigation. Further, KTT will take all necessary precautions to isolate these three attorneys from all materials and communications relating to the GECC Litigation.

C. By the nature of its extensive practice in complex, multi-party commercial litigation, class action, and bankruptcy cases, KTT frequently appears in cases in which (i) other attorneys of record, or creditors, in the *Palm Beach Finance Partners* cases (including, without limitation, Meland Russin; Levine Kellogg; Carlton Fields; Kaufman Rossin, P.A.; Stearns Weaver; Shraiberg, Ferrara; Wicker Smith; Cohen Milstein; Holland & Knight; Hogans Lovell; Rappaport Osborne; Mandel & Mandel, LLP; Arnstein & Lehr; Hill Ward Henderson; Furr & Cohen; Berger Singerman; Rasco Klock; and Genovese Joblove); or (ii) the firm of Kapila Mukamal are involved. KTT is sometimes adverse to these firms or their clients, and sometimes aligned with them. During its more than 34 years of existence, KTT has also referred cases, or received referrals from, many of these firms. In some instances, KTT attorneys have served as expert witnesses, mediators, or receivers on behalf of some of these firms or their clients and, in some instances, KTT or its clients have employed professionals from these firms as experts, mediators, or receivers.

D. Mandel & Mandel, LLP is a former client of KTT. KTT also serves as bankruptcy counsel to David Mandel, in his capacity as receiver in the case of *SEC v. Commodities Online, LLC, et al.*, Case No. 11-60702-Civ-Cooke in the U.S. District Court for the Southern District of Florida. KTT is co-counsel with Mandel & Mandel, LLP, representing the plaintiffs in the case of *Mansor v. JPMorgan Chase Bank, N.A.*, Case No. 1:12-cv-10544-JGD in the U.S. District Court for the District of Massachusetts.

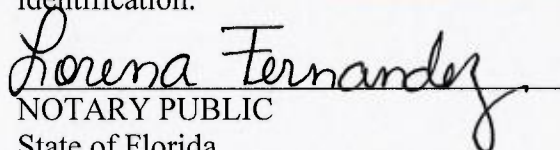
E. KTT represented Beal Bank in the case of *Beal Bank v. Becker Poliakoff*, Case No. 99-01327 in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. That case has been closed for more than ten years.

6. KTT and I will supplement these disclosures to the extent that any material connections inadvertently omitted from these disclosures is discovered, or to the extent that any new material connections come into existence.



HARLEY S. TROPIN

SWORN TO AND SUBSCRIBED BEFORE ME this 3rd day of April, 2017 by HARLEY S. TROPIN, who is personally known to me; or produced _____ as identification.



NOTARY PUBLIC
State of Florida
My Commission Expires:



SCHEDULE 1 TO TROPIN AFFIDAVIT¹

- (1) *Kapila v. Tractel*, Adv. No. 11-3048 (KTT represents Tractel in preference action brought by Soneet Kapila as trustee; also involves mechanic lien litigation)
- (2) *In re Pharma Science Nutrients*, Case No. 15-20488 (KTT represents Soneet Kapila as Chapter 7 Trustee)
- (3) *In re John Henry & Adalgiza Cabanas*, Case No. 13-32543 (KTT represents Barry Mukamal as Chapter 7 Trustee)
- (4) *In re & Raymond & Pilar Navarro*, Case No. 12-31034 (KTT represents Barry Mukamal as Chapter 7 Trustee)
- (5) *In re Donald. J. Kipnis*, Case No. 14-11370 (KTT represents Barry Mukamal as Chapter 7 Trustee)
- (6) *In re NNN Doral Court 3 et al*, LLC, Case No. 15-24228 (KTT represents Barry Mukamal as post-confirmation Chapter 11 Plan Administrator)
- (7) *S.E.C. v. Mutual Benefits Corp/Viatical Benefactors, LLC*, 04-60573 in U.S. District Court for Southern District of Florida (KTT represents Barry Mukamal as Trustee of the Mutual Benefits Keep Policy Trust)
- (8) *Mukamal v. Lincoln National Corp. et al*, Case NO. 17-00234 in U.S. District Court for Eastern District of Pennsylvania (Barry Mukamal is a class plaintiff in insurance class action where KTT is interim co-lead counsel)
- (9) *Juan Curbelo v. Antonio Quercia*, Case No. 13-15713 (KTT represents Quercia group; Barry Mukamal served as expert for Curbelo at trial level; case is now on appeal).

¹ Unless otherwise noted, all cases are in U.S. Bankruptcy Court for the Southern District of Florida

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SOUTHERN DISTRICT OF FLORIDA
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In re:

Chapter 11

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

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

Debtors.

**ORDER GRANTING LIQUIDATING TRUSTEE'S (I) MOTION TO MODIFY
COMPENSATION STRUCTURE FOR MELAND RUSSIN & BUDWICK, P.A.
AND (II) APPLICATION TO EMPLOY HARLEY TROPIN AND KOYZAK
TROPIN & THROCKMORTON, LLP NUNC PRO TUNC TO MARCH 10, 2017¹**

THIS CAUSE came before the Court on _____ at _____ upon the *Liquidating Trustee's Motion to (I) Modify Compensation Structure for Meland Russin & Budwick, P.A. and (II) Application to Employ Harley Tropin and Koyzak Tropin & Throckmorton, LLP nunc pro tunc to March 10, 2017 ("Motion and Application")* [ECF No. ____]. Upon the representations that Mr. Tropin and the Firm (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.

¹ Capitalized terms not defined herein shall have the meaning ascribed to them in the Motion.

P. 2014, and (v) their employment is necessary and would be in the best interests of the Debtors' estates and their creditors, and the Court having reviewed the Court file and based upon the reasons set forth on the record which are incorporated herein by reference, it is

ORDERED as follows:

1. The Motion and Application is **GRANTED**, *nunc pro tunc* to March 10, 2017.
2. The Liquidating Trustee is authorized to retain Mr. Tropin and the Firm as special co-counsel with respect to the GECC Litigation, pursuant to 11 U.S.C. §§ 327, 330 and 331, and the terms set forth in the Motion and Application.
3. With respect to the GECC Litigation, MR&B and the Applicant will be compensated as follows:
 - a. The Applicant shall be compensated as follows: (i) 6% of any affirmative recovery obtained in a resolution reached before 7 days prior to the start of trial; or (ii) 7% of any affirmative recovery obtained on or after 7 days prior to the start of trial.
 - b. MR&B shall be compensated as follows:
 - 24% of any affirmative recovery obtained in a resolution reached before 7 days prior to the start of trial and up to and including the Threshold Amount;
 - 23% of any affirmative recovery obtained in a resolution reached before 7 days prior to the start of trial and over the Threshold Amount;

- 23% of any affirmative recovery obtained in a resolution reached on or after 7 days prior to the start of trial and up to and including the Threshold Amount; or
 - 22% of any affirmative recovery obtained in a resolution reached on or after 7 days prior to the start of trial and over the Threshold Amount.
- c. The compensation of MR&B and Applicant combined (along with any compensation granted as a result of the Motion to Modify Third Compensation Order) shall in no event exceed the overall 33% cap on MR&B and any co-counsel compensation, but MR&B shall receive an additional 5% of any affirmative recovery in the event of an appeal, as set forth in the Third Compensation Order.
4. All other terms of MR&B's retention not sought to be modified by the Motion remain unchanged.

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Submitted By:

Michael S. Budwick, Esquire
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mbudwick@melandrussin.com
MELAND RUSSIN & BUDWICK, P.A.
Counsel for Liquidating Trustee
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Telephone: (305) 358-6363
Telefax: (305) 352-1221

Copies Furnished To:

Michael S. Budwick, Esquire 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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