

Peter L. Clateman  
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c/o VR Advisory Services (USA) LLC  
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*In-House Counsel to VR Global Partners, LP*

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 PRESENTMENT BY VR GLOBAL PARTNERS, LP OF PROPOSED  
ORDER APPROVING SPECIFIED INFORMATION BLOCKING PROCEDURES  
AND PERMITTING TRADING OF CLAIMS AGAINST THE DEBTORS UPON  
ESTABLISHMENT OF A SCREENING WALL**

**PLEASE TAKE NOTICE** that the undersigned will present the annexed form of order permitting securities trading by VR Global Partners, LP and its affiliates upon the establishment of an ethical wall (the "Order") to the Honorable Sean H. Lane, United States Bankruptcy Judge, for approval and signature on **June 29, 2012 at 2:30 p.m. (prevailing Eastern Time)**.

**PLEASE TAKE FURTHER NOTICE** that any responses or objections to the Order (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 Court 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) 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, 21<sup>st</sup> Floor, New York, New York 10004 (Attn: Richard Morrissey, Esq.); (iii) proposed counsel to the Official Committee of Unsecured Creditors, 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.); and (iv) in-house counsel for VR Global Partners, LP c/o VR Advisory Services (USA) LLC, 400 Madison Avenue, 15<sup>th</sup> Fl., New York, New York 10017 (Attn: Peter L. Clateman, Esq.), so as to be received no later than **June 29, 2012 at 12:30 p.m. (prevailing Eastern Time)** (the "Objection Deadline").

**PLEASE TAKE FURTHER NOTICE** that if an objection to the Order is not received by the Objection Deadline, the relief requested shall be deemed unopposed, and the Bankruptcy Court may enter an order granting the relief sought without a hearing. If an objection is timely filed, a hearing with respect to the Order shall be scheduled before the Bankruptcy Court as soon as practicable.

Dated: New York, New York  
June 21, 2012

**VR GLOBAL PARTNERS, LP**

By: /s/ Peter L. Clateman  
400 Madison Avenue 15<sup>th</sup> Fl.  
New York, New York 10017  
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*In-House Counsel for VR  
Global Partners, LP*

**VR GLOBAL PARTNERS, LP**

c/o VR Advisory Services (USA) LLC  
400 Madison Avenue 15<sup>th</sup> Fl.

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*Peter L. Clateman, in-house counsel for VR Global Partners, LP*

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

**MOTION OF VR GLOBAL PARTNERS, LP FOR THE ENTRY OF AN  
ORDER APPROVING SPECIFIED INFORMATION BLOCKING PROCEDURES  
AND PERMITTING TRADING OF CLAIMS AGAINST THE  
DEBTORS UPON ESTABLISHMENT OF A SCREENING WALL**

TO THE HONORABLE SEAN H. LANE,  
UNITED STATES BANKRUPTCY JUDGE:

VR GLOBAL PARTNERS, LP, for itself and its affiliates ("VRGP"), a member of the Official Committee of Unsecured Creditors (the "Committee"), hereby submits this motion (the "Motion") for the entry of an order, pursuant to 11 U.S.C. § 105(a), approving information blocking procedures and permitting trading in the Covered Claims (as defined below) in certain situations, and represents as follows:

**BACKGROUND**

1. On March 19, 2011 (the "Petition Date"), the above-captioned debtors and debtors-in-possession (the "Debtors") commenced their reorganization cases by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11

U.S.C. § 101 *et seq.* (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of New York (the "Court").

2. The Debtors continue to operate their businesses and manage their assets as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code, and no trustee has been appointed in this case.

3. On April 5, 2012, pursuant to section 1002(a) of the Bankruptcy Code, the United States Trustee for the Southern District of New York (the "US Trustee") appointed seven entities to the Official Committee of Unsecured Creditors (the "Committee"), including VRGP. VRGP holds certain Covered Claims<sup>1</sup> against the Debtors.

### **JURISDICTION**

4. The Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and may be determined by this Court. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

### **RELIEF REQUESTED**

5. VRGP requests the entry of an order indicating that VRGP, which is engaged in the trading of securities and/or claims for others or for its own account as a regular part of its business, will not violate its fiduciary duties as a member of the Committee by trading in the Covered Claims during the pendency of the Debtors' Chapter 11 cases, provided that VRGP establishes, effectively implements, and adheres to the information blocking policies and procedures (collectively, the "Screening Wall") that are approved by the Office of the

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<sup>1</sup> "Covered Claims" is used to mean any claims against the Debtors, including (i) "Securities" as defined in Section 2(a)(1) of the Securities Act of 1933 (including the following: stocks, notes, bonds, debentures, participation in, or derivatives based upon or relating to, any of the Debtors' debt obligations or equity interests) and (ii) bank debt.

United States Trustee herein or that are otherwise consistent with those described in the Screening Wall Declarations (as defined below), annexed hereto as **Exhibit "A"**.

6. The term "Screening Wall" refers to a procedure established by an institution to isolate its trading activities from its activities as a member of an official committee of unsecured creditors in a chapter 11 case. A Screening Wall includes, among other things, such features as the employment of different personnel to perform certain functions, physical separation of the office and file space, procedures for locking committee related files, separate telephone and facsimile lines for certain functions, and special procedures for the delivery and posting of telephones messages. Such procedures will prevent VRGP's trading personnel from use or misuse of non-public information obtained by VRGP's personnel engaged in Committee related activities ("Committee Personnel") and also will preclude Committee Personnel from receiving inappropriate information regarding VRGP's trading in the Covered Claims in advance of such trades.

7. Although members of the Committee owe fiduciary duties to the creditors of these estates, VRGP also has fiduciary duties to maximize returns to its clients through trading securities. Thus, if VRGP is barred from trading the Covered Claims during the pendency of these bankruptcy cases because of its duties to other creditors, it may risk the loss of a beneficial investment opportunity for itself and/or its clients and, moreover, may breach its fiduciary duty to its clients. Alternatively, if VRGP is compelled to resign from the Committee because of its inability to trade for the benefit of itself and its clients, its interests may be compromised by virtue of taking a less active role in the reorganization process. VRGP should not be forced to choose between serving on the Committee and risking the loss of beneficial investment opportunities or foregoing service on the Committee and possibly

compromising its responsibilities by taking a less active role in the reorganization process, particularly because its service as a Committee member benefits all unsecured creditors.

8. As evidence of its implementation of the procedures detailed herein, filed herewith is a declaration (the "Screening Wall Declaration") by each of VRGP's Committee Personnel, which states that such individual(s) shall comply with the terms and procedures consistent with those set forth in this Motion or otherwise approved by the United States Trustee.

9. Consistent with Local Bankruptcy Rule 9074-1(b), VRGP submits that a notice of presentment is appropriate and sufficient with regard to this motion. Notice and a hearing are not required for the relief sought. Moreover, immediate approval of the Screening Wall is necessary to permit VRGP to participate fully on the Committee during the critical early days of the case while being able to participate in trading and protecting its position in what may well be an extremely volatile market.

#### **BASIS FOR RELIEF**

10. The relief requested here is identical to the relief granted by this court in the present proceedings (Order Signed On 4/24/2012, Approving Specified Information Blocking Procedures And Permitting Trading In Claims Against The Debtors Upon Establishment Of A Screening Wall [Docket No. 94]) and by Judge Glenn and approved by the U.S. Trustee in *In re MF Global Holdings Ltd., et al.*, Case No. 11-15059 (MG) (January 13, 2012), and is wholly consistent with other orders entered by this Court. *See, e.g., In re Lehman Brothers Holdings, Inc., et al.*, Case No. 08-13555 (JMP) (March 17, 2010); *In re Calpine Corp., et al.*, Case No. 05-60200 (BRL) (January 25, 2006); *In re Solutia Inc., et al.*, Case No. 03- 17949 (PCB) (January 22, 2004); *In re Magellan Health Services, Inc. et al.*,

Case No. 03-40515 (PCB) (May 6, 2003); *In re WorldCom, Inc.*, Case No. 02-13533 (AJG) (Aug. 6, 2002); *In re Enron Corp.*, No. 01-16034 (AJG) (Feb. 27, 2002); *In re Dairy Mary Convenience Stores, Inc.*, Case No. 01-42400 (AJG) (Dec. 20, 2001); *In re Flag Telecom Holdings Ltd.*, Case Nos. 02-11732 through 02-11736 and 02-11975 through 02-11979 (ALG) (July 22, 2002); *In re Global Crossing Ltd.*, Case Nos. 02-40187 through 0240241 (REG) (March 25, 2002); *In re Iridium Operating LLC*, Case No. 99-45005 (CB) (Nov. 3, 1999).

11. The proposed relief is also supported by substantially similar orders entered in other jurisdictions. *See, e.g., In re The Finova Group, Inc.*, Case No. 01-0697 (PJW) (Bankr. D. Del. Apr. 12, 2001); *In re GST Telecom, Inc.*, Case No. 00-1982 (GMS) (Bankr. D. Del. Oct. 19, 2000); *In re Vista Eyecare, Inc.*, Case No. A00-65214 (Bankr. D. Ga. June 1, 2000); *In re Sun Healthcare Group, Inc.*, Case No 99-3657 (MFW) (Bankr. D. Del. Dec. 11, 1999); *In re ICO Global Communications Services Inc.*, Case No. 99-2933 (MFW) (Bankr. D. Del. Sept. 21, 1999); *In re Acme Metals Inc.*, Case No. 98-2179 (MFW) (Bank. D. Del. Dec. 21, 1998); *In re Mid American Waste Systems, Inc.*, Case No. 97-104 (PJW) (Bank. D. Del. Feb. 21, 1997); *In re Ace-Texas, Inc.*, Case No. 96-166 (PJW) (Bankr. D. Del. July 17, 1996); *In re Farley*, Case No. 91-15610 (Bank. N.D. Ill. Nov. 8, 1991); *In re America West Airlines, Inc.*, Case No. 91-07505 (Bankr. D. Ariz. Oct. 23, 1991); *In re Harvard Industries, Inc.*, Case Nos. 91-104, 91-479 through 91-487 (Bankr. D. Del. July 15, 1991); *In re FederatedDep't Stores, Inc.*, Case No. 190-00130, 1991 Bankr. Lexis 288 (Bankr. S.D. Ohio Mar. 7, 1991).

12. Each of the trading orders entered in the foregoing cases provided that a committee member does not violate its fiduciary duties as a committee member by trading in a debtor's securities, so long as it acts in accordance with certain information blocking



procedures approved by the Bankruptcy Court. The orders further provide that the bankruptcy court may take appropriate action if there is any actual breach by a Committee member of its fiduciary duty as a Committee member.

13. In the seminal decision on this issue, *In re Federated Dep't Stores, Inc.*, Case No. 1-90-00130, 1991 Bankr. Lexis 288 (Bankr. S.D. Ohio Mar. 7, 1991), the bankruptcy court - agreeing with the position of the Securities and Exchange Commission on this issue - stated that Fidelity Management & Research Company:

Will not be violating its fiduciary duties as a committee member and accordingly, will not be subjecting its claims to possible disallowance, subordination, or other adverse treatment, by trading in securities of the Debtors . . . during the pendency of these [c]ases, provided that Fidelity employs an appropriate information blocking device or "[Screening] Wall" which is reasonably designed to prevent Fidelity trading personnel from receiving any nonpublic committee information through Fidelity committee personnel and to prevent Fidelity committee personnel from receiving information regarding Fidelity's trading in securities of the Debtors . . . in advance of such trades.

*In re Federated Dep't Stores, Inc.*, 1991 Bankr. Lexis 288 at \*2.

14. The *Federated* court approved Fidelity's Screening Wall procedures, which, as here, included: (i) a written acknowledgement by personnel performing committee work that they could receive nonpublic information and were aware of the Screening Wall procedures in effect; (ii) a prohibition on the sharing of non-public committee information with certain other employees; (iii) separate file space for committee work that is inaccessible to certain other employees; (iv) restrictions on committee personnel's access to trading information; and (v) a compliance review process. The Screening Wall procedures outlined here parallel those protections established in the *Federated* case and followed in subsequent cases.

**WAIVER OF MEMORANDUM OF LAW**

15. This Motion cites to the necessary and relevant authority and, therefore, VRGP respectfully submits that the requirement of Rule 9013-1(b) of the Local Bankruptcy Rules for the Southern District of New York that a separate memorandum of law be filed in support of the Motion should be waived.

**NO PREVIOUS REQUEST**

16. No previous request for the relief sought herein has been made to this Court or any other Court.

WHEREFORE, VRGP respectfully requests that the Court enter an order substantially in the form attached hereto as **Exhibit "B"** (i) approving the Screening Wall procedures set forth herein; (ii) determining that VRGP will not violate its fiduciary duties as a Committee member and, accordingly, will not subject its interests or claims to possible disallowance, subordination, or other adverse treatment by trading in the Covered Claims during the pendency of the Debtors' Chapter 11 cases, provided that VRGP follows the procedures set forth herein to insulate its trading activities from its Committee-related activities; and (iii) granting such other and further relief as is just and proper.

Dated: June 21, 2012

**VR GLOBAL PARTNERS, LP**

By: /s/ Peter L. Clateman  
400 Madison Avenue 15<sup>th</sup> Fl.  
New York, New York 10017  
Telephone: (646) 571 1870  
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[pclateman@vr-capital.com](mailto:pclateman@vr-capital.com)  
*In-House Counsel for VR  
Global Partners, LP*

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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**DECLARATION OF RICHARD DEITZ**

I, Richard Deitz, hereby declare:

1. I have personal knowledge of each of the facts stated in this Declaration, except for those facts stated on information and belief and, as to those facts, I am informed and believe them to be true.

2. I submit this Declaration in support of the Motion of VR Global Partners, LP and its affiliates ("VRGP") for an Order Approving Specified Information Blocking Procedures and Permitting Trading of Claims Against the Debtor Upon Establishment of a Screening Wall (the "Motion"). Further, I submit this Declaration to advise the United States Trustee for the Southern District of New York of (i) the information blocking procedures designed to prevent trading personnel and investment advisory personnel of VRGP from receiving any non-public information concerning the chapter 11 cases of the above-captioned debtors (the "Debtors") through VRGP personnel, representatives or agents ("VRGP Committee Personnel") performing activities related to the Official Committee of Unsecured Creditors (the "Committee") in the Debtors' chapter 11 cases (the "Chapter 11 Cases") and (ii) to prevent VRGP Committee Personnel from receiving information regarding VRGP's trading in Covered Claims<sup>2</sup> in advance of trading.

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<sup>2</sup> "Covered Claims" is used to mean any claims against the Debtors, including (i) "Securities" as defined in

3. I am president and a director of VR Advisory Services Ltd. ("VRASL"), which serves as the general partner and investment adviser on behalf of VRGP. VRGP beneficially own securities or other claims or interests in the Chapter 11 Cases. In that capacity, I am often a representative of VRGP who serves on committees in out-of-court restructurings and chapter 11 reorganization cases and serve in such capacity with respect to the Chapter 11 Cases.

4. In conjunction with VRGP's existing information blocking procedures and this Declaration, VRGP has established and will maintain the following internal procedures: (i) VRGP Committee Personnel shall execute a letter (a "Confidentiality Letter") acknowledging that they may receive such non-public Information (as defined below) and that they are aware of the information blocking procedures that are in effect with respect to the Covered Claims and will follow these procedures and will immediately inform Committee counsel and the United States Trustee in writing if such procedures are materially breached; (ii) subject to paragraph 4 hereof, VRGP Committee Personnel will not directly or indirectly share any non-public information generated by, received from or relating to Committee activities or Committee membership ("Information") with any other employees, representatives or agents of VRGP, including VRGP's trading personnel and investment advisory personnel, and VRGP Committee Personnel shall use good faith efforts not to share any material Information concerning these Chapter 11 Cases with any VRGP employee reasonably known to be engaged in trading activities with respect to the Covered Claims on behalf of VRGP and/or its clients, except that a good faith communication of publicly available Information shall not be presumed to be a breach of the obligations of VRGP or any VRGP Committee Personnel hereunder; (iii) VRGP Committee Personnel will maintain all files containing information received in connection with

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Section 2(a)(1) of the Securities Act of 1933 (including the following: stocks, notes, bonds, debentures, participation in, or derivatives based upon or relating to, any of the Debtors' debt obligations or equity interests) and (ii) bank debt.

or generated from committee activities in secured cabinets inaccessible to other employees of VRGP or in other locations inaccessible to other employees of VRGP; (iv) VRGP Committee Personnel will not receive any information regarding VRGP's trades in the Covered Claims in advance of the execution of such trades, but VRGP Committee Personnel may receive trading reports showing VRGP's purchases and sales and ownership of the Covered Claims but no more frequently than bi-weekly (provided that VRGP Committee Personnel may receive the usual and customary internal reports showing VRGP's purchases and sales on behalf of VRGP and the amount and class of claims, interests or securities owned by VRGP to the extent that such personnel would otherwise receive such reports in the ordinary course and such reports are not specifically prepared with respect to the Debtors); (v) VRGP's compliance personnel shall review on a weekly basis VRGP's trades of the Covered Claims to determine if there is any reason to believe that such trades were not made in compliance with the information blocking procedures and shall keep records of such review; (vi) VRGP compliance personnel shall periodically monitor, consistent with VRGP's ordinary course compliance practice, the exchange of Information through electronic means among VRGP Committee Personnel to ensure that such exchanges are performed in a manner consistent with the foregoing procedures; (vii) so long as VRGP is a member of the Committee, it shall disclose to the Office of the United States Trustee in writing any decrease in dollar amount of the Covered Claims held by VRGP and in clients' accounts at VRGP that results in such holdings being less than 1/3 of the aggregate holdings of VRGP and in clients' accounts at VRGP as of the date of VRGP's appointment to the Committee and any increase in dollar amount of the Covered Claims held by VRGP and in clients' accounts at VRGP that results in an increase in aggregate holdings of more than 2/3 of the aggregate holdings of VRGP as of the date of VRGP's appointment to the Committee, within 10 business days of such trade or trades aggregating the foregoing amount; (viii) so long as VRGP is a

member of the Committee, it shall disclose to the Committee counsel and the United States Trustee every 6 months a declaration verifying continued compliance with the procedures described herein; and (ix) VRGP shall immediately disclose to the Committee's counsel and the United States Trustee any material breaches of the procedures described herein. If VRGP resigns from the Committee for any reason, VRGP will continue to follow the procedures set forth in clauses (i) through (iii), (v), (vi) and (ix) above until a plan has been confirmed in the Debtors' Chapter 11 Cases or the Chapter 11 Cases have been converted or dismissed.

5. Notwithstanding any of the above, VRGP Committee Personnel may share Information with (a) senior management of VRGP who, due to their duties and responsibilities, have a legitimate need to know such Information provided that such individuals (i) otherwise comply with the procedures herein and (ii) use such Information only in connection with their senior managerial responsibilities, (b) regulators, auditors, designated legal and compliance personnel for the purpose of rendering legal advice to the VRGP Committee Personnel, and to the extent that such Information may be accessible by internal computer systems, VRGP administrative personnel who service and maintain such systems, each of whom will agree not to share Information with other employees and will keep such Information in files (or in other locations) inaccessible to other employees, and (c) other VRGP employees, representatives and agents who (i) are not involved with trading or investment advisory activities with respect to the Covered Claims and (ii) execute a Confidentiality Letter.

6. The VRGP Committee Personnel assigned to the Debtors' chapter 11 cases will be David Thompson, Peter Clateman and myself. In the event any other individual VRGP representative is chosen to act as a Committee representative on behalf of VRGP in the Chapter 11 Cases, such individual will also submit a Declaration affirming his intention to comply with

the screening procedures described herein prior to accepting any responsibilities in connection therewith.

7. I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 21, 2012

/s/ Richard Deitz  
Richard Deitz

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)

----- x

**DECLARATION OF DAVID THOMPSON**

I, David Thompson, hereby declare:

1. I have personal knowledge of each of the facts stated in this Declaration, except for those facts stated on information and belief and, as to those facts, I am informed and believe them to be true.

2. I submit this Declaration in support of the Motion of VR Global Partners, LP and its affiliates ("VRGP") for an Order Approving Specified Information Blocking Procedures and Permitting Trading of Claims Against the Debtor Upon Establishment of a Screening Wall (the "Motion"). Further, I submit this Declaration to advise the United States Trustee for the Southern District of New York of (i) the information blocking procedures designed to prevent trading personnel and investment advisory personnel of VRGP from receiving any non-public information concerning the chapter 11 cases of the above-captioned debtors (the "Debtors") through VRGP personnel, representatives or agents ("VRGP Committee Personnel") performing activities related to the Official Committee of Unsecured Creditors (the "Committee") in the Debtors' chapter 11 cases (the "Chapter 11 Cases") and (ii) to prevent VRGP Committee



Personnel from receiving information regarding VRGP's trading in Covered Claims<sup>3</sup> in advance of trading.

5. I am a senior portfolio manager of VR Advisory Services Ltd. ("VRASL"), which serves as the general partner and investment adviser on behalf of VRGP. VRGP beneficially own securities or other claims or interests in the Chapter 11 Cases. In that capacity, I have occasionally served as a representative of VRGP who serves on committees in out-of-court restructurings and chapter 11 reorganization cases and serve in such capacity with respect to the Chapter 11 Cases.

6. In conjunction with VRGP's existing information blocking procedures and this Declaration, VRGP has established and will maintain the following internal procedures: (i) VRGP Committee Personnel shall execute a letter (a "Confidentiality Letter") acknowledging that they may receive such non-public Information (as defined below) and that they are aware of the information blocking procedures that are in effect with respect to the Covered Claims and will follow these procedures and will immediately inform Committee counsel and the United States Trustee in writing if such procedures are materially breached; (ii) subject to paragraph 4 hereof, VRGP Committee Personnel will not directly or indirectly share any non-public information generated by, received from or relating to Committee activities or Committee membership ("Information") with any other employees, representatives or agents of VRGP, including VRGP's trading personnel and investment advisory personnel, and VRGP Committee Personnel shall use good faith efforts not to share any material Information concerning these Chapter 11 Cases with any VRGP employee reasonably known to be engaged in trading

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<sup>3</sup> "Covered Claims" is used to mean any claims against the Debtors, including (i) "Securities" as defined in Section 2(a)(1) of the Securities Act of 1933 (including the following: stocks, notes, bonds, debentures, participation in, or derivatives based upon or relating to, any of the Debtors' debt obligations or equity interests) and (ii) bank debt.

activities with respect to the Covered Claims on behalf of VRGP and/or its clients, except that a good faith communication of publicly available Information shall not be presumed to be a breach of the obligations of VRGP or any VRGP Committee Personnel hereunder; (iii) VRGP Committee Personnel will maintain all files containing information received in connection with or generated from committee activities in secured cabinets inaccessible to other employees of VRGP or in other locations inaccessible to other employees of VRGP; (iv) VRGP Committee Personnel will not receive any information regarding VRGP's trades in the Covered Claims in advance of the execution of such trades, but VRGP Committee Personnel may receive trading reports showing VRGP's purchases and sales and ownership of the Covered Claims but no more frequently than bi-weekly (provided that VRGP Committee Personnel may receive the usual and customary internal reports showing VRGP's purchases and sales on behalf of VRGP and the amount and class of claims, interests or securities owned by VRGP to the extent that such personnel would otherwise receive such reports in the ordinary course and such reports are not specifically prepared with respect to the Debtors); (v) VRGP's compliance personnel shall review on a weekly basis VRGP's trades of the Covered Claims to determine if there is any reason to believe that such trades were not made in compliance with the information blocking procedures and shall keep records of such review; (vi) VRGP compliance personnel shall periodically monitor, consistent with VRGP's ordinary course compliance practice, the exchange of Information through electronic means among VRGP Committee Personnel to ensure that such exchanges are performed in a manner consistent with the foregoing procedures; (vii) so long as VRGP is a member of the Committee, it shall disclose to the Office of the United States Trustee in writing any decrease in dollar amount of the Covered Claims held by VRGP and in clients' accounts at VRGP that results in such holdings being less than 1/3 of the aggregate holdings of

VRGP and in clients' accounts at VRGP as of the date of VRGP's appointment to the Committee and any increase in dollar amount of the Covered Claims held by VRGP and in clients' accounts at VRGP that results in an increase in aggregate holdings of more than 2/3 of the aggregate holdings of VRGP as of the date of VRGP's appointment to the Committee, within 10 business days of such trade or trades aggregating the foregoing amount; (viii) so long as VRGP is a member of the Committee, it shall disclose to the Committee counsel and the United States Trustee every 6 months a declaration verifying continued compliance with the procedures described herein; and (ix) VRGP shall immediately disclose to the Committee's counsel and the United States Trustee any material breaches of the procedures described herein. If VRGP resigns from the Committee for any reason, VRGP will continue to follow the procedures set forth in clauses (i) through (iii), (v), (vi) and (ix) above until a plan has been confirmed in the Debtors' Chapter 11 Cases or the Chapter 11 Cases have been converted or dismissed.

8. Notwithstanding any of the above, VRGP Committee Personnel may share Information with (a) senior management of VRGP who, due to their duties and responsibilities, have a legitimate need to know such Information provided that such individuals (i) otherwise comply with the procedures herein and (ii) use such Information only in connection with their senior managerial responsibilities, (b) regulators, auditors, designated legal and compliance personnel for the purpose of rendering legal advice to the VRGP Committee Personnel, and to the extent that such Information may be accessible by internal computer systems, VRGP administrative personnel who service and maintain such systems, each of whom will agree not to share Information with other employees and will keep such Information in files (or in other locations) inaccessible to other employees, and (c) other VRGP employees, representatives and

agents who (i) are not involved with trading or investment advisory activities with respect to the Covered Claims and (ii) execute a Confidentiality Letter.

9. The VRGP Committee Personnel assigned to the Debtors' chapter 11 cases will be Richard Deitz, Peter Clateman and myself. In the event any other individual VRGP representative is chosen to act as a Committee representative on behalf of VRGP in the Chapter 11 Cases, such individual will also submit a Declaration affirming his intention to comply with the screening procedures described herein prior to accepting any responsibilities in connection therewith.

10. I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 21, 2012

/s/ David Thompson  
David Thompson

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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**DECLARATION OF PETER CLATEMAN**

I, Peter Clateman, hereby declare:

1. I have personal knowledge of each of the facts stated in this Declaration, except for those facts stated on information and belief and, as to those facts, I am informed and believe them to be true.

2. I submit this Declaration in support of the Motion of VR Global Partners, LP and its affiliates ("VRGP") for an Order Approving Specified Information Blocking Procedures and Permitting Trading of Claims Against the Debtor Upon Establishment of a Screening Wall (the "Motion"). Further, I submit this Declaration to advise the United States Trustee for the Southern District of New York of (i) the information blocking procedures designed to prevent trading personnel and investment advisory personnel of VRGP from receiving any non-public information concerning the chapter 11 cases of the above-captioned debtors (the "Debtors") through VRGP personnel, representatives or agents ("VRGP Committee Personnel") performing activities related to the Official Committee of Unsecured Creditors (the "Committee") in the Debtors' chapter 11 cases (the "Chapter 11 Cases") and (ii) to prevent VRGP Committee

Personnel from receiving information regarding VRGP's trading in Covered Claims<sup>4</sup> in advance of trading.

7. I am the chief legal officer of VR Advisory Services Ltd. ("VRASL"), which serves as the general partner and investment adviser on behalf of VRGP. VRGP beneficially own securities or other claims or interests in the Chapter 11 Cases. In that capacity, I often file claims, instruct counsel and other participate in litigation and arbitration proceedings on behalf of VRGP, including with respect to chapter 11 cases and bankruptcy and insolvency proceedings in other various jurisdictions.

8. In conjunction with VRGP's existing information blocking procedures and this Declaration, VRGP has established and will maintain the following internal procedures: (i) VRGP Committee Personnel shall execute a letter (a "Confidentiality Letter") acknowledging that they may receive such non-public Information (as defined below) and that they are aware of the information blocking procedures that are in effect with respect to the Covered Claims and will follow these procedures and will immediately inform Committee counsel and the United States Trustee in writing if such procedures are materially breached; (ii) subject to paragraph 4 hereof, VRGP Committee Personnel will not directly or indirectly share any non-public information generated by, received from or relating to Committee activities or Committee membership ("Information") with any other employees, representatives or agents of VRGP, including VRGP's trading personnel and investment advisory personnel, and VRGP Committee Personnel shall use good faith efforts not to share any material Information concerning these Chapter 11 Cases with any VRGP employee reasonably known to be engaged in trading

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<sup>4</sup> "Covered Claims" is used to mean any claims against the Debtors, including (i) "Securities" as defined in Section 2(a)(1) of the Securities Act of 1933 (including the following: stocks, notes, bonds, debentures, participation in, or derivatives based upon or relating to, any of the Debtors' debt obligations or equity interests) and (ii) bank debt.

activities with respect to the Covered Claims on behalf of VRGP and/or its clients, except that a good faith communication of publicly available Information shall not be presumed to be a breach of the obligations of VRGP or any VRGP Committee Personnel hereunder; (iii) VRGP Committee Personnel will maintain all files containing information received in connection with or generated from committee activities in secured cabinets inaccessible to other employees of VRGP or in other locations inaccessible to other employees of VRGP; (iv) VRGP Committee Personnel will not receive any information regarding VRGP's trades in the Covered Claims in advance of the execution of such trades, but VRGP Committee Personnel may receive trading reports showing VRGP's purchases and sales and ownership of the Covered Claims but no more frequently than bi-weekly (provided that VRGP Committee Personnel may receive the usual and customary internal reports showing VRGP's purchases and sales on behalf of VRGP and the amount and class of claims, interests or securities owned by VRGP to the extent that such personnel would otherwise receive such reports in the ordinary course and such reports are not specifically prepared with respect to the Debtors); (v) VRGP's compliance personnel shall review on a weekly basis VRGP's trades of the Covered Claims to determine if there is any reason to believe that such trades were not made in compliance with the information blocking procedures and shall keep records of such review; (vi) VRGP compliance personnel shall periodically monitor, consistent with VRGP's ordinary course compliance practice, the exchange of Information through electronic means among VRGP Committee Personnel to ensure that such exchanges are performed in a manner consistent with the foregoing procedures; (vii) so long as VRGP is a member of the Committee, it shall disclose to the Office of the United States Trustee in writing any decrease in dollar amount of the Covered Claims held by VRGP and in clients' accounts at VRGP that results in such holdings being less than 1/3 of the aggregate holdings of

VRGP and in clients' accounts at VRGP as of the date of VRGP's appointment to the Committee and any increase in dollar amount of the Covered Claims held by VRGP and in clients' accounts at VRGP that results in an increase in aggregate holdings of more than 2/3 of the aggregate holdings of VRGP as of the date of VRGP's appointment to the Committee, within 10 business days of such trade or trades aggregating the foregoing amount; (viii) so long as VRGP is a member of the Committee, it shall disclose to the Committee counsel and the United States Trustee every 6 months a declaration verifying continued compliance with the procedures described herein; and (ix) VRGP shall immediately disclose to the Committee's counsel and the United States Trustee any material breaches of the procedures described herein. If VRGP resigns from the Committee for any reason, VRGP will continue to follow the procedures set forth in clauses (i) through (iii), (v), (vi) and (ix) above until a plan has been confirmed in the Debtors' Chapter 11 Cases or the Chapter 11 Cases have been converted or dismissed.

11. Notwithstanding any of the above, VRGP Committee Personnel may share Information with (a) senior management of VRGP who, due to their duties and responsibilities, have a legitimate need to know such Information provided that such individuals (i) otherwise comply with the procedures herein and (ii) use such Information only in connection with their senior managerial responsibilities, (b) regulators, auditors, designated legal and compliance personnel for the purpose of rendering legal advice to the VRGP Committee Personnel, and to the extent that such Information may be accessible by internal computer systems, VRGP administrative personnel who service and maintain such systems, each of whom will agree not to share Information with other employees and will keep such Information in files (or in other locations) inaccessible to other employees, and (c) other VRGP employees, representatives and



agents who (i) are not involved with trading or investment advisory activities with respect to the Covered Claims and (ii) execute a Confidentiality Letter.

12. The VRGP Committee Personnel assigned to the Debtors' chapter 11 cases will be Richard Deitz, Peter Clateman and myself. In the event any other individual VRGP representative is chosen to act as a Committee representative on behalf of VRGP in the Chapter 11 Cases, such individual will also submit a Declaration affirming his intention to comply with the screening procedures described herein prior to accepting any responsibilities in connection therewith.

13. I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 21, 2012

/s/ David Thompson  
David Thompson

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 APPROVING SPECIFIED INFORMATION BLOCKING PROCEDURES  
AND PERMITTING TRADING IN CLAIMS AGAINST THE  
DEBTORS UPON ESTABLISHMENT OF A SCREENING WALL**

Upon the Motion (the "Motion") of VR Global Partners, LP and its affiliates ("VRGP"), a member of the Official Committee of Unsecured Creditors ("Committee") appointed in these chapter 11 cases (the "Chapter 11 Cases") concerning the above-captioned debtors and debtors in possession (collectively, the "Debtors") for the entry of an order pursuant to section 105(a) of title 11 of the United States Code (the "Bankruptcy Code"), approving specified information blocking procedures and permitting trading in the Covered Claims (as defined below) in certain situations, and all exhibits attached thereto; and adequate notice of the Motion having been given; and the Motion having come on to be heard before the Court; and no objections to the Motion having been filed; and the Court being satisfied that the relief requested in the Motion is necessary and in the best interests of VRGP, the Committee, creditors, and the Debtors' estates; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted, subject to the terms and conditions of this Order.
2. The information blocking procedures established by VRGP described substantially in the Declaration of Richard Deitz annexed to the Motion as Exhibit A (the

"Screening Wall Declaration"), which are designed to prevent the misuse of Committee information and which are acceptable to the Office of the United States Trustee or otherwise consistent with those policies and procedures, are hereby approved.

3. VRGP will not violate its duties as a Committee member and, accordingly, will not subject its claims to possible disallowance, subordination, or other adverse treatment, by trading in the Covered Claims during the pendency of the Debtors' Chapter 11 Cases, provided that VRGP establishes and effectively implements and strictly adheres to the information blocking procedures detailed in the Screening Wall Declarations or otherwise approved in writing by the United States Trustee and ordered by the Court.

4. Should any entity related to or affiliated with the Debtor file a bankruptcy petition at any time after the entry of this Order, and should VRGP contemplate trading in that new debtor's Covered Claims, VRGP shall file additional disclosures articulating the informational blocking procedures that will be implemented by VRGP that are designed to prevent the misuse of Committee information. Such disclosures shall be accompanied by a proposed order, and if no objections to VRGP's disclosures are filed within ten (10) business days of the filing of such disclosures, the order may be entered by the Court. If objections are filed, then the Court may schedule a hearing on the matter.

5. For purposes of this Order, the term "Covered Claims" is used to mean any claims against the Debtors, including, without limitation, (i) "Securities" as defined in Section 2(a)(1) of the Securities Act of 1933 (including the following: stocks, notes, bonds, debentures, participation in, or derivatives based upon or relating to, any of the Debtors' debt obligations or equity interests) and (ii) bank debt. VRGP's trading in the Covered Claims will not constitute a breach of this Order provided that it establishes and effectively implements and strictly adheres

to the information blocking procedures detailed in the Screening Wall Declaration or otherwise approved in writing by the Office of the United States Trustee.

6. In the event that any other individual VRGP representative is chosen to replace VRGP's representative(s) on the Committee, such individual will deliver to the U.S. Trustee a declaration affirming his or her compliance with the screening procedures described herein prior to accepting any responsibilities in connection with these Chapter 11 Cases.

7. Nothing in this Order shall prejudice the right of the United States Trustee to take such action as she deems appropriate in the case, including the removal of any Committee member pursuant to section 1102 of the Bankruptcy Code.

8. This Order shall not preclude the Court from taking any action it may deem appropriate in the event that it is determined that a breach of fiduciary duty has occurred as a result of a defect in, or the ineffectiveness of, the implementation of the information blocking procedures herein approved.

Dated: New York, New York  
\_\_\_\_\_, 2012

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UNITED STATES BANKRUPTCY JUDGE