

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	
)	Chapter 11
In re:)	
)	Case No. 09-10691 (REG)
BearingPoint, Inc., <u>et al.</u> ,)	
)	(Jointly Administered)
Debtors.)	
)	
)	
)	

**ORDER GRANTING THE LIQUIDATING TRUSTEE LIMITED RELIEF FROM
ARTICLE XI OF DEBTORS’ MODIFIED SECOND AMENDED JOINT PLAN AND
SECTIONS 34(C) AND 39 OF CONFIRMATION ORDER**

On consideration of the Motions (and the exhibits thereto, including Exhibit A to each, consisting of a draft complaint (“Draft Complaint”)) filed by John DeGroote Services, LLC, as liquidating trustee (the “Trustee”) of the BearingPoint Liquidating Trust, by counsel, for limited relief from Article XI, ¶ p of the Debtors’ Modified Second Amended Joint Plan Under Chapter 11 of the Bankruptcy Code (the “Plan”) and paragraphs 34(c) and 39 of this Court’s Confirmation Order, entered December 22, 2009 (the “Confirmation Order”), insofar as the provisions would preclude the Trustee from prosecuting suit against BearingPoint’s former Chief Executive Officer and certain former directors (the “Targets”) in a different court, and for an order granting the Trustee leave to file suit in another available jurisdiction (Dkt. Nos. 1977 and 1979, the “Motions”); the Court having held a hearing to consider the relief requested therein (the “Hearing”), with the appearances of all interested parties noted in the record of the Hearing; and the Court having issued on July 11, 2011 its bench decision with respect to the Hearing (the “Decision”), the Court, consistent with the Decision, and the findings contained therein, which are incorporated herein by reference, also finds and determines the following:

- a. Consideration of the Motions and the relief requested therein is a core proceeding pursuant to 28 U.S.C. § 157(b).
- b. Venue respecting the Motions is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
- c. The Court has jurisdiction to consider the Motions and the relief requested therein in accordance with 11 U.S.C. § 105(a), 28 U.S.C. §§ 157 and 1334, and Article XI of the Plan.
- d. The Trustee has provided due and proper notice of the Motions to parties in interest and no further notice is necessary.
- e. Sufficient grounds under 11 U.S.C. § 105(a), Fed. R. Civ. P. 60(b) (applicable in bankruptcy cases under Fed. R. Bankr. P. 9024), and 28 U.S.C. § 1334(c)(1) have been shown for a grant of the relief sought in the Motions.
- f. The relief sought would not adversely alter creditor rights or be inconsistent with creditor expectations.
- g. In determining that the claims set forth in the Draft Complaint “are colorable, are not brought for purposes of harassment, and cannot legitimately be regarded as a strike suit” (Decision at 7), the Court has satisfied its “gatekeeper” function to guard against frivolous claims, but the Court expressly does not determine the merits of the Trustee’s claims.

Therefore, it is hereby **ORDERED** that:

1. The Motions are GRANTED, and
2. The Trustee is relieved of Article XI, ¶ p of the Debtors’ Modified Second Amended Joint Plan Under Chapter 11 of the Bankruptcy Code and paragraphs 34(c) and 39 of

- the Confirmation Order, insofar as they operate to (i) retain exclusive jurisdiction in this Court over claims by the Trustee against the Targets and/or (ii) enjoin the Trustee from pursuing such claims in a court other than this Court; and
3. The Trustee is permitted to pursue claims and causes of action against the Targets in the Circuit Court for Fairfax County, Virginia, or such other court or tribunal as the Trustee, in its business judgment, determines is appropriate.

Dated: New York, New York
July 19, 2011

s/ Robert E. Gerber
ROBERT E. GERBER
UNITED STATES BANKRUPTCY JUDGE