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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), et al.,	: Case No. 12-11076 (SHL)
Debtors.	: Jointly Administered
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**DEBTORS' MOTION FOR ORDER AUTHORIZING THE DEBTORS TO FILE
UNREDACTED EUROLOG IPO TERM SHEETS UNDER SEAL**

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*"), submit this motion (the "*Motion*") for an order pursuant to section 107(b) of title 11 of the United States Code (the "*Bankruptcy Code*") and Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "*Bankruptcy Rules*") authorizing the Debtors to: (a) redact the term sheets (the "*EuroLog IPO Term Sheets*") annexed as Exhibit B to the *Debtors' Motion for an Order Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code Authorizing the Debtors to Launch the EuroLog IPO*

(the “*IPO Motion*”);¹ (b) file unredacted copies of the EuroLog IPO Term Sheets with the Court under seal; and (c) provide unredacted EuroLog IPO Term Sheets to the Official Committee of Unsecured Creditors (the “*Committee*”), the Joint Provisional Liquidators of Arcapita Investment Holdings Limited, and the United States Trustee for the Southern District of New York (the “*United States Trustee*”). In support of the Motion, the Debtors respectfully represent:

JURISDICTION

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). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

A. General Background

2. On March 19, 2012 and April 30, 2012, Arcapita and certain of its affiliates commenced cases (the “*Chapter 11 Cases*”) under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of New York (the “*Bankruptcy Court*”). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request has been made for the appointment of a trustee or an examiner in the Chapter 11 Cases. The Committee was appointed by the United States Trustee on April 5, 2012.

3. Founded in 1996, Arcapita, through its Debtor and non-Debtor subsidiaries (collectively, with Arcapita, the “*Arcapita Group*”), is a leading global manager of

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the IPO Motion.

Shari'ah-compliant alternative investments and operates as an investment bank. Arcapita is not a domestic bank licensed in the United States, nor does it have a branch or agency in the United States as defined in section 109(b)(3)(B) of the Bankruptcy Code. Arcapita is headquartered in Bahrain and is regulated under an Islamic wholesale banking license issued by the Central Bank of Bahrain. In addition to its Bahrain headquarters, the Arcapita Group, together with the other Debtors and their non-Debtor Subsidiaries, has offices in Atlanta, London, Hong Kong, and Singapore in addition to its Bahrain headquarters. The Arcapita Group's principal activities include investing for its own accounts and providing investment opportunities to third-party investors in conformity with Islamic Shari'ah rules and principles. The Arcapita Group also derives revenue from managing assets for its third party investors.²

B. The EuroLog IPO

4. By way of the IPO Motion, filed substantially contemporaneously herewith, the Debtors are seeking authority to launch the EuroLog IPO. The EuroLog IPO Term Sheets outline the key terms of the various agreements that will be executed in connection with the EuroLog IPO. A description of the EuroLog IPO and the EuroLog IPO Term Sheets is contained in the IPO Motion.

RELIEF REQUESTED

5. By this Motion, the Debtors seek entry of an order pursuant to section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018, substantially in the form annexed hereto as **Exhibit A** (the "***Proposed Order***"), authorizing the Debtors and other parties involved in these Chapter 11 Cases to: (a) redact the EuroLog IPO Term Sheets in any pleading or other

² A description of the Debtors' business and the reasons for filing these Chapter 11 Cases is set forth in the Declaration of Henry A. Thompson in Support of the Debtors' Chapter 11 Petitions and First Day Motions and in Accordance with Local Rule 1007-2 [Dkt. No. 6] (the "***Thompson Declaration***").

document filed publicly with the Court; (b) file unredacted EuroLog IPO Term Sheets with the Court under seal; and (c) provide unredacted EuroLog IPO Term Sheets to the Committee and the United States Trustee.

BASIS FOR RELIEF REQUESTED

6. Section 107(b) provides, in relevant part, as follows: “On request of a party in interest, the bankruptcy court shall . . . (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information . . .” 11 U.S.C. § 107(b).

7. Bankruptcy Rule 9018 provides, in relevant part, as follows:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information . . . contained in any paper filed in a case under the Code

Fed. R. Bankr. P. 9018.

8. The Second Circuit has held that section 107(b) and Bankruptcy Rule 9018 do “not require that commercial information be the equivalent of a trade secret before protecting such information.” *Video Software Dealers Assoc. v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 28 (2d Cir. 1994). In addition, the Second Circuit has held that a party seeking to seal information is required to show only that the information is confidential and commercial. No showing of “good cause” is necessary, although as set forth below, the Debtors here have demonstrated that good cause does exist. *Id.*

9. By this Motion, the Debtors seek to limit public access to a very narrow set of information: the indemnification provisions of the EuroLog IPO Term Sheets and the identities of the entities whose assets will be sold in the EuroLog IPO. The indemnity provisions constitute confidential commercial information. Indeed, the Debtors were only able to negotiate

for the indemnification provisions by agreeing to keep them confidential. The identities of the entities whose assets will be sold in the EuroLog IPO also constitute confidential commercial information at this time. Disclosing these identities may undermine the IPO marketing process, which has not yet begun, may be used by competitors to lure potential customers, and may be used by customers as leverage in contract negotiations.

10. The Debtors have already shared unredacted copies of the EuroLog IPO Term Sheets with the Committee and the Joint Provisional Liquidators of Arcapita Investment Holdings Limited and will share such unredacted copies of the EuroLog IPO Term Sheets with the United States Trustee soon after the filing of the IPO Motion (and in any case, well in advance of any objection deadline with respect to the Motion). Therefore, public disclosure of the unredacted EuroLog IPO Term Sheets is not necessary to protect the interests of the Debtors' creditors. Furthermore, any party or member of the public with a compelling interest reviewing the unredacted EuroLog IPO Term Sheets may request a further order from this Court. In sum, the relief sought in this Motion is necessary to protect the confidential commercial information and will not impair the ability of this Court to protect the public interest.

NO PRIOR REQUEST

11. No previous motion for the relief sought in this Motion has been made to this or any other Court.

NOTICE

12. No trustee or examiner has been appointed in the Chapter 11 Cases. The Debtors have provided notice of filing of the Motion by electronic mail, facsimile and/or overnight mail to: (i) 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.); (ii)

Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York
10005 (Attn: Dennis Dunne, Esq. and Evan Fleck, Esq.); and (iii) all parties listed on the Master
Service List established in these Chapter 11 Cases. A copy of the Motion is also available on the
website of the Debtors' notice and claims agent, GCG, at www.gcginc.com/cases/arcapita.

CONCLUSION

WHEREFORE, the 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: New York, New York
July 26, 2012

Respectfully submitted,

/s/ Michael A. Rosenthal

Michael A. Rosenthal (MR-7006)

Matthew J. Williams (MW-4081)

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ATTORNEYS FOR THE DEBTORS AND
DEBTORS IN POSSESSION

B.S.C.(c), et al., Ch. 11 Case No. 12-11076 (SHL) (the “*Docket*”), pursuant to the Case Management Procedures approved by this Court¹ and the Court’s General Order M-399 (available at <http://nysb.uscourts.gov/orders/orders2.html>), by registered users of the Court’s case filing system and by all other parties in interest on a 3.5 inch disk, preferably in portable document format (“PDF”), 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 Bankruptcy Court and General Order M-399, to the extent applicable, and served in accordance with General Order M-399 on (i) proposed counsel for the Debtors, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York, 10166 (Attn: Michael A. Rosenthal, Esq., Matthew J. Williams, Esq. and Matthew K. Kelsey, Esq.); (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.); and (iii) counsel for the Official Committee of Unsecured Creditors of Arcapita Bank *B.S.C.(c), et al.*, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York, 10005 (Attn: Dennis Dunne, Esq. and Evan R. Fleck, Esq.) so as to be received no later than **August 9, 2012 at 12:00 p.m. (Eastern Time)** (the “*Objection Deadline*”).

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served with respect to the Motion, the Debtors may, on or after the Objection Deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Motion, which order may be entered with no further notice or opportunity to be heard.

¹ See Order (A) Waiving the Requirement That Each Debtor File a List of Creditors and Equity Security Holders and Authorizing Maintenance of Consolidated List of Creditors in Lieu of a Matrix; (B) Authorizing Filing of a Consolidated List of Top 50 Unsecured Creditors; and (C) Approving Case Management Procedures [Dkt. No. 21].

Dated: New York, New York
July 26, 2012

/s/ Michael A. Rosenthal
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ATTORNEYS FOR THE DEBTORS
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EXHIBIT A

Proposed Order

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

-----X
: **Chapter 11**
: **Case No. 12-11076 (SHL)**
: **Jointly Administered**
:
:
-----X

**ORDER AUTHORIZING THE DEBTORS TO FILE
UNDER SEAL THE UNREDACTED EUROLOG IPO TERM SHEETS**

Upon consideration of the motion (the “*Motion*”)¹ 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*”), for entry of an order pursuant to Bankruptcy Code § 107 and Bankruptcy Rule 9018, authorizing the Debtors to: (a) redact the term sheets (the “*EuroLog IPO Term Sheets*”) annexed as Exhibit B to the *Debtors’ Motion for an Order Pursuant to Sections 105(a) and 363(b) of the Bankruptcy Code Authorizing the Debtors to Launch the EuroLog IPO* (the “*IPO Motion*”); (b) file unredacted copies of the EuroLog IPO Term Sheets with the Court under seal; and (c) provide unredacted EuroLog IPO Term Sheets to the Official Committee of Unsecured Creditors (the “*Committee*”) and the United States Trustee for the Southern District of New York (the “*United States Trustee*”); it appearing that the relief requested in the Motion is appropriate in the context of these cases and in the best interests of the Debtors and their respective estates; the Court having reviewed the Motion and having considered the statements in support of the relief requested therein at a hearing before the Court (the “*Hearing*”); and the Court having determined that the legal and factual bases set forth in the

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

Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED:

1. The Motion is approved to the extent set forth herein.
2. Pursuant to section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018, the Debtors may redact the EuroLog IPO Term Sheets in any filing with the Court, and serve such redacted EuroLog IPO Term Sheets on all parties entitled to notice thereof under the Bankruptcy Code, the Bankruptcy Rules or any other applicable order.
3. The clerk of the Bankruptcy Court shall accept for filing under seal an unredacted copy of any document that is publicly filed in redacted form pursuant to this Order (each an *“Unredacted Disclosure”*).
4. Each Unredacted Disclosure shall be available to the Court, but otherwise shall remain under seal and may not be unsealed until and unless authorized by an order of the Court.
5. The Debtors shall serve a copy of any Unredacted Disclosure, permitted pursuant to this Order, on the Committee and the United States Trustee.
6. The Debtors shall provide a copy of an Unredacted Disclosure as required by an order of this Court or other court of competent jurisdiction.
7. This Order shall be immediately effective and enforceable upon its entry.

Dated: New York, New York
_____, 2012

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE