

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, LP,  
PALM BEACH FINANCE II, LP,

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

Chapter 11

Debtors.

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**TRUSTEE'S EX-PARTE APPLICATION TO EMPLOY FORENSIC ACCOUNTANTS  
AND ADVISORS NUNC PRO TUNC TO FEBRUARY 8, 2010**

Barry E. Mukamal, Chapter 7 Trustee ("Trustee") in this bankruptcy case, applies to this court for *ex-parte* authorization and approval of the employment and retention of MarcumRachlin, a division of Marcum LLP ("MarcumRachlin") located at 1 SE 3 Avenue, 10<sup>th</sup> Floor, Miami, FL 33131, as accountants and advisors to the Trustee *nunc pro tunc* to February 8, 2010, and respectfully represents:

1. These cases commenced as a Chapter 11 case on November 30, 2009.
2. The undersigned was appointed the Chapter 11 Trustee on January 29, 2010.
3. In order for the Trustee to properly discharge all the duties in this case, it is essential that he employs forensic accountants and advisors to assist him in financial matters. The Trustee has selected MarcumRachlin because of its experience and expertise in bankruptcy and bankruptcy related matters.
4. The Trustee seeks to employ Barry E. Mukamal, CPA and MarcumRachlin to render the following professional services to the Trustee:
  - I. Preparation of estate tax returns;
  - II. Attendance at meetings with the Debtor, its creditors, the attorneys of such parties, with federal, state, and local tax authorities, if requested;
  - III. Assist the Trustee in the substantial accounting functions necessary to restructure or terminate the business such as collection of receivables, review of leases, and such other accounting matters;
  - IV. Review of the Debtor's books and records for potential preference and fraudulent transfers;

V. The rendering of such other assistance in the nature of accounting services, financial consulting, valuation issues, solvency analysis or other financial matters as the Trustee may deem necessary.

4. Neither MarcumRachlin nor Barry E. Mukamal, CPA represent any interest that is adverse to the matters upon which it is to be employed, is a "disinterested person" as that term is defined by 11 U.S.C. §§ 101 (14) and 327 (a) and (d), and its employment would be in the best interest of the estate and its creditors. An affidavit in support of this application is attached hereto as Exhibit "A".

5 MarcumRachlin has agreed to perform the foregoing services at the ordinary and usual hourly rates of its members who will perform services in this matter. MarcumRachlin will incur out-of pocket disbursements in the rendition of the services for which it shall seek reimbursement. MarcumRachlin recognizes that its compensation is subject to approval and adjustment by the Court in accordance with U.S.C. § 330.

6. Immediately following the Trustee's appointment in this proceeding, the Trustee determined that he needed the services of forensic accountants and advisors on an expedited basis to determine the viability of continuing operations identify estate assets and assist in the gathering of financial information from existing personnel before the termination of operations. Due to the urgency in this situation, MarcumRachlin assisted the Trustee prior to its formal retention by the Court. Therefore, the employment of MarcumRachlin is requested *nunc pro tunc* to February 8, 2010.

**WHEREFORE**, the Trustee respectfully requests that this Court enter an order approving the selection and employment by the Trustee of MarcumRachlin, a division of Marcum LLP, as forensic accountants and advisors to perform the services set forth in this application, upon the terms and conditions set forth herein.

**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that a true and correct copy of the foregoing was served on all interested parties on the attached Master Service List via CM/ECF or via US Mail, this 17<sup>th</sup> day of February, 2010.

/s/ Barry E. Mukamal

Barry Mukamal, Trustee  
1 SE 3<sup>rd</sup> Ave, Box 158  
Miami, FL 33131  
Telephone: (305) 416-2407  
Facsimile: (305) 416-2409

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA

In re:

**PALM BEACH FINANCE II, LP,**  
Debtor.

**Case No.: 09-36396 BKC PGH**  
**Chapter 11**

\_\_\_\_\_ /


**AFFIDAVIT OF BARRY E. MUKAMAL**

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

**BEFORE ME**, the undersigned authority, personally appeared Barry E. Mukamal, C.P.A., in Miami, Florida, who after being duly sworn, deposes and says as follows:

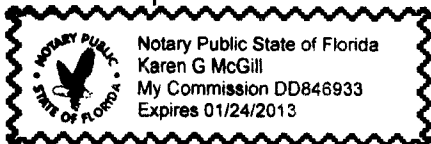
1. I am a Certified Public Accountant, experienced in rendering accounting, advisory, and litigation consulting services to bankruptcy trustees.
2. I am employed by the firm MarcumRachlin, a division of Marcum LLP, with offices located at 1 SE 3<sup>rd</sup> Ave, 10<sup>th</sup> Flr, Miami, FL 33131.
3. I am willing to accept employment by the trustee, on the basis set forth in the annexed application. Neither I nor the firm hold or represent any adverse interest to the trustee, the debtor or the estate in regards to the matters for which I am to be employed and are disinterested persons as required by 11 U.S.C. § 327(a).
4. Neither I nor the firm has a pre-petition or other claim against the estate.
5. Neither I nor the firm has any connections with the debtor. Neither I nor the firm have in the past, and do we plan in the future, to represent any related debtor.
6. Neither I nor the firm has received a retainer from the debtor, the estate, or a third party.

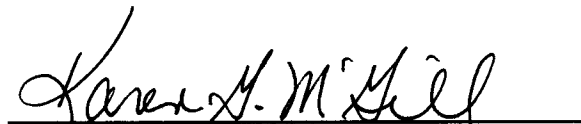
**FURTHER AFFIANT SAYETH NAUGHT.**

  
\_\_\_\_\_  
Barry E. Mukamal, C.P.A.

THE FOREGOING INSTRUMENT was acknowledged before me this 11<sup>th</sup> day of February, 2010, by Barry E. Mukamal, who is personally known to me.

My commission expires:



  
\_\_\_\_\_  
Notary Public, State of Florida

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF FLORIDA

In re:

**PALM BEACH FINANCE PARTNERS, LP,**  
Debtor.

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

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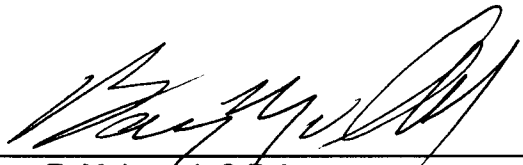
**AFFIDAVIT OF BARRY E. MUKAMAL**

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

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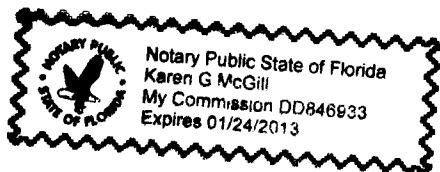
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2. I am employed by the firm MarcumRachlin, a division of Marcum LLP, with offices located at 1 SE 3<sup>rd</sup> Ave, 10<sup>th</sup> Flr, Miami, FL 33131.
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**FURTHER AFFIANT SAYETH NAUGHT.**

  
\_\_\_\_\_  
Barry E. Mukamal, C.P.A.

THE FOREGOING INSTRUMENT was acknowledged before me this 11<sup>th</sup> day of February, 2010, by Barry E. Mukamal, who is personally known to me.

My commission expires:



  
\_\_\_\_\_  
Notary Public, State of Florida

Geoff Varga, as Liquidator  
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