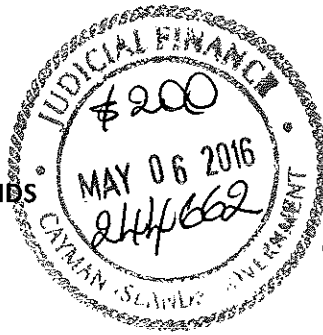


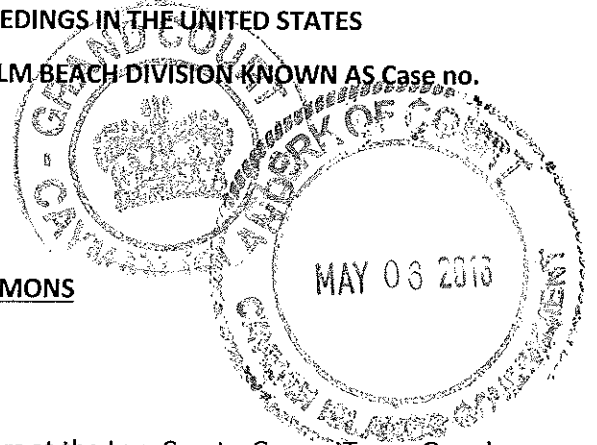
IN THE GRAND COURT OF THE CAYMAN ISLANDS



CAUSE NO. 60083 of 2016

IN THE MATTER OF THE CONFIDENTIAL RELATIONSHIPS (PRESERVATION) LAW (2015 REVISION)

AND IN THE MATTER OF A SUBPOENA ISSUED IN CERTAIN PROCEEDINGS IN THE UNITED STATES
BANKRUPTCY COURT SOUTHERN DISTRICT OF FLORIDA WEST PALM BEACH DIVISION KNOWN AS Case no.
09-36379 – PGH and 09-36396 – PGH (JOINTLY ADMINISTERED)



EX PARTE ORIGINATING SUMMONS

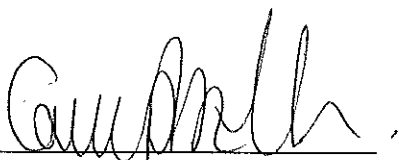
LET ALL PARTIES CONCERNED attend before the Judge in Chambers at the Law Courts, George Town, Grand Cayman on the *9th* day of *June* 2016 at *9:30* am/pm on the hearing of an application by Geoffrey Varga (in his capacity as Trust Monitor of Palm Beach Finance II, LP Liquidating Trust) ("the Applicant"), who is required by a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Bankruptcy Case (the "Subpoena") filed by General Electric Capital Corporation ("GECC") on 22 April 2015 in the United States Bankruptcy Court, Southern District of Florida, West Palm Beach Division (a copy of which is appended to this originating summons) to provide certain information and copies of certain documents to the attorneys for GECC, for direction pursuant to Section 4 of the above-mentioned Law.

The Applicant is required by the Subpoena to give in evidence confidential information by means of discovery of documents and seeks directions that:

- 1) This Originating Summons shall not be served on any other party apart from the Attorney General.
- 2) The Applicant may comply with the terms of the Subpoena in its terms or as otherwise directed by this Honourable Court.

- 3) The Court's file containing this summons and all supporting evidence be closed and not open to inspection without the prior leave of the Court or until further order pursuant to GCR Order 63 rule 4.
- 4) GECC and their attorneys be required to provide suitable undertakings to protect the confidentiality of any documents produced to them by the Applicant pursuant to the Subpoena, and to prevent the misuse of the information contained in any such document.
- 5) Such other orders or directions as this Honourable Court thinks fit.

Dated this 6th day of May 2016



Campbells
Attorneys-at-Law for the Applicant

TIME ESTIMATE: The estimated length of the hearing of this summons is 45 minutes.

TO: The Clerk of the Court
AND TO: The Attorney General's Chambers

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

In re:

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.

Chapter 11

_____/

BARRY E. MUKAMAL, in his capacity as
Liquidating Trustee of the Palm Beach Finance
Partners Liquidating Trust and Palm Beach
Finance II Liquidating Trust,

Plaintiff.

v.

Adversary No. 12-01979-PGH

GENERAL ELECTRIC CAPITAL CORPORATION,

Defendant.

_____/

**DEFENDANT'S NOTICE OF ISSUING SUBPOENA DUCES TECUM TO NON-PARTY
FOR PRODUCTION OF DOCUMENTS WITHOUT DEPOSITION**

PLEASE TAKE NOTICE that, on April 22, 2015, or as soon thereafter as practicable, General Electric Capital Corporation, will serve the attached Subpoena upon Geoff Varga with a return date of May 13, 2015.¹

The foregoing deponent will be given the option of mailing the requested documents to undersigned counsel at or before the return date/time.

¹ This notice cancels General Electric Capital Corporation's prior subpoena to Geoff Varga [ECF # 185].

Case No. 09-36379-PGH
Case No. 09-36396-PGH
(Jointly Administered)
Adversary No. 12-01979-PGH

CERTIFICATE OF SERVICE

I CERTIFY that on April 22, 2015, the foregoing document is being served by transmission of Notices of Electronic Filing ("NEF") generated by CM/ECF on all parties and counsel registered to receive NEF in this Adversary Proceeding, as indicated on the attached Service List.

By: /s/ Patricia A. Redmond
PATRICIA A. REDMOND
Florida Bar No. 303739

UNITED STATES BANKRUPTCY COURT

Southern District of Florida

In re PALM BEACH FINANCE PARTNERS, L.P., PALM BEACH FINANCE II, L.P.
Debtor

Case No. 09-36379-PGH/09-36396-PGH

(Complete if issued in an adversary proceeding)

Chapter 11

BARRY E. MUKAMAL,
Plaintiff

Adv. Proc. No. 12-01979-PGH

v.
GENERAL ELECTRIC CAPITAL CORPORATION,
Defendant

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Geoff Varga, c/o Robin J. Rubens, Levine Kellogg Lehman Schneider and Grossman, 201 South Biscayne Boulevard, Miami, FL 33131

(Name of person to whom the subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material; See attached Exhibit A for instructions and requests for document production. Documents and other materials may be returned via FedEx. Our FedEx number is 0606-6040-9.

PLACE Latham & Watkins LLP, 330 N. Wabash Ave., Suite 2800, Chicago, IL 60611	DATE AND TIME May 13, 2015 at 5 p.m. Central
--	---

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE	DATE AND TIME
-------	---------------

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 4-22-15

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR 

Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) General Electric Capital Corporation, who issues or requests this subpoena, are:

Patricia A. Redmond, Museum Tower, Suite 2200, 150 W. Flagler St., Miami, FL 33130, predmond@stearnsweaver.com, (305) 789-3553

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt. The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Ritchie Special Credit Investments, Ltd., Rhone Holdings II, LTD, Yorkville Investment I, LLC and Ritchie Capital Structure Arbitrage Trading, LTD, and shall include without limitation any and all principals (including but not limited to Thane Ritchie), members, partners, shareholders, owners, interest holders, managers, directors, officers, employees, consultants, agents and attorneys therefor, including former principals, members, partners, shareholders, owners, interest holders, managers, directors, officers, employees, agents and attorneys therefor during a time at issue with respect to the Requests below.

- i. "Greenpond" refers to Greenpond South, LLC and shall include without limitation any and all principals, members, partners, shareholders, owners, interest holders, managers, directors, officers, employees, consultants, agents and attorneys therefor, including former principals, members, partners, shareholders, owners, interest holders, managers, directors, officers, employees, agents and attorneys therefor during a time at issue with respect to the Requests below.
- j. "Kelley" refers to Douglas A. Kelley, the Chapter 11 Trustee of Petters Company, Inc., Palm Beach Finance Holdings, Inc. f/k/a Petters Capital, Inc. and Petters Group Worldwide, LLC.
- k. "Palm Beach" refers to Palm Beach Finance Partners, L.P. and Palm Beach Finance II, L.P., and related or affiliated entities (including, but not limited to, Links Business Capital, LP; Palm Beach Finance Holdings II, LLC; Palm Beach Finance Holdings, LLC; Palm Beach ABL Offshore, Ltd; Palm Beach Capital Corp.; Palm Beach Capital Management, LLC; Palm Beach Capital Management, LP; Palm Beach Diversified II, LP; Palm Beach Diversified Income; Palm Beach Diversified Offshore; Palm Beach Finance Offshore I; Palm Beach Finance Offshore II; Palm Beach Global Partners, LP; Palm Beach Investment Partners, LP; Palm Beach Links Capital, LP; Palm Beach Multi-Strategy Fund; Palm Beach Multi-Strategy Offshore, Ltd.; Palm Beach Settlement, LLC; Palm Beach Strategic Income, LP (f/k/a Palm Beach Strategic Opportunity Fund, LP); Palm Beach Strategic Offshore; PBL Holdings, LLC; and PBL Opportunities Fund, LP) and shall include without limitation any and all principals (including but not limited to Bruce Prevost and David Harrold), members, partners, shareholders, owners, interest holders, managers, directors, officers, employees (including but not limited to Michael Ise, Tanya Powe-Faugue and Robert Tchatal), consultants, agents and attorneys therefor, including former principals, members, partners, shareholders, owners, interest holders, managers, directors, officers, employees, consultants, agents and attorneys therefor during a time at issue with respect to the Requests below.
- l. "Person" refers to any entity, including without limitation an individual, association, company, partnership, joint venture, association, syndicate, corporation, trust, estate, natural person, business entity, group, institute, and any other form of private or business organization, and also any governmental entity, department, agency, bureau, political subdivision or other form of public organization.
- m. All references to any Person include his/her/its employees, agents, servants, subsidiaries, parent company, affiliated company and any other person or entity or representative acting or purporting to act on behalf of or under his/her control.

documents are contained and the name of the documents being produced.

- w. Unless otherwise specified, all Requests are for documents dated January 1, 1997 through the present.
- x. If in responding to these Requests you encounter any ambiguity in construing any Request, instructions or definition, set forth the matter deemed ambiguous and the construction used in responding thereto.
- y. This Request is deemed to be continuing in nature, and in the event you become aware of or acquire in your possession, custody or control additional responsive documents, you are requested to produce promptly such additional documents for inspection and copying.

DOCUMENTS REQUESTED¹

1. All Communications between the Offshore Funds and Petters.
2. All Documents referring or related to Petters.
3. All Communications between the Offshore Funds and Vennes.
4. All Documents referring or related to Vennes.
5. All Communications between the Offshore Funds and Palm Beach.
6. All Documents referring or related to Palm Beach.
7. All Communications between you and Petters.
8. All Communications between you and Vennes.
9. All Communications between you and David Harrold.
10. All Communications between you and Bruce Prevost.
11. All Documents referring or related to any transactions or contemplated or proposed transactions between the Offshore Funds and Palm Beach.
12. All Documents referring or related to any transactions or contemplated or proposed transactions between the Offshore Funds and Petters.
13. All Documents referring or related to any transactions or contemplated or proposed transactions between the Offshore Funds and Vennes.

¹ Documents and Communications previously produced by Mukamal to GECC need not be produced in response to these Requests.

30. All Communications between you and any Participant or Subparticipant, each as defined in the Participation Agreement attached as Schedule 1.
31. All Documents referring or related to the Participation Agreement attached as Schedule 1.
32. All Communications between the Offshore Funds and GECC.
33. All Documents referring or related to GECC.
34. All Documents and Communications referring or related to any transactions, contemplated or proposed transactions, business or relationship between GECC and Petters.
35. All Documents and Communications referring or related to *Geoffrey Varga v. U.S. Bank National Association*, Civ. No. 12-3180 (D. Minn) and No. 13-2709 (8th Cir.).
36. All Documents and Communications referring or related to *Geoffrey Varga v. Palm Beach Capital Management, LLC*, Civ. No. 9:09-cv-82398 (S.D. Fla).
37. All Documents and Communications referring or related to *Palm Beach Finance Partners, LP v. Geoffrey Varga*, Civ. No. 0:08-cv-06138 (D. Minn).
38. All Documents and Communications referring or related to any other case filed by or against you.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Definitions

1.1 The following terms, when used in this Agreement, will have the meanings assigned to them below:

"Acceptance Letter" means that certain letter agreement, dated as of September 24, 2013, by and among Grantors and Participant with respect to the Transaction and matters ancillary to the Transaction.

"Additional Consideration" means (a) so long as the GECC Settlement is fully executed on or before January 15, 2014 (the "Settlement Deadline"), twenty-five percent of the proceeds of the GECC Settlement, net of all costs and expenses of pursuit of the GECC Settlement, received in the amount (i) exceeding \$ [REDACTED] but (ii) less than \$ [REDACTED] and (b) fifty percent of the proceeds recovered from any Clawback Proceedings, net of all costs and expenses of pursuit of the Clawback Proceedings.

"Benefit Plan" means an "employee benefit plan" subject to Title I of ERISA, a "plan" subject to Section 4975 of the Code or any Entity whose assets include the assets of any such employee benefit plan or plan.

"Breakup Fee" has the meaning given to it in Section 22.

"Business Day" means any day that is not (a) a Saturday, (b) a Sunday or (c) any other day on which commercial banks are authorized or required by law to be closed in the City of New York or Grand Cayman, Cayman Islands.

"Claim Documents" means any agreements, instruments or other documents evidencing or relating to the Claims, including the Loan Documents.

"Clawback Proceedings" means proceedings or other actions commenced to assert clawback claims against Investors who redeemed interests in PBO and/or PBO II prior to the commencement of the liquidation proceedings for PBO and PBO II.

"Closing Date" means the date on which Grantors receive the Initial Purchase Price from Participant.

"Code" means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated pursuant to it.

securities), suits, causes of action and any other right of either Grantor against any attorney, accountant, financial advisor or other entity arising under or in connection with the foregoing, including specifically the claims and causes of action asserted in the proceedings brought against U.S. Bank National Association pending in the United States District Court for the District of Minnesota, Civil Action Number 12-3180 (the "U.S. Bank Proceedings") and claims and causes of action asserted against GECC in the GECC Adversary Proceedings (the "Third-Party Claims"); (g) the Underlying Documents; (h) the proceeds of the Clawback Proceedings; (i) all collateral and security of any kind for or in respect of the foregoing; (j) all cash, securities or other property, and all setoffs and recoupments, received, applied or effected by or for the account of either Grantor, including all payments, property or other distributions obtained by or through redemption, consummation of a plan of reorganization, restructuring, liquidation or otherwise of the Debtor, and all cash, securities, interest, dividends and other property that might be exchanged for, or distributed or collected with respect to, any of the foregoing; and (k) all proceeds of all or any of the foregoing. While the proceeds of the Clawback Proceedings are included in the Grantors' Interest, the claims in the Clawback Proceedings are not included in the Grantors' Interest and are to remain titled to and in the name of Grantors and/or the JOLs at all times.

"Initial Purchase Price" means the initial portion of the purchase price to be paid by Participant to Grantors in exchange for the Participation, as set forth on Exhibit A attached to this Agreement.

"Investors" means the then-current owners and holders of shares in either Grantor, as registered on the shareholder register of either Grantor, as the case might be (including Participant).

"JOLs" means Geoffrey Varga and Mark Longbottom, in their capacities as the Joint Official Liquidators of Grantors.

"Loan Documents" means any and all agreements, instruments or other documents evidencing, securing or relating to the Loans.

"Liquidating Trust Interest Documents" means any and all agreements, instruments or other documents evidencing, securing or relating to the Liquidating Trust Interest.

"Obligations Fund" has the meaning given to it in Section 6.2.

"Offered Investor" has the meaning given to it in Section 17.5

"Operative Agreements" means, collectively, the Acceptance Letter and this Agreement.

"Participant Expense Reimbursement" has the meaning given to it in Section 21.

"Participation" has the meaning given to it in Section 2.

takes from Grantors, an [REDACTED] participation interest in respect of the Grantors' Interest (the "Participation") in consideration of the payment in full by Participant to Grantors of the Purchase Price in accordance with this Agreement. In no event will the Participation be deemed to be a loan from Grantors to Participant.

3. Conditions Precedent to Closing

3.1 Participant's obligations to pay the Purchase Price to Grantors and to acquire the Participation is subject to the conditions that (a) Grantors' representations and warranties in this Agreement are true and correct on the Agreement Date and the Closing Date, (b) Grantors have complied in all material respects with all covenants required by this Agreement to be complied with by them on or before the Closing Date, (c) Participant has received this Agreement duly executed on behalf of Grantors and (d) Grantors have delivered to Participant a sealed copy of the order of the Court evidencing Court Approval.

3.2 Grantors' obligation to grant the Participation to Participant on the Closing Date is subject to the conditions that (a) Participant's representations and warranties in this Agreement are true and correct on the Agreement Date and the Closing Date, (b) Participant has complied in all material respects with all covenants required by this Agreement to be complied with by it on or before the Closing Date, (c) Grantors have received this Agreement duly executed on behalf of Participant, (d) Grantors have received payment of the Initial Purchase Price from Participant, (e) Participant has established the Obligations Fund with Grantors and (f) Grantors have obtained Court Approval.

4. Payment of the Purchase Price

4.1 The Purchase Price is to be paid as follows:

(a) On the Closing Date, upon satisfaction of all of the conditions precedent set forth in Section 3.1, Participant will pay the Initial Purchase Price to Seller, by bank wire transfer of immediately available funds. In making payment of the Initial Purchase Price, Participant may credit against the amount of the Initial Purchase Price any amount that would be due and owing to Participant in its capacity as lender pursuant to that certain Credit Agreement dated August 14, 2009 among, *inter alia*, Grantors as Borrowers and [REDACTED] as Lender, as amended from time to time, including pursuant to that certain modification agreement being entered on or about the date of this Agreement (collectively, the "Credit Agreement"), with [REDACTED] having assigned its rights pursuant to the Credit Agreement to [REDACTED] November 30, 2011.

(b) As any amounts that would be subject to sharing as part of the Additional Consideration are paid to or made available to Participant, Participant will pay to Grantors, by bank wire transfer of immediately available funds or by crediting against any Participation payments due to Participant pursuant to Section 6, any Additional Consideration due with respect to such amounts.

4.2 All cash payments made by Participant to Grantors or by Grantors to Participant pursuant to this Agreement (including, but not limited to, the payments of the Purchase Price) are

of the Grantors' Interest, (y) the management or administration of the liquidation estates and liquidation proceedings of Grantors or the adjudication of any disputes among creditors of Grantors or Investors or (z) the investigation or prosecution of the Clawback Proceedings (except as provided in Section 9.5) (the "Excluded Obligations"). Grantors covenant and agree to remain responsible for and perform the Excluded Obligations.

6.2 On the Closing Date, Participant will establish with Grantors a fund in the amount of US\$500,000.00 to be used by Grantors in satisfaction of Obligations as they come due (the "Obligations Fund"). The Obligations Fund is to be held by Grantors on trust for and for the benefit of Participant and is to be administered by the JOLs. Grantors may disburse funds from the Obligations Fund to satisfy Obligations, subject to Participant's prior approval, which approval Participant will not withhold or delay unreasonably once Grantors have presented Participant with written documentation satisfactory to Participant in the exercise of its reasonable discretion to confirm the nature, amount and payee of such Obligations. Grantors are to hold the Obligations Fund in insured interest-bearing deposit accounts approved by Participant in advance and maintained at commercial banking institutions located in the United States of America, which approval Participant will not withhold or delay unreasonably. All interest that accrues on the amounts deposited in the Obligations Fund will become part of and will be treated as principal of the Obligations Fund. Any amounts remaining on deposit in the Obligations Fund upon the earlier to occur of (a) satisfaction of all Obligations or (b) an Elevation having occurred in respect of the entirety of the Grantors' Interest that is capable of being assigned is to be returned to Participant promptly upon demand; provided, however, Grantors may retain an amount necessary to pay for any Obligations incurred but not yet paid prior to such date. Without limiting Participant's obligations set forth in Section 6.1, Participant will have no further requirement or liability for funding or adding to the principal of the Obligations Fund once Participant has made the initial US\$500,000.00 deposit into the Obligations Fund.

7. Payments on Account of Participation

7.1 Upon receipt by either Grantor of any cash Distribution, such Grantor, without set-off, deduction or withholding of any kind (except to the extent required by applicable law), will pay an amount equal to such cash Distribution, by the date two Business Days after receipt of immediately available funds or after funds become available for distribution after deposit of a check, draft or other instrument (such date being the "Participant's Due Date"), to Participant in immediately available funds by wire transfer to Participant in the same currency as that received by such Grantor pursuant to the wire transfer instructions of Participant specified in Exhibit B. To implement the foregoing provisions of this Section 7.1, Grantors and Participant will establish a control account (the "Control Account") as an insured interest-bearing deposit account approved by and under the control of Participant maintained at a commercial banking institution located in the United States of America and will direct all payors of amounts constituting cash Distributions (including U.S. Bank (as defendant in the U.S. Bank proceedings), GECC, the trustee of the Liquidating Trust, the Debtor and any Entities acting for or on behalf of the Debtor and any Entities controlling or holding any restitution, remission or rescission payments made on account of Petters) to make all such payments due to Grantors to the Control Account. Participant will have the right, *inter alia*, to make withdrawals from time to time from the Control Account and to retain all such amounts withdrawn from the Control

8. Delivery of Documents and Information; Confidentiality

Subject to any confidentiality agreement to which Grantors might be bound, Grantors will furnish and convey to Participant all documents in relation to the Grantors' Interest received by Grantors from time to time with respect to the Participation as soon as is practicable after Grantors' receipt of the same. Participant agrees that it will maintain the confidentiality of any such information and documents to the extent required therein and to the same extent as if it were a party to the Claim Documents to be bound by all confidentiality provisions contained therein or in the Claim Documents as if it were a party thereto and, upon Grantors' request, to provide to Grantors a confidentiality undertaking to such effect prior to the delivery of any such documents. Grantors will have no responsibility or liability for the validity or content of the information and documents furnished to Participant (except to the extent that Grantors are the original source of any such information or documents).

9. Acts and Decision

9.1 Grantors agree that, from and after the Closing Date and except as (a) prohibited under applicable law or (b) relates to the Clawback Proceedings, they will act or refrain from acting in respect of any request, act, decision or vote concerning or relating to the Grantors' Interest, including with respect to the Bankruptcy Proceedings (each such request, act, decision or vote an "Act") only in accordance with Participant's written directions so long as there are sufficient funds available in the Obligations Account to pay any costs or expenses related to such Act or Participant has made other arrangements for the costs and expenses related to such Act to the reasonable satisfaction of Grantors.

9.2 As soon as practicable after receiving notice thereof, Grantors will notify Participant in writing of any matter in respect of which either of them may exercise any Act. If Participant does not respond to any request from Grantors for direction pursuant to Section 9.1 within three Business Days of Grantors' notice of the matter in respect of which either Grantor may exercise any Act (or such shorter as might be necessary given the particular circumstances of the Grantors' exercise of any Act), then Grantors will be entitled (but not required) to take any Act with respect to such matters without Participant's direction, provided, however, that in taking such Action, Grantors must act in good faith and be subject to the provisions of Section 10.

9.3 Without limiting the generality of Section 9.1, Grantors acknowledge that, except as relates to the Clawback Proceedings, Participant will have the right to approve any retention of counsel for or on behalf of Grantors, any settlement made for or on behalf of Grantors with respect to the Grantors' Interest or any component of the Grantors' Interest or any approval by the JOEs (whether for or on behalf of Grantors or otherwise) in their capacity as Trust Monitor with respect to the Liquidating Trust.

9.4 At the direction of Participant, Grantors will cause the JOEs (or either of them) to exercise their rights pursuant to Section 7.1.13 of the Bankruptcy Plan to resign as PBF II Liquidating Trust Monitor (as such term is defined in the Bankruptcy Plan) and to designate as successor an entity nominated by Participant. To the extent necessary to effect the provisions of

(f) No payment has been received by or on behalf of Grantors in full or partial satisfaction of the Grantors' Interest.

(g) Other than the Bankruptcy Proceedings and the U.S. Bank Proceedings, no proceedings are pending or, to the best of Grantors' knowledge, threatened against either Grantor before any court, arbitrator or administrative or governmental body that, in the aggregate, would affect materially and adversely the Grantors' Interest, any action taken or to be taken by such Grantor pursuant to the Operative Agreements or Participant's rights and remedies pursuant to this Agreement.

(h) Grantors have provided to Participant true, correct and complete copies of all Claim Documents.

(i) Neither Grantor is a party to, or bound by, any agreement, instrument or other document (other than the Claims Documents provided to Participant) that could have a material adverse effect on the Grantors' Interest, the Participation or Participant's rights or remedies pursuant to this Agreement.

(j) Each Grantor is a sophisticated Entity with respect to the granting of the Participation, has agreed to the Purchase Price based on its own independent investigation and credit determination, has consulted with such advisors as it believes appropriate and has not relied on any representations or warranties made by Participant except those provided in this Agreement.

(k) Grantors acknowledge that (i) Participant currently might have, and later might come into possession of, information with respect to the Grantors' Interest or the Debtor that is not known to either Grantor and that might be material to a decision to grant the Participation, including information that Participant might have obtained pursuant to or in connection with the service of a designee of Participant as an *ex officio* member of the Official Committee of Unsecured Creditors in the bankruptcy proceedings for Petters Company, Inc. and certain affiliated debtors (the "Grantor Excluded Information"); (ii) Grantors have determined to grant the Participation notwithstanding their lack of knowledge of the Grantor Excluded Information and (iii) Participant will have no liability to Grantors and Grantors waive and release any claims that they might have against Participant, whether under applicable securities laws or otherwise, with respect to the nondisclosure of the Grantor Excluded Information in connection with the Transaction, provided, however, that the Grantor Excluded Information will not and does not affect the truth or accuracy of Participant's representations or warranties in this Agreement.

(l) No interest in the Grantors' Interest is being sold by or on behalf of one or more Benefit Plans.

(m) Grantors acknowledge that the consideration it receives pursuant to this Agreement for the sale of the Participation might differ both in kind and amount from any Distribution.

(g) Participant acknowledges that the consideration paid pursuant to this Agreement for the purchase of the Participation might differ both in kind and amount from any Distribution.

12.2 Except as expressly stated in this Agreement, Participant makes no representations or warranties, express or implied, with respect to the Transaction.

12.3 Participant acknowledges that (a) Grantors' sale of the Participation to Participant is irrevocable and (b) Participant will have no recourse to Grantors except in respect of (i) Grantors' breaches of their representations, warranties or covenants and (ii) Grantors' indemnities, in each case as expressly stated in this Agreement.

13. Indemnification

13.1 Grantors agree, jointly and severally, to indemnify, defend and hold harmless Participant from all losses, damages and liabilities, including reasonable attorney's fees and expenses, that result from (a) Grantors' breach of any representation, warranty or covenant of Grantors set forth in this Agreement or (b) any obligation of Grantors or Participant to disgorge, in whole or in part, or otherwise reimburse (by setoff or otherwise) the Debtor or any other Entity for any payments, distributions, property, setoffs or recoupments received, applied or effected by or for the account of either Grantor under or in connection with the Participation and not distributed or paid by Grantors to Participant. Notwithstanding any contingent obligation that exists pursuant to this Section 13.1, Grantors and the JOLs may pay any other liquidation expenses and distribute assets from the Grantors' liquidation estates in the ordinary course, except to the extent that Participant, in good faith and prior to any such payment or distribution, has provided written notification to the JOLs of a claim arising pursuant to this Section 13.1 in an amount that could cause making of the payment or distribution to subvert the statutory order of priority.

13.2 Participant agrees to indemnify, defend and hold harmless Grantors and from all losses, damages and liabilities, including reasonable attorney's fees and expenses, that result from Participant's breach of any representation, warranty or covenant of Participant set forth in this Agreement. Participant agrees to indemnify, defend and hold harmless Grantors and the JOLs from all losses, damages and liabilities, including reasonable attorney's fees and expenses, that result from Grantors acting or refraining to act with respect to any Act at Participant's direction.

14. Costs and Expenses

The Parties agree to bear their own respective legal and other costs and expenses for preparing, negotiating, executing and implementing this Agreement and any related documents and consummating the Transaction.

Subparticipation does not violate applicable law, (ii) Grantors continue to deal solely and directly with Participant in connection with the Participation and (iii) such Subparticipation does not relieve or release Participant from any of its obligations pursuant to this Agreement. Any Subparticipation pursuant to this Section 17.4 will be subject to the subparticipant making for the benefit of Grantors substantially the representation and warranty set forth in Paragraph 12.1(f) and covenanting and agreeing that it will obtain for the benefit of Grantors from any Entity to which it grants a further subparticipation substantially the same representation and warranty as is set forth in Paragraph 12.1(f).

17.5 Without limiting the generality of Section 17.4, Grantors acknowledge that after the Closing Date Participant will offer the Investors other than Participant (each an "Offered Investor") the right to buy Subparticipations in the manner described in this Section 17.5.

(a) Within a reasonable period of time after the Closing Date, Purchaser, with the cooperation of Grantors and the JOLs, will notify each of the Offered Investors of their right (without obligation) to purchase Subparticipations (the "Subparticipation Offer").

(b) Pursuant to the Subparticipation Offer, each Offered Investor will have the right (but not the obligation) to purchase a Subparticipation in a percentage up to (but not greater than) its Pro Rata Share. Each Offered Investor's purchase price for its Subparticipation will be calculated by multiplying such Offered Investor's Pro Rata Share by an amount (the "Adjusted Purchase Price") equal to the aggregate of the Initial Purchase Price, Participant's cost to acquire the lender's rights pursuant to the Credit Agreement and the \$500,000.00 deposited into the Obligations Fund. Pursuant to the Subparticipation Agreement, each Offered Investor that elects to purchase a Subparticipation will be required to pay to Participant, *inter alia* and from time to time, amounts equal to such Offered Subparticipant's Pro Rata Share of (i) all Obligations, subject to the availability of the Obligations Fund to fund the payment of Obligations and (ii) all of Participant's reasonable, ordinary and documented obligations arising pursuant to or in connection with the management and administration of the Participation and the Subparticipations granted pursuant to the Subparticipation Agreement.

(c) To obtain detailed information concerning the Subparticipation Offer, including information detailing the Adjusted Purchase Price and a copy of the Subparticipation Agreement to be executed by each Offered Investor electing to purchase a Subparticipation, an Offered Investor must complete and return to Participant a confidentiality agreement in the form that Purchaser promulgates. In connection with its notification of the Subparticipation Offer, Participant will disclose to the Offered Investors the detailed timetable that will apply with respect to the Subparticipation Offer. All Offered Investors electing to purchase a Subparticipation will be required to adhere to such timetable, as such timetable might be revised by Participant from time to time.

(d) If Participant fails to make the Subparticipation Offer in accordance with the provisions of this Section 17.5, then the Offered Investors will have the right, notwithstanding the provisions of Section 34, to seek specific performance of Participant's obligation to make the Subparticipation Offer in accordance with the provisions of this Section 17.5.

attorneys advise it that it has a legal obligation to do so or that failure to do so might result in it incurring a liability to any other Entity, (e) to its professional advisors and auditors, (f) to any Investor in order to obtain Court Approval, provided that such disclosure is limited to the provisions of the Operative Agreements but not the identity of Participant or the terms of the Credit Agreement, or (g) as set forth in Section 20.2 or 20.3.

20.2 Subject to the provisions of Section 20.3, Participant may disclose the contents of the Operative Agreements (but not the Purchase Price) to any proposed transferee, assignee, subparticipant or other Entity proposing to enter into contractual relations with Participant in respect of the Participation or any part thereof, provided that Participant procures from such proposed transferee, assignee, subparticipant or other Entity its written agreement to abide by confidentiality obligations substantially similar to those in this Section 20.

20.3 In connection with the Subparticipation Offer, Grantors and Participant (a) may notify each Offered Investor generally of the Participation and of its right to purchase a Subparticipation in a percentage not to exceed its respective Pro Rata Share and (b) may disclose to each Offered Investor that has executed and delivered the confidentiality agreement required pursuant to Paragraph 17.5(c) detailed information concerning the Participation (including the contents of the Operative Agreements, including the Purchase Price), the form subparticipation agreement, its Pro Rata Share and the purchase price for its Subparticipation, all as anticipated pursuant to Section 17.5.

21. Participant Expense Reimbursement

If the Transaction is not consummated because (a) another purchaser purchases the Grantors' Interest (or any part thereof) (whether as the result of a higher bid approved by the Court or otherwise) or (b) either Grantor intentionally breaches this Agreement or intentionally fails to consummate the Transaction, then Grantors, jointly and severally, will reimburse all of Participant's expenses in connection with the Transaction up to [REDACTED] (the "Participant Expense Reimbursement"); provided, however, that, if the Participant Expense Reimbursement is due and owing as a result of any circumstance described in clause (b) above, Participant acknowledges that (x) the Participant Expense Reimbursement will become expenses of Grantors' liquidation estates, payable only when Grantors' liquidation estates have assets sufficient for Grantors to pay the Participant Expense Reimbursement and (y) the Participant Expense Reimbursement might be subordinate to other Cayman Islands creditor claims pursuant to applicable Cayman Islands law.

22. Breakup Fee

If the Transaction is not consummated because (a) another purchaser purchases the Grantors' Interest (or any part thereof) (whether as the result of a higher bid approved by the Court or otherwise) or (b) either Grantor intentionally breaches this Agreement or intentionally fails to consummate the Transaction, then Grantors, jointly and severally, will pay to Participant a breakup fee equal to [REDACTED] of the Initial Purchase Price [REDACTED] as expenses of their liquidation estates (the "Breakup Fee"); provided, however, that, if the Breakup Fee is due and owing as a result of any circumstance described in clause (b) above, Participant acknowledges

29. Jurisdiction

29.1 Each Party irrevocably and unconditionally submits to and accepts the exclusive jurisdiction of the United States District Court for the Southern District of New York located in the Borough of Manhattan or the courts of the State of New York located in the County of New York for any action, suit, or proceeding arising out of or based upon the Operative Agreements or any matter relating to them or the Transaction, and waives any objection that it might have to the laying of venue in any such court or that such court is an inconvenient forum or does not have personal jurisdiction over it; provided, however, that nothing in this Section 29 will limit or restrict the ability of the JOLs to seek directions from the Court solely with respect to their duties and obligations as joint official liquidators of PBO and PBO II.

29.2 The Parties irrevocably agree that, should either Party institute any legal action or proceeding in any jurisdiction (whether for an injunction, specific performance, damages or otherwise) in relation to the Operative Agreements or the Transaction, no immunity (to the extent that it might exist at any time, whether on the grounds of sovereignty or otherwise) from such action or proceeding will be claimed by it or on its behalf, any such immunity being hereby irrevocably waived, and each Party irrevocably agrees that it and its assets are, and will be, subject to such legal action or proceeding in respect of its obligations pursuant to the Operative Agreements or with respect to the Transaction.

30. Waiver of Jury Trial

The Parties hereby irrevocably and unconditionally waive, to the fullest extent permitted by applicable law, any right that they might have to trial by jury of any claim or cause of action, or in any legal proceeding directly or indirectly based upon or arising out of the Operative Agreements or the Transaction (whether based on contract, tort or any other theory). Each Party (a) certifies that no representative, agent or attorney of any other Party has represented, expressly or otherwise, that such other Party would not, in the event of litigation, seek to enforce the foregoing waiver and (b) acknowledges that it and each other Party have been induced to enter into this Agreement by, among other things, the mutual waivers and certifications in this Section.

31. Captions

The captions and headings in this Agreement are for convenience only and will not affect the interpretation or construction of this Agreement.


32. Severability

The illegality, invalidity or unenforceability of any provision of this Agreement pursuant to the law of any jurisdiction will not affect its legality, validity or enforceability pursuant to the law of any other jurisdiction nor the legality, validity or enforceability of any other provision.

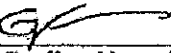
IN WITNESS WHEREOF, Grantors and Participant have executed this Agreement by their duly authorized officers as of the date first set forth above.

GRANTORS

PALM BEACH OFFSHORE, LTD. (IN OFFICIAL LIQUIDATION)

By: 
Name: Geoffrey Varga (as agent without personal liability)
Title: Joint Official Liquidator

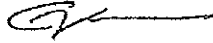
PALM BEACH OFFSHORE II, LTD. (IN OFFICIAL LIQUIDATION)

By: 
Name: Geoffrey Varga (as agent without personal liability)
Title: Joint Official Liquidator

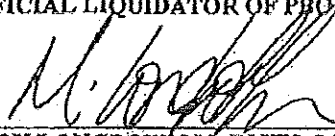
PARTICIPANT

REDACTED

To acknowledge and accept their obligations set forth in Sections 6.2 and 9.4 and the indemnity provided to them in Section 13, the JOLs have executed this Agreement as of the date first set forth above.



GEOFFREY VARGA, IN HIS CAPACITY AS JOINT
OFFICIAL LIQUIDATOR OF PBO AND PBO II



MARK LONGBOTTOM, IN HIS CAPACITY AS
JOINT OFFICIAL LIQUIDATOR OF PBO AND PBO
II

the Participation Agreement, as amended pursuant to this letter agreement. The Participation Agreement, as amended pursuant to this letter, constitutes the entire and final integrated agreement of Participant, PBO and PBO II with respect to the subject matter hereof.

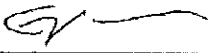
Very truly yours,

REDACTED

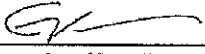
By: REDACTED
Name:
Title: REDACTED

ACCEPTED AND AGREED:

PALM BEACH OFFSHORE, LTD. (IN OFFICIAL LIQUIDATION)

By: 
Name: Geoffrey Varga (as agent without personal liability)
Title: Joint Official Liquidator

PALM BEACH OFFSHORE II, LTD. (IN OFFICIAL LIQUIDATION)

By: 
Name: Geoffrey Varga (as agent without personal liability)
Title: Joint Official Liquidator