

Objection deadline: March 11, 2013 at 4:00 p.m.
Extended Objection deadline: March 15, 2013 at 4:00 p.m.
Hearing date: March 26, 2013 at 10:00 a.m.

[Related Docket Number: 828]

KERR & KATZ, LLP
William B. Kerr
44 Wall Street, 12th Floor
New York, NY 10005
Telephone: (212) 423-0305

*Counsel Dr. Ahmad Hashem,
Salma Mohammed S. Al-Mahassni,
Nada Nashaat Z. Hashem and
the Heirs of Nashaat Zaki A. Hashem*

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

In re:	:	Chapter 11
ARCAPITA BANK, B.S.C.(c), <i>et al.</i> ,	:	Case No.: 12-11076 (SHL)
Debtors.	:	Jointly Administered

**OBJECTION TO THE DEBTORS’ MOTION FOR AN ORDER
(I) APPROVING THE DISCLOSURE STATEMENT AND THE FORM
AND MANNER OF NOTICE OF THE DISCLOSURE STATEMENT HEARING,
(II) ESTABLISHING SOLICITATION AND VOTING PROCEDURES,
(III) SCHEDULING A CONFIRMATION HEARING, AND
(IV) ESTABLISHING NOTICE AND OBJECTION PROCEDURES FOR
CONFIRMATION OF THE DEBTORS’ JOINT CHAPTER 11 PLAN**

Creditors and parties-in-interest, Dr. Ahmad Hashem, Salma Mohammed S. Al-Mahassni, Nada Nashaat Z. Hashem and the Heirs of Nashaat Zaki A. Hashem (collectively, the “Hashem Investors”), by and through their undersigned counsel, hereby object to *The Debtors’ Motion For an Order (I) Approving the Disclosure Statement and the Form and Manner of Notice of the Disclosure Statement Hearing, (II) Establishing Solicitation and Voting Procedures, (III) Scheduling a Confirmation Hearing and (IV) Establishing Notice and*

Objection Procedures for Confirmation of the Debtors' Joint Chapter 11 Plan [Doc. 828] (the "Motion"), and state the following:

BACKGROUND

1. On March 19, 2012, Arcapita Bank B.S.C.(c) ("Arcapita Bank"), Arcapita Investment Holdings Limited, Arcapita LT Holdings Limited, WindTurbine Holdings Limited, AEID II Holdings Limited, and RailInvest Holdings Limited (collectively, the "Initial Debtors") filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the Bankruptcy Court. On April 30, 2012 Falcon Gas Storage Company, Inc. ("Falcon") filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with the Bankruptcy Court (collectively, with the Initial Debtors, the "Debtors"). These cases have been consolidated for procedural purposes and are being jointly administered pursuant to Bankruptcy Rule 1015(b).

2. On August 29, 2012, the Hashem Investors timely filed proofs of claim against Arcapita Bank and Windturbine Holdings Limited¹ ("Proofs of Claim"). This objection arises from the Hashem Investors' claims against Arcapita Bank *vis-à-vis* their participations in Saudi Industrial Capital I Limited's ("SIC") KSA Industrial Development I ("AKID I") and as direct participants in the Arcapita rights offering ("Rights Offering").

3. As set forth in their Proofs of Claim against Arcapita Bank, Dr. Ahmad Hashem filed a claim in the amount of \$253,185.64 [Claim No. 294], Salma Mohammed S. Al-Mahassni in the amount of \$306,869.17 [Claim No. 292], Nada Nashaat Z. Hashem in the amount of \$247,159.84 [Claim No. 290] and the Heirs of Nashaat Zaki A. Hashem in the amount of \$27,042.18 [Claim No. 288].

¹ The Hashem Creditors' also filed claims *vis-à-vis* their participations in Wind Turbine Capital Limited's Honiton Energy Caymans Limited which do not form the basis of this objection.

4. Arcapita Bank voluntarily scheduled the SIC claim in the amount of \$21,298,130.84.

5. On February 8, 2013, Debtors filed the *Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and Related Debtors Under Chapter 11 of the Bankruptcy Code* (Docket No. 826) (“Joint Plan”) and *Disclosure Statement in Support of the Joint Plan of Reorganization of Arcapita Bank B.S.C.(c) and Related Debtors Under Chapter 11 of the Bankruptcy Code* (“Disclosure Statement”) [Docket No. 827].

6. The Hashem Investors object to the Motion because the Disclosure Statement contains no information regarding Arcapita Bank’s classification of Arcapita Bank’s Class 5(a) claims, including the SIC claim and their Rights Offering claims (“Rights Offering Claims”).

7. As set forth below, the Disclosure Statement does not disclose the current management of, post-confirmation management of, independence of, or manner and method by which Arcapita Bank classified the claims of any of its various investment vehicles, including its Cayman Islands investment companies (“Investment Vehicles”), and specifically, the SIC claim (“Investment Vehicle Claims”).

8. Further, as set forth below, the Disclosure Statement does not disclose the manner and method by which Arcapita Bank classified the Rights Offering Claims.

9. Finally, the Hashem Investors join in the Objection of Mayhoola For Investment Q.S.P.C. on the grounds of the propriety of, and want of disclosure regarding, the Plan’s proposed third party releases of Debtors’ current and former officers, directors, employees, managers and agents. [Doc. 896].

OBJECTION

10. As written, the Disclosure Statement should not be approved because it does not afford transparency for parties in interest regarding their derivative Investment Vehicle Claims or direct creditors regarding their Rights Offering Claims.

11. The Disclosure Statement does not meet the requirements of 11 U.S.C. § 1125 in that the Disclosure Statement does not contain adequate information “of a kind, and in sufficient detail . . . that would enable a hypothetical reasonable investor . . . to make an informed judgment about the plan.”

12. This case is complex, involving parties with indirect investments in various offshore opportunities invoking the laws of multiple jurisdictions and their respective conflicts of law provisions. Numerous affected parties have rights governed under the laws of the Kingdom of Bahrain and the Cayman Islands both in conjunction with U.S. bankruptcy law.

13. Each of the items set forth below would be of significant benefit to creditors and other parties in interest, including the indirect participants of any of the offshore opportunities who may not have standing to vote on the Plan.

14. The cost of providing such additional information is minimal because such information would already be available if Arcapita Bank has properly scheduled its offshore investment vehicle claims (“Investment Vehicle Claims”) and Rights Offering Claims in good faith.

A) AKIDI

15. The Disclosure Statement does not contain adequate information regarding: SIC’s independence or the independence of any of the other Arcapita Bank Investment Vehicles,

nor the process by which Arcapita Bank determined that each of their claims should be classified as general unsecured claims.

16. None of the investment vehicles have filed notices of appearance or requests for notice. The Disclosure Statement does not disclose the current management or post-confirmation management of any of the Investment Vehicles, whether they are independent from Arcapita Bank management, or the manner and method by which Arcapita Bank's management valued and determined the priority of each Investment Vehicle claim.

17. Finally, the Disclosure Statement does not contain adequate information regarding whether there was any independent determination of which Investment Vehicle subscriptions or portions thereof were held in Arcapita Bank's accounts on the date of petition and the sourcing, movement and location of funds that may be held by or invested in non-debtor entities.

B) Rights Offering

18. As set forth below, the Hashem Investors also object to the Motion on the grounds that the Disclosure Statement does not contain adequate information regarding the Rights Offering participants' classification as general unsecured creditors.

19. Specifically, the Disclosure Statement does not contain adequate information regarding whether there was any independent determination of whether participations in the Rights Offering were held in Arcapita Bank's accounts on the date of petition and the sourcing, movement and location of funds that may be held by or invested in non-debtor entities.

C) Joinder in the Objection of Mayhoola For Investment Q.S.P.C

20. Finally, the Hashem Investors join in the Objection of Mayhoola For Investment Q.S.P.C. on the grounds of the propriety of, and want of disclosure regarding, the Plan's

proposed third party releases of Debtors' current and former officers, directors, employees, managers and agents. [Doc. 896]

WHEREFORE, Dr. Ahmad Hashem, Salma Mohammed S. Al-Mahassni, Nada Nashaat Z. Hashem and the Heirs of Nashaat Zaki A. Hashem, request that the Court deny approval of the Disclosure Statement and grant such other further and different relief as the Court may deem just and proper.

DATED: New York, New York
March 14, 2013

KERR & KATZ, LLP

By: /s/ William B. Kerr
William B. Kerr
44 Wall Street, 12th Floor
New York, New York 10005
(212) 423-0305
*Counsel for Creditors Dr. Ahmed Hashem,
Salma Mohammed S. Al-Mahassni,
Nada Nashaat Z. Hashem and
the Heirs of Nashaat Zaki A. Hashem*