IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

In re:	)	
	)	
JEFFERSON COUNTY, ALABAMA,	)	**Case No. 11-05736-TBB**
a political subdivision of the State of	)	
Alabama,	)	**Chapter 9**
	)	
Debtor.	)	

JEFFERSON COUNTY'S REPLY BRIEF IN FURTHER SUPPORT OF ELIGIBILITY

The County[1] respectfully submits this reply brief in further support of its eligibility to be a debtor under Chapter 9 of the Bankruptcy Code and in response to the various objections to eligibility that were filed on December 9, 2011.

INTRODUCTION

A municipality must satisfy five elements to qualify as a debtor in a Chapter 9 case. First, it must be a subdivision of a state. 11 U.S.C. §§ 109(c)(1) & 101(40). Second, it must be authorized under state law to be a debtor. *Id*. § 109(c)(2). Third, it must not be able to pay its debts as they come due. *Id*. §§ 109(c)(3) & 101(32)(C). Fourth, it must desire to effect a plan to adjust those debts. *Id*. § 109(c)(4). And fifth, unless it has already struck a deal with its creditors, see *id*. § 109(c)(5)(A), the municipality must show either that it negotiated with its creditors in good faith, *id*. § 109(c)(5)(B), or was unable to do so because negotiation was impracticable, *id*. § 109(c)(5)(C), or that it had a reasonable belief that a creditor was going to try to obtain a preference, *id*. § 109(c)(5)(D).

Concurrently with the filing of this Chapter 9 case, the County filed a 59-page Eligibility Memorandum setting out in detail why it meets each of the five required elements. On the first

[1] Capitalized terms not otherwise defined herein have the meanings ascribed in the County's November 9, 2011 *Memorandum in Support of Eligibility* [Docket No. 10] (the "Eligibility Memorandum").

(status as a municipality), there is no question that the County is one of the 67 counties into which the State of Alabama is divided. *See* ALA. CODE § 11-1-1. It is, therefore, a municipality (a "political subdivision … of a State") for purposes of 11 U.S.C. §§ 101(40) & 109(c)(1). The second element (legal authorization) is satisfied by the state statute providing that "the State of Alabama . . . authorizes each county . . . in the state to proceed under the provisions of the acts for the readjustment of its debts." *Id*. § 11-81-3. On the third element (insolvency), the County is in default on billions of dollars in debt, and owes more in immediately due and payable general obligation debt than it has in operating cash on hand. For the fourth element (desire to effect a plan), the whole purpose of the County's bankruptcy filing is to propose a plan to get its financial house in order. And on the fifth element (good faith negotiation), County officials have been working tirelessly to reach a negotiated settlement – and even signed a term sheet with the Receiver – but the creditors kept changing the terms of the deal, the Legislature failed to act, and ultimately time and options ran out. By November 9th, it became clear that bankruptcy was the County's only option.

With the County's case for eligibility clearly set out, the Court, following a hearing on November 10th, entered an order requiring anyone who intended to challenge the County's bankruptcy petition to file a written objection by December 9, 2011, at 5 o'clock.[2] By the appointed date and time, seven objections had been filed.[3] The objections are most noteworthy

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[2] *See Order Approving Debtor's Motion to Set Deadline and Procedures for Filing Objections to the Petition and to Approve Form and Publication of Notice Required by 11 U.S.C. § 923* [Docket No. 90], filed November 11, 2011 (the "Procedures Order").

[3] The four primary objections filed are: (i) the *Objection to Eligibility and Motion to Dismiss Chapter 9 Petition by the Indenture Trustee* [Docket No. 380] (the "Trustee Objection"), filed by The Bank of New York Mellon (the "Trustee"); (ii) the *Objection of the Liquidity Banks to Eligibility of Jefferson County to Maintain a Case Under Chapter 9 and Motion to Dismiss Chapter 9 Case* [Docket No. 384] (the "Liquidity Bank Objection"), filed by a group of financial institutions calling themselves the "Liquidity Banks"; (iii) the *Objection of Financial Guaranty Insurance Company to Jefferson County's Eligibility to File Chapter 9 Bankruptcy* [Docket No. 387] (the "FGIC Objection"), filed by Financial Guaranty Insurance Company ("FGIC"); and (iv) the *Objection of Jeffrey*

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for what they do not challenge. No one disputes that the County is insolvent. No one questions whether County officials have negotiated in good faith with the Receiver, the New York banks, and many other parties in interest. Likewise, no one disputes that the County filed this bankruptcy case for the proper purpose of effecting a plan to adjust its debts. And of course there is no doubt that the County is a municipality.

Instead, with the exception of a single meritless paragraph at the end of the Liquidity Bank Objection (addressed below in Point I), the only argument the objectors and their army of lawyers can offer for why Jefferson County should not be able to seek relief under Chapter 9 is that the state statute whereby "the State of Alabama . . . hereby authorizes ***each county . . . in the state*** to proceed under the provisions of the acts for the readjustment of its debts," ALA. CODE § 11-81-3 (emphasis added), actually means that only counties with a particular kind of outstanding indebtedness can file bankruptcy. This argument fails for the reasons set out in Point II, below. The County has many problems, but lacking the right kind of debt is not one of them.

ARGUMENT

I. THE LIQUIDITY BANKS' "ALL ACTIONS AVAILABLE" ARGUMENT FAILS

The Liquidity Banks make a one-paragraph argument that this case should be dismissed because the County supposedly "has not taken all actions available to it to avoid Chapter 9." *See* Liquidity Bank Obj. at 18-19. In addition to being false as a factual matter, this argument fails because the Liquidity Banks are merely making up an element of eligibility that does not exist in the Bankruptcy Code. Simply put, there is no requirement that a Chapter 9 debtor take "all actions available" to reach the theoretical outer limit of its taxing or assessing powers to pay its

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Weissman D.D.S., Jeffrey Weissman D.D.S., P.C., and Keith Shannon to Chapter 9 Petition of Jefferson County, Alabama [Docket No. 390] (the "Weissman Objection"), filed by a group calling themselves the "Taxpayer Creditors." The other three objections [Docket Nos. 383, 385 & 388] are merely joinders, with no substantive points that add to the arguments made in the primary objections.

creditors. *See, e.g., New Magma Irrigation & Drainage Dist. v. Bd. of Supervisors (In re New Magma Irrigation & Drainage Dist.),* 193 B.R. 528, 536 (Bankr. D. Ariz. 1994) (describing historical foundations for Chapter 9's availability as a debt adjustment mechanism that can *avoid* unduly high tax assessments); 6 COLLIER ON BANKRUPTCY ¶ 943.03[7][a] (16th ed. rev. 2011) (rejecting "[a]n interpretation of the best interest of creditors test that required the municipality to devote all resources available to the repayment of creditors" in favor of test requiring "a reasonable effort by the municipal debtor").

The lone decision cited by the Liquidity Banks is not to the contrary and is inapplicable here in any event. The Chapter 9 petitions at issue in *In re Sullivan County Regional Refuse Disposal District*, 165 B.R. 60 (Bankr. D.N.H. 1994), were filed by two debtors that had just one major creditor (Wheelabrator). *See id.* at 75. Prior to filing their petitions, the debtors had made "lackadaisical" efforts to negotiate with Wheelabrator and filed for bankruptcy "with no real thought or sincere intention of debt adjustment in an overall plan sense," instead using the bankruptcy process as "a late hour litigation tactic" against Wheelabrator. *See id.* at 79 & 82. Based upon this conduct, the court found that the debtors had not acted or filed their petitions in good faith, observing that "Congress did not intend that a municipality that made ***no*** effort to use its assessment or taxing powers to meet its obligations before filing nevertheless could come into the bankruptcy courts to resolve what is essentially a contractual dispute with one of its creditors." *Id.* at 82 (emphasis in original). Importantly, the court did ***not*** impose the Liquidity Banks' "all actions available" standard, but rather noted how Chapter 9 debtors must "demonstrate that before filing they either used their assessment or taxing powers ***to a reasonable extent***, or in their pre-petition negotiations have committed to the use of those

powers as part of a comprehensive and appropriate work out of their financial problems." *Id.* at 83 (emphasis added).

The County's case is far more complex than the simple two-party dispute in the *Sullivan County* case, and the County has not used its petition as a litigation tactic. *See* Eligibility Mem. at 43-47 (describing various forms of indebtedness that the County is unable to pay when due) & *id.* Ex. A, Part II (detailing the County's finances and debt structure). Indeed, far from being "lackadaisical," the County has engaged in a multi-year effort to negotiate with its various creditors, reduce operating expenses, and attempt to obtain financial support from the State of Alabama. *See id.* at 13-15, 29-33 & 48-51. All of this occurred against the backdrop of the lost Occupational Tax, extensive litigation with multiple parties, tornado cleanup, accelerated indebtedness, and the Receiver's continuing demand to take $75 million out of the general fund. *See id.* at 10-13, 15-17, 27-28 & 33-36. As the County has explained, and the Liquidity Banks do not dispute, it was the cumulative effect of all these unfortunate circumstances that led the County to make the fully considered decision to use the Chapter 9 process as an option of last resort. *See id.* at 36-38 & 50-51. These are very different facts than in *Sullivan County*, and the case law supports the conclusion that the County's Chapter 9 petition was filed in good faith. *See id.* at 57-58; *see also, e.g., In re Pierce Cnty. Hous. Auth.*, 414 B.R. 702, 714-15 (Bankr. W.D. Wash. 2009); *In re County of Orange*, 183 B.R. 594, 608-09 (Bankr. C.D. Cal. 1995).

Finally, the specific complaints raised by the Liquidity Banks are flawed in any event because they concern only the sewer debt, which is just one of the three kinds of County debt in default. The Liquidity Banks' complaint that the Commission has not raised sewer rates ignores the September 2011 Term Sheet – the one time this Commission was even able to consider rate increases (insofar as the Receiver Order was entered in September 2010, before the current

Commissioners took office). *See* Receiver Order ¶ 2(a) (vesting the Receiver with the "sole and exclusive right and authority to fix and charge rates and charges for services furnished by the System"). With respect to the Liquidity Banks' proposal that the County "demand funds from the State of Alabama" based upon a potential claim under the Consent Decree, the argument wholly ignores the County's other efforts vis-à-vis the State of Alabama prior to its Chapter 9 filing, including its efforts to get "moral obligation" backing, limited home rule and a replacement for the Occupational Tax.[4] The Liquidity Banks never explain (let alone evidence) what their proposal would have achieved, and there is no legal requirement for the County to engage in speculative (and potentially counterproductive) activities before filing for bankruptcy.

In sum, there simply is no legal requirement that the County take "all actions available to it to avoid Chapter 9." The evidence clearly reflects that the County took Herculean steps to avoid filing for bankruptcy, and did so only after full deliberation and as a last resort. The County's bankruptcy filing was undertaken in "good faith," and nothing about the Liquidity Banks' single authority or misplaced arguments changes this fact.

II. ALABAMA HAS EXPRESSLY AUTHORIZED THE COUNTY TO SEEK BANKRUPTCY PROTECTION IN SECTION 11-81-3

The State of Alabama in Section 11-81-3 of the Alabama Code expressly authorized every Alabama county to proceed under the Bankruptcy Code for readjustment of its debts, so Jefferson County is eligible under Section 109(c)(2) to be a debtor under Chapter 9.[5] Both the

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[4] As discussed in the Eligibility Memorandum at 12-13, the Occupational Tax enacted in 2009 was declared unconstitutional in March 2011 by the Alabama Supreme Court in an action prosecuted by the Weissman objectors. Weissman Obj. Ex. 5.

[5] The Liquidity Banks suggest there is some presumption *against* the County being authorized to file Chapter 9 that the County must overcome. *See* Liquidity Bank Obj. at 6. This is wrong. Although the County must demonstrate that it has met the conditions set forth in Bankruptcy Code Section 109(c)(2) (which it has), there is nothing in the Bankruptcy Code or Alabama state law that sets even higher hurdles for the County to jump. *See, e.g.*, *Hamilton Creek Metro. Dist. v. Bondholders Colo. Bondshares (In re Hamilton Creek Metro. Dist.)*, 143 F.3d 1381, 1384 (10th Cir. Colo. 1998) ("To be eligible for chapter 9 relief, a petitioner must meet several criteria, which

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language and history of Section 11-81-3 confirm that conclusion. Even if the objectors were correct, however, that Section 11-81-3 limits bankruptcy access to a county "which shall authorize the issuance of refunding or funding bonds," the County unquestionably satisfies such a requirement.

A. The Language of Section 11-81-3 Establishes That Alabama Authorized All Its Counties to Seek Bankruptcy Protection.

The starting and ending point for the Section 109(c)(2) analysis in this case is and should be the language of Section 11-81-3. That provision states:

> The governing body of any county, city or town, or municipal authority organized under Article 9, Chapter 47 of this title which shall authorize the issuance of refunding or funding bonds may exercise all powers deemed necessary by the governing body for the execution and fulfillment of any plan or agreement for the settlement, adjustment, refunding, or funding of the indebtedness of the county, city or town, or municipal authority organized under Article 9, Chapter 47 of this title not inconsistent with the provisions of law relating to the issuance of refunding or funding bonds. Without limiting the generality of any of the foregoing powers, it is expressly declared that the governing body shall have the power to take all steps and proceedings contemplated or permitted by any act of the Congress of the United States relating to the readjustment of municipal indebtedness, and ***the State of Alabama*** hereby gives its assent thereto and ***hereby authorizes each county, city or town, or municipal authority organized under Article 9, Chapter 47 of this title in the state to proceed under the provisions of the acts for the readjustment of its debts***.

ALA. CODE § 11-81-3 (emphasis added). "Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used a court is bound to interpret that language to mean ***exactly what it says***. If the language of the statute is unambiguous, then there is no room for judicial construction and the clearly expressed intent of the legislature must be given effect." *Blue Cross & Blue Shield of Ala., Inc. v. Nielsen*, 714 So.

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are to be construed broadly to provide access to relief in furtherance of the Code's underlying policies."); S. Rep. No. 94-458, 94th Cong., 1st Sess. at 13 (1975) ("The provisions of [chapter 9] should provide ready access to the bankruptcy courts.").

2d 293, 296 (Ala. 1998) (emphasis added) (quoting *IMED Corp. v. Sys. Eng'g Assocs. Corp.*, 602 So. 2d 344, 346 (Ala. 1992)).

In the simplest terms, "each" means "every," not "some." *See Webster's New World College Dictionary* (3d ed. 1997) (defining "each" as "each, every," or "every one of two or more considered separately"). Because "each county" means every county, all 67 counties in Alabama, including Jefferson County, are empowered to proceed under the federal bankruptcy laws pertaining to municipalities. As a result, the County has been "specifically authorized" to be a Chapter 9 debtor by the State of Alabama as required by Bankruptcy Code Section 109(c)(2). 11 U.S.C. § 109(c)(2).

By authorizing "each county" to seek bankruptcy protection without further qualification, the Legislature did not limit the bankruptcy authorization to counties with a particular kind of debt. *See, e.g., Ex parte Jenkins*, 723 So. 2d 649, 653 (Ala. 1998); *House v. Cullman County*, 593 So. 2d 69, 75 (Ala. 1992) (both stating the rule that the exclusion of language from a statute is presumed to be intentional). And because the Legislature elected not to impose such a requirement, one cannot now be constructed judicially – this Court should neither engraft upon a sentence that says nothing about bonds a limitation based on bonds, nor limit the statute so as to excise "each" from it. *See, e.g., Boyd v. State*, 960 So. 2d 722, 724 (Ala. 2006) (See, J., concurring) ("We will not add words to a statute in order to draw a certain meaning."); *Standard Oil Co. v. State*, 118 So. 281, 282 (Ala. 1928) ("It is not to be presumed the Legislature has used language without any meaning or application whatever.").

Rather than explain why the statute's language does not mean what it says, the objectors focus their attention on different parts of Section 11-81-3 that have no relevance to the question of bankruptcy authorization for the County. The objectors concentrate particularly on the first

sentence of the statute, in order to engraft restrictions on resort to bankruptcy that the Legislature did not. *See, e.g.*, Trustee Obj. at 8-9 & 12-13; Liquidity Bank Obj. at 7-10.

The structure of the statute contains two sentences (the latter with two independent clauses), and should be read accordingly. The first sentence of the statute does not pertain to federal bankruptcy relief. Instead, that first sentence allows governing bodies of counties and other specified political subdivisions "which shall authorize the issuance of refunding or funding bonds" to "exercise all powers deemed necessary by the governing body for the execution and fulfillment of any plan or agreement for the settlement, adjustment, refunding, or funding of the indebtedness of the [municipality] not inconsistent with the provisions of law relating to the issuance of refunding or funding bonds." ALA. CODE § 11-81-3. Under the authority granted by that first sentence, for example, a county might take advantage of state-created compositions or other arrangements.[6]

The second sentence of the statute, in turn, speaks to authorization to take advantage of *federal* relief, and the sentence contains two distinct clauses, each of which stands on its own. The first clause refers back to the governing bodies referenced in the first sentence (*i.e.*, ones "which shall authorize the issuance of refunding or funding bonds") and gives those bodies authority to avail themselves of the federal bankruptcy laws. Then, the second clause, more broadly gives the express assent of the State for "***each county***," not each governing body, to proceed under the Bankruptcy Code.

Faced with language authorizing each county in the State to seek Chapter 9 protection, the objectors seek to restrict the broad language in the second clause of the second sentence to

[6] Such utilization of state-created compositions is specifically contemplated by the Bankruptcy Code. *See* 11 U.S.C. § 903 (recognizing the continued vitality of state law composition of municipal debt subject to certain limitations, namely that "(1) a State law prescribing a method of composition of indebtedness of such municipality may not bind any creditor that does not consent to such composition; and (2) a judgment entered under such a law may not bind a creditor that does not consent to such composition").

governing bodies "which shall authorize the issuance of refunding or funding bonds." That analysis, however, reads the second clause of the second sentence out of the statute and adds to that the second sentence restrictive language the Legislature did not include. When the Legislature "includes specific language in one section of a statute, but omits that language from another section of the statute, [courts] must presume that the exclusion of the language was intentional." *Pinigis v. Regions Bank*, 977 So. 2d 446, 453 (Ala. 2007) (internal quotation and citation omitted); *see also Russello v. United States*, 464 U.S. 16, 23 (1983) ("Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.") (quoting *U.S. v. Wong Kim Bo*, 472 F.2d 720, 722 (5th Cir. 1972) (*cited with approval*, *Dees v. Coaker*, 51 So. 3d 323, 330 (Ala. Civ. App. 2009)); *Trott v. Brinks, Inc.*, 972 So. 2d 81 (Ala. 2007) ("We presume that the use of two different words indicates that the legislature intended the two words be treated differently"). The first sentence of the statute and the first clause of the second sentence of the statute make crystal clear that the Legislature knew how to refer to governing bodies when it so intended, so there is no basis whatsoever to suggest that the Legislature's use of the broader term "each county" in the second clause of the second sentence should be ignored.

In sum, the plain language of Section 11-81-3 authorizes each county in the State to seek Chapter 9 bankruptcy protection, so the County meets the requirement of Section 109(c)(2).

B. The History of Section 11-81-3 Confirms That Alabama Has Authorized All Its Counties to Seek Bankruptcy Protection.

A review of the historical origins and codifications of Section 11-81-3 confirms that the Legislature always granted broad municipal access to bankruptcy and never evinced any

intention for bankruptcy relief to be limited to counties whose governing bodies had issued refunding or funding bonds that remain outstanding.

As noted above, courts interpreting Alabama statutes must "ascertain and give effect to the legislature's intent as expressed in the words of the statute." *BP Exploration & Oil, Inc. v. Hopkins*, 678 So. 2d 1052, 1054 (Ala. 1996). To do this, courts "look[ ] to the plain meaning of the words as written by the legislature." *DeKalb Cnty. LP Gas Co. v. Suburban Gas*, 729 So. 2d 270, 275 (Ala. 1998). When the Legislature first wrote the words enabling "each county" to take advantage of the federal bankruptcy laws in Act 1935-197, those words were placed in a stand-alone sentence, completely separate from any sentence referencing governing bodies authorized to issue refunding or funding bonds. That they are now part of the second sentence did not cause any change in bankruptcy eligibility for Alabama municipalities.

1. The First Version: Act 1935-197.

Act 197 as passed in 1935 consists of three sentences, the last one of which authorized all Alabama municipalities to proceed under the federal bankruptcy laws:

> The governing body of any county, city or town which shall authorize the issuance of refunding or funding bonds may exercise all powers deemed necessary by such governing body for the execution and fulfillment of any plan or agreement for the settlement, adjustment, refunding or funding of the indebtedness of such county, city or town, not inconsistent with the provisions of law relating to the issuance of refunding or funding bonds. Without limiting the generality of any of the foregoing powers, it is expressly declared that any such governing body shall have the power to take all steps and proceedings contemplated or permitted by any act of the Congress of the United States then in force relating to the readjustment of municipal indebtedness. **And the State of Alabama hereby gives its assent to the Act of Congress approved May 24, 1934, entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United State', Approved July 1, 1898, and acts amendatory thereof and supplemental thereto," and hereby authorizes each county, city or town in the State to proceed under the provisions of said Act for the readjustment of its debts.**

Act 1935-197 (emphasis added) (attached as Exhibit A). The last sentence says nothing whatsoever about bonds or any other form of debt. That sentence says "each," and it is completely separate from the previous sentences that mention bonds. Indeed, the authorizing sentence says nothing about governing bodies, bonds, or governing bodies that have issued bonds. Accordingly, a limitation of Alabama's bankruptcy authorization to only those counties that have issued a particular kind of debt instrument is irreconcilable with the structure and words the Legislature chose.

2. The Second Version: The 1940 Code.

The Legislature codified Act 197, along with another debt management provision, in Title 37, Section 253 of the 1940 Alabama Code:

> The governing body of any county, city, or town which shall authorize the issuance of refunding or funding bonds may exercise all powers deemed necessary by such governing body for the execution and fulfillment of any plan or agreement for the settlement, adjustment, refunding or funding of the indebtedness of such county, city or town, not inconsistent with the provisions of law relating to the issuance of refunding or funding bonds. Without limiting the generality of any of the foregoing powers, it is expressly declared that any such governing body shall have the power to take all steps and proceedings contemplated or permitted by any act of the congress of the United States, relating to the readjustment of municipal indebtedness. **And the State of Alabama hereby gives its assent thereto, and hereby authorizes each county, city or town in the state to proceed under the provisions of such acts for the readjustment of its debts.** The governing body of any municipality in this state is hereby authorized to issue, without an election, refunding interest-bearing certificates of indebtedness or refunding interest-bearing warrants or refunding interest-bearing notes maturing at such time or times as the governing body may determine, not exceeding thirty years from their respective dates, for the purpose of funding or refunding a like or greater amount of the principal of and interest of outstanding certificates of indebtedness or interest bearing warrants or notes of such municipality not exceeding the amount of such indebtedness whether the same are due at the time of such funding or refunding or at a later date, or for the purpose of refunding or discharging any judgment or judgments based upon such obligations, and the governing body of any such municipality may pledge to the payment of the principal of and interest on said refunding certificates of indebtedness or refunding interest bearing warrants, or

> refunding notes any tax, or license, or revenues which the municipality may then be authorized to pledge to the payment of bonded or other indebtedness.

ALA. CODE § 37-253 (1940) (emphasis added) (attached at Exhibit B). The critical operative language of Act 197 – the final sentence expressly authorizing "each county, city or town" to declare bankruptcy, separate from the sentence mentioning bonds – remained unchanged. *See id.*[7]

3. The Third Version: The 1976 Amendment.

The Legislature made one minor change to Section 253 before that section was recodified in the 1975 Code, but left the bankruptcy authorization unchanged:

> The governing body of any county, city, or town which shall authorize the issuance of refunding or funding bonds may exercise all powers deemed necessary by such governing body for the execution and fulfillment of any plan or agreement for the settlement, adjustment, refunding or funding of the indebtedness of such county, city or town, not inconsistent with the provisions of law relating to the issuance of refunding or funding bonds. Without limiting the generality of any of the foregoing powers, it is expressly declared that any such governing body shall have the power to take all steps and proceedings contemplated or permitted by any act of the congress of the United States, relating to the readjustment of municipal indebtedness. **And the state of Alabama hereby gives its assent thereto, and hereby authorizes each county, city or town in the state to proceed under the provisions of such acts for the readjustment of its debts.** The governing body of any municipality in this state is hereby authorized to issue, without an election, refunding interest-bearing certificates of indebtedness or refunding interest-bearing warrants or refunding interest-bearing notes maturing at such time or times as the governing body may determine, not exceeding thirty years from their respective dates, for the purpose of funding or refunding outstanding certificates of indebtedness or warrants or notes of such municipality (or any combination thereof), whether the same are due at the time of such funding or refunding or at a later date, in an aggregate principal amount not exceeding the sum of (a) the outstanding principal of such outstanding certificates, warrants or notes, (b) the interest accrued and unpaid thereon plus the interest to mature thereon until the earliest date on which, under

[7] The Legislature recodified the bankruptcy authorization with no changes in the 1958 Code. *See* ALA. CODE § 37-253 (1958) (attached as Exhibit C).

> their terms, they may be redeemed or paid, and (c) the amount of any redemption premium required, by their terms, to be paid as a condition to their redemption prior to their respective maturities, or for the purpose of refunding or discharging any judgment or judgments based upon such obligations, and the governing body of any such municipality may pledge to the payment of the principal of and interest on said refunding certificates of indebtedness or refunding warrants, or refunding notes any tax, or license, or revenues which the municipality may then be authorized to pledge to the payment of bonded or other indebtedness.

Act 1976-107 (emphasis added) (attached as Exhibit D).

4. The Fourth Version: The 1975 Code.

Section 253 underwent two structural, but not substantive, changes before appearing in the 1975 Code as Alabama Code Section 11-81-3. First, the provision that had not been in Act 197 but that had been codified with it in the 1940 Code was moved to another section. Second, the last two sentences of Act 197's bankruptcy authorization were combined. In full, the section in the 1975 Code read:

> The governing body of any county, city or town which shall authorize the issuance of refunding or funding bonds may exercise all powers deemed necessary by such governing body for the execution and fulfillment of any plan or agreement for the settlement, adjustment, refunding or funding of the indebtedness of such county, city or town not inconsistent with the provisions of law relating to the issuance of refunding or funding bonds. Without limiting the generality of any of the foregoing powers, it is expressly declared that any such governing body shall have the power to take all steps and proceedings contemplated or permitted by any act of the Congress of the United States relating to the readjustment of municipal indebtedness, and **the State of Alabama hereby gives its assent thereto and hereby authorizes each county, city or town in the state to proceed under the provisions of such acts for the readjustment of its debts**.

ALA. CODE § 11-81-3 (1975) (emphasis added) (attached as Exhibit E). This revision effected a grammatical, but not a substantive, change in the law. It remains the case that the two clauses of the second sentence could be broken into separate sentences, with the last clause reading in full: "The State of Alabama hereby gives its assent thereto and hereby authorizes each county, city or

town, or municipal authority organized under Article 9, Chapter 47 of this title in the state to proceed under the provisions of the acts for the readjustment of its debts." Thus, the Legislature's combining what historically were two sentences into one does not change the meaning of the statute.

5. The Fifth Version: The Current Version.

Section 11-81-3 remains unchanged from the 1975 Code except for amendments made in 2001 that, *inter alia*, expanded eligibility for Chapter 9 relief to certain municipal authorities:

> The governing body of any county, city or town, or municipal authority organized under Article 9, Chapter 47 of Title 11 of the Code of Alabama 1975, which shall authorize the issuance of refunding or funding bonds may exercise all powers deemed necessary by the governing body for the execution and fulfillment of any plan or agreement for the settlement, adjustment, refunding, or funding of the indebtedness of the county, city of town, or municipal authority organized under Article 9, Chapter 47 of Title 11 of the Code of Alabama 1975, not inconsistent with the provisions of law relating to the issuance of refunding or funding bonds. Without limiting the generality of any of the foregoing powers, it is expressly declared that the governing body shall have the power to take all steps and proceedings contemplated or permitted by any act of the Congress of the United States relating to the readjustment of municipal indebtedness, and **the State of Alabama hereby gives its assent thereto and hereby authorizes each county, city or town, or municipal authority organized under Article 9, Chapter 47 of Title 11 of the Code of Alabama 1975, in the state to proceed under the provisions of the acts for the readjustment of its debts**.

Act 2001-959 (emphasis added) (attached hereto as Exhibit F). Act 2001-959 also replaced every reference in section 11-81-3 to "such governing body" with "***the*** governing body." *Id.* (emphasis added).

Tracing the language of the bankruptcy authorization thus reveals that the Legislature has never restricted its original 1935 authorization to only those counties with bond debt. The Legislature's broad assent for "each county" to utilize the federal bankruptcy laws – separate

from its mention of governing bodies that issue bonds in connection with the refunding or funding of existing indebtedness – remains the law today.

Nevertheless, the objectors argue that the bankruptcy authorization is limited by the reference in the first sentence of the statute to "the governing body of any county, city or town, or municipal authority . . . which shall authorize the issuance of refunding or funding bonds" to only those counties that have, on their petition date, outstanding refunding or funding bonds. There is no historical, textual, or policy basis for that argument.

The 1975 codification of Section 11-81-3 combined the bankruptcy authorization with a sentence referring to "such governing body," but that conjunction does not support a conclusion that the Legislature radically altered its original, unrestricted grant of bankruptcy eligibility. The Alabama Code itself forecloses that argument. The Code expressly provides that the codification did not repeal any statutes "relating to the public debt or authorizing the issuance of bonds or other evidence of indebtedness by the state or any county, municipality, political subdivision or agency thereof." ALA. CODE § 1-1-10. Thus, the codification could not have effected a repeal of the bankruptcy authorization for all counties that did not have outstanding bond debt. Accordingly, there is not – and never has been – any basis for limiting the authorization for "each county" to declare bankruptcy based on the reference to bond issuance in the preceding sentence.

This analysis of the history of Section 11-81-3 and its provisions confirms that the plain authorization by the Legislature for each county in the State to seek bankruptcy protection is not limited by other provisions of the statute.

C. Even if Section 11-81-3 Could Be Read to Limit Access to Chapter 9 Bankruptcy Protection to Only Those Counties "Which Shall Authorize the Issuance of Refunding or Funding Bonds," Jefferson County Has Met Any Such Requirement.

Although the objectors unsuccessfully stretch and strain to limit the State's bankruptcy authorization to governing bodies "which shall authorize the issuance of refunding or funding bonds," the County would still be authorized to file under Chapter 9 even if that language applied (which it does not). Under any credible meaning of that phrase, the County satisfies the requirement.

When language in a statute "may be understood in more than one way" or "refers to two or more things at the same time," *Zitterow v. Nationwide Mut. Ins. Co.*, 669 So. 2d 109, 112 (Ala. 1995) (citation omitted), a court may rely on common rules of statutory construction to determine the meaning of the statute. To ascertain the meaning of any ambiguous language in a statute, courts give words their ordinary meaning. *Nielsen*, 714 So. at 296. "[S]tatutory language depends on context," *Bean Dredging, L.L.C. v. Alabama Dept. of Revenue*, 855 So. 2d 513, 517 (Ala. 2003), and courts must strive to interpret ambiguous language as to give the entire statute rational meaning. *See Ex parte USX Corp.*, 881 So. 2d 437, 442 (Ala. 2003).

The most straightforward, logical, and contextual interpretation of the phrase "governing body . . . which shall authorize the issuance of refunding or funding bonds" is it is part of the statute in order to identify who has the authority to exercise the debt adjustment authority provided by the first sentence of the statute. Under Alabama law, different kinds or classes of political subdivisions have different governing bodies, and some types of subdivisions may be organized with different governing bodies. *See* ALA. CODE §§ 11-40-12, 11-44-1, 11-44A-1, 11-44B-1, 11-44C-1, 11-43A-1, 11-44E-1 (describing classes of municipalities and governing bodies). The Legislature in enacting Section 11-81-3 could not have identified the entity in

which the authority vested by the first sentence rests simply by reference to a council or commission or mayor. Thus, in the context of the statute (and municipal finance in general), the understanding of the "shall authorize" clause in the first sentence of the section as being a generic, universally applicable statement of where the statute's authority is vested makes sense. It assigns the phrase a descriptive function of noting the particular governing body that enjoys the statutory authority to issue bonds. Accordingly, this Court should read "which shall authorize the issuance of . . . bonds" as simply describing which governing body in a county or other specified political subdivision (*e.g.*, city council, not mayor) may exercise the authority allowed under the statute's first sentence. The Jefferson County Commission indisputably is that governing body for the County. ALA. CODE. § 11-1-5 ("each county governing body in this state shall. . . be designated and known as the (name of county) county commission.") (underlining in original); Act No. 97-147 (local law establishing the current single-member district governing body known as the Jefferson County Commission").

The objectors take a much more tenuous position on the meaning of the phrase. They insist that the words "shall authorize" should be read to mean "have in the past authorized," but that interpretation does not comport with the ordinary meaning of those words. "Shall" is not commonly understood to mean "has." *Black's Law Dictionary* assigns five possible meanings to "shall," none of which even suggests "has." *See Black's Law Dictionary* 1407 (8th ed. 1999) (defining "shall" as "has a duty to," "should," "may," "will," or "is entitled to," but not "has"). *Cf. Ex parte Nat'l W. Life. Ins. Co.*, 899 So. 2d 218, 224 (Ala. 2004) (considering *Black's* definition of ambiguous language).

Indeed, "has" denotes the exact opposite of "shall." All five *Black's* definitions of "shall" look forward – they refer either to a capacity or a duty to take some action. None of the

definitions look backward – none refers to an action that has already been taken. Accordingly, this Court should not read "shall authorize the issuance of . . . bonds" to mean "has authorized the issuance of bonds."

But even if the objectors were correct on that score, the County would still meet the requirement. On at least nine occasions dating back to the 1930s, the Jefferson County Commission issued bonds, and certified copies of the resolutions authorizing those issuances are attached as Exhibit G. In addition, the Jefferson County Commission on July 26, 2011, approved a resolution authorizing, *inter alia*, the issuance of funding and refunding bonds, and a certified copy of that resolution is attached as Exhibit H. The Commission issued that recent authorization so as to "have at its disposal all available means to address [its current financial] challenges." *See* Exhibit H, at 3.

The County's history of bond indebtedness particularly when combined with its current authorization for issuance of bonds, readily distinguishes this action from the *City of Prichard* case, upon which the objectors place such heavy reliance. In the *City of Prichard* case, there was no evidence of any past or present authorization by the governing board of the city for issuance of bonds. As a result, the court in that action had no occasion to consider the significance of such evidence. This Court, by contrast, can make a finding based on the evidence that the County has "authorize[d] the issuance of refunding or funding bonds" and, therefore, in the unlikely event that the phrase requires past action as the objectors suggest, the County nonetheless satisfies the requirement.

It is true, as the objectors note, that the County does not have any bond indebtedness currently outstanding, but that fact has no relevance whatsoever to the question whether the County could satisfy the phrase "which shall authorize the issuance of refunding or funding

bonds." The objectors, citing the decision of the Bankruptcy Court in *City of Prichard*, argue that the phrase requires that bonds be outstanding on the petition date in order for that requirement to be satisfied. But language can only be stretched so far, and that interpretation stretches the language of the statutory phrase beyond the breaking point. Nothing in Section 11-81-3 can possibly be construed to require not just past ***authorization***, but also actual ***issuance*** of bonds that remain ***outstanding***. Indeed, the objectors' interpretation of the statute would have the text read "which shall have issued refunding or refunding bonds that remain outstanding," which is simply not what the text says and which reads the words "shall authorize" prior to "the issuance" out of the statute.[8] At bottom, the statutory text requires only authorization, and this Court need inquire no further even if the phrase were applicable since the County ***is*** one that has "authorized the issuance of refunding or funding bonds." The only response the objectors have on this front is to state cryptic reservations of rights that they do not actually have. *See, e.g.*, Liquidity Bank Obj. at 18 n.8; FGIC Obj. ¶ 9 & at 7 n.7.

In sum, although the phrase "which shall authorize the issuance of refunding or funding bonds" has no applicability to the second clause of the second sentence of Section 11-81-3, the County satisfies any credible interpretation of the phrase even if it applied. It is only if one imports into the phrase the concepts that bonds must have both been issued and remain outstanding on the petition date that the County would not be authorized to file Chapter 9 under Alabama law. But no canon of statutory construction would permit the disregard of the statute's language that such an interpretation requires.

[8] Additionally, as discussed above, that phrase would have to be part of the second clause of the second sentence. But for present purposes it is sufficient to note that the objectors' substitute phrase appears nowhere in any part of Section 11-81-3.

D. The Interpretation of Section 11-81-3 Proposed By Objectors Would Lead to Absurd Results.

This Court should also not interpret Section 11-81-3 as limiting bankruptcy authorization to only those counties that have issued bonds that remain outstanding because such a reading would produce absurd results. "In deciding between alternative meanings" for a statutory provision, this Court "presume[s] that the legislature intended a rational result." *John Deere Co. v. Gamble*, 523 So. 2d 95, 100 (Ala. 1988). That presumption does not permit interpretations that produce unreasonable or absurd results. "It has been called a golden rule of statutory interpretation that unreasonableness of the result produced by one among alternative possible interpretations of a statute is reason for rejecting that interpretation . . . . A construction resulting in absurd consequences as well as unreasonableness will be avoided." *Ex parte Meeks*, 682 So. 2d 423, 428 (Ala. 1996) (quoting *Sutherland Statutory Construction* § 45.11).

Indeed, the restriction of the bankruptcy authorization to counties with bond debt would produce several absurd results, none of which would advance the role of the State as "the initial gatekeeper to chapter 9 relief for municipalities." Trustee Objection at 5.[9] First, such a restriction would prevent counties that have not issued bonds from reorganizing their debt ***at all***. The objectors urge this Court to hold that the ***entirety*** of Section 11-81-3 – both its broad permission for reorganization and its specific assent to bankruptcy – applies only to counties with governing bodies that have outstanding bond debt. If this Court adopts that interpretation, counties without outstanding bonded forms of indebtedness will be unable not only to declare bankruptcy, but also to "exercise . . . powers deemed necessary . . . for the execution and

[9] Exhibit 2, Part 5, at page 14, to the Trustee's Objection elaborates upon this concept, but notes that the gatekeeping function is exercised by, for example, requiring written consent from a state's governor, attorney general or other supervisory authority. The notion that Alabama was exercising its gatekeeper function by distinguishing between bond and warrant debt finds no support in history, logic or, for that matter, in the statutory language.

fulfillment of any plan or agreement for the . . . adjustment . . . of the indebtedness" of the county. ALA. CODE § 11-81-3.

The Legislature cannot possibly have intended that only counties with outstanding indebtedness in the form of bonds would be able to reorganize their debts. Counties and municipalities in Alabama have been issuing warrants for more than a century, *see, e.g.*, *Littlejohn v. Littlejohn*, 71 So. 448, 448 (1916) (discussing issuance of warrants), and neither the Alabama Supreme Court nor the Legislature has ever said that counties cannot reorganize warrant indebtedness. Indeed, history establishes otherwise. *See, e.g.*, *In re Town of Millport*, No. 04-73885, Docket No. 106 (Bankr. N.D. Ala. Oct. 30, 2006) (order confirming a Chapter 9 plan for reorganizing warrant debt).

Second, the objectors' position would require counties that wish to declare bankruptcy but do not have any outstanding bonds to compound their already overwhelming indebtedness by – of all things – issuing bonds. It is inconceivable that this could be the rule. The Legislature could not have been so illogically -technical in its authorization for bankruptcy as to require a county buckling under crushing debt of one kind to issue more debt of another kind before commencing bankruptcy proceedings. That would be the pinnacle of unreasonableness.

Third, the objectors' position would treat identically situated financially strapped counties oppositely. Were the objectors' argument the law, a county struggling to service $3 billion in bond debt would be authorized to declare bankruptcy, but a county struggling to pay the same $3 billion in warrant obligations would not. For all practical purposes, the two counties face the same underlying problem – they each carry a staggering debt load for which they need relief – but only one of them may even consider the bankruptcy option. And the objectors' position would permit a single dollar of bond debt held by the latter county to alter its

entitlement to seek bankruptcy protection. The objectors cannot explain how that result could be a reasonable interpretation of the statute.

The practical reality of modern county debt places the absurdity of the objectors' position in particularly sharp relief. As of September 30, 2010, only three Alabama counties carried bond debt. *See* Department of Examiners of Public Accounts, Report on the Financial Statements All Counties (Feb. 18, 2011), *available at* http://www.examiners.alabama.gov/PDFs/Audit11X-0002.pdf (last accessed December 13, 2011) (recording types of outstanding indebtedness for each county as of September 30, 2010). In contrast, 56 counties (including Jefferson County) carried warrant debt but no bond debt. *Id.* Under the objectors' reasoning, only the three counties with bond debt would be statutorily authorized to declare bankruptcy, and all 56 counties whose long-term debt takes the form of warrants would be statutorily barred from commencing federal bankruptcy proceedings. That result is absurd. It takes a critical option – indeed, one that Congress originally made available in response to "a national emergency caused by increasing financial difficulties of many local governmental units," 48 Stat. 798 § 78 – off the table for almost all Alabama counties. The Legislature could not have intended to authorize bankruptcy for only a handful of struggling localities.

The position being advanced by the objectors that a county must have outstanding bond debt in order to seek bankruptcy protection is hardly a self-evident reading of the statute. As a result, the canon of construction that one avoids an interpretation that produces absurd results is squarely in play. Thus, far from being an appeal to override Legislative choices based on an appeal for fairness as objectors suggest, the consideration of the absurdity of the result is precisely how Alabama courts approach interpretation of an Alabama statute in these circumstances.

E. The Introduction of a Bill by Two Alabama Legislators in 2011 Has No Bearing on How This Court Must Interpret Section 11-81-3.

Faced with an unambiguous statutory text that specifically authorizes the County to proceed under Chapter 9, the objectors make a last-ditch attempt to bolster their meritless position by citing to a bill introduced in 2011 in the Alabama House of Representatives that would have amended Section 11-81-3. *See, e.g.*, Trustee Obj. at 14-15; Liquidity Bank Obj. at 13-14; Weissman Obj. ¶ 13. That bill did not pass. The fact that two members of the Alabama Legislature dropped a bill pertaining to this statute is of absolutely no legal significance to the question whether this Court will adhere to the plain language of Section 11-81-3. "[F]ailed legislative proposals are a particularly dangerous ground on which to rest an interpretation of a prior statute." *Ankrom v. State*, --- So. 3d ---, 2011 WL 3781258, at *10 (Ala. Crim. App. Aug. 26, 2011) (citations and internal punctuation omitted). Indeed, the Supreme Court of the United States has held that legislative inaction on a bill "lacks persuasive significance because several equally tenable inferences may be drawn from such inaction, ***including the inference that the existing legislation already incorporated the offered change***." *Pension Benefit Guar. Corp. v. LTV Corp.*, 496 U.S. 633, 650 (1990) (emphasis added; citations and quotation marks omitted). Not surprisingly, the objectors cite no authority in support of the proposition that such a failed bill is relevant to the interpretation of the meaning of an enacted statute.

F. The Decision of the Bankruptcy Court in the *City of Prichard* Case Should Be Rejected.

The fact that the bankruptcy court in the *City of Prichard* case concluded that only a municipality that has outstanding bond debt can seek bankruptcy protection is not controlling in this matter, and that court's interpretation strays so far from the plain language of the statute that it should be rejected. Indeed, it is worth noting that the court in that matter did not issue a written opinion explaining its reasoning. Instead the court made a short, conclusory verbal ruling

from the bench without any meaningful discussion of its reasoning. *See* Exhibit I at 10-18. In light of the thinness of that record, it is hardly surprising that the District Court to which the City of Prichard appealed quickly certified a question under Section 11-81-3 to the Alabama Supreme Court for decision.[10] Furthermore, as noted above, this case involves significant and potentially critical factual differences from the *City of Prichard* matter: not only has the County issued bonds in the past, but the Jefferson County Commission recently specifically authorized the issuance of refunding or funding bonds. Accordingly, even the court in the *City of Prichard* matter likely would have not reached the same result on these very different facts.

G. If the Court Has Substantial Doubt Regarding the Interpretation of Section 11-81-3, Certification to the Alabama Supreme Court May Be Appropriate.

One of the objectors argues that if the Court is not prepared to dismiss the County's Chapter 9 case (which it should not), then the Court could certify "the essential Alabama state law questions" to the Alabama Supreme Court. *See* FGIC Obj. ¶¶ 10-13; *see also* Weissman Obj. ¶¶ 14-15. The County agrees that certification to the Alabama Supreme Court is an available option if this Court has substantial doubt about the proper interpretation of Alabama Code Section 11-81-3. *See, e.g.*, *Pope v. Gordon (In re Camp)*, 310 B.R. 634, 648-49 (Bankr. N.D. Ala. 2004) (certifying question concerning the interpretation of the Alabama Code to the Alabama Supreme Court); *Pope v. Gordon*, 922 So. 2d 893, 894-99 (Ala. 2005) (*per curiam*) (accepting and answering the Court's certified question). In the event that the Court is otherwise

[10] The certified question has been accepted by the Alabama Supreme Court. The County filed an *amicus* brief in that proceeding, and copies of that *amicus* brief and the parties' briefs are attached to the Trustee Objection. The Court should be aware that the County believes the certified question in the *City of Prichard* matter was overbroad and does not capture the levels of nuance involved in a full interpretation of Alabama Code Section 11-81-3. In the event that this Court believes certification is appropriate, the County has proposed below how it believes the questions should be framed to capture the nuances.

inclined to dismiss the County's Chapter 9 case, the County submits that certification should be pursued before the Court proceeds down that path.

Nevertheless, the County believes that FGIC states an unduly limited and imprecise pair of questions for certification. In the event that the Court is inclined to certify questions to the Alabama Supreme Court, the County respectfully suggests that those questions be framed in the following manner:

1. Are all counties in Alabama permitted to file bankruptcy pursuant to Section 11-81-3 of the Alabama Code?

2. If not, are all counties in Alabama that have authorized the issuance of refunding or funding bonds permitted to file bankruptcy pursuant to Section 11-81-3 of the Alabama Code?

3. If not, are all counties in Alabama that have previously issued refunding or funding bonds permitted to file bankruptcy pursuant to Section 11-81-3 of the Alabama Code?

These questions frame the issue in a clear, neutral manner, and will allow the Alabama Supreme Court to resolve the issue in a way that recognizes the factual distinctions between Jefferson County and the *City of Prichard* case that is currently before the court on certification of a question that is overbroad as applied to the County.

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CONCLUSION

For all the reasons set forth above, contained in the Eligibility Memorandum, and that will be presented at the hearings scheduled for December 15 and 16, 2011, the County respectfully requests that the Court find that the County is eligible to be a Chapter 9 debtor and order relief under Bankruptcy Code Section 921(d).

Respectfully submitted this 13th day of December, 2011.

By: /s/ J. Patrick Darby

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CERTIFICATE OF SERVICE

I hereby certify that on December 13, 2011, a copy of the foregoing was served upon all parties identified on the attached service list by the means specified therein.

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Securities and Exchange Commission Reorganization Branch 950 East Paces Ferry Road, N.E., Suite 900 Atlanta, GA 30326-1382 Attention: Susan R. Sherrill-Beard, Senior Trial Counsel David W. Bradley, Senior Trial Counsel sherrill-beards@sec.gov baddleyd@sec.gov	The Bank of Nova Scotia c/o Laura E. Appleby Chapman and Cutler LLP 330 Madison Ave. 34th Floor New York, NY 10017 appleby@chapman.com
Lloyds TSB Bank PLC c/o Laura E. Appleby Chapman and Cutler LLP 330 Madison Ave. 34th Floor New York, NY 10017 appleby@chapman.com	The Bank of Nova Scotia c/o Ann E. Acker c/o James E. Spiotto Chapman and Cutler, LLP 111 W. Monroe St. Chicago, IL 60603 acker@chapman.com spiotto@chapman.com
Lloyds TSB Bank PLC c/o Ann E. Acker c/o James E. Spiotto Chapman and Cutler, LLP 111 W. Monroe St. Chicago, IL 60603 acker@chapman.com spiotto@chapman.com	Appellant Carmella Macon Appeal No. 1101270 in the Supreme Court of Alabama c/o Matthew Weathers Weathers Law Firm, LLC P.O. Box 1826 Birmingham, AL 35201 mweathersmatt@gmail.com

Lloyds TSB Bank PLC c/o Donald M. Wright c/o Stephen B. Porterfield Sirote & Permutt, P.C. 2311 Highland Avenue S. Birmingham, AL 35205 dwright@sirote.com sporterfield@sirote.com	U.S. Bank National Association, in its capacity as Indenture Trustee c/o Clark T. Whitmore c/o Kesha L. Tanabe Maslon Edleman Borman & Brand,LLP 3300 Wells Fargo Center 90 South Seventh Street Minneapolis, MN 55402-4140 clark.whitmore@maslon.com kesha.tanabe@maslon.com
Appellant William Casey Appeal No. 1101361 in Supreme Court of Alabama c/o Matthew Weathers Weathers Law Firm, LLC P.O. Box 1826 Birmingham, AL 35201 mweathersmatt@gmail.com	Beckman Coulter, Inc. c/o Kirk B. Burkley Bernstein Law Firm, P.C. Suite 2200 Gulf Tower Pittsburgh, PA 15219-1900 kburkley@bernsteinlaw.com
U.S. Bank National Association, in its capacity as Indenture Trustee c/o Charles R. Johanson III Engel, Hairston, & Johanson, P.C. 4th Floor, 109 20th Street (35203) P.O. Box 11405 Birmingham, AL 35202 rjohanson@ehjlaw.com	The Depository Trust & Clearing Corporation A Party in Interest c/o Adam T Berkowitz c/o Lawrence S. Elbaum Proskauer Rose LLP Eleven Time Square New York, NY 10036-8299 aberkowitz@proskauer.com lelbaum@proskauer.com
David Perry, Esq. Finance Director Office of the Governor State of Alabama Office of the Governor State Capitol, Room N-104 600 Dexter Avenue Montgomery, AL 36130 david.perry@governor.alabama.gov	City of Birmingham, Alabama c/o U.W. Clemon White Arnold & Dowd P.C. 2025 Third Avenue North, Suite 500 Birmingham, AL 35203 uwclemon@waadlaw.com
Wendell Major Public Employee of Jefferson County Alabama 3775 Gillespie Road Dolomite, AL 35061 majorpd@charter.net wendellmajor@themajorlawgroup.com	Jefferson County Board of Education c/o Whit Colvin Bishop, Colvin, Johnson & Kent, LLC 1910 First Avenue North Birmingham, AL 35203 wcolvin@bishopcolvin.com

Beers Properties, LLC Creditor c/o W.L. Longshore, III Longshore, Buck & Longshore, P.C. 2009 Second Avenue North Birmingham, AL 35203 Billy3@longshorebuck.com	All Temps Systems, Inc. c/o Andre' M. Toffel Andre' M. Toffel, P.C. Suite 300 600 North, 20th Street Birmingham, AL 35203 atoffel@toffelp.com
Mike Hale, in his official capacity as Sheriff of Jefferson County, Alabama c/o Robert R. Riley c/o Keith Jackson c/o Jay Murrill Riley & Jackson, P.C. 1744 Oxmoor Road Birmingham, AL 35209 jay@rileyjacksonlaw.com	Elevator Maintenance and Repair, Inc. Creditor c/o Charles N. Parnell, III Parnell & Crum, P.A. P.O. Box 2189 Montgomery, AL 36102-2180 bkrp@parnellcrum.com
Gene J. Gonsoulin A Party in Interest c/o A. Wilson Webb Webb Law Firm 4416 Linpark Drive Birmingham, AL 35222 awilsonwebb@gmail.com	Wells Fargo Bank, National Association as Indenture Trustee c/o Eric A. Schaffer c/o Luke A. Sizemore c/o Mike C. Buckley Reed Smith LLP 225 Fifth Ave., Suite 1200 Pittsburgh, PA 15230-2009 eschaffer@reedsmith.com lsizemore@reedsmith.com mbuckley@reedsmith.com
David Swanson Interested Party c/o Henry J. Walker Walker Law Firm 2330 Highland Ave. Birmingham, AL 35205 henryjwalker@bellsouth.net	Fraternal Order of Police Lodge 64 Robert Thompson, Aubrey Finley and William D. McAnally et al. on behalf of the Employees of the Jefferson County Sheriff's Office c/o Raymond P. Fitzpatrick 1929 Third Avenue North Birmingham, Alabama 35203 rpfitzpatrick@fcclawgroup.com
Bill George c/o Jon C. Goldfarb c/o Daniel Arciniegas c/o L. William Smith Wiggins, Childs, Quinn & Pantazis, LLC The Kress Building, 301 19th Street North Birmingham, AL 35203 wsmith@wcqp.com	Medical Data Systems Inc. c/o Bryan G. Hale Starnes Davis Florie LLP 100 Brookwood Place, 7th Floor Birmingham, AL 35209 bgh@starneslaw.com

VIA U.S. MAIL:

Luther Strange, Esq. Attorney General State of Alabama 501 Washington Avenue Montgomery, AL 36130	Alabama Department of Environmental Management c/o Tom Johnston, Esq. General Counsel 1400 Coliseum Blvd. Montgomery AL 36110
Environmental Protection Agency Ariel Rios Building 1200 Pennsylvania Avenue, N.W. Washington, DC 20460	Environmental Protection Agency Atlanta Federal Center 61 Forsyth Street, SW Atlanta, GA 30303-3104
The Depository Trust Company, on behalf of the holders of the Jefferson County, Alabama, General Obligation Capital Improvement Warrants, Series 2003-A and 2004-A 55 Water Street New York, NY 10041	Internal Revenue Service Centralized Insolvency Operation 600 Arch Street Philadelphia, PA 19106
Shoe Station, Inc. Attn: Michael T. Cronin, Esq. Johnson Pope Bokor Ruppel & Burns, LLP 911 Chestnut Street Clearwater, FL 33576	Bayerische Landesbank 560 Lexington Avenue 18th Floor New York, NY 10022 Attn: Francis X. Doyle Second Vice President
The Bank of New York Mellon Trust Company, N.A. (f/k/a The Bank of New York Trust Company of Florida, N.A.), as registrar, transfer agent and paying agent Attn: Charles S. Northen, IV 505 N. 20th Street Suite 950 Birmingham, AL 35203	National Public Finance Guarantee Corp. (f/k/a MBIA Insurance Corp.), as insurer of the General Obligation Capital Improvement and Refunding Warrants, 2003-A and Series 2004-A Attn: Daniel McManus, General Counsel 113 King Street Armonk, NY 10504
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University of Alabama Health Services Foundation, P.C. Attn: Patricia Pritchett 500 22nd Street South, Suite 504 Birmingham, AL 35233	Teklinks Inc. 201 Summit Parkway Homewood, AL 35209

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UAB Health System 619 19th Street South Jefferson Tower, Room J306 Birmingham, AL 35249-6805	Augmentation, Inc. 3415 Independence Drive, Suite 101 Birmingham, AL 35209-8315
AMCAD 15867 North Mountain Road Broadway, VA 22815	Brice Building Co., LLC 201 Sunbelt Parkway Birmingham, AL 35211
John Plott Company Inc. 2804 Rice Mine Road NE Tuscaloosa, AL 35406	Laboratory Corporation of America 430 South Spring Street Burlington, NC 27215 Attention: Legal Department
Universal Hospital Services Legal Department 700 France Avenue South Suite 275 Edina, MN 55435	John A. Vos Esq., Interested Party c/o John A. Vos, Esq. 1430 Lincoln Avenue San Rafael, CA 94901