

**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), <u>et al.</u> ,	:	Case No. 12-11076 (SHL)
	:	
Reorganized Debtors. ¹	:	Confirmed
	:	
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**DECLARATION OF STEVEN KOTARBA IN SUPPORT OF
FIFTH OMNIBUS OBJECTION TO CLAIMS**

Pursuant to 28 U.S.C. § 1746, I, Steven Kotarba, hereby declare:

1. I am a Managing Director in the restructuring group of Alvarez & Marsal North America, LLC (“A&M”), the Court-approved restructuring advisor for the predecessors in interest to the above-captioned Reorganized Debtors (the “Debtors”). Founded in 1983, A&M is a global professional services firm specializing in turnaround and interim management, performance improvement and business advisory services. A&M delivers specialist operational, consulting and industry expertise to management and investors seeking to accelerate performance, overcome challenges and maximize value across the corporate and investment lifecycles.

2. In my capacity as a Managing Director of A&M, I am authorized to submit this declaration (the “Declaration”) in support of the *Debtors’ Fifth Omnibus Objection to Claims* [Docket No. 1053] (the “Fifth Omnibus Objection”).

3. Except as otherwise indicated, all facts set forth in this Declaration are based upon: (a) my personal knowledge; (b) my review of relevant documents, including Proofs of

¹ The chapter 11 case captioned In re Falcon Gas Storage Company, Inc., No. 12-11790 (Bankr. S.D.N.Y.), is being administered jointly with the other above-captioned cases, but no plan has been confirmed in that case.

Claim (as defined below); (c) my experience and knowledge of the Debtors' operations, books and records and personnel; (d) information supplied to me by others at the request of the Debtors or their professionals; and (e) as to matters involving United States bankruptcy law or rules or other applicable laws, my reliance on the advice of counsel or other advisors to the Debtors. If called upon to testify, I could and would testify to the facts set forth herein on that basis.

QUALIFICATIONS AND BACKGROUND

4. I have extensive experience with chapter 11 cases and other distressed restructurings, having advised debtors and various other stakeholders in the chapter 11 process for about 14.5 years. Since joining A&M in 2006, I have specialized in all aspects of bankruptcy case administration, including claims review and reconciliation, preparation of statements and schedules, legal noticing and the development of custom solutions to complex case administration and claim reconciliation issues.

5. Before joining A&M, I was an attorney in the Corporate Restructuring Practice of Kirkland & Ellis, LLP and served as Director and Head of Chicago operations for the BMC Group, Inc., an international information management company.

6. I received my Bachelor of Arts degree in finance and economics from Indiana University, and a juris doctor, with distinction, from the University of Iowa College of Law.

7. My business address is 55 West Monroe Street, Suite 4000, Chicago, Illinois 60603.

THE CLAIMS ADMINISTRATION PROCESS

8. Considerable time and effort was expended by the Debtors' employees and professionals, including A&M professionals supervised by me, in connection with the claims administration process to ensure a high level of diligence in reviewing and reconciling

approximately 565 proofs of claim filed in the chapter 11 cases. I and other A&M professionals commenced our review and analysis of the proofs of claim shortly after the August 30, 2012 deadline for their submission. Over the next six months, working directly with the Debtors' bankruptcy counsel, we reviewed, analyzed and considered the merits of each proof of claim. Leading up to the April 26, 2013 filing of the Fifth Omnibus Objection, I regularly interfaced with the Debtors' bankruptcy counsel and internal legal counsel to address legal issues impacting the validity or amount of the asserted claims.

9. I am generally familiar with the information contained in the Fifth Omnibus Objection. I and A&M employees supervised by me, assisted the Debtors' bankruptcy counsel in the preparation of the Fifth Omnibus Objection. In furtherance of the foregoing, A&M professionals (a) identified claims that should be disallowed, expunged, reclassified, modified or reduced on the bases set forth in the Fifth Omnibus Objection (the "Disputed Claims"); (b) conferred with the Debtors' employees and professional advisors to assess the validity of the Disputed Claims and obtain additional source documents (particularly where Disputed Claims lacked sufficient documentation to analyze their validity); (c) reviewed the Fifth Omnibus Objection and the related proposed form of order; and (d) ultimately drafted the schedules annexed to the Fifth Omnibus Objection.

THE DISPUTED CLAIMS

10. In evaluating the Disputed Claims, the Reorganized Debtors and their advisors, including A&M professionals supervised by me, performed in-depth comparisons of the claims listed on the Debtors' books and records, on one hand, and the proofs of claim (including supporting documentation) on the other and determined that each Disputed Claim is asserted in an amount greater than the corresponding amount reflected in the

Debtors' books and records and/or asserts priority status where it is unwarranted. Therefore, I believe that disallowance, expungement, reclassification, reduction, or modification of each Disputed Claim, for the reasons set forth in the Fifth Omnibus Objection, is appropriate.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: October 21, 2013
New York, New York

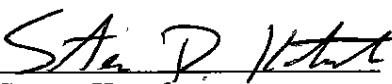

Steven Kotarba

Exhibit A

Claims to be Disallowed and Expunged

ARCAPITA BANK B.S.C.(C), ET AL.

EXHIBIT A

CLAIMS TO BE DISALLOWED AND EXPUNGED

	NAME OF CLAIMANT	CLAIM NO.	DEBTOR & CASE NO.	ASSERTED AMOUNT	REASON FOR PROPOSED DISALLOWANCE
1	Employee 1201 [Address on File]	162	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Undetermined	<u>See</u> paragraphs 31-33 of the Fifth Omnibus Objection. No liability exists on the Debtors' books and records for a guaranteed bonus.
2	Employee 1262 [Address on File]	200	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$3,031,752.00	<u>See</u> paragraphs 16-19 of the Fifth Omnibus Objection.
3	Employee 1278 [Address on File]	224	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$11,725.00	<u>See</u> paragraphs 31-33 of the Fifth Omnibus Objection. No liability exists for the 2011 employee bonus amounts as the claimant asserts duplicate liability in POC 227 for 2011 employee bonus.
4	Employee 1278 [Address on File]	225	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$418,163.00	<u>See</u> paragraphs 16-19 of the Fifth Omnibus Objection.
5	Employee 1278 [Address on File]	226	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$182,959.00	<u>See</u> paragraphs 16-19 of the Fifth Omnibus Objection.
6	Employee 1282 [Address on File]	205	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$1,186,362.00	<u>See</u> paragraphs 16-19 of the Fifth Omnibus Objection.
7	Employee 1284 [Address on File]	216	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$244,863.00	<u>See</u> paragraphs 16-19, 28-30, and 31-33 of the Fifth Omnibus Objection.
8	Employee 1323 [Address on File]	144	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$5,854.66	<u>See</u> paragraphs 28-30 of the Fifth Omnibus Objection.
9	Employee 1373 [Address on File]	188	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$368,174.00	<u>See</u> paragraphs 16-19 of the Fifth Omnibus Objection.
10	Employee 1373 [Address on File]	189	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Undetermined	<u>See</u> paragraphs 16-19 of the Fifth Omnibus Objection.
11	Employee 1373 [Address on File]	190	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$280,951.01	<u>See</u> paragraphs 20-27 of the Fifth Omnibus Objection.
12	Employee 1466 [Address on File]	240	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Undetermined	<u>See</u> paragraphs 16-19 of the Fifth Omnibus Objection.
13	Employee 1466 [Address on File]	241	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$346,101.00	<u>See</u> paragraphs 16-19 of the Fifth Omnibus Objection.
14	Employee 2026 [Address on File]	186	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Undetermined	<u>See</u> paragraphs 16-19 of the Fifth Omnibus Objection.
15	Employee 2038 [Address on File]	183	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Undetermined	<u>See</u> paragraphs 16-19 and 20-27 of the Fifth Omnibus Objection.
16	Employee 2070 [Address on File]	154	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Undetermined	<u>See</u> paragraphs 16-19 and 31-33 of the Fifth Omnibus Objection.
17	Employee 2078 [Address on File]	141	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$22,000.00	<u>See</u> paragraphs 28-30 of the Fifth Omnibus Objection.
18	Employee 2110 [Address on File]	146	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$2,410.66	<u>See</u> paragraphs 28-30 of the Fifth Omnibus Objection.

* Plus unliquidated, punitive and/or undetermined amounts.

ARCAPITA BANK B.S.C.(C), ET AL.

EXHIBIT A

CLAIMS TO BE DISALLOWED AND EXPUNGED

	NAME OF CLAIMANT	CLAIM NO.	DEBTOR & CASE NO.	ASSERTED AMOUNT	REASON FOR PROPOSED DISALLOWANCE
19	Employee 2111 [Address on File]	147	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$3,278.78	<u>See</u> paragraphs 28-30 of the Fifth Omnibus Objection.
20	Employee 2142 [Address on File]	268	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$100,000.00	<u>See</u> paragraphs 20-27 of the Fifth Omnibus Objection.
21	Employee 2164 [Address on File]	149	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$8,602.52	<u>See</u> paragraphs 28-30 of the Fifth Omnibus Objection.
22	Employee 2179 [Address on File]	148	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$1,516.62	<u>See</u> paragraphs 28-30 of the Fifth Omnibus Objection.
			TOTAL	\$6,214,713.25*	

* Plus unliquidated, punitive and/or undetermined amounts.

Exhibit B

Claims to be Reclassified

ARCAPITA BANK B.S.C.(C), ET AL.

EXHIBIT B

CLAIMS TO BE RECLASSIFIED

	NAME OF CLAIMANT	CLAIM NO.	DEBTOR & CASE NO.	ASSERTED CLASS	ASSERTED AMOUNT	MODIFIED CLASS	REASON FOR PROPOSED RECLASSIFICATION
1	Employee 1038 [Address on File]	56	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Priority	\$63,340.75	Unsecured	<u>See</u> paragraphs 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the employee payable on the Debtors' books and records as of the bankruptcy petition date.
2	Employee 1466 [Address on File]	238	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Administrative Expense	\$1,191,900.00	Unsecured	<u>See</u> paragraphs 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the 2012 employee bonus on the Debtors' books and records as of the bankruptcy petition date.
3	Employee 1466 [Address on File]	239	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Administrative Expense	\$500,000.00	Unsecured	<u>See</u> paragraphs 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the 2011 employee bonus on the Debtors' books and records as of the bankruptcy petition date.
4	Employee 1481 [Address on File]	135	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Priority	\$196,969.40	Unsecured	<u>See</u> paragraphs 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the 2011 employee bonus on the Debtors' books and records as of the bankruptcy petition date.
5	Employee 1483 [Address on File]	13	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Priority	\$1,000,000.00	Unsecured	<u>See</u> paragraphs 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the 2011 employee bonus on the Debtors' books and records as of the bankruptcy petition date.
6	Employee 1495 [Address on File]	96	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Priority	\$25,000.00	Unsecured	<u>See</u> paragraphs 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the 2011 employee bonus on the Debtors' books and records as of the bankruptcy petition date.
TOTAL					\$2,977,210.15*		

* Plus unliquidated, punitive and/or undetermined amounts.

Exhibit C

Claims to be Reduced

ARCAPITA BANK B.S.C.(C), ET AL.**EXHIBIT C****CLAIMS TO BE REDUCED**

	NAME OF CLAIMANT	CLAIM NO.	DEBTOR & CASE NO.	ASSERTED AMOUNT	MODIFIED AMOUNT	REASON FOR PROPOSED REDUCTION
1	Employee 1000 [Address on File]	338	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$1,134,199.62	\$135,000.00	See paragraphs 16-19 of the Fifth Omnibus Objection. The modified unsecured amount reflects the employee payable on the Debtors' books and records as of the bankruptcy petition date.
2	Employee 1035 [Address on File]	62	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$337,819.50	\$37,500.00	See paragraphs 16-19 of the Fifth Omnibus Objection. The modified unsecured amount reflects the employee payable on the Debtors' books and records as of the bankruptcy petition date.
3	Employee 1372 [Address on File]	184	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$376,000.00	\$150,000.00	The modified unsecured amount reflects the 2011 employee bonus on the Debtors' books and records as of the bankruptcy petition date. No liability exists on the Debtors' books and records for an employee stock grant.
TOTAL				\$1,848,019.12	\$322,500.00	

Exhibit D

Claims to be Reclassified and Reduced

Pg 13 of 13
ARCAPITA BANK B.S.C.(C), ET AL.

EXHIBIT D

CLAIMS TO BE RECLASSIFIED AND REDUCED

	NAME OF CLAIMANT	CLAIM NO.	DEBTOR & CASE NO.	ASSERTED CLASS	ASSERTED AMOUNT	MODIFIED CLASS	MODIFIED AMOUNT	REASON FOR PROPOSED MODIFICATION
1	Employee 1259 [Address on File]	316	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Priority Unsecured	\$11,725.00 \$648,595.53	Priority Unsecured	\$0.00 \$183,823.53	<u>See</u> paragraphs 16-19, 20-27, and 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the 2011 employee bonus on the Debtors' books and records as of the bankruptcy petition date.
2	Employee 1265 [Address on File]	310	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Priority Unsecured	\$11,725.00* \$1,720,459.00	Priority Unsecured	\$0.00 \$330,329.88	<u>See</u> paragraphs 16-19 and 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the 2011 employee bonus on the Debtors' books and records as of the bankruptcy petition date.
3	Employee 1271 [Address on File]	309	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Priority Unsecured	\$11,725.00* \$828,814.31*	Priority Unsecured	\$0.00 \$200,000.00	<u>See</u> paragraphs 16-19, 20-27, and 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the 2011 employee bonus on the Debtors' books and records as of the bankruptcy petition date.
4	Employee 1276 [Address on File]	311	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Priority Unsecured	\$3,197,315.00* Undetermined	Priority Unsecured	\$0.00 \$350,000.00	<u>See</u> paragraphs 16-19, 28-30, and 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the 2011 employee bonus on the Debtors' books and records as of the bankruptcy petition date.
5	Employee 1425 [Address on File]	68	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Priority	\$275,096.61	Unsecured	\$250,000.00	<u>See</u> paragraphs 28-30 and 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the 2011 employee bonus on the Debtors' books and records as of the bankruptcy petition date. No liability exists on the Debtors' books and records for interest on the bonus.
6	Employee 1501 [Address on File]	117	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Priority Unsecured	\$11,725.00 \$152,576.00	Priority Unsecured	\$0.00 \$154,301.00	<u>See</u> paragraphs 16-19 and 31-33 of the Fifth Omnibus Objection. The modified unsecured amount reflects the 2011 employee bonus on the Debtors' books and records as of the bankruptcy petition date.
				TOTAL	\$6,869,756.45*	TOTAL	\$1,468,454.41	

* Plus unliquidated, punitive and/or undetermined amounts.