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

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In re:	:	Chapter 11
	:	
	:	Case No. 12-11076 (SHL)
ARCAPITA BANK B.S.C.(C), <u>et al.</u> ,	:	
	:	(Jointly Administered)
	:	
Debtors.	:	
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**STIPULATION AND AGREED ORDER AMONG DEBTORS,
OFFICIAL COMMITTEE OF UNSECURED CREDITORS, AND
LINKLATERS LLP ON DEBTORS’ MOTION FOR AN ORDER CONFIRMING
DEBTORS’ AUTHORITY TO FUND NON-DEBTOR EUROLOG AFFILIATES**

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”), the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases (the “Committee”), and Linklaters LLP (“Linklaters”), by and through their respective counsel,

¹ The Debtors in these chapter 11 cases 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.

hereby enter into this stipulation and agreed order (the “Stipulation and Order”) and stipulate and agree as follows:²

RECITALS

WHEREAS, prior to the filing of the Chapter 11 Cases, Arcapita Limited (“Limited”), and Point Park Properties S.R.O (“P3” and together with Limited, the “EuroLog Affiliates”) retained Linklaters to provide various services in connection with the EuroLog IPO (as defined below);

WHEREAS, during the ninety days prior to the filing of the Chapter 11 Cases, the Debtors transferred to Linklaters cash in an aggregate amount of approximately £934,960.58 (the “Prepetition Transfers”);

WHEREAS, in July of 2012, the EuroLog Affiliates and Linklaters memorialized the retention of Linklaters by entering into an engagement letter (the “Engagement Letter”), pursuant to which the EuroLog Affiliates became obligated to pay the fees and expenses incurred by Linklaters in connection with the EuroLog IPO (as defined below);

WHEREAS, on August 28, 2012, the Court entered an order (Docket No. 445, the “Linklaters Fee Order”) authorizing the Debtors to make (i) an immediate payment in the amount of \$1.5 million to Linklaters on account of fees incurred by Linklaters with respect to the EuroLog IPO (as defined below), and (ii) certain additional payments at a later date and subject to certain conditions;

WHEREAS, on September 10, 2012, the Court approved the Debtors’ motion pursuant to sections 105(a) and 363(b) of the Bankruptcy Code seeking authority to execute documentation in connection with, and to launch, an initial public offering (Docket No. 465; the

² All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Fee Motion.

“EuroLog IPO”) of shares indirectly held by the Debtors through non-Debtor affiliates including, among others, the Eurolog Affiliates;

WHEREAS, on October 31, 2012, the Debtors advised the Court that the EuroLog IPO would not be launched;

WHEREAS, on February 27, 2013, the Debtors filed the *Debtors’ Motion For Order Confirming The Debtors’ Authority To Fund Non-Debtor Eurolog Affiliates* (Docket No. 872; the “Fee Motion”) seeking an order confirming their authority to lend certain amounts to the EuroLog Affiliates pursuant to section 363(c) of the Bankruptcy Code to satisfy, *inter alia*, the invoices rendered by Linklaters for fees incurred in connection with the EuroLog IPO in the aggregate amount of £1,833,321.56 plus expenses (the “Linklaters Invoices”);

WHEREAS, on March 8, 2013, the Committee interposed an objection to the Fee Motion [Docket No. 839] asserting, among other things, that the Debtors are not liable for the Linklaters Invoices, payment is prohibited under section 503(c)(3) of the Bankruptcy Code, and the Debtors lacked authority to advance funds to satisfy the Linklaters Invoices (the “Committee Objection”); and on March 13, 2013, the Debtors filed their Reply to the Committee Objection and in support of the Fee Motion [Docket No. 914];

WHEREAS, on June 17, 2013, the Court entered an order confirming the *Second Amended Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and Related Debtors Under Chapter 11 of the Bankruptcy Code (With First Technical Modifications)* (Docket No. 1262; the “Plan”);

WHEREAS, the Committee, the Debtors, and Linklaters, and the EuroLog Affiliates agree and acknowledge that it is in the best interests of the Debtors, their estates and their creditors to settle all issues related to the payment of the Linklaters’ Invoices without further litigation;

WHEREAS, the Committee and the Debtors agree and stipulate that resolution of the Committee Objection in accordance with terms of the Stipulation and Order is a sound exercise of the Debtors' business judgment; and

WHEREAS, certain of the EuroLog Affiliates and the Debtors have agreed to seek a separate agreement (the "Reimbursement Agreement") pursuant to which those EuroLog Affiliates will reimburse the Debtors for their payment of the Settlement Amount (as defined herein), the precise terms of which are under discussion.

AGREED ORDER

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

1. The Debtors are authorized and directed to pay £1,521,656.89 (the "Settlement Amount") on the Effective Date (as defined in the Plan) to Linklaters, which represents the balance due to Linklaters under the Engagement Letter taking into account (a) a 17% reduction in outstanding fees under the Fee Motion and (b) a 100% reduction in Linklaters' expenses of £178,290.76 sought in the Fee Motion. The Settlement Amount shall be an Allowed Administrative Expense Claim (as defined in the Plan) upon entry of this Stipulation and Order.
2. The Debtors and the Committee agree to release and waive any claim against Linklaters on account of the Prepetition Transfers.
3. Linklaters agrees to waive any claim against the Debtors, the Reorganized Debtors, and each of the EuroLog Affiliates and any affiliates of the EuroLog Affiliates for fees, expenses, and VAT incurred by Linklaters due and owing under the Engagement Letter through the date hereof.
4. Linklaters agrees to waive its right to any additional payments that may be due under the Linklaters Fee Order.

5. Within ten (10) business days following entry of the Stipulation and Order, the Debtors will use their best efforts to enter into the Reimbursement Agreement, which shall be in form and substance acceptable to the Committee, which shall obligate certain owners of the EuroLog Assets (as defined in the Fee Motion) to reimburse the Settlement Amount to the Debtors; provided, however, that the Debtors' obligation to pay the Settlement Amount to Linklaters as an Allowed Administrative Expense Claim shall be absolute and not conditioned upon the Reimbursement Agreement in any way.

6. Upon receipt of the Settlement Amount, Linklaters agrees to assign to the Debtors all of its rights to collect any payment for its fees and expenses from the EuroLog Affiliates under the Engagement Letter.

7. The Committee Objection shall be deemed withdrawn, with prejudice, solely with respect to Linklaters.

8. Nothing in the Stipulation and Order shall be construed as an assumption or rejection by the Debtors of the Engagement Letter pursuant to section 365 of the Bankruptcy Code.

9. Nothing in the Stipulation and Order shall be deemed to be a settlement of the Fee Motion or the Committee Objection as each relates to KPMG LLP (UK) and Freshfields Bruckhaus Deringer LLP.

10. The relief granted herein shall be binding upon the Debtors, the Committee, Linklaters, and the Reorganized Debtors (as defined in the Plan).

11. The terms and conditions of this Stipulation and Order shall be immediately effective and enforceable upon its entry by the Court.

12. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of the Stipulation and Order.

**MILBANK, TWEED, HADLEY &
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Dated: August 8, 2013
New York, New York

/s/ Sean H. Lane
THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE