

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

---

In re:	)	Chapter 11
ARCAPITA BANK B.S.C.(c), <i>et al.</i> ,	)	Case No. 12-11076 (SHL)
Debtors.	)	Jointly Administered

---

**DECLARATION OF MATTHEW BONANNO IN SUPPORT OF THE SECOND  
AMENDED JOINT PLAN OF REORGANIZATION OF ARCAPITA BANK B.S.C.(c)  
AND RELATED DEBTORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

I, Matthew Bonanno, being duly sworn, state the following under penalty of perjury:

1. I am a Senior Vice President at York Capital Management, located at 767 Fifth Avenue, New York, New York 10153. I am a member of the ad hoc group (the “Ad Hoc Group”) of certain holders of the \$1.1 billion unsecured Murabaha, Shari’ah-compliant syndicated facility, dated as of March 28, 2007, issued by Arcapita Bank B.S.C.(c) (the “Syndicated Facility”).

2. Kirkland & Ellis LLP (“K&E”) has acted as counsel to the Ad Hoc Group and rendered professional services on behalf of the Ad Hoc Group in connection with the chapter 11 cases of Arcapita Bank B.S.C.(c) and certain of its subsidiaries and affiliates (collectively, the “Debtors”), the insolvency proceeding of Arcapita Investment Holdings Limited in the Grand Court of the Cayman Islands, and the Ad Hoc Group’s interests in the Syndicated Facility.<sup>1</sup> As of the filing of the Amended 2019 Statement, members of the Ad Hoc Group held, on behalf of funds and accounts managed by them, approximately \$241 million (approximately 20%) of the

---

<sup>1</sup> K&E filed a *Verified Statement Pursuant to Bankruptcy Rule 2019* [Docket No. 522] on September 28, 2012 and an *Amended Verified Statement Pursuant to Bankruptcy Rule 2019* [Docket No. 1092] on May 13, 2013 (the “Amended 2019 Statement”).

Syndicated Facility. Upon information and belief, the Ad Hoc Group was the only organized group of AIHL creditors who participated in plan related negotiations.

3. I have participated in the plan related negotiations and, except as otherwise indicated herein, all facts set forth in this Declaration are based on my personal knowledge of the negotiations, information learned from my review of relevant documents, and information supplied to me by other members of the Ad Hoc Group and/or the Ad Hoc Group's advisors.<sup>2</sup>

4. This Declaration is submitted in support of the confirmation of the *Second Amended Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and Related Debtors Under Chapter 11 of the Bankruptcy Code* [Docket No. 1036] (as modified or amended from time to time, the "Plan"), with specific emphasis concerning the Plan provisions relating to the Debtors' payment of the reasonable and documented fees and expenses of the Ad Hoc Group incurred on or after the Petition Date, including, without limitation, professional fees and expenses (the "Ad Hoc Group Fees").<sup>3</sup>

**Debtors' Payment of Ad Hoc Group's Professional Fees is Integral Part of Plan Settlement**

5. As part of the many compromises and settlements reflected in the Plan, the Debtors have agreed to pay the Ad Hoc Group Fees pursuant to Article II.2.6 of the Plan.

6. Article II.2.6 of the Plan provides:

On the Effective Date, New Arcapita Topco shall pay in Cash the Ad Hoc Group Fees, without the need for the Ad Hoc Group to file fee applications with the Bankruptcy Court; *provided, however*, that (i) the Ad Hoc Group shall provide the Debtors and the Committee with the invoices for which it seeks payment at least ten (10) days prior to the Effective Date, and (ii) the Debtors and the Committee do not object to the reasonableness of the Ad Hoc

---

<sup>2</sup> The Ad Hoc Group was also advised by Gene Davis of Pirinate Consulting Group. Pirinate was retained directly by K&E in connection with this matter and all fees and expenses related to Mr. Davis' activities are invoiced directly to K&E and included in the Ad Hoc Group Fees (as defined herein).

<sup>3</sup> Capitalized terms used herein and not otherwise defined have the meaning ascribed to such terms in the Plan.

Group Fees; *provided further, however*, that notwithstanding the foregoing, New Arcapita Topco shall not be required to pay any Ad Hoc Group Fees unless the Ad Hoc Group supports the Plan. To the extent that the Debtors or the Committee object to the reasonableness of any portion of the Ad Hoc Group Fees, New Arcapita Topco shall not be required to pay such disputed portion until either such objection is resolved or a further order of the Bankruptcy Court is entered providing for payment of such disputed portion.

7. This Plan provision was incorporated into the Plan following extensive settlement negotiations among the Debtors, the official committee of unsecured creditors (the “Committee”), the JPL’s and the Ad Hoc Group, regarding, among other things, the two issues central to development of the Plan: allocation of value among creditors (specifically Bank and AIHL creditors) and post-Effective Date governance. As part of the Plan settlements, to induce the Ad Hoc Group’s support for the Debtors’ fully consensual Plan, and in acknowledgement of the Ad Hoc Group’s substantial contribution to these chapter 11 cases, both the Committee and the Debtors have consented to payment of the Ad Hoc Group Fees pursuant to the terms of the Plan. The Ad Hoc Group is not aware of any objection to payment of the Ad Hoc Group Fees having been filed in connection with confirmation of the Plan.

8. Upon information and belief, each member of the Ad Hoc Group has supported the Plan, indicated its support of the Plan to other AIHL creditors, and has voted or directed its votes in support of the Plan.

**Ad Hoc Group’s Contribution to These Chapter 11 Cases**

9. Since its formation in August 2012, the Ad Hoc Group has worked diligently to maximize recoveries for stakeholders and facilitate consensus on a feasible chapter 11 plan that would expedite the Debtors’ emergence from chapter 11. Among other things, members of the Ad Hoc Group and/or its advisors engaged in many in person and telephonic meetings with both

the advisors and principals of the Debtors, the Committee and the JPL's through every stage of the Plan negotiations and development.

10. Advisors for the Ad Hoc group reviewed several iterations of the Debtors' business plans and attended management presentations on both the new money and standalone business plans,<sup>4</sup> and the Ad Hoc Group worked with the Debtors to develop a "toggle" plan concept that would enable the Debtors to pursue their new money approach without sacrificing time on a standalone alternative.

11. Indeed, throughout these cases, the Ad Hoc Group has consulted with the Debtors and/or the Committee, and provided input and revisions to a number of key documents, including the Debtors' Business Plan, DIP and exit financing pleadings, and, most importantly, the Plan and Disclosure Statement and related term sheets. Most importantly, however, the Ad Hoc Group played an integral role in resolving the two issues critical to development of the Plan: allocation of distributable value among creditors and post-Effective Date governance.

**A. Allocation of Value Among Creditors**

12. As described in Section VI.B.1. of the Disclosure Statement, the Ad Hoc Group actively participated in negotiations with the Debtors, the Committee, the JPLs and SCB to ensure that Plan Distributions fairly reflected the relative rights and priorities of the parties in interest in light of the many Potential Plan Disputes.<sup>5</sup> The advisors to the Ad Hoc Group spent considerable time analyzing numerous litigable issues related to the allocation of value among creditors under the Plan. The Ad Hoc Group's advisors also attended several meetings with the

---

<sup>4</sup> See *Id.* at Section VI.A.2.

<sup>5</sup> See Disclosure Statement at Section VI.B.1 describing Potential Plan Disputes that would have been time consuming and expensive to litigate.

Debtor and Committee advisors (and certain principals) in New York and London to resolve issues affecting creditor splits and the development of the distributable Plan securities.

13. Given the Ad Hoc Group's substantial economic interest in the Syndicated Facility, the Ad Hoc Group also had a direct line of communication with the JPL's who solicited the group's views on important issues affecting AIHL creditors and the Cayman proceedings. As the largest, organized, economic holders of the Syndicated Facility, the Ad Hoc Group was also keenly interested in helping develop the structure of the Plan securities that would form the basis of creditor recoveries and spent considerable time with the Committee's financial advisors providing input into the appropriate structure of such securities.

14. As negotiations on creditor splits advanced and input was needed directly from members of the Ad Hoc Group on the splits and structure of plan securities, the Ad Hoc Group members entered into confidentiality agreements with the Debtors and the Committee on December 10 and 20, 2012, respectively, to enable the Ad Hoc Group members to engage in negotiations on a restricted basis through the filing of a plan and disclosure statement. During this time, members of the Ad Hoc Group were actively engaged in discussions with the Committee, the Debtors and the JPL's, which negotiations ultimately led to agreement among all parties on the creditor splits and form of distributable value reflected in the initial plan and disclosure statement filed on February 8, 2013.

**B. Post-Effective Date Governance**

15. Following agreement on the creditor splits and the filing of the initial Plan and Disclosure Statement, the parties turned to important discussions regarding how to manage and govern the wind down of Arcapita's investments. There were significant disputes among the parties regarding, among other things, the ongoing role and cost of management and the ability to control the disposition of investments in light of third party and co-investor arrangements.

The core of the Debtors' Plan, the Cooperation Settlement Term Sheet described in Section I.B.8 of the Disclosure Statement, reflects the culmination of extensive negotiations among the parties regarding these disputes and establishes a framework for the sale or other disposition of investment assets that will continue to be jointly owned by the Reorganized Arcapita Group and the Syndication Companies.<sup>6</sup> The Ad Hoc Group played a pivotal role in the development and negotiation of the Cooperation Settlement Term Sheet, including, (a) participating in meetings with the Debtors' management team regarding their proposed ongoing role with the Reorganized Debtors, (b) drafting the initial term sheet establishing the framework for an agreement to manage the existing investment portfolio of the Debtors, which ultimately evolved into the Cooperation Settlement Term Sheet, (c) spending considerable time with the Debtors and the Committee, negotiating and drafting key terms of the Cooperation Settlement Term Sheet, and (d) making significant concessions (and helping bridge divides) under the Cooperation Settlement Term Sheet in the interest of moving toward the Debtors' exit from chapter 11.

16. In connection with developing the Cooperation Term Sheet, I personally met with certain co-Investors in the Middle East regarding the need for cooperation. Members of the Ad Hoc Group have also worked closely with the Committee in proposing and interviewing candidates for the Reorganized Debtors' board of directors.

17. I believe the Ad Hoc Group's role in plan negotiations and, particularly, in development of the Cooperation Term Sheet accelerated the Debtors' timeline for pursuit of a fully consensual plan and facilitated approval of the Plan by the Cayman Court, which is to the benefit of all stakeholders. In the absence of a settlement with all parties, including the Ad Hoc Group, the estate would likely have incurred significant additional expense and delay litigating

---

<sup>6</sup> See *Id.* at Section I.B.8.

issues regarding, among other things, termination of exclusivity, appointment of a third party wind down manager, disputes over jurisdictional issues and potential action in the Cayman Proceedings.

18. During final negotiations on the Cooperation Settlement Term Sheet, the Ad Hoc Group set forth certain requirements for providing its support to a fully consensual plan. Among the important and non-severable terms of the parties' global settlement was the agreement by the Debtors and the Committee to support payment of the Ad Hoc Group Fees as part of the Plan. The Ad Hoc Group Fees comprise the reasonable and documented fees and expenses of K&E, based on K&E's normal hourly rates for restructuring matters, which are routinely approved as reasonable and appropriate in chapter 11 cases in this District and others. Based on K&E's invoices through May 31, 2013 and estimates of time billed through the date hereof and anticipated time for work through the effective date of the Plan, K&E does not expect the Ad Hoc Group Fees to exceed \$1.2 million (inclusive of any Pirinate fees and expenses).

I verify under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information and belief.

Dated: June 6, 2013  
New York, New York

By: /s/ Matthew Bonanno  
Senior Vice President  
York Capital Management Global Advisors LLC,  
on behalf of funds and accounts managed by it