

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

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

**ORDER PURSUANT TO SECTIONS 105 AND 363 OF THE BANKRUPTCY CODE
AUTHORIZING DEBTORS TO GRANT APPROVALS AND CONSENTS IN
CONNECTION WITH SALE BY NON-DEBTOR SUBSIDIARY**

Upon the Motion (the “*Motion*”) of the debtors in possession in the above-captioned case (the “*Debtors*”) for an order pursuant to sections 105 and 363 of title 11 of the United States Code (the “*Bankruptcy Code*”), authorizing the Debtors to take such actions and provide such consents as are necessary or appropriate to authorize, approve and facilitate the sale (the “*Sale*”) by their indirect non-debtor subsidiary, Assisted Living First Euro Investments Ltd. (“*Assisted Living Investments*”), of all of Assisted Living Investments’ interest in (i) Sunrise First Euro Properties, LP (“*Sunrise LP*”) and (ii) Sunrise First Euro Properties GP Limited (“*Sunrise GP*,” together with Sunrise LP, “*Sunrise*”) to purchaser HCN UK Investments Limited or its assignee or designee (“*HCN UK*”) pursuant to that certain Purchase and Sale Agreement between Assisted Living Investments and HCN UK (the “*PSA*”), it appearing that: (a) the Court has jurisdiction over the subject matter of the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; (b) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (c) the legal and factual bases set forth in the Motion, in the Declaration of Michael K. Casey filed in support of the Motion, and on the record at the hearing (if any) establish just cause for the relief

granted herein; (d) the relief requested in the Motion is in the best interests of the Debtors, their estates and creditors; (e) *there being no opposition to the Motion*; and (f) notice of the Motion was sufficient, and no other or further notice need be provided;

Based on the representation of the Debtors and the above findings and conclusions, and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND, DETERMINED AND ORDERED THAT:

1. The Motion is hereby granted to the extent set forth herein.
2. To the extent that any of the findings of fact in this Order constitute conclusions of law, they are adopted as such. To the extent that any of the conclusions of law in this Order constitute findings of fact, they are adopted as such.
3. Debtors Arcapita Bank, AIHL and ALTHL indirectly own Assisted Living Investments. Neither Assisted Living Investments nor Sunrise are debtors in these chapter 11 cases, and the Court does not have jurisdiction over Assisted Living Investments, Sunrise or their property.
4. Notwithstanding that Assisted Living Investments is not a debtor and is not subject to the Court's jurisdiction, to the extent that any authorization, approval, consent or other action by any of the Debtors is necessary or desirable in connection with the Sale, including, without limitation, any authorization pursuant to section 363 of the Bankruptcy Code, the Debtors are authorized to execute such documents, provide such consents and take any and all other actions as are necessary or appropriate to authorize, cause, direct, approve or otherwise facilitate Assisted Living Investments' execution of and performance under the PSA and any agreements, documents and instruments provided for therein or contemplated thereby, including Assisted Living Investments' sale of its interest in Sunrise to HCN UK.

5. The Debtors have demonstrated a sound basis for their decision to authorize and approve the Sale, and such actions and approvals are an appropriate exercise of the Debtors' business judgment and in the best interests of the Debtors, their estates and creditors.

6. The Debtors have full corporate authority to take such actions and grant such consents, if any, as may be necessary or appropriate to authorize, direct, cause, approve or otherwise facilitate the Sale.

7. Notwithstanding any other provision of the Motion or this Order, HCN UK's and Assisted Living Investments' obligations with respect to the Sale shall be governed solely by the terms of the PSA and such other documents, if any, as may be executed in connection therewith, and HCN UK and Assisted Living Investments shall have no obligation to proceed with closing the Sale until all conditions precedent to its obligations under the PSA have been met, satisfied or waived.

8. The terms of the PSA and the Sale may be modified, amended or supplemented by the agreement of Assisted Living Investments and HCN UK in accordance with the terms of the PSA and without further notice in the Debtors' chapter 11 cases or order of this Court.

9. The failure to reference or include any particular provision of the PSA in the Motion or this Order shall not diminish or impair the effectiveness of any provision of the PSA.

10. HCN UK is not an "insider" or "affiliate" of the Debtors or Assisted Living Investments as such terms are defined in the Bankruptcy Code, and the Sale is a good-faith, arms'- length transaction between Assisted Living Investments and HCN UK.

11. The consideration paid by HCN UK for the assets subject to the Sale constitutes reasonably equivalent value under the Bankruptcy Code and the Uniform Fraudulent Transfer Act, fair consideration under the Uniform Fraudulent Conveyance Act and reasonably equivalent

value, fair consideration and fair value under any other applicable laws of the United States, any state, territory or possession, or the District of Columbia, and the Sale shall not be avoidable as a fraudulent transfer, fraudulent conveyance under sections 548 or 544(b) of the Bankruptcy Code or under any other state or federal law in this or any subsequent proceeding.

12. HCN UK has acted in good faith in all matters related to the Sale and as a result, unless the authorizations contained in this Order are stayed pending appeal, any reversal or modification on appeal of any such authorizations shall not under any circumstances affect the validity of the Sale to HCN UK.

13. HCN UK did not collude with any other potential purchasers in connection with the Sale and the sale price was not controlled by any agreement among potential purchasers. Accordingly, the Sale is not, and shall not be, avoidable under section 363(n) of the Bankruptcy Code in this or any subsequent proceeding, or under any other state or federal law, and no damages or other amounts shall be recoverable from HCN UK in any such proceeding under section 363(n) of the Bankruptcy Code or under any other state or federal law.

14. The relief granted herein shall be binding upon the Debtors' successors and assigns, including any chapter 11 trustee appointed in these chapter 11 cases and any chapter 7 trustee appointed in the event of a subsequent conversion of these chapter 11 cases to cases under chapter 7.

15. To the extent that the stay set forth in Rule 6004(h) of the Federal Rules of Bankruptcy Procedure (the “*Bankruptcy Rules*”) applies to this Order, cause exists to abrogate such stay. Accordingly, notwithstanding Bankruptcy Rule 6004(h), this Order shall be effective and enforceable immediately upon its entry and its provisions shall be self-executing.

Dated: December 18, 2012
New York, New York

/s/ Sean H. Lane
THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE