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

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	:	
In re:	:	Chapter 11
	:	
ARCAPITA BANK B.S.C.(c), <u>et al.</u> ,	:	Case No. 12-11076 (SHL)
	:	
Reorganized Debtors. <sup>1</sup>	:	Confirmed
	:	
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**NOTICE OF HEARING ON  
NINTH OMNIBUS OBJECTION TO CLAIMS  
(Duplicative Claims, Superseded Claims, Late-Filed Claims, No-Liability Claims, Books  
and Records Claims, and Claims to Be Reclassified)**

PLEASE TAKE NOTICE that on December 10, 2013, the above-captioned Reorganized Debtors filed the annexed omnibus objection (the "Ninth Omnibus Objection") to certain claims asserted against their predecessors in interest (the "Debtors").

PLEASE TAKE FURTHER NOTICE that a hearing to consider the Ninth Omnibus Objection will be held before the Honorable Sean H. Lane, United States Bankruptcy Judge, in Room 701 of the United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408 on **January 21, 2014 at 11:00 a.m. (prevailing Eastern Time)**, or as soon thereafter as counsel may be heard.

**PLEASE TAKE FURTHER NOTICE THAT ANY PARTY RECEIVING THIS  
NOTICE SHOULD REVIEW THE NINTH OMNIBUS OBJECTION TO SEE IF ITS**

<sup>1</sup> 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.

**NAME, DESIGNATED IDENTIFICATION NUMBER AND/OR CLAIM IS LISTED ON EXHIBITS A-F ATTACHED TO THE NINTH OMNIBUS OBJECTION.**<sup>2</sup>

PLEASE TAKE FURTHER NOTICE that any party receiving this notice that does **NOT** oppose the disallowance, reduction, or reclassification, as applicable, of such party's claim(s) does **NOT** need to file a written response to the Ninth Omnibus Objection and does **NOT** need to appear at the hearing.

PLEASE TAKE FURTHER NOTICE that any party receiving this notice that **DOES** oppose the disallowance, reduction, or reclassification, as applicable, of such party's claim(s) must file and serve a written response to the Ninth Omnibus Objection (each, a "Response") so Response is received no later than **January 14, 2014 at 4:00 p.m. (prevailing Eastern Time)** (the "Response Deadline").

PLEASE TAKE FURTHER NOTICE that any Response must be in writing and contain at a minimum the following: (a) a caption setting forth the name of the Court, the case number and the title of the Ninth Omnibus Objection; (b) the name or the Identification Number of the claimant and description of the basis for the asserted claim; (c) a concise statement setting forth the reasons why the claim should not be disallowed for the reasons set forth in the Ninth Omnibus Objection, including, but not limited to, the specific factual and legal bases upon which the claimant will rely in opposing the Ninth Omnibus Objection; (d) all documentation or other evidence of the claim, to the extent not included with the proof of claim previously filed with the Court, upon which the claimant will rely in opposing the Ninth Omnibus Objection; (e) the address to which the Reorganized Debtors must return any reply to any Response, if different from that listed in the claimant's proof of claim; and (f) the name, address, and telephone number of the person (which may be the claimant or the claimant's counsel) possessing ultimate authority to reconcile, settle or otherwise resolve the claim on the claimant's behalf.

PLEASE TAKE FURTHER NOTICE that a Response will be deemed timely filed only if it is actually filed on or before the Response Deadline on the docket of *In re Arcapita Bank B.S.C.(c), et al.*, Case No. 12-11076 (SHL), either by (a) electronic filing pursuant to the Case Management Procedures approved by the Court and the Court's General Order M-399 (available at [www.nysb.uscourts.gov/court-info/local-rules-and-orders/general-orders](http://www.nysb.uscourts.gov/court-info/local-rules-and-orders/general-orders)), by registered users of the Court's case filing system and by all other parties in interest on a compact disk, preferably in portable document format, Microsoft Word, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Court and General Order M-399, to the extent applicable, or (b) delivering the original Response to the Court on or before the Response Deadline at One Bowling Green,

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<sup>2</sup> Creditors can obtain certain categories of information, such as the identity (or in the case of the Debtors' investors and employees, the designated identification numbers used to preserve confidentiality) of the holder of any particular claim at: <http://www.gcginc.com/cases/arcapita/index.php>. Creditors may search the claims register by clicking on the "Claims Register/Creditor Search" link on the website. In addition, creditors may request a copy of the cover page of any proof of claim (other than for investors and employees) by email at [ArcapitaBankInfo@gcginc.com](mailto:ArcapitaBankInfo@gcginc.com) or by mail to Arcapita Bank B.S.C.(c), c/o Garden City Group, Inc., P.O. Box 9881, Dublin, Ohio 43017-5781. Requests for a copy of a proof of claim cover page for investors or employees will require the filing of a motion seeking the Court's approval and may be also subject to the approval of the Reorganized Debtors.

Room 701, New York, New York 10004-1408. In addition, a Response will be deemed timely served only if a copy of the Response is actually received on or before the Response Deadline by (i) counsel to the Reorganized Debtors, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005 (Attn: Lena Mandel, Esq. and Nicholas Kamphaus, Esq.); and (ii) 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.).

PLEASE TAKE FURTHER NOTICE that if no Response is timely filed and served with respect to any claim dealt with in the Ninth Omnibus Objection, the Reorganized Debtors may, on or after the Response Deadline, submit to the Court an order substantially in the form of the proposed order annexed to the Ninth Omnibus Objection disallowing, reducing, or reclassifying, as applicable, such claim, which order may be entered with no further notice or opportunity to be heard.

PLEASE TAKE FURTHER NOTICE that any party receiving this notice may view the complete Ninth Omnibus Objection on the Court's electronic docket for the Debtors' chapter 11 cases, which is posted on the Internet at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov) (a PACER login and password are required and can be obtained through the PACER Service Center at [www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)) or for free at [www.gcginc.com/cases/arcapita](http://www.gcginc.com/cases/arcapita). Any questions about this notice or the Ninth Omnibus Objection should be directed to Garden City Group, Inc., the claims agent retained by the Reorganized Debtors, at 800-762-7029 (toll free), 440-389-7311 (international toll), or email at [ArcapitaBankInfor@gcginc.com](mailto:ArcapitaBankInfor@gcginc.com). CLAIMANTS SHOULD NOT CONTACT THE CLERK OF THE BANKRUPTCY COURT TO DISCUSS THE MERITS OF THEIR CLAIMS.

Dated: December 10, 2013  
New York, New York

**MILBANK, TWEED, HADLEY & M<sup>C</sup>CLOY LLP**

/s/ Evan R. Fleck

Dennis F. Dunne

Evan R. Fleck

Lena Mandel

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*Counsel for the Reorganized Debtors and  
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the New Holding Companies*

**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. <sup>1</sup>	:	Confirmed
	:	
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**NINTH OMNIBUS OBJECTION TO CLAIMS**  
**(Duplicative Claims, Superseded Claims, Late-Filed Claims, No-Liability Claims, Books and Records Claims, and Claims to Be Reclassified)**

**THIS OBJECTION SEEKS TO DISALLOW, REDUCE OR RE-CLASSIFY CERTAIN CLAIMS. CLAIMANTS RECEIVING THIS OBJECTION SHOULD LOCATE THEIR NAMES (OR DESIGNATED IDENTIFICATION NUMBERS) AND/OR CLAIMS ON EXHIBITS A-F ATTACHED TO THIS OBJECTION.**

The above-captioned Reorganized Debtors hereby submit, pursuant to section 502(b) of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (as amended, the “Bankruptcy Code”), Rule 3007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and this Court’s *Order Granting Debtors’ Motion for Entry of an Order Pursuant to 11 U.S.C. § 105(a) and Fed. R Bankr. P. 3007 Approving Claim Objection Procedures* [Docket No.

<sup>1</sup> 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.

785] (the “Claim Objection Procedures Order”), this omnibus objection (the “Ninth Omnibus Objection”) to certain claims asserted against their predecessors in interest (the “Debtors”). The Ninth Omnibus Objection is supported by the *Declaration of Scott A. Rinaldi in Support of Ninth Omnibus Objection to Claims* attached hereto as Exhibit G (the “Rinaldi Declaration”). In support of the Ninth Omnibus Objection, the Reorganized Debtors respectfully represent as follows:

### **JURISDICTION AND VENUE**

1. The Court has jurisdiction to consider this Ninth Omnibus Objection pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

### **BACKGROUND**

2. On July 11, 2012, this Court entered an order [Docket No. 308] (the “Bar Date Order”) establishing August 30, 2012 as the deadline for non-governmental claimants to file proofs of claim against the Debtors (as subsequently extended to September 17, 2012 for certain claimants, the “Bar Date”).

3. On January 18, 2013, the Court entered the Claim Objection Procedures Order, establishing additional grounds (in addition to the grounds set forth in Bankruptcy Rule 3007(d)) on which the Debtors were allowed to object to claims asserted against them on an omnibus basis. Pursuant to that order, parties in interest may file omnibus objections on, among others, the basis that “the claims seek recovery of amounts for which the Debtors are not liable” and “the claims should otherwise be disallowed pursuant to section 502 of the Bankruptcy Code.” Claim Objection Procedures Order ¶¶ 3(c), (j).

4. On June 17, 2013, the Court entered an order [Docket No. 1045] confirming the Debtors’ second amended joint chapter 11 plan of reorganization (the “Plan”) and establishing

the later of the 180<sup>th</sup> day following (i) the effective date of the Plan, which occurred on September 17, 2013, or (ii) the date a claim is filed, as the last date for filing objections to claims against the Debtors. See Appendix A of Plan ¶ 45. The Plan provides that “[a]fter the Effective Date, no party in interest shall have the right to object to Claims against or Interests in the Debtors (other than Falcon) or their Estates other than the Reorganized Debtors.” Plan § 8.11.

### **RELIEF REQUESTED**

5. The Reorganized Debtors and their advisors have reviewed each of the claims (including supporting documentation) identified on Exhibits A-F hereto and have determined the following:

- Proofs of claim listed on Exhibit A (the “Duplicative Claims”) should be disallowed and expunged in their entirety because they are duplicative of other claims (identified under the heading “Surviving Claims”);
- Proofs of claim listed on Exhibit B (the “Superseded Claims”) should be disallowed and expunged in their entirety because they have been superseded by subsequently filed claims (identified under the heading “Surviving Claims”);
- Proofs of claim listed on Exhibit C (the “Late-Filed Claims”) should be disallowed in their entirety and expunged because they were filed after the Bar Date;
- Proofs of claim listed on Exhibit D (the “No Liability Claims”) should be disallowed in their entirety and expunged because the Debtors’ estates have no liability with respect thereto;
- Proofs of claim listed on Exhibit E (the “Books and Records Claims”) should be reduced to reflect the amount of the estates’ liability thereon, based on the Debtors’ books and records; and
- Proofs of claim listed on Exhibit F (“Claims to Be Reclassified” and, together with the Duplicative Claims, the Superseded Claims, the Late-Filed Claims, the No Liability Claims, and the Books and Records Claims, the “Objected Claims”) should be re-classified as unsecured claims because they are not entitled to the asserted priority status.

6. The Reorganized Debtors seek entry of an order in the form attached hereto as Exhibit H, pursuant to section 502(b) of the Bankruptcy Code, Rule 3007(d) of the Bankruptcy

Rules, and the Claim Objection Procedures Order, disallowing, reducing, or reclassifying, as applicable, each of the Objected Claims on the grounds set forth below.

7. In addition, the Reorganized Debtors reserve the right to object on any other basis to any Objected Claim or Surviving Claim.

### **OBJECTION**

8. A filed proof of claim is “deemed allowed, unless a party in interest . . . objects.” 11 U.S.C. § 502(a). If an objection refuting at least one of the claim’s essential allegations is asserted, the claimant has the burden to demonstrate the validity of the claim by a preponderance of the evidence. See In re Oneida Ltd., 400 B.R. 384, 389 (Bankr. S.D.N.Y. 2009); In re Adelphia Commc’ns Corp., Case No. 02- 41729 (REG), 2007 Bankr. LEXIS 660, \*15 (Bankr. S.D.N.Y. Feb. 20, 2007); In re Rockefeller Ctr. Props., 272 B.R. 524, 539 (Bankr. S.D.N.Y. 2000).

#### **I. Duplicative Claims and Superseded Claims**

9. After reviewing the official claims register maintained in the chapter 11 cases by Garden City Group, Inc. (“GCG”), the Court-appointed claims agent, the Reorganized Debtors have determined that the claims listed on Exhibit A hereto have been asserted on account of the same obligations as the corresponding Surviving Claims. See Rinaldi Declaration ¶ 6.

10. Similarly, such review has indicated that the claim listed on Exhibit B hereto has been superseded by a later filed claim on account of the same obligation. See Rinaldi Declaration ¶ 7.

11. Section 502(b)(1) of the Bankruptcy Code provides, in relevant part, that a claim may not be allowed to the extent that “such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law....” 11 U.S.C. § 502(b)(1). The estates cannot be liable on the same claim more than once. See, e.g., In re Finley, Kumble,

Wagner, Heine, Underberg, Manley, Myserson, & Casey, 160 B.R. 882, 894 (Bankr. S.D.N.Y. 1993) (“In bankruptcy, multiple recoveries for an identical injury are generally disallowed.”). Accordingly, courts routinely disallow and expunge duplicative claims, as well as claims superseded by later filed claims. See, e.g., In re Worldcom, Inc., Case No. 02-13533 (AJG), 2005 WL 3875191, \*8 (Bankr. S.D.N.Y. June 3, 2005) (expunging duplicative claims); In re Enron Corp., Case No. 01-16034 (AJG), 2005 WL 3874285, \*1 n.1 (Bankr. S.D.N.Y. Oct. 5, 2005) (noting that “[i]n as much as the Initial Claim was amended and superseded by the Amended Claim, it was disallowed and expunged.”).

12. Here, without disallowance and expungement of the Duplicative Claims and the Superseded Claims, the relevant claimants may be entitled to unwarranted multiple recoveries, to the detriment of other similarly situated claimants. Elimination of these claims will enable the Reorganized Debtors to maintain a claims register that more accurately reflects the Debtors’ estates’ liabilities that have to be satisfied under the Plan. See Rinaldi Declaration ¶ 8.

13. Accordingly, the Reorganized Debtors request that the Court disallow in their entirety and expunge the Duplicative Claims and the Superseded Claims. The corresponding Surviving Claims will remain on the claims register subject to further objections on any other basis.

## **II. Late-Filed Claims**

14. Section 502(b)(1) of the Bankruptcy Code provides, in relevant part, that a claim may not be allowed to the extent that “proof of such claim is not timely filed.” 11 U.S.C. § 502(b)(1). “Bar dates are ‘critically important to the administration of a successful chapter 11 case.’” In re Lehman Bros. Holdings, Inc., 433 B.R. 113, 119 (Bankr. S.D.N.Y. 2010) (quoting In re Musicland Holding Corp., 356 B.R. 603, 607 (Bankr. S.D.N.Y. 2006)). A bar date is more



than a “procedural gauntlet” and functions as “an integral part of the reorganization process.” In re Hooker Invs., Inc., 937 F.2d 833, 840 (2d Cir. 1991). A bar date enables debtors to determine with finality what claims will be made against their estates – a determination without which they cannot effectively reorganize. See In re Keene Corp., 188 B.R. 903, 907 (Bankr. S.D.N.Y. 1995). Accordingly, bar dates are strictly enforced in the Second Circuit. See id. (“The bar date is akin to a statute of limitations, and must be strictly observed.”); In re Lehman Bros. Holdings, Inc., 433 B.R. at 119-20.

15. To be timely filed for the purpose of these cases, proofs of claim had to have been “*actually received*” on or before the Bar Date. Bar Date Order ¶ 4(c) (emphasis added). The Bar Date Order clearly provides that creditors that “fail to comply with [the Bar Date Order] by timely filing a Proof of Claim in appropriate form shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution.” Id. ¶ 10.

16. Each of the claimants listed on Exhibit C was served with the notice of the Bar Date (the “Bar Date Notice”) in compliance with the procedures set forth in the Bar Date Order. See Affidavit of Service of Donna M. Zeiser [Docket No. 338]. Specifically, the Debtors mailed the last Bar Date Notices to known creditors forty-eight (48) days prior to the Bar Date, which is substantially longer than the 35-day notice period recommended by the Second Amended Procedural Guidelines for Filing Requests for Bar Date Orders in the United States Bankruptcy Court for the Southern District of New York. Id. In addition, a copy of the Bar Date Order was made available at [http://www.gcginc.com/cases/arcapita/pdflib/308\\_11076.pdf](http://www.gcginc.com/cases/arcapita/pdflib/308_11076.pdf). Accordingly, the Debtors’ creditors had sufficient time to prepare and file their claims against the Debtors.

17. The Bar Date Notice appropriately warned creditors of the effect of failing to file a timely proof of claim. The Bar Date Notice prominently set forth the Bar Date and, in all

capital letters, stated that “ANY HOLDER OF A CLAIM THAT IS NOT EXCEPTED FROM THE REQUIREMENTS OF THIS ORDER, . . . AND THAT FAILS TO TIMELY FILE A PROOF OF CLAIM IN THE APPROPRIATE FORM SPECIFYING THE APPLICABLE DEBTOR AND OTHER REQUIREMENTS SET FORTH IN THE BAR DATE ORDER WILL NOT BE TREATED AS A CREDITOR WITH RESPECT TO SUCH CLAIM FOR THE PURPOSES OF VOTING ON ANY PLAN OR REORGANIZATION FILED IN THE CHAPTER 11 CASES, OR PARTICIPATING IN ANY DISTRIBUTION IN THE CHAPTER 11 CASES ON ACCOUNT OF SUCH CLAIM.” Bar Date Notice § 6.

18. Each of the Late-Filed Claims was filed after the Bar Date. See Rinaldi Declaration ¶ 9.<sup>2</sup> Because the Late-Filed Claims have failed to comply with the Bar Date and are, therefore, untimely under section 502(b) of the Bankruptcy Code, the Reorganized Debtors request that the Court disallow in its entirety and expunge each Late-Filed Claim.

**III. No Liability and Books and Records Claims**

19. Prior to their petition date, in the ordinary course of business, the Debtors maintained books and records (the “Books and Records”) that reflected, among other things, the Debtors’ liability to their creditors as of the petition date. The Reorganized Debtors compared the Objected Claims with the Books and Records to determine their validity. As a result of this review, and as set forth in the Rinaldi Declaration, the Reorganized Debtors have determined that each of the No Liability Claims and Books and Records Claims should be disallowed or reduced, as applicable, to match the Books and Records.

20. Claim no. 577 was filed by ACE American Insurance Company, Westchester Fire Insurance Company, and possibly one or more of its affiliates (collectively, “ACE”) in

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<sup>2</sup> As set forth in paragraph 26, although claim no. 569 asserts administrative expense status, the claim is not entitled to such status and, accordingly, the claimant must have complied with the Bar Date, and failed to do so.

connection with certain bonds issuances. In its proof of claim, which asserts administrative expense priority, ACE fails to indicate any grounds on which any of the Debtors may be liable to it, nor do the Books and Records reflect any such grounds. See Rinaldi Declaration ¶ 10. In fact, ACE itself has acknowledged that it has filed the claim “in an abundance of caution to preserve all of [its] right to payment and/or performance from the Debtors arising between the Petition Date and the Effective Date.” Claim no. 577 ¶ 4.

21. The other No Liability Claims appear to be asserted on account of expenses incurred by claimants in connection with the Debtors’ chapter 11 cases. The claimants have provided no basis for the estates’ liability for these expenses, nor do the Books and Records reflect any such liability. See Rinaldi Declaration ¶ 11.

22. For the reasons stated above, the Reorganized Debtors request that the Court disallow in their entirety and expunge the No Liability Claims.

23. Claim no. 302 was filed by King & Spalding LLP in the amount of \$1,291,403.69 in connection with legal services provided to the Debtors. The Reorganized Debtors seek a reduction of the claim by \$342,278.37, representing the amount that is properly asserted against Falcon and, in fact, is duplicative of claim no. 303 asserted against Falcon’s estate. See Rinaldi Declaration ¶ 12.

#### **IV. Claims to Be Reclassified**

24. Pursuant to section 507(a)(4) of the Bankruptcy Code, compensation earned by a debtor’s employees within 180 days of a bankruptcy filing is awarded priority treatment, subject to a cap of \$11,725. 11 U.S.C. § 507(a)(4). The Supreme Court has emphasized the importance of the limitations on the priority status afforded to employee wage claims under section 507 because “preferential treatment of a class of creditors is in order only when clearly authorized by

Congress.” Howard Delivery Serv., Inc. v. Zurich Am. Ins. Co., 547 U.S. 651, 656 (2006).

Conferring priority status to an employee-claimant “not clearly entitled thereto is not only inconsistent with the policy of equality of distribution; it dilutes the value of the priority for those creditors Congress intended to prefer.” Id. at 667-68.

25. As a result of their review of the claims filed on the claims register in the chapter 11 cases, the Reorganized Debtors have identified additional claims filed by the Debtors’ employees that assert priority for amounts that were not earned within 180 days of the petition date and, therefore, are not entitled to priority status under section 507(a)(4). See Rinaldi Declaration ¶ 13.

26. In addition, the Reorganized Debtors seek to reclassify claim no. 569. While the claim appears to assert administrative priority status, the claimant has provided no basis for the asserted priority, nor do the Books and Records reflect any entitlement to such priority. See Rinaldi Declaration ¶ 14.

27. To implement the Bankruptcy Code’s intended order of priority, the Reorganized Debtors request that the Court authorize the reclassification of the Claims listed on Exhibit F, as indicated thereon. Such claims, as reclassified, will remain on the claims register subject to further objections on any other basis.

### **NOTICE**

28. The Reorganized Debtors have provided notice of the filing of the Ninth Omnibus Objection 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.); and (b) the holder of each Objected Claim. The Reorganized Debtors submit that such notice is sufficient and no other or further notice need be provided.

**NO PRIOR REQUEST**

29. No prior request for the relief requested herein has been made to this or any other court.

**CONCLUSION**

WHEREFORE, the Reorganized 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: December 10, 2013  
New York, New York

**MILBANK, TWEED, HADLEY & M<sup>c</sup>CLOY LLP**

/s/ Evan R. Fleck  
Dennis F. Dunne  
Evan R. Fleck  
Lena Mandel  
One Chase Manhattan Plaza  
New York, NY 10005-1413  
Telephone: (212) 530-5000

*Counsel for the Reorganized Debtors and  
the New Holding Companies*

**Exhibit A**

**Duplicative Claims**

**NINTH OMNIBUS CLAIMS OBJECTION  
EXHIBIT A – DUPLICATIVE CLAIMS**

	<b>NAME OF CLAIMANT</b>	<b>DEBTOR NAME &amp; CASE #</b>	<b>CLAIM # TO BE DISALLOWED</b>	<b>CLAIM AMOUNT TO BE DISALLOWED</b>	<b>SURVIVING CLAIM</b>
1	Smith Moore Leatherwood LLP c/o M. Kevin McCarrell PO Box 87 Greenville, SC 29602	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	574	\$3,315.00	576
2	Yakima Products, Inc. & 3L Company Ltd. Tonkon Torp LLP Attn: Steven M. Wilker 888 SW Fifth Avenue, #1600 Portland, OR 97204	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	575	\$8,552,252.66	579
<b>TOTAL</b>				<b>\$8,555,567.66</b>	

**Exhibit B**

**Superseded Claims**



**NINTH OMNIBUS CLAIMS OBJECTION  
EXHIBIT B – SUPERSEDED CLAIMS**

	<b>NAME OF CLAIMANT</b>	<b>DEBTOR NAME &amp; CASE #</b>	<b>CLAIM # TO BE DISALLOWED</b>	<b>CLAIM AMOUNT TO BE DISALLOWED</b>	<b>SURVIVING CLAIM #</b>	<b>SURVIVING CLAIM AMOUNT</b>
1	Yakima Products, Inc. 15025 SW Koll Parkway Beaverton, OR 97006 Attn: Mark Reis	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	256	\$5,649,213.73	575, 579	\$8,552,252.66
2	AMPD (DE) Limited Partnership c/o W.P. Carey & Co., LLC Attn: Brooks Gordon 50 Rockefeller Plaza New York, New York 10020	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	131	Unliquidated	566	\$8,732,117.80
<b>TOTAL</b>				<b>\$5,649,213.73</b>		

**Exhibit C**

**Late-Filed Claims**

**NINTH OMNIBUS CLAIMS OBJECTION  
EXHIBIT C – LATE-FILED CLAIMS**

	<b>NAME OF CLAIMANT</b>	<b>CLAIM NO.</b>	<b>DATE FILED</b>	<b>DEBTOR &amp; CASE NO.</b>	<b>CLAIM AMOUNT</b>
1	Bahrain Bay Development B.S.C.(c) Bahrain Bay HQ Building P.O. Box 5092 Diplomatic Area Manama, Bahrain	572	October 10, 2013	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$206,936.24
2	Bahrain Bay Development B.S.C.(c) Bahrain Bay HQ Building P.O. Box 5092 Diplomatic Area Manama, Bahrain	573	October 10, 2013	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$105,820.00
3	Bangladesh School Bahrain P.O. Box 20305 Manama, Bahrain	584	October 23, 2013	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$2,651.82 <sup>1</sup>
4	Plumb Line Services LLC 1020 Cambridge Dr. Easley, SC 29642	569	September 30, 2013	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$725.00
				<b>TOTAL</b>	<b>\$316,133.06</b>

<sup>1</sup> Calculated using the Bahraini Dinar to US Dollar exchange rate on March 19, 2012 of .3771.

**Exhibit D**

**No Liability Claims**

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**NINTH OMNIBUS CLAIMS OBJECTION**  
**EXHIBIT D – NO LIABILITY CLAIMS**

	<b>NAME OF CLAIMANT</b>	<b>CLAIM NO.</b>	<b>DEBTOR &amp; CASE NO.</b>	<b>CLAIM AMOUNT TO BE DISALLOWED</b>
1	Schellenberg Wittmer Ltd 15bis, rue des Alpes P.O. Box 2088 1211 Geneva 1 Switzerland	567	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$15,875.00
2	Bangladesh School Bahrain P.O. Box 20305 Manama, Bahrain	568	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$3,567.00 <sup>1</sup>
3	ACE Companies Karel S. Karpe, Eq. KarpeLaw 44 Wall Street, 12 <sup>th</sup> Floor New York, NY 10005  Joseph G. Gibbons, Esq. Amy E. Vulpio, Esq. White and Williams LLP 1650 Market Street, 18 <sup>th</sup> Floor Philadelphia, PA 191012	577	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Unliquidated
4	Talico Overseas Limited c/o R&H Trust Co. (Jersey) Limited P.O. Box 83 Ordnance House, 31 Pier Road St. Helier, Jersey JE4 8PW British Channel Islands	580	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$11,121.70 <sup>2</sup>
5	Talico Overseas Limited c/o R&H Trust Co. (Jersey) Limited P.O. Box 83 Ordnance House, 31 Pier Road St. Helier, Jersey JE4 8PW British Channel Islands	581	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$500.00
6	Bangladesh School Bahrain P.O. Box 20305 Manama, Bahrain	583	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$914.77 <sup>3</sup>
7	Bangladesh School Bahrain P.O. Box 20305 Manama, Bahrain	584	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$2,651.82 <sup>4</sup>
<b>TOTAL</b>				<b>\$34,630.29</b>

<sup>1</sup> Plus unliquidated amounts.

<sup>2</sup> Calculated using the Great British Pounds to US Dollar exchange rate on March 19, 2012 of .6294.

<sup>3</sup> Calculated using the Bahraini Dinar to US Dollar exchange rate on March 19, 2012 of .3771.

<sup>4</sup> Calculated using the Bahraini Dinar to US Dollar exchange rate on March 19, 2012 of .3771.

**Exhibit E**

**Books and Records Claims**

**NINTH OMNIBUS CLAIMS OBJECTION  
EXHIBIT E – BOOKS AND RECORDS CLAIMS**

	<b>NAME OF CLAIMANT</b>	<b>CLAIM NO.</b>	<b>DEBTOR &amp; CASE NO.</b>	<b>ASSERTED AMOUNT</b>	<b>MODIFIED AMOUNT</b>
1	King & Spalding LLP 1180 Peachtree Street Atlanta, GA 30309 Attn: Paul K. Ferdinands	302	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$1,291,403.69	\$949,125.32
			<b>TOTAL</b>	<b>\$1,291,403.69</b>	<b>\$949,125.32</b>

**Exhibit F**

**Claims to be Reclassified**



**NINTH OMNIBUS CLAIMS OBJECTION  
EXHIBIT F- CLAIMS TO BE RECLASSIFIED**

	<b>NAME OF CLAIMANT</b>	<b>CLAIM NO.</b>	<b>DEBTOR &amp; CASE NO.</b>	<b>ASSERTED CLASS</b>	<b>MODIFIED CLASS</b>
1	Employee 1497 [Address on File]	102	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
2	Employee 1506 [Address on File]	103	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
3	Employee 1492 [Address on File]	104	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
4	Employee 1507 [Address on File]	106	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
5	Employee 1499 [Address on File]	107	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
6	Employee 1500 [Address on File]	118	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
7	Employee 1060 [Address on File]	266	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
8	Employee 1260 [Address on File]	369	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
9	Plumb Line Services LLC 1020 Cambridge Dr. Easley, SC 29642	569	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Administrative Expense Claim Status	Class 5(a) - Unsecured

**Exhibit G**

**Scott A. Rinaldi Declaration**

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

-----	X	
	:	
In re:	:	Chapter 11
	:	
ARCAPITA BANK B.S.C.(c), <u>et al.</u> ,	:	Case No. 12-11076 (SHL)
	:	
Reorganized Debtors. <sup>1</sup>	:	Confirmed
	:	
-----	X	

**DECLARATION OF SCOTT A. RINALDI  
IN SUPPORT OF NINTH OMNIBUS OBJECTION TO CLAIMS**

Pursuant to 28 U.S.C. § 1746, I, Scott A. Rinaldi, hereby declare:

1. I am a Managing Director at FTI Consulting, Inc. (“FTI”), the financial advisor for the above-captioned Reorganized Debtors.

2. In my capacity as Managing Director of FTI, I am authorized to submit this Declaration in support of the *Ninth Omnibus Objection to Claims* (the “Ninth Omnibus Objection”).<sup>2</sup>

3. Except as otherwise indicated, all facts set forth in this Declaration are based upon: (a) my personal knowledge; (b) my review, or the review of employees of FTI under my supervision and direction, of the relevant documents, including the Books and Records, the Ninth Omnibus Objection, and all claims listed on Exhibits A-F thereto; and (c) information supplied to me by others at the request of the Reorganized Debtors or their professionals. If called upon to testify, I could and would competently testify to the facts set forth herein.

<sup>1</sup> 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.

<sup>2</sup> Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to such terms in the Ninth Omnibus Objection.

### **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 approximately 16 years. Since joining FTI in 1997,<sup>3</sup> I have specialized in all aspects of bankruptcy case administration, including, among other things, claims review and reconciliation, preparation of statements and schedules, noticing and the development of custom solutions to complex case administration and claim reconciliation issues.

5. I received my Bachelor of Arts degree in Finance from Florida State University and an MBA from Indiana University. My business address is 3 Times Square 10<sup>th</sup> Floor, New York, NY 10036.

### **THE OBJECTED CLAIMS**

6. The claims listed on Exhibit A to the Ninth Omnibus Objection have been asserted on account of the same obligations as the corresponding Surviving Claims.

7. The claim listed as on Exhibit B to the Ninth Omnibus Objection has been superseded by a later filed claim on account of the same obligation.

8. Without disallowance and expungement of the Duplicative Claims and the Superseded Claims, the relevant claimants may be entitled to unwarranted multiple recoveries, to the detriment of other similarly situated claimants. Elimination of these claims will enable the Reorganized Debtors to maintain a claims register that more accurately reflects the Debtors' liabilities that have to be satisfied under the Plan.

9. Each of the Late-Filed Claims was filed after the Bar Date.

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<sup>3</sup> I joined Coopers & Lybrand in 1997, which merged in 1998 with Price Waterhouse to become PricewaterhouseCoopers ("PWC"). In 2002, FTI acquired PWC's U.S. Business Recovery Services Division, of which I was a part.

10. Claim no. 577 was filed by ACE in connection with certain bonds issuances. In its proof of claim, which asserts administrative expense priority, ACE fails to indicate any grounds on which any of the Debtors may be liable to it, nor do the Books and Records reflect any such grounds.

11. The No Liability Claims, other than claim no. 577, appear to be asserted on account of expenses incurred by claimants in connection with the Debtors' chapter 11 cases. The claimants have provided no basis for the estates' liability for these expenses, nor do the Books and Records reflect any such liability.

12. Claim no. 302 was filed by King & Spalding LLP in the amount of \$1,291,403.69 in connection with legal services provided to the Debtors. The reduction of \$342,278.37 sought by the Reorganized Debtors represents the amount that is properly asserted against Falcon and, in fact, is duplicative of claim no. 303 asserted against Falcon's estate.

13. Claims identified on Exhibit F to the Ninth Omnibus Objection (other than claim no. 569) assert priority for amounts that were not earned within 180 days of the petition date and, therefore, are not entitled to priority status under section 507(a)(4).

14. While claim no. 569 appears to assert administrative priority status, the claimant has provided no basis for the asserted priority, nor do the Books and Records reflect any entitlement to such priority.

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

Date: December 10, 2013  
New York, New York

/s/ Scott A. Rinaldi  
Scott A. Rinaldi

**Exhibit H**

**Proposed Order**

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

-----	X	
	:	
In re:	:	Chapter 11
	:	
ARCAPITA BANK B.S.C.(C), <u>et al.</u> ,	:	Case No. 12-11076 (SHL)
	:	
	:	
Reorganized Debtors. <sup>1</sup>	:	Confirmed
	:	
-----	X	

**ORDER GRANTING RELIEF WITH RESPECT TO  
NINTH OMNIBUS OBJECTION TO CLAIMS**

Upon consideration of (i) the ninth omnibus objections to claims (the “Ninth Omnibus Objection”)<sup>2</sup> filed by the above-captioned Reorganized Debtors, seeking entry of an order, pursuant to section 502(b) of title 11 of the United States Code, Rule 3007(d) of the Federal Rules of Bankruptcy Procedure and this Court’s Claim Objection Procedures Order, disallowing, expunging, reclassifying, reducing and/or otherwise modifying certain claims filed against the Reorganized Debtors’ predecessors in interest (the “Debtors”), (ii) the Declaration of Scott A. Rinaldi in Support of the Ninth Omnibus Objection to Claims, dated December 10, 2013, filed as Exhibit G to the Ninth Omnibus Objection, and (iii) the presentation of counsel at the hearing held on January 21, 2014; and the Court having jurisdiction to consider the Ninth Omnibus Objection pursuant to 28 U.S.C. §§ 157 and 1334; and venue of this proceeding in this district being proper pursuant to 28 U.S.C. §§ 1408 and 1409; and notice of the Ninth Omnibus Objection and the opportunity for a hearing being appropriate under the circumstances; and no other or further notice being required; and the Court having determined that the legal and factual

<sup>1</sup> 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.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Ninth Omnibus Objection.

bases set forth in the Ninth Omnibus Objection, in the Rinaldi Declaration, and at the hearing establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby:

1. **ORDERED** that the relief requested in the Ninth Omnibus Objection is granted.
2. **ORDERED** that, pursuant to section 502(b) of the Bankruptcy Code, each claim listed on Exhibit A annexed hereto is disallowed in its entirety and expunged.
3. **ORDERED** that, pursuant to section 502(b) of the Bankruptcy Code, each claim listed on Exhibit B annexed hereto is reduced as provided therein.
4. **ORDERED** that, pursuant to section 502(b) of the Bankruptcy Code, each claim listed on Exhibit C annexed hereto is reclassified as provided therein.
5. **ORDERED** that GCG is hereby directed to adjust the claims register to reflect all of the provisions of this Order.
6. **ORDERED** that nothing in this Order shall affect the rights of all interested parties to object to any of the surviving claims on any alternative basis not asserted in the Ninth Omnibus Objection.
7. **ORDERED** that 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

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THE HONORABLE SEAN H. LANE  
UNITED STATES BANKRUPTCY JUDGE



**Exhibit A**

ARCAPITA BANK B.S.C.(C), ET AL.**EXHIBIT A – CLAIMS TO BE DISALLOWED AND EXPUNGED**

	<b>NAME OF CLAIMANT</b>	<b>CLAIM NO.</b>	<b>DEBTOR &amp; CASE NO.</b>
1	AMPD (DE) Limited Partnership c/o W.P. Carey & Co., LLC Attn: Brooks Gordon 50 Rockefeller Plaza New York, NY 10020	131	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
2	Yakima Products, Inc. 15025 SW Koll Parkway Beaverton, OR 97006 Attn: Mark Reis	256	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
3	Schellenberg Wittmer Ltd 15bis, rue des Alpes P.O. Box 2088	567	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
4	Bangladesh School Bahrain P.O. Box 20305 Manama, Bahrain	568	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
5	Plumb Line Services LLC 1020 Cambridge Dr. Easley, SC 29642	569	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
6	Bahrain Bay Development B.S.C.(c) Bahrain Bay HQ Building P.O. Box 5092 Diplomatic Area Manama, Bahrain	572	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
7	Bahrain Bay Development B.S.C.(c) Bahrain Bay HQ Building P.O. Box 5092 Diplomatic Area Manama, Bahrain	573	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
8	Smith Moore Leatherwood LLP c/o M. Kevin McCarrell PO Box 87 Greenville, SC 29602	574	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
9	ACE Companies Karel S. Karpe, Eq. KarpeLaw 44 Wall Street, 12 <sup>th</sup> Floor New York, NY 10005  Joseph G. Gibbons, Esq. Amy E. Vulpio, Esq. White and Williams LLP 1650 Market Street, 18 <sup>th</sup> Floor Philadelphia, PA 191012	577	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
10	Yakima Products, Inc. & 3L Company Ltd. Tonkon Torp LLP Attn: Steven M. Wilker 888 SW Fifth Avenue, #1600 Portland, OR 97204	575	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
11	Talico Overseas Limited c/o R&H Trust Co. (Jersey) Limited P.O. Box 83 Ordnance House, 31 Pier Road St. Helier, Jersey JE4 8PW British Channel Islands	580	Arcapita Bank B.S.C.(c) 12-11076 (SHL)

**ARCAPITA BANK B.S.C.(C), ET AL.****EXHIBIT A – CLAIMS TO BE DISALLOWED AND EXPUNGED**

	<b>NAME OF CLAIMANT</b>	<b>CLAIM NO.</b>	<b>DEBTOR &amp; CASE NO.</b>
12	Talico Overseas Limited c/o R&H Trust Co. (Jersey) Limited P.O. Box 83 Ordnance House, 31 Pier Road St. Helier, Jersey JE4 8PW British Channel Islands	581	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
13	Bangladesh School Bahrain P.O. Box 20305 Manama, Bahrain	583	Arcapita Bank B.S.C.(c) 12-11076 (SHL)
14	Bangladesh School Bahrain P.O. Box 20305 Manama, Bahrain	584	Arcapita Bank B.S.C.(c) 12-11076 (SHL)

**Exhibit B**

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

	<b>NAME OF CLAIMANT</b>	<b>CLAIM NO.</b>	<b>DEBTOR &amp; CASE NO.</b>	<b>ASSERTED AMOUNT</b>	<b>MODIFIED AMOUNT</b>
1	King & Spalding LLP 1180 Peachtree Street Atlanta, GA 30309 Attn: Paul K. Ferdinands	302	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	\$1,291,403.69	\$949,125.32
			<b>TOTAL</b>	<b>\$1,291,403.69</b>	<b>\$949,125.32</b>

**Exhibit C**

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

	<b>NAME OF CLAIMANT</b>	<b>CLAIM NO.</b>	<b>DEBTOR &amp; CASE NO.</b>	<b>ASSERTED CLASS</b>	<b>MODIFIED CLASS</b>
1	Employee 1497 [Address on File]	102	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
2	Employee 1506 [Address on File]	103	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
3	Employee 1492 [Address on File]	104	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
4	Employee 1507 [Address on File]	106	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
5	Employee 1499 [Address on File]	107	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
6	Employee 1500 [Address on File]	118	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
7	Employee 1060 [Address on File]	266	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured
8	Employee 1260 [Address on File]	369	Arcapita Bank B.S.C.(c) 12-11076 (SHL)	Class 1(a) - Priority	Class 5(a) - Unsecured