

**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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**ORDER DENYING WITHOUT PREJUDICE COMMERZBANK
AKTIENGESELLSCHAFT’S MOTION FOR ENTRY OF ORDER MODIFYING THE
AUTOMATIC STAY TO PERMIT DELIVERY OF A CLAIM NOTICE**

Upon consideration of the motion of Commerzbank Aktiengesellschaft (“*Commerzbank*”), dated April 23, 2012 [Dkt No. 89] (the “*Motion*”), for entry of an order granting relief from the automatic stay to permit Commerzbank to deliver to Arcapita Bank B.S.C. (c) (“*Arcapita*”) a claim notice under the Guarantee¹; and upon the Debtors’ objection to the Motion, dated April 30, 2012 [Dkt No. 106]; and upon joinder of Official Committee of Unsecured Creditors to the Debtors’ objection, dated May 2, 2012 [Dkt No. 112]; and upon Commerzbank’s reply, dated May 3, 2012, in support of its Motion [Dkt No. 117]; and the Court having found that it has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that jurisdiction and venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; *and the claim notice proposed by Commerzbank purports to demand the entire sum as immediately due and payable pursuant to a notice of acceleration; and Commerzbank admits that “further proceedings, including commercial arbitration, may become necessary to fully crystalize [its] claims;”* and the Court having found that Commerzbank has not established that cause exists to grant the relief requested

¹ Capitalized terms used in this Order and not otherwise defined in this Order have the meanings ascribed to such terms in the Motion.

in the Motion; and notice of the Motion and the opportunity for a hearing on the Motion was appropriate under the particular circumstances; and the Court having reviewed the Motion and having considered the statements in support of and against the relief requested therein at a hearing before the Court (the "**Hearing**"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing do not establish just cause for the relief requested therein; and upon all of the proceedings had before the Court; therefore,

IT IS HEREBY ORDERED:

1. *The Motion is denied without prejudice, as more fully explained at the Hearing, because movant has failed to establish cause to lift the stay, see Sonnax Indus., Inc. v. Tri Component Prods. Corp., 907 F.2d 1280, 1285 (2d Cir. 1990), including that Commerzbank has not established that its proposed claim notice would simply preserve its rights as opposed to constituting a step towards collection of a debt.*

2. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: New York, New York
May 17, 2012

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