

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

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: **Chapter 11**  
: **Case No. 12-11076 (SHL)**  
: **(Jointly Administered)**  
: **Debtors.**  
: **(Jointly Administered)**  
: **(Jointly Administered)**  
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**FIRST SUPPLEMENTAL DECLARATION OF ROBERT JAY MOORE IN SUPPORT  
OF APPLICATION OF OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF  
ARCAPITA BANK B.S.C.(c), ET AL., UNDER 11 U.S.C. § 1103 AND FED. R. BANKR.  
P. 2014 AND 5002, FOR ORDER AUTHORIZING RETENTION AND EMPLOYMENT  
OF MILBANK, TWEED, HADLEY & M<sup>c</sup>CLOY LLP AS COUNSEL,  
EFFECTIVE AS OF APRIL 10, 2012**

ROBERT JAY MOORE, under penalty of perjury, says:

1. I am a partner in the Financial Restructuring Group of the firm of Milbank, Tweed, Hadley & M<sup>c</sup>Cloy LLP (“Milbank”), counsel to the Official Committee of Unsecured Creditors (the “Committee”) of Arcapita Bank B.S.C.(c) (“Arcapita”) and certain of its affiliated debtors and debtors in possession (collectively, the “Debtors”) in these chapter 11 cases (the “Chapter 11 Cases”). On June 12, 2012, I executed and filed a declaration (the “Original Declaration”) in support of the Application of Official Committee of Unsecured Creditors of Arcapita Bank B.S.C.(c), et al., Under 11 U.S.C. § 1103 and Fed. R. Bankr. P. 2014 and 5002, and S.D.N.Y. LBR 2014-1, for Order Authorizing Retention and Employment of Milbank, Tweed, Hadley & M<sup>c</sup>Cloy LLP as Counsel, Effective as of April 10, 2012 (Docket No. 245) (the “Application”).

2. No objections were filed to the Application and, by an order entered on June 29, 2012 (Docket No. 289), the Court granted the Application, approving Milbank’s retention by the Committee, effective as of April 10, 2012.

3. I hereby submit this supplemental declaration (the “Declaration”) in further support of the Application. Unless otherwise stated in this Declaration, I have knowledge of the facts set forth herein and, if called as a witness, I would testify thereto.<sup>1</sup>

4. Since the filing of the Original Declaration and in connection with preparing this Declaration, Milbank has continued to search its client database to determine whether it had any relationships with parties that have appeared, filed pleadings, or otherwise participated in the Chapter 11 Cases.

5. In connection with its retention in these Chapter 11 Cases, Milbank will continue to monitor its connections with the Debtors, their creditors, and other parties in interest. As set forth in the Original Declaration, Milbank intends to continue to file supplemental declarations regarding its retention as and if any additional relevant information comes to its attention.

**Milbank’s Additional Connections with Debtors and Parties in Interest**

6. To the best of my knowledge, the following sets forth the connections, in addition to those disclosed in the Original Declaration, that Milbank, its attorneys, and its employees have with regard to the Debtors, their creditors, and other parties in interest in these Chapter 11 Cases.

7. On September 28, 2012, Kirkland & Ellis LLP and its affiliated entity Kirkland & Ellis International LLP filed a Verified Statement Pursuant to Bankruptcy Rule 2019 (Docket No. 522) (the “Ad Hoc Group Rule 2019 Statement”) on behalf of certain holders (collectively, the “Ad Hoc Group”) of the \$1.1 billion unsecured Murabaha syndicated facility,

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<sup>1</sup> Certain of the disclosures set forth herein relate to matters not within my personal knowledge but rather within the knowledge of other attorneys and employees at Milbank and are based on information provided to me by them.

dated as of March 28, 2007, issued by Arcapita. The Ad Hoc Group Rule 2019 Statement discloses the nature and amount of the economic interests held in relation to the Debtors for each of the members of the Ad Hoc Group, which consists of: (i) Silver Point Capital LP (“Silver Point”); (ii) Taconic Capital Advisors LP (“Taconic”); and (iii) York Capital Management Global Advisors, LLC (“York”).

8. Since the filing of the Ad Hoc Group Rule 2019 Statement, Milbank has searched its client database and determined that it has the following connections with the members of the Ad Hoc Group: (i) Taconic is a former client on matters unrelated to the Chapter 11 Cases; (ii) York is an affiliate of a current client on matters unrelated to the Chapter 11 Cases; and (iii) Silver Point is a current client on matters unrelated to the Chapter 11 Cases.<sup>2</sup> As indicated above, if any additional relevant information comes to Milbank’s attention with respect to its representation of the members of the Ad Hoc Group, it will file a further supplemental declaration.

9. In addition to the foregoing, one of Milbank’s existing bank clients, BAWAG P.S.K. Bank fuer Arbeit und Wirtschaft und Osterreichische Postsparkasse AG, (the “Existing Client”) has engaged Milbank to review and advise it on the terms of certain financing arrangements, including the terms of a super senior revolver, and associated intercreditor and security arrangements for one of the Debtors’ non-Debtor portfolio companies<sup>3</sup> (the “Existing Client Engagement”). It was expressly agreed with the Existing Client that the Existing Client

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<sup>2</sup> A “current client” is an entity for which there are, as of the date hereof, active matters on which Milbank is engaged; a “former client” is an entity for which there were no active matters as of the date hereof, but there may in the future be active matters.

<sup>3</sup> The name of the portfolio company has been redacted pursuant to the Order Granting Motion of Official Committee of Unsecured Creditors of Arcapita Bank B.S.C.(c), et al., for Order Authorizing Parties to File Under Seal Names of Debtors’ Investment Vehicles and Portfolio Corporations, entered by the Court on June 29, 2012 (Docket No. 290).

Engagement was limited to advising the Existing Client generally on the terms of the existing financing.

10. In order to avoid any appearance of impropriety in connection with the Existing Client Engagement, Milbank has established and implemented internal procedures to ensure that no confidential information acquired in the Committee engagement has or will be shared with the Existing Client or used in connection with the Existing Client Engagement. In addition, the Milbank attorneys that work on the Existing Client Engagement have been separated from the Milbank attorneys and professionals that have worked and may continue to work on Committee matters (the "Committee Team").

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Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing  
is true and correct to the best of my knowledge and belief.

Executed on October 5, 2012

  
Robert Jay Moore