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Proposed Attorneys for the Debtors
and Debtors in Possession

**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 DEBTORS' MOTION FOR INTERIM AND FINAL
ORDERS (A) AUTHORIZING THE DEBTORS TO CONTINUE INSURANCE
COVERAGE ENTERED INTO PREPETITION AND TO PAY OBLIGATIONS
RELATING THERETO; AND (B) AUTHORIZING FINANCIAL INSTITUTIONS TO
HONOR AND PROCESS RELATED CHECKS AND TRANSFERS**

PLEASE TAKE NOTICE that a hearing on the annexed motion, dated March 26, 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 **March 29, 2012 at 11:00 a.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., Janet M. Weiss, 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.); (iii) Kasowitz Benson Torres & Friedman LLP, 1633 Broadway, New York, New York 10019 (Attn: David Friedman, Esq. and David Mark, Esq.) as attorneys for Euroville, S.a.r.l.; and (iv) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Stephen Karotkin, Esq.), as attorneys for Midtown Acquisitions, LLC so as to be received no later than **March 28, 2012 at 12:00 p.m. (Eastern Time)** (the “**Objection Deadline**”).

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].

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.

Dated: New York, New York
March 26, 2012

/s/ Michael A. Rosenthal
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**PROPOSED ATTORNEYS FOR THE DEBTORS
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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), et al.,	:	Case No. 12-11076 (SHL)
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Debtors.	:	Jointly Administered
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**DEBTORS' MOTION FOR INTERIM AND FINAL ORDERS
(A) AUTHORIZING THE DEBTORS TO CONTINUE INSURANCE COVERAGE
ENTERED INTO PREPETITION AND TO PAY OBLIGATIONS RELATING
THERE TO; AND (B) AUTHORIZING FINANCIAL INSTITUTIONS TO HONOR
AND PROCESS RELATED CHECKS AND TRANSFERS**

Arcapita Bank B.S.C.(c) ("*Arcapita*") and certain of its subsidiaries, as debtors and debtors in possession (collectively, the "*Debtors*" and each, a "*Debtor*"), submit this Motion (the "*Motion*") for the entry of interim and final orders pursuant to sections 105, 363, 1107, and 1108 of title 11 of the United States Code (the "*Bankruptcy Code*") and Rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "*Bankruptcy Rules*") substantially in the forms annexed hereto as *Exhibit A* and *Exhibit B*: (a) authorizing the Debtors to continue prepetition insurance policies and programs and to pay obligations, whether arising prepetition or postpetition, relating thereto; (b) authorizing banks and other financial institutions to receive, process, honor, and pay checks and transfers issued in relation to the foregoing and to rely on the

representations of the Debtors as to which checks and transfers are authorized to be paid in accordance with this Motion; and (c) to the extent necessary, authorizing the Debtors to issue replacements for any dishonored check or transfer related to the foregoing. In support thereof, the Debtors respectfully represent:

BACKGROUND

1. On March 19, 2012 (the “*Petition Date*”), each of the Debtors commenced cases (the “*Chapter 11 Cases*”) under chapter 11 of the Bankruptcy Code. 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. No request has been made for the appointment of a trustee or an examiner in these Chapter 11 Cases. No official committee has yet been appointed by the Office of the United States Trustee.

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. In addition to its Bahrain headquarters, the Arcapita Group, together with the other Debtors and their non-Debtor Subsidiaries, 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 principles. The Arcapita Group also derives revenue from managing assets for its third party investors.

3. The Arcapita Group has approximately \$7 billion in assets currently under management. As of the Petition Date, on a consolidated basis, the Arcapita Group owns assets valued at approximately \$3.06 billion¹ and has liabilities of approximately \$2.55 billion. Approximately \$1.1 billion of the Debtors' prepetition liabilities are comprised of that certain murabaha, Shari'ah-compliant syndicated facility, issued on March 28, 2007, and maturing on March 28, 2012.²

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)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

5. By this Motion, the Debtors, pursuant to sections 105, 363, 1107(a), and 1108 of the Bankruptcy Code and Bankruptcy Rules 6003 and 6004, request authority to continue, in their sole discretion, to maintain all prepetition insurance policies, to effectuate renewals of such policies, as necessary, and to pay all obligations in respect of such policies, on an uninterrupted basis, consistent with their practices prior to the Petition Date, including the payment of all premiums, deductibles, adjustments, administrative expenses, brokers' fees, and

¹ This includes Arcapita's beneficial interest in assets under management.

² A description of the Debtors' business and the reasons for filing these Chapter 11 Cases is set forth in the Declaration of Henry A. Thompson in Support of (I) Debtors' Motion for Entry of Interim and Final Orders Authorizing the Debtors to (A) Pay Certain Prepetition Wages, Salaries, and Reimbursable Employee Expenses, (B) Pay and Honor Employee Medical and Similar Benefits, and (C) Continue Employee Compensation and Employee Benefit Programs; (II) Debtors' Motion for Interim and Final Orders (A) Authorizing Debtors to Pay Certain Prepetition Claims of Critical and Foreign Vendors; and (B) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers; and (III) Debtors' Motion for Interim and Final Orders (A) Authorizing the Debtors to Continue Insurance Coverage Entered Into Prepetition and to Pay Obligations Relating Thereto; and (B) Authorizing Financial Institutions to Honor and Process Related Checks and Transfers, executed on March 26, 2012 (the "*Thompson Declaration*"). This Motion is supported by the Thompson Declaration.

other charges incurred whether relating to the period prior to or after the Petition Date (together, the “*Insurance Obligations*”). The Debtors also seek entry of an order authorizing banks and other financial institutions to receive, process, honor, and pay checks and transfers issued in relation to the Insurance Obligations and to rely on the representations of the Debtors as to which checks and transfers are authorized to be paid in accordance with this Motion, and, to the extent necessary, authorizing the Debtors to issue replacements for any dishonored check or transfer related to the Insurance Obligations.

THE DEBTORS’ INSURANCE POLICIES

6. In connection with the operation of their businesses, the Debtors maintain various insurance policies providing coverage for, among other things, property and directors’ and officers’ liability (collectively, the “*Policies*”). A schedule of the Policies that the Debtors can publicly disclose is attached hereto as *Exhibit C* and incorporated herein by reference (the “*Policy Schedule*”).³ The Policies are essential to the preservation of the value of the Debtors’ businesses, properties, and assets. In many cases, the regulations, laws, and contracts that govern the Debtors’ commercial activities require insurance coverage such as that provided by the Policies.

7. The Debtors are required to pay premiums under the Policies based on a fixed rate established and billed by each insurer. The premiums for the Policies are determined and paid annually directly to the insurers. Certain of the Policies may be subject to premium adjustment at audit based upon changes, if any, in the Debtors’ exposures. The aggregate annual

³ In addition to the Insurance Policies listed on *Exhibit C*, the Debtors maintain numerous other insurance policies and programs with respect to employee benefits, including health, dental, disability, and life insurance. These programs and policies are addressed in the Debtors’ motion, filed contemporaneously herewith, seeking authorization to, among other things, pay prepetition employee wages and continue employee benefit programs.

premiums for the Policies are approximately \$507,883. The Debtors do not believe that there are any premium payments outstanding with respect to the Policies as of the Petition Date.

8. In addition, the Debtors are required to pay, depending upon the applicable Policy, deductibles (the “*Deductibles*”) based upon the terms of the individual Policies. The Deductibles reduce the amount that the insurance companies are required to pay for a claim arising thereunder. The amount of the Deductible required under each Policy is listed on *Exhibit C*.

BASIS FOR RELIEF REQUESTED

A. Payment of the Insurance Obligations is Appropriate Under the Bankruptcy Code

1. The Court May Authorize Payment of the Insurance Obligations Pursuant to Section 363 of the Bankruptcy Code

9. The Court may authorize the Debtors to continue the Policies and to pay the Insurance Obligations in the ordinary course of business pursuant to section 363 of the Bankruptcy Code. Section 363(b) allows the Court to authorize the payment of prepetition claims outside of the ordinary course of business. *See, e.g., Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 397 (S.D.N.Y. 1983) (relying on section 363 to authorize a contractor to pay the prepetition claims of some suppliers who were potential lien claimants because the payments were necessary to induce general contractors to release funds owed to the debtors); *In re Tropical Sportswear Int’l Corp.*, 320 B.R. 15 (Bankr. M.D. Fla. 2005) (recognizing section 363 as a source of authority and allowing payment of the prepetition claims of vendors whose supplies would take four to six weeks to replace). In addition, section 363(c) allows a debtor in possession to enter into transactions involving property of the estate in the ordinary course of business without an order of the court. *See, e.g., In re James A. Phillips*, 29 B.R. at 395 n.2 (“Insofar as transactions are actually in the ordinary

course, they are authorized automatically by § 363(c)(1) and § 1107(a), and do not require Bankruptcy Court approval.”).

10. Failure to pay the Insurance Obligations may harm the Debtors’ estates in several ways, such as the potential for an insurance company to terminate coverage, the subsequent need to obtain replacement insurance at a likely higher price, and the adverse effect any interruption of payment would have on the Debtors’ ability to finance premiums on future policies. Given the importance of maintaining insurance coverage, the Debtors submit it is in the best interests of the Debtors’ estates to maintain the Policies and, concomitantly, to pay any Insurance Obligations necessary to maintain the Policies pursuant to section 363(b) of the Bankruptcy Code.

11. The Debtors’ payment of the Insurance Obligations, which the Debtors are obligated to pay by statute in many instances, is arguably within the ordinary course of the Debtors’ business. As such, the Debtors submit that Court approval of the Debtors’ payments is not necessary because of the authority granted to them by section 363(c). Nonetheless, for the avoidance of doubt, the Debtors request that the Court grant the relief requested herein and enter an order authorizing, but not directing, them to pay the Insurance Obligations in the ordinary course of the Debtors’ business.

2. The Court May Also Authorize Payment of the Insurance Obligations Pursuant to Section 105(a) of the Bankruptcy Code and the “Necessity of Payment” Doctrine

12. The Court may also authorize the Debtors to continue to pay the Insurance Obligations in the ordinary course of business pursuant to section 105 of the Bankruptcy Code and the “doctrine of necessity.” Section 105(a) of the Bankruptcy Code empowers the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). A bankruptcy court’s use of its equitable

powers to “authorize the payment of pre-petition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept.” *In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989). “Under [section] 105, the court can permit pre-plan payment of a pre-petition obligation when essential to the continued operation of the debtor.” *In re NVR L.P.*, 147 B.R. 126, 127 (Bankr. E.D. Va. 1992) (citing *Ionosphere Clubs*, 98 B.R. at 177); accord *In re Just for Feet, Inc.*, 242 B.R. 821, 825 (D. Del. 1999) (“To invoke the necessity of payment doctrine, a debtor must show that payment of the prepetition claims is ‘critical to the debtor’s reorganization.’”) (quoting *In re Financial News Network, Inc.*, 134 B.R. 732, 736 (Bankr. S.D.N.Y. 1991)); see also *In re Eagle-Picher Indus., Inc.*, 124 B.R. 1021, 1023 (Bankr. S.D. Ohio 1991) (“[T]o justify payment of a pre-petition unsecured creditor, a debtor must show that the payment is necessary to avert a serious threat to the Chapter 11 process.”).

13. Federal courts have consistently permitted postpetition payment of prepetition obligations where necessary to preserve or enhance the value of a debtor’s estate for the benefit of all creditors. See, e.g., *Miltenberger v. Logansport Ry.*, 106 U.S. 286, 311-12 (1882) (payment of pre-receivership claim prior to reorganization permitted to prevent “stoppage of [crucial] business relations”); *In re Lehigh & New Eng. Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that “if payment of a claim which arose prior to reorganization is essential to the continued operation of the...[business] during reorganization, payment may be authorized even if it is made out of [the] corpus”); *Dudley v. Mealey*, 147 F.2d 268 (2d Cir. 1945), cert. denied 325 U.S. 873 (1945) (extending doctrine for payment of prepetition claims beyond railroad reorganization cases); *Michigan Bureau of Workers’ Disability Comp. v. Chateaugay Corp. (In re Chateaugay Corp.)*, 80 B.R. 279 (S.D.N.Y. 1987), appeal dismissed, 838 F.2d 59 (2d Cir.

1988) (approving lower court order authorizing payment of prepetition wages, salaries, expenses, and benefits).

14. The “doctrine of necessity” functions in a chapter 11 reorganization as a mechanism by which the bankruptcy court can exercise its equitable power to allow payment of critical prepetition claims not explicitly authorized by the Bankruptcy Code. See *In re Boston & Me. Corp.*, 634 F.2d 1359, 1382 (1st Cir. 1980) (recognizing the existence of a judicial power to authorize trustees to pay claims for goods and services that are indispensably necessary to the debtors’ continued operation); *In re Just for Feet, Inc.*, 242 B.R. 821, 824 (D. Del. 1999) (“[C]ourts have used their equitable power under section 105(a) of the Code to authorize the payment of pre-petition claims when such payment is deemed necessary to the survival of a debtor in a chapter 11 reorganization.”). The doctrine is frequently invoked early in a chapter 11 case. The court in *In re Structurelite Plastics Corp.* observed the decisional authority that supports “the principle that a bankruptcy court may exercise its equity powers under section 105(a) to authorize payment of prepetition claims where such payment is necessary to ‘permit the greatest likelihood of survival of the debtor and payment of creditors in full or at least proportionately.’” 86 B.R. 922, 931 (Bankr. S.D. Ohio 1988) (quoting *In re Chateaugay Corp.*, 80 B.R. at 287). The court stated that “a per se rule proscribing the payment of prepetition indebtedness may well be too inflexible to permit the effectuation of the rehabilitative purposes of the Code.” *Id.* at 932. The rationale for the doctrine of necessity rule is consistent with the paramount goal of chapter 11—“facilitating the continued operation and rehabilitation of the debtor....” *Ionosphere Clubs*, 98 B.R. at 176.

15. As noted previously, the Policies are essential to the preservation of the value of the Debtors’ business, property, and assets. Not only are some of the Policies required

by the various regulations, laws, and contracts that govern the Debtors' commercial activities, but section 1112(b)(4)(c) of the Bankruptcy Code provides that "failure to maintain appropriate insurance that poses a risk to the estate or to the public," is "cause" for mandatory conversion or dismissal of a chapter 11 case. 11 U.S.C. § 1112(b)(4)(C).

16. Courts in this District and other jurisdictions regularly authorize debtors to maintain insurance coverage and premium financing of insurance policies where, as here, it is in the best interest of the estates. *See, e.g., In re TBS Shipping Services Inc.*, Case No. 12-22224 (RDD) (Bankr. S.D.N.Y. Feb. 8, 2012) [Docket No. 36]; *In re General Maritime Corporation*, Case No 11-15285 (MG) (Bankr. S.D.N.Y. December 15, 2011) [Docket No. 137]; *In re Blockbuster Inc.*, Case No. 10-14997 (Bankr. S.D.N.Y. Oct. 21, 2010) [Docket No. 356]; *In re Almatiss, B.V.*, Case No. 10-12308 (Bankr. S.D.N.Y. April 30, 2010) [Docket No. 116]; *In re Lyondell Chem. Co.*, Case No. 09-10023 (Bankr. S.D.N.Y. Jan. 23, 2009) [Docket No. 362].⁴

B. Renewal of the Insurance Policies is Appropriate Under the Bankruptcy Code

17. Section 363(c) of the Bankruptcy Code allows a debtor-in-possession to enter into transactions involving property of the estate in the ordinary course of business without an order of the court. *See, e.g., Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 395 n.2 (S.D.N.Y. 1983) ("Insofar as transactions are actually in the ordinary course, they are authorized automatically by § 363(c)(1) and § 1107(a), and do not require Bankruptcy Court approval."). In addition, section 363(b)(1) of the Bankruptcy Code permits a debtor-in-possession to use property of the estate "other than in the ordinary course of business" after notice and a hearing. 11 U.S.C. § 363(b)(1). Uses of estate

⁴ The Debtors have not annexed copies of the unreported orders cited herein because of their size. Copies of these orders, however, are available upon request of the Debtors' counsel, including at the hearing to consider the Motion.

property outside the ordinary course of business may be authorized if the debtor demonstrates a “sound business purpose.” See *In re Lionel Corp.*, 722 F. 2d 1063, 1071 (2d Cir. 1983) (“The rule we adopt requires that a judge determining a 363(b) application expressly find from the evidence presented before him...a good business reason to grant such an application.”); *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp.* (*In re Montgomery Ward Holding Corp.*), 242 B.R. 147, 153 (D. Del. 1999) (“In determining whether to authorize the use, sale or lease of property of the estate under [section 363(b)], courts require the debtor to show that a sound business purpose justifies such actions.”).

18. Prior to the Petition Date, the Debtors maintained and renewed the Policies in the ordinary course of business. Accordingly, the Debtors submit that Court approval to renew the Policies, or to replace the Policies, is not necessary because such renewal or replacement is within the ordinary course of the Debtors’ business. In any event, there exists a sound business purpose to renew or replace the Policies. The Policies are necessary to protect the assets of the estate for the benefit of all creditors. Indeed, some of the Policies required by various state and federal regulations, and section 1112 of the Bankruptcy Code provide that “failure to maintain appropriate insurance that poses a risk to the estate or to the public,” is “cause” for mandatory conversion or dismissal of a chapter 11 case.

19. Accordingly, and for the avoidance of doubt, the Debtors seek entry of an order authorizing them to renew or replace the Policies, in their discretion.

C. The Debtors’ Banks Should Be Authorized To Pay the Claims Described Herein, and the Debtors Should Be Authorized to Reissue Dishonored Checks and Transfers

20. In connection with the foregoing, the Debtors respectfully request that the Court enter interim and final orders: (a) authorizing all applicable banks and other financial institutions to receive, process, honor, and pay all checks and transfers issued by the Debtors in

connection with payment of the claims the Debtors request authority to pay in this Motion, without regard to whether any check or transfer was issued before or after the Petition Date; (b) providing that all banks and other financial institutions may rely on the representations of the Debtors with respect to whether any check or transfer issued or made by the Debtors before the Petition Date should be honored pursuant to this Motion, and such banks and other financial institutions shall not have any liability to any party for relying on such representations by the Debtors as provided for herein; and (c) authorizing the Debtors to issue replacement checks or transfers, to the extent any check or transfer in relation to the claims the Debtors request authority to pay in this Motion is dishonored or rejected by the banks and other financial institutions.

D. Immediate Relief is Justified

21. Pursuant to Bankruptcy Rule 6003, the Court may grant relief within 21 days after the filing of the petition regarding a motion to “use, sell, lease, or otherwise incur an obligation regarding property of the estate” only if such relief is necessary to avoid immediate and irreparable harm.

22. Accordingly, to the extent that the Debtors are required to make any premium payments with respect to the Policies, or are required to take steps to renew or replace any of the Policies, or are required to take steps to purchase any Policies on an as-needed basis, the Debtors submit that they have satisfied the requirements of Bankruptcy Rule 6003 to support immediate payment of such premiums and to effectuate such renewals until such time as the court enters a final order authorizing the Debtors to make such payments or to effectuate such renewals.

REQUEST FOR WAIVER OF BANKRUPTCY RULES 6004(a) AND (h)

23. To implement the foregoing immediately, the Debtors respectfully request a waiver of the notice requirements under Bankruptcy Rule 6004(a).

24. Furthermore, to implement the foregoing immediately, the Debtors seek a waiver of any stay of the effectiveness of the order approving this Motion. Pursuant to Bankruptcy Rule 6004(h), any “order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” As set forth above, maintenance of the Policies in the ordinary course of business, including payment of prepetition amounts outstanding in respect thereof, is essential to prevent potentially irreparable damages to the Debtors’ business operations and their estates. Accordingly, the Debtors submit that ample cause exists to justify a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h).

DEBTORS’ RESERVATION OF RIGHTS

25. Nothing contained herein is intended or should be construed as an admission of the validity of any claim against the Debtors; a waiver of the Debtors’ rights to dispute any claim; or an approval, assumption, or rejection of any agreement, contract, or lease under section 365 of the Bankruptcy Code. The Debtors expressly reserve their rights to contest any invoice or claim with respect to outstanding amounts under the Policies in accordance with applicable non-bankruptcy law. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court’s order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors’ rights to dispute such claim subsequently.

NOTICE

26. No trustee, examiner, or official committee of unsecured creditors 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 (Attn: Richard Morrissey, Esq.), (ii) Kasowitz Benson Torres & Friedman LLP, 1633 Broadway, New York, New York 10019 (Attn: David Friedman, Esq. and David Mark, Esq.) as attorneys for Euroville, S.a.r.l., (iii) Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 (Attn: Stephen Karotkin, Esq.), as attorneys for Midtown Acquisitions, LLC and (iv) all parties listed on the Master Service List established in these Chapter 11 Cases. A copy of this Motion is also available on GCG's case administration website, www.gcginc.com/cases/arcapita.

NO PRIOR REQUEST

27. No prior request 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
March 26, 2012

Respectfully submitted,

/s/ Michael A. Rosenthal
Michael A. Rosenthal (MR-7006)
Janet M. Weiss (JW-5460)
Matthew K. Kelsey (MK-3137)
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PROPOSED ATTORNEYS FOR THE DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

Proposed Interim Order

**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), *et al.*, : **Case No. 12-11076 (SHL)**
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Debtors. : **Jointly Administered**
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**INTERIM ORDER (A) AUTHORIZING THE DEBTORS TO CONTINUE INSURANCE
COVERAGE ENTERED INTO PREPETITION AND TO PAY OBLIGATIONS
RELATING THERETO; AND (B) AUTHORIZING FINANCIAL INSTITUTIONS TO
HONOR AND PROCESS RELATED CHECKS AND TRANSFERS**

Upon consideration of the motion (the “*Motion*”)¹ of Arcapita Bank B.S.C.(c) and certain of its subsidiaries, as debtors and debtors in possession in the above-captioned Chapter 11 Cases (collectively, the “*Debtors*” and each, a “*Debtor*”), for entry of interim and final orders:

(a) authorizing the Debtors to continue insurance coverage currently in effect and to pay any prepetition premiums, deductibles, adjustments, administrative expenses, brokers’ fees, and other charges related to their Policies (together, the “*Insurance Obligations*”), to the extent that the Debtors determine in their discretion that such payment is necessary or appropriate;

(b) authorizing banks and other financial institutions to receive, process, honor, and pay checks or electronic transfers used by the Debtors to pay the foregoing and to rely on the representations of such Debtors as to which checks are issued and authorized to be paid in accordance with this Order; and (c) to the extent necessary, authorizing the Debtors to issue replacements for any dishonored check or transfer related to the foregoing, all as set forth in the Motion; and upon the Thompson Declaration in support thereof; and the Court having found that it has jurisdiction to

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

consider this 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 the Debtors' estates, their creditors, and other parties in interest; 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 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 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 therefor,

IT IS HEREBY ORDERED:

1. The Motion is granted to the extent set forth herein on an interim basis.
2. The Debtors are authorized to continue the current and prior year Policies uninterrupted and, in their sole discretion, to pay any premium amounts required to maintain the Policies, including prepetition amounts, to the extent that such payments are due and owing and the Debtors determine that such payment is necessary or appropriate.
3. The Debtors are authorized to renew or replace the Policies in their sole discretion, to the extent that the Debtors determine such renewal or replacement is necessary or appropriate. The Debtors are further authorized to take any and all actions necessary to effectuate such renewals or replacements, including the payment of applicable premiums.
4. A final hearing with respect to the Motion shall be held on April 17, 2012 at 11:00 a.m. prevailing Eastern Time. Any objections or responses to the Motion shall be filed on

or before April 10, 2012, and served on the parties, as required by the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York.

5. All applicable banks and other financial institutions are hereby authorized, when requested by the Debtors, to receive, process, honor, and pay any and all checks and transfers regarding amounts authorized to be paid by the Debtors under this Order, without regard to whether any check or transfer was issued before or after the Petition Date. Such banks and other financial institutions may rely on the representations of the Debtors with respect to whether any check or transfer issued by the Debtors before the Petition Date should be honored pursuant to this Order, and shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

6. The Debtors are authorized, in their sole discretion and to the extent necessary, to issue checks and transfers postpetition to replace any checks or transfers in respect of the Policies or the Insurance Obligations that are dishonored or rejected.

7. Nothing in the Motion or this Order, nor as a result of the Debtors' payment of any prepetition amounts pursuant to this Order, shall be deemed or construed as an admission as to the validity or priority of any claim against the Debtors, a waiver of the right to dispute any claim, or an approval or assumption of any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code.

8. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. Rule 6003(b) of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") has been satisfied.

10. The notice requirements set forth in Bankruptcy Rule 6004(a) are hereby waived.

11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

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

Dated: New York, New York
_____, 2012

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Proposed Final Order

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

-----X
: **Chapter 11**
: **Case No. Case No. 12-11076 (SHL)**
: **Jointly Administered**
: **Debtors.**
: **Jointly Administered**
: **Jointly Administered**
-----X

**FINAL ORDER (A) AUTHORIZING THE DEBTORS TO CONTINUE INSURANCE
COVERAGE ENTERED INTO PREPETITION AND TO PAY OBLIGATIONS
RELATING THERETO; AND (B) AUTHORIZING FINANCIAL INSTITUTIONS TO
HONOR AND PROCESS RELATED CHECKS AND TRANSFERS**

Upon consideration of the motion (the “*Motion*”)¹ of Arcapita Bank B.S.C.(c) and certain of its subsidiaries, as debtors and debtors in possession in the above-captioned Chapter 11 Cases (collectively, the “*Debtors*” and each, a “*Debtor*”), for entry of interim and final orders:

- (a) authorizing the Debtors to continue insurance coverage currently in effect and to pay any prepetition premiums, deductibles, adjustments, administrative expenses, brokers’ fees, and other charges related to their Policies (together, the “*Insurance Obligations*”), to the extent that the Debtors determine in their discretion that such payment is necessary or appropriate;
- (b) authorizing banks and other financial institutions to receive, process, honor, and pay checks or electronic transfers used by the Debtors to pay the foregoing and to rely on the representations of such Debtors as to which checks are issued and authorized to be paid in accordance with this Order; and (c) to the extent necessary, authorizing the Debtors to issue replacements for any dishonored check or transfer related to the foregoing, all as set forth in the Motion; and upon the Thompson Declaration in support thereof; and the Court having found that it has jurisdiction to

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

consider this 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 the Debtors' estates, their creditors, and other parties in interest; 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 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 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 therefor,

IT IS HEREBY ORDERED:

1. The Motion is granted to the extent set forth herein on a final basis.
2. The Debtors are authorized to continue the current and prior year Policies uninterrupted and, in their sole discretion, to pay any Insurance Obligations, including prepetition amounts, to the extent that the Debtors determine that such payment is necessary or appropriate.
3. The Debtors are authorized to renew or replace the Policies in their sole discretion, to the extent that the Debtors determine such renewal or replacement is necessary or appropriate. The Debtors are further authorized to take any and all actions necessary to effectuate such renewals or replacements.
4. All applicable banks and other financial institutions are hereby authorized, when requested by the Debtors, to receive, process, honor, and pay any and all checks and transfers regarding amounts authorized to be paid by the Debtors under this Order, without regard to

whether any check or transfer was issued before or after the Petition Date. Such banks and other financial institutions may rely on the representations of the Debtors with respect to whether any check or transfer issued by the Debtors before the Petition Date should be honored pursuant to this Order, and shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

5. The Debtors are authorized, in their sole discretion and to the extent necessary, to issue checks and transfers postpetition to replace any checks or transfers in respect of the Policies or the Insurance Obligations that are dishonored or rejected.

6. Nothing in the Motion or this Order, nor as a result of the Debtors' payment of any prepetition amounts pursuant to this Order, shall be deemed or construed as an admission as to the validity or priority of any claim against the Debtors, a waiver of the right to dispute any claim, or an approval or assumption of any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code.

7. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

8. Rule 6003(b) of the Federal Rules of Bankruptcy Procedure (the "***Bankruptcy Rules***") has been satisfied.

9. The notice requirements set forth in Bankruptcy Rule 6004(a) are hereby waived.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

11. This Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Dated: New York, New York
_____, 2012

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT C

List of Policies

Insurer	Type of Coverage	Policy Number	Coverage Period	Coverage Limit	Deductible	Premium (estimated annual)
Solidarity General	Property: Property All Risk	P/003/01/10/4003/002337	Dec. 1, 2011 to Dec. 14, 2012	\$265,365,252	\$2,650 (data center equipment), \$6,625 (computers); \$53,000 (buildings and contents)	\$103,395.05
Solidarity General	Property: Sabotage & Terrorism	P/003/01/10/4006/002331	Dec. 1, 2011 to Dec. 14, 2012	\$25,000,000	\$53,050	\$42,900.85
Solidarity General	Property: Third Party Liability	P/003/01/10/7002/000581	Dec. 1, 2011 to Dec. 14, 2012	\$10,000,000	N/A	\$8,593.95
Marsh Ltd	Director and Officers Liability	QA074611	Nov. 1, 2011 to Oct. 31, 2012	\$30,000,000 Crime; \$30,000,000 Liability	\$250,000 Crime; \$250,000 Liability	\$352,993.00