

Bowling Green, New York, New York 10004. To insure Alsohaibi's receipt of notice of the hearing on the Motion, in addition to other proper service, the Debtors have forwarded copies of this opposition to Alsohaibi at his business "SOFAB Group" using contact information available at www.sofab.net.

BACKGROUND

1. On March 19, 2012 (the "***Petition Date***"), Arcapita and six of its subsidiaries and affiliates, each commenced a case under chapter 11 of title 11 of the United States Code (the "***Bankruptcy Code***"). On April 30, 2012, Falcon Gas Storage Company, Inc. commenced a chapter 11 case, which is being jointly administered with the other Debtors (collectively, the "***Chapter 11 Cases***"). The Debtors have continued to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Chapter 11 Cases.

2. Alsohaibi is a resident and citizen of Saudi Arabia, and is apparently a former airline pilot who now operates an aviation consulting business with offices in the Middle East, South Africa, Europe and the United States. Prior to the Petition Date, Alsohaibi signed several investment contracts with Arcapita Bank in Jeddah, Saudi Arabia. The accounts attached to the Motion show that as of November 2008, Alsohaibi made investments in Cirrus Industries, Inc. ("***Cirrus***"), a company in the United States that manufactures composite single engine light aircraft, as well as Riffa Golf and Residential Development Company B.S.C.(c) and Bahrain Bay Development B.S.C.(c).

3. The relevant Arcapita Bank controlled holding companies sold Cirrus in June 2011 – over 10 months prior to the Petition Date. Alsohaibi, citing his aviation expertise, was critical of Cirrus' management and expressed his opinion to Arcapita Bank, suggesting that

he would be better suited for that role. Alsohaibi was apparently disappointed when his offer to help manage Cirrus was not accepted.

RELIEF REQUESTED IN THE MOTION

4. In the Motion, Alsohaibi alleges, without evidence provided under Rule 44.1 of the Federal Rules of Civil Procedure (“*FRCP*”) or otherwise, that the rules and regulations of the Saudi Capital Market Authority provide that no banking, financial, or investment institution may operate without a license. Accordingly, Alsohaibi alleges that Arcapita Bank has not obtained a license and has been operating “illegally” within Saudi Arabia as a result. Alsohaibi also claims that Arcapita Bank is continuing to operate “illegally” as its sale force is still working within Saudi Arabia, despite the fact that Arcapita Bank stopped soliciting investments as of the Petition Date.

5. Alsohaibi goes on to allege, again without evidence, that Saudi law provides that any company or its executives that operate without licensing will be penalized by Saudi authorities and may not be protected from enforcement by Saudi Regulators by the jurisdiction of the bankruptcy Court. Notably, Alsohaibi does *not* allege that any private right of action exists under the alleged Saudi laws nor does he allege the sanctions to which a violator may be subject.

6. Alsohaibi also claims that the Saudi Capital Market Authority, the Saudi Monetary Authority, the Saudi Arabia Chamber of Commerce, the Saudi Arabia Ministry of Finance and the Saudi Interior Ministry Illegal Operations Division are all investigating Arcapita Bank. However, the Debtors have not been notified of any investigation and are not aware of any investigation. However, if any investigation is pending, only the Saudi Capital Market Authority regulates the activities of Arcapita Group (and similar businesses) in Saudi Arabia.

7. Based on these unsupported allegations, the remedy requested is (a) dismissal of the Chapter 11 Cases and (b) holding Arcapita Bank and its executives liable for fraud.

THE MOTION LACKS MERIT

8. The Motion is procedurally defective and does not comply with the Federal Rules of Bankruptcy Procedure, this Court's local rules or the Federal Rules of Evidence. Although some leeway may be granted to a party appearing pro se, certain basic elements cannot be excused. Here, the Motion includes no admissible evidence whatsoever. The limited evidence provided is inadmissible hearsay or has no relevance. No declaration as to the alleged facts were filed and the Motion does not present any competent "evidence" of foreign law as provided in Rule 44.1 of the FRCP.

9. The Motion fails to cite any bankruptcy law supporting the ultimate sanction of the dismissal of all of the Arcapita Group Chapter 11 cases based on the facts and law alleged. The Debtors are not aware of any bankruptcy law that provides that the violation of a regulation in a foreign country alone requires the dismissal of a chapter 11 bankruptcy case.

10. Alsohaibi's failure to cite law and evidence is fatal to the Motion. However, accepting the allegations at face value and then applying the general standards accepted under FRCP Rule 12, there is still no basis to dismiss the pending Chapter 11 cases.

11. To the extent that the Saudi regulators wish to enforce applicable law as to Arcapita Bank and to impose some penalty, then such actions are not stayed and are not impacted by the bankruptcy cases. Criminal and quasi-criminal actions and the governmental exercise of police power through regulatory functions are expressly not subject to the automatic stay under the Bankruptcy Code. 11 U.S.C. §§ 362(b)(1), (25)(A), (25)(B). Therefore, any

alleged violation of Saudi law and any alleged investigation cannot be a basis to dismiss the Chapter 11 cases.

12. Alsohaibi does not even allege that he has any private right of action as to the alleged violation of Saudi law against Arcapita Bank or that he has been prevented from enforcing any right under an analogue to a “private attorney general.” Accordingly, Alsohaibi has not even alleged that he has standing to move to dismiss based on rights that he admits are held by Saudi authorities.

13. As to any claims Alsohaibi may have against the Arcapita Group, then any efforts to enforce those claims are stayed and will be administered through the Chapter 11 Cases and the Cayman proceedings. Indeed, Alsohaibi has filed a proof of claim in the Chapter 11 Cases, and has thereby submitted to the jurisdiction of this Court.

14. Finally, Alsohaibi has not shown how, after all the work done in the case to this point with the active involvement of the Creditors Committee and the JPLs, how he or any other creditors would benefit from the dismissal of the Chapter 11 Cases. Given the time spent in the Chapter 11 Cases, the progress to date, the amount of money spent and ongoing plan negotiations, it is *not* in the best interests of creditors or the estate to dismiss the case at this time.

15. There is also no basis to impose criminal sanctions against the Debtors’ management. The facts and law alleged do not support a criminal action against management under the laws of the United States or even the laws of Saudi Arabia as alleged by Alsohaibi. However, even if the facts and law did support such a finding, and even if due process concerns could somehow be ignored, the Court has no jurisdiction to impose a criminal sanction under U.S. law against management of a debtor on account of an alleged prepetition breach of a foreign

regulatory scheme. Moreover, the facts alleged are not even sufficient to support the appointment of a chapter 11 trustee.

WHEREFORE, the Debtors respectfully request that the Court deny the Motion as requested herein and grant any relief as the Court may deem just and proper.

Dated: New York, New York
December 10, 2012

Respectfully submitted,

/s/ Craig H. Millet

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