

GIBSON, DUNN & CRUTCHER LLP

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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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**STIPULATION AND AGREED ORDER FOR
TEMPORARY ALLOWANCE OF CLAIMS
SOLELY FOR PURPOSES OF
VOTING ON THE DEBTORS' JOINT CHAPTER 11 PLAN**

Arcapita Bank B.S.C.(c) ("*Arcapita*") and its affiliated debtors and debtors in possession (collectively, the "*Debtors*")¹ in the above-captioned chapter 11 cases (the "*Chapter 11 Cases*"), on one hand, and the party listed on *Schedule A* annexed hereto (the "*Claimant*" and, together with the Debtors, the "*Parties*"), on the other hand, hereby enter into this stipulation and agreed order (this "*Stipulation*") and stipulate and agree as follows:

¹ The Debtors are: Arcapita Bank B.S.C.(c), Arcapita Investment Holdings Limited, Arcapita LT Holdings Limited, WindTurbine Holdings Limited, AEID II Holdings Limited, RailInvest Holdings Limited, and Falcon Gas Storage Company, Inc.

RECITALS

WHEREAS, on March 19, 2012, Arcapita and five of its affiliates commenced cases under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”), and, on April 30, 2012, Falcon Gas Storage Co., Inc. commenced a case under chapter 11 of the Bankruptcy Code, and all of the Chapter 11 Cases have been administratively consolidated and are pending before the United States Bankruptcy Court for the Southern District of New York (the “**Court**”);

WHEREAS, the Debtors are operating their businesses and managing their assets as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code;

WHEREAS, on July 11, 2012, the Court entered an order (Dkt. No. 308) establishing (a) August 30, 2012 at 5:00 p.m. (prevailing U.S. Eastern Time) as the deadline for non-governmental persons or entities to file proofs of claims and (b) September 17, 2012 at 5:00 p.m. (prevailing U.S. Eastern Time) as the deadline for governmental units to file proofs of claims;

WHEREAS, the Claimant has filed the proofs of claim set forth on **Schedule A** against the Debtors (the “**Filed Claims**”);

WHEREAS, on April 25, 2013, the Debtors filed the *Second Amended Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and Related Debtors Under Chapter 11 of the Bankruptcy Code* (Dkt. No. 1036) (as may be amended or modified from time to time, the “**Plan**”) and a related disclosure statement (Dkt. No. 1038) (as may be amended or modified from time to time, the “**Disclosure Statement**”), and on April 26, 2013, the Court entered an order approving the Disclosure Statement and establishing certain solicitation and voting procedures with respect to the Plan (Dkt. No. 1045) (the “**Voting Procedures Order**”);

WHEREAS, on April 26, 2013, the Debtors filed the *Debtors' Third Omnibus Objection to Claims* (Dkt. No. 1051) (the "***Omnibus Objection***"), whereby the Debtors objected to the Filed Claims;

WHEREAS, as a result of the filing of the Omnibus Objection, paragraph 15 of the Voting Procedures Order prohibits the Claimant from casting a vote on the Plan in respect of the Filed Claims while the Omnibus Objection is pending and there has not been an order entered by the Bankruptcy Court approving a Temporary Allowance Motion (as defined in the notice with respect to confirmation of the Plan) with respect to the Filed Claims; and

WHEREAS, solely for the purposes of allowing the Claimant to vote certain of the Filed Claims on the Plan, and consistent with paragraph 19 of the Voting Procedures Order, the Debtors and the Claimant enter into this Stipulation.

AGREEMENT

IT IS THEREFORE STIPULATED AND AGREED AND, UPON COURT APPROVAL HEREOF, IT SHALL BE ORDERED THAT:

1. This Stipulation shall become effective upon approval by the Court.
2. Upon entry of an order approving this Stipulation, solely for the purposes of voting on the Plan, pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedures (the "***Bankruptcy Rules***"), one Filed Claim of the Claimant shall be deemed to be temporarily allowed against the applicable Debtors, in the class and the amount set forth on ***Schedule B*** (the "***Voting Claim***"), in place and instead of the Filed Claims.
3. Except as expressly provided for in this Stipulation with respect to the allowance of the Voting Claim, the temporary allowance of the Voting Claim pursuant to this Stipulation is without prejudice to each of the Parties' respective rights and obligations, including, without limitation, under and pursuant to the Plan, applicable bankruptcy and non-

bankruptcy law, and equitable principles as to the allowance or disallowance of the Filed Claims based on the merits of the Filed Claims. Except as expressly provided for in this Stipulation with respect to the allowance of the Voting Claim, nothing herein is or shall be deemed to be (a) a determination, allowance or disallowance of any of the Filed Claims for any purpose whatsoever, (b) an admission, release or waiver of any rights with respect to any of the Filed Claims against any of the Debtors including, without limitation, as to the amount, extent, validity or priority of any of the Filed Claims, (c) a withdrawal of the Debtors' objections to the Filed Claims as set forth in the Omnibus Objection with respect to the distribution of any property or asset of the Debtors or (d) a release or waiver of any rights of the Parties to assert any and all objections, defenses or counterclaims or other rights in respect of the Filed Claims.

4. None of this Stipulation, any of the provisions hereof, nor any act performed or document executed pursuant to or in furtherance of this Stipulation, is or may be deemed to be or may be used as an admission of, or evidence of, the validity or invalidity of any aspect, including, without limitation, as to the amount, extent, or priority, of the Filed Claims against the Debtors or of any other claim or right of any kind, or of any wrongdoing or liability of any of the Parties in the Chapter 11 Cases, or any other matter pending before the Court.

5. The temporary allowance of the Voting Claim pursuant to this Stipulation shall not be deemed a determination or have any effect on the classification of any of the Filed Claims under the Plan.

6. Nothing in this Stipulation, whether express or implied, is intended or shall be construed to confer upon, or to give to, any person other than the Parties, and their respective successors, assigns, heirs, executors, administrators and liquidators, any right, remedy or claim under or by reason of this Stipulation. The provisions contained in this Stipulation are and shall be for the sole and exclusive benefit of the Parties.

7. This Stipulation contains the entire agreement among the Parties as to the subject matter hereof and supersedes all prior agreements and undertakings among the Parties relating thereto.

8. This Stipulation may not be modified other than by a signed writing executed by each of the Parties and delivered to each Party; it being understood that no further approval of the Court shall be required for amendments, waivers, consents, or other modifications to and under the Stipulation.

9. The Claimant hereby represents that the Claimant has had an opportunity to consult with counsel with respect to this Stipulation.

10. This Stipulation may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument, and it shall constitute sufficient proof of this Stipulation to present any copy, copies, or facsimiles signed by the Parties.

11. This Stipulation shall inure to the benefit of, and shall be binding upon, the Parties and their respective successors, assigns, heirs, executors, administrators and liquidators.

12. This Stipulation shall be exclusively governed by, construed, and enforced in accordance with the Bankruptcy Code, the Bankruptcy Rules, and, to the extent the Bankruptcy Code and Bankruptcy Rules are inapplicable, the laws of the State of New York, without regard to its conflicts of law principles.

13. The Court shall have exclusive jurisdiction over any and all disputes arising out of or otherwise relating to this Stipulation or its enforcement.

Dated: May 13, 2013
New York, New York

Dated: May 10, 2013

/s/ Michael A. Rosenthal

Michael A. Rosenthal

GIBSON, DUNN & CRUTCHER LLP

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New York, New York 10166-0193

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ATTORNEYS FOR THE DEBTORS
AND DEBTORS IN POSSESSION

APPROVED AND SO ORDERED

Dated: May 29, 2013
New York, New York

/s/ Mounzer Asad Nasr

Mounzer Asad Nasr for himself, and as
authorized agent for his spouse, Beatriz
Flecha de Lima Nasr

/s/ Sean H. Lane

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

Schedule A

Filed Claims

<u>FILED</u>	<u>APPLICABLE DEBTOR</u>	<u>CLAIMANT</u>
269	Arcapita Investment Holdings Limited	Mounzer Asad Nasr for himself, and as authorized agent for his spouse, Beatriz Flecha de Lima Nasr
270	Arcapita Bank B.S.C.(c)	Mounzer Asad Nasr for himself, and as authorized agent for his spouse, Beatriz Flecha de Lima Nasr
271	Arcapita LT Holdings Limited	Mounzer Asad Nasr for himself, and as authorized agent for his spouse, Beatriz Flecha de Lima Nasr
272	Windturbine Holdings Limited	Mounzer Asad Nasr for himself, and as authorized agent for his spouse, Beatriz Flecha de Lima Nasr
273	AEID II Holdings Limited	Mounzer Asad Nasr for himself, and as authorized agent for his spouse, Beatriz Flecha de Lima Nasr
274	RaillInvest Holdings Limited	Mounzer Asad Nasr for himself, and as authorized agent for his spouse, Beatriz Flecha de Lima Nasr
275	Falcon Gas Storage Company, Inc.	Mounzer Asad Nasr for himself, and as authorized agent for his spouse, Beatriz Flecha de Lima Nasr

Schedule B

Voting Claim

<u>FILED</u>	<u>APPLICABLE DEBTOR</u>	<u>CLAIMANT</u>	<u>VOTING CLASS</u>	<u>AMOUNT</u>
270	Arcapita Bank B.S.C.(c)	Mounzer Asad Nasr for himself, and as authorized agent for his spouse, Beatriz Flecha de Lima Nasr	5(a)	\$690,235.11