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**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
<hr/>	§	
IN RE:	§	
	§	Chapter 11
FALCON GAS STORAGE CO., INC.	§	
	§	Case No. 12-11790-shl
Debtor.	§	(Jointly Administered under
<hr/>	§	Case No. 12-11076)

**TIDE'S RESPONSE TO DEBTORS' STATUS
REPORT RE: (1) HOPPER *et al.* v. FALCON GAS
STORAGE COMPANY, INC. AND (2) TIDE'S MOTION TO LIFT STAY**

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

Tide Natural Gas Storage I, LP and Tide Natural Gas Storage II, LP (together, "Tide"),
by and through their undersigned counsel, hereby file this response (this "Response") to the

Status Report re: (1) Hopper *et al.* v. Falcon Gas Storage Company, Inc. and (2) Tide's Motion to Lift Stay (the "Status Report") of Arcapita Bank B.S.C.(c) and its affiliated debtors (the "Debtors"). In support thereof, Tide respectfully submits as follows:

1. On June 25, 2012, Tide filed a Motion for an Order Lifting the Automatic Stay Pursuant to 11 U.S.C. § 362(d) to Allow Continuance of District Court Action (the "Lift Stay Motion"). The Lift Stay Motion has not yet been heard on substantive grounds. It is currently set for a status conference on December 18, 2012.

2. The Debtors filed an objection to the Lift Stay Motion on July 29, 2012 (the "Debtors' Objection to Lift Stay"). The Debtors' Objection to Lift Stay asserts, among other things, that the Lift Stay Motion should be denied because a determination of the ownership of the escrowed funds should be resolved by the Bankruptcy Court (see Debtors' Objection to Lift Stay ¶¶ 22-6). Tide, in its response to Debtors' Objection to Lift Stay [Dkt. No. 359] denies this and states that the pending District Court action is the proper forum for resolution of this issue. Regardless, this is an issue to be taken up at the substantive hearing on the Lift Stay Motion.

3. The Debtors have now filed their Status Report, which regurgitates the Debtors' Objection to Lift Stay and the faulty argument that ownership of the escrow funds should be adjudicated in this Court.¹ Surprisingly, and without a procedural or substantive basis or opportunity for Tide to be substantively heard on its Lift Stay Motion, the Debtors' Status Report asks this Court to abate the Lift Stay Motion until after this Court has adjudicated the ownership of the escrow funds. However, ownership of the escrow funds is before Judge Kimba Wood in the District Court and is the key issue for which Tide seeks to lift the automatic stay. By seeking

¹ The Status Report also provides a recitation of alleged background facts and recent developments. Tide makes no admission regarding the accuracy of the recitation and reserves all rights with regard to such recitation.

abatement of the Lift Stay Motion until *after* ownership of the escrow funds is decided by this Court, the Debtors are attempting to circumvent Tide's right to be heard on the Lift Stay Motion. Essentially, abatement of the Lift Stay Motion in favor of deciding ownership of the escrow funds would be a "pocket veto" of the relief sought in the Lift Stay Motion and would grant Debtors' Objection to Lift Stay without Tide being heard on the merits.

4. The Debtors' Status Report is a backdoor attempt by the Debtors to get the Court to sustain Debtors' Objection to Lift Stay without Tide first being heard on the merits. A status report is not a proper procedural mechanism to seek substantive relief and defeat a live pleading.

WHEREFORE, Tide requests that the Court set the Lift Stay Motion for hearing on January 16, 2013, at 11:00 a.m., a preset omnibus hearing date in this case, and grant Tide such other and further relief as the Court deems just.

Respectfully submitted,

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By: /s/ Jennifer Feldsher

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