

HEARING DATE AND TIME: To Be Determined (Only if Objection is Filed)
OBJECTION DEADLINE: July 23, 2013 at 12:00 p.m. (prevailing U.S. Eastern Time)

GIBSON, DUNN & CRUTCHER LLP

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Attorneys for the Debtors
and Debtors in Possession

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

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

**NOTICE OF DEBTORS' INTENT TO RETAIN KPMG LLP (US)
TO PROVIDE ADDITIONAL SERVICES TO THE DEBTORS**

Arcapita Bank B.S.C.(c) and certain of its subsidiaries, as debtors in possession (collectively, the "**Debtors**") in the above jointly administered chapter 11 cases, hereby give notice, pursuant to the terms of the *Order Authorizing the Debtors and Debtors In Possession to Retain and Employ KPMG LLP (US) as Tax Consultants Nunc Pro Tunc to the Petition Date* (the "**Retention Order**") [Dkt. No. 314] entered on July 11, 2012, of the Debtors' intent to retain KPMG LLP (US) ("**KPMG-US**") to perform additional services (the "**Additional Services**") for the Debtors, as set forth in the engagement letter (the "**Engagement Letter**") attached to the Declaration of Mary C. Grande annexed hereto as **Exhibit A**. Pursuant to the Retention Order, unless the United States Trustee or counsel to the Official Committee of Unsecured Creditors files an objection on or before July 23, 2013 at 12:00 p.m. (prevailing U.S. Eastern Time) to this Notice of

the Debtors' intent to retain KPMG-US to provide the Additional Services, the Debtors' retention of KPMG-US to provide the Additional Services shall be approved and KPMG-US shall be authorized to render the Additional Services according to the terms and conditions set forth in the Engagement Letter, subject to the provisions of the Retention Order, without further notice to any party and without a hearing or further order of the Court.

Dated: New York, New York
July 9, 2013

Respectfully submitted,

/s/ Michael A. Rosenthal

Michael A. Rosenthal (MR-7006)

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ATTORNEYS FOR THE DEBTORS AND
DEBTORS IN POSSESSION

EXHIBIT A

Declaration of Mary C. Grande

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

In re:)
:)
: **Chapter 11**
ARCAPITA BANK B.S.C.(c), et al., :)
: **Case No. 12-11076 (SHL)**
Debtors. :)

**SUPPLEMENTAL DECLARATION OF MARY C. GRANDE IN SUPPORT
OF NOTICE OF DEBTORS' INTENT TO RETAIN KPMG LLP (US)
TO PROVIDE ADDITIONAL SERVICES TO THE DEBTORS**

I, Mary C. Grande, declare:

1. I am a Certified Public Accountant and a partner of the firm of KPMG LLP (“**KPMG-US**”), a professional services firm. KPMG-US is the United States member firm of KPMG International, a Swiss cooperative. I am the professional designated by KPMG-US with the responsibility for overseeing KPMG-US’s retention in the above jointly administered chapter 11 cases. I submit this declaration (the “**Supplemental Declaration**”) on behalf of KPMG-US as a supplement to my original declaration dated May 2, 2012 (the “**Original Declaration**”)¹ and in support of the *Notice Of Debtors’ Intent To Retain KPMG LLP (US) To Provide Additional Services to the Debtors* (the “**Notice of Additional Services**”), filed concurrently herewith. I have personal knowledge of the matters set forth herein, although certain of the disclosures relate to matters within the knowledge of other professionals of KPMG-US.

¹ The Original Declaration is attached as Exhibit C to the *Debtors’ Application for an Order Approving the Employment and Retention of KPMG LLP (US) as Tax Consultants to Debtors and Debtors In Possession Pursuant to Section 327(a) of the Bankruptcy Code* (the “**Retention Application**”), filed on May 2, 2012 [Dkt. No. 113].

2. I am aware that, on May 2, 2012, Arcapita Bank B.S.C.(c) (“**Arcapita Bank**”) and certain of its subsidiaries, as debtors in possession (collectively, the “**Debtors**”), filed the Retention Application to employ and retain KPMG-US as their tax consultants, and that on July 11, 2012, the Court entered an order approving the Retention Application [Dkt. No. 314] (the “**Retention Order**”). I am also aware that the Retention Order provides that, to the extent the Debtors and KPMG-US enter into any additional engagement letter(s), the Debtors will file a notice of the additional engagement with the Court attaching the engagement letter(s) and serve the notice upon the office of the United States Trustee and counsel to the Official Committee of Unsecured Creditors (the “**Committee**”).

The Proposed Additional Services

3. The Debtors have requested that KPMG-US provide certain tax consulting services (the “**Additional Services**”) to Arcapita Bank as set forth in the engagement letter (the “**Engagement Letter**”), a true and correct copy of which is annexed hereto as **Exhibit A**. Specifically, subject to Court approval, KPMG-US has agreed to represent Arcapita Bank and to provide tax consulting services to Arcapita Bank in connection with the Internal Revenue Service (“**IRS**”) examination (the “**Examination**”) of Waverly Properties Holding Company, Inc., in which the Debtors had an indirect investment interest, for the tax years ending December 31, 2010 and December 31, 2011. The Additional Services include, but are not limited to, assisting in the resolution of the Examination in an efficient and timely manner, assisting Arcapita in its dealings with the IRS team conducting the Examination, assisting Arcapita in

responding to IRS inquiries, and, if necessary, representing Arcapita (at its request) before the IRS Office of Appeals or an equivalent reviewing body.²

Professional Compensation and Reimbursement of Expenses

4. KPMG-US will request compensation for professional services rendered to the Debtors for the Additional Services based upon the hours actually expended by each assigned staff member at each staff member's hourly rate. The Debtors have agreed to compensate KPMG-US at its normal and customary hourly rates as follows:

| Professional | Hourly Rate |
|---------------------|--------------------|
| Partner | \$950 - \$1,075 |
| Managing Director | \$925 - \$970 |
| Senior Manager | \$775 - \$900 |
| Manager | \$625 - \$665 |
| Senior Associate | \$455 - \$550 |
| Associate | \$350 - \$350 |

5. Consistent with the Retention Order and the Engagement Letter, KPMG-US will seek reimbursement for reasonable and necessary expenses incurred in providing the Additional Services, which may include meals, lodging, travel, photocopying, delivery service, postage, vendor charges and other out-of-pocket expenses.

6. All compensation for professional services rendered and reimbursement of expenses will be sought in accordance with the applicable provisions of any orders of the Court, the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Committee Members* [Dkt. No. 159], the Bankruptcy Code, the Federal

² The Engagement Letter states that:

If matters exceed the scope of this engagement letter, [KPMG-US] will issue a separate engagement letter or clarifying addendum to confirm the scope and related terms. Furthermore, a separate engagement letter will be issued for each discrete tax consulting project not specified in this engagement letter (e.g., transfer pricing study, corporate acquisition or disposition, etc.).


Rules of Bankruptcy Procedure, the Local Bankruptcy Rules for the Southern District of New York, *Administrative Order M-447, Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases*, and the *United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U. S. C. § 330* (adopted on January 30, 1996). KPMG-US has agreed to accept as compensation and reimbursement of expenses such sums as may be allowed by the Court and understands that interim and final fee awards are subject to Court approval.

7. I am informed from counsel for the Debtors that the Committee has agreed not to file an objection to the Notice of Additional Services or to KPMG-US's provision of the Additional Services on the terms set forth in the Engagement Letter.

8. Insofar as I have been able to ascertain, neither KPMG-US nor any employee thereof represents any interest adverse to any of the Debtors or their estates, and KPMG-US remains a "disinterested person" as that term is defined in 11 U.S.C. § 101(14).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Stamford, Connecticut.

Dated: July 9, 2013



Mary C. Grande
Partner
KPMG LLP (US)
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Stamford, Connecticut 06905-4317