

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

**JOINTLY ADMINISTERED UNDER
CASE NO. 08-46617**

Polaroid Corporation, et al.,

Court File No. 08-46617

Debtors.

Court File Nos:

(includes:

Polaroid Holding Company;
Polaroid Consumer Electronics, LLC;
Polaroid Capital, LLC;
Polaroid Latin America I Corporation;
Polaroid Asia Pacific LLC;
Polaroid International Holding LLC;
Polaroid New Bedford Real Estate, LLC;
Polaroid Norwood Real Estate, LLC;
Polaroid Waltham Real Estate, LLC)

08-46621 (GFK)
08-46620 (GFK)
08-46623 (GFK)
08-46624 (GFK)
08-46625 (GFK)
08-46626 (GFK)
08-46627 (GFK)
08-46628 (GFK)
08-46629 (GFK)

Chapter 11 Cases
Judge Gregory F. Kishel

**NOTICE OF HEARING AND MOTION TO AUTHORIZE JOINT REIMBURSEMENT
AND RECOVERY AGREEMENT**

TO: The entities specified in Local Rule 9013-3(a)

1. John R. Stoebner, Chapter 7 Bankruptcy Trustee of PBE Corporation, formerly known as Polaroid Corporation (“Polaroid Trustee”), and its affiliated debtors in the above-referenced bankruptcy proceedings (collectively, the “Polaroid Debtors”), respectfully requests that the Court enter an order authorizing and approving a joint reimbursement and recovery agreement (“Agreement”) among the Polaroid Trustee, Douglas Kelley, Chapter 11 Bankruptcy Trustee for Petters Company, Inc. and Petters Group Worldwide, LLC (“Petters Trustee”) and its affiliated debtors jointly administered as Case No. 08-45257 (collectively, the “Petters Debtors”), and Randall Seaver, Chapter 7 Bankruptcy Trustee for Petters Capital, LLC (“Petters Capital Trustee”), and gives notice of hearing.

2. The Court will hold a hearing on this Motion before the Honorable Gregory F. Kishel, at 10:00 a.m. on November 8, 2010, in Courtroom 2A, United States Courthouse, 316 North Robert Street, St. Paul, MN 55101.

3. Local Rule 9006-1(c) provides deadlines for responses to this Motion. Any response to this Motion must be filed and served by delivery or by mail no later than Wednesday, November 3, 2010, which is five days before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING UNDER LOCAL RULE 9013-2(f).**

JURISDICTION

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, Fed. R. Bankr. P. 5005 and Local Rule 1070-1. This Motion is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

5. This Motion arises under Federal Rules of Bankruptcy Procedure 2002, 6004, and 9019. This Motion is filed under Fed. R. Bankr. P. 9013 and Local Rules 2002-1, 6004-1, 9013-1 through 3 and 9019-1.

BACKGROUND

6. Douglas Kelley was appointed as the Receiver for various entities, including Petters Group Worldwide, Petters Capital, LLC, and Petters Company, Inc., by the United States District Court for the District of Minnesota on October 6, 2008.

7. Petitions commencing the Chapter 11 cases of the Polaroid Debtors were filed on December 18, 2008, and the cases were converted to Chapter 7 on August 31, 2009. The Polaroid Trustee was appointed on September 1, 2009.

8. Petitions commencing the Chapter 11 cases of Petters Company, Inc. and its affiliated debtors were filed on October 11, 2008. The cases are jointly administered under case number 08-45257. On February 26, 2009, the Petters Trustee was appointed.

9. A petition commencing the Chapter 7 case of Petters Capital, LLC was filed on June 12, 2009 in the Court, and the Petters Capital Trustee was appointed shortly thereafter.

10. The Polaroid Trustee, Petters Trustee and Petters Capital Trustee (collectively, the “Trustees”) believe that their respective estates have claims against one or more of the following: JPMorgan Chase & Co., JPMorgan Chase Bank, N.A., One Equity Partners LLC, Jacques A. Nasser, Lee M. Gardner, Charles F. Auster, James W. Koven, Rick A. Lazio, J. Michael Pocock, William L. Flaherty, and Ira H. Parker (collectively, “Defendants”). On October 10, 2010, the Trustees each filed an adversary proceeding in this Court against the Defendants.¹

11. The Trustees likely have overlapping or competing claims against the Defendants as a result of the ways funds were transferred and obligations incurred in connection with the Ponzi scheme to which Petters Group Worldwide and Petters Company Inc. have pled guilty. The Agreement to share costs and potential recoveries from claims against the Defendants resolves potential disputes that might otherwise arise among the Trustees in the course of the litigation. The Trustees believe that this compromise is fair and that it is in the best interest of their respective estates to jointly pursue claims against the Defendants to minimize costs and maximize benefits to each of their estates.

12. Accordingly, the Trustees and their counsel have negotiated the terms of the allocation of fees and expenses and recoveries among the estates in connection with their pursuit and prosecution of the claims against the Defendants, and as of October 8, 2010, the Trustees entered into the Agreement, subject to this Court’s approval.

¹ The Trustees will separately move to consolidate these adversary proceedings.

13. Because the information contained in the Agreement regarding specific sharing percentages could put the estates at a disadvantage in the litigation or in settlement negotiations, the Polaroid Trustee is moving to file the Agreement under seal, but provides the following summary of the terms of the Agreement, together with a redacted form of the Agreement attached as Exhibit A to this Motion:

(a) All professional fees and expenses to be paid by the estates are subject to the applicable provisions and procedures under the Bankruptcy Code, Bankruptcy Rules, and Local Rules; however, portions of the fee applications relating to the claims against the Defendants may be filed under seal or with redactions to the extent the disclosure of such confidential or privileged information may be harmful to the Trustees' pursuit of the claims. No fees or expenses will be paid unless allowed by the Court.

(b) Any proceeds recovered through the successful pursuit or prosecution of claims against the Defendants, after reimbursement of allowed fees and expenses, shall be distributed among the estates as set forth in the Agreement.

(c) Upon resolution of claims against the Defendants, the Trustees agree that the full terms of the Agreement shall be unsealed and the Court may review and adjust, on an equitable basis, the allocation of expenses or recoveries notwithstanding the terms of the Agreement.

(d) Fees and expenses incurred by the Petters Trustee and/or Douglas Kelley as Receiver before September 1, 2010 in connection with the claims against the Defendants will be allocated in the same manner as other fees and expenses under the Agreement. This preliminary work has been shared with the Polaroid Trustee and will be used in the joint pursuit of claims against the Defendants. This allocation results in an administrative expense claim against the estates of the Polaroid Debtors, and the Polaroid Trustee, the Petters Trustee and/or Douglas Kelley as Receiver will request administrative expense claim approval for these amounts.

14. The Petters Trustee and the Petters Capital Trustee are filing similar motions in their respective cases for authorization and approval of the Agreement.

15. If testimony is needed at the hearing on this motion, the Polaroid Trustee gives notice that he may testify as to the factual matters raised in the Motion.

RELIEF REQUESTED

16. The Polaroid Trustee believes that the Agreement is in the best interests of his estates and requests that the Court enter an order authorizing and approving the Agreement and for such other and further relief as the Court deems just and equitable.

Dated: October 15, 2010

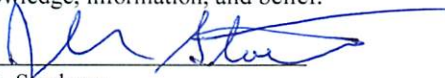
FAEGRE & BENSON LLP

/e/ Theresa H. Dykoschak
Dennis M. Ryan (#161275)
Theresa H. Dykoschak (#0349999)
90 South Seventh Street
2200 Wells Fargo Center
Minneapolis, MN 55402
Phone: (612) 766-7000
Fax: (612) 766-1600

Attorneys for John R. Stoebner, as Chapter 7
Trustee for the Polaroid Debtors

VERIFICATION

The undersigned declares under penalty of perjury that the facts contained in the foregoing Motion are true and correct to the best of my knowledge, information, and belief.



John R. Stuebner

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

**JOINTLY ADMINISTERED UNDER
CASE NO. 08-46617**

Polaroid Corporation, et al.,

Court File No. 08-46617

Debtors.

Court File Nos:

(includes:

Polaroid Holding Company;
Polaroid Consumer Electronics, LLC;
Polaroid Capital, LLC;
Polaroid Latin America I Corporation;
Polaroid Asia Pacific LLC;
Polaroid International Holding LLC;
Polaroid New Bedford Real Estate, LLC;
Polaroid Norwood Real Estate, LLC;
Polaroid Waltham Real Estate, LLC)

08-46621 (GFK)
08-46620 (GFK)
08-46623 (GFK)
08-46624 (GFK)
08-46625 (GFK)
08-46626 (GFK)
08-46627 (GFK)
08-46628 (GFK)
08-46629 (GFK)

Chapter 11 Cases
Judge Gregory F. Kishel

**MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO AUTHORIZE JOINT REIMBURSEMENT
AND RECOVERY AGREEMENT**

1. John R. Stuebner, Chapter 7 Bankruptcy Trustee of PBE Corporation, formerly known as Polaroid Corporation (“Polaroid Trustee”), and its affiliated debtors in the above-referenced bankruptcy proceedings (collectively, the “Polaroid Debtors”), submits this memorandum of law in support of his motion to approve and authorize the Agreement and requests that the Court approve and authorize the Agreement under Fed. R. Bankr. P. 9019. Capitalized terms not otherwise defined herein shall have the meanings given to such terms in the motion filed in connection herewith (“Motion”).

FACTS

2. The factual basis for this Memorandum is set forth in the Motion and is incorporated as if fully set forth herein.

DISCUSSION

3. The Polaroid Trustee, the Petters Trustee, and the Petters Capital Trustee (collectively, the “Trustees”) likely have overlapping or competing claims against the Defendants as a result of the ways funds were transferred and obligations incurred in connection with the Ponzi scheme to which Petters Group Worldwide and Petters Company Inc. have pled guilty. The Agreement to share costs and potential recoveries from claims against the Defendants resolves potential disputes that might otherwise arise among the Trustees in the course of the litigation. The Trustees believe this compromise is fair and in the best interests of their respective estates.

4. Approval or disapproval of a proposed settlement or compromise is committed to the discretion of the Bankruptcy Court. *ReGen Capital III, Inc. v. Official Committee of Unsecured Creditors (In re Trism, Inc.)*, 282 B.R. 662, 667 (8th Cir. B.A.P. 2002). Federal Rule of Bankruptcy Procedure 9019(a) authorizes the court to approve a compromise or settlement that is in the best interests of the estates and their creditors. Fed. R. Bankr. P. 9019(a). Settlements are generally favored in bankruptcy. *Justine Realty Co. v. Am. Nat’l Can Co.*, 976 F.2d 385, 391 (8th Cir. 1992). Indeed, settlements in bankruptcy allow a debtor and its creditors to avoid the expense and burden associated with litigation.

5. In deciding whether to approve a proposed settlement, the Court considers the following factors: (a) the probability of success in any pending litigation; (b) the difficulties in collection of any judgment that might be obtained; (c) the complexities of any litigation and the expense, inconvenience, and delay necessarily attending it; (d) the paramount interest of

creditors; and (e) whether conclusion of the litigation promotes the integrity of the judicial system. *In re Meyer*, 105 B.R. 920, 923 (Bankr. D. Minn. 1989) (citing *Drexel v. Lumis*, 35 F.2d 800, 806 (8th Cir. 1929)); *Lindquist v. First Northtown Nat'l Bank (In re Lakeland Dev. Corp.)*, 48 B.R. 85, 90 (Bankr. D. Minn. 1985); *American Plant Food Corp. v. United Agri Prods., Inc. (In re Farmland Indus., Inc.)*, 289 B.R. 122, 127 (B.A.P. 8th Cir. 2003). These factors seek to balance the probable benefit and potential cost of pursuing a claim or defense against the costs of the proposed settlement.

6. In the present case there is no litigation pending between the estates but the Trustees each have identified potential disputes that might arise among them in the course of pursuing their joint Complaint against the Defendants. Resolution of potential disputes regarding the allocation of costs during the litigation and the relative shares of each group of estates in the event of a settlement or favorable judgment allows the Trustees to focus their resources on the efficient prosecution of the Complaint.

7. Here, the Polaroid Trustee requests that the Court approve the Agreement because it provides a compromise or settlement ahead of time, avoiding disputes or litigation over the allocation of fees and expenses or the distribution of recoveries. This result promotes the integrity of the judicial system because it supports compromises among parties and facilitates the efficient resolution of potential disputes before they occur. Moreover, the Agreement is in the best interests of creditors because it seeks to avoid the fees and expenses that might be incurred to resolve these disputes among the Trustees in the future.

8. Most importantly, the Trustees seek only provisional approval of their compromise. At the conclusion of the litigation, the full terms of the Agreement will be made public. The Court will then have the opportunity – with the benefit of hindsight – to review the

allocations and make such adjustments as equity may require. With this protection, the interests of the creditors of each estate are not prejudiced by approval of the Agreement.

CONCLUSION

The Trustee respectfully requests that the Court enter an order approving and authorizing the Agreement.

Dated: October 15, 2010

FAEGRE & BENSON LLP

/e/ Theresa H. Dykoschak
Dennis M. Ryan (#161275)
Theresa H. Dykoschak (#0349999)
90 South Seventh Street
2200 Wells Fargo Center
Minneapolis, MN 55402
Phone: (612) 766-7000
Fax: (612) 766-1600

Attorneys for John R. Stoebner, as Chapter 7
Trustee for the Polaroid Debtors

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

**JOINTLY ADMINISTERED UNDER
CASE NO. 08-46617**

Polaroid Corporation, et al.,

Court File No. 08-46617

Debtors.

Court File Nos:

(includes:

Polaroid Holding Company;
Polaroid Consumer Electronics, LLC;
Polaroid Capital, LLC;
Polaroid Latin America I Corporation;
Polaroid Asia Pacific LLC;
Polaroid International Holding LLC;
Polaroid New Bedford Real Estate, LLC;
Polaroid Norwood Real Estate, LLC;
Polaroid Waltham Real Estate, LLC)

08-46621 (GFK)
08-46620 (GFK)
08-46623 (GFK)
08-46624 (GFK)
08-46625 (GFK)
08-46626 (GFK)
08-46627 (GFK)
08-46628 (GFK)
08-46629 (GFK)

Chapter 11 Cases
Judge Gregory F. Kishel

**ORDER GRANTING MOTION TO AUTHORIZE
JOINT REIMBURSEMENT AND RECOVERY AGREEMENT**

This matter came on for hearing before the Court on November 8, 2010, on the motion of the Chapter 7 Trustee in the above-referenced cases (“Polaroid Trustee”) to authorize and approve a joint reimbursement and recovery agreement (“Agreement”) among the Polaroid Trustee, Douglas Kelley, the Chapter 11 Trustee for Petters Company, Inc. and its affiliated debtors, and Randall Seaver, the Chapter 7 Trustee for Petters Capital, LLC.

IT IS HEREBY ORDERED:

1. The Agreement, as it relates to the above-referenced cases, is hereby authorized and approved.

2. The Polaroid Trustee is authorized to enter into the Agreement on behalf of the above-captioned bankruptcy estates (“Polaroid Debtors”) and is authorized to abide by and perform according to the terms of the Agreement.

Dated: _____, 2010

BY THE COURT:

Judge Gregory F. Kishel
United States Bankruptcy Judge

REDACTED
EXHIBIT A
TO MOTION TO
APPROVE AGREEMENT

JOINT REIMBURSEMENT AND RECOVERY AGREEMENT

This Joint Reimbursement and Recovery Agreement (this “Agreement”) is made as of October 8, 2010 by and among John Stoebner, Chapter 7 Bankruptcy Trustee of PBE Corporation, formerly known as Polaroid Corporation, (“Polaroid Trustee”) and its affiliated debtors, jointly administered as Case No. 08-46617 (collectively “Polaroid Estates”), Douglas Kelley, Chapter 11 Bankruptcy Trustee for Petters Company, Inc. and Petters Group Worldwide, LLC (“Petters Trustee”), and its affiliated debtors jointly administered as Case No. 08-45257 (collectively, the “Petters Estates”), and Randall L. Seaver, the Chapter 7 Bankruptcy Trustee of Petters Capital, LLC (“Petters Capital Trustee”, and together with the Polaroid Trustee and Petters Trustee, the “Trustees”).

RECITALS

Petitions commencing the Chapter 11 cases of Polaroid Corporation and its affiliated debtors were filed on December 18, 2008, in the United States Bankruptcy Court for the District of Minnesota (“Court”). The cases were converted to Chapter 7 on August 31, 2009, and the Polaroid Trustee was appointed on September 1, 2009.

Petitions commencing the Chapter 11 cases of Petters Company, Inc. and its affiliated debtors were filed on October 11, 2008 in the Court. On February 26, 2009, the Petters Trustee was appointed.

A petition commencing the Chapter 7 case of Petters Capital, LLC was filed on June 12, 2009 in the Court, and the Petters Capital Trustee was appointed shortly thereafter.

The Trustees believe that their respective estates have claims against one or more of the following entities: JPMorgan Chase & Co., JPMorgan Chase Bank, N.A., One Equity Partners LLC, Jacques A. Nasser, Lee M. Gardner, Charles F. Auster, James W. Koven, Rick A. Lazio, J. Michael Pocock, William L. Flaherty, and Ira H. Parker (collectively, “Defendants”).

Each estate’s claims against the Defendants may be based on different, as well as overlapping, legal theories that could support various recoveries by each estate.

The Trustees have concluded that it is in the best interest of each of their estates to jointly pursue claims against the Defendants. Such cooperation will minimize costs and maximize the benefits to each of their estates.

The Trustees have reached the following agreement regarding the allocation of costs and recoveries, if any, and the terms herein represent a compromise reached after consultations with counsel and arms-length negotiations among the Trustees.

AGREEMENT

NOW THEREFORE, for good and valuable consideration the receipt and sufficiency of which are acknowledged, the Trustees agree as follows:

1. **Expenses.**

- (i) **Pre-Agreement Fees and Expenses.** Before September 1, 2010, the Petters Trustee and/or Douglas Kelley as receiver incurred [REDACTED] in connection with analyzing and preparing to pursue claims against the Defendants. This preliminary work has been shared with the Polaroid Trustee and the Petters Capital Trustee and will be used in the joint pursuit of claims against the Defendants. The Trustees agree to allocate these fees and expenses previously advanced [REDACTED]. The Trustees further agree that these pre-Agreement fees and expenses are administrative expenses of the respective estates, and the Polaroid Trustee, Petters Trustee, and/or Douglas Kelley as Receiver will seek administrative expense claim status for the fees and expenses in connection with approval of this Agreement by the Court.
- (ii) **Post-Agreement Fees and Expenses.** All attorney's fees and expenses incurred on and after September 1, 2010, in connection with the pursuit or prosecution of claims against the Defendants will be advanced by the Trustees from their respective estates as follows: [REDACTED]
- (iii) **Court Approval of Fees and Expenses.** The professional fees and expenses are subject to Court approval and allowance in accordance with the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Rules before payment; however, the Trustees agree to file under seal or with appropriate redactions any attorney fee statements or other documents relating to the pursuit or prosecution of claims against the Defendants that may disclose attorney-client privileged or case strategy information.

2. **Recoveries.** Any proceeds recovered through the successful pursuit or prosecution of claims against the Defendants, whether obtained through settlement or payment of a judgment rendered against one or more of the Defendants ("Proceeds"), shall be allocated in the following order:

- (i) First, all fees and expenses incurred in connection with the pursuit or prosecution of claims against the Defendants and that are approved and allowed by the Court shall be reimbursed to the estate that advanced such fees and expenses.
- (ii) Second, the net Proceeds, after reimbursement of fees and expenses under (i), shall be distributed [REDACTED] for their respective estates.

3. **Sealed terms.** The Trustees agree that the disclosure of the terms of this Agreement or information in connection with their joint pursuit or prosecution of claims may put them at a disadvantage in litigation or in settlement negotiations. The Trustees agree to seek Court approval to file this Agreement under seal. The Trustees further agree to file fee applications under seal or with redactions to the extent the disclosure of such information may be harmful to the Trustees' pursuit of the claims.

4. **Amendment and adjustment of allocation amounts.** The parties may amend this Agreement or revise the allocation of fee and expense advances under Section 2(i) or distributions of net Proceeds under Section 2(ii) with written consent from all three Trustees and approval of the Court. Upon resolution of claims against the Defendants, the terms of this Agreement shall be unsealed and the Trustees agree that the Court may review and adjust, on an equitable basis, the allocation of expenses or recoveries in Sections 1 and 2.

5. **No agency.** This Agreement shall not create any agency or similar relationship among the parties. No party to this Agreement shall have authority to waive any applicable privilege or doctrine on behalf of any other party; nor shall any waiver of an applicable privilege or doctrine by the conduct of any party be construed to apply to any other party.

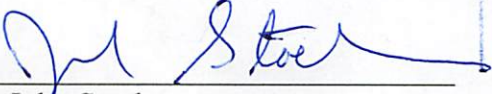
6. **Survival.** This Agreement shall survive the conversion of any of the cases to a case under Chapter 7 of the Bankruptcy Code or the effective date of a plan of reorganization or liquidation in any of the cases under Chapter 11 and shall be binding on any subsequent trustee or similar officer appointed therein or thereunder.

7. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Counterpart signatures to this Agreement delivered and received by facsimile or "pdf" shall be acceptable and binding on the party(ies) transmitting the same.

fb.us.5842418.01

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

By 
Name: John Stoebner
Title: Chapter 7 Trustee for PBE Corporation,
formerly known as Polaroid Corporation, and its
affiliated debtors

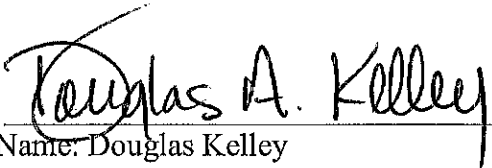
By _____
Name: Douglas Kelley
Title: Chapter 11 Trustee for Petters Capital, Inc.
and its affiliated debtors

By _____
Name: Randall Seaver
Title: Chapter 7 Trustee for Petters Capital LLC

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

By _____

Name: John Stuebner
Title: Chapter 7 Trustee for PBE Corporation,
formerly known as Polaroid Corporation, and its
affiliated debtors

By  _____

Name: Douglas Kelley
Title: Chapter 11 Trustee for Petters Capital, Inc.
and its affiliated debtors


By _____

Name: Randall Seaver
Title: Chapter 7 Trustee for Petters Capital LLC

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

By _____
Name: John Stuebner
Title: Chapter 7 Trustee for PBE Corporation,
formerly known as Polaroid Corporation, and its
affiliated debtors

By _____
Name: Douglas Kelley
Title: Chapter 11 Trustee for Petters Capital, Inc.
and its affiliated debtors

By  _____
Name: Randall Seaver
Title: Chapter 7 Trustee for Petters Capital LLC