



**ORDERED in the Southern District of Florida on August 31, 2012.**

A handwritten signature in cursive script 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:  
PALM BEACH FINANCE PARTNERS,  
L.P., a Delaware limited partnership, et al.,

Chapter 11

Debtors,

CASE NO. 09-36379-BKC-PGH  
(Jointly Administered)

**ORDER GRANTING MOTION FOR ENTRY OF  
BAR ORDER IN FAVOR OF FREDRIKSON & BYRON, P.A.**

**THIS MATTER** came before the Court upon the *Liquidating Trustee's Motion To Approve Settlement with Fredrikson & Byron, P.A* (the "**Motion**") [ECF No. 1351].<sup>1</sup> The Court, has reviewed the Motion and noted that a Certificate of No Response and Request for Entry of Order has been filed, and is otherwise duly advised in the premises.

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

In its Motion, the Liquidating Trustee, on behalf of the Liquidating Trusts, Debtors and their respective bankruptcy estates, seeks entry of an order barring certain claims against F&B as described in detail below (the "**Bar Order**").

The Court has noted that notice of the Motion and the request for a Bar Order was given to those potentially interested parties identified on the service list referenced in the Motion. The Court has reviewed and considered the Motion, any other submissions to this Court and provided an opportunity to be heard to all persons requesting to be heard. Accordingly, it is:

**ORDERED** as follows:

1. The Motion is **GRANTED**.
2. The Stipulation of Settlement is **APPROVED**.
3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, and authority to enter this Order pursuant to 11 U.S.C. § 105(a).
4. F&B shall pay (or cause to be paid) \$437,500 (the "**Settlement Payment**") within 20 days from the date that this Order becomes a final, non-appealable order. The Settlement Payment shall 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 Michael S. Budwick, Esq. Meland Russin & Budwick, P.A. 200 South Biscayne Blvd., Suite 3000, Miami, Florida 33131.
5. The Settlement payment will be allocated and apportioned among the estates as follows: 18% to Palm Beach Finance Partners, L.P. and 82% to Palm Beach Finance II, L.P. (the "**Pro Rata Allocation Formula**") and the wire transfers or checks referenced in paragraph 4 above shall be made in the amounts in accordance with this allocation.
6. MRB's Contingency Fee in the amount of \$43,750 is approved. The Liquidating Trustee is authorized and directed to make payment of the Contingency Fee without the need for

further Court Order, in accordance with the Pro Rata Allocation Formula, promptly upon receipt of the Settlement Payment.

7. To the extent that F&B has a scheduled claim or proof of interest or has filed a proof of claim or proof of interest in the Debtors' chapter 11 cases, such claim or interest is deemed disallowed in its entirety.

8. The form and means of the notice of the Bar Order and the Motion are determined to have been the best notice practicable under the circumstances and to be good and sufficient notice to all persons whose interests would or could be affected by this Order.

9. The Court has been apprised of the negotiations that preceded the Stipulation and finds that the Motion and request for Bar Order is a result of arms'-length bargaining among the parties. There is no evidence that the settlement reached by the Liquidating Trustee with F&B is the result of collusion among the parties or that there has been any intent to prejudice any interested parties.

10. The Court finds that entry of this Order is appropriate in order to achieve the finality and repose that is contemplated as a term of the proposed settlement and that good cause therefore exists for the entry of this Order, and is fair and equitable. *See In re U.S. Oil & Gas Litigation*, 967 F.2d 489, 495-96 (11th Cir. 1992); *Munford, Inc. v. Munford, Inc.*, 97 F.3d 449, 454-55 (11th Cir. 1996); *In re Jiffy Lube Securities Litigation*, 927 F.2d 155 (4th Cir. 1991); *Eichenholtz v. Brennan*, 52 F.3d 478 (3d Cir. 1995).

The following additional definitions apply to the provisions of this Order barring certain claims as set forth in paragraph 6 below:

"*Releasers*" shall mean (1) all creditors of either of the Debtors; (2) all limited partners of either of the Debtors; and (3) all general partner(s) of either of the Debtors.

“*Claims*” shall mean all liabilities, judgments, rights, claims, cross-claims, counterclaims, third party claims, demands, suits, matters, obligations, damages, debts, losses, costs, actions and causes of action, of every kind and description, including but not limited to those pertaining to any dealings with, loans to or investments in the Debtors, arising under common law, rule, regulation or statute, whether arising under state or federal law, whether presently known or unknown that relate in any manner whatsoever to the Debtors or the Liquidating Trusts.

“*F&B Released Parties*” shall mean F&B, its present and former attorneys, employees, insurers and agents and the heirs, executors, administrators, beneficiaries, predecessors, successors and assigns of any of the foregoing.

“*Petters Entities*” shall mean Petters Company, Inc. and Petters Group Worldwide, LLC and shall include those of their respective subsidiaries or affiliates for which Mr. Kelley is the Chapter 11 trustee. Each may be referred to as a “*Petters Entity*.”

“*Petters Representative*” shall mean Douglas A. Kelley, in either his capacity as chapter 11 trustee or receiver for any and all of the Petters Entities.

11. Bar Order

a. Except as expressly provided below, Releasors are permanently barred and enjoined from commencing, prosecuting, or asserting either directly or in any other capacity, against any F&B Released Party, any Claims that any Releasor now has, ever had or may claim to have in the future, and any and all persons or entities are permanently barred and enjoined from commencing, prosecuting, or asserting either directly or in any other capacity, against any F&B Released Party, any Claims for indemnity or contribution that any such person or entity now has, ever had or may claim to have in the future arising out of or relating to any Claims released by the Releasors related in any way to or arising out of services provided to the Petters Entities by any F&B Released Party; provided that nothing in this Order shall (i) enjoin, impair or delay the Securities and Exchange Commission (“*SEC*”) from commencing or continuing any Claims, causes of action, proceedings or investigations against any person or entity, including

any F&B Released Party, (ii) release or discharge any person or entity, including any F&B Released Party, from any Claims, rights, powers or interests held or assertable by the SEC; (iii) enjoin, impair, delay or impact the Petters Representative from commencing, asserting, pursuing or continuing on behalf of any of the Petters Entities any Claims against any person or entity, including any F&B Released Party, held by any Petters Entity in its own right and not derivatively or by, through, under, on behalf of, or in the place of the Debtors; or (iv) release or discharge any person or entity, including any F&B Released Party, from any Claims held or assertable by the Petters Representative on behalf of any of the Petters Entities in its own right and not derivatively or by, through, under, on behalf of, or in the place of the Debtors. No such alleged Claims that are the property of the bankruptcy estate of any Petters Entity and asserted by the Petters Representative as against any F&B Released Party shall be deemed impacted, impaired or altered in any way by virtue of the Settlement or this Order except to the extent that recovery under any such Claim could be reduced by the Settlement Payment (as such term is defined in the Stipulation). Moreover, no aspect of the Settlement or this Order shall impact, impair or alter in any manner any right of the Liquidating Trustee, the Palm Beach Liquidating Trusts or the Debtors to participate in any recovery obtained by the Petters Representative on behalf of, in connection with or related to any of the Petters Entities as against any F&B Released Party in connection with any Claims, litigation or matters related in any way to the Petters Entities.

b. In the event that (i) any of the Debtors or any person asserting rights derivative of any Debtor, including without limitation any past or present partner, principal, officer, director, shareholder, employee, related entity, subsidiary entity, affiliated entity, parent entity, administrator, predecessor, successor, assign, debtor-in-possession, bankruptcy trustee, agent, attorney, accountant, representative or insurer thereof (the Debtors and all such persons, collectively, "*Initiators*"), initiates any suit, action, cause of action or other proceeding, including proceedings in arbitration, whether in the nature of a claim, cross-claim or

counterclaim, against any person (each a "*Defendant/Third-Party Plaintiff*", such term to include any subrogee thereof) with respect to any matter (a "*Proceeding*"), and (ii) such Defendant/Third-Party Plaintiff brings a cross-claim for contribution or indemnity against F&B or any other F&B Released Party (each an "*Indemnified Party*," such term to include any subrogee thereof) seeking to recover any loss, liability, cost or expense suffered or incurred by such Defendant/Third-Party Plaintiff, as a result of or relating to the Proceeding (an "*Indemnified Claim*"), then the court or tribunal hearing said Indemnified Claim shall reduce any judgment in favor of the Debtors, jointly and severally, against a Defendant/Third-Party Plaintiff asserting said Indemnified Claim by an amount equal to the amount of the judgment multiplied by the aggregate proportionate share of fault of the Indemnified Party, or the amount of the Settlement Payment, whichever is greater.

12. The Court retains jurisdiction to enforce or interpret this Order.

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Submitted By:

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Attorneys for the Liquidating Trustee

Copies to:

Michael S. Budwick, Esq.

(Attorney Budwick is directed to mail a conformed copy of this Order upon all interested parties and to file a certificate of service.)