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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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**APPELLEES' COUNTER-DESIGNATION OF ISSUES ON APPEAL OF ORDER
CONFIRMING THE SECOND AMENDED JOINT PLAN OF REORGANIZATION
OF ARCAPITA BANK B.S.C.(c) AND RELATED DEBTORS**

Arcapita Bank B.S.C.(c) ("*Arcapita Bank*") and certain of its subsidiaries, as debtors and debtors in possession (the "*Debtors*" or the "*Appellees*"), in response to the purported designation of issues on appeal [Docket No. 1344] of Appellant Hani Alsohaibi (the "*Appellant*") as to the *Findings of Fact, Conclusions of Law, and Order Confirming the Second Amended Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and Related Debtors With Respect to Each Debtor Other Than Falcon Gas Storage Company, Inc. Under Chapter 11 of the Bankruptcy Code* [Docket No. 1262] (the "*Confirmation Order*"), hereby counter designate the issues set forth below as those issues properly before the District Court on the appeal of the Confirmation Order:

1. Whether the Appellant has standing to appeal the entry of the Confirmation Order confirming the Debtors' chapter 11 plan of reorganization (the "**Plan**") when he neither (i) voted to accept or reject the Plan, (ii) filed an objection to the confirmation of the Debtors' Plan, nor (iii) appeared at the hearing on the confirmation of the Debtors' Plan.

2. Whether the Appellant has standing to appeal the entry of the Confirmation Order where there is no justiciable "case or controversy" because (i) the Appellant did not provide any evidence below of any damages, harm, or other pecuniary loss that he will suffer as a result of the confirmation of the Plan, and (ii) the Bankruptcy Court expressly found based on the only evidence in the record that the economic result of the Plan to all stakeholders, including the Appellant, is superior to the result that would be obtained in an immediate liquidation under chapter 7.

3. Whether, in addition to compliance with the provisions of 11 U.S.C. § 1129, the Bankruptcy Code also requires that, because prepetition the Debtors accepted funds from certain investors to be invested in a manner that conformed to the principles of Shari'ah, the Debtors' Plan may only be confirmed if the Bankruptcy Court expressly finds that the Plan and the financing of the Plan also comply with the unsettled and hotly debated moral and religious principles of Shari'ah.

4. Because, prepetition the Debtors accepted funds from certain investors to be invested in a manner that conforms to the principles of Shari'ah, whether, to be confirmed, the Plan must be unanimously approved by each and every stakeholder and party in interest in each class of claims or interests treated in the Plan, instead of as provided in sections 1126 and 1129(b) of the Bankruptcy Code.

5. Whether the determination by the Debtors' Shari'ah supervisory board that the financing contemplated by the Debtors' Plan conforms to the moral and religious principles of Shari'ah may be challenged or overturned by an appeal to the United States Federal Courts.

6. Whether the Bankruptcy Code provides that, for a plan of reorganization to be confirmed, the Bankruptcy Court must find that the plan does not "frustrate the reasonable commercial expectations" of all stakeholders in the bankruptcy case.

7. If the Bankruptcy Code requires that a plan cannot be confirmed if it "frustrates the reasonable commercial expectations" of all stakeholders, whether the Confirmation Order confirming the Debtors' Plan may be overturned on appeal where the Appellant provided no evidence (i) as to the existence of the alleged prepetition expectations of stakeholders, (ii) that those alleged "reasonable commercial expectations" were reasonable, or (iii) how those alleged "reasonable commercial expectations" were in fact frustrated by the Plan.

Dated: New York, New York
July 29, 2013

Respectfully submitted,

/s/ Craig H. Millet
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