



**ORDERED in the Southern District of Florida on April 26, 2012.**

A handwritten signature in black ink that reads "Paul Hyman".

**Paul G. Hyman, Chief Judge  
United States Bankruptcy Court**

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

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

Debtors.

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**ORDER GRANTING LIQUIDATING TRUSTEE'S AMENDED MOTION  
FOR ENTRY OF ORDER ESTABLISHING UNIFORM  
MEDIATION PROCEDURES FOR ADVERSARY PROCEEDINGS**

**THIS CAUSE** came before the Court on April 17, 2012 at 11:00 a.m. upon the Liquidating Trustee's Amended Motion for Entry of Order Establishing Uniform Mediation Procedures for Adversary Proceedings [ECF No. 1140] (the "**Motion**").<sup>1</sup> The Court reviewed the Motion as well as the various filed objections, heard argument of counsel, was

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<sup>1</sup> All capitalized terms not defined in this Order shall have the meaning ascribed to such term as set forth in the Motion.

advised of the agreements reached between the Liquidating Trustee with certain of the objecting parties and is otherwise duly advised in the premises. Accordingly, it is:

**ORDERED** as follows:

1. The Motion is **GRANTED**.

2. The Mediation Procedures set forth in the Motion with respect to the Adversary Proceedings are approved as modified herein.

3. The following Mediation Procedures shall apply to all Adversary Proceedings:

a) Mediator Selection. The following three pre-selected mediators are appointed to mediate the Adversary Proceedings (referred to each as a “*Mediator*” and collectively as, the “*Mediators*”): Frances Carter, Esq., John Freud, Esq. and James Gilbert, Esq. Nothing shall prevent the Liquidating Trustee and any Defendant in a particular Adversary Proceeding from agreeing to select a different mediator.

b) Time of Mediation Conference. On or before the later of (i) 30 days from the date of this Order or (ii) 60 days from the date of service of a particular summons and complaint, each Defendant shall provide the Liquidating Trustee with three proposed dates on which it is available to mediate.

c) Attendance at Mediation Conference. Each Party shall participate in the Mediation Conference in good faith and shall ensure that a representative is present in person at the Mediation Conference. Representatives may not appear telephonically unless otherwise agreed to by the parties and the Mediator. The Trust Monitor may appear as a representative of the Liquidating Trustee with full settlement authority. With respect to Adversary Proceedings which seek recovery of transfers made by Frank Vennes, Jr., Metro Gem, Inc. or the Fidelis Foundation (collectively, the “*Vennes*

*Parties*”), the Liquidating Trustee agrees that Mediation Conference held in connection therewith may also be attended in person by Doug Kelley, the Chapter 11 Trustee for Petters Company, Inc. and various affiliated entities as well as in his capacity as Receiver for various Petters related affiliated entities, (the “*Petters Trustee*”) and his counsel, if the attendance of the Petters Trustee is requested by any particular Defendant or the Petters Trustee.

d) Fees. The Parties (including the Petters Trustee as to those mediations in which the Petters Trustee participates) will be responsible for an equal and pro rata share of the total amount of the Mediator’s fees and costs. The Mediators have each agreed to charge an hourly rate of \$400 in connection with the Adversary Proceedings. The Liquidating Trustee is authorized to pay all of the fees and costs of a Mediator after review of the Mediator’s bill without further order of the Court. The Liquidating Trustee shall be entitled to seek reimbursement from any particular Defendant or the Petters Trustee, if the Petters Trustee participates, for their proportionate share of the Mediator’s fees and costs and such party shall have ten (10) days following receipt of the Liquidating Trustee’s request for reimbursement to submit payment in full to the Liquidating Trustee.

e) Cancellation. If a scheduled mediation is cancelled any less than ten (10) days prior to the scheduled mediation date, the Mediator shall be entitled to a cancellation fee equal to \$800 (or the equivalent of two (2) hours at the Mediator’s agreed billing rate). Such fee shall also be apportioned between the Liquidating Trustee, any particular Defendant and the Petters Trustee, if the Petters Trustee participates.

4. In addition to the foregoing, with respect to any Mediation Conference held relating to Minnesota Teen Challenge, North Dakota Teen Challenge or Trinity Christian School

[all defendants in Adversary Case No. 11-03022] (collectively, the “*Christian Charities*”), the Liquidating Trustee has additionally agreed to the following mediation procedures:

- a) The mediator shall be James Gilbert, Esq.
- b) The mediation with Minnesota Teen Challenge will occur in Minneapolis, Minnesota at the office of Parker Rosen, LLC, 300 First Avenue North, Suite 200, Minneapolis, Minnesota 55401 on a date mutually agreeable on or before June 15, 2012, unless the parties agree to an alternative later date. Any mediation involving North Dakota Teen Challenge or Trinity Christian School shall occur on a date agreeable to the parties at least ten days prior to the pretrial conference. Prior to each Mediation Conference, the Christian Charities shall provide to the Liquidating Trustee a schedule for each entity setting forth the total transfers received by each such entity from the Vennes Parties, as well as any and all data relating to or otherwise supporting any asserted right of setoff, recoupment or other such considerations.

5. As to all Defendants as to which service has been effectuated, the Liquidating Trustee shall promptly serve a copy of this Order. As to all Defendants as to which service of the summons, complaint and pretrial order has not been accomplished, the Liquidating Trustee shall serve a copy of this Order along with the complaint, summons and pretrial order on each such Defendant, as soon as an appropriate address for service of process has been obtained.

6. The Amended Mediation Procedures and corresponding notice procedures shall remain in effect unless modified by subsequent Court Order.

7. Nothing shall prevent any party located in a jurisdiction other than Florida or Minnesota from seeking leave to conduct a particular Mediation Conference in such jurisdiction.

This provision is without prejudice to any rights of the Liquidating Trustee to challenge or oppose such request.

8. The Court may modify this Order for good cause shown.

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**Submitted By:**

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**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.