

Eighth Report of The Official Liquidator of

CLICO Enterprises Limited
(In Liquidation)

For the period from October 1, 2011 to December 31, 2011

CLICO Enterprises Limited

(In Liquidation)

Eighth Report of the Official Liquidator (From October 1, 2011 to December 31, 2011)

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INTRODUCTION

The Eighth Report of the Official Liquidator of CLICO Enterprises Limited (“the Company”) (“CEL”) is intended for use by the Supreme Court of the Commonwealth of The Bahamas. This report sets out the steps taken by the Official Liquidator during the period from October 1, 2011 to December 31, 2011.

BACKGROUND AND BASIS OF APPOINTMENT

CLICO Enterprises Limited is a Bahamian Company, incorporated under the Companies Act, 1992, on August 23, 2000 as British Fidelity Holdings Limited. The Company changed its name to BF Enterprises Limited on August 24, 2001. The Company’s name was further changed to CLICO Enterprises Limited on April 7, 2005. My review of CLICO Enterprises Limited’s activities, led me to believe that the Company operated as a holding company for Clico (Bahamas) Limited’s non-insurance assets, locally and internationally.

As at December 31, 2008, CLICO Enterprises Limited had received advances from Clico (Bahamas) Limited (“CBL”) of approximately US\$73.8M. These advances were received by the Company apparently for the purpose of paying for the acquisition and on-going expenses of the Company’s investment properties. It is unlikely that this loan can be repaid in full by the Company as the Company’s single largest asset, held by the Company’s wholly-owned subsidiary, Wellington Preserve Corporation (“WPC”), is the Wellington Preserve property, which is located in Palm Beach County, Florida, whose value cannot be fully realized in the current real estate market.

Included in the Company’s financial statements as at December 31, 2008, is a loan due from WPC in the amount US\$70M.

In addition to the loan to WPC, CEL also made a further direct investment in WPC in the sum of US\$13M.

The WPC real estate project in Wellington, Palm Beach County, Florida, at the date of my appointment as liquidator of CEL, consisted principally of 80 residential lots and various equestrian amenities and commercial sites, intended to be laid out in a 523-acre tract of land.

Among the many concerns arising out of the transfer of funds by CEL to related parties is whether or not CEL circumvented Exchange Control Regulations in The Bahamas to:

- Purchase real estate in The Bahamas without regulatory approval.
- Purchase real estate outside The Bahamas without regulatory approval.
- Repatriate revenue to the United States and elsewhere without the approval of the Central Bank of The Bahamas.
- Transfer funds from CEL to persons outside The Bahamas.

BACKGROUND AND BASIS OF APPOINTMENT (continued)

As a result of the various intercompany loans from CBL and on-going regulatory matters and concerns, it was later determined by Counsel and I, that it would be in the best interest of the creditors of CBL to place CEL into liquidation and that I be appointed as Official Liquidator to protect the assets of CEL.

On August 12, 2009, I appeared with Counsel in the Supreme Court of The Bahamas on the application filed in my capacity as Official Liquidator of CBL for an order that I be at liberty to file a winding-up petition for CEL under the supervision of the Supreme Court. A Petition to wind-up CEL was filed on that same date and Her Ladyship the Honourable Justice Mrs. Cheryl Albury, granted the application allowing me leave to proceed with the petition to wind-up CEL pursuant to Section 187 (d) of the Companies Act of 1992, Chapter 308 of the Statute Laws of The Bahamas on the ground that CEL was unable to pay its debts.

The Court also appointed me Provisional Liquidator of CEL to be assisted by Callenders & Co. as legal advisors.

It was also ordered that a Notice be published in the local gazette to inform members of the public that a winding-up petition had been filed on August 12, 2009 against CEL and that the said Petition was set down for hearing by the Supreme Court on September 8, 2009. In accordance with this order and direction, a Notice of the Petition was published on August 22, 2009.

I appeared with Counsel in the Supreme Court of The Bahamas on September 8, 2009, and on that date, it was ordered at the hearing of the said Petition that CEL be wound-up by the Court under the provisions of the Companies Act, 1992, and I was appointed Official Liquidator with Callenders & Co. as my legal advisors, to assist me in the performance of my duties. Notices were published in the local gazettes in The Bahamas, to advertise the granting of the Order for the liquidation of the Company, subject to the supervision of the Court.

DEFINITIONS

In this Report, the words and expressions hereunder shall mean, as follows:

“The Official Liquidator” means Craig A. (Tony) Gomez or any member of his (the Liquidation) team.

“I” or “Me” means Craig A. (Tony) Gomez or any member of his (the Liquidation) team.

“The Company” means CLICO Enterprises Limited (In Liquidation).

“CBL” means Clico (Bahamas) Limited (In Liquidation).

“CEL” means CLICO Enterprises Limited (In Liquidation).

“General Counsel” means Callenders & Co., the Liquidator’s Bahamian Counsel.

“United States Counsel” means Fowler White Burnett P. A. and/or Boyd & Jenerette, PA.

“Court” means the Supreme Court of the Commonwealth of The Bahamas.

“WPC” means Wellington Preserve Corporation.

“GBM” means Grand Bahama Millwork and Building Supplies Limited.

STEPS TAKEN BY THE OFFICIAL LIQUIDATOR (for the period from October 1, 2011 to December 31, 2011)

1. I attended Court on a bi-monthly basis with General Counsel to provide a progress report on the liquidation to the Court. Representatives for the Insurance Commission of The Bahamas, the Ministry of Finance and the Office of the Attorney General also attended the various bi-monthly meetings.
2. I attended Court with General Counsel to apply for and obtained the Order to approve the Sixth Report of the Official Liquidator.
3. I attended Court with General Counsel to apply for and obtained the Order to approve the Seventh Report of the Official Liquidator.
4. I met with General Counsel on the CEL shareholding matter.
5. I met with General Counsel on the GBM and Golfview Apartments matters.

CONCERNS

- **Court Matters
(Bahamas)**

- **October 13, 2011**

At this hearing the Court heard and granted the Order and was updated on matters in the liquidation:

1. The Sixth Report of the Official Liquidator, inter alia the report was presented for approval.
2. Updated on the GBM and Golfview Apartments.

- **December 15, 2011**

At this hearing the Court heard and the Order was granted approving the Seventh Report of the Official Liquidator.

- **CLICO Enterprises Limited - Corporate Records**

It is apparent from my review of the records made available to me that CLICO Enterprises Limited was incorporated to hold assets for Clico (Bahamas) Limited that were not related to Clico's insurance business.

I conducted a search of the company's corporate records at the Companies Registry and discovered that the last Annual Return filed on behalf of CEL is dated September, 2007, listing the Company's shareholders as Mayco Holdings Ltd. and Nardco Holdings Ltd. Each company held one share in CEL.

General Counsel has approached certain government and regulatory agencies for assistance with respect to information on CEL. As at the date of this report no documents have been received to assist with this matter.

- **Assets**

1. **Real Estate - West Ridge Lots**

The Company owns 12.472 acres of land, which is divided into 12 lots, situated in Lake Point, Westridge Estates.

I am currently reviewing an offer received by me to purchase the entire property.

CONCERNS

- **Assets** (continued)

2. **Grand Bahama Millwork and Building Supplies Limited**

Grand Bahama Millwork and Building Supplies Limited (“GBM”) is situated in Freeport, in the Civic Industrial Area, situated at Forest Ave. and Yellow Pine Street. The store is primarily involved in the sale of hardware, houseware, lumber and other building amenities.

General Counsel was able to obtain from a Regulator in the Commonwealth of The Bahamas, the following documents:

- (a) A Management Agreement dated September 1, 2000, between Grand Bahama Millwork & Building Supplies Limited and Clico Enterprises Limited (formerly BF Enterprises Limited and formerly known as British Fidelity Holdings Limited).

This agreement appoints CEL as the Manager of GBM for a period of 99 years, whereby CEL shall become the beneficial owner of GBM’s assets and its entire operations, including the operation of the hardware and building supplies stores.

The Agreement also stipulated that the Manager will pay compensation to GBM in the sum of \$100.00 per annum. The receipt of the payment was acknowledged in the Agreement.

- (b) A purchase / sale agreement between Toma Beverages Limited and Grand Bahama Millwork & Building Supplies Limited (the vendors) and Clico Enterprises Limited (formerly BF Enterprises Limited) (the purchaser), dated September 1, 2000.

However, this purchase / sale agreement was not approved by the Ministry of Finance. This matter is currently being researched.

I met with General Counsel on October 11, 2011 and November 11, 2011, to discuss options available to me to proceed with realizing this asset as an asset of CEL.

CONCERNS

- **Assets** (continued)

3. **Golf View Apartments**

This property consists of an 8-unit town house apartment complex situated in Bahamia, at Rum Cay Drive, Freeport, Grand Bahama. Apparently seven (7) of the units are recorded in the name of CEL. However, after further investigation, I discovered that one of the units is not recorded in the name of CEL. This matter is presently being investigated by me.

- **Loan Agreement CEL / CBL**

On December 31, 2005, a loan agreement was executed between Clico (Bahamas) Limited and CLICO Enterprises Limited at a rate of 12%.

The loans (advances) made by CBL to CEL's various subsidiary companies was guaranteed by CL Financial in the amount of \$US58M. General Counsel has requested the retained Trinidadian Counsel, Mr. Robert Montano of Montano & Co. to actively pursue the enforceability of CL Financial's Guarantee to CBL.

On October 10, 2011, I received an opinion from the Trinidadian Counsel on how I should proceed with the call on CL Financial Guarantee and the response to this opinion is being addressed by General Counsel.

On November 21, 2011, I along with General Counsel held a teleconference call with the Trinidadian Counsel, to discuss the details of their legal opinion.

General Counsel continues to review this matter.

- **Promissory Note between CEL and Colonial Life Insurance Company (Trinidad) Limited**

On September 11, 2009, I received a claim in the amount of \$64,705,188.78 from Clico Life Insurance Company (Trinidad) Limited ("Clico Trinidad"). Below is the break-down of the claim:

Claim details	Amount
Promissory Note	\$ 43,682,950
Interest on promissory note	8,889,779
Inter-company balance	12,132,460
Total	\$ 64,705,189

CONCERNS

- **Promissory Note between CEL and Colonial Life Insurance Company (Trinidad) Limited** (continued)

On April 8, 2008, CL Financial Limited issued a guarantee to Colonial Life Insurance Company (Trinidad) Limited (“Clico Trinidad”) to ensure prompt repayment of loans issued by Clico Trinidad to CEL.

The guarantee further states that the Creditor (Clico Trinidad and Clico (Bahamas) Limited, shall not be required to exhaust its remedies against the Principal (CEL) prior to enforcing its rights under the guarantee against the Guarantor (CL Financial Limited).

General Counsel is still reviewing this matter.

- **Wellington Preserve Corporation**

See Appendix 2 for the Debtor In Possession Report for Wellington Preserve Corporation (“WPC”) for matters related to WPC.

- **Statement of affairs**

See Appendix 1 for the unaudited statement showing assets at estimated realizable values, and liabilities as expected to rank as at December 31, 2011.

CONCLUSION

From an operational perspective, I will continue to move the liquidation forward, primarily to realize the fair values from the sale of real estate and other properties for the benefit of creditors of which CBL is the majority creditor.

The primary challenges facing the liquidation are:

- (1) Ascertaining the shareholders and beneficial ownership of CEL.
- (2) Continuing the operations of GBM.
- (3) Realizing a fair value from the sale of the 12.427 acres of land in West Ridge, New Providence, The Bahamas.
- (4) Ascertaining the state of the property in Haiti and the possibility of a sale.
- (5) The settlement of the \$73.8M loan from Clico (Bahamas) Limited.
- (6) Addressing the Promissory Note from Colonial Life Insurance Company (Trinidad) Limited.
- (7) Successfully addressing the CL Financial Guarantee.
- (8) Realization of the principal asset in its wholly-owned subsidiary, Wellington Preserve Corporation in Florida.

Very truly yours

Craig A. (Tony) Gomez
Official Liquidator
CLICO Enterprises Limited
(In Liquidation)
Nassau, Bahamas
December 31, 2011

CLICO Enterprises Limited**(In Liquidation)**

Statement of Assets at Estimated Realizable Values

And Liabilities As Expected to Rank

As at December 31, 2011

(Expressed in Bahamian Dollars)

ASSETS:

Due from Subsidiary (Wellington Preserve Corporation)	\$ 30,000,000
Investment properties	6,801,754
Total assets	36,801,754

LIABILITIES:

Loan due to Clico (Bahamas) Limited (advances)	73,801,867
Loan due to Clico Trinidad Ltd.	52,572,729
Loan due to Sogebank (Shabisco) - Haiti	464,819
Accounts payable - (Shabisco) Haiti	90,567
Due to Clico (Bahamas) Limited (In Liquidation)	2,000
Total liabilities	126,931,982

ESTIMATED DEFICIT AS REGARDS MEMBERS**\$(90,130,228)**

APPENDIX 2

Report of The Debtor In Possession

Wellington Preserve Corporation
(In Chapter 11 Bankruptcy)

For the period from October 1, 2011 to December 31, 2011

Wellington Preserve Corporation
(In Chapter 11 Bankruptcy)

Report of the Debtor In Possession *(From October 1, 2011 to December 31, 2011)*

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Wellington Preserve Corporation
(In Chapter 11 Bankruptcy)

Report of the Debtor In Possession *(From October 1, 2011 to December 31, 2011)*

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INTRODUCTION

The Report of the Debtor In Possession of Wellington Preserve Corporation (“the Company”) is intended for use by the Supreme Court of the Commonwealth of The Bahamas. This report sets out the steps taken by the Debtor In Possession (“DIP”) during the period from October 1, 2011 to December 31, 2011.

DEFINITIONS

In this Report, the words and expressions hereunder shall mean, as follows:

“Debtor In Possession” means Wellington Preserve Corporation.

“DIP” means Debtor In Possession.

“I” or “Me” means Craig A. (Tony) Gomez or any member of his (the Liquidation) team.

“The Company” means Wellington Preserve Corporation.

“CEL” means CLICO Enterprises Limited (In Liquidation).

“CBL” means Clico (Bahamas) Limited (In Liquidation).

“General Counsel” means Callenders & Co., the Liquidator’s Bahamian General Counsel.

“United States (“US”) Counsel” means Fowler White Burnett, PA.

“Court” means the Supreme Court of the Commonwealth of The Bahamas.

“United States (“US”) Court” means the Southern District Court of Florida.

“WPC” means Wellington Preserve Corporation.

“IRS” United States Internal Revenue Service.

BACKGROUND AND BASIS OF APPOINTMENT

The Wellington Preserve Corporation is a company incorporated in Florida and is a wholly-owned subsidiary of Clico Enterprises Limited (In Liquidation), a company incorporated in The Bahamas under the Companies Act 1992.

The Wellington Property originally consisted of approximately 640 acres of land situated in the Village of Wellington, Palm Beach County, Florida (the "Wellington Property"). The Wellington Property was purchased from Jadov/Levy Investment, LLC, a Florida limited liability company ("Jadov/Levy") on July 1, 2004, for a purchase price of US\$55 Million. The purchase price was funded by cash in the amount of US\$20 Million and a purchase money mortgage from the seller, Jadov/Levy, in the amount of US\$35 Million. As of April 27, 2010, the purchase money mortgage had been paid in full, through a combination of partial payments to Jadov/Levy prior to April 2009 by the Company, with the balance of approximately \$700K being paid by the Company from the proceeds of a loan from CLICO (Bahamas) Limited (in Liquidation).

The Wellington Property was designed to be an equestrian themed high-end residential subdivision. The property was subdivided into parcels of land for sale to equestrian-oriented buyers.

As of December 31, 2010, the development remained unfinished and, since it is unlikely that WPC can secure the financing necessary to complete the development, I decided that it was in the best interest of Wellington Preserve, and the creditors of CEL, that the property be sold as is. So far, approximately 100 acres have been sold and 523 acres remain. The remainder consists of improved parcels which are ready for sale.

I first procured copies of two existing independent US based appraisals of the property; the first from Anderson & Carr, Inc. of 521 South Olive Avenue, West Palm Beach ("Anderson valuation"). The Anderson valuation, as at January 20, 2009, based on the market value of a completed development, concluded the estimated market value of the Wellington property at a retail price was US\$127,310,000.

Another valuation was received from Parrish & Edwards, Inc. as at December 31, 2008. The Parrish valuation, based on the market value, concluded the estimated market value of the Wellington property at a wholesale price US\$66,000,000.

Despite the necessity of the "as is" sale, I felt it was in the best interests of the debtor and its creditors to continue to safeguard the Wellington Property until a sale is completed.

BACKGROUND AND BASIS OF APPOINTMENT *(continued)*

In an effort to safeguard the property and prepare it for sale in 2010, there was an ongoing effort to complete the re-platting of the Wellington Property. The planned re-platting would allow for a 60-acre reservation at the center of the Wellington Property in which various equestrian amenities were planned to be constructed for the purchasers of units therein. Preparations required much engineering work including the installation of drainage, having utilities installed, and the like. It is believed that the re-platting and engineering work substantially enhanced the stability and marketability of the property.

These works were primarily financed via the refund of various deposits which have been placed in escrow at the request of the South Florida Water Management and the Village of Wellington. As improvements were completed, the escrows were released.

The safety of this asset was threatened by various creditors, as follows:

- **Brennan Financial, Inc.**

This issue involves an unsatisfied judgment resulting from an out-of-court settlement with respect to a claim for unpaid real estate brokers' commissions made between the broker, Brennan Financial, Inc. ("Brennan"), and Mr. Duprey, principal at the time of the CL Financial conglomerate. The unsatisfied judgment was payable in installments, which WPC defaulted on.

More specifically, Brennan had commenced litigation against Dalco Properties, Inc ("Dalco"), (a company owned by Mr. Duprey), and Mr. Duprey. Dalco and Mr. Duprey had initially used the services of Brennan's agent, William B. Walker, to negotiate the purchase of the Wellington Property. At some point during the transaction, there was a renegotiation between the parties, from which Brennan was excluded, which resulted in title to the property being ultimately taken by WPC. Brennan then sued for his unpaid real estate brokers' fees.

The dispute was settled out of court and for approximately US\$2 Million which was to be paid in annual installments of US\$200,000. The substance of the settlement was that Dalco and Mr. Duprey would be released from the liability and the case against them dismissed, while WPC and CEL would be liable for the payment of the annual installments. WPC and CEL (with Mr. Duprey as their control person) agreed to become parties to the settlement and an Order was entered in the US Courts making WPC and CEL parties to the action for the purpose of enforcing the settlement.

BACKGROUND AND BASIS OF APPOINTMENT *(continued)*

- **Brennan Financial, Inc.** (continued)

However, the settlement amount had not been fully repaid at the time I was appointed liquidator of CEL. On January 27, 2010 a Final Judgment in the Brennan litigation in the amount of US\$1,445,490 plus interest was entered against WPC.

On February 11, 2010 a Motion for Stay of Execution of the Brennan Final Judgment was lodged with the US Courts by my US Counsel on behalf of WPC. This application came on for hearing on March 1, 2010 and was denied.

As of December 31, 2010, the Brennan financial judgment in the amount of \$1.445M, plus interest and attorneys fees, remained unpaid.

- **Operating expenses**

Bills were generated for the continued upkeep of the Wellington Preserve property including manager expenses, insurance, ongoing accrual of real estate taxes at the rate of approximately \$1.5M per year; lawn services and the periodic mandatory testing of water runoff.

- **Taxes due**

WPC also failed to file US tax returns for 2006 through 2009. Due to the lack of corporate records, US Counsel needed to obtain records from third parties to compile sufficient information needed for the filing of the returns.

The compendium of the above had led to the financial state of WPC as of April 2010, in short, WPC had virtually no cash; a judgment recorded against it; amounts owing in real property and other taxes and a miscellany of other financial obligations. In addition to this, it owed approximately US\$73,801,867 to its parent company, CEL.

Due to the aforementioned, I believed that the Wellington property was vulnerable to being foreclosed upon or sold by way of execution. In order to safeguard this asset, I further believed that it was in the best interests of Wellington Preserve and its creditors, including CEL, that WPC be placed into Chapter 11 Bankruptcy in the United States.

I was advised by my US Counsel that filing a Chapter 11 proceeding is among the alternatives available to prevent the forfeiture of the Wellington Property by virtue of an execution sale on behalf of the Judgment Creditor, Brennan.

BACKGROUND AND BASIS OF APPOINTMENT *(continued)*

The costs associated with the filing were not prohibitive and principally included:

- (i) Filing fees in the amount of US\$1,039 to be paid to the Clerk of the Court.
- (ii) Monitoring fees to be paid every quarter to the US Trustees' Office.
- (iii) Quarterly payments in respect of the turnover of the business operation; the minimum amount being US\$375 and the maximum amount US\$3,500.

I was further advised that the filing of the Chapter 11 would impose an automatic stay of most of the litigation affecting WPC until such time as the matter could be resolved in the Bankruptcy Court. The automatic stay prevents a Judgment Creditor from attempting to seize the property of the DIP, or to collect money from it. It would absolutely prevent the Judgment creditor from pursuing execution and would likewise prevent Palm Beach County from attempting to foreclose upon unpaid ad valorem real estate tax.

Another benefit of the filing is that a sale of the property under a confirmed Chapter 11 Plan of Liquidation is free of documentary stamp taxes. This may result, based on the current valuation of the property, in a savings in excess of US\$350,000 on the sale.

Further, I was advised that a Chapter 11 filing before April 27, 2010, would render the Judgment Lien or charge obtained by Brennan over the Wellington Property, a preferential transfer voidable by the DIP. We believed this would allow the DIP to negotiate a sale of the Wellington Property at market value, or as close thereto as possible, and thereafter enable retirement of the debts of WPC.

The combined effect of the Chapter 11 filing would be that any sale of the Wellington Property would result in a substantial recapture by CEL of the net proceeds, prorated with other unsecured creditors.

On April 27, 2010, I attended Court in The Bahamas with General Counsel seeking an Order to proceed with the Chapter 11 Bankruptcy filing in the United States. The Order was granted.

Thereafter, also on April 27, 2010, U.S. Counsel filed a Voluntary Chapter 11 Bankruptcy Petition on behalf of Wellington Preserve Corporation in the U.S. Court.

STEPS TAKEN BY THE DEBTOR IN POSSESSION (for the period from October 1, 2011 to December 31, 2011)

1. I attended Court on a bi-monthly basis with General Counsel to provide a progress report on the DIP to the Court. The Superintendent or a representative for the Insurance Commission of The Bahamas, Legal Counsel for the Insurance Commission of The Bahamas, a representative from the Ministry of Finance and Counsel on behalf of the Attorney General, also attended each bi-monthly meeting.
2. I received a notice of cancellation and a request to return the deposit from the proposed buyer of the Wellington Property as noted in my September 30, 2011 report.
3. I received another letter of intent from a proposed buyer of the Wellington property.
4. Unites States Counsel appeared in the US Court to file a motion to reorganized debtor's motion to amend plan and to approve the purchase and sale agreement for real estate between the debtor and the Oxford Liability Company.
5. United States Counsel appeared in the US Court on the United States' first set of request for production of documents, interrogatories and request for admission, requesting WPC to respond separately to each requests.
6. Unites States Counsel appeared in the US Court on an application for an agreed court continuing hearing regarding an objection to the IRS claim.
7. United States Counsel appeared in the US Court on the United States of America's motion to compel WPC to provide a response to the US request for the production of documents and interrogatories.
8. United States Counsel appeared in the US Court on the hearing for the Order granting the United States' Motion for WPC to Compel.
9. United States Counsel appeared in the US Court on the Order continuing the hearing on supplemental final fee application for failure to provide required notice for the final fee payment to the US tax accountants to the debtor.
10. United States Counsel appeared in the US Court on the notice of withdrawal of reorganized debtor's motion to amend the plan to approve the purchase and sale agreement for real estate between the debtor and the Oxford Limited Liability Company due to the buyer's withdrawal from the transaction.

STEPS TAKEN BY THE DEBTOR IN POSSESSION (for the period from October 1, 2011 to December 31, 2011) (continued)

11. United States Counsel appeared in the US Court and obtained the Order granting a second supplement to final fee application of Boyd & Jenerette, P.A., Counsel to the debtor.
12. United States Counsel appeared in the US Court and obtained the Order granting second supplement to the final fee application of Fowler White Burnett, P.A.

CONCERNS

- **Court Matters**

(Bahamas)

December 15, 2011

At this hearing the Court was updated on the progress of the sale of the Wellington property.

(United States)

United States Counsel appeared in the US Court on my behalf in the Southern District Court of Florida, United States, on the following matters:

November 17, 2011

Filed a motion to reorganized debtor's motion to amend the plan and to approve the purchase and sale agreement for real estate between debtor and the Oxford Liability Company. See Appendix 4 for details of the Order.

December 12, 2011

The United States' first set of requests for production, interrogatories and requests for admission, requesting that WPC to respond separately to the requests for admission, production of documents and interrogatories within 30 days. See Appendix 5 for details of the United States requests.

December 12, 2011

United States of America's filed a motion to compel WPC to provide a response to the US request for the production of documents and interrogatories. See Appendix 6 for details of the Motion to Compel.

December 12, 2011

For the Order granting the United States' Motion to Compel. See Appendix 7 for details of the Order.

CONCERNS

- **Court Matters** (continued)
(United States)

December 20, 2011

For the Order continuing hearing on supplemental final fee application for failure to provide required notice for the final fee payment for the US tax accountants to the debtor. See Appendix 8 for details of the Order.

December 20, 2011

Notice of withdrawal of reorganized debtor's motion to amend the plan and to approve the purchase and sale agreement for real estate between the debtor and the Oxford Limited Liability Company due to the buyer withdrawing from the transaction. See Appendix 9 for details of the Notice of Withdrawal.

December 28, 2011

To obtain an Order granting second supplement to final fee application of Boyd & Jenerette, P.A., Counsel to the debtor. The Order was obtained. See Appendix 10 for details of the Order.

December 28, 2011

To obtain an Order granting second supplement to final fee application of Fowler White Burnett, P.A., real estate Counsel to the debtor. See Appendix 11 for details of the Order.

- **Wellington Property sale**

The proposed buyer of the Wellington property as at the last report, executed the Purchase and Sale Agreement on October 12, 2011.

On December 9, 2011, I received a notice of cancellation from the proposed buyer of the Wellington property and a request to return the deposit, which was subsequently returned.

On December 14, 2011, I received a letter of intent from another proposed buyer and as at the date of this report the proposal is currently being reviewed by me.

CONCERNS

- **Internal Revenue Service**

On December 2, 2011, US Counsel and I attended a six (6) hour IRS deposition, at the law offices of Boyd & Jenerette in Florida in reference to outstanding IRS taxes owed by WPC.

- **Statement of Affairs**

See Appendix 1 for the unaudited statement showing assets at estimated realizable values and liabilities as at December 31, 2011.

- **Cash Receipts and Disbursements**

See DIP report at Appendix 2 for cash receipts and disbursements for the period.

- **List of Creditors**

See Appendix 3 for a list of Creditors.

CONCLUSION

From an operational perspective, I will continue to assist in moving this bankruptcy forward, primarily to realize the fair value from the sale of real estate and other properties for the benefit of creditors, of which CEL is the majority creditor.

The primary challenges facing the liquidation are:

- (1) Realizing a fair value from the sale of the remaining 420 acres of the Wellington Property.
- (2) The settlement of the \$73.8M loan from Clico Enterprises Limited.
- (3) Settling the outstanding IRS taxes.

Very truly yours

Craig A. (Tony) Gomez
Official Liquidator
Wellington Preserve Corporation
(In Chapter 11 Bankruptcy)
Nassau, Bahamas
December 31, 2011

Wellington Preserve Corporation
(In Chapter 11)
 Statement of Assets at Estimated Realizable Values
 And Liabilities As Expected to Rank

As at December 31, 2011
 (Expressed in Bahamian Dollars)

ASSETS:

Investment property (Wellington)	\$ 30,000,000
Escrow cash - held by FWB	1,803,770
Total assets	31,803,770

LIABILITIES:

Clico Enterprises Limited	73,801,867
USA IRS Tax	1,525,702
Loan due to Clico (Bahamas) Limited (In Liquidation)	14,906
Total liabilities	75,342,475

ESTIMATED DEFICIT AS REGARDS MEMBERS **\$ (43,538,705)**

Wellington Preserve Corporation
(In Chapter 11)
List of Creditors

As at December 31, 2011
(Expressed in Bahamian Dollars)

CREDITORS:

Clico Enterprises Limited (In Liquidation)	\$ 73,801,867
Internal Revenue Services	1,525,702
Clico (Bahamas) Limited (In Liquidation)	14,906
Total	\$ 75,342,475

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH

IN RE:

CASE NUMBER: 10-22049-BKC-EPL

WELLINGTON PRESERVE CORPORATION,

DEBTOR.

CHAPTER 11

DEBTOR'S POST-CONFIRMATION QUARTERLY
OPERATING REPORT FOR THE PERIOD

FROM OCTOBER 1, 2011 TO DECEMBER 31, 2011

Comes now the above-named debtor and files its Post-Confirmation Quarterly Operating Report in accordance with the Guidelines established by the United States Trustee and FRBP 2015.

Dated: 1/27/12


RONALD G. NEIWIRTH
Florida Bar No. 152175
BOYD & JENERETTE
One Brickell Square
801 Brickell Avenue, Suite 1440
Miami, FL 33131
Telephone: (305) 537-9111

Wellington Preserve Corp.
c/o Craig Gomez
POB N 1991
Nassau, Bahamas

Note: The original Post Confirmation Quarterly Operating Report is to be filed with the Court and a copy simultaneously provided to the United States Trustee. Monthly Operating Reports must be filed by the 20th day of the following month.

For assistance in preparing the Post Confirmation Quarterly Operating Report, refer to the following resources on the United States Trustee website: [http:// www.usdoj.gov/ust/r2l/index.htm](http://www.usdoj.gov/ust/r2l/index.htm).

- 1) Instructions for Preparing Debtor's Chapter 11 Post confirmation Quarterly Operating Report
- 2) initial Filing Requirements
- 3) Frequently Asked Questions (FAQs)

MONTHLY OPERATING REPORT -
POST CONFIRMATION

ATTACHMENT NO. 2

CHAPTER 11 POST-CONFIRMATION
SCHEDULE OF RECEIPTS AND DISBURSEMENTS

Case Name: WELLINGTON PRESERVE CORPORATION
Case Number: 10-22049-BKC-EPL
Date of Plan Confirmation: MAY 16, 2011

All items must be answered. Any which do not apply should be answered "none" or "N/A".

	Quarterly	Post Confirmation Total
L CASH (Beginning of Period)	\$ 2,553,917.87	\$ 3,782,956.66
2. INCOME or RECEIPTS during the Period	0 -	0 -
3. DISBURSEMENTS		
a Operating Expenses (Fees/Taxes):		
(i) U.S. Trustee Quarterly Fees	\$ 2,275.00	\$ 7,378.00
(ii) Federal Taxes		\$
(iii) State Taxes		
(iv) Other Taxes		
b All Other Operating Expenses: <i>Bank Charges</i>	\$ 747,873.16	\$ 1,971,760.22
	\$	\$
c Plan Payments:		
(i) Administrative Claims		
(ii) Class One		
(iii) Class Two	\$	
(iv) Class Three		
(v) Class Four		
(Attach additional pages as needed)		
Total Disbursements (Operating & Plan)	\$ 750,148.16	\$ 1,979,186.95
I. CASH (End of Period)	\$ 1,803,769.71	\$ 1,803,769.71

MONTHLY OPERATING REPORT -
POST CONFIRMATION

ATTACHMENT NO. 3

CHAPTER 11 POST-CONFIRMATION
BANK ACCOUNT RECONCILIATIONS

Prepare Reconciliation for each Month of the Quarter

Bank Account Information	Account #1	Account #2	Account #3	Account #4
Name of Bank: <i>CITY NATIONAL</i>				
Account Number: <i>175 3864382</i>				
Type of Account (e.g. checking)	<i>checking</i>			
1. Balance per Bank Statement	<i>1,805,295.96</i>			
2. ADD: Deposits not credited				
3. SUBTRACT: Outstanding Checks	<i>1,526.25</i>			
4. Other Reconciling Items				
5. Month End Balance (Must Agree with Books)	<i>1,803,769.71</i>			

Note: Attach copy of each bank statement and bank reconciliation.

Note: Attach copy of each investment account statement.

Investment Account Information	Date of Purchase	Type of Instrument	Purchase Price	Current Value
Bank / Account Name / Number				

ATTACHMENT NOT. 4 –CONTINUED

BANK – CITY NATIONAL BANK

ACCOUNT # 1753864382

1001	U.S. TRUSTEE FEES – 2 ND QUARTER	\$652.38
1002	VOIDED	
1003	VOIDED	
1004	PERRY/TAYLOR ACCOUNTANTS FEE (PER CT. ORDER)	\$28,257.20
1005	SPARE HANDS HOA MAINTENANCE	\$20,000.00
1006	SPARE HANDS – INV. #6143	\$1,673.43
1051	SPARE HANDS HOA MAINTENANCE	\$20,000.00
1052	SPARE HANDS HOA MAINTENANCE	\$20,000.00
1053	PALM BEACH TAX COLLECTOR	\$604,388.27
1054	U.S. TRUSTEE -3 RD QUARTER	\$1,622.62
1055	SPARE HANDS –INV. #6154	\$308.02
1056	FOWLER WHITE BURNETT ATTY'S FEE (PER CT. ORDER)	\$53,246.24
		<hr/>
	TOTAL	\$750,148.16

CHECKBOOK BALANCE AND QUARTERLY REPORT BALANCE

AS OF 12/31/2011		\$1,805,295.95
There are 3 checks that have not been cashed	--	1,526.25
Total Balance as of 12/31/2011		\$1,803,769.71
Check # 1057 12/31/2011 Boyd & Jenerette		40,000.00
Check # 1058 1/10/2012 Esquire Solutions (court reporters)		1,180.98
Check # 1059 1/24/2012 U.S. Trustee's Fees		1,625.00
Check # 1060 1/26/2012 Spare Hands HOA Expenses		7,500.00
Check # 1061 (void)		
Check # 1062 1/26/2012 Spare Hands Invoice # 6170		809.49
Total checks		\$51,115.47
Total Balance as of 1/30/2012		\$1,752,654.24

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA

<p>IN RE: WELLINGTON PRESERVE CORPORATION, Debtor.</p>
--

CASE NO. 10-22049 AJC

Chapter 11

REORGANIZED DEBTOR'S MOTION TO AMEND PLAN AND TO APPROVE PURCHASE AND SALE AGREEMENT FOR REAL ESTATE BETWEEN DEBTOR AND THE OXFORD LIABILITY COMPANY

The Debtor, WELLINGTON PRESERVE CORPORATION (“Wellington” and/or “Debtor”), by and through undersigned counsel, hereby files its Motion to Amend Plan; to Approve Purchase and Sale Agreement for Real Estate between the Debtor and the Oxford Limited Liability Company; and in support thereof would respectfully submit the following:

1. This case commenced with a voluntary filing of a Chapter 11 Petition for Relief on behalf of the Debtor on April 27, 2010.

2. Generally speaking, the Debtor was the fee simple owner of a certain parcel of real estate consisting of approximately 525 acres of contiguous land, located in the Village of Wellington, Palm Beach County, Florida. The matter which precipitated the Chapter 11 filing was the entry of an executable Judgment in favor of Creditor, Brennan Financial, Inc. (“Brennan”), which could have led to the involuntary liquidation of the property. The Chapter 11 Petition was filed for the purpose of working out the liquidation of the property in an orderly fashion; seeing to the payment of unaffiliated creditors first; and then seeing to the payment of the remaining proceeds of the liquidation to the remaining Creditor, CLICO Enterprises Ltd. (“CEL”), a Bahamian corporate entity.

3. This case is also affiliated with the Chapter 15 case presently pending before this Court, of CLICO (Bahamas) Ltd., a Bahamian insurance company (“CBL”). Both CBL and

CEL are currently being “wound up”—i.e., liquidated— under Bahamian law under the supervision of the Bahamian Supreme Court. In both cases, Craig A. (“Tony”) Gomez (“Gomez”) is the permanent Liquidator.

4. CEL is the owner of 100% of the capital stock of the Debtor and thus Gomez, the Liquidator, is also the control person of the Debtor, Wellington Preserve, Inc.

5. In due course, the Debtor-In-Possession presented a Liquidating Plan to this Court (ECF #152 and ECF #165). The Liquidating Plan was confirmed by Order of this Court on May 12, 2011 (ECF #183).

6. Generally speaking, as a means for implementation of the plan, three different real estate transactions were contemplated: The first was an exchange of lots, in order to create a more contiguous parcel of 100 acres for sale; the second was the sale of the 100 acres; and the third was the sale of the remaining approximately 425 acres to an entity called J-5 Wellington Preserve, LLC (“J-5”), which proposed transaction, at the time of confirmation, was still within the J-5’s “due diligence period.”

7. The J-5 transaction did not close. J-5 elected to withdraw during its due diligence and its deposit was returned.

8. Upon this occurrence, the former Debtor in possession, through its real estate broker commenced to re-market the property, and now has obtained a written purchase and sale agreement with Michael Collins, as managing member of the Oxford Limited Liability Company, a Delaware Limited Liability Company (“Oxford”), for the sale of the property. A true copy of the agreement is attached to this motion as Exhibit “A.”

9. Given that the Debtor is already subject to a Court Order approving the sale of the property to someone else – i.e., J-5, as embodied in the Confirmation Order, it is incumbent upon

the Debtor to request that this Court allow modification of the Plan, in order to substitute the new disposition of the property for the failed sale to J-5; to revoke the portion of the Confirmation Order insofar as it relates to J-5, and allow the Plan to be modified to substitute the proposed transaction with the Oxford in place of the failed J-5 transaction, and approve the new proposed sale.

10. Gomez in his capacity as liquidator for CBL and CEL, represents that he has already obtained assent from his Creditor's Committee in the Bahamas to the proposed new price. He has not yet obtained approval from the Bahamas Supreme Court.

11. The proposed new agreement for the sale of the 425 acres is for a lower price than the previously approved sale to J-5. Therefore, it is clear that the treatment of the remaining unpaid Creditor, CEL, is not as beneficial to the creditor as the treatment in the previous Plan, which would have generated a larger sum to be distributed to CEL. Gomez, in his capacity as the Liquidator of CEL consents to the modification of the Plan in order to effectuate the new transaction with the Oxford.

WHEREFORE, Wellington Preserve Corp., the former DIP, respectfully moves this honorable court for an order for the following relief:

- A. Vacating that portion of the order which confirmed its Second Amended Joint Plan of Liquidation (ECF #183) by deleting the approval of the proposed sale transaction with J-5 Wellington Preserve, LLC, and approving the proposed purchase and sale agreement with the Oxford Limited Liability Company in its place;

- B. Authorizing the modification of the Plan with the consent by Mr. Gomez on behalf of CEL, since CEL is the only entity which will be adversely affected by the modification; and
- C. For such other relief as may be and appropriate under the circumstances.

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this Court set forth in Local Rule 2090-1(A).

Respectfully submitted,

/s/ Ronald G. Neiwirth
RONALD G. NEIWIRTH
Florida Bar No. 152175
BOYD & JENERETTE
One Brickell Square
801 Brickell Avenue, Suite 1440
Miami, FL 33131
Telephone: (305) 537-9111
Facsimile: (305) 537-9130
rneiwirth@boyd-jenerette.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of November 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notice of Electronic Filing.

/s/ Ronald G. Neiwirth
Ronald G. Neiwirth

CLICO Enterprises, Ltd.
c/o Craig A. (Tony) Gomez, Liquidator
P.O. Box N 1991
28 Cumberland Street
Nassau Bahamas

CLICO (Bahamas) Limited
c/o Craig A. (Tony) Gomez
P.O. Box N 1991
28 Cumberland Street
Nassau, Bahamas

Village of Wellington
12794 W. Forest Hill Blvd
Suite 23
West Palm Beach, FL 33414

Jamie J. Byington
255 Alhambra Circle
#900
Coral Gables, FL 33134-7420

Office of the U.S. Trustee
51 S.W. First Avenue, 12th Fl
Miami, FL 33130

F. Martin Perry
Perry & Taylor, P.A.
2401 PGA Blvd., # 110
Palm Beach Gardens, FL 33410-3515

Philip M. Schreiber
U.S. Department of Justice, Tax Division
POB 14198
Washington, DC 20044

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

IN RE:

WELLINGTON PRESERVE,
CORPORATION,

Case No. 10-22049-EPK
Chapter 11

Debtor.

**THE UNITED STATES' FIRST SET OF REQUESTS FOR PRODUCTION,
INTERROGATORIES AND REQUESTS FOR ADMISSION**

Pursuant to Local Rules 9014-1, 7026-1, and Rules 7033, 7034, and 7036 of the Federal Rules of Bankruptcy Procedure, Creditor the United States, requests that Debtor Wellington Preserve Corporation ("you" or "WPC"), respond separately to the requests for admission, requests for production, and interrogatories below within thirty days. If you produce copies of the documents and things requested herein, please do so by overnight mail to: Philip Schreiber, Trial Attorney, Tax Division, U.S. Department of Justice, 555 4th Street, NW, Suite 6709, Washington, DC 20001. If you object to any request or interrogatory below, you must state the objection and the reason for such objection in your written response.

A. Scope. You are respectfully reminded that a party must include in its response to a production request any document that is within the party's custody or control or reasonably available to the party, the party's attorney, or any other source from whom it may reasonably be secured.

1. As used in these requests or interrogatories, the term "documents" includes, but is not limited to, originals, copies and non-identical copies (whether by reason of handwritten notations thereon or otherwise) of tapes, files, inter-office memoranda, correspondence, notes, e-mails, notations, letters, minutes, telegrams, financial



statements, ledgers, checks, wage documents, studies, diaries, books, notebooks, desk calendars, intra-company communications, papers, handwritten notes, work papers, computer printouts or information, information stored on computer or disk, handbooks, affidavits, witness statements, and other materials and/or documentation.

2. "You," "your," "yourself," means Wellington Preserve Corporation and your agents, attorneys, consultants, representatives, and all other persons acting or purporting to act on your behalf.
3. Reference to the "tax periods at issue" means the tax period ending December 31, 2005.
4. The term "communication" or "communicate" means the transmittal of information by any means.
5. The term "relating" or "relate" shall mean: pertaining, describing, referring, evidencing, reflecting, discussing, showing, supporting, contradicting, refuting, constituting, embodying, containing, concerning, identifying, or in any way logically or factually connected with the matter discussed.
6. The words "or" and "and" shall be read in the conjunctive and not in the disjunctive wherever they appear, and neither of these words shall be interpreted to limit the scope of a request. The use of a verb in any tense shall be construed as the use of the verb in all other tenses and the singular form shall be deemed to include the plural, and vice-versa. The singular form of any noun shall be deemed to include the plural, and vice-versa.
7. The present tense includes the past and future tenses.

8. "All" means "any and all"; "any" means "any and all." "Including" means "including but not limited to." "And" and "or" encompass both "and" and "or." Words in the masculine, feminine or neuter form shall include each of the other genders.

B. Supplementation. Pursuant to Rule 26 of the Federal Rules of Civil Procedure, these requests for production and interrogatories shall be deemed to be continuing until and during the course of trial. Include in such supplemental responses the date upon which and the manner in which such further or different information came to your attention.

C. Claims of Privilege. Should you claim a privilege for any document or any information that is requested, please describe such items in sufficient detail and specify in detail all the grounds on which the claim of privilege is based.

REQUESTS FOR PRODUCTION

The United States requests that you produce the following documents:

REQUEST FOR PRODUCTION 1:

All documents you intend to rely on at any evidentiary hearing or trial in this matter.

REQUEST FOR PRODUCTION 2:

All documents that either support or detract from your contention that WPC did not transfer money, in any form, in an approximate amount totaling \$2,689,896 to a foreign affiliate during the 2004 and/or 2005 calendar year.

REQUEST FOR PRODUCTION 3:

All documents that either support or detract from your contention that WPC did not receive money, in any form, in an approximate amount totaling \$16,665,998 from a foreign affiliate during the 2004 and/or 2005 calendar year.

REQUEST FOR PRODUCTION 4:

All “canceled checks and wire transfers” to, from, involving or related to WPC, as detailed in your Objection to the IRS’ Proof of Claim. [DE 186 ¶ 8.]

INTERROGATORIES

INTERROGATORY NO. 1:

State all discovery you have conducted — including all records subpoenaed or otherwise reviewed and all persons you communicated with in any manner — to determine whether WPC transferred money, in any form, in an approximate amount totaling \$2,689,896 to a foreign affiliate during the 2004 and/or 2005 calendar year.

INTERROGATORY NO. 2:

State whether any of the discovery you have conducted has revealed that approximately \$2,689,896 in total was transferred to a foreign affiliate of WPC in 2004 and/or 2005, and if so, please identify the source of that discovery.

INTERROGATORY NO. 3:

State whether any of the discovery you have conducted has revealed that approximately \$2,689,896 in total was not transferred to a foreign affiliate of WPC, and if so, please identify the source of that discovery.

INTERROGATORY NO. 4:

State whether any of the discovery you have conducted has revealed that WPC did receive money, in any form, in the approximate amount totaling \$16,665,998 from a foreign affiliate during the 2004 and/or 2005 calendar year, and if so, please identify the source of that discovery.

INTERROGATORY NO. 5:

State whether any of the discovery you have conducted has revealed that WPC did not receive money, in any form, in the approximate amount totaling \$16,665,998 from a foreign affiliate during the 2004 and/or 2005 calendar year, and if so, please identify the source of that discovery.

INTERROGATORY NO. 6:

Please define the term “formal evidence” as used in your objection to the IRS’ proof of claim [DE 186 ¶ 8.]

INTERROGATORY NO. 7:

Please identify any informal evidence of inter-company loans or payments of interest on any inter-company loans between WPC and another affiliate.

INTERROGATORY NO. 8:

Detail, separately, all transactions regarding the “canceled checks and wire transfers” to, from, involving or related to WPC and any affiliate, as detailed in your Objection to the IRS’ Proof of Claim. [DE 186 ¶ 8.]

INTERROGATORY NO. 9:

State all facts and identify all documents that support or detract from your contention that WPC had net operating losses for the 2006 and 2007 tax years.

INTERROGATORY NO. 10:

Identify all witnesses you intend on calling and all documents you intend to rely on for any evidentiary hearing or trial in this matter.

INTERROGATORY NO. 11:

Identify all countries from which you have received discovery, either through formal or informal methods.

INTERROGATORY NO. 12:

Identify (a) all countries from which you have either requested discovery, through formal or informal methods, and have not received all information or documents requested, and (b) all countries that you believe may contain relevant information, but have not requested or otherwise pursued any discovery.

INTERROGATORY NO. 13:

Please describe and diagram the corporate ownership structure of WPC, CLICO (Bahamas) Limited, CLICO Enterprises Limited, CLICO (Barbados) Limited, and CL Financial, and identify the country of affiliation for each separate entity.

INTERROGATORY NO. 14:

For each request for admission below that you did not admit, state the reasons for not admitting that request and identify all documents that you claim support your reasons for not admitting that request.

REQUESTS FOR ADMISSION

1. Please admit, separately, that each document produced by Marcum LLP, which the United States previously produced to you in this matter, is authentic pursuant to Federal Rule of Evidence 901.

2. Please admit, separately, that each document produced by Marcum LLP, which the United States previously produced to you in this matter, is authentic pursuant to Federal Rule of Evidence 902(11).

3. Please admit, separately, that each document produced by Marcum LLP, which the United States previously produced to you in this matter, satisfies the business records exception to the hearsay rule pursuant to Federal Rule of Evidence 803(6).

4. Please admit that you did not review expenditures of less than \$25,000 in examining WPC's financial transactions from Ocean Bank.

5. Please admit that that WPC received approximately \$16,665,998 in total from a foreign affiliate during the 2004 and 2005 calendar years.

6. Please admit that that WPC transferred money, in any form, in an approximate amount totaling \$2,689,896 to a foreign affiliate during the 2004 and 2005 calendar years.

Respectfully submitted,

JOHN A. DiCICCO
Principal Deputy Assistant Attorney General

/s/ Philip Schreiber
PHILIP M. SCHREIBER
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 14198
Washington, DC 20044
Telephone: (202) 514-6069
Facsimile: (202) 514-9868
Philip.M.Schreiber@usdoj.gov

Of Counsel:
WIFREDO A. FERRER
United States Attorney

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

IN RE:

WELLINGTON PRESERVE,
CORPORATION,

Debtor.

Case No. 10-22049-EPK
Chapter 11

CERTIFICATE OF SERVICE

I certify that on October 6, 2011, I served the foregoing on counsel of record identified below via first-class U.S. Mail.

Ronald G. Neiwirth
Boyd & Jenerette, P.A.
One Brickell Square
801 Brickell Avenue, Suite 1440
Miami, FL 33131

/s/ Philip Schreiber
PHILIP M. SCHREIBER
Trial Attorney, Tax Division
United States Department of Justice



U.S. Department of Justice

Tax Division

Civil Trial Section, Southern Region

Trial Attorney: Philip M. Schreiber
Attorney's Direct Line: (202) 514-6069
Facsimile Nos. (202) 514-4963 or 514-9868

Mailing Address:
P. O. Box 14198
Washington, DC 20044

Street address:
555 4th St., NW, Ste. 6709
Washington, DC 20001

5-18-24402
CMN 2011101714

November 16, 2011

By Electronic Mail

Ronald G. Neiwirth
Boyd & Jenerette, P.A.
801 Brickell Ave, Suite 1440
Miami, FL 33131
rneiwirth@boyd-jenerette.com

Re: In re: Wellington Preserve Corporation, 10-22049-EPK (S.D. Fla. Br.)

Dear Mr. Neiwirth:

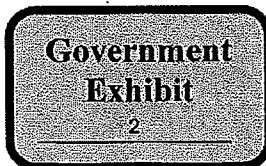
On October 6, 2011, the United States served discovery requests and interrogatories on the debtor, Wellington Preserve Corporation. WPC's discovery responses were due on November 10, 2011. You have not provided the United States with WPC's responses, nor have I received any requests for an extension.

Your responses to the United States' discovery requests and interrogatories are therefore overdue. Moreover, pursuant to Federal Rule of Civil Procedure 36, the requests for admission are deemed admitted, and you may not withdraw or amend those admissions without leave of the Court. *See* Fed. R. Civ. P. 36(b).

I am sure you understand that I would like all of WPC's discovery responses and requested documents well before Mr. Gomez's deposition on December 2nd. Accordingly, if you do not respond to our discovery requests by November 22, 2011, I will file a motion to compel with the Court. If you have any questions, please contact me at (202) 514-6069.

Sincerely yours,

PHILIP M. SCHREIBER
Trial Attorney, Civil Trial Section
Southern Region



Schreiber, Philip M. (TAX)

From: Schreiber, Philip M. (TAX)
Sent: Wednesday, December 07, 2011 12:12 PM
To: Ronald G. Neiwirth
Cc: hgordon@fowler-white.com
Subject: 2nd Set of Discovery Requests
Attachments: WPC -- US' 2nd Set of Discovery.pdf

Ron,

Attached please find a courtesy copy of the United States' second set of discovery requests. A hardcopy is being put in the mail today.

Given the holidays and the January deadline for the close of discovery, I am growing increasingly concerned regarding the lack of WPC's response to the United States' first set of interrogatories (I'm assuming the document production is complete and that your responses will confirm that). Accordingly – and I know I've said this before – but I will file a motion to compel by early next week if I am not in receipt of WPC's discovery responses.

Please let me know if you have any questions.

Best,

Phil

Philip M. Schreiber
Trial Attorney
U.S. Department of Justice
Tax Division
Civil Trial Section - Southern Region
P.O. Box 14198
Washington, DC 20044
or, for Federal Express or UPS:
555 4th Street, NW, Room 6709
Washington, DC 20001
Telephone: (202) 514-6069
Facsimile: (202) 514-9868

The information contained in this communication is confidential and may be subject to disclosure limitations under Rule 6(e) of the Federal Rules of Criminal Procedure and 26 U.S.C. § 6103. The information is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient identified above, or the employee or agent responsible for delivering it to the recipient, you are hereby notified that any use, dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender identified above by telephone and e-mail, and delete this message.



UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

IN RE:

WELLINGTON PRESERVE,
CORPORATION,

Case No. 10-22049-EPK
Chapter 11

Debtor.

UNITED STATES OF AMERICA'S MOTION TO COMPEL

Creditor the United States of America, through counsel, moves to compel Wellington Preserve Corporation, ("WPC") to provide a response to the United States' first set of requests for production and interrogatories, pursuant to Local Rules 9014-1, 7026-1, and Rules 7007 and 7026 of the Federal Rules of Bankruptcy Procedure. Those discovery requests were served on WPC's counsel on October 6, 2011. WPC's responses were due on November 10, 2011; however, WPC has neglected its most basic discovery obligations by failing to respond in writing to the United States' requests for production and interrogatories.

By way of background, the IRS filed a proof of claim in this case for income taxes WPC reported on its income tax return for the 2005 tax year. WPC subsequently objected, making two primary objections to the IRS' proof of claim, only the first of which is relevant for this motion. WPC, now under new management, disputes the amount of the tax liability that it reported on its 2005 income tax return. Specifically, WPC alleges that it incorrectly reported items on its tax return stemming from inter-companies loans — and interest payments on the loans — between WPC and a foreign affiliate company. In fact, WPC disputes the existence of those interest payments, despite abundant evidence to the contrary. This dispute is important because WPC was required to withhold a portion of those interest payments and remit them to the IRS, but

failed to do so. And, the interest payments largely provide for the IRS' basis for its proof of claim for the 2005 tax year.

Accordingly, because a determination of WPC's 2005 tax liability involves a review of documents and depositions of witnesses, over the past few months, the United States has been engaged in discovery. As part of its discovery, on October 6, 2011, the United States served on WPC its First Set of Requests for Production, Interrogatories and Requests for Admission. (Ex. 1.) Although Local Rule 9014-1(B) provides that a document request must be responded to within 14 days of service, the United States provided WPC with 30 days to respond to its discovery requests. WPC's responses were thus due on November 10, 2011. To date, the United States has not received a written response to its discovery requests, including its interrogatories.¹

The United States has repeatedly asked WPC for the status of the discovery responses, but has not been able to secure a commitment to respond from WPC's counsel. On November 16, 2011, the United States sent WPC a letter regarding the delay in a response. (Nov. 16, 2011 letter, attached as Ex. 2). On November 23, 2011, WPC produced certain documents to the United States but again failed to provide a written response to the requests for production and the interrogatories. Thus, the United States does not know if the documents produced are all of the responsive documents WPC intends to produce in response to the requests, whether any documents are being withheld for privilege, or whether WPC is lodging any other objection with regard to the requests for production.

¹ Although the United States also served requests for admission, WPC's lack of a response within 30 days means that the matters therein are admitted. *See* Fed. R. Civ. P. 36(a)(3) (incorporated via Bankruptcy Rule 7036). The United States' motion to compel, therefore, does not seek a court order compelling WPC's responses to the United States' requests for admission.

A week after WPC produced these documents, the United States, on December 2, 2011, took the deposition of Craig Gomez, current President of WPC.² On December 7, 2011, while the United States was serving additional discovery requests, government counsel informed counsel for WPC that “[g]iven the holidays and the January [19, 2012] deadline for the close of discovery, I am growing increasingly concerned regarding the lack of WPC’s response to the United States’” first set of discovery. The United States further informed WPC that, if it did not provide its responses by early the following week, the United States would file a motion to compel. (See Dec. 7, 2011 e-mail, attached as Ex. 3.) No response from WPC has been forthcoming.

WHEREFORE, the United States respectfully requests that this Court compel WPC to provide written responses to its first set of requests for production and interrogatories.

Respectfully submitted,

JOHN A. DiCICCO
Principal Deputy Assistant Attorney General

/s/ Philip Schreiber
PHILIP M. SCHREIBER
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 14198
Washington, DC 20044
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Of Counsel:
WIFREDO A. FERRER
United States Attorney

² At the deposition, counsel for WPC stated that he was still working on the written responses to the discovery requests but was confused by one of the terms in the United States’ requests, which could be interpreted narrowly or broadly. Counsel for the United States responded that the parties can discuss the definition at a later date, but that the default position should be an interpretation using the broader definition. This was the last, and only, question from WPC’s counsel regarding the discovery requests, and WPC has not followed up on this inquiry.

CERTIFICATE OF COUNSEL PURSUANT TO LOCAL RULE 7026-1(F)

I hereby certify that I have conferred with the attorney for the opposing party in a good-faith effort to resolve by agreement the issues raised in this motion, and that I have been unable to do so.

/s/ Philip Schreiber
PHILIP M. SCHREIBER

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

IN RE:

WELLINGTON PRESERVE,
CORPORATION,

Case No. 10-22049-EPK
Chapter 11

Debtor.

_____ /

CERTIFICATE OF SERVICE

I certify that on December 12, 2011, I electronically filed the foregoing Motion to Compel with the Clerk of the Court using CM/ECF, which transmits the document to all counsel of record identified below via Notices of Electronic Filing.

Ronald G. Neiwirth
Boyd & Jenerette, P.A.
One Brickell Square
801 Brickell Avenue, Suite 1440
Miami, FL 33131

/s/ Philip Schreiber
PHILIP M. SCHREIBER
Trial Attorney, Tax Division
United States Department of Justice

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

IN RE:

WELLINGTON PRESERVE,
CORPORATION,

Debtor.

Case No. 10-22049-EPK
Chapter 11

ORDER GRANTING THE UNITED STATES' MOTION TO COMPEL

THIS CAUSE came before the Court upon Creditor the United States' Motion to Compel. The Court having reviewed the motion, its exhibits, any response and any reply, and the Court being otherwise fully advised, it is

ORDERED, that:

1. The Motion is **GRANTED**. Wellington Preserve Corporation shall provide written responses to the United States' First Set of Requests for Production and Interrogatories within 7 days of this Order.

#

Conformed Copies to:

Ronald G. Neiwirth, Esq.
Office of the U.S. Trustee

Mr. Neiwirth to serve a copy of this Order to all parties in interest and file a Certificate of Service with the Court.



ORDERED in the Southern District of Florida on December 20, 2011.

A handwritten signature in black ink, appearing to read "Erik P. Kimball".

Erik P. Kimball, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

In re:

Case No. 10-22049-EPK

WELLINGTON PRESERVE
CORPORATION,

Chapter 11

Debtor.
_____ /

**ORDER CONTINUING HEARING ON SUPPLEMENTAL FINAL FEE
APPLICATION FOR FAILURE TO PROVIDE REQUIRED NOTICE**

This matter came before the Court on the *Summary of Supplemental Final Fee Application of Cherry, Bekaert & Holland, L.L.P., Accountants to the Debtor* [ECF No. 237] (the "Application") filed by Jamie J. Byington and the firm of Cherry, Bekaert & Holland (the "Applicant").

Pursuant to Local Rule 9073-1(A), the clerk issued the *Notice of Hearing* [ECF No. 238], setting the Application for hearing on December 21, 2011. Local Rule 9073-1(B) required the Applicant to immediately serve the Notice of Hearing and file, not later than two business days after service of the Notice of Hearing, a certificate of service for the Notice of Hearing as required under Local Rule 2002-1(F). Local Rule 9073-1(B) provides that a request for relief as to which a notice of hearing is not timely served or a certificate of service timely filed may be denied *sua sponte* by the Court without further notice or hearing. The Applicant filed no certificate of service with regard to the Notice of Hearing.

Under the circumstances of this case, the Court finds that there has not been adequate notice of the hearing scheduled on the Application.

As a result, it is ORDERED that:

1. The hearing on the Application will be continued to **1:30 p.m.** on **January 19, 2012** at the United States Bankruptcy Court, The Flagler Waterview Building, 1515 North Flagler Drive, 8th Floor, Courtroom B, West Palm Beach, Florida 33401.
2. The Applicant shall serve the notice of the January 19, 2012 hearing on all required parties and file a certificate of service with the Court as required by Local Rule 9073-1(B).
3. In the future, if counsel who filed the Application fails to comply with Local Rule 9073-1(B) on this or any matter, the Court may order monetary sanctions.

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Copies furnished to:

Ronald G. Neiworth

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
West Palm Beach Division

In Re:

Case No.: 10-22049-EPK

WELLINGTON PRESERVE CORPORATION,

Reorganized Debtor.

**NOTICE OF WITHDRAWAL OF REORGANIZED DEBTOR'S MOTION TO
AMEND PLAN AND TO APPROVE PURCHASE AND SALE AGREEMENT FOR
REAL ESTATE BETWEEN DEBTOR AND THE OXFORD LIMITED LIABILITY
COMPANY (ECF NO. 231)**

Wellington Preserve Corp., the Reorganized Debtor, respectfully gives notice to the Court and any other interested parties of its withdrawal of the above-noted Motion. The reason for the withdrawal is that the proposed real estate purchaser, The Oxford Limited Liability Company, withdrew from the transaction just prior to the expiration of its "due diligence", thereby mooting the Motion of this Reorganized Debtor.

The Reorganized Debtor anticipates filing a similar Motion upon negotiation of a further Contract for Sale of its remaining real property.

Respectfully submitted,

/s/ Ronald G. Neiwirth

Ronald G. Neiwirth

Fla. Bar No. 152175

BOYD & JENERETTE, P.A.

One Brickell Square

801 Brickell Avenue, Suite 1440

Miami, FL 33131

Telephone: (305) 537-9111

Facsimile: (305) 537-9130

rneiwirth@boyd-jenerette.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th December 2011 electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Ronald G. Neiwirth
Ronald G. Neiwirth

Service List:

**CLICO Enterprises, Ltd.
c/o Craig A. (Tony) Gomez, Liquidator
P.O. Box N 1991
28 Cumberland Street
Nassau Bahamas**

**CLICO (Bahamas) Limited
c/o Craig A. (Tony) Gomez
P.O. Box N 1991
28 Cumberland Street
Nassau, Bahamas**

**Village of Wellington
12794 W. Forest Hill Blvd
Suite 23
West Palm Beach, FL 33414**

**Jamie J. Byington
255 Alhambra Circle
#900
Coral Gables, FL 33134-7420**

**Office of the U.S. Trustee
51 S.W. First Avenue, 12th Fl
Miami, FL 33130**

**F. Martin Perry
Perry & Taylor, P.A.
2401 PGA Blvd., # 110
Palm Beach Gardens, FL 33410-3515**

**Philip M. Schreiber
U.S. Department of Justice, Tax Division
POB 14198
Washington, DC 20044**



ORDERED in the Southern District of Florida on December 28, 2011.

Erik P. Kimball, Judge
United States Bankruptcy Court

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**

West Palm Beach Division

IN RE: Case No. 10-22049-EPK

WELLINGTON PRESERVE CORP., Chapter 11

Debtor.

_____ /

**ORDER GRANTING SECOND SUPPLEMENT TO FINAL FEE
APPLICATION OF BOYD & JENERETTE, P.A.,
COUNSEL TO THE DEBTOR (D.E. #239)**

THIS MATTER came before the Court on December 21, 2011, the date set for hearing with respect to Boyd & Jenerette, P.A.'s Second Supplement to Final Fee Application (D.E. #239) (the "Application").

The Reorganized Debtor had confirmed a liquidating Plan on May 16, 2011, and the services covered by the Second Supplement were all undertaken

post-confirmation. Ronald G. Neiwirth, lead counsel for the DIP, also changed firms and moved to Boyd & Jenerette, P.A. as of June 2011, following confirmation. Under these peculiar circumstances, this Court holds that it was not necessary for the Reorganized Debtor to file an application for leave to retain Boyd & Jenerette, P.A. for post-confirmation representation, although this Court still retains jurisdiction of the payment of fees by the Reorganized Debtor in connection with the completion of its Plan. The Court having reviewed the Application, having heard comments by interested parties, and being otherwise fully advised in the premises finds that the following allowances are reasonable under the applicable provisions of the Bankruptcy Code. Accordingly, it is

ORDERED as follows:

1. Boyd & Jenerette, P.A. is allowed the sum of \$49,103.10 (100% of the fee request) together with expenses in the amount of \$687.36 (100% of the expense request), for a total of \$49,790.46, for the period June 2, 2011 through October 30, 2011. Wellington Preserve Corporation is authorized to disburse said sum to Boyd & Jenerette, P.A.

2. The Reorganized Debtor shall have discretion as of the timing of payment of the allowed fees and costs in consideration of preserving liquidity of the Reorganized Debtor.
2. In allowing the foregoing fees, the Court has considered the criteria in 11 U.S.C. §§ 326 and 330 and the requirements of Bankruptcy Rule 2016 in light of principles states in *Norman v. Housing Authority of Montgomery*, 836 F.2d 1292, 1299 (11th Cir. 1988); *Pennsylvania v. Delaware Valley Citizen's Council for Clean Air*, 478 U.S. 546 (1986); *Blum v. Stenson*, 465 U.S. 86, 897 (1984); *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983); each of the factors that govern the reasonableness of fees as set forth in *Matter of First Colonial Corp. of America*, 544 F.2d 1291 (5th Cir. 1977); and *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974). Specific findings and a statement of the facts and considerations supporting each of these conclusions have been omitted in the interest of brevity but will be prepared and filed at the request of any party if received by this Court within ten (10) days after the entry of this Order.

3. This Order is without prejudice to the right of Ronald G. Neiwirth and Boyd & Jenerette, P.A. to seek payment for services rendered and costs expended subsequent to October 30, 2011.

#

Conformed copies to:

Ronald G. Neiwirth, Esq.
Boyd & Jenerette, P.A.
One Brickell Square
801 Brickell Ave., # 1440
Miami, FL 33131
rneiwirth@boyd-jenerette.com

Mf. Neiwirth to serve a conformed copy of this Order to all parties in interest and file a Certificate of Service with the Court
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ORDERED in the Southern District of Florida on December 28, 2011.

Erik P. Kimball, Judge
United States Bankruptcy Court

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
West Palm Beach Division

IN RE: Case No. 10-22049-EPK
WELLINGTON PRESERVE CORP., Chapter 11
Debtor.

**ORDER GRANTING SECOND SUPPLEMENT TO FINAL FEE
APPLICATION OF FOWLER WHITE BURNETT, P.A. (Doc # 240)**

THIS MATTER came before the Court on December 21, 2012, the date set for hearing with respect to Fowler White Burnett's Second Supplement to Final Fee Application (Doc # 240), (the "Application"). The Court having reviewed the Application, having heard comments, if any, by interested parties, and being otherwise

Case No. 10-22049-EPK

fully advised in the premises finds that the following allowances are reasonable under the applicable provisions of the Bankruptcy Code. Accordingly, it is

ORDERED as follows:

1. Fowler White Burnett is allowed the sum of \$103,243.00 (100% of the fee requested), together with expenses in the amount of \$3,249.28 (100% of the expense request), for a total of \$106,492.48, for the period June 1, 2011 through October 30, 2011. Wellington Preserve Corporation is authorized to disburse said sum to Boyd-Jenerette, P.A.
2. The Reorganized Debtor shall have discretion as of the timing of payment of the allowed fees and costs in consideration of preserving liquidity of the Reorganized Debtor.
3. In allowing the foregoing fees; the Court has considered the criteria in 11 U.S.C. §§ 326 and 330 and the requirements of Bankruptcy Rule 2016 in light of principles states in *Norman v. Housing Authority of Montgomery*, 836 F.2d 1292, 1299 (11th Cir. 1988); *Pennsylvania v. Delaware Valley Citizen's Council for Clean Air*, 478 U.S. 546 (1986); *Blum v. Stenson*, 465 U.S. 86, 897 (1984); *Hensley v.*

Case No. 10-22049-EPK

Eckerhart, 461 U.S. 424, 433 (1983); each of the factors that govern the reasonableness of fees as set forth in *Matter of First Colonial Corp. of America*, 544 F.2d 1291 (5th Cir. 1977); and *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974). Specific findings and a statement of the facts and considerations supporting each of these conclusions have been omitted in the interest of brevity but will be prepared and filed at the request of any party if received by this Court within ten (10) days after the entry of this Order.

4. This Order is without prejudice to the right of Norman Weil, Esq., and of Fowler White Burnett, P.A., to seek payment for services rendered and costs expended subsequent to October 30, 2011.

#

Conformed copies to:

Norman Weil, Esq.
Ronald G. Neiwirth, Esq.

Mr. Neiwirth to serve a conformed copy of this Order to all parties in interest and file a Certificate of Service with the Court
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