

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION**

**IN RE:**

**PICCADILLY RESTAURANTS, LLC,  
*ET AL.*,**

**DEBTORS**

\* **CASE NO. 12-51127**  
\*  
\* **(JOINT ADMINISTRATION)<sup>1</sup>**  
\*  
\* **CHAPTER 11**  
\*  
\* **JUDGE ROBERT SUMMERHAYS**

**APPLICATION FOR ORDER AUTHORIZING THE EMPLOYMENT OF GA KEEN  
REALTY ADVISORS, LLC, AS SPECIAL REAL ESTATE ADVISOR TO THE  
DEBTORS, *NUNC PRO TUNC* TO NOVEMBER 14, 2012, PURSUANT  
TO SECTIONS 327(a) AND 328(a) OF THE BANKRUPTCY CODE**

**NOW INTO COURT**, through undersigned counsel, come the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”),<sup>2</sup> who submit this Application for Order, substantially in the form attached to this Application as Exhibit 3, Authorizing the Employment of GA Keen Realty Advisors, LLC, as Special Real Estate Advisors to the Debtors, *Nunc Pro Tunc* to November 14, 2012, Pursuant to Sections 327(a) and 328(a) of the Bankruptcy Code (the “Application”). In support of this Application, the Debtors state as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).

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<sup>1</sup> Jointly administered with *In re Piccadilly Food Service, LLC*, 12-51128 (Bankr. W.D. La. 2012), and *In re Piccadilly Investments, LLC*, 12-51129 (Bankr. W.D. La. 2012).

<sup>2</sup> The debtors in these Chapter 11 cases are Piccadilly Restaurants, LLC, Piccadilly Food Service, LLC and Piccadilly Investments, LLC.

## **BACKGROUND**

2. On September 11, 2012 (the “Petition Date”), the Debtors filed for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). The Debtors are operating their businesses and managing their properties as debtors-in-possession pursuant to Bankruptcy Code §§ 1107 and 1108.

3. No trustee or examiner has been appointed. An Official Committee of Unsecured Creditors (the “Unsecured Creditors’ Committee”) was appointed on October 23, 2012 in these procedurally consolidated Chapter 11 cases.

4. The Debtors’ cases are jointly administered (and are collectively referred to as the collectively, “Chapter 11 Case”), pursuant to Bankruptcy Code § 105(a) and Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

## **RELIEF REQUESTED**

5. By this Application, the Debtors respectfully request the entry of an order, substantially in the form attached to this Application as Exhibit 3, authorizing them to employ and retain the firm of GA Keen Realty Advisors, LLC (“Kean Realty”) to perform lease consulting and advisory services for the Debtors, pursuant to the terms and conditions of the Retention Agreement that is attached to this Application as Exhibit 1 (the “Retention Agreement”). In support of this Application, the Debtors submit as Exhibit 2 to this Application the Declaration of Mark Naughton, who is the Senior Vice President and General Counsel of Great American Group, LLC, the Managing Member of GA Keen Realty Advisors, LLC (the “Statement”).

## **BASIS FOR RELIEF**

6. This Court has the authority to grant this Application pursuant to Bankruptcy Code §§ 105, 327, 328, and 1107, Bankruptcy Rule 2014, and LBR 2014-1. Specifically,

Bankruptcy Code § 327(a) provides that the Debtors are permitted to employ professional persons “that do not hold or represent an interest adverse to the estate, and that are disinterested persons.” Section 328 of the Bankruptcy Code provides, in pertinent part, that under section 327 of the Bankruptcy Code a professional may be employed “on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed percentage fee basis, or on a contingent fee basis.” 11 U.S.C. §328(a).

7. Bankruptcy Code 2014 request that an application for retention of a professional include:

[S]pecific facts showing the necessity for the employment, the names of the person to be employed, the reasons for the selection, the professional services to be rendered, any proposed arrangement for compensation, and to the best of the applicant’s knowledge, all of the person’s connections with the debtor, creditors, and any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

8. By this Application, the Debtors request that the Court approve the employment and compensation arrangements described in the Retention Agreement attached as Exhibit 1, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code. The Debtors currently operate sixty-nine (69) restaurants. Those restaurants are operated on three (3) properties that are owned by the Debtors, and sixty-six (66) properties that are the subject of various leases of nonresidential real property. The employment arrangement described in the Retention Application will be beneficial to the Debtors’ estates, because it will provide the Debtors with much needed assistance in assessing and negotiating rent reductions at some of those leased locations.

9. Further, the Debtors believe the compensation arrangement detailed in the Retention Agreement provides both certainty and the proper inducement to Keen Realty to act expeditiously and prudently with respect to the matters for which it will be employed.

10. The retention of Keen Realty pursuant to the terms of the Retention Agreement is necessary to enable to the Debtors to best execute their duties as debtors-in-possession, achieve a successful reorganization, and maximize the value of the Debtors' estates.

### **KEEN REALTY'S QUALIFICATIONS**

11. The Debtors seek to retain Keen Realty as their as Special Real Estate Advisors based on Keen Realty's experience and knowledge in commercial lease and bankruptcy matters. Keen Realty has extensive experience in negotiating lease concessions and has proven experience with bankruptcy cases, including restaurant bankruptcy cases. After interviewing Keen's competitors, the Debtors believe that Keen Realty is well qualified to represent them as a special real estate advisor in this Chapter 11 Case. Keen Realty also offers competitive rates for the level of its expertise and the complexity of the services that it will provide.

### **SERVICES TO BE PROVIDED**

12. The services that Keen Realty will render as special real estate advisor for the Debtors may include, but are not limited to, the following:

- (a) Keen Realty will organize the lease information for the leased properties in a manner that clearly displays the site-level business and lease economics. Keen Realty and the Debtors will jointly establish negotiating goals and parameters, such as rent reductions, lease term modifications, and other leasehold concessions.

(b) Keen Realty will contact the landlord for the leased properties and will seek to negotiate with the landlord for modifications in accordance with the parameters established by the Debtors.

(c) Keen Realty will work with the landlords, the Debtors, and the Debtors' counsel to document all lease modification proposals.

### **SUMMARY OF THE TERMS OF RETENTION AGREEMENT**

13. The Retention Agreement envisions paying Keen Realty a one-time "Advisory Fee," that would be applied against a "Transaction Fee" Keen Realty would earn for savings earned from its services. Because the Debtors have reached decisions concerning some leased properties before deciding to retain Keen Realty, the Debtors negotiated a reduced "Consulting Fee" for a different type of services. Each of these types of services, and the fees associated with those services, is discussed below.

#### ***The Advisory Fee***

14. Subject to the Court's approval of this Application, the Debtors will pay Keen Realty, on the effective date of the Retention Agreement, an earned, non-refundable engagement fee of ten thousand dollars (\$10,000) (the "Advisory Fee"). The Advisory Fee, however, will be set-off against subsequently earned Transaction Fees (as discussed in Paragraph 14 below). (Schedule B, Section IV, Retention Agreement, Exhibit 1.)

#### ***The Transaction Fee and the Base Fee***

15. Keen Realty will earn, and the Debtors shall pay, on a per property basis, a transaction fee (the "Transaction Fee"), which is the greater of four thousand dollars (\$4,000) (the "Base Fee") or five percent (5%) of "savings" to be calculated as the difference between (a) the remaining leasehold liability payable by the Debtors before the execution of the

applicable modification agreement, and (b) the remaining leasehold liability payable by the Debtors following the lease modification agreement date. If the modification agreement creates non-monetary value but does not generate savings, Keen Realty will have earned and will be paid, on a per property basis, the Base Fee. (Articles II and IV, Retention Agreement; Exhibit 1.)

***The Consulting Fee for Certain Excluded Leases***

16. Before deciding to retain Keen Realty, the Debtors (a) identified certain select leases that it may seek to reject, and (b) undertook and, in some instances completed, the process of re-negotiating certain lease renewals or amendments. With respect to those leases, because the majority of the work has been completed, the Debtors believe that it is appropriate to exclude those properties from the normal five percent (5%) Transaction Fee (collectively, the “Excluded Leases”). More particularly, as to these Excluded Leases, the Debtors have performed many of the services it would otherwise request Keen Realty to perform before executing the Retention Agreement.

17. The Debtors may use Keen Realty’s assistance, however, (a) in analyzing whether the rejection of a particular Excluded Lease is appropriate, or negotiating a particular cap to a lease rejection claim, and (b) analyzing whether a particular Excluded Lease should be extended, modified or amended (collectively, the “Consulting Services”). For these Consulting Services, Keen Realty will be paid a Consulting Fee of \$1,000.00 per Excluded Lease if and only if Keen Realty seeks Keen Realty’s Consulting Services as to such Excluded Lease. After seeking the Consulting Services as to any Excluded Lease, if the Debtors determines that it needs assistance beyond the Consulting Services with respect to an Excluded Lease, such that Keen Realty would earn a Transaction Fee with respect thereto, the Consulting Fee would be deducted from Transaction Fee with respect to the Excluded Lease.

### ***Out of Pocket Expenses***

18. The Debtors would also advance Keen Realty a two thousand five hundred dollar (\$2,500) payment against out of pocket expenses (See Article III(A) of the Retention Agreement; Exhibit 1.) Keen Realty must seek Keen Realty's prior written approval for any single expense that exceeds \$1,000.

### ***Certain of the Other Features of Retention Agreement***

19. Pursuant to the Retention Agreement, Piccadilly Restaurants, LLC ("Restaurants") will agree to defend, indemnify and hold harmless Keen Realty, Great American Group, LLC, their respective affiliates, and their respective directors, officers, employees, agents, representatives and controlling persons (Keen Realty and each such entity or person being an "Indemnified Party"), from and against any and all losses, claims, damages, expenses and liabilities (collectively, "Losses"), as incurred, to which such Indemnified Party may become subject, related to or arising out of activities performed by or on behalf of an Indemnified Party pursuant to this Agreement, any transactions contemplated hereby, or the Indemnified Party's role in connection therewith. Restaurants shall have no obligation to indemnify and hold harmless an Indemnified Party for any Losses found in a final judgment by a Court of competent jurisdiction to have resulted primarily from actions taken or omitted to be taken by the Indemnified Party in bad faith or from the Indemnified Party's gross negligence or willful misconduct in performing the services described. (Schedule C to the Retention Agreement, Exhibit 1). For a full description of the indemnity and the other terms and conditions, reference should be made to the Retention Agreement.

20. Given the transactional nature of Keen Realty's engagement, Keen Realty will not be billing the Debtors by the hour, except in connection with certain litigation support and/or

time spent as a witness in contested matters, if necessary, and will not be keeping records of time spent for professional services rendered in this Chapter 11 Case. Keen Realty will be keeping, however, reasonably detailed descriptions of the services that are rendered pursuant to its engagement.

21. Accordingly, this Application seeks relief from any obligation to file a fee application to pay Keen Realty an Advisory Fee, Base Fee, Transactional Fee or Consulting Fee, or any out of pocket expenses, in accordance with the procedures set for in the Application and Retention Agreement.

### ***Conclusion***

22. The Debtors submit that Keen Realty's compensation structure is consistent with and typical of its normal and customary billing practices for comparable services in like-sized and similarly situated complex cases.

23. The Debtors submits that the engagement and retention of Keen Realty on the terms and conditions set forth in the Retention Agreement is in the best interest of the Debtors, their estates, and their creditors.

### **STATEMENT OF DISINTERESTEDNESS**

24. To the best of the Debtors' knowledge and belief, Keen Realty does not represent or hold any interest adverse to the Debtors or their estates and is a disinterested party as that term is defined in § 101 of the Bankruptcy Code, except as set forth in the attached Statement.

25. To the best of the Debtors' knowledge and belief, except as disclosed in the attached Statement, neither Keen Realty, nor any of its directors, officers, or employees (a) has any connection with the Debtors, creditors of the Debtors, the United States Trustee for the Western District of Louisiana, any person employed in the office of the United States Trustee, or



any other party with an actual or potential interest in the Case or their respective attorneys or accountants, (b) is a creditor, equity security holder, or insider of the Debtors, (c) is, or was within two years of the Petition Date, a director, officer, or employee of the Debtors, (d) holds or represents an interest adverse to the Debtors, the estates, or any class of creditors or equity-security holders, by reason of any direct or indirect relationship to, connection with, or interest in the Debtors, or for any other reason, or (e) is related to, whether by affinity or consanguinity, within the third degree, to the Debtors.

26. Keen Realty's compliance with requirements of Bankruptcy Rule 2014 is set forth in greater detail in the attached Statement.

#### **NOTICE**

27. Notice of this Motion has been given to (a) the secured creditor, through Atalaya Administrative, LLC, and its counsel of record, Brent R. McIlwain and David F. Waguespack, (b) the thirty (30) largest unsecured creditors, the identity of which may be amended from time to time, (c) the twenty (20) additional random unsecured creditors, (d) all parties who have requested special notice pursuant to Bankruptcy Rule 2002, (e) counsel for the Committee, and (f) the Office of the United States Trustee. The Debtors submit that no further notice is necessary for this Court to enter an Order granting the relief requested herein.

**WHEREFORE**, the Debtors pray that the Court enter an Order, substantially in the form attached to this Application as Exhibit 3, (i) granting this Application, (ii) authorizing the Debtors to retain and employ Keen Realty under the terms and conditions set forth in the Retention Agreement that is attached to this Application as Exhibit 1, and (iii) granting other general and equitable relief as is just and proper.

Respectfully submitted,

*/s/ Elizabeth J. Futrell*

R. PATRICK VANCE (#13008)

ELIZABETH J. FUTRELL (#05863)

MARK A. MINTZ (#31878)

TYLER J. RENCH (#34049)

Jones, Walker, Waechter, Poitevent,

Carrère & Denègre, L.L.P.

201 St. Charles Avenue, 51st Floor

New Orleans, Louisiana 70170

Telephone: (504) 582-8000/ Direct: (504) 582-8194

Direct Facsimile: (504) 589-8194

Email: [pvance@joneswalker.com](mailto:pvance@joneswalker.com)

Email: [efutrell@joneswalker.com](mailto:efutrell@joneswalker.com)

Email: [mmintz@joneswalker.com](mailto:mmintz@joneswalker.com)

Email: [trench@joneswalker.com](mailto:trench@joneswalker.com)

AND

PATRICK L. McCUNE (#31863)

Jones, Walker, Waechter, Poitevent,

Carrère & Denègre, L.L.P.

Four United Plaza

8555 United Plaza Blvd.

Baton Rouge, Louisiana 70809

Telephone: (225) 248-2150

Facsimile: (225) 248-3350

Email: [pmccune@joneswalker.com](mailto:pmccune@joneswalker.com)

**Attorneys for Piccadilly Restaurants, LLC,  
Piccadilly Food Service, LLC, and  
Piccadilly Investments, LLC**

# **Exhibit 1**

## RETENTION AGREEMENT

*Between*  
Piccadilly Restaurants LLC  
*and*  
GA Keen Realty Advisors, LLC

Date: November 15, 2012

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In consideration of the mutual agreements herein contained and subject to the entry of the "Order" (as defined below), "Company" (as defined below) hereby retains "GA Keen Realty" (as defined below) to act as Company's real estate advisor upon the terms and conditions set forth herein.

### I. Definitions

The following terms as used herein have the following meanings.

- A. "Bankruptcy Court" means the United States Bankruptcy Court for the Western District of Louisiana, Lafayette Division.
- B. "Code" means the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.*
- C. "Company" means Piccadilly Restaurants LLC.
- D. "GA Keen Realty" means GA Keen Realty Advisors, LLC the real estate division of Great American Group, LLC.
- E. "Effective Date" means the date of mutual execution of this Agreement.
- F. "Order" shall mean an Order issued by the Bankruptcy Court approving this Agreement.
- G. "Property" and "Properties" refers to Company's real property leaseholds listed on Schedule "A" attached hereto and incorporated by reference, which list may be supplemented without a further Order of the Bankruptcy Court, but does not include the Excluded Leases described on Schedule "B" attached hereto
- H. "Transaction" means any transaction involving the Company's pecuniary interests arising from or relating to GA Keen Realty's services rendered under this Agreement, including, but not limited to the modification, amendment or termination of a Property lease; provided, however, the Transaction does not include the Consulting Services defined herein.

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**II. Services**

Company hereby engages GA Keen Realty to perform the services provided on Schedule "B" attached hereto and incorporated by reference.

**III. Expenses**

- A. All reasonable out of pocket costs and expenses incurred by GA Keen Realty in connection with performing the services required by this Agreement, including but not limited to travel, lodging, FedEx, postage, telephone charges, photocopying charges, and the fees and reasonable expenses of counsel, etc., shall be borne by Company.
- B. On the Effective Date, the Company shall provide GA Keen Realty with a two thousand five hundred dollar (\$2,500) advance against out of pocket expenses. GA Keen Realty shall on a regular basis provide Company with an accounting for its expenses and Company agrees to reimburse GA Keen Realty promptly upon request from time to time for all out-of-pocket expenses so that GA Keen Realty shall maintain on account the \$2,500 advance. GA Keen Realty shall seek the Company's prior written approval for any single expense that exceeds \$1,000. At the conclusion of this engagement, GA Keen Realty shall promptly return the remaining balance of the expense account following the payment to GA Keen Realty of all fees due and owing.

**IV. Company Responsibilities**

- A. Company shall deal with GA Keen Realty fairly and in good faith so as to allow GA Keen Realty to perform its duties and earn the benefits of this Agreement and shall not interfere, prevent or prohibit GA Keen Realty, in any manner, prior to or during the term of this Agreement from carrying out its duties and obligations under the Agreement.
- B. Company shall make available to GA Keen Realty all information reasonably requested by GA Keen Realty for the purpose of enabling GA Keen Realty to perform its obligations pursuant to this Agreement. All information provided by Company shall be materially accurate and complete at the time it is furnished and Company shall, as soon as it becomes aware of any inaccuracy or incompleteness in any information then or later provided to GA Keen Realty, promptly advise GA Keen Realty in writing of such inaccuracy or incompleteness and correct the same. In performing its services hereunder, GA Keen Realty shall under all circumstances be entitled to rely upon and assume, without independent verification, the accuracy and completeness of all information that has been furnished to it by, or on behalf of, the Company and shall have no obligation to verify the accuracy or completeness of any such information and shall not be responsible for the inaccuracy or incompleteness of any information provided to GA Keen Realty.
- C. Within 3 business days of the Effective Date, Company shall file an application with the Bankruptcy Court for, and will use its best efforts to obtain, an Order. With respect to the application and Order:
  - 1. Company acknowledges that this Agreement in its entirety will be attached to and made a part of Company's application to the Bankruptcy Court and will be referenced to in the Order.

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2. The application shall seek an Order authorizing the employment of GA Keen as of the date of this Agreement, as professional persons pursuant to Section 327 of the Code (with compensation subject to the standard of review of Section 328(a) of the Code and not any other standard, including that provided in Section 330 of the Code). The employment application and the Order shall be provided to GA Keen Realty sufficiently in advance of their filing, and must be acceptable to GA Keen Realty in its sole discretion. In the event that the Bankruptcy Court does not enter an order acceptable to GA Keen Realty, GA Keen Realty shall have no further obligations under the terms of this Agreement.
3. An acceptable Order shall include, without limitation, each of the following findings:
  - a) that none of the fees payable to GA Keen Realty hereunder shall constitute a "bonus" under applicable law.
  - b) with respect to any Transaction Fee payable for the closing of a Transaction, that GA Keen Realty is exempt from the requirement to keep time records (unless GA Keen Realty services are being billed by the hour).
  - c) that all of GA Keen Realty's fees and expenses shall be treated as administrative expense claims in the Company's bankruptcy case.
  - d) that all of GA Keen Realty's fees and expenses shall be entitled to a carve-out for payment as described in Paragraph 4 below; and
  - e) that the terms and conditions of this Agreement are "reasonable."
  - f) that the Company shall pay all fees and expenses as promptly as possible in accordance with the terms of this Agreement, and in accordance with any Budget, as described in Paragraph 4 below.
  - g) that the Bankruptcy Court has and shall retain jurisdiction to hear and determine all matters arising from the implementation of this Agreement, and neither the Company nor GA Keen Realty shall be required to seek authorization from any other jurisdiction with respect to the relief granted by the Order approving this Agreement.
4. With respect to the (i) Final Order (the "Final Order") regarding the *Stipulation and Order (a) Authorizing Post-Petition Financing, (b) Authorizing Use of Cash Collateral, (c) Granting Superpriority Security Interests and Administrative Claims Pursuant to 11 U.S.C. § 364, (d) Granting Adequate Protection to Pre-Petition Lenders, (e) Granting Limited Relief from the Automatic Stay and (f) Granting Related Relief* (Docket #83), or (ii) any other order wherein the Bankruptcy Court authorizes financing or cash collateral use that requires the submission of a budget or forecast by Company (a "Similar Stipulation or Order") which delineates its post-petition expenditures (the "Budget"), the Budget shall expressly include all amounts projected to be paid to GA Keen

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Realty pursuant to the terms of this Agreement. In addition, the Final Order or Similar Stipulation or Order shall include all amounts to be paid to GA Keen Realty pursuant to the terms of this Agreement among any carve-out to be provided professionals in the Company's bankruptcy case.

5. The terms of Section [REDACTED] are solely for the benefit and protection of GA Keen Realty and may be waived, in whole or in part, only by GA Keen Realty.

**V. Term of Agreement**

- A. Term. Unless earlier terminated, the term of GA Keen Realty's retention shall be from the date of the Company's execution of this Agreement through effective date of a plan of reorganization, the closing of all Transactions contemplated by this Agreement, or for a period of twelve (12) months, whichever comes first. The term can be extended pursuant to the same terms and conditions and by the mutual consent of the parties, without the need for further application to the Bankruptcy Court.
- B. Termination. This Agreement may be terminated by either party at any time or for any reason or no reason upon 20 days advanced written notice to the other party (an "Early Termination"). Early Termination is subject to and conditioned upon Company both reimbursing GA Keen Realty's unreimbursed expenses and paying GA Keen Realty's undisputed, unpaid fees. If and to the extent that there is a dispute regarding those fees, the parties hereto agree to resolve the dispute pursuant to the Dispute Resolution provisions of this Agreement and, during the pendency of such dispute, Company can hold back the disputed portion of any fees so long as all unreimbursed expenses and undisputed fees are paid to GA Keen Realty. An Early Termination shall be without prejudice to GA Keen Realty's "survival" rights pursuant to paragraph VII of Schedule B of the Agreement.
- C. This Agreement shall be binding upon the Company only upon approval of the Bankruptcy Court. In the event this Agreement is not so approved for any reason, then this Agreement shall be deemed to be terminated, and GA Keen Realty shall have an allowed *quantum meruit* claim for its services. The provisions of this section of the Agreement shall survive the termination of this Agreement.

**VI. Dispute Resolution**

- A. Choice of Law; Jury Trial. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to any principles of conflict of laws. To the extent permitted by law, the parties to this Agreement waive any right to trial by jury in any action, proceeding or counterclaim (whether based upon contract, tort or otherwise) related to or arising out of the engagement of GA Keen Realty pursuant to, or the performance by GA Keen Realty of the services contemplated by, this Agreement.
- B. Attorneys' Fees. If any party to this Agreement brings an action directly or indirectly based upon this Agreement or the matters contemplated hereby against any other party, the prevailing party shall be entitled to recover from the non-prevailing party, in addition to any other appropriate amounts, its reasonable costs and expenses in

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connection with such proceeding, including, but not limited to, reasonable attorneys' fees and arbitration and/or court costs.

- C. Bankruptcy Court Jurisdiction. The Bankruptcy Court shall have and retain exclusive jurisdiction to hear and determine all matters arising from the implementation or execution of this Agreement. Any and all issues, disputes, claims or causes of action which relate or pertain to, or result or arise from, this Agreement or GA Keen Realty Advisors' services hereunder, shall be settled by the Bankruptcy Court. The Bankruptcy Court shall be limited to awarding compensatory damages and the parties hereto hereby waive their right to seek punitive, consequential, exemplary or similar types of special damages.
- D. Survival. The provisions of this section of the Agreement shall survive the termination of this Agreement.

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VII. Miscellaneous

- A. Indemnity, Contribution, Reimbursement, and Limitation of Liability. The Company agrees to the indemnity, contribution, reimbursement and limitation of liabilities provisions as set forth in Schedule B attached hereto and incorporated by reference. The provisions of this section of the Agreement shall survive the termination of this Agreement.
- B. Relationship. GA Keen Realty is providing its services hereunder as an independent contractor and the parties agree that this Agreement does not create an agency or fiduciary relationship between GA Keen Realty and the Company. Any advice rendered by GA Keen Realty pursuant to this Agreement, written or oral, will be solely for the information of the Company and may not be disclosed publicly in any manner without GA Keen Realty's prior written approval and will be treated by the Company as confidential; provided, however, that such information may be disclosed to the Official Committee of Unsecured Creditors and the agent for the Company's DIP Lender, Atalaya Administrative Agency, LLC, if the information is first marked as "Confidential." The provisions of this section of the Agreement shall survive the termination of this Agreement.
- C. No Time Records. The services to be provided by GA Keen Realty pursuant to this Agreement are transactional in nature and except with respect to hourly fees, if any, for which GA Keen Realty will maintain contemporaneous time records in half-hour increments and not on a project category basis, GA Keen Realty will not be billing the Company by the hour nor keeping a record of its time spent on behalf of the Company.
- D. Notice. Any correspondence or required notice shall be addressed as follows and shall be sent by Certified Mail, Return Receipt Requested, or by FedEx, either of which notices shall be supplemented by facsimile and/or email transmission, and shall be effective as of the date of actual receipt of the Certified Mail or FedEx. Such notice shall be addressed as follows:

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5/28/19



If to GA Keen Realty, to: GA Keen Realty Advisors, LLC  
130 West 42<sup>nd</sup> Street, Suite 1001  
New York, NY 10036  
ATTN: Harold Bordwin  
Telephone: (646) 381-9222  
Email: [hbordwin@greatamerican.com](mailto:hbordwin@greatamerican.com)

With a copy to: Great American Group LLC  
9 Parkway North, Suite 300  
Deerfield, IL 60015  
ATTN: Mark Naughton  
Telephone: (847) 444-1400  
Email: [mnaughton@greatamerican.com](mailto:mnaughton@greatamerican.com)

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If to Company: Piccadilly Restaurants LLC  
3232 Sherwood Forest Blvd.  
Baton Rouge, LA 70816  
ATTN: Jim Ortis  
Telephone: (225) 296-8385  
Email: [JOrtis@Piccadilly.com](mailto:JOrtis@Piccadilly.com)

With a copy to: Jones, Walker, Waechter, Poitevent, Carrère & Denègre L.L.P.  
201 St. Charles Avenue, 49th Floor,  
New Orleans, Louisiana 70170  
ATTN: ELIZABETH J. FUTRELL  
P: 504.582.8260  
Email: [efutrell@joneswalker.com](mailto:efutrell@joneswalker.com)

- E. Successors and Assigns. Upon the commencement of this Agreement, it shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns. The provisions of this section of the Agreement shall survive the termination of this Agreement.
- F. Entire Agreement. This Agreement contains the entire agreement between the parties hereto, and no representations, inducements, promises or agreements, oral or otherwise, entered into prior to the execution of this Agreement will alter the covenants, agreements and undertakings herein set forth. This Agreement shall not be modified in any manner, except by an instrument in writing executed by the parties.
- G. Change in Control. The Company's obligations hereunder shall survive any change in control or ownership of the Company.
- H. Construction.
1. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

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2. This Agreement shall be construed fairly as to all parties and there shall be no presumption against the party who drafted this Agreement in the interpretation of this Agreement. By executing or otherwise accepting this Agreement, Company and GA Keen Realty acknowledge and represent that they are represented by and have consulted with legal counsel with respect to the terms and conditions contained herein.
- I. Force Majeure. GA Keen Realty shall have no liability for delays, failure in performance, or damages due to fire, explosion, lighting, power surges or failures, strikes or labor disputes, water, acts of god, the elements, war, civil disturbances, acts of civil or military authorities, telecommunications failure, fuel or energy shortages, acts or omissions of communications carriers, or other causes beyond GA Keen Realty's control whether or not similar to the foregoing.
- J. Electronic Communications. GA Keen Realty and Company may communicate by electronic mail or otherwise transmit documents in electronic form during the course of this engagement. The parties hereto accept the inherent risks of these forms of communication (including the security risks of interception of or unauthorized access to such communications, the risks of corruption of such communications and the risks of viruses or other harmful devices).
- K. Announcements. Upon the closing of a Transaction, GA Keen Realty may, at its option and expense, place announcements and advertisements or otherwise publicize GA Keen Realty's role (which may include the reproduction of the Company's logo) on GA Keen Realty's internet web site and in such newspapers and periodicals and in its marketing materials as it may choose stating that GA Keen Realty has acted as advisor to the Company; provided, however, that such announcements shall not contain information about specific Properties or any other information that might constitute a violation of Company's confidentiality obligations to its landlords.
- L. Multiple Clients. From time to time, GA Keen Realty, or one of its related entities, may and shall have the right to advise or provide services to several industry participants, some of which may be competitors of the Company. The Company, its directors and shareholders, waive any right to commence any action, suit or proceeding or make any demand, complaint or claim against GA Keen Realty, its subsidiaries or affiliates, or their partners, directors, officers or other personnel, that arises out of GA Keen Realty's, or one of its related entities', right to advise or provide services to industry competitors of the Company; provided, however, GA Keen Realty shall disclose to Company any situation that comes to its attention where it, or its subsidiaries or affiliates, or their partners, directors, officers or other personnel, are engaged in giving advice or providing services to industry competitors to the Company.
- M. Counterparts. This Agreement may be executed in two or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same agreement. Facsimile and electronic transmission (including the email delivery of documents in Adobe PDF format) of any signed original counterpart or retransmission of any signed facsimile transmission shall be deemed the same as the delivery of the original

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Piccadilly Restaurants LLC  
GA Keen Realty Advisors  
November 15, 2012  
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If the foregoing correctly sets forth the agreement between the Company and GA Keen Realty, please sign and return the enclosed copy of this Agreement, whereupon it shall become our binding agreement.

Very truly yours,

**GA KEEN REALTY ADVISORS, LLC**

By: 

Harold J. Bordwin, as Managing Director of Great  
American Group, LLC, the Managing Member of GA

Keen Realty Advisors, LLC  
Date: November 16, 2012

**AGREED & ACCEPTED**

This \_\_\_\_ day of November, 2012

**PICCADILLY RESTAURANTS LLC**

By: 

Name: Thomas J. Sandeman

Title: Chief Executive Officer

**SCHEDULE A**

**Properties**

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## EXHIBIT A

Affected Piccadilly Restaurant	Lessor	Lease Directs Piccadilly To Send Communications And Payments To The Following Parties	Address Of Lessor Or Lessor's Agent	Lease Executed	Lease Term Ends	Note If Lease Rejected In Bankruptcy
ALEX	MacArthur Village Limited Partnership	MacArthur Village Limited Partnership	109 Northpark Boulevard Suite 300 Covington LA, 70433 United States	6/20/1966	7/31/2018	
AM	Alameda Mall, L.P.	Alameda Mall, L.P.	1177 West Loop South Suite 1670 Houston TX, 77027 United States	11/21/1967	10/31/2012	
ATCON	Circus Property II, LLC	Circus Property II, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	7/31/2001	8/31/2021	
ATDRU	Circus Property II, LLC	Circus Property II, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	7/31/2001	8/31/2021	
ATFAY	Circus Property II, LLC	Circus Property II, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	7/31/2001	8/31/2021	
ATHM	HMS, LTD	Sun Life Assurance Company of Canada	2740 Bert Adams Road Suite 100 Atlanta GA, 30339 United States	9/3/1987	6/30/2013	
ATMEM	Circus Property II, LLC	Circus Property II, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	7/31/2001	8/31/2021	
ATNLP	Jolly Fishermen Associates	Jolly Fishermen Associates	160 Clairmont Suite 510 Decatur GA, 30030 United States	7/22/1991	6/30/2017	
ATSLM	Circus Property II, LLC	Circus Property II, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	7/31/2001	8/31/2021	
ATSTB	Bill Mabros	Bill Mabros	P.O. Box 353 Stockbridge GA, 30281 United States	2/24/1995	1/31/2016	
AUGWS	Circus Property II, LLC	Circus Property II, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	7/31/2001	8/31/2021	
AUGWS	J. Davis Trotter	J. Davis Trotter	490 Granite Pointe Martinez GA, 30907 United States	7/31/2001		
BLOX	American National Insurance Company	American National Insurance Company	2660 East Chase Lane Suite 100 Montgomery AL, 36117 United States	9/16/1996	12/31/2011	
BR	IXIS Real Estate Capital Inc.	MCSI 2005-IQ Cortana Mall, LLC	9 West 57th Street New York NY, 10019 United States	1/1/1994	12/31/2013	
BRDEN	Aigle Inc./Penn Circle	Claude M. Penn or Janice M. Penn	P.O. Box 96 Watson LA, 70786 United States	7/18/1996	4/14/2017	
BRFM	Circus Property I, LLC	Circus Property I, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	3/30/2001	3/31/2021	
BRGON	Alvin J Miller/Vincent Diez	Vincent Diez & Alvin J Miller	Whitney National Bank 908 Airline Highway Gonzales LA, 70737 United States	7/1/1996	3/31/2017	

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CHATH	Hamilton Place Mail General Partnership	Hamilton Place Mail General Partnership	c/o CBL & Associates Management, Inc. 2100 Hamilton Place Boulevard Chattanooga TN, 37421 United States	1/23/1987	8/31/2014	
CHESP	Chesapeake Mail, LLC	Chesapeake Mail, LLC	225 West Washington Street Indianapolis IN, 46204-3438 United States	6/20/1989	12/31/2013	
CVNTN	Circus Property I, LLC	Circus Property I, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	3/31/2001	3/31/2021	
DAY	Vokusia Mail LLC	Vokusia Mail LLC	1700 W. International Speedway Blvd Daytona Beach FL, 32114 United States	6/26/1995	12/31/2012	
DEK	Column Financial, Inc.	Thor Gallery at South Dekalb, LLC	11 Madison Avenue, 9th Floor For: Gallery at South Dekalb, Decatur, GA New York NY, 10010 United States	9/30/1969	8/31/2024	
DV	The Feil Organization	Delmont Village Associates LP	7 Penn Plaza New York NY, 10001 United States	8/21/1990	8/31/2020	
ESSEN	Circus Property I, LLC	Circus Property I, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	3/30/2001	3/31/2021	
FTLHW	Sanford Sandelman	Jasue LLC	c/o Kin Properties, 77 Tarrytown Road Suite 100 White Plains NY, 10607-1620 United States	12/30/1996	12/31/2016	
GB	Greenbriar Mail LP	KDI Atlanta Mail, LLC	2841 Greenbriar Parkway Atlanta GA, 30331 United States	11/23/1964	1/31/2016	
GRNVL	Security National Properties	Security National Properties	323 Fifth Street P.O. Box 1028 Eureka CA, 95601 United States	7/10/1972	6/30/2016	
HOUWA	Cascade Drive Limited Partnership	Cascade Drive Limited Partnership	109 Northpark Blvd Suite 300 Covington LA, 70433 United States	2/24/1977	1/31/2017	
HTNBB	Circus Property I, LLC	Circus Property I, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	3/30/2001	3/31/2021	
HV2	CBL & Associates Management, Inc.	Parkway Place SPE, LLC	2030 Hamilton Place Blvd CBL Center, Suite 500 Chattanooga TN, 37421-6000 United States	1/11/1900	10/31/2012	
JAX 55	Lefleur's Gallery	Lefleur's Gallery	P.O. Box 18608 Jackson MS, 39236 United States	2/9/1987	7/31/2022	
JAXRR	The Overby Company	The Zimmerman Family Trust	4500 I -55 North Suite 279 Jackson MS, 39211 United States	2/18/1991	7/31/2016	
JM	Macerich Real Estate Company	Jackson Medical Mail Foundation, Inc.	230 Park Avenue Suite 1260 New York NY, 10017 United States	11/17/1967	6/30/2018	
JVL 10	Lal Purser & Associates	Lal Purser & Associates	6320-7 St. Augustine Road Jacksonville FL, 32217 United States	12/14/1987	9/30/2013	
JVUB	Barnett Banks Trust Company	John Carl Blow as Trustee of the Elizabeth H. Bl	P.O. Box 40200 Jacksonville FL, 32203- 0200 United States	10/3/1984	4/30/2015	
KINGS	Fort Henry Mail	Fort Henry Mail Owner, LLC	2101 Fort Henry Drive Kingsport TN, 37664 United States	3/20/2006	5/31/2013	
LAF	Southern Commercial Buildings, Inc.	HLH Properties	P.O. Box 51529 Lafayette LA, 70505 United States	10/26/1960	5/31/2016	
LAF2	The Mutual Benefit Life Insurance Company	Equity One (Louisiana Portfolio)	520 Broad Street Newark NJ, 07101 United States	8/7/1975	8/31/2017	

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MAR	Harry W. Livingston, Jr., Trustee	Harry W. Livingston, Jr., Trustee	P.O. Box 6035 Marietta GA, 30061 United States	10/20/1982	3/31/2014	
MCOM	Edgewood Mail Developers Limited	Edgewood Mail Developers Limited	P.O. Box 1205 McComb MA, 39649 United States	1/6/1998	6/30/2013	
MAFL	Flagler S.C., LLC	Flagler S.C., LLC	P.O. Box 5020 3333 New Hyde Park Road New Hyde Park NY, 11042-0020 United States	9/9/1988	5/31/2015	
MAARR	Palm Springs Mile Associates, Ltd.	Palm Springs Mile Associates, Ltd.	555 Palm Springs Mile Hialeah FL, 33012 United States	9/27/1988	10/31/2014	
MOBSP	Centro GA Springdale/Mobile Limited Partnership	Centro GA Springdale/Mobile Limited Partnership	c/o Centro Properties Group 420 Lexington Avenue, 7th Floor New York NY, 10170 United States	1/27/1981	1/31/2021	
MON	Twin City Shopping Center	Gus K. Primos, Charlene Hayes Brown, Neil Hay	P.O. Box 2861 Monroe LA, 71207-2861 United States	3/31/1959	12/31/2016	
MONT	Circus Property I, LLC	Circus Property I, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	3/30/2001	3/31/2021	
MPS	Michelle Lunell	Michelle Lunell	763 Brookhaven Circle Memphis TN, 38115 United States	3/1/1979	3/31/2014	
MPSCS	Circus Property I, LLC	Circus Property I, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	3/30/2001	3/31/2021	
MPSGT	Retail Management Services, LLC	Retail Management Services, LLC	5100 Poplar Avenue, Suite 2807 Memphis TN, 38137 United States	1/2/1900	5/31/2016	
MPSPH	Kelsey Brooks	Kelsey Brooks	415 West Poplar, Collierville, TN 38017	9/6/1991	6/30/2012	
NNMKT	Netcenter HH LLC	Netcenter HH LLC	5200 W. Mercury suite 167, Hampton VA 23605	11/14/2002	12/31/2020	
NOCLV	Clearview Palms Shopping Center New Orleans, PA	Clearview Palms Shopping Center New Orleans, PA		2/26/1988	1/31/2014	
NOG	Circus Property I, LLC	Circus Property I, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	3/30/2001	3/31/2021	
NOJ	Brocalo	Brocalo	228 Audubon Blvd New Orleans LA, 70118 United States	12/1/1986	2/24/2013	
NORMC	Thor Gallery at Military Circle, LLC	Thor Gallery at Military Circle, LLC	25 West 39th Street 11th Floor New York NY, 10018 United States	9/5/1978	2/28/2014	
PENPB	Merchant's Square Shopping Center, LLC	Merchant's Square Shopping Center, LLC	c/o Safeway Group, Inc 6961 Peachtree Industrial Blvd, Suite 101 Norcross GA, 30092 United States	12/7/1967	11/30/2016	
PLM	SPG Prien, LLC	SPG Prien, LLC	225 West Washington Street Indianapolis IN, 46204 United States	2/26/2007	5/31/2013	
RICH2	Circus Property I, LLC	Circus Property I, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the America New York New York 10019	3/30/2001	3/31/2021	
RICHC	Southpark Mail	Southpark Mail	230 Southpark Circle Colonial Heights VA, 23834 United States	10/28/1988	1/31/2014	
SAVOM	Oglethorpe Mail Inc	Oglethorpe Mail Inc	110 N Wacker Drive Lease Administration Chicago IL, 60606 United States	11/17/1988	1/31/2017	

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SHP2	Mail St. Vincent	Mail St. Vincent, LLC	c/o Mail St. Vincent, L.P., 110 N. Wacker Dr. Chicago IL, 60606 United States	10/2/2007	7/3/2018	
SHPBK	Old River Marketplace Limited Partnership	Old River Marketplace Limited Partnership	Strling Properties 190 Northpark Blvd, Suite 300 Covington LA, 70433 United States	11/20/1987	6/30/2018	
SLU	Equity One, LLC	Equity One, LLC	1275 Powers Ferry Road SE Suite 100 Marietta GA, 30067 United States	9/7/1988	5/31/2014	
SLRR	Circus Property I, LLC	Circus Property I, LLC	c/o U.S. Realty Advisors, LLC 1370 Avenue of the Americas New York, New York 10019	3/30/2001	3/31/2021	
TUSUM	University Mail, LLC and Aronov Realty Manage	University Mail, LLC and Aronov Realty Manage	P.O. Box 235000 Montgomery AL, 36123- 5000 United States	12/6/1979	8/31/2016	
WD	Cangelosi Development	Westmoreland Properties, LLC	P.O. Box 1481 Baton Rouge LA, 70821 United States	9/9/1958	8/31/2011	
WH	Finard Memphis Realty Limited Partnership	Whitehaven Plaza	68 South Prescott Street Suite 301 Memphis TN, 38111 United States	1/6/1992	2/28/2023	

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**SCHEDULE B:**  
**Lease Renegotiation Services & Fees**

- I. Authority.
- A. GA Keen Realty shall have the authority to represent Company in the negotiation of Transactions.
  - B. In order to coordinate our efforts with respect to possible Transactions and to maintain a consistent message, during the term of this Agreement the Company nor any representative thereof (other than GA Keen Realty) will initiate discussions with a landlord regarding a Transaction without communicating with GA Keen Realty. If the Company, its management, or any of its professional advisors receives an inquiry regarding a Transaction, it will promptly advise GA Keen Realty of such inquiry in order that GA Keen Realty may evaluate the inquiry and assist the Company in any resulting negotiations. The foregoing in no way restricts the Company's normal communications with its landlords regarding lease administration or other matters other than a Transaction.
  - C. Company shall retain the complete discretion to accept or reject any proposed Transaction.
- II. Services. During the term of this Agreement, GA Keen Realty shall provide the following services with respect to the Properties:
- A. GA Keen Realty will organize the lease information for each Property in a manner that clearly displays the site-level business and lease economics. GA Keen Realty and Company will jointly establish negotiating goals and parameters, such as rent reductions, lease term modifications, and other leasehold concessions.
  - B. GA Keen Realty will contact the landlord for each Property and will seek to negotiate with the landlord for modifications in accordance with the parameters established by Company.
  - C. GA Keen Realty will work with the landlords, the Company, and the Company's counsel to document all lease modification proposals.
- III. Definitions Related to Transactional Fees:
- A. Modification Agreement: The term "Modification Agreement" shall refer to a fully executed agreement between Company and a landlord, which agreement results in the modification of the terms of a Property lease by, among other things, a reduction in rent and/or other occupancy costs, modification of the remaining term of the lease, a modification of the size of the Property, or a Property lease termination.
  - B. Lease Modification Agreement Date: The term "Lease Modification Agreement Date" shall be the date of full execution of a Modification Agreement.
  - C. Remaining Leasehold Liability: The parties hereto shall together calculate the total remaining occupancy costs, pursuant to the applicable lease, for each Property. The parties agree that such calculation shall subsequently be adjusted (A) so as to be

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calculated as of the "Lease Modification Agreement Date" (as defined above), and (B) so as to take into account any updated or corrected data. This calculation of total remaining occupancy costs shall include all base rent and additional charges projected to be paid directly to the landlord for the remaining term of the applicable lease (excluding any options to renew or extend the term of the lease, unless the terms of the renewal option provisions are a subject of the lease modification, in which event the calculation of Remaining Leasehold Liability shall extend into such renewal option term), including but not limited to percentage rent, unamortized construction allowances, common area maintenance, real estate taxes, insurance and other related expenses, to be determined at the rate in effect at execution of the applicable Modification Agreement, taking into account any future increases set forth in the lease (but without taking into account inflation). The aggregate remaining occupancy costs, on a lease by lease basis, shall be referred to as the "Remaining Leasehold Liability".

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- D. Savings: "Savings" shall be calculated as the difference between (a) the Remaining Leasehold Liability payable by Company prior to the execution of the applicable Modification Agreement, and (b) the Remaining Leasehold Liability payable by Company following the Lease Modification Agreement Date.
- IV. Advisory Fee: Company agrees to pay GA Keen Realty on the Effective Date an earned, non-refundable engagement fee of ten thousand dollars (\$10,000), which fee shall be set-off against subsequently earned transaction fees.
- V. Transactional Fees: On the Lease Modification Agreement Date, GA Keen Realty shall have earned and Company shall pay GA Keen Realty, on a per Property basis, the greater of four thousand dollars (\$4,000) (the "Base Fee") or five percent (5%) of "Savings". If the Modification Agreement creates non-monetary value but does not generate Savings, then GA Keen Realty shall have earned and shall be paid, on a per Property basis, the Base Fee.
- VI. Consulting Fees for the Excluded Leases: GA Keen Realty acknowledges that, prior to the commencement of this Agreement, the Company (a) has identified certain select leases that it may seek to reject, and (b) has undertaken and, in some instances completed, the process of re-negotiating certain lease renewals or amendments (collectively, the "Excluded Leases"). The Excluded Leases are included in the Properties listed on Exhibit "A." As to these Excluded Leases, the Company has performed many of the services it would otherwise request GA Keen Realty to perform before executing this Agreement. Instead, the Company request GA Keen Realty assist the Company (a) in analyzing whether the rejection of a particular Excluded Lease is appropriate, or negotiating a particular cap to a lease rejection claim, or (b) analyzing whether a particular Excluded Lease should be extended, modified or amended (collectively, the "Consulting Services"). For these Consulting Services, GA Keen Realty will be paid a Consulting Fee of \$1,000.00 per Excluded Lease if and only if the Company seeks GA Keen Realty's Consulting Services as to such Excluded Lease. After seeking GA Keen Realty's Consulting Services as to any Excluded Lease, if the Company determines that it needs assistance beyond the Consulting Services with respect to an Excluded Lease, such that GA Keen Realty would earn a Transaction Fee with respect thereto, the Consulting Fee would be deducted from Transaction Fee with respect to the Excluded Lease.
- VII. Survival: If Company and a landlord execute a Modification Agreement within twelve (12) months of the expiration of this Agreement, then GA Keen Realty shall be entitled to a fee in

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accordance with the terms of this Agreement. Within ten (10) days following the expiration of this Agreement, GA Keen Realty will provide Company with a list indicating the status of pending landlord negotiations. The Company covenants that in the event that it sells its business or business assets and such sale includes Properties where GA Keen Realty has substantially completed negotiating a Transaction, that it will use its best efforts to ensure that the buyer assume this Agreement so that such buyer does not receive the benefits of GA Keen Realty's services without paying for same.

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## SCHEDULE C

### 1. Indemnification

The Company shall defend, indemnify and hold harmless GA Keen Realty, Great American Group, LLC, their respective affiliates, and their respective directors, officers, employees, agents, representatives and controlling persons (GA Keen Realty and each such entity or person being an "Indemnified Party") from and against any and all losses, claims, damages, expenses and liabilities (collectively, "Losses"), as incurred, to which such Indemnified Party may become subject, related to or arising out of activities performed by or on behalf of an Indemnified Party pursuant to this Agreement, any transactions contemplated hereby, or the Indemnified Party's role in connection therewith. The Company shall have no obligation to indemnify and hold harmless an Indemnified Party for any Losses found in a final judgment by a Court of competent jurisdiction to have resulted primarily from actions taken or omitted ~~to be taken by the Indemnified Party in bad faith or from the Indemnified Party's gross negligence or willful misconduct in performing the services described.~~

Promptly after receipt by an Indemnified Party of notice of any claim or the commencement of any action, suit or proceeding with respect to which an Indemnified Party may be entitled to indemnity hereunder, the Indemnified Party will notify the Company in writing of such claim or of the commencement of such action or proceeding, provided that the failure to notify the Company shall not relieve it from any liability under this Agreement except to the extent it has been materially prejudiced by such failure. The Company may, upon written notice to the Indemnified Party, assume the defense of such claim, action, suit or proceeding, will employ counsel satisfactory to the Indemnified Party to represent the Indemnified Party, and will pay the fees and disbursements of such counsel, as incurred. Each Indemnified Party shall have the right to retain its own counsel at its own expense. Notwithstanding the foregoing, the Company shall not have the right to assume the defense of such claim, action, suit or proceeding and shall pay or reimburse as incurred the fees and expenses of not more than one separate law firm per relevant jurisdiction (including local counsel) representing such Indemnified Party if (a) the Company shall have failed to timely assume the defense of such claim, action, suit, or proceeding, or (b) the named parties to any such claim, action, suit, or proceeding (including any impleaded parties) include one or more Indemnified Parties and the Company and the Indemnified Party shall have reasonably concluded that a conflict may arise between the positions of the Indemnified Party and the Company or that there may be legal defenses available to it that are different from or additional to those available to the Company.

The Company shall not be liable for any settlement of any claim, action, suit, or proceeding without its consent (which consent shall not be unreasonably withheld), but, if settled with its consent or if there be final judgment for a plaintiff in any claim, suit, action, or proceeding, the Company shall defend, indemnify, and hold harmless each Indemnified Party from and against any and all Losses by reason of such settlement or judgment to the extent provided in this Agreement. Notwithstanding the immediately preceding sentence, if at any time an Indemnified Party shall have requested the Company to reimburse such Indemnified Party for legal or other expenses in connection with investigating, responding to, or defending any claim, action, suit, or proceeding as contemplated by this Agreement, the Company shall be liable for any settlement of any such claim, action, suit, or proceeding without its consent if (a) such settlement is entered into more than 30 days after receipt by the Company of such request for reimbursement and (b) the Company shall not have reimbursed such Indemnified Party in accordance with such request prior to the date of such settlement. The Company shall not, without the Indemnified Party's prior written consent, settle, compromise or consent to the entry of any judgment

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in any pending or threatened claim, action or proceeding in respect of which indemnification could be sought under this Agreement (whether or not any Indemnified Party is an actual or potential party to such claim, action or proceeding), unless such settlement, compromise or consent includes an unconditional release of each Indemnified Party from all liability arising out of such claim, action or proceeding and does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any Indemnified Party.

In the event any Indemnified Party is requested or required to appear as a witness in any action, suit or proceeding brought by or on behalf of or against the Company or any affiliate or any participant in a Transaction covered hereby in which such Indemnified Party is not named as a party, the Company agrees to reimburse the Indemnified Party for all reasonable expenses incurred by it in connection with such Indemnified Party's appearing and preparing to appear as a witness, including, without limitation, the fees and disbursements of its legal counsel, and to compensate GA Keen Realty in an amount to be mutually agreed upon.

Bankruptcy Protocol: Notwithstanding anything to the contrary:

- A. All requests of GA Keen Realty for payment of indemnity pursuant to the Engagement Letter shall be made by means of an application (interim or final as the case may be) and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Engagement Letter and is reasonable based on the circumstances of the litigation or settlement in respect of which indemnity is sought, provided, however, that in no event shall GA Keen Realty be indemnified in the case of its own bad-faith, self dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct;
- B. In no event shall GA Keen Realty be indemnified if the Company or a representative of the estate, asserts a claim for, and a court determines by final order that such claim arose out of, GA Keen Realty's own bad-faith, self-dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct;
- C. In the event that GA Keen Realty seeks reimbursement for attorneys' fees from the Company pursuant to the indemnity provisions in the Engagement Letter, the invoices and supporting time records from such attorneys shall be included in GA Keen Realty's own applications for approval of indemnity payments (both interim and final) and such invoices and time records shall be subject to the United States Trustee's guidelines for compensation and reimbursement of expenses and the approval of the Bankruptcy Court under the standards of Sections 330 and 331 of the Bankruptcy Code without regard to whether such attorney has been retained under Section 327 of the Bankruptcy Code and without regard to whether such attorney's services satisfy Section 330(a)(3)(C) of the Bankruptcy Code.

## 2. Reimbursement of Litigation Expenses

The Company also agrees to reimburse GA Keen Realty, its affiliates, and their respective directors, officers, employees, agents, representatives and controlling persons for all expenses (including counsel fees and disbursements) as they are incurred by such entity or person in connection with the investigation of, preparation for, or defense of any pending or threatened claim, or any action, investigation, suit or proceeding related to or arising out of activities performed by or on behalf of such entity or person pursuant to this Agreement, any transactions contemplated hereby, or its or his role in connection therewith.

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**3. Limitation of Liability**

The Company also agrees that GA Keen Realty, its affiliates, and their respective directors, officers, employees, agents, representatives and controlling persons shall not be liable (whether directly or indirectly, in contract or tort or otherwise) to the Company or its security holders or creditors, for any matter, cause or thing related to or arising out of the engagement of GA Keen Realty pursuant to, or the performance by GA Keen Realty of the services contemplated by, this Agreement, except to the extent that GA Keen Realty is found in a final judgment by a Court of competent jurisdiction to have acted or failed to act in bad faith or with gross negligence or willful misconduct in performing the services described in this Agreement.

The provisions of Schedule ~~1~~ shall be in addition to any liability that the Company may otherwise have and shall be binding upon and inure to the benefit of any successors, assigns, heirs, and personal representatives of the Company. These provisions shall be governed by the law of the State of New York, without regard to its conflict of law principles, and shall be operative in full force and effect regardless of any termination or expiration of this Agreement.

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# **Exhibit 2**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION**

**IN RE:**

**PICCADILLY RESTAURANTS, LLC,  
ET.AL.,**

**DEBTORS**

\* **CASE NO. 12-51127**  
\*  
\* **(JOINT ADMINISTRATION)<sup>1</sup>**  
\*  
\* **CHAPTER 11**  
\*  
\* **JUDGE ROBERT SUMMERHAYS**

**DECLARATION OF DISINTERESTEDNESS**

Mark P. Naughton, under penalty of perjury pursuant to 28 USC 1746, declares and states:

1. I am General Counsel and Senior Vice President of Great American Group, LLC, the Managing Member GA Keen Realty Advisors, LLC ("Keen Realty").
2. Keen Realty is a "disinterested person" within the meaning of 11 U.S.C. § 101(14). Keen Realty has not business, professional or other connection with the Debtor herein or with their attorneys, and does not represent, nor will it represent, any interest adverse to the estates in the matters in which it is to be engaged, except as set forth in paragraph 4 below.
3. Keen Realty is not employed or connected with the Debtors, any creditor, or other party in interest, their respective attorneys and accountants, except as set forth in paragraph 4 below. To determine any connections with the Debtors, Keen Realty maintains records of all of its clients. Keen Realty has reviewed such records as well as the entities listed on the Debtors' most recent (a) List of Creditors Holding 30 Largest Unsecured Claims (Docket #153), (b) the Supplemental Schedules Pursuant to Local Bankruptcy Rule 2014-1, and the disclosure regarding section 101(2) (Docket ##234, 235 and 236), (c) the members of the Official Committee of Unsecured Creditors (Docket #238), and (d) the List of Equity Security Holders and disclosures made to question 21, regarding officers and directors and equity security holders made in the Statement of Financial Affairs (Docket ##263-265). The aforementioned lists were provided by Debtors' counsel. This Affidavit is based on the information available to Keen Realty on the date hereof.

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<sup>1</sup> Joint administration requested with *In re Piccadilly Food Service, LLC*, 12-51128 (Bankr. W.D. La. 2012), and *In re Piccadilly Investments, LLC*, 12-51129 (Bankr. W.D. La. 2012).



4. Based upon my review of the lists provided by Debtors' counsel, there are no connections that need to be disclosed by Keen Realty pursuant to Rule 2014.
5. Keen Realty may have represented in the past, may currently represent, and likely in the future will represent parties in interest in connection with matters unrelated to the Debtor and this Chapter 11 Case. As part of its practice, Keen Realty also appears in cases, proceedings and transactions involving many different attorneys and accountants, some of which may represent claimants and parties-in-interest in this Chapter 11 Case. Keen Realty does not represent any entity in connection with this Chapter 11 Case, or have any relationship with any such entity, attorneys, accountants or advisors that would be adverse to the Debtors or their estates.
6. Keen Realty is a "disinterested person" as that term is defined in Bankruptcy Code section 101(14), as modified by section 1107(b), in that, to the best of my knowledge, Keen Realty, its members and employees:
  - (a) are not creditors, equity security holders, or insiders;
  - (b) are not and were not investment bankers for any outstanding security of the Debtors;
  - (c) have not been, within three years before the date of the filing of the petition, investment bankers for a security of the debtors, or attorneys for such an investment bankers in connection with the offer, sale, or issuance of a security of the Debtors;
  - (d) are not and were not, within two years before the date of the filing of the petitions, a director, officer, or employee of the Debtors or of an investment banker specified in subparagraph (b) or (c) above; and
  - (e) do not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors or an investment banker specified in the subparagraph (b) or (c) above, or for any other reason.
7. Despite the efforts described above to identify and disclose Keen Realty's connections with parties in interest in this Chapter 11 Case, Keen Realty is unable to state with certainty that every client relationship or other connection has been disclosed. In this regard, if Keen Realty discovers additional material information that is determined requires disclosure, it will promptly file a supplemental disclosure with this Court.
8. The scope of the services to be performed by Keen Realty and the other terms of Keen Realty's retention are accurately set forth in the Retention Agreement.

9. I have agreed to not share the compensation set forth in the Retention Agreement with any person except members and consultants of my firm.

I declare under penalty of perjury that the foregoing is true and accurate.



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MARK P. NAUGHTON

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION**

**IN RE:**

**PICCADILLY RESTAURANTS, LLC,  
*ET AL.*,**

**DEBTORS**

\* CASE NO. 12-51127  
\*  
\* (JOINT ADMINISTRATION)<sup>1</sup>  
\*  
\* CHAPTER 11  
\*  
\* JUDGE ROBERT SUMMERHAYS

**ORDER APPROVING APPLICATION FOR ORDER AUTHORIZING THE  
EMPLOYMENT OF GA KEEN REALTY ADVISORS, LLC, AS SPECIAL REAL  
ESTATE ADVISOR TO THE DEBTORS, *NUNC PRO TUNC* TO NOVEMBER 14, 2012,  
PURSUANT TO §§ 327(a) AND 328(a) OF THE BANKRUPTCY CODE**

**Considering** the Application for Order Authorizing the Employment of GA Keen Realty Advisors, LLC (“Keen Realty”), as Special Real Estate Advisors to the Debtors, *Nunc Pro Tunc* to November 14, 2012, Pursuant to §§ 327(a) and 328(a) of the Bankruptcy Code (the

<sup>1</sup> Jointly administered with *In re Piccadilly Food Service, LLC*, 12-51128 (Bankr. W.D. La. 2012), and *In re Piccadilly Investments, LLC*, 12-51129 (Bankr. W.D. La. 2012).

“Application”) (Docket #\_\_), filed herein by the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”), the Court having reviewed the Application, the Retention Agreement, dated as of November 14, 2012, by and between Keen Realty and the Debtors (the “Retention Agreement”), and the Declaration of Mark Naughton (the “Declaration”), the who is the Senior Vice President and General Counsel of Great American Group, LLC, the Managing Member of Keen Realty; and the Court being satisfied with the representations made in the Application and the Declaration that Keen Realty represents no interests adverse to the Debtors’ estates, that Keen Realty is a disinterested person as that term is defined under section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, that its employment is necessary and in the best interests of the Debtors’ estates, creditors, and other parties in interest; and it appearing that proper and adequate notice has been given and that no other or further notice is necessary; and good and sufficient cause appearing therefore, it is hereby,

**IT IS ORDERED** that the Application be and the same is hereby GRANTED;

**IT IS FURTHER ORDERED** that, pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, Bankruptcy Rule 2014 and Local Rule 2014-1, the Debtors, as debtors and debtors-in-possession, are authorized to employ and retain Keen Realty as its special real estate advisor *Nunc Pro Tunc* to November 14, 2012, to perform the services set forth in the Application and the Retention Agreement;

**IT IS FURTHER ORDERED** that, pursuant to 11 U.S.C. § 328(a), the Debtors are authorized to pay Keen Realty in accordance with the terms of the Retention Agreement;

**IT IS FURTHER ORDERED** that (i) none of the fees payable to Keen Realty under the Retention Agreement shall constitute a “bonus,” (ii) Keen Realty shall not be required to keep

time records for its transactional work under the Retention Agreement, (iii) Keen Realty's fees and expenses shall be treated as administrative expense claims, and (v) the terms and conditions of the Retention Agreement are fair and reasonable;

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of the Retention Agreement and this Order; and

**IT IS FURTHER ORDERED** that Keen Realty shall not be required to submit fee applications and shall be compensated in accordance with the procedures set forth in the Application and the Retention Agreement, or such procedures as may be fixed by order of this Court, and neither the Debtors nor Keen Realty shall be required to seek authorization from any other jurisdiction with respect to the relief granted by the Order approving this Agreement.

# # #

This Order was prepared and is being submitted by:

R. PATRICK VANCE (#13008)  
ELIZABETH J. FUTRELL (#05863)  
MARK A. MINTZ (#31878)  
TYLER J. RENCH (#34049)  
Jones, Walker, Waechter, Poitevent,  
Carrère & Denègre, L.L.P.  
201 St. Charles Avenue, 51st Floor  
New Orleans, Louisiana 70170  
Telephone: (504) 582-8000/Direct: 582-8194  
Direct Facsimile: (504) 589-8194  
Email: [pvance@joneswalker.com](mailto:pvance@joneswalker.com)  
Email: [efutrell@joneswalker.com](mailto:efutrell@joneswalker.com)  
Email: [mmintz@joneswalker.com](mailto:mmintz@joneswalker.com)  
Email: [trench@joneswalker.com](mailto:trench@joneswalker.com)

AND

PATRICK L. McCUNE (#31863)  
Jones, Walker, Waechter, Poitevent,  
Carrère & Denègre, L. L. P.  
Four United Plaza  
8555 United Plaza Blvd.  
Baton Rouge, Louisiana 70809  
Telephone: (225) 248-2150  
Facsimile: (225) 248-3350  
Email: [pmccune@joneswalker.com](mailto:pmccune@joneswalker.com)

**Attorneys for Piccadilly Restaurants, LLC  
Piccadilly Food Service, LLC and  
Piccadilly Investments, LLC**