

**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
	: :
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**ORDER PURSUANT TO SECTIONS 327(a), 330 AND 331 OF THE
BANKRUPTCY CODE APPROVING THE EMPLOYMENT AND
RETENTION OF GIBSON, DUNN & CRUTCHER LLP AS COUNSEL FOR
DEBTORS IN POSSESSION *NUNC PRO TUNC* TO THE PETITION DATE**

Upon consideration of the application (the “*Application*”) of 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*”), for an order pursuant to sections 327(a), 330 and 331 of title 11 of the United States Code (the “*Bankruptcy Code*”), Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”), and Rule 2014-1 of the Local Rules for the United States Bankruptcy Court for the Southern District of New York (the “*Local Rules*”) approving their employment, retention and compensation of Gibson, Dunn & Crutcher LLP (“*Gibson Dunn*”) as general bankruptcy and restructuring counsel, *nunc pro tunc* to the Petition Date for the Debtors in their Chapter 11 Cases;¹ upon the Declaration of Michael A. Rosenthal in support of the Application (the “*Rosenthal Declaration*”); and it appearing that this Court has jurisdiction to consider the Application; and it appearing that adequate notice has been given; and any objections to the Application having been overruled; and it appearing that Gibson Dunn does not hold or represent an interest adverse to the Debtors’ estates, and is a disinterested person under

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

section 101(14) of the Bankruptcy Code; and the Court finding that the employment of Gibson Dunn is necessary and in the best interest of the Debtors and their estates and creditors; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED:

1. The Application is granted to the extent provided herein.
2. Pursuant to sections 327(a), 330 and 331 of the Bankruptcy Code and subject to the provisions hereof, the Debtors are hereby authorized to employ and retain Gibson Dunn as their general bankruptcy and restructuring counsel *nunc pro tunc* to the Petition Date, in accordance with the terms and conditions of the Engagement Letter (including the attached Terms of Retention) to perform services including, but not limited to, the following:
 - (a) advise the Debtors of their rights, powers, and duties as debtors in possession under chapter 11 of the Bankruptcy Code;
 - (b) prepare, on behalf of the Debtors, all necessary and appropriate applications, motions, proposed orders, other pleadings, notices, schedules, and other documents; and review all financial and other reports to be filed in the Chapter 11 Cases;
 - (c) advise the Debtors concerning, and prepare responses to, applications, motions, other pleadings, notices, and other papers that may be filed and served in the Chapter 11 Cases;
 - (d) advise the Debtors with respect to, and assist in the negotiation and documentation of, financing agreements and related transactions;
 - (e) review the nature and validity of any liens asserted against the Debtors' property and advise the Debtors concerning the enforceability of such liens;
 - (f) advise the Debtors regarding their ability to initiate actions to collect and recover property for the benefit of their estates;
 - (g) counsel the Debtors in connection with the formulation, negotiation, and promulgation of a plan of reorganization and related documents;
 - (h) advise and assist the Debtors in connection with any potential property dispositions;
 - (i) advise the Debtors concerning executory contract and unexpired lease assumptions, assignments, and rejections as well as lease restructurings and recharacterizations;

- (j) assist the Debtors in reviewing, estimating, and resolving claims asserted against the Debtors' estates;
- (k) commence and conduct any and all litigation necessary or appropriate to assert rights held by the Debtors, protect assets of the Debtors' chapter 11 estates, or otherwise further the goal of completing the Debtors' successful reorganization;
- (l) provide corporate, employee benefit, environmental, litigation, tax, and other general nonbankruptcy services to the Debtors to the extent requested by the Debtors and agreed to by Gibson Dunn; and
- (m) perform all other necessary or appropriate legal services in connection with the Chapter 11 Cases for or on behalf of the Debtors as requested by the Debtors and agreed to by Gibson Dunn.

3. Gibson Dunn shall file applications to be compensated in accordance with the terms of the Engagement Letter, the standards and procedures set forth in sections 330 and 331 of the Bankruptcy Code, all applicable Bankruptcy Rules, the Local Rules, any guidelines promulgated by the Office of the United States Trustee, and further orders of the Court.

4. Gibson Dunn shall apply any Advance Payment Balance as a credit toward post-petition fees and expenses, after such post-petition fees and expenses are approved pursuant to the first Order of the Court awarding fees and expenses to Gibson Dunn. Any remaining balance due shall be paid by the Debtors upon the presentation of invoices by Gibson Dunn for fees and expenses incurred on the Debtors behalf, in accordance with the Interim Compensation Order and subject to approval by the Court.

5. Prior to any increases in Gibson Dunn's rates, as set forth in paragraph 14 of the Application, Gibson Dunn shall file a supplemental affidavit with the Court and provide ten business days' notice to the Debtors, the United States Trustee and any official committee. The supplemental affidavit shall explain the basis for the requested rate increases in accordance with Section 330(a)(3)(F) of the Bankruptcy Code and state whether the Debtors have consented to the rate increase. The United States Trustee retains all rights to object to any rate increase on all

grounds including, but not limited to, the reasonableness standard provided for in section 330 of the Bankruptcy Code, and the Court retains the right to review any rate increase pursuant to section 330 of the Bankruptcy Code.

6. Notwithstanding any terms of the Engagement Letter (including the attached Terms of Retention) to the contrary:

- (a) Gibson Dunn shall not be entitled to any late fees on unpaid fees and expenses due pursuant to the Engagement Letter;
- (b) Gibson Dunn shall not be entitled to any fee on secretarial overtime services due pursuant to the Engagement Letter;
- (c) Gibson Dunn shall not be entitled to any right of indemnification from the Debtors pursuant to the Engagement Letter;
- (d) The arbitration provisions of the Engagement Letter shall be subject to applicable bankruptcy law related to the application and enforcement of arbitration provisions; and
- (e) The Court shall have jurisdiction over any controversy arising from or related to the Application, the Engagement Letter, or Gibson Dunn's retention in the Chapter 11 Cases.

7. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

8. The Court shall retain jurisdiction with respect to all matters arising under or relating to the implementation and enforcement of this Order.

Dated: New York, New York
May 15, 2012

/s/ Sean H. Lane
THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE