

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 MOTION FOR APPROVAL
OF SETTLEMENT WITH BEAR STEARNS CAPITAL
MARKETS, INC. AND PAYMENT OF CONTINGENCY FEE**

Any interested party who fails to file and serve a written response to this motion within 21 days after the date of service stated in this motion shall, pursuant to Local Rule 9013-1(D), be deemed to have consented to the entry of an order in the form attached to this motion. Any scheduled hearing may then be cancelled.

Barry E. Mukamal, in his capacity as liquidating trustee ("*Liquidating Trustee*") for the Palm Beach Finance Partners Liquidating Trust ("*Liquidating Trust*"), by and through undersigned counsel, and pursuant to *Fed. R. Bankr. P.* 9019, seeks an Order from this Court approving a settlement of claims that could be asserted against Bear Stearns Capital Markets Inc. ("*BSCM*"). In support of this relief, the Liquidating Trustee states the following:

I. Factual Background

A. The Pre-Petition Activities of PBF I

1. The Liquidating Trust is the successor to Palm Beach Finance Partners, L.P. ("*PBF I*").

2. PBF I was formed to lend monies in purchase financing transactions supposedly brokered by Thomas Petters and his company, Petters Company, Inc. (“*PCF*”) in the consumer goods business. The idea was that PBF I and other lenders would supply bridge financing to PCI and then later, once goods were received by a particular big box retailer, the retailer would remit the payment to the lender or PCI.

3. In reality, PBF I’s investments in PCI were worthless - PCI’s purchase and financing transactions were fictitious and part of an elaborate, multi-billion dollar *ponzi* scheme perpetrated by Mr. Petters, Deanna Munson a/k/a Deanna Coleman, Robert White and others. No retailer ever made any payment on the purchase and sale of goods because the deals never existed.

4. On September 24, 2008, federal agents raided Mr. Petters’ offices. Thereafter, Mr. Petters’ companies were placed into federal receivership. Ultimately, Mr. Petters was convicted of his crimes and sentenced to 50 years in prison. Other persons complicit in the fraud were sentenced to prison sentences as well.

5. On November 30, 2009 (“*Petition Date*”), PBF I commenced a Chapter 11 bankruptcy case by 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 (“*Bankruptcy Court*”).

6. On October 21, 2010, the Bankruptcy Court entered its Order Confirming Second Amended Plan of Liquidation [ECF No. 444], creating the Liquidating Trust and appointing the Liquidating Trustee as liquidating trustee.

B. BSCM

7. BSCM, as part of a third party agreement with Stillwater Market Neutral Fund Ltd. (“*SMNF*”), made an investment in PBF I (“*First Investment*”).

8. BSCM, as part of a third party agreement with another investor (unrelated to SMNF), also made a second investment in PBF I (“*Second Investment*”).

9. Based on a cash in, cash out analysis, the Liquidating Trustee would assert that BSCM and SMNF, in connection with the First Investment, received a fictitious profit in the amount of \$2,119,804 (“*Profit Distribution*”). As to the Second Investment, BSCM and the other third party investor could assert that they suffered at least a \$1,015,000 loss. Moreover, BSCM could assert that the First Investment and Second Investment should both be aggregated, which could result in a material reduction in the Profit Distribution.

II. Settlement Terms

10. The key aspects of the stipulation of settlement between the parties (“*Stipulation*”) are the following:¹

- a) Upon approval of the Stipulation, BSCM and SMNF will pay (or cause to be paid) \$800,000 to the Liquidating Trust (“*Settlement Payment*”). The Settlement Payment represents a 38% of the Profit Distribution received in connection with the First Investment.
- b) The Liquidating Trustee and BSCM shall exchange mutual, general releases;
- c) The Liquidating Trustee and BSCM affiliates shall exchange limited releases;
- d) The Liquidating Trustee and SMNF shall exchange limited releases; and

¹ A copy of the Stipulation is attached as Exhibit 1. To the extent the terms of the agreement differ with the terms set forth in this Motion, the agreement shall control.

- e) BSCM shall be entitled to an allowed general unsecured claim in the PBF I estate in the amount of \$333,333.00.

III. Relief Requested

11. The Liquidating Trustee seeks an Order from this Court (a) approving the Stipulation and (b) approving the Contingency Fee (as defined below).

12. Federal Rule of Bankruptcy Procedure 9019 provides in relevant part that [o]n motion . . . and after a hearing on notice to creditors; the debtor . . . and to such other entities as the Court may designate, the Court may approve a compromise or settlement.”

13. Approval of a settlement in a bankruptcy proceeding is within the sole discretion of the Court and will not be disturbed or modified on appeal unless approval or disapproval is an abuse of discretion. *In re Arrow Air*, 85 BR 891 (Bankr. S.D. Fla. 1988).

14. The standards for approval are well settled and require the Court to inquire into the reasonableness of the proposed settlement. *See, e.g., Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968); *In re W.T. Grant Co.*, 699 F.2d 599, 608 (2d Cir. 1983); *Florida Trailer and Equip. Co. v. Deal*, 284 F.2d 567, 571 (5th Cir. 1960). The inquiry need only determine whether the settlement falls below the lowest point of the range of reasonableness. *See W.T. Grant Co.*, 699 F.2d at 608; *see also In re Martin*, 91 F.3d 389 (3rd Cir. 1996); *In re Louise's Inc.*, 211 B.R. 798 (D. Del. 1997) (setting forth considerations by the Court for approval of a settlement, including: (i) the probability of success in litigation, (ii) the likely difficulties in collection; (iii) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (iv) the paramount interest of the creditors.

A. The Stipulation Ought to be Approved

15. Based upon the above legal principles, the Liquidating Trustee asserts that the Stipulation falls well above the lowest point of the range of reasonableness and thus, should be approved.

Probability of success in litigation

16. The Liquidating Trustee, on behalf of the Liquidating Trust, could assert that the Profit Distribution to BSCM and SMNF was a fraudulent transfer under federal or state law, or alternatively, that BSCM and SMNF were unjustly enriched by the Profit Distribution.

17. Although the Liquidating Trustee believes that he will likely succeed in prosecuting either of these causes of action, BSCM could assert certain statutory and factual defenses. For example, BSCM may successfully argue that any profit made with respect to the First Investment must be netted against the Second Investment. Alternatively, BSCM may successfully assert certain statutory defenses to the Liquidating Trustee's claims that could eliminate any possibility of recovery. Although the Liquidating Trustee believes that he can ultimately overcome these defenses, there is a residual litigation risk that cannot be avoided and warrants settlement.

18. As for SMNF, although its defenses may be markedly weaker than those belonging to BSCM, issues of collectability (addressed below) play a decided factor in entering into the Stipulation.

Collectability

19. With respect to BSCM, collectability is not a significant issue. BSCM has sufficient funds to pay any judgment relating to the Profit Distribution.

20. As to SMNF, collectability is an issue that militates settling the Liquidating Trustee's claims in a reduced amount compared to other similarly situated defendants.

21. In particular, SMNF is an offshore based hedge fund that is effectively being wound down. Its remaining assets largely consist of illiquid positions in other funds/investments that are themselves in liquidation. These assets may also be subject to claims by BSCM. Moreover, the value of these positions is difficult to gauge and likely could be *de minimis*.

Complexity of litigation and attendant expense, inconvenience and delay

22. This is a meaningful consideration that militates in favor of approval of the Stipulation.

23. In sum, although many of the claims outlined above are typical claims litigated before this Court, they still potentially require retention of experts and extensive fact discovery before a trial could take place. The result of these efforts will be substantial fees of professionals that could diminish the net result of any recovery to creditors in the PBF I case.

24. Moreover, assuming the Liquidating Trustee was successful in obtaining a judgment against SMNF, he would then have to engage in collection efforts, including retaining counsel in the Cayman Islands. Again, this would result in the estate incurring additional fees and delay. Coupled with the risk attendant to collectability in this matter, these professional fees could exceed the recovery on any judgment.

25. The Stipulation addresses these concerns. The parties avoid litigating fact specific claims, with the attendant expense and delay of litigation being nullified.

Paramount interest of creditors

26. The Settlement Payment represents a 38% recovery of the Profit Distribution. This result gives certainty to the estate and avoids the risk, expense and delay attendant with litigation and any collection efforts.

27. Although BSCM will receive a general unsecured claim in PBF I's estate, the Liquidating Trustee believes that this reduced claim is justified when the totality of the circumstances is considered, including the loss suffered on the Second Investment and the potential for BSCM to raise certain statutory defenses. As such, the Stipulation is in the paramount interest of PBF I's creditors and should be approved.

B. The Contingency Fee Ought to be Approved

28. Pursuant to the Plan and this Court's Order Approving the Trustee's Motion to Approve Hybrid Form of Compensation [ECF No. 223], Meland Russin & Budwick, P.A. ("**MRB**") is entitled to a contingency fee of 10% for any affirmative recovery it obtains on behalf of the Liquidating Trust without further order of the Court ("**Contingency Fee**").

29. As such, MRB requests that the Contingency Fee be paid from the Settlement Payment without further Order from this Court.

WHEREFORE, the Liquidating Trustee requests that this Court enter an Order (similar in form to the Order attached as Exhibit 2) (1) approving the Stipulation; (2) approving payment of the Contingency Fee and (3) granting such other relief this Court deems just and proper.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on June 22, 2012, a true and correct copy of the foregoing was served via the Court's Notice of Electronic Filing on those parties listed on the attached Exhibit 3, via U.S. Mail to the parties listed on the matrix attached as Exhibit 4.

s/ Jonathan S. Feldman
Jonathan S. Feldman, Esquire
Florida Bar No. 12682
jfeldman@melandrussin.com
MELAND RUSSIN & BUDWICK, P.A.
3000 Southeast Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131
Telephone: (305) 358-6363
Telecopy: (305) 358-1221
*Attorneys for Barry E. Mukamal,
Liquidating Trustee*

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (“*Stipulation*”) is entered into on June 12, 2012 by and among (a) Barry E. Mukamal, in his capacity as liquidating trustee (“*Liquidating Trustee*”) of the PBF Liquidating Trust (“*Liquidating Trust*”); (b) Bear Stearns Capital Markets, Inc. (“*BSCM*”) and (c) Stillwater Market Neutral Fund Ltd. (“*SMNF*”) (the Liquidating Trustee, BSCM and SMNF are at times individually referred to as a “*Party*” or collectively, the “*Parties*”). The terms of this Stipulation are as follows:

RECITALS

A. On November 30, 2009 (“*Petition Date*”), Palm Beach Finance Partners, L.P. (“*PBF I*”) commenced a Chapter 11 bankruptcy case by 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 (“*Bankruptcy Court*”);

B. On October 21, 2010, the Bankruptcy Court entered its Order Confirming Second Amended Plan of Liquidation (the “*Plan*”) [ECF No. 444], creating the Liquidating Trust and appointing the Liquidating Trustee as liquidating trustee;

C. The Liquidating Trustee, on behalf of the Liquidating Trust, asserts certain claims against BSCM and SMNF (the “*Potential Litigation*”) arising out of investments made by BSCM in PBF I (the “*Investments*”) including the transfers BSCM received from PBF I (the “*Transfers*”);

D. BSCM and SMNF each expressly deny the claims alleged against them that could be asserted in the Potential Litigation;

E. The Parties have engaged in discussions in an attempt to resolve the Potential Litigation;

F. To avoid the continued expense and risk of adverse outcome arising from the Potential Litigation, as well as incurring costs and expenses associated therewith, among other

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reasons, the Parties have agreed to resolve the Potential Litigation pursuant to the terms and conditions of this Stipulation.

NOW, WHEREFORE, it is stipulated, consented to and agreed, by and among the Parties as follows:

1. **No Admission of Liability.** The Parties acknowledge that this Stipulation is a compromise and settlement of a controversy. No Party admits, and each expressly denies, any liability on its part.

2. **Entire Agreement.** This Stipulation constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and there are no other stipulations, agreements, representations, or warranties other than those specifically set forth herein. All prior agreements and understandings between the Parties concerning the subject matter hereof are superseded by the terms of this Stipulation.

3. **Settlement Payment.** In full and final settlement of the Potential Litigation, BSCM and SMNF shall pay (or cause to be paid) a total of \$800,000 (the "**Settlement Payment**") within 20 days from the date of the entry by the Bankruptcy Court on its docket of a final, non-appealable Order approving this Stipulation. The Settlement Payment may be made via (i) wire transfer pursuant to written instructions to be provided by the Liquidating Trustee or his counsel or (ii) check made payable to "Barry E. Mukamal, Liquidating Trustee" and delivered to Jonathan S. Feldman, Esq., Meland Russin & Budwick, P.A., 200 South Biscayne Blvd., Suite 3000, Miami, Florida 33131.

4. **No Entitlement of SMNF to Distribution.** SMNF agrees that it shall not be entitled to any monetary distribution whatsoever from the Liquidating Trust or PBF I. To the extent SMNF has scheduled or filed any proof of claim or proof of interest in the PBF I bankruptcy case, such claim or interest shall be deemed disallowed in its entirety and be stricken.

5. **Allowed Claim of BSCM.** Subject to final payment of the Settlement Payment, and in complete and final settlement of any claims BSCM may have in the bankruptcy cases of PBF I and its affiliated debtors, BSCM shall be finally allowed a general unsecured claim against PBF I in the amount of \$333,333 and shall be entitled to the distributions and treatment set forth in the Plan for holders of such allowed claims.

6. **Releases Between BSCM, Bear Stearn Entities, and Liquidating Trust.**

A. **Definition of Claim.** For purposes of this Stipulation, the term “*Claims*” shall mean any obligations, claims, causes of action, demands of any type that a party may presently have, may have or have had in the past, upon or by reason of any matter, cause or thing whatsoever, including without limitation any and all obligations, claims, causes of actions and demands of any kind whatsoever, at law or in equity, indirect, derivative, or direct, known or unknown, discovered or undiscovered.

B. **General Release of BSCM.** Upon approval of this Stipulation by final, non-appealable order of the Bankruptcy Court and payment of the Settlement Payment, the Liquidating Trustee, on his own behalf solely as Liquidating Trustee and on behalf of the Liquidating Trust and PBF I, waives, releases and holds harmless, now and forever, BSCM from any and all Claims that the Liquidating Trustee, the Liquidating Trust or PBF I may have against BSCM, including, but not limited to, those Claims that could have been asserted in the Potential Litigation; provided that nothing herein shall be deemed to release, waive or otherwise limit any rights or obligations arising out of this Stipulation. The scope of this release shall not impact, impair or alter in any manner any Claims whatsoever that the Liquidating Trustee, on behalf of the Liquidating Trust or PBF I, may have against any parties other than BSCM, including but not limited to Claims against any alleged concurrent or consecutive tortfeasors, if any.

C. **General Release by BSCM of Liquidating Trust.** Upon approval of this Stipulation by final, non-appealable order of the Bankruptcy Court and payment of the Settlement Payment, BSCM waives, releases and holds harmless, now and forever, the Liquidating Trustee, the Liquidating Trust and PBF I from any and all Claims that BSCM may have against the Liquidating Trustee, the Liquidating Trust or PBF I, including, but not limited to, those Claims that could have been asserted in the Potential Litigation; provided that this provision does not release, waive or otherwise limit any rights or obligations arising out of this Stipulation. The above release by BSCM of the Liquidating Trustee, the Liquidating Trust, and PBF I shall not discharge, release, waive, limit, or affect in any way the rights, Claims, and defenses of BSCM or any of the Bear Stearns Entities (defined below) against SMNF or against any other entity not specifically released herein by the Bear Stearns Entities, and all such rights, Claims, and defenses are preserved for BSCM and the Bear Stearns Entities.

D. **Specific Release of Bear Stearns Entities.** Upon approval of this Stipulation by final, non-appealable order of the Bankruptcy Court and payment of the Settlement Payment, the Liquidating Trustee, on his own behalf solely as Liquidating Trustee and on behalf of the Liquidating Trust and PBF I, waives, releases and holds harmless, now and forever, BSCM's parents, subsidiaries, affiliates, predecessors, attorneys, agents, representatives, successors, and assigns (collectively, the "*Bear Stearns Entities*") from any and all Claims that the Liquidating Trustee, the Liquidating Trust or PBF I may have against the Bear Stearns Entities arising out of or related in any way to the Investments or the Transfers; provided that nothing herein shall be deemed to release, waive or otherwise limit any rights or obligations arising out of this Stipulation. The scope of this release shall not impact, impair or alter in any manner any Claims whatsoever that the Liquidating Trustee, on behalf of the Liquidating Trust or PBF I, may have against any

parties other than the Bear Stearns Entities, including but not limited to Claims against any alleged concurrent or consecutive tortfeasors, if any.

E. Specific Release by Bear Stearns Entities of Liquidating Trust. Upon approval of this Stipulation by final, non-appealable order of the Bankruptcy Court and payment of the Settlement Payment, the Bear Stearns Entities waive, release and hold harmless, now and forever, the Liquidating Trustee, the Liquidating Trust and PBF I from any and all Claims that the Bear Stearns Entities may have against the Liquidating Trustee, the Liquidating Trust or PBF I arising out of or related in any way to the Investments or the Transfers; provided that this provision does not release, waive or otherwise limit any rights or obligations arising out of this Stipulation. The above release by the Bear Stearns Entities of the Liquidating Trustee, the Liquidating Trust, and PBF I shall not discharge, release, waive, limit, or affect in any way the rights, Claims, and defenses of BSCM or any of the Bear Stearns Entities against SMNF or against any other entity not specifically released herein by the Bear Stearns Entities, and all such rights, Claims, and defenses are preserved for the Bear Stearns Entities.

7. Limited Releases Between Liquidating Trustee and SMNF.

A. Limited Release by Liquidating Trustee in Favor of SMNF. Upon approval of this Stipulation by final, non-appealable order of the Bankruptcy Court and payment of the Settlement Payment, the Liquidating Trustee, on behalf of the Liquidating Trust and PBF I, waives, releases and holds harmless, now and forever, SMNF and its past and present employees, officers, directors, representatives and agents (the “*SMNF Releasees*”) from any and all Claims that could be asserted against the SMNF Releasees that relate solely to the Investments or the Transfers. The SMNF Releasees acknowledge and agree that the scope of the release provided for in this paragraph is strictly limited in nature and does not release any Claims that the Liquidating Trustee, on behalf of the

Liquidating Trust or the Palm Beach Finance II Liquidating Trust, may assert against SMNF or entities affiliated with SMNF with respect to transactions or investments not directly involving BSCM made, or caused to be made, by SMNF or entities affiliated with SMNF in connection with PBF I, Palm Beach Finance II, LP, or Palm Beach Diversified Income, LP.

B. Limited Release by SMNF in Favor of Liquidating Trustee, PBF I and the Liquidating Trust. Upon approval of this Stipulation by final, non-appealable order of the Bankruptcy Court and payment of the Settlement Payment, SMNF and its past and present employees, officers, directors, representatives and agents waive, release and hold harmless, now and forever, the Liquidating Trustee, PBF I and the Liquidating Trust from any and all Claims that could be asserted against the Liquidating Trustee, PBF I and the Liquidating Trust that relate solely to the Investments or the Transfers.

8. Reservation of Rights, Claims, and Interests Among SMNF, BSCM, and BSIL; Neutrality of Stipulation on Rights and Obligations of SMNF, BSCM, and BSIL. SMNF, BSCM, and Bear, Stearns International Limited ("*BSIL*") (now known as J.P. Morgan Markets Limited) do not waive, but reserve all of their respective rights, Claims, and interests against each other, including but not limited to all of their respective rights, Claims, and interests against each other under and related to a Call Option Transaction Confirmation (the "*Confirmation*") dated as of December 29, 1999, as amended and supplemented from time to time, by and between SMNF and BSIL, as assignee. SMNF, BSCM, and BSIL intend and agree that the execution, terms and conditions, and performance of this Stipulation shall be neutral among themselves with respect to the resolution of any existing or future dispute among them over the effect on their rights and obligations under the Confirmation and applicable law of the settlement of the Potential Litigation and the payment of the Settlement Payment hereunder. Notwithstanding anything to the contrary in this Stipulation, nothing in this Stipulation shall

operate to or have the effect of waiving, limiting, impairing, or affecting in any way the respective legal, equitable, or contractual rights and obligations of SMNF, BSCM, and BSIL under the Confirmation and applicable law, with respect to the resolution of any such dispute.

9. **Authorization to Bind.** The individuals signing below represent and warrant that they have the authority to execute this Stipulation on behalf of the applicable Party and bind them to its terms.

10. **Review/No Duress.** Each of the Parties acknowledges that he, she or it has read all of the terms of this Stipulation, has had an opportunity to consult with counsel of his, her or its own choosing or voluntarily waived such right, and enters into those terms voluntarily and without duress.

11. **Attorneys' Fees and Costs.** Each Party shall bear its own attorneys' fees and costs in connection with the negotiation of this Stipulation and motions and orders as may be necessary to obtain the approval of this Stipulation by the Bankruptcy Court; provided that in the event of any litigation between the Parties under this Stipulation or arising as a result of a default under this Stipulation, the prevailing Party shall be entitled to reasonable attorneys' fees and costs related thereto, including, but not limited to, those incurred at all trial and appellate levels.

12. **No Waiver or Modification.** This Stipulation and any of the specific items, covenants, and conditions contained herein, may not be waived, changed, altered or modified except by an instrument in writing signed by the Party against whom enforcement of such change is sought.

13. **Effective Date.** This Stipulation shall be effective upon execution by all of the Parties hereto, subject only to approval of this Stipulation by final, non-appealable order of the Bankruptcy Court and payment of the Settlement Payment. Upon it becoming effective, this Stipulation shall be binding on all of the Parties' successors or assigns.

14. **No Effect.** If the Bankruptcy Court does not approve this Stipulation, then the Stipulation shall be of no further force or effect, and the Parties shall be restored to their rights as they existed prior to the execution of this Stipulation. Notwithstanding the foregoing, if the Bankruptcy Court does not approve this Stipulation because any of the Parties have failed to provide the Bankruptcy Court with adequate information to rule on the merits of the Stipulation, the Parties will use their best efforts to seek reconsideration of any order declining to approve the Stipulation, or to file an amended motion to approve the Stipulation.

15. **Controlling Law.** This Stipulation shall in all respects be construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed wholly within the State of Florida and by federal law to the extent the same has preempted the laws of the State of Florida.

16. **Counterparts.** This Stipulation may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Stipulation. Delivery of an executed counterpart of a signature page to this Stipulation by facsimile shall be effective as delivery of a manually executed counterpart of this Stipulation.

17. **Construction.** This Stipulation shall be deemed to have been jointly drafted by the Parties, and in construing and interpreting this Stipulation, no provision shall be construed and interpreted for or against any of the Parties because such provision or any other provision of the Stipulation as a whole is purportedly prepared or requested by such Party.

18. **Jurisdiction.** The Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Stipulation.

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STIPULATED AND AGREED TO BY:

Barry E. Mukamal, Liquidating Trustee

Date: _____

Audrey De Fush
Bear Stearns Capital Markets, Inc.

Date: 12 June 2012

Stillwater Market Neutral Fund Ltd.

Date: _____

STIPULATED AND AGREED TO SOLELY AS TO SECTION 8 BY:

Audrey De Fush
Bear, Stearns International Limited (now
known as J.P. Morgan Markets Limited)

Date: 12 June 2012

STIPULATED AND AGREED TO BY:

Barry E. Mukamal, Liquidating Trustee

Date: _____

Bear Stearns Capital Markets, Inc.

Date: _____



Stillwater Market Neutral Fund Ltd.

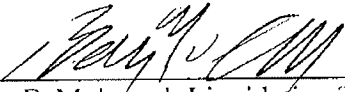
Date: 6/24/12

STIPULATED AND AGREED TO SOLELY AS TO SECTION 8 BY:

Bear, Stearns International Limited (now
known as J.P. Morgan Markets Limited)

Date: _____

STIPULATED AND AGREED TO BY:



Barry E. Mukamal, Liquidating Trustee

Date: 6/10/12

Bear Stearns Capital Markets, Inc.

Date: _____

Stillwater Market Neutral Fund Ltd.

Date: _____

STIPULATED AND AGREED TO SOLELY AS TO SECTION 8 BY:

Bear, Stearns International Limited (now
known as J.P. Morgan Markets Limited)

Date: _____

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

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

Debtors.

**ORDER GRANTING LIQUIDATING TRUSTEE'S MOTION
FOR APPROVAL OF SETTLEMENT WITH BEAR STEARNS CAPITAL
MARKETS, INC. AND PAYMENT OF CONTINGENCY FEE [ECF NO. ____]**

THIS CAUSE came before the Court upon the Liquidating Trustee's Motion for Approval of Settlement with Bear Stearns Capital Markets, Inc. ("**BSCM**") and Payment of Contingency Fee [ECF No. ____] ("**Motion**").¹ The Court, having reviewed the Motion and noting that a Certificate of No Response and Request for Entry of Order has been filed, finds that the notice of the proposed

¹ Capitalized terms not defined in this Order shall have the meaning ascribed to such term as set forth in the Motion.

compromise and settlement is sufficient to comply with Bankruptcy Rules 9019 and 2002(a)(3), Local Rule 9013-1(D) and any other applicable notice requirement, and accordingly, it is:

ORDERED as follows:

1. The Motion is **GRANTED**. The Settlement is approved.
2. In full and final performance of their obligations owing under the Stipulation, BSCM and SMNF shall pay (or cause to be paid) a total of \$800,000 ("*Settlement Payment*") within 20days from the date that this Order becomes final and non-appealable.
3. BSCM shall have an allowed general unsecured claim in the PBF I bankruptcy estate in the amount of \$333,333.
4. The Court retains jurisdiction to enforce the terms of the Settlement.
5. MRB's Contingency Fee in the amount of \$80,000 is approved and the Liquidating Trustee is authorized to pay this amount upon funding of the Settlement Payment.

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Submitted By:

s/ Jonathan S. Feldman, Esq.
Jonathan S. Feldman, Esquire
Florida Bar No. 12682
jfeldman@melandrussin.com
MELAND RUSSIN & BUDWICK, P.A.
3000 Southeast Financial Center
200 South Biscayne Boulevard
Miami, Florida 33131
Telephone: (305) 358-6363
Telecopy: (305) 358-1221
Attorneys for the Liquidating Trustee

Copies Furnished To:

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

SERVICE LIST

Electronic Mail Notice List

The following is the list of parties who are currently on the list to receive e-mail notice/service for this case and who therefore will be served via the Court's Notice of Electronic Filing:

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.

Geoffrey S. Aaronson gaaronson@aspalaw.com,
tdmckeown@mckeownpa.com;sbeiley@aspalaw.com;dlinder@aspalaw.com
Melissa Alagna mma@segallgordich.com, jxp@segallgordich.com
Keith T Appleby kappleby@fowlerwhite.com, deborah.lester@fowlerwhite.com
Paul A Avron pavron@bergersingerman.com, efile@bergersingerman.com
Steven M Berman sberman@slk-law.com, bgoodall@slk-law.com
Mark D. Bloom bloomm@gtlaw.com, MiaLitDock@gtlaw.com;miaecfbky@gtlaw.com
Noel R Boeke noel.boeke@hklaw.com, brooke.tanner@hklaw.com
Michael S Budwick mbudwick@melandrussin.com,
ltannenbaum@melandrussin.com;mrbnefs@yahoo.com
Dennis M. Campbell dcampbell@campbelllawfirm.net, iperchitti@campbelllawfirm.net
Franck D Chantayan fchantayan@carltonfields.com, kdemar@carltonfields.com
John R. Dodd doddj@gtlaw.com, miaecfbky@gtlaw.com;mialitdock@gtlaw.com
Heidi A Feinman Heidi.A.Feinman@usdoj.gov
Jonathan S. Feldman jfeldman@melandrussin.com,
ltannenbaum@melandrussin.com;mrbnefs@yahoo.com
G Steven Fender efileu1113@gmlaw.com, efileu1094@gmlaw.com;efileu1092@gmlaw.com
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