

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 proof of claim set forth on **Schedule A** against the Debtors (the “**Filed Claim**”);

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' Omnibus Objections to Claims* (Dkt. Nos. 1049-53) (the "***Omnibus Objections***"), whereby the Debtors objected to the Filed Claim;

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 Claim; and

WHEREAS, solely for the purposes of allowing the Claimant to vote the Filed Claim 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, pursuant to Rule 3018(a) of the Federal Rules of Bankruptcy Procedures (the "***Bankruptcy Rules***"), the Filed Claim of the Claimant shall be deemed to be temporarily allowed against the applicable Debtor, solely for the purposes of voting on the Plan, in the class and the amount set forth on ***Schedule B*** (the "***Voting Claim***"). The Voting Claim shall be deemed allowed as provided in this Stipulation notwithstanding the execution and/or entry of this Stipulation as an Order of the Court on any date after the deadline for the submission of ballots on the Plan.
3. The temporary allowance of the Voting Claim pursuant to this Stipulation is without prejudice to each of the Parties' respective rights and obligations under and pursuant to the Plan, applicable bankruptcy and non-bankruptcy law, and equitable principles as to the allowance or disallowance of the Filed Claim based on the merits of the Filed Claim. 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 the Filed Claim for any purpose whatsoever, (b) an admission, release or waiver of any rights with respect to the Filed Claim against any of the Debtors including, without limitation, as to the amount, extent, validity or priority of the Filed Claim, (c) a withdrawal of the Debtors' objections to the Filed Claim 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 Claim.

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 priority, of the Filed Claim 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 the Filed Claim 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 individual who executes this Stipulation represents that she is duly authorized to do so on behalf of the Claimant and that the Claimant has (a) had an opportunity to consult with counsel with respect to this Stipulation, (b) has full knowledge of the contents of this Stipulation, and (c) has consented 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 29, 2013
New York, New York

Dated: May 29, 2013

/s/ Michael A. Rosenthal

Michael A. Rosenthal

/s/ Lauren Lonergan Taylor

Lauren Lonergan Taylor

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ATTORNEYS FOR THE DEBTORS
AND DEBTORS IN POSSESSION

APPROVED AND SO ORDERED

Dated: June 6, 2013
New York, New York

/s/ Sean H. Lane

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

Schedule A

Filed Claim

<u>FILED</u>	<u>APPLICABLE DEBTOR</u>	<u>CLAIMANT</u>
319	Arcapita Bank B.S.C.(C)	Al Dhow Investment Co.

Schedule B

Voting Claim

<u>FILED</u>	<u>APPLICABLE DEBTOR</u>	<u>CLAIMANT</u>	<u>VOTING CLASS</u>	<u>AMOUNT</u>
319	Arcapita Bank B.S.C.(c)	Al Dhow Investment Co.	5(a)	\$3,344,443.91