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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), <u>et al.</u> ,	: Case No. 12-11076 (SHL)
	: :
	: Confirmed
	: :
Reorganized Debtors. ¹	: :
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**EX PARTE MOTION OF THE REORGANIZED DEBTORS FOR
AN ORDER SHORTENING NOTICE WITH RESPECT
TO EIGHTH OMNIBUS OBJECTION TO CLAIMS**

The Reorganized Debtors hereby submit this motion (the “Motion”) pursuant to rule 9006(c)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and rules 9006-1(b) and 9077-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”) requesting entry of an order shortening notice with respect to the *Eighth Omnibus Objection to Claims* [Docket No. 1689] (the “Eighth Omnibus Objection”).² In support of this Motion, the Reorganized Debtors state as follows:

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.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Eighth Omnibus Objection.

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory bases for the relief requested herein are Bankruptcy Rule 9006(c)(1) and Local Rules 9006-1(b) and 9077-1.

RELIEF REQUESTED

1. By this *ex parte* Motion, the Reorganized Debtors seek entry of an order, substantially in the form attached hereto as Exhibit A (the “Proposed Order”), (i) shortening notice with respect to the hearing on the Eighth Omnibus Objection, (ii) setting the Eighth Omnibus Objection for a hearing on December 17, 2013, at 2:00 p.m. (prevailing Eastern Time), and (iii) setting the deadline for the service and filing of responses to the Eighth Omnibus Objection for December 15, 2013, at 5:00 p.m. (prevailing Eastern Time).

BASIS FOR REQUESTED RELIEF

2. Bankruptcy Rule 9006(c)(1) authorizes the Court, for cause shown, to reduce the notice period otherwise required for a hearing under the Bankruptcy Rules. See Fed. R. Bankr. P. 9006(c)(1). Paragraph 24 of the Case Management Procedures [Docket No. 21] (the “Case Management Procedures”) also provides that the Court may shorten the notice period otherwise required by the Bankruptcy Rules upon request of a party in interest. In addition, Local Rule 9077-1 provides that the Court may grant *ex parte* relief for cause shown. LBR 9077-1.

3. Cause exists to grant this Motion on an *ex parte* basis and to reduce the notice period for the hearing on the Eighth Omnibus Objection.

4. Based on the classification adopted by the *Confirmed Second Amended Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and Related Debtors Under Chapter 11 of the Bankruptcy Code (with First Technical Modifications)* (the “Plan”) [Docket No. 1265], each of

the claims subject to the Eighth Omnibus Objection (the “Claims”) falls within Class 5A, except for claim no. 348, which falls within Class 5B. The Reorganized Debtors plan to make the initial distribution under the Plan to the holders of allowed claims in Classes 5A and 5B before the end of this calendar year. However, each of the Claims has been filed in a wholly unliquidated amount. Accordingly, the Reorganized Debtors are not able to proceed with the distribution to the holders of allowed claims in Classes 5A and 5B.

5. To address this problem, on November 1, 2013, the Reorganized Debtors filed a *Motion to Estimate Unliquidated Claims for Purposes of Establishing Reserve in Connection with Distributions* [Docket No. 1664] (the “Estimation Motion”), in which they requested, among other things, an estimation of each of the Claims at \$0 for the purposes of establishing a reserve that would allow them to proceed with the initial distribution. However, it was the Court’s preference that the Reorganized Debtors address the Claims substantively, rather than have them estimated.

6. Should the Reorganized Debtors provide thirty-five days’ notice for the Eighth Omnibus Objection, as provided for by the Claim Objection Procedures Order, the Claims would remain unliquidated and distributions to creditors will be delayed to their prejudice.³

7. The Plan consideration, consisting of securities issued by two affiliates of the Reorganized Debtors, was specifically designed to permit the trading of these securities as freely and easily as possible. However, as creditors await the initial distribution, they face significant hurdles to realizing proceeds on account of their claims. While creditors remain free to transfer

³ Although the Reorganized Debtors could make distributions to certain creditors, absent the relief requested in the Eighth Omnibus Objection, the overwhelming majority of these creditors would be entitled to one distribution now and a second significant distribution once the No Liability Claims are disallowed or liquidated. This would cause a significant increase in the transaction costs for making distributions to these creditors, to the detriment of all holders of allowed claims.

their beneficial interests in claims to third parties, before the Plan securities are actually issued, the transaction costs remain significant.

8. Furthermore, the holders of the Claims will not be prejudiced by the shortened notice with respect to the relief requested in the Eighth Omnibus Objection, because they are already on notice that the Reorganized Debtors believe that the estates have no liability on the Claims. The Estimation Motion, whereby the Reorganized Debtors sought to have each Claim estimated at \$0 was served on these holders on or about November 1, 2013, nearly three weeks prior to the filing of the Eighth Omnibus Objection. See Affidavit of Service of Donna M. Zeiser [Docket No. 1666].

9. Although the relief sought in the Eighth Omnibus Objection is not identical to that sought in the Estimation Motion, the arguments in support of the relief are identical. Thus, each holder of the Claims has been on notice since on or about November 1, 2013 that the Reorganized Debtors intend to seek a determination that its Claim is worth \$0, *i.e.*, that the estates have no liability with respect thereto. Therefore, the relief sought in the Eighth Omnibus Objection, which still affords these holders a 22-day notice, presents no novel issues that these claimants have not had ample time to review.

NOTICE

10. Pursuant to Bankruptcy Rule 9006(c)(1), the Court may shorten a notice period without notice. This motion is being served concurrently with the Eighth Omnibus Objection (a) via email and either hand delivery or overnight courier to the holder of each Claim, (b) via email (to the extent available) or first-class mail to the parties on the master service list established in these cases, and (c) via overnight courier to the Office of the United States Trustee.

NO PRIOR REQUEST

11. No prior application for the relief requested in this Motion has been made to this Court or any other court.

CONCLUSION

WHEREFORE, for the reasons set forth herein, the Reorganized Debtors respectfully request that the Court grant this Motion and enter the Proposed Order: (i) shortening the notice period with respect to the hearing on the Eighth Omnibus Objection, (ii) setting the Eighth Omnibus Objection for a hearing on December 17, 2013, at 2:00 p.m. (prevailing Eastern Time), (iii) setting the deadline for the service and filing of responses to the Eighth Omnibus Objection for December 15, 2013, at 5:00 p.m. (prevailing Eastern Time), and (iv) granting such other relief as is just.

Dated: November 22, 2013
New York, New York

MILBANK, TWEED, HADLEY & M^cCLOY LLP

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the New Holding Companies*

EXHIBIT A

Proposed Order

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

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In re: : Chapter 11

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: Case No. 12-11076 (SHL)

ARCAPITA BANK B.S.C.(C), et al., :

: Confirmed

:

Reorganized Debtors.¹ :

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**ORDER GRANTING *EX PARTE* MOTION OF REORGANIZED DEBTORS FOR
ENTRY OF AN ORDER SHORTENING NOTICE WITH RESPECT TO
EIGHTH OMNIBUS OBJECTION TO CLAIMS**

Upon the motion (the “Motion”)² of the Reorganized Debtors pursuant to rule 9006(c)(1) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and rules 9006-1(b) and 9077-1 of the Local Bankruptcy Rules for the Southern District of New York (the “Local Rules”) for an order shortening notice with respect to the *Eighth Omnibus Objection to Claims* [Docket No. 1689] (the “Eighth Omnibus Objection”); and the Court having jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and notice of the Motion having been sufficient under the circumstances and no other or further notice being required; and after due consideration and good cause appearing therefor, it is hereby:

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.

² Capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Eighth Omnibus Objection.

ORDERED that the Motion is granted; and it is further

ORDERED that the hearing on the Eighth Omnibus Objection is scheduled for **December 17, 2013, at 2:00 p.m.** (prevailing Eastern Time); and it is further

ORDERED that the deadline to respond to the Eighth Omnibus Objection shall be **December 14, 2013, at 5:00 p.m.** (prevailing Eastern Time); and it is further

ORDERED that the Reorganized Debtors shall serve a copy of the Eighth Omnibus Objection and this Order in the manner described in the Case Management Procedures [Docket No. 21] (the “Case Management Procedures”) upon the Standard Parties, each Affected Party and the Rule 2002 Parties (in each case, as defined in the Case Management Procedures).

Dated: New York, New York
_____, 2013

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE