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

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IN RE:	:	Chapter 11
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ARCAPITA BANK B.S.C.(c), et al.,	:	Case No. 12-11076 (SHL)
	:	
Debtors.	:	Jointly Administered
	:	
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DEBTORS' EX PARTE MOTION FOR ORDER SHORTENING NOTICE PERIOD WITH RESPECT TO THE DEBTORS' MOTION FOR ENTRY OF AN ORDER AUTHORIZING THE DEBTORS TO (A) ENTER INTO A FINANCING COMMITMENT LETTER AND FEE LETTER TO OBTAIN (I) REPLACEMENT DIP FINANCING AND (II) EXIT FINANCING, (B) INCUR AND PAY ASSOCIATED FEES AND EXPENSES, AND (C) PROVIDE RELATED INDEMNITIES

Arcapita Bank B.S.C.(c) ("*Arcapita*") and certain of its subsidiaries, as debtors and debtors in possession (collectively, the "*Debtors*" and each, a "*Debtor*") in the above-captioned chapter 11 cases (the "*Chapter 11 Cases*"), submit this motion (the "*Motion*") for entry of an order substantially in the form annexed hereto as *Exhibit A* pursuant to Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the "*Bankruptcy Rules*") and Rule 9006-1(b) of the Local Bankruptcy Rules for the Southern District of New York (the "*Local Rules*") shortening the time for notice of the hearing to consider the *Debtors' Motion for the Entry of an*

Order Authorizing the Debtors to (A) Enter into a Financing Commitment Letter and Fee Letter to Obtain (I) Replacement DIP Financing and (II) Exit Financing, (B) Incur and Pay Associated Fees and Expenses, and (C) Provide Related Indemnities (the “**Commitment Letter Motion**”) filed concurrently herewith and incorporated by reference herein.¹ In support of the Motion, the Debtors respectfully represent:

JURISDICTION AND VENUE

1. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

2. On March 19, 2012 (the “**Petition Date**”), Arcapita and five of its affiliates commenced cases under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). On April 30, 2012, Falcon Gas Storage Co., Inc. commenced a case under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

3. On April 5, 2012, the United States Trustee for Region 2 appointed the Official Committee of Unsecured Creditors (Dkt. No. 60) (the “**Committee**”) pursuant to sections 1102(a) and (b) of the Bankruptcy Code.

4. On April 25, 2013, the Debtors filed the *Second Amended Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and Related Debtors Under Chapter 11 of the Bankruptcy Code* (Dkt. No. 1036) (as may be further amended or supplemented, the “**Amended**

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Commitment Letter Motion.

Plan”). The related disclosure statement (Dkt. No. 1038) was approved by the order entered by this Court on April 26, 2013 (Dkt. No. 1045). The Debtors subsequently began soliciting votes for the Amended Plan pursuant to the procedures set forth in that order.

5. On the date hereof, the Debtors filed the Commitment Letter Motion pursuant to sections 363(b) and 503(b) of the Bankruptcy Code seeking authority to enter into the Commitment Documents with Goldman Sachs. As more fully set forth in the Commitment Letter Motion, Goldman Sachs International (“*Goldman Sachs*”), subject to the terms of the Commitment Documents, will (a) be appointed as sole lead arranger, sole bookrunner and sole syndication agent and (b) commit to provide Murabaha facilities of up to \$350 million, which will enable the Debtors to (i) pay their outstanding obligations under their existing secured superpriority debtor-in-possession Murabaha facility provided by CF ARC LLC (the “*Original DIP Facility*”) and (ii) fund their emergence from the Chapter 11 Cases.

RELIEF REQUESTED

6. By this Motion, the Debtors respectfully request that the Court enter an order (a) shortening the notice period for the Commitment Letter Motion such that it may be heard by the Court on May 15, 2013, at the Omnibus Hearing scheduled for 11:00 a.m. and (b) requiring that objections to the Commitment Letter Motion, if any, be filed and served so that they are received no later than May 10, 2013, at 12:00 p.m. The Committee has authorized the Debtors to represent that the Committee supports the relief requested herein.

BASIS FOR RELIEF

7. Bankruptcy Rule 2002(a)(2) requires that a debtor provide 21 days’ notice by mail of a motion proposing to use, sell or lease property of the estate other than in the ordinary course of business unless the court, for cause shown, shortens the notice period required

for a hearing. Bankruptcy Rule 9006(c)(1) and Local Rule 9006-1(b) authorize the Court, for cause shown, to reduce the notice period required for a hearing.²

8. Ample cause exists to shorten the time for notice of the Commitment Letter Motion and to grant this Motion on an *ex parte* basis. Under the Commitment Documents, Goldman Sachs' commitment only becomes effective if the Court enters an order approving the Commitment Letter Motion by May 15, 2013 at 5:00 p.m. (prevailing U.S. Eastern Time). Compliance with the 21-day notice provisions of Bankruptcy Rule 2002(a)(2) would mean that the foregoing condition precedent would not be satisfied, allowing Goldman Sachs to terminate the Commitment Documents and cease to perform its obligations thereunder.

9. In addition, expedited consideration of the Commitment Letter Motion reflects the Debtors' restructuring timeline and expected maturity of the Original DIP Facility. The Original DIP Facility is scheduled to mature on June 14, 2013, three days after the scheduled confirmation hearing with respect to the Amended Plan and prior to the expected effective date of the Amended Plan. On or prior to June 14, 2013, the Debtors will need to repay the outstanding obligations under the Original DIP Facility with the proceeds of the Goldman Sachs Replacement DIP Facility. Expedited consideration of the Commitment Letter Motion will ensure that the Debtors and Goldman Sachs have sufficient time to (a) agree upon definitive documents for, and (b) file the necessary motion to request the Court's approval of, the Replacement DIP Facility.³ Strict compliance with Bankruptcy Rule 2002(a)(2) will result in a

² Service of the Commitment Letter Motion would be governed by and shall be in compliance with this Court's Order (A) *Waiving the Requirement that Each Debtor File a List of Creditors and Equity Security Holders and Authorizing Maintenance of Consolidated List of Creditors in Lieu of Matrix*; (B) *Authorizing Filing of a Consolidated List of Top 50 Unsecured Creditors*; and (C) *Approving Case Management Procedures* (Dkt. No. 21).

³ The Debtors anticipate that they will separately request that the Court approve the Replacement DIP Facility.

significant reduction of the time available for the Debtors and Goldman Sachs to accomplish all of the tasks required to ensure that the Debtors will have a source of financing available to repay the Original DIP Facility.

10. For the foregoing reasons, the Debtors request approval of the Commitment Letter Motion on shortened notice. To this end, *ex parte* relief is warranted so that the Commitment Letter Motion may be heard no later than the currently scheduled omnibus hearing on May 15, 2013, at 11:00 a.m. (prevailing U.S. Eastern Time).

11. The Debtors respectfully submit that no parties in interest would be prejudiced by the shortened notice requested herein or by the approval of this Motion on an *ex parte* basis.

NOTICE

12. No trustee or examiner has been appointed in the Chapter 11 Cases. The Debtors have provided notice of filing of this Motion by electronic mail, facsimile and/or overnight mail to: (a) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Richard Morrissey, Esq.); (b) Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005 (Attn: Dennis F. Dunne, Esq., Abhilash M. Raval, Esq., and Evan R. Fleck, Esq.), counsel for the Committee; and (c) Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022-4834 (Attn: Mitchell A. Seider, Esq. and Adam J. Goldberg, Esq.), counsel for Goldman Sachs. The Debtors submit that, under the circumstances, no other or further notice is necessary.

NO PRIOR REQUEST

13. No prior motion for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
May 3, 2013

Respectfully submitted,

/s/ Michael A. Rosenthal

Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted *pro hac vice*)
Matthew J. Williams (MW-4081)
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ATTORNEYS FOR THE DEBTORS AND
DEBTORS IN POSSESSION

EXHIBIT A

Proposed Order

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

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IN RE: : **Chapter 11**
ARCAPITA BANK B.S.C.(c), *et al.*, : **Case No. 12-11076 (SHL)**
Debtors. : **Jointly Administered**
-----X

**ORDER SHORTENING THE NOTICE PERIOD WITH RESPECT TO THE DEBTORS’
MOTION AUTHORIZING THE DEBTORS (A) ENTER INTO AN EXIT FINANCING
COMMITMENT LETTER AND FEE LETTER, (B) INCUR AND PAY ASSOCIATED
FEEES AND EXPENSES AND (C) PROVIDE RELATED INDEMNITIES**

Upon consideration of the motion (the “*Motion*”)¹ of Arcapita Bank B.S.C.(c) (“*Arcapita*”) and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the “*Debtors*” and each, a “*Debtor*”) in the above-captioned chapter 11 cases (the “*Chapter 11 Cases*”), for entry of an order shortening the notice period with respect to the *Debtors’ Motion for the Entry of an Order Authorizing the Debtors to (A) Enter into a Financing Commitment Letter and Related Fee Letter to Obtain (I) Replacement DIP Financing and (II) Exit Financing, (B) Incur and Pay Associated Fees and Expenses, and (C) Provide Related Indemnities* (the “*Commitment Letter Motion*”); and the Court having found that it has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of Debtors’ estates, their creditors, and other parties in interest; and it appearing

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

that no other or further notice is necessary except as provided herein; and the Court having reviewed the Motion and having considered statements in support of the relief requested therein; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED:

1. The Motion is granted to the extent set forth below.
2. The hearing to consider the Commitment Letter Motion shall be held on **May 15, 2013, at 11:00 a.m. (prevailing Eastern Time)** before the Honorable Sean H. Lane, United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408, Courtroom 701. The hearing on the Commitment Letter Motion may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court. Notice of such adjourned date(s) will be available on the electronic case filing docket.
3. The Debtors shall serve a copy of this Order within one day of entry thereof, by electronic mail, facsimile and/or overnight mail, on the Notice Parties (as defined below).
4. Any and all objections to the Commitment Letter Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and Local Rules of the Court, and shall be filed, with proof of service, with the Clerk of the Court and served on the following parties (the "*Notice Parties*") so as to be received by **May __, 2013 at 12:00 p.m. (prevailing Eastern Time)** (the "*Objection Deadline*"):
 - (a) counsel to the Debtors, attention: Michael A. Rosenthal, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166-0193;

- (b) counsel to the Committee, attention: Dennis Dunne, Esq. and Evan Fleck, Esq., Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005;
- (c) counsel to Goldman Sachs, attention: Mitchell A. Seider, Esq. and Adam J. Goldberg, Esq., Latham & Watkins LLP, 885 Third Avenue, New York, NY 10022-4834; and
- (d) the Office of the United States Trustee for the Southern District of New York, attention: Richard Morrissey, Esq., 33 Whitehall Street, New York, New York 10004.

with a courtesy copy delivered to the chambers of the Honorable Sean H. Lane, United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408.

5. In the event that any objection to the Commitment Letter Motion is filed with the Court and served on the Notice Parties on or before the Objection Deadline, the Debtors may file a written reply to such objection in a manner conforming to the Federal Rules of Bankruptcy Procedure and Local Rules of the Court, which reply shall be filed, with proof of service, with the Clerk of the Court and served on the Notice Parties so as to be received by **May __, 2013 at 12:00 p.m. (prevailing Eastern Time)**.

6. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: New York, New York
_____, 2013

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE