

Acceptances Thereof (the “**Exclusivity Motion**”), filed concurrently herewith and incorporated by reference,¹ and (ii) extending the Exclusive Filing Period (defined below) until such time as the Court has entered an order determining the Exclusivity Motion. In support of the Motion, the Debtors respectfully represent:

BACKGROUND

1. On March 19, 2012, Arcapita Bank and five of its affiliates commenced cases under chapter 11 of the Bankruptcy Code. On April 30, 2012, Falcon Gas Storage Company, Inc. commenced a case under chapter 11 of the Bankruptcy Code. The Debtors have continued to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. On April 5, 2012, the United States Trustee for Region 2 appointed the Official Committee of Unsecured Creditors in the Chapter 11 Cases (the “**Committee**”) [Docket No. 60] pursuant to sections 1102(a) and (b) of the Bankruptcy Code. Of the six current members of the Committee, three members are primarily creditors of only Arcapita Bank and three members are also creditors that have substantial claims against Arcapita Bank’s subsidiary, Arcapita Investment Holdings Limited (“**AIHL**”). Arcapita Bank owns the majority of the assets of the Arcapita Group through AIHL and as a result of the Debtors’ corporate structure, the claims of AIHL’s creditors are in large part structurally senior to the claims of Arcapita Bank’s creditors. Nonetheless, there are a variety of legal and factual arguments and considerations that must be taken into account when allocating the overall value of the Debtors’ estates between the creditors of Arcapita Bank and the creditors of AIHL.

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

3. By order dated July 11, 2012, the Court granted the Debtors a 90-day extension of the initial 120-day period during which the Debtors have the exclusive right to file a chapter 11 plan or plans (the “*Exclusive Filing Period*”) and the 180-day period to obtain acceptances of that plan or plans (the “*Exclusive Solicitation Period*,” and together with the Exclusive Filing Period, the “*Exclusive Periods*”), through and including October 15, 2012 and December 14, 2012, respectively.

4. Although the Debtors made substantial progress towards developing a strategy for a successful exit from these chapter 11 cases during the initial extension of the Exclusive Periods, the Debtors filed a second motion to extend the Exclusive Periods (the “*Second Exclusivity Motion*”) because they required additional time to handle the sheer complexity of legal and business issues presented by their chapter 11 cases. In the Second Exclusivity Motion, the Debtors agreed that they would not seek further extensions of their exclusive right to file a plan.

5. On October 12, 2012, the Court granted the Second Exclusivity Motion by its *Second Order Extending the Debtors’ Exclusive Periods to File a Plan or Plans of Reorganization and to Solicit Acceptances Thereof* [Docket No. 568] (the “*Second Exclusivity Order*”) and thereby extended the Exclusive Filing Period to and including December 15, 2012, and the Exclusive Solicitation Period to and including February 12, 2013.²

6. Since the Second Exclusivity Order was entered, the Debtors, the Committee, and the Joint Provisional Liquidators of AIHL (the “*JPLs*”) have diligently worked to develop a plan of reorganization that incorporates input from the Committee and the JPLs, and various other constituencies, regarding resolution of certain inter-creditor and inter-estate issues. Throughout

² As agreed upon by the Debtors, the Second Exclusivity Order states that “the Debtors shall not request a further extension of the Exclusive Filing Period beyond the extension to December 15, 2012” (Docket. No. 568 at 2.)

the process of evaluating various options for reorganization, the Debtors, the Committee, and the JPLs have engaged in an ongoing analysis of how to allocate the assets between the creditors of Arcapita Bank and the creditors of AIHL. Indeed, the Debtors, the Committee, and the JPLs have worked jointly in an attempt to develop a value allocation model that is reasonably acceptable to both groups of creditors.

7. As a result of these efforts, and although some issues remained unresolved, the Debtors were ready and willing to file a plan by the December 15, 2012 deadline. However, the Debtors and the Committee agreed that the Debtors should refrain from filing a plan for a limited period of time to allow the continuation of further discussions among the Debtors, the Committee, and the other constituencies. To facilitate additional discussions with the Committee and other constituencies, the Committee and the Debtors, with the support of the JPLs and no opposition from the Ad Hoc group, agreed that it was in the best interests of the estates to request the Court to extend the Exclusive Periods for an additional week—until December 22, 2012 for the Exclusive Filing Period, and February 19, 2013 for the Exclusive Solicitation Period. Implementing this agreement, the Debtors filed the *Debtors' Motion to Amend Second Order Extending Exclusive Periods to File a Plan or Plans of Reorganization and to Solicit Acceptances Thereof and Further Extending the Exclusive Periods* [Docket No. 701] (the “**Third Exclusivity Motion**”) seeking an extension of the Exclusive Periods by a week.

8. Prior to the hearing on the Third Exclusivity Motion, the Committee and the Debtors, with input from the JPLs, discussed an additional two-week extension of the Exclusive Periods to continue negotiations regarding the allocation model, among other issues. This additional extension was discussed on the record with the Court at the December 18, 2012 hearing to consider the Third Exclusivity Motion.

9. The Court approved of the Third Exclusivity Motion by its *Order Granting Debtors' Motion to Amend Second Order Extending Exclusive Periods to File a Plan or Plans of Reorganization and to Solicit Acceptances Thereof and Further Extending the Exclusive Periods* [Docket No. 725] (the “**Third Exclusivity Order**”)³ and thereafter the Debtors filed their *Debtors' Motion to Further Extend Exclusive Periods to File a Plan or Plans of Reorganization and to Solicit Acceptances Thereof* [Docket No. 728] (the “**Fourth Exclusivity Motion**”) seeking an additional two-week extension of the Exclusive Periods. The Court approved of the Fourth Exclusivity Motion by its *Order Granting Debtors' Motion to Extend Exclusive Periods to File a Plan or Plans of Reorganization and to Solicit Acceptances Thereof* [Docket No. 743] (the “**Fourth Exclusivity Order**”).

10. Although the Debtors were informed that significant progress had been made in the negotiations among creditors with respect to various inter-creditor issues since the Fourth Exclusivity Order was entered, most of those discussions occurred within the confines of the Committee room. However, the Committee has informed the Debtors that it needed more time to provide the Debtors with additional input regarding these inter-creditor issues. Accordingly, the Debtors agreed, with Committee support, to seek a short extension of the Exclusive Periods—for an additional nine-day period—to give the Committee additional time to provide the Debtors with input regarding value allocation and other issues. Consequently, the Debtors filed their *Debtors' Motion to Further Extend Exclusive Periods to File a Plan or Plans of Reorganization and to Solicit Acceptances Thereof* [Docket No. 759] (the “**Fifth Exclusivity Motion**”) seeking this nine-day extension.

³ The Third Exclusivity Order also amends the Second Exclusivity Order to permit the Debtors to request further extensions of the Exclusive Filing Period.

11. Prior to the hearing on the Fifth Exclusivity Motion, the Committee and the Debtors, with input from the JPLs, discussed another two-week extension of the Exclusive Periods to continue discussions regarding the plan. This additional extension was discussed on the record with the Court at the January 9, 2013 hearing to consider the Fifth Exclusivity Motion. The Court approved of the Fifth Exclusivity Motion by its *Order Granting Debtors' Motion to Extend Exclusive Periods to File a Plan or Plans of Reorganization and to Solicit Acceptances Thereof* [Docket No. 768] (the "***Fifth Exclusivity Order***") and thereby extended the Exclusive Filing Period until January 14, 2013 and the Exclusive Solicitation Period through March 14, 2013.

JURISDICTION AND VENUE

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

RELIEF REQUESTED

13. By this Motion, the Debtors request that the Court enter an order (i) shortening the notice period for the Exclusivity Motion such that it may be heard by the Court on January 16, 2013 at 11:00 a.m., (ii) requiring that objections to the Exclusivity Motion, if any, be filed and served so that they are received in accordance with this Motion no later than January 15, 2013, at 12:00 p.m., and (iii) extending the Exclusive Filing Period until such time as the Court has entered an order determining the Exclusivity Motion.

BASIS FOR RELIEF

14. Pursuant to the Case Management Procedures approved by this Court,⁴ hearings on motions seeking relief other than under Bankruptcy Rule 2002(a) and (b) must be set with at least 14 days' notice. Bankruptcy Rule 9006(c)(1) and Local Rule 9006-1(b) authorize the Court, for cause shown, to reduce the notice period required for a hearing.

15. Ample cause exists to shorten the time for notice of the Exclusivity Motion and to grant this Motion on an *ex parte* basis. As described above, the Debtors, the Committee, and others have diligently worked to develop a plan of reorganization. As a result of these efforts, and although some open issues remain unresolved, the Debtors are ready and willing to file a plan by the current deadline of January 14, 2013. However, the Debtors have agreed to refrain from filing a plan for two more weeks so that the Committee can provide additional information to the Debtors before the plan is filed. Given that the requested delay is minimal, but increases the probability that the Debtors will be able to file a plan of reorganization with the Committee's support, the requested extension is warranted.

16. In order to have the Exclusivity Motion heard prior to the end of the requested extension of the Exclusive Filing Period, the Debtors respectfully request that the Exclusivity Motion be set for hearing on January 16, 2013. Additionally, the Debtors request that the Court extend the Exclusive Filing Period until such time as the Court has entered an order determining the Exclusivity Motion. Section 1121(d) of the Bankruptcy Code provides that the Court may extend the Exclusive Filing Period for cause, and section 105(a) states that the Court may issue any order "that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code]."

⁴ 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].

11 U.S.C. §§ 105(a), 1121(d). The Debtors respectively submit that it is necessary to grant this Motion on an *ex parte* basis so that the Exclusivity Motion may be heard on January 16, 2013 and that the Exclusive Filing Period will not expire before the Court has entered an order determining the Exclusivity Motion.

17. No parties in interest would be prejudiced by the shortened notice requested herein or by the approval of this Motion on an *ex parte* basis.

NOTICE

18. No trustee or examiner 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, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Richard Morrissey, Esq.); (ii) Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005 (Attn: Dennis Dunne, Esq. and Evan Fleck, Esq.); and (iii) all parties listed on the Master Service List established in these chapter 11 cases. A copy of the Motion is also available on the website of the Debtors' notice and claims agent, GCG, Inc., at www.gcginc.com/cases/arcapita.

19. This Motion, together with the Exclusivity Motion, is the Debtors' Sixth request for an extension of the Exclusive Filing Period.

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
January 11, 2013

/s/ Michael A. Rosenthal
Michael A. Rosenthal (MR-7006)
Craig H. Millet (admitted *pro hac vice*)
Matthew K. Kelsey (MK-3137)
GIBSON, DUNN & CRUTCHER LLP
200 Park Avenue
New York, New York 10166-0193
Telephone: (212) 351-4000
Facsimile: (212) 351-4035

ATTORNEYS FOR THE DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

PROPOSED ORDER

**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	:	

**EX PARTE ORDER (I) SHORTENING THE NOTICE PERIOD WITH
RESPECT TO DEBTORS’ MOTION TO FURTHER EXTEND
EXCLUSIVE PERIODS TO FILE A PLAN OR PLANS OF REORGANIZATION
AND TO SOLICIT ACCEPTANCES THEREOF AND (II) EXTENDING THE
EXCLUSIVE PERIOD FOR THE DEBTORS TO FILE A CHAPTER 11 PLAN**

Upon consideration of the motion (the “*Motion*”)¹ of Arcapita Bank B.S.C.(c) (“*Arcapita Bank*”) and certain of its subsidiaries, as debtors and debtors in possession (collectively, the “*Debtors*” and each, a “*Debtor*”) in the above-captioned chapter 11 cases (the “*Chapter 11 Cases*”), for entry of an order (i) shortening the notice period with respect to the *Debtors’ Motion to Further Extend Exclusive Periods to File a Plan or Plans of Reorganization and to Solicit Acceptances Thereof* (the “*Exclusivity Motion*”) and (ii) extending the Exclusive Filing Period until such time as the Court has entered an order determining the Exclusivity Motion; and the Court having found that it has jurisdiction to consider the 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 Debtors’ estates, their creditors, and other parties in interest; and it appearing that no other or further notice is necessary except as provided herein; and the Court having reviewed the Motion; and the Court having determined that the

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

legal and factual bases set forth in the Motion establish just cause for the relief granted herein;
and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED:

1. The hearing to consider the Exclusivity Motion shall be held on **January 16, 2013**, at **11:00 a.m.** (prevailing Eastern Time) before the Honorable Sean H. Lane, United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408, Courtroom 701.

The hearing on the Exclusivity Motion may be adjourned from time to time without further notice other than an announcement of the adjourned date or dates in open court. Notice of such adjourned date(s) will be available on the electronic case filing docket.

2. Pursuant to Bankruptcy Code section 1121(d), the Debtors' Exclusive Filing Period is hereby extended through the conclusion of the hearing on the Exclusivity Motion.

3. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order

4. The Debtors shall serve a copy of this Order within one day of entry thereof, by electronic mail, facsimile and/or overnight mail, on the Notice Parties (as defined below).

5. Any and all objections to the Exclusivity Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and Local Rules of the Court, and shall be filed, with proof of service, with the Clerk of the Court and served on the following parties (the "**Notice Parties**") so as to be received by **January 15, 2013**, at **12:00 p.m.** (prevailing Eastern Time):

- (a) counsel to the Debtors, attention: Michael A. Rosenthal, Craig H. Millet and Matthew K. Kelsey, Gibson, Dunn & Crutcher LLP, 200 Park Avenue, New York, NY 10166-0193;
- (b) counsel to the Committee, attention: Dennis Dunne, Esq. and Evan Fleck, Esq., Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005; and

(c) the Office of the United States Trustee for the Southern District of New York, attention: Richard Morrissey, 33 Whitehall Street, New York, New York 10004,

with a courtesy copy delivered to the chambers of the Honorable Sean H. Lane, United States Bankruptcy Court, One Bowling Green, New York, New York 10004-1408.

6. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: New York, New York
_____, 2013

THE HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE