

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

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In re : **Chapter 11 Case**
ARCAPITA BANK B.S.C.(c), et al., : **Case No. 12-11076 (SHL)**
Debtors. : **Jointly Administered**
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**ORDER APPROVING EXPENSE REIMBURSEMENT IN
CONNECTION WITH PROSPECTIVE POST-PETITION FINANCING**

Upon the Motion (the “*Motion*”)¹ of the debtors in possession in the above-captioned case (collectively, the “*Debtors*” and each, a “*Debtor*”) for an order (i) pursuant to sections 363(b)(1) and 365(d)(3) of title 11 of the United States Code (the “*Bankruptcy Code*”), authorizing Arcapita to reimburse a portion of the actual and reasonable fees and expenses incurred by the Selected Lender in connection with the negotiation and documentation of the Debtors’ acquisition of post-petition financing and (ii) pursuant to sections 503(b) and 507(a)(2) of the Bankruptcy Code, allowing the Secured Lender an administrative expense claim for such fees and expenses, this Court finds and concludes that: (a) the Court has jurisdiction over the subject matter of the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (c) the Debtors have demonstrated that payment of the Expense Reimbursement comprises an exercise of sound business judgment under section 363(b)(1) of the Bankruptcy Code; (d) payment of the Expense Reimbursement provides a benefit to the Arcapita estate necessary to preserve the value of the Debtors’ assets; (e) the legal and factual bases set forth in the Motion and on the record at the hearing (if any) establish just cause for the relief granted herein; (f) the relief requested in the

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

Motion is in the best interests of the Debtors, the estates and their creditors; and (g) notice of the Motion was sufficient, and no other or further notice need be provided.

Based upon the above findings and conclusions, and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted to the extent provided herein.
2. Subject to the terms hereof, the Debtors are authorized but not directed to reimburse the Selected Lender for actual and reasonable costs and expenses upon delivery of reasonably detailed invoices to the Debtors (which invoices shall include a description of the work performed, the individuals who performed such work and the hourly rate of such individuals, plus an itemized statement of expenses).
3. The Debtors shall promptly furnish any invoices received from the Selected Lender under the preceding paragraph to Committee counsel (the “*Committee Notice*”).
4. Notwithstanding the foregoing, prior to payment of any Expense Reimbursement, the Committee and the Debtors shall have three days (the “*Notice Period*”) after Committee counsel’s receipt of the Committee Notice to review the subject invoice or invoices and serve the Debtors and the Selected Lender with notice of any objection setting forth the amount of costs or expenses to which the Committee or the Debtors, as applicable, objects (the “*Disputed Costs or Fees*”).
5. At the expiration of the Notice Period in respect of a particular invoice or invoices, the Debtors are authorized promptly to reimburse the Selected Lender (or if applicable, the Selected Lender may draw down on the Expense Deposit (as defined below)) for reasonable

and actual costs and expenses subject of such invoice or invoices, expressly excluding any Disputed Costs or Fees.

6. If the Committee or the Debtors object to an Expense Reimbursement within the Notice Period, such objection shall be resolved by (a) the Committee and the Debtors or (b) the Court, in either case, prior to any payment of the Disputed Costs or Fees subject to such objection.

7. Absent further Court order, Expense Reimbursement payments or distributions shall not exceed \$500,000 in the aggregate (the “*Expense Reimbursement Cap*”).

8. The Debtors further are authorized but not directed to provide the Selected Lender with a deposit (the “*Expense Deposit*”) intended to support the foregoing Expense Reimbursement in an amount, absent further Court order, not greater than \$500,000, such Expense Deposit to be (a) deposited by the Debtors and (b) maintained by the Selected Lender in JPMorgan Chase or a similar financial institution in the United States acceptable to the Debtors, the Committee and the Selected Lender.

9. Any claim of the Selected Lender for an Expense Reimbursement, subject to the Expense Reimbursement Cap and the terms hereof, shall constitute an administrative expense priority claim against Arcapita under sections 503(b) and 507(a)(2) of the Bankruptcy Code; *provided that*, the Selected Lender shall only have a claim for Expense Reimbursement if the Debtors agree, in writing, to provide the same after consultation with the Committee.

10. The Debtors are further authorized, after having consulted with the Committee regarding the same, to take any other actions necessary to implement the Expense Reimbursement, including without limitation, pursuant to their execution of any agreement reasonably required to document the Expense Reimbursement.

11. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

12. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Order.

Dated: September 21, 2012

New York, New York

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

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