



November 17, 2011

Chief Bankruptcy Judge Thomas B. Bennett
United States Bankruptcy Court
Southern Division
505 20th Street North, 4th Floor
Birmingham, Alabama 35203-2111

Re: In re: Jefferson County, Alabama
Chapter 9 Case No. 11-05736-TBB-9

The Honorable Thomas B. Bennett,

The Securities Industry and Financial Markets Association (“SIFMA”)¹ is submitting this letter to alert the Court to a major policy issue that has recently surfaced in the above case, and that has potentially significant, negative, municipal securities market implications. We understand that this case is moving quickly and that the Court may rule shortly on the issue. Accordingly, we are submitting this letter under these extraordinary circumstances in order to provide helpful and timely information to the Court and to the parties.

The critical problem is Jefferson County’s current efforts to wrest control of the County’s sewer system and its revenues from the state court-appointed receiver who currently has possession and control. We caution that there would be numerous, negative policy and practical implications associated with disrupting the current state receiver arrangement. Consequently, the state receiver should remain in place.

To assist the Court and the parties, following is a brief description of the revenue bond marketplace, and the legislative, legal, policy, and practical aspects of its operation:

Revenue bond financing is a key method by which state and local governments can finance needed infrastructure improvements. It allows the municipality to obtain financing based upon the revenues created by that improvement or enterprise without having to burden its taxpayers with the general obligation of having to pay for the improvement out of the general

¹ SIFMA brings together the shared interests of hundreds of securities firms, banks and asset managers. SIFMA's mission is to support a strong financial industry, investor opportunity, capital formation, job creation and economic growth, while building trust and confidence in the financial markets. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit www.sifma.org.

fund of the municipality. Where the municipal enterprise being financed is rate-based, the financing is based upon the basic premise that the municipal entity will maintain rates over the period of the improvement sufficient to pay the operation and maintenance of that facility and the debt service for the revenue bond debt which has been incurred.

Key to the viability of infrastructure financing throughout the United States is the assurance under the Bankruptcy Code to those who buy revenue bonds secured by special revenues that the pledge of revenue will continue and will be paid even if the municipality files a Chapter 9 proceeding. The 1988 Amendments to the Bankruptcy Code with respect to Chapter 9 ("*1988 Amendments*") were enacted to reassure the market that those who invest in revenue bonds will continue to see their pledged revenues collected and paid to the bondholders.

As the legislative history of the 1988 Amendments demonstrates, municipalities, especially those in a difficult financial condition, can still access the market through the use of special revenue bond financing, because investors know that payment on their investment is secure regardless of how the municipality may choose to deal with its general obligations and those debts which have recourse to the municipality. (*See*, Senate Report No. 100-506, 100th Cong., 2d Session (1988)). The traditional remedy bondholders rely upon when the issuer of revenue bonds experiences financial difficulty is to have a receiver appointed to take over the operation of the revenue-producing facility. That receiver will set rates that are appropriate, consistent with the need to maintain and operate the system and pay those costs along with debt service. The use of receivers in this way is well-established and fundamental to an enormous sector of municipal finance. As an illustration, according to Bloomberg as of September 30, 2011 there were \$3.4 trillion of municipal bonds outstanding of which \$2.4 trillion (70%) are revenue bonds.

If there are defaults, the appointment of a receiver will provide court-appointed competent management, oversight and appropriate rates. In such cases, that supervision has been found by both the state and Federal courts to be necessary given issues of poor management and a failure to appropriately raise rates. Upsetting that remedy here will negatively impact revenue bond financing for infrastructure projects across America just when our country needs it most. Supplanting the state court-appointed receiver could seriously impair access to the market for approximately 60,000 municipal issuers or increase the cost of borrowing thereby limiting local financing of projects and infrastructure.

We have reviewed certain of the filings that have been made by the Alabama State Court-appointed Receiver and the Indenture Trustee for the sewer warrants. From the standpoint of the municipal market, we believe it is important to understand that any actions to diminish, impair or alter the rights of a state to provide remedies for revenue bonds or to limit the ability of the Receiver to take the actions necessary to ensure payment of operation and maintenance cost and debt service would have material consequences in the market. Whether or not an income-producing project will survive in the same form or was the most feasible solution that could have been achieved (an assessment often made in hindsight) is a separate and distinct legal question

from the requirement that there is an effective remedy available to revenue bondholders to install objective and appropriate management to ensure appropriate revenues to pay operating costs, maintenance and debt service. Furthermore, any action that would limit the rights of the Receiver under the Receiver Order entered by the Jefferson County Circuit Court on September 22, 2010 contrary to state law and the prior representations to the marketplace would be materially harmful to the ability to attract needed capital and investments to fund these matters. Any efforts to refinance such securities without the traditional protection of special revenues, which protection cannot be impaired even in a Chapter 9 filing, would be unsuccessful.

Further, any effort by a municipality to change what it has represented to the market and what was intended by the 1988 Amendments (namely, that the lien pledged to holders of special revenue bonds will continue in a Chapter 9 proceeding and that the payments, as collected, will be applied and paid to the debt on a timely basis) would create uncertainty and confusion in the entire market. The potential collateral impact that the proposed takeover would have on other revenue bond issuers in the County and across the country is significant, and the threat that other committed revenue streams could be taken over would impact the bonding ability of such other issuers. Calming the market was a motivation for the 1988 Amendments as Congress desired to prevent these consequences.

Accordingly, we respectfully reiterate, for the sake of the municipal market, the basic premise that Congress has enunciated and that has been understood and relied upon by the municipal market: The Receiver must be left in place to act pursuant to the Receiver Order. In the past, municipal issuers have worked with their taxpayers and their creditors to come to a reasonable resolution of disputes without taking action that would have negative consequences, not only for the parties, but for the entire market and its many other municipalities who need and desire access to the market. Although the County has taken the step of filing for Chapter 9, that action should not be allowed to destroy the expectations of the much broader municipal market based on the 1988 Amendments and the ongoing necessity for municipalities to fund infrastructure at as low a cost as possible. Additionally, the petition of the County's counsel to remove the receiver and transfer the asset back to the County would cause the County itself to suffer as it would likely be shut out from the capital markets for the foreseeable future, further complicating their return to solvency.

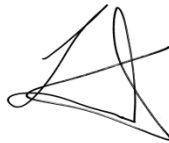
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Please let us know if a more formal brief on the policy concerns and market impacts of these issues would be helpful. If you have any questions, please do not hesitate to contact the undersigned at (212) 313-1130.

Sincerely yours,



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