

HEARING DATE AND TIME: May 31, 2012 at 2:00 p.m. (Eastern Time)
PROPOSED OBJECTION DEADLINE: May 24, 2012 at 2:00 p.m. (Eastern Time)

GIBSON, DUNN & CRUTCHER LLP

Michael A. Rosenthal (MR-7006)
Matthew J. Williams (MW-4081)
Matthew K. Kelsey (MK-3137)
200 Park Avenue
New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

Attorneys for the Debtors and Debtors in Possession

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

-----X	:	
	:	
IN RE:	:	Chapter 11
	:	
ARCAPITA BANK B.S.C.(c), et al.,	:	Case No. 12-11076 (SHL)
	:	
Debtors.	:	Jointly Administered
	:	
-----X		

**DEBTORS' EX PARTE MOTION FOR ORDER
SHORTENING THE NOTICE PERIOD WITH RESPECT TO
THE DEBTORS' MOTION PURSUANT TO SECTIONS 365(d)(3)
AND 363(b)(1) OF THE BANKRUPTCY CODE FOR ARCAPITA
TO MAKE INVESTMENT TO SUPPORT THE LUSAIL JOINT VENTURE**

Arcapita Bank B.S.C.(c) ("*Arcapita*") and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the "*Debtors*" and each, a "*Debtor*"), submit this motion (the "*Motion*") for entry of an order substantially in the form annexed hereto as *Exhibit A* pursuant to Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the "*Bankruptcy Rules*") and Rule 9006-1(b) of the Local Bankruptcy Rules for the Southern District of New York (the "*Local Rules*") shortening the time for notice of the hearing to consider the *Debtors' Motion Pursuant to Sections 365(d)(3) and 363(b)(1) of the Bankruptcy Code for Authorization for Arcapita to Make Investment to Support the Lusail Joint Venture*

(the “*Lusail Motion*”), filed concurrently herewith and incorporated by reference.¹ In support of the Motion, the Debtors respectfully represent:

BACKGROUND

1. On March 19, 2012 (the “*Petition Date*”), Arcapita and five of its affiliates (collectively, the “*Initial Debtors*”) commenced cases under chapter 11 of the Bankruptcy Code. On April 30, 2012, Falcon Gas Storage Co., Inc. commenced a case under chapter 11 of the Bankruptcy Code (along with the cases of the Initial Debtors, the “*Chapter 11 Cases*”). The Debtors are operating their businesses and managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On April 5, 2012, the United States Trustee for Region 2 appointed an Official Committee of Unsecured Creditors [Dkt. No. 60] pursuant to sections 1102(a) and (b) of the Bankruptcy Code (the “*Committee*”).

2. Founded in 1996, Arcapita, through its Debtor and non-Debtor subsidiaries (collectively, with Arcapita, the “*Arcapita Group*”), is a leading global manager of Shari’ah-compliant alternative investments and operates as an investment bank. Arcapita is not a domestic bank licensed in the United States, nor does it have a branch or agency in the United States, as defined in section 109(b)(3)(B) of the Bankruptcy Code. Arcapita is headquartered in Bahrain and is regulated under an Islamic wholesale banking license issued by the Central Bank of Bahrain (the “*CBB*”). The Arcapita Group employs approximately 265 people and has offices in Atlanta, London, Hong Kong, and Singapore in addition to its Bahrain headquarters. The Arcapita Group’s principal activities include investing for its own accounts and providing investment opportunities to third-party investors in conformity with Islamic Shari’ah rules and

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Lusail Motion.

principles. The Arcapita Group also derives revenue from managing assets for its third-party investors.

3. The Arcapita Group provides investors the opportunity to co-invest with the Arcapita Group on a deal-by-deal basis across three global asset classes: real estate; infrastructure and private equity; and venture capital. Typically, the Arcapita Group, through its non-Debtor subsidiaries, takes an indirect 10-20% equity stake alongside its third-party investors in non-Debtor holding companies that directly own operating portfolio companies in the United States, Europe and the Middle East. The underlying investments made by the Arcapita Group are generally medium- to long-term projects that have limited value in the short term, and often require significant on-going capital funding to complete in order to realize the value of the investment.

JURISDICTION AND VENUE

4. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

5. By this Motion, the Debtors request that the Court enter an order

- (a) shortening the notice period for the Lusail Motion such that it may be heard by the Court no later than on May 31, 2012, at a time to be determined at the Court's convenience and
- (b) requiring that objections to the Lusail Motion, if any, be filed and served so that they are received in accordance with this Motion no later than March 24, 2012, at 12:00 p.m.

BASIS FOR RELIEF

6. Bankruptcy Rule 2002(a)(2) requires a debtor to provide 21 days' notice by mail of a motion proposing to use, sell or lease property of the estate other than in the

ordinary course of business unless the court, for cause shown, shortens the notice period required for a hearing. Bankruptcy Rule 9006(c)(1) and Local Rule 9006-1(b) authorize the Court, for cause shown, to reduce the notice period required for a hearing.

7. The Debtors submit this Motion, pursuant to Bankruptcy Rule 9006 and Local Rule 9006-1, in the abundance of caution. By the Lusail Motion, the Debtors seek an order authorizing Arcapita to fund a loan in connection with the Lease governing the Arcapita Group's use of the Lusail Land. Compliance with the Lusail Land Lease constitutes a required ordinary course transaction under section 365(d)(3) of the Bankruptcy Code, to the extent the Lease is a true lease. Arcapita's advancing a loan to facilitate compliance with the Lease would not be subject to Bankruptcy Rule 2002(a), and service of the Lusail Motion would be governed by and shall be in compliance with this Court's Case Management Order.²

8. Also, in the Lusail Motion, the Debtors assert that, in the alternative, even if satisfaction of the June Funding Obligation with respect to the Lease does not comprise a required lease obligation under section 365(d)(3) of the Bankruptcy Code, Arcapita should nonetheless be authorized to advance a loan to facilitate payments under and in compliance with the Drawdown Schedule in its good business judgment under Bankruptcy Code section 363(b)(1). Satisfaction of the June Funding Obligation protects the Debtors' interest in the Lease, the Option and the Lusail Land. As noted above, motions seeking relief under section 363(b) are subject to Bankruptcy Rule 2002, and absent relief from the Court, require 21 days' notice. In the abundance of caution, should the Court hold that satisfaction of the June Funding

² The "**Case Management Order**" means the Order (A) Waiving the Requirement that Each Debtor File a List of Creditors and Equity Security Holders and Authorizing Maintenance of Consolidated List of Creditors in Lieu of Matrix; (B) Authorizing Filing of a Consolidated List of Top 50 Unsecured Creditors; and (C) Approving Case Management Procedures [Docket No. 21].

Obligation is subject to section 363(b), not section 365(d)(3), and therefore, service of the Lusail Motion is subject to Bankruptcy Rule 2002, the Debtors submit this motion seeking to shorten the time for notice of the hearing to consider the Lusail Motion.

9. Ample cause exists to shorten the time for notice of the Lusail Motion and to grant this Motion on an *ex parte* basis. Timely performance under the Lease will preserve estate assets for the benefit of the Debtors' creditors. Pursuant to the 2012 Transactions, QRE, an Arcapita subsidiary, engaged in a sale-leaseback transaction with QIB. QIB purchased QRE's shares in the Lusail Joint Venture and leased the Lusail Land back to Arcapita in return for Arcapita's agreement to make (a) semi-annual \$10 million rent payments and (b) other payments due from QIB under a Shareholders Agreement governing the Lusail Joint Venture (expressly including payments remaining under the Land Purchase Agreement governing the 2008 purchase of the Lusail Land). Annual payments are due and payable under the Land Purchase Agreement in accordance with the Drawdown Schedule. The next payment due under the Shareholder Agreement, Lease and Option is due June 1, 2012.

10. The Lease thus obligates Arcapita, on June 1, to make shareholder loans to pay a \$30.4 million payment required under the Land Purchase Agreement. As further stated in the Lusail Motion, failure to make this payment would constitute a default under the Lease and impair and potentially eliminate Arcapita's reversionary interest in the valuable Lusail Joint Venture Shares sold to QIB under the Option.

11. The Debtors' receipt of an order of the Court granting the Lusail Motion by May 31, 2012, and subsequent performance under the Lease is crucial to preserving the value of the Debtors' businesses for creditors. Lusail is a key estate asset. An event of default under the Lease and subsequent loss of rights under the Option, stripping Arcapita of its right to

repurchase the Shares at a predetermined price, would waste a critical estate asset. Creditor recoveries would be impaired.

12. For the foregoing reasons, it is imperative that the Lusail Motion be approved on an expedited basis. To this end, *ex parte* relief is warranted so that the Lusail Motion may be heard no later than on May 31, 2012.

13. No parties in interest would be prejudiced by the shortened notice requested herein or by the approval of this Motion on an *ex parte* basis.

NOTICE

14. No trustee or examiner has been appointed in the Chapter 11 Cases. The Debtors have provided notice of filing of the Motion by electronic mail, facsimile and/or overnight mail to: (i) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Richard Morrissey, Esq.); (ii) Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005 (Attn: Dennis Dunne, Esq. and Evan Fleck, Esq.); (iii) counsel to Qatar Islamic Bank, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Marcia L. Goldstein); and (iv) all parties listed on the Master Service List established in these Chapter 11 Cases. A copy of the Motion is also available on the website of the Debtors' notice and claims agent, GCG, at www.gcginc.com/cases/arcapita.

NO PRIOR REQUEST

15. No prior motion for the relief sought in this Motion has been made to this or any other court.

WHEREFORE, the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
May 17, 2012

Respectfully submitted,

/s/ Michael A. Rosenthal

Michael A. Rosenthal (MR-7006)

Matthew J. Williams (MW-4081)

Matthew K. Kelsey (MK-3137)

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue

New York, New York 10166-0193

Telephone: (212) 351-4000

Facsimile: (212) 351-4035

ATTORNEYS FOR THE DEBTORS AND
DEBTORS IN POSSESSION

EXHIBIT A

Proposed Order

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

-----X	:	
	:	
IN RE:	:	Chapter 11
	:	
ARCAPITA BANK B.S.C.(c), et al.,	:	Case No. 12-11076 (SHL)
	:	
Debtors.	:	Jointly Administered
	:	
-----X	:	

**ORDER SHORTENING THE NOTICE PERIOD WITH
RESPECT TO THE DEBTORS' MOTION PURSUANT TO
SECTIONS 365(d)(3) AND 363(b)(1) OF THE BANKRUPTCY
CODE FOR AUTHORIZATION FOR ARCAPITA TO MAKE
INVESTMENT TO SUPPORT THE LUSAIL JOINT VENTURE**

Upon consideration of the motion (the "*Motion*")¹ of Arcapita Bank B.S.C.(c) ("*Arcapita*") and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the "*Debtors*" and each, a "*Debtor*") in the above-captioned chapter 11 cases (the "*Chapter 11 Cases*"), for entry of an order shortening the notice period with respect to the *Debtors' Motion Pursuant to Sections 365(d)(3) and 363(b)(1) of the Bankruptcy Code for Authorization for Arcapita to Make Investment to Support the Lusail Joint Venture* (the "*Lusail Motion*"); 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 venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of Debtors' estates, their creditors, and other parties in interest; and it appearing that no other or further notice is necessary except as provided herein; and the Court having reviewed the Motion and having considered

¹ Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

statements in support of the relief requested therein; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED:

1. The Motion is granted to the extent set forth below.
2. The hearing to consider the Lusail Motion shall be held on May 31, 2012, at 2:00 p.m. (prevailing Eastern Time) before the Honorable Sean H. Lane, United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408, Courtroom 701. The hearing on the Lusail Motion may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court. Notice of such adjourned date(s) will be available on the electronic case filing docket.
3. The Debtors shall serve a copy of this Order within one day of entry thereof, by electronic mail, facsimile and/or overnight mail, on the Notice Parties (as defined below).
4. Any and all objections to the Lusail Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and Local Rules of the Court, and shall be filed, with proof of service, with the Clerk of the Court and served on the following parties (the "*Notice Parties*") so as to be received by May __, 2012 at 12:00 p.m. (prevailing Eastern Time):
 - (a) counsel to the Debtors, attention: Michael A. Rosenthal, Matthew J. Williams and Matthew K. Kelsey, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166-0193;
 - (b) counsel to the Committee, attention: Dennis Dunne, Esq. and Evan Fleck, Esq., Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005;

- (c) counsel to Qatar Islamic Bank, Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Marcia L. Goldstein); and
- (d) the Office of the United States Trustee for the Southern District of New York, attention: Richard Morrissey, 33 Whitehall Street, New York, New York 10004,

with a courtesy copy delivered to the chambers of the Honorable Sean H. Lane, United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408.

5. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: New York, New York
_____, 2012

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

GIBSON, DUNN & CRUTCHER LLP

Michael A. Rosenthal (MR-7006)
Matthew J. Williams (MW-4081)
Matthew K. Kelsey (MK-3137)
200 Park Avenue
New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

Attorneys for the Debtors and
Debtors in Possession

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

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

**NOTICE OF HEARING ON DEBTORS' EX PARTE MOTION FOR
ORDER SHORTENING THE NOTICE PERIOD WITH RESPECT TO THE
DEBTORS' MOTION PURSUANT TO SECTIONS 365(d)(3) AND 363(b)(1)
OF THE BANKRUPTCY CODE FOR AUTHORIZATION FOR ARCAPITA
TO MAKE INVESTMENT TO SUPPORT THE LUSAIL JOINT VENTURE**

PLEASE TAKE NOTICE that a hearing on the annexed Motion, dated May 17, 2012 (the "*Motion*") of Arcapita Bank B.S.C.(c) and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively, the "*Debtors*") will be held before the Honorable Sean H. Lane, United States Bankruptcy Judge, in Room 701 of the United States Bankruptcy Court for the Southern District of New York (the "*Bankruptcy Court*"), One Bowling Green, New York, New York, 10004, on **May 31, 2012 at 2:00 p.m. (Eastern Time)**, or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion (the "*Objections*") shall be filed electronically with the Court on the docket of *In re Arcapita Bank B.S.C.(c), et al.*, Ch. 11 Case No. 12-11076 (SHL) (the "*Docket*"), pursuant to the

Case Management Procedures approved by this Court¹ and the Court's General Order M-399 (available at <http://nysb.uscourts.gov/orders/orders2.html>), by registered users of the Court's case filing system and by all other parties in interest on a 3.5 inch disk, preferably in portable document format ("PDF"), Microsoft Word, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with the customary practices of the Bankruptcy Court and General Order M-399, to the extent applicable, and served in accordance with General Order M-399 on (i) proposed counsel for the Debtors, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York, 10166 (Attn: Michael A. Rosenthal, Esq., Matthew J. Williams, Esq. and Matthew K. Kelsey, Esq.); (ii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Richard Morrissey, Esq.); and (iii) counsel for the Official Committee of Unsecured Creditors of Arcapita Bank B.S.C.(c), *et al.*, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York, 10005 (Attn: Dennis Dunne, Esq. and Evan R. Fleck, Esq.). The proposed deadline for Objections is May 24, 2012 at 2:00 p.m. (Eastern Time) (the "***Proposed Objection Deadline***").

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served with respect to the Motion, the Debtors may, on or after the objection deadline, submit to the Bankruptcy Court an order substantially in the form of the proposed order annexed to the Motion, which order may be entered with no further notice or opportunity to be heard.

¹ See Order (A) Waiving the Requirement That Each Debtor File a List of Creditors and Equity Security Holders and Authorizing Maintenance of Consolidated List of Creditors in Lieu of a Matrix; (B) Authorizing Filing of a Consolidated List of Top 50 Unsecured Creditors; and (C) Approving Case Management Procedures [Dkt. No. 21].

Dated: New York, New York
May 17, 2012

/s/ Michael A. Rosenthal

Michael A. Rosenthal (MR-7006)

Matthew J. Williams (MW-4081)

Matthew K. Kelsey (MK-3137)

GIBSON, DUNN & CRUTCHER LLP

200 Park Avenue

New York, New York 10166-0193

Telephone: (212) 351-4000

Facsimile: (212) 351-4035

ATTORNEYS FOR THE DEBTORS AND
DEBTORS IN POSSESSION