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

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

: **Adv. Pro. No. 12-01662 (SHL)**
: X

IN RE:
ARCAPITA BANK B.S.C.(c), et al.,
Debtors.

JOHN M. HOPPER, et al.,
Plaintiffs,
-against-
FALCON GAS STORAGE COMPANY, INC.
Defendant.

STATUS UPDATE REGARDING FALCON GAS STORAGE COMPANY, INC.
LITIGATION

A. BACKGROUND

Prior to the petition date in the above-captioned chapter 11 cases, Tide Natural Gas Storage I, LP and Tide Natural Gas Storage II, LP (together, “*Tide*”) filed an action in the United States District Court for the Southern District of New York against Falcon Gas Storage Company, Inc., Arcapita Bank B.S.C.(c), and Arcapita Inc., alleging breach of contract and “fraud in the inducement,” among other things in relation to the sale of a natural gas storage business. *Tide Natural Gas Storage I, L.P. v. Falcon Gas Storage Co., Inc.*, Case No. 10-cv-05821-KMW (S.D.N.Y.) (before Judge Kimba Wood) (the “*District Court Action*”).

On March 19, 2012, Arcapita Bank B.S.C.(c) and five of its subsidiaries filed voluntary petitions under chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”) in this Court.

On April 12, 2012, John M. Hopper, *et al.* (the “*Hopper Parties*”) filed a Motion to Intervene in the District Court Action. *See* District Court Action Docket Nos. 122 and 123.

On April 30, 2012, Falcon Gas Storage Company, Inc. filed a voluntary petition under chapter 11 of title 11 of the Bankruptcy Code in this Court.

On May 16, 2012, the District Court entered a stipulation and order, which recognized that the District Court Action had been stayed pursuant to 11 U.S.C. § 362(a). District Court Action Docket No. 131.

On May 21, 2012, the Hopper Parties filed an adversary proceeding in this Court (the “*Hopper Adversary*”) ¹ seeking a declaration that \$8.25 million of funds held in escrow in connection with the sale of the natural gas storage business. *See* Hopper Adversary Docket No. 1.

On June 25, 2012, Tide filed Tide’s Motion for an Order Lifting the Automatic Stay Pursuant to 11 U.S.C. Section 362(d) to Allow Continuance of District Court Action [Docket No. 279] (the “*Lift Stay Motion*”).

On June 27, 2012 the Hopper Parties filed their Opposition of the Hopper Claimants to Tide’s Motion for an Order Lifting the Automatic Stay Pursuant to 11 U.S.C. Section 362(d) to Allow Continuance of District Court Action [Docket No. 352]. On June 29, 2012 the Debtors filed the Debtors’ Objection to Tide’s Motion to Lift the Automatic Stay [Docket No. 354] and the Committee filed a Joinder of Official Committee of Unsecured Creditors to Debtors’ Objection to Tide’s Motion for an Order Lifting the Automatic Stay Pursuant to 11 U.S.C. Section 362(d) to Allow Continuance of District Court Action [Docket No. 355].

On July 31, 2012 Tide filed Tide’s Reply to the Objections of the Debtors, Hopper Claimants and Committee to Tide’s Motion for an Order Lifting the Automatic Stay Pursuant to 11 U.S.C. Section 362(d) to Allow Continuance of District Court Action [Docket No. 359].

¹ The Hopper Adversary has been assigned case number 12-01662 (SHL)

On August, 1, 2012, the Court held a hearing to consider the Lift Stay Motion and the various objections and replies thereto. At the hearing, the parties discussed mediating the dispute and Court adjourned the hearing on the Lift Stay Motion so that the parties could pursue mediation.

B. STATUS REPORT

A mediation is currently scheduled for October 30, 2012 before the Honorable John S. Martin (Ret).

The parties will file mediation briefs with the mediator prior to the mediation.

Dated: New York, New York
October 4, 2012

Respectfully submitted,

/s/ Michael A. Rosenthal

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