

Objection Deadline: June 19, 2012 @ 12:00 noon (Prevailing Eastern Time)
Hearing Date: June 26, 2012 @ 11:00 a.m. (Prevailing Eastern Time)

Dennis F. Dunne
Abhilash M. Raval
Evan R. Fleck
MILBANK, TWEED, HADLEY & M^cCLOY LLP
1 Chase Manhattan Plaza
New York, NY 10005
Telephone: (212) 530-5000

*Proposed Counsel for Official Committee of
Unsecured Creditors of Arcapita Bank B.S.C.(c), et al.*

**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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**NOTICE OF HEARING ON MOTION OF OFFICIAL COMMITTEE
OF UNSECURED CREDITORS OF ARCAPITA BANK B.S.C.(C), ET AL.,
FOR ORDER AUTHORIZING PARTIES TO FILE UNDER SEAL NAMES
OF DEBTORS' INVESTMENT VEHICLES AND PORTFOLIO CORPORATIONS**

PLEASE TAKE NOTICE that a hearing on the annexed motion, dated June 12, 2012 (the "Motion") of the Official Committee of Unsecured Creditors (the "Committee") of Arcapita Bank B.S.C.(c) and each of its affiliated debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Cases") 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 **June 26, 2012 at 11:00 a.m. (Prevailing 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 Committee, Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York, 10005 (Attn: Dennis F. Dunne, Esq., Abhilash M. Raval, Esq., and Evan R. Fleck, Esq.); (ii) counsel for the Debtors, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, New York, 10166 (Attn: Michael A. Rosenthal, Esq., Janet M. Weiss, Esq. and Matthew K. Kelsey, Esq.); and (iii) 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.), so as to be received no later than **June 19, 2012 at 12:00 noon (Prevailing Eastern Time)** (the “Objection Deadline”).

PLEASE TAKE FURTHER NOTICE that if no Objections are timely filed and served with respect to the Motion, the Committee 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 [Docket No. 21].

Dated: New York, New York
June 12, 2012

MILBANK, TWEED, HADLEY & M^cCLOY LLP

By: /s/ Dennis F. Dunne

Dennis F. Dunne

Abhilash M. Raval

Evan R. Fleck

1 Chase Manhattan Plaza

New York, NY 10005

Telephone: (212) 530-5000

*Proposed Counsel for Official Committee of
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Chapter 11
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ARCAPITA BANK B.S.C.(C), <u>et al.</u>,	:	Case No. 12-11076 (SHL)
	:	
Debtors.	:	(Jointly Administered)
	:	
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**MOTION OF OFFICIAL COMMITTEE OF UNSECURED CREDITORS
OF ARCAPITA BANK B.S.C.(C), ET AL., FOR ORDER AUTHORIZING PARTIES TO
FILE UNDER SEAL NAMES OF DEBTORS' INVESTMENT VEHICLES
AND PORTFOLIO CORPORATIONS**

The Official Committee of Unsecured Creditors (the "Committee") of Arcapita Bank B.S.C.(c) and each of its affiliated debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Cases"), hereby submits this motion (the "Motion") for an order pursuant to section 107(b) of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (as amended, the "Bankruptcy Code") and Rule 9018 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") authorizing the Committee and other parties involved in the Cases to: (a) redact the names of the Debtors' investment vehicles and portfolio corporations (the "Investments") in disclosures, applications, motions, service lists and other pleadings

(collectively, “Disclosures”) filed publicly with the Court; and (b) file unredacted copies of such Disclosures with the Court under seal.

Jurisdiction

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

Background

2. On March 19, 2012 (the “Petition Date”), each of the Debtors filed with this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code. On March 22, 2012, the Court entered an order consolidating these Cases for joint administration.

3. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Cases.

4. On April 5, 2012, pursuant to section 1102 of the Bankruptcy Code, the Office of the United States Trustee for the Southern District of New York (the “U.S. Trustee”) appointed the Committee, which consists of seven members, including: (i) Arcsukuk (2011-1) Limited c/o BNY Mellon Corporate Trustee Services Limited; (ii) Barclays Bank PLC; (iii) Central Bank of Bahrain; (iv) Commerzbank AG; (v) Euroville S.à.r.l; (vi) National Bank of Bahrain BSC; and (vii) VR Global Partners, L.P. On April 10, 2012, the Committee duly selected Milbank, Tweed, Hadley & M^cCloy LLP as counsel to represent it during the pendency of these Cases.

Relief Requested

5. By this Motion, the Committee seeks entry of an order pursuant to section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018, substantially in the form

annexed hereto as **Exhibit A**, authorizing the Committee and other parties involved in the Cases (including but not limited to professionals filing applications with the Court seeking to be retained by the Committee pursuant to sections 327 and/or 328 of the Bankruptcy Code) to:

(a) redact the names of the Investments from disclosures, applications, motions, service lists and other pleadings filed publicly with the Court; and (b) file unredacted copies of such Disclosures with the Court under seal.

Basis for Relief

6. Section 107(b) provides, in relevant part, as follows: “On request of a party in interest, the bankruptcy court shall . . . (1) protect an entity with respect to a trade secret or confidential research, development, or commercial information . . .” 11 U.S.C. § 107(b).

7. Bankruptcy Rule 9018 provides, in relevant part, as follows:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires (1) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information . . . contained in any paper filed in a case under the Code. . . .

Fed. R. Bankr. P. 9018.

8. The Second Circuit has held that section 107(b) and Bankruptcy Rule 9018 do “not require that commercial information be the equivalent of a trade secret before protecting such information.” Video Software Dealers Ass’n. v. Orion Pictures Corp. (In re Orion Pictures Corp.), 21 F.3d 24, 28 (2d Cir. 1994). In addition, the Second Circuit has held that a party seeking to seal information is required to show only that the information is confidential and commercial. For purposes of section 107(b), commercial information includes “information which would cause ‘an unfair advantage to competitors by providing them information as to the commercial operations of the debtor.’” Id. (citing Ad Hoc Protective Comm. for 10 1/2% Debenture Holders v. Intel Corp. (In re Intel Corp.), 17 B.R. 942, 944 (9th Cir.

B.A.P. 1982)). No showing of “good cause” is necessary, although as set forth below, the Committee here has demonstrated that good cause does exist. Id.

9. By this Motion, the Committee seeks to limit public access to a *very narrow* set of information: the names of the Investments that were compiled by the Committee professionals in connection with their retention applications to be filed with the Court from information provided to the Committee on a confidential basis. The Committee believes proprietary investment information is sensitive in the finance industry and is not typically made publicly available. Thus, the Investment information is “confidential” and “commercial” in nature, which alone justifies its protection. Video Software Dealers Ass’n, 21 F.3d at 28. The specific Investments made by the Debtors reflect the results of the Debtors’ proprietary trading strategies and policies, and disclosure of identifying information about those Investments may supply an unfair advantage to competitors. Public disclosure of the names of the Investments may amount to a release of the “confidential research, development, or commercial information” used in the Debtors’ business, and would diminish the value of the estate by freely surrendering a valuable asset. 11 U.S.C. § 107(b).

10. The Committee believes that the names of the Investments are only relevant insofar as the Investments constitute “interested parties” in these Cases, and various professionals seeking to be retained by the Committee in these Cases must disclose any potential conflicts of interest with regard to such interested parties. Therefore, public disclosure of the names of the Investments is not necessary to protect the interests of the public. Furthermore, any party with a compelling interest in learning the names of the Investments may request consent from the Debtors or request a further order from this Court.

11. In sum, the relief sought in this Motion is necessary to protect the confidential commercial information of the Debtors and will not impair the ability of this Court to protect the public interest.

No Prior Request

12. No previous motion for the relief sought in this Motion has been made to this or any other Court.

Notice

13. No trustee or examiner has been sought or appointed in these Cases. Notice of this Motion has been given to counsel to the Debtors, the U.S. Trustee and all other parties that have requested receipt of notices in these Cases. In light of the relief requested, the Committee submits that no other or further notice need be provided.

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Conclusion

WHEREFORE, the Committee respectfully requests 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 Respectfully submitted,
June 12, 2012

MILBANK, TWEED, HADLEY & M^cCLOY LLP

By: /s/ Dennis F. Dunne _____
Dennis F. Dunne
Abhilash M. Raval
Evan R. Fleck
1 Chase Manhattan Plaza
New York, NY 10005
Telephone: (212) 530-5000

*Proposed Counsel for Official Committee of
Unsecured Creditors of Arcapita Bank B.S.C.(c), et al.*

EXHIBIT A

Proposed Order

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

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

ORDER GRANTING MOTION OF OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF ARCAPITA BANK B.S.C.(C), *ET AL.*, FOR ORDER AUTHORIZING PARTIES TO FILE UNDER SEAL NAMES OF DEBTORS’ INVESTMENT VEHICLES AND PORTFOLIO CORPORATIONS

Upon consideration of the motion (the “Motion”)¹ of the Official Committee of Unsecured Creditors (the “Committee”) of Arcapita Bank B.S.C.(c) and each of its affiliated debtors in possession (collectively, the “Debtors”), for entry of an order pursuant to section 107 of the Bankruptcy Code and Bankruptcy Rule 9018, authorizing the Committee and other parties involved in these Cases (including but not limited to professionals filing applications with the Court seeking to be retained by the Debtors pursuant to sections 327 and/or 328 of the Bankruptcy Code) to redact the names of the Debtors’ investment vehicles and portfolio corporations (the “Investments”) in disclosures, applications, motions, service lists and other pleadings (collectively, the “Disclosures”) publicly filed with this Court, and file such Disclosures with this Court under seal; it appearing that the relief requested in the Motion is appropriate in the context of these Cases and in the best interests of the Debtors and their respective estates; the Court having reviewed the Motion and having considered the statements in support of the relief requested therein at a hearing before the Court (the “Hearing”); and the

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

Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefore,

IT IS HEREBY ORDERED:

1. The Motion is approved to the extent set forth herein.
2. Pursuant to section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018, the Committee and any other party involved in these Chapter 11 cases may redact the name of any Investment in any Disclosure that is publicly filed with this Court in these Cases (hereinafter, a "Redacted Disclosure"), and serve such Redacted Disclosure on all parties entitled to notice thereof under the Bankruptcy Code, the Bankruptcy Rules or any other applicable order.
3. The clerk of the Bankruptcy Court shall accept for filing under seal an unredacted copy of any Disclosure that is publicly filed in redacted form pursuant to this Order (hereinafter, an "Unredacted Disclosure").
4. The Unredacted Disclosure shall be available to the Court, but otherwise shall remain under seal and may not be unsealed until and unless authorized by an order of the Court.
5. The Committee shall serve a copy of any Unredacted Disclosure, permitted pursuant to this Order, on the United States Trustee for the Southern District of New York.
6. The Committee shall provide a copy of an Unredacted Disclosure as required by an order of this Court or other Court of competent jurisdiction.
7. This Order shall be immediately effective and enforceable upon its entry.

Dated: New York, New York
_____, 2012

THE HONORABLE SEAN H. LANE