

# SOVEREIGN & MUNICIPAL DEBT ROUNDTABLE



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## BANKRUPTCY & DISTRESSED MUNICIPALITIES

Historically, bankruptcy has been rarely used to address financial distress encountered by a municipality, as underscored by the following statistics:

- Since chapter 9 was enacted in 1937 for municipal bankruptcies, fewer than 600 cases have been filed under the Bankruptcy Code, partly because they require state approval.
- According to some reports, over the thirty year period starting in 1981, despite the existence of more than 70,000 issuers of public finance debt, only 206 municipalities have sought relief under the Bankruptcy Code.
  - By contrast, from 1990 to 2011, more than 800 large companies with assets greater than \$100 million sought reorganization under chapter 11 of the Bankruptcy Code (which applies to corporations, including Not for Profit Corporations).

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## BANKRUPTCY & DISTRESSED MUNICIPALITIES (CONT'D.)

- Most of the municipalities that did file for chapter 9 during this period were extremely small - the median population size of those municipalities is about 1000 residents, and thirty-four out of the forty municipalities that filed from 1990 to 2009 had less than 10,000 residents.
- Chart of the Bankrupt Municipalities from 1990 to 2011 is attached at end of this presentation.

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## NOTABLE CHAPTER 9 BANKRUPTCY CASES

City of Harrisburg (2011)  
Central Falls Rhode Island (2011)  
Jefferson County (2011)  
Boise County, Idaho (2011)  
Connector 2000 Association (South Carolina Toll Road) (2010)  
Westfall Township, Pennsylvania (2010)  
Sierra Kings Health District, Reedley, California (2009)  
Valley Health Systems, California (2008)  
City of Vallejo, California (2008)  
Palm Drive Health Care District, California (2007)  
West Contra Costa Health Care District, California (2007)  
Orange County, California (1994)

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# NOTABLE ALTERNATIVE DISTRESSED MUNICIPAL PROCEEDINGS

## Control Boards & Financial Managers

- **Harrisburg (2010)** (now in chapter 9 bankruptcy case)
  - Declared "financially distressed" under the State's Act 47 program after missing \$50 million in bond payments it guaranteed on an incinerator project. Harrisburg sought aid under Pennsylvania's Act 47 for distressed communities in the face of \$282 million in debt it guaranteed for an incinerator operated by an independent Harrisburg Authority.
- **Pittsburgh (2003)**
  - In 2003, Pittsburgh was facing a severe financial crisis. It had a \$34 million budget deficit, and a large amount of debt - \$879 million, or \$2627 per resident. The board initiated a recovery plan that forced unions to agree to a significant reduction of employment costs. The board also recommended a reform of the city's tax system. It allowed the city to impose taxes on non-residents working in the city, and, as a result, increased the city's tax revenues considerably. Within a year the city eliminated its deficit, and was able to return to the credit markets.
- **District of Columbia (1995-2001)**
  - The District of Columbia Financial Responsibility and Management Assistance Authority (the "Authority"), established by Congress in 1995, was granted substantial powers over the financial activities and management operations of the District of Columbia. The Authority was authorized to exercise governmental control powers for the purpose of eliminating budget deficits and cash shortages of the District, ensuring efficient and effective delivery of services in the District, enhancing the District's access to the capital markets, approval all bond issuances, ensuring the long-term financial, fiscal and economic vitality and operational efficiency of the District, examining the structural relationship between the District government and the Federal government, and reviewing the financial impact of activities of the District before the activities are implemented or submitted for Congressional review.

# NOTABLE ALTERNATIVE DISTRESSED MUNICIPAL PROCEEDINGS (cont'd)

## Receivership

- **Central Falls, Rhode Island** (now in chapter 9 bankruptcy case)
  - A state court receivership, with the receiver threatening to raise tax rates and decrease the city's motor vehicle tax exemption.
  - City officials requested a state court to appoint a receiver to take over municipal finances, a process that could end up with new contracts imposed on the city's unions and vendors.
  - Receivership is the state-law version of federal bankruptcy.
  - The court-appointed receiver has the power to approve or reject purchases and payments and, if the court approves, change contracts with unions and vendors and hire and fire municipal employees.
- **Jefferson County, Alabama** (now in chapter 9 bankruptcy case)
  - In September, 2010, a state court judge appointed a receiver for Jefferson County, Alabama.
  - The receiver was appointed as a result of \$3.2 billion of debt associated with the county's sewer system. The "sewer debt" was further exacerbated by an interest rate swap transaction that failed.
  - The receiver has asserted that it has the power to increase the sewer rates paid by residents, although those rates may not be enough to satisfy all of the bond obligations.
  - In April, Alabama Supreme Court struck down a local wage and business license tax, cutting general revenue by approximately 25%. The county expects to run out of money by August without state aid.

## CONTROL BOARDS & FINANCIAL MANAGERS

- New York City
  - In 1975, the Federal government initially refused to provide loans to New York City.
  - Instead of a bankruptcy, the banks who held most of New York City's municipal debt agreed to a moratorium on principal payments on short term debt (aggregating \$2.3 billion), the City laid off 60,000 workers and froze wages for other City workers for three years, and City employees were required to pay in the equivalent of \$3 billion to the pension system. The City also raised taxes and City College tuition.
  - The Federal government agreed to a \$1.5 billion loan guaranty.
  - Finally, an emergency control board was imposed on the City.
  - The majority of the bank-held short-term debt was converted to long-term debt through the Municipal Assistance Corporation for the City of New York (MAC), and the City has continued to make timely payment of principal and interest on these bonds.

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## COMMENCEMENT OF A CHAPTER 9 PETITION

# IS THE ISSUER ELIGIBLE TO BE A CHAPTER 9 DEBTOR?

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## CHAPTER 9 ELIGIBILITY IS LIMITED

The threshold requirements for municipal bankruptcy are high. In order to enjoy bankruptcy protection, a municipality must meet statutory thresholds that are different from those applicable to corporations and individuals. To be a debtor under chapter 9 requires proving five substantive conditions. These conditions include:

- Entity must be a municipality (not limited to cities);
- Municipality must be insolvent;
- Municipality must be expressly and directly authorized to file for bankruptcy by the state;
- Bankruptcy petition must be filed in good faith; AND
- Municipality must demonstrate that it tried and failed to negotiate debt readjustment for all of its major obligations (including pension and health care and financial debt obligations), or that such negotiations are impracticable.

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## WHAT IS A MUNICIPALITY?

- A state is not eligible to be a Chapter 9 debtor.
- Municipality is a political subdivision or public agency or instrumentality of a State.
  - Political subdivision includes counties, cities, towns, and the like, that exercise various sovereign powers such as the taxing power, the power of eminent domain, or the police power.
  - Public agency or instrumentality includes incorporated authorities, commissions, and similar public agencies organized for the purpose of constructing, maintaining, and operating revenue-producing enterprises. The term also includes local improvement districts, school districts, and the like, organized or created for the purpose of constructing, improving, maintaining, and operating improvements, schools, ports, etc.
- This definition can include water districts, health care districts and off-track betting organizations, among others.
  - Special districts accounted for more than 70% of Chapter 9 filings between 1980 and 1984
  - There are tens of thousands of special districts which were created to perform a single function
  - In California, an investment fund is not eligible – see [In re County of Orange](#)

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# LEGISLATIVE AUTHORITY-- MUST BE EXPRESS

- A municipality must be specifically authorized under state law to be a debtor under chapter 9. (Several states are re-examining this issue.)
- Orange County clarified how specific it must be:
  - Authorization to file may no longer be inferred by general powers
  - Authorization must confer power to do particular identified thing and must be set forth exactly, plainly and directly
  - Authorization may be by category (i.e. all "municipalities as defined in [the Code]" or may list specific municipalities by name)
- "Authorization must be exact, plain and direct with well-defined limits so that nothing is left to inference or implication"
- Not sufficient to rely upon general authorization to exercise the powers and manage and control the affairs of a municipal corporation
- In 1999, the City of Camden, New Jersey filed for bankruptcy in response to the State of New Jersey indicating that it intended to appoint an oversight board for Camden. The State of New Jersey objected to the filing of the bankruptcy petition, which was dismissed a week later.

# STATES AUTHORIZING CHAPTER 9 PETITIONS

Alabama	Missouri
Arizona	Montana
Arkansas	Nebraska
California	Oklahoma
Colorado	Oregon (with limitations)
Florida	South Carolina
Kentucky	Texas
Minnesota	Washington



## STATES AUTHORIZING CHAPTER 9 PETITIONS WITH SOME RESTRICTIONS

Connecticut – Requires express written consent of the Governor
Idaho – Chapter 9 only applies to specifically defined taxing district
Illinois - May file if the Financial Planning and Supervision Commission recommends it
Iowa - Only permits Chapter 9 if the insolvency was caused by a debt involuntarily incurred
Louisiana - Requires consent of governor, attorney general and State Bond Commission
Michigan - May file if authorized by emergency financial manager, and the local emergency financial assistance board does not disapprove within 60 days after notice by EFM
New Jersey - Requires consent of the municipal finance commission
New York - Only specified entities (county, city, town, village) may file and subject to other limitations.
North Carolina - Chapter 9 only applies to specifically defined taxing districts and subject to approval by local government commission
Ohio - Chapter 9 only applies to taxing authorities, and subject to consent of the tax commissioner; debtor taxing authority may not reduce principal sum of its securities
Pennsylvania - Chapter 9 applies if approved by the majority of governing body and subject to additional limitations

## STATES IN WHICH CHAPTER 9 IS NOT AUTHORIZED

Alaska	New Hampshire
Delaware	New Mexico
District of Columbia	North Dakota
Georgia	Rhode Island
Hawaii	South Dakota
Indiana	Tennessee
Kansas	Utah
Maine	Vermont
Maryland	Virginia
Massachusetts	West Virginia
Mississippi	Wisconsin
Nevada	Wyoming

## SUMMARY OF A CHAPTER 9 BANKRUPTCY PROCEEDING

### AUTOMATIC STAY IMPOSED

One of the most important advantages of a bankruptcy filing is the protection against actions that might be taken by creditors or others against the municipality, its officers, elected officials, employees and even its citizens.

- Filing of a bankruptcy petition invokes an "automatic stay" – basically a federal court injunction – against any action with respect to a claim against the municipality that could be otherwise taken against the debtor or its officers or employees.
- Unlike in a bankruptcy of a private entity, in chapter 9 the automatic stay extends to elected officials and to all residents of the entity as well. This means that even if the debtor or other protected persons take or omit to take actions that would otherwise subject them to sanctions or liability in state or federal court, or to actions by regulatory bodies, those actions may not proceed without the claimants first obtaining the permission of the bankruptcy court.



## AUTOMATIC STAY IMPOSED (cont'd)

Breathing Space. Bankruptcy gives the debtor some breathing space in order to allow it to function while it tries to work out its creditor and cash flow problems.

- Raising new revenues, renegotiating contracts and restructuring debt obligations will take time. If a debtor is forced into breach of contracts or other legal obligations due to fiscal stress outside of bankruptcy, it may have to spend time fighting off creditors trying to seize assets or collateral, or be forced into regulatory or other state for a to answer for such actions and redress grievances before it is able to fashion a workable solution.
- The bankruptcy case puts all of these disputes into one forum, and the automatic stay gives the agency the ability to focus on a comprehensive solution rather than fighting multiple brush fires at the same time on several fronts.

## BANKRUPTCY COURT POWERS LIMITED IN CHAPTER 9

- Because the limitations on Congress' power over the states in the Tenth Amendment to the United States Constitution, the Bankruptcy Code provisions with respect to municipal debtors place significant restraints on the powers of a federal bankruptcy court to interfere with the operations of a municipality.
- Generally limited to:
  - Approving the petition (finding that criteria have been met)
  - Confirming a plan of debt adjustment
  - Monitoring implementation of the plan
- Note – Judge appointed by Chief Judge – not selected by lot – so usually very experienced

## LIMITATIONS ON POWER OF COURT

- In chapter 9 case, a state maintains its powers to control municipalities.
- Bankruptcy court may not interfere with:
  - any of the political or governmental powers of the debtor,
  - any of the property or revenues of the debtor, or
  - the debtor's use or enjoyment of any income producing-producing property.
- This means that the debtor municipality maintains control of most of its financial affairs and operations in order to operate and to provide services to citizens).
- The court may not instruct local officials to take any action (such as a tax increase or an expenditures cut), and so it is incapable of steering the municipality towards rehabilitation.
- What a Court may not do:
  - Not take over municipality's operations
  - Remove members of governing board
  - Appoint a trustee or receiver
  - Give the municipality powers it doesn't have under state law

## CREDITORS' LIMITED RIGHTS & LEVERAGE

While the role of creditors is more limited under Chapter 9 than under Chapter 11, creditors are not entirely powerless.

- Can challenge the municipality's eligibility to be a chapter 9 debtor
- Creditors have right to vote on and object to a plan
- Can object to motions filed by bankrupt municipality
- Lien on special revenues not impaired
- Rights as holders of "GOs" may not be impaired



## APPOINTMENT OF A CREDITORS' COMMITTEE

- Once a debtor's eligibility is determined, the U.S. Trustee may appoint an Unsecured Creditors Committee.
  - Municipality does not have to pay costs of counsel for such committee, but municipality may opt to pay such costs in the interest of creating an informed and organized creditor body that will assist in expediting resolution of the case.
  - Once a Chapter 9 case is filed, negotiations between debtor and creditors should start or resume, as applicable, as soon as possible.
    - Reaching agreement and dismissing case.
    - Reaching agreement with requisite majorities and confirming a plan of adjustment.
- Creditors Committee may not:
  - Call a "first meeting" (typical in a Chapter 11)
  - Propose competing plans of adjustment to that the debtor has filed

## TREATMENT OF BONDS

- General Obligation Bonds
  - General obligation bondholders are not entitled to post-petition interest; may be subject to cramdown.
- Special Revenue Bonds
  - Continue to be secured and are entitled to debt service payments during the pendency of the Chapter 9 case.
  - However, the lien of special revenues is subordinate to the operating expenses of the project or system from which the revenues are derived

# TREATMENT OF SPECIAL REVENUE BONDS

- Special revenue bonds are bonds in which revenues from specific systems have been pledged as security for repayment of the Bonds
  - Special revenues bonds remain subject to any lien “resulting from any security agreement entered into by the debtor before the commencement of the case”
    - Acts as an exception to the after-acquired property clauses under Section 552
    - Thus, the revenues for most special revenue projects – such as utilities, toll roads, etc., remain available to pay bondholders’ debts
- Special Revenues defined in Section 902(2) include a broad group of revenues and receipts, including certain taxes
  - Does not preserve all revenues pledges – only certain types supported by net revenues

# Eligibility to be a Chapter 9 Debtor Challenged

- A major creditor defense to a petition by a municipality is to challenge the chapter 9 petition
  - Is the debtor eligible to be a Chapter 9 debtor?
    - Has it been authorized to file?
    - Is it a municipality?
    - Is the municipality insolvent?
    - Was the petition filed in good faith?



## ORANGE COUNTY INVESTMENT POOL (OCIP) - NOT A MUNICIPALITY

- Rights of other municipalities to retrieve funds invested with Orange County under a commingled investment pool created by the County's treasurer.
  - Upon Orange County's bankruptcy, the other municipalities attempted to withdraw their funds as the County and OCIP slid into financial distress.
  - At the time of the bankruptcy, OCIP held \$7.6 billion in investments for 190 municipal entities.
  - Who owned the OCIP funds in bankruptcy and whether pool participants had immediate rights to the funds or whether the automatic stay precluded their withdrawals were determined by the Bankruptcy Court.
    - If the County held only as trustee for the various pool participants, then those trust funds belonged to the beneficiaries, not the County. Under this characterization, such funds would not have been subject to the claims of county creditors, and the beneficiary-participants would not have been subject to the automatic stay with respect to these funds. The bankruptcy court ultimately found that, despite state law creating a trust relation between the County and the pool investors, the funds belonged to the County as a result of the commingling of the assets in the pool.
- When a bankruptcy petition was filed on behalf of OCIP, the court dismissed the petition, finding that OCIP was neither a political subdivision nor a public agency. As to whether it was an instrumentality of the state, the court found that OCIP's characteristics and objectives did not comport with those of entities historically identified as instrumentalities.

## NEW YORK CITY OFF-TRACK BETTING CORP. AUTHORIZED TO FILE

- The debtor was a public benefit corporation created by New York statute to operate pari-mutuel betting to raise revenues and fight the influence of organized crime over gambling. The debtor's statutory business model required payments to the state's racing industry and to state and local governments as a percentage of the gross "Handle" (the total pool of bets) rather than as a percentage of net revenues. As a result, mandatory distributions often exceeded net earnings. Although the debtor cut costs, a key study concluded the debtor's fiscal health depended on changing the statutory distributions.
- When the debtor formulated a plan to cease operations, the New York legislature ratified a take-over by the state. The governor issued an executive order authorizing New York City Off-Track Betting to commence a bankruptcy petition. Various racing associations objected to the debtor's chapter 9 petition, arguing the debtor was not eligible and did not file in good faith.

## NEW YORK CITY OFF-TRACK BETTING CORP. (CONT'D.)

Ruling against the racing associations, the court found:

- As a public benefit corporation created by the state for essentially governmental functions, the debtor was a municipality.
- The Governor's executive order was sufficient to provide the debtor with specific authorization to file a bankruptcy petition since it was by "State law, or by a governmental officer ... empowered by State law" to authorize a petition. The court found that because the legislature transferred control of the debtor to the executive branch, the executive order implemented a valid policy objective of the legislature.

## LAS VEGAS MONORAIL CO. NOT A MUNICIPALITY

- The City of Las Vegas, Nevada granted a franchise to a private entity, Las Vegas Monorail ("LVMC"), to purchase and operate a public monorail system. A later expansion of the monorail was funded through the use of industrial revenue bond financing, facilitated by various departments of the State of Nevada. The related tax documents explicitly provided that the monorail's private owner was an instrumentality of the State of Nevada controlled by the Governor of the State of Nevada.
- The monorail filed for chapter 11 bankruptcy when it became unable to pay debt service on the bonds and its other expenses.
- The insurer on the bonds, Ambac Assurance Corp. ("Ambac"), filed a motion to dismiss, arguing that based upon (a) the language of the documents and (b) Nevada's significant control over the monorail, the monorail constituted a "municipality" and, therefore, was ineligible to be a debtor under chapter 11 of the Bankruptcy Code.
- The bankruptcy court denied Ambac's motion determining that the monorail was not a "municipality", as it lacked many of the qualities of a municipality, such as the power to tax, eminent domain or sovereign immunity.
  - The court noted that the Governor's control was not sufficient to render it a municipality: LVMC had to present its annual budget to the Governor, who had the power to veto it. LVMC must obtain Governor's consent to its fare schedule, and the Governor selects its board of directors.
  - LVMC's assets escheat to the State upon distribution.
  - However, there was no specific legislation creating LVMC – it is incorporated under the State's non-profit corporation law and its operating funds are firm fares paid by the general public, not taxes. Statistically, the day to day operations are weighed in its officers, not selected by public funds, and it has incurred debt beyond that related to the Bonds.



## City of Prichard, Alabama

The city of Prichard Alabama filed Chapter 9 Bankruptcy for the second time in 2009. Prichard is a city of 25,000 with an annual budget of \$10.7 million.

In the face of litigation brought by pensioners who claimed to be owed \$150,000 in missed payments, the city filed a Chapter 9 petition.

The bankruptcy petition dismissed on the grounds that the city was not authorized to be a debtor.

## Village of Washington Park, Illinois

In 2009, the southwestern Illinois village of Washington Park (population 5,345) filed for Chapter 9 in response to a number of lawsuits (including a \$165,000 judgment in favor of a former public safety officer). The Chapter 9 petition was also filed as a result of fraud by public officials.

In December of 2010 the Bankruptcy Court Judge dismissed the case citing that the Village had no authority to file for Chapter 9 under state law.

# McCurtain Municipal Authority

McCurtain Municipal Authority is a public trust in the state of Oklahoma which provides water, sewage, and sanitation services to the citizens of the Town of McCurtain.

- **Municipal Authority's Proposed Plan of Adjustment**
  - all secured creditors (\$516,914.77) would be paid in full
  - Unsecured creditors (\$299,366.69) would have their choice of
    - A pro-rata payment of \$28,000 to be made within 30 days of the closing or
    - A pro-rata payment of all funds in the reserve account in excess of that amount required by both Rural Development and the Oklahoma Water Resources Board as of December 1st of each year for a period of 5 years, after the payment of all administrative claims. (at the close of the 2007 year this payment would amount to pro-rata of \$10,855.65)
- Chapter 9 case was dismissed. Bankruptcy Court agreed with unsecured creditors' claim that that Chapter 9 was not filed in good faith and that the Authority would suffer no hardship by having the case removed to state court.

## Rights to Payment During Chapter 9 Case: Treatment of Bonds & Other Claims

The next challenge by creditors is to assert rights to payment under the bonds

- **For special revenue bonds**
  - What are proper operating expenses to be paid senior to the bondholders
  - What reserves exist, where are the reserves located, and what restrictions are in place restricting use by the municipality of the reserves
- **For general obligation bonds**
  - What happens if negotiations with municipality reach an impasse? How secure are general obligation bonds? Should the petition be dismissed?



# PLAN OF ADJUSTMENT: TREATMENT OF BOND DEBT

- In a case under chapter 9, only a debtor may file a plan for adjustment of debts.
- Creditors may not file competing plans.
- The Bankruptcy Code does not fix a specific deadline by which the debtor must file a plan. Section 941 provides that if a plan for adjustment of debts is not filed with the petition, the debtor shall file such plan at such later time as the court fixes.
- The impact of this may be to foster increased participation by creditors in negotiating with the debtor to generate a plan of adjustment of debts.

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## ORANGE COUNTY

At the time of its bankruptcy, the County was the fifth most populous county in the United States, with 2.5 million residents. The County's budget exceeded \$3.7 billion, and its employees numbered about 18,000. Even among large municipal bankruptcies, however, the case was unique.

- Orange County's financial demise was not triggered by declining revenues or population. Instead, its bankruptcy was triggered by a risky investment strategy gone bad.
- The County treasurer oversaw a leveraged investment pool that had lost \$1.6 billion by the time of its bankruptcy filing.
- Orange County had acquired \$13 billion of its \$20 billion investment portfolio was acquired with borrowed money.
- In June 1996, Orange County issued \$880 million in recovery bonds to pay its prebankruptcy creditors and exit from bankruptcy. The bonds were priced to yield ten to twenty-five basis points more than similarly rated bonds, which translates into an extra \$43.8 million in interest costs. Overall, the county paid about \$60 million extra to borrow, including higher underwriting fees, higher returns to investors, and the costs of bond insurance.
- Orange County paid all bondholders in full (other than Merrill Lynch, which Orange County held responsible for its bankruptcy). In the Orange county case, Merrill Lynch paid Orange County \$400 million in settlement of a lawsuit by Orange County that Merrill Lynch had allegedly contributed to the Risky and unsuitable investments made by Orange County.

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## ORANGE COUNTY (cont'd)

A number of disputes with creditors arose in Orange County's bankruptcy and the Orange County bankruptcy case resolved a number of issues involving the rights of creditors including:

Rights of holders of repurchase agreements or reverse repurchase agreements to liquidate collateral posted by the municipality upon commencement of Orange County's bankruptcy case. While the County initially attempted to challenge the liquidation of the securities as a violation of the automatic stay, the issue was ultimately mooted by the County's decision to liquidate its investment pool securities portfolio shortly after the bankruptcy filing.

• Rights of holders of Orange County's tax revenue anticipation notes (TRANS) with respect to future tax revenues that had been pledged as security for the \$200 million TRANS offering. In its resolution approving the County's \$200,000,000 borrowing via issuance of the TRANS, the County Board of Supervisors also pledged certain future tax and other unrestricted revenues as security for the TRANS. The resolution specified a schedule of anticipated revenues that were to be set aside as they were received, in order to provide the promised collateral. Orange County attempted to assert that upon the bankruptcy the holders of the TRANS were not entitled to receive the County's future tax revenues to secure its TRANS obligations. Orange County attempted to argue that the rules that would apply to corporate debtors applied in its bankruptcy case such that the rights of the TRANS holders were cut off at the time of the bankruptcy filing. On appeal, the district court held that the pledge of future tax and other unrestricted revenues constituted a statutory lien that survived the bankruptcy filing. Therefore, the lien rights of TRANS holders continued in the County's future revenues as originally scheduled, and were not cut off by the bankruptcy.

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## CONNECTOR 2000

- Formed in 1996 to finance and operate the 16-mile toll road known as the 'Southern Connector' in Greenville County.
- South Carolina Department of Transportation, which originally questioned the Company's ability to file Chapter 9 bankruptcy petition, agreed to support the restructuring after reaching agreement with the debtor and bondholders.
  - Series 1998A and Series 1998B bondholders who are owed approximately \$238 million will share *pro rata* in \$127 million in Series 2011A Bonds and \$21 million in Series 2011B Bonds.
  - Subordinate holders of the Series 1998C Bonds (owed approximately \$91 million) will get \$2.2 million in Series 2011C Bonds.

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# LAS VEGAS MONORAIL CO. BONDS

- Bondholders did not have a lien in the post-petition fares paid by customers that used the monorail. Post-petition fares are not “proceeds” of LVMC’s rights under Franchise Agreement, and Bondholders did not have a lien in the trains or the track.
  - The Bondholders were not entitled to “adequate protection” for use of the post-petition fares.
- Bondholders also did not have a lien on funds that were diverted and held in a separate bank that LVMC refused to turn over to the trustee upon demand.
- Proposed Treatment of Bond Claims under Chapter 11 plan:
  - 1<sup>st</sup> Tier Bond Secured Claims (approximately \$45 million) will get Cash Pay Notes (\$15 million), Capex Notes (\$19.5 million), and Capital Appreciation Notes (approximately \$210 million).
  - 2<sup>nd</sup> and 3<sup>rd</sup> Tier Bond Claims (approximately \$210 million) receive no recovery; bond claims are released and discharged; no distribution.
- Bankruptcy Court recently declined to approve the proposed plan finding that, as proposed, plan was not feasible and would likely be followed by another bankruptcy case

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# VALLEJO

In Vallejo, the court authorized the rejection by the City, over the objection of various unions, of its collective bargaining agreements finding that the collective bargaining agreements were burdensome, that the balance of equities favored rejection, and that the debtor’s efforts to negotiate a voluntary modification to the agreement were reasonable.

## Proposed treatment of COPS

- Resolved with a surety, rights of the surety to interrupt and apply certain motor vehicle license fees that had been pledged as security for reimbursement obligations of the City as security for certain (1999) COPS (lease payments).
- Restructured COPS – reduced variable interest rate (currently 6.25%) to a fixed interest rate of 2.5% on \$20 million of debt and a fixed interest rate of 1.625% on restructured obligation of \$21.37 million, which would have been at 7.28% without the restructuring.
- Restructuring of COPS include write-down of pre-Effective Date interest and the non-accrual of interest from the Effective Date of the Plan through December 31, 2014.
- General Unsecured Claims
  - General Unsecured Claims (including union claims arising from rejection of CBAs) will share *pro rata* in a \$5 million fund; Vallejo estimates that general unsecured claims will receive recoveries between 12 to 30 cents on the dollar.

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# Sanitary and Improvement District 509 of Douglas County, Nebraska

- Formed in 2004 for the purpose of developing a residential and commercial subdivision. The development project was funded by the issuing of warrants to be paid from the SID's annual real estate tax revenues.
  - The SID's annual budget as of November 2009 was \$90,000.
  - As of November 2009, only 80 of the 436 total lots in the subdivision were complete.
- Due to lagging development resulting in an insufficient tax base, the SID was unable to pay it's outstanding Construction Fund Warrants, totaling \$9,715,351.04 (principal and interest). In addition, the SID had outstanding general fund warrants totaling \$218,702.55.

## Treatment of the Bonds under the Plan of Adjustment

- Construction Fund warrants: outstanding warrants cancelled and warrant holders provided new certificates.
  - Maturity Date: 15 years
  - Interest rate: simple Interest of 4.5%.

# Sanitary and Improvement District No. 251 of Sarpy County

Formed in 2004 for the purpose of developing a residential and commercial subdivision. The development project was funded by the issuing of warrants to be paid from the SID's annual real estate tax revenues.

- As of 2008, the SID had constructed homes on only 67 of the 327 total lots in the subdivision

## Treatment of Construction Warrants under Plan:

- All cash and investments with accrued interest (less administrative costs)
- Any ad valorem real estate taxes collected from a construction/bond fund levy of \$0.50 for taxes which become delinquent in 2011, 2012 and 2013 and a levy of \$0.65 annually thereafter
- The net proceeds from any new bonds issued by the SID on a level payment basis over a period of twenty (20) years

The Plan also provides for disbursement of \$350,000 directly to the general fund of the District from the Bond Fund.



## Westfall Township

Westfall Township, population 2,500, filed for Chapter 9 Bankruptcy following a \$20,804,484 judgment against the township stemming from litigation involving a developer. Upon filing, the General Fund carried an operating budget of \$440,000.

### Effect of Chapter 9 on the Township's debt:

- After the filing of the bankruptcy petition, the township entered into settlement negotiations, agreeing to fund the construction of sewage pumping station on the land owned by the developers.
- The monetary judgment against the township was set aside and replaced with an agreed upon amount of \$6,000,000 payable over 20 years in 80 quarterly installments of \$75,000.
- Dime Bank: \$2,000,000 note for Sewer/Water Construction— Restructured to provide that payments be suspended until April 10, 2010 and the term of the loan extended by 10 years to 2039; interest rate remained the same (4.34% with the first schedule change date in 9/2019)

## Pierce County Housing Authority

The Pierce County Housing Authority provides housing for over 8,000 Pierce County residents with an operating budget of \$2,500,300/year. Housing Authority is in charge 13 multifamily properties, 130 single family homes (subsidized by HUD) and administers 2,633 section 8 vouchers. PCHA filed Chapter 9 following numerous lawsuits brought by tenants alleging mold related damages.

### Under the Housing Authority's Plan of Adjustment:

- Senior Secured Housing Bonds and the Subordinate Secured Housing Bonds (original principal amount: \$31,140,000) (secured by 13 of PCHA's properties); Terms of the original bonds remain unchanged; bonds to be paid in full. However, payments due in the first two full months following confirmation deferred until final payment.
- Secured Claim of USDA Rural Development (original principal amount: \$3,030,000 secured by the Orting Property. Claim paid under original terms and conditions of applicable loan documents.

## Benton County Property Owners' Improvement District No. 6- Sunset Bay Division

- Established to finance the construction and installation of infrastructure related projects.
  - The District sold \$ 3,710,000 in bonds in order to finance these infrastructural improvements.
  - The District paid these bonds through an annual special tax levied on each lot and also from lot sale revenues.
  - Due to slow lot sales, the subdivision developer was unable to pay the Special Taxes on unsold lots.
  - The District filed suit to collect the unpaid taxes, however the developer responded by filing Chapter 11 staying the prosecution of the District's tax foreclosure proceedings.
  - The District subsequently liquidated all physical assets (122 lots), with net proceeds totaling \$492,707.67. The District was left with liabilities to bondholders in the amount of \$3,760,500. Bondholders recovered approximately 21.7%.

## Valley Health System

Valley Health System is a hospital district with 360,000 residents. At the start of the Chapter 9 filing Valley Health System had 3 acute hospitals. During the chapter 9 one hospital was sold and another was shut down.

Under the Plan of Adjustment:

- 1993 Certificates of Participation (\$40,615,000) and 1996 Bonds (\$4,935,000) plus accrued interest and unpaid fees will be fully paid. These claims are secured by a first priority pledge of hospital district revenues.
- Unsecured Claims: holders of unsecured claims will receive their pro rata share of \$17 million

Note that the Plan of Adjustment relies heavily on the sale of the Hemet Valley Medical Center and Menifee Valley Medical Center to a Hemet-based doctors group, Physicians for Healthy Hospitals



## Palm Drive Health Care District, West Sonoma County California

- In 2005 (with 60,000 residents) the District's voters approved a Special Parcel Tax to fund bonds aimed at generating revenue to help with mounting operating costs.
  - The Parcel Tax accounts for \$3.6 million a year in revenue.

In addition, the District received a loan of \$2,905,000 from the County of Sonoma secured by a junior lien on the District's general revenues. Under the District's Plan of Adjustment:

- Bondholders' Secured Claim (\$9,290,000), secured by a first priority lien on the annual parcel tax revenue, to be paid in accordance with the original bond documents--maturity date(2024); interest rates (ranging from 3% to 4.6%) unchanged
- Insured General Obligation Bonds Claim (\$5,600,000), secured by a first priority lien on the ad valorem property tax revenues, also not changed under the Plan— maturity date remained 2030; interest rate(ranging from 4.7% to 8.0%)
- Sonoma County Note (\$2,905,000). The district will have the ability to pay this debt 15 days after the Effective Date of the Plan, pursuant to the original note terms.

## Town of Moffett

Following the discovery of financial mismanagement by the late mayor, the town filed a voluntary Chapter 9 petition in 2007 (population of around 400 people).

The Town proposed the following treatment of claims in its Plan of Adjustment (Note that there were no bonds issued by the town)

- First National Bank of Sallisaw, Oklahoma. secured claim - paid according to the current fair market value of the corresponding collateral in deferred cash payments
  - First National Bank (\$7,340,170; 8.5% interest. paid in 29.3 monthly installments)
- United States Internal Revenue Service and the Oklahoma Employment Security Commission claims.- partially forgiven due to hardship—15% of total principal will be paid, all penalties and interest disallowed.
- All other claims disallowed and receive no distribution

## West Contra Costa Healthcare District

West Contra Costa Healthcare District is the largest hospital district in Contra County and serves a population of more than 275,000.

Chapter 9 petition filed in October of 2007.

Plan of Adjustment provided:

- Doctors Medical Center Trust for the Benefit of Creditors established on the Effective Date for the benefit of creditors. Holders of allowed claims will receive payments from this trust until their claims are satisfied.
- Holders of COPs and Revenue Bonds will continue to be paid from the Parcel Tax in accordance with the original terms and conditions of the bond documents

## Los Osos Community Services District

Los Osos Community Services District was formed to provide services including the operation of a wastewater system, fire protection, and street lighting.

LOCSD filed a Chapter 9 petition after a local wastewater project was halted, resulting in water quality fines and numerous lawsuits for breach of contract.

Under LOCSD's Plan of Adjustment

- California Infrastructure & Development Bank secured claim (\$4,516,021.29) to be paid in accordance with original loan documents
- Bank of New York Trust Co (secured ad valorem property taxes in amount of \$17,000,000)—bonds continued to be paid from real property assessments in accordance with bond documents.
- MBIA Insurance Corp. secured claim (\$450,000) in remaining principal) -- Secured by assessments paid annually by property owners; claim to be paid \$25,000 per year until the entire principal claim is paid in full. No interest accrues or is paid on this claim.



## Town of Marshall Creek, Texas

Marshall Creek, town of about 430 residents, was designed as an affordable location to purchase homes.

Following the September 11<sup>th</sup> attacks, Marshall Creek lost a contract to patrol Marshall Creek Park. This loss of income coupled with a lack of alternative revenue streams rendered the town unable to pay its operating expenses.

Marshall Creek's leaders proposed two alternative plans of adjustment aimed at dealing with the town's financial problems:

- Plan A: Consolidation with the City of Roanoke, Texas
  - All General Unsecured claims will be paid in full in cash within 60 days following the Consolidation date.
- Plan B: Repayment of creditors through future revenues of Marshall Creek. Plan B was only to be considered if Plan A was unsuccessful.
  - All General Unsecured claims will be paid an adjustment amount over a period of 7 years without interest.
  - For example: Under Plan A First State Bank of Stratford would receive a payment of the full \$47,609 and under Plan B this creditor would receive only \$9,521.80.

In November of 2007, voters voted in favor of consolidation with Roanoke.

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## East Hot Springs Multi-Purpose Municipal Owners' Improvement district No. 98- 1

East Hot Springs Multi-Purpose Municipal Property Owners' Improvement District No. 98-1 was created for the purpose of constructing and maintaining infrastructural services.

The District issued \$2,585,000.00 in bonds to be used to finance construction improvements. The District levied a Special Tax of 9.75%, which was pledged and allocated for the payment of bonds.

Lots in the improved subdivisions did not sell as quickly as anticipated, resulting in a failure to pay the Special Tax. The District was unable to pay the debt service on the bonds and filed a voluntary Chapter 9 petition.

Under the Plan of Adjustment the debtor plans to sell its property and deposit proceeds with a Trustee.

- Bondholders (\$2,590,221.76) will receive pro rata payments from the proceeds of the sale of the District's property and any remaining non-allocated funds held by the Trustee.

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# APPENDIX I

## CHAPTER 9 CASES

### 1990-2011

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## SCHEDULE OF CHAPTER 9 BANKRUPTCY CASES (1990 – 2011)

- Jefferson County, Alabama (Bankr. Ala. Nov. 09, 2011)
- Sanitary and Improvement District #512 of Douglas County, Nebraska, (Bankr. D. Neb. Nov. 01, 2011)
- Centeron Municipal Property Owners' Improvement District No. 3 - Versailles (Bankr. W.D. Ark. Oct. 12, 2011)
- City of Harrisburg, PA (Bankr. M.D.PA. Oct. 11, 2011)
- Barnwell County Hospital, (Bankr. D.S.C. Oct. 05, 2011)
- Sanitary and Improvement District #513 of Douglas County, (Bankr. D. Neb. Sept. 30, 2011)
- Sanitary and Improvement District #258 of Sarpy County, Nebraska, (Bankr. D. Neb. Sept. 29, 2011)
- The City of Central Falls, Rhode Island (Bankr. D.R.I. Aug. 01, 2011) Bamberg County Memorial Hospital (Bankr. D.S.C. June 20, 2011)
- Sanitary and Improvement District #517 of Douglas County, Nebraska (Bankr. D. Neb. April 15, 2011)
- Suffolk Regional Off-Track Betting Corporation (Bankr. E.D.N.Y. Mar. 18, 2011)
- Suffolk Regional Off-Track Betting Corporation (Bankr. E.D.N.Y. Mar. 18, 2011)
- Boise County (Bankr. D. Idaho Mar. 1, 2011)
- Sanitary and Improvement District #528 of Douglas County, Nebraska (Bankr. D. Neb. Dec. 14, 2010)
- Sanitary and Improvement District #507 of Douglas County, Nebraska, (Bankr. D. Neb. Sept. 28, 2010)
- Lake Lotawana Community Improvement District (Bankr. W.D. Mo. Aug. 27, 2010)
- Connector 2000 Association, Inc. (Bankr. D.S.C. June 24, 2010)
- Lost Rivers District Hospital (Bankr. D. Idaho Mar. 10, 2010)
- Grimes County MUD #1 (Bankr. S.D. Tex. Mar. 04, 2010)

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## SCHEDULE OF CHAPTER 9 BANKRUPTCY CASES (1990 – 2011) (cont'd)

- New York City Off-Track Betting Corporation (Bankr. S.D.N.Y. Dec. 03, 2009)
- Sanitary and Improvement District 509 of Douglas County, Nebraska (Bankr. D. Neb. Nov. 19, 2009)
- City of Prichard, Alabama (Bankr. S.D. Ala. Oct. 27, 2009)
- Town of Moffett (Bankr. E.D. Okla. Oct. 22, 2009)
- Sierra Kings Health Care District (Bankr. E.D. Cal. Oct. 08, 2009)
- Michael Klein (Bankr. D.N.J. Aug. 25, 2009)
- Lizbeth Estevez (Bankr. S.D.N.Y. Jul. 23, 2009)
- Sanitary and Improvement District No. 251 of Sarpy County (Bankr. D. Neb. Jul. 13, 2009)
- Village of Washington Park (Bankr. S.D. Ill. Jul. 06, 2009)
- Westfall Township (Bankr. M.D. Pa. Apr. 10, 2009)
- Sanitary and Improvement District 452 of Douglas County, Nebraska (Bankr. D. Neb. Feb. 24, 2009)
- Natchez Regional Medical Center (Bankr. S.D. Miss. Feb. 12, 2009)
- Pierce County Housing Authority (Bankr. W.D. Wash. Oct. 13, 2008)

## SCHEDULE OF CHAPTER 9 BANKRUPTCY CASES (1990 – 2011) (cont'd)

- Benton County Property Owners' Improvement District No. 6 - Sunset Bay Division (Bankr. W.D. Ark. Jul. 22, 2008)
- City of Vallejo, California (Bankr. E.D. Cal. May 23, 2008)
- City of Gould, Arkansas (Bankr. E.D. Ark. Apr. 21, 2008)
- Valley Health System (Bankr. C.D. Cal. Dec. 13, 2007)
- Palm Drive Health Care District (Bankr. N.D. Cal. Apr. 05, 2007)
- McCurtain Municipal Authority (Bankr. E.D. Okla. Apr. 02, 2007)
- Josette Andree Etienne (Bankr. S.D.N.Y. Mar. 07, 2007)
- Town of Marion, Mississippi (Bankr. S.D. Miss. Feb. 06, 2007)
- Town of Moffett (Bankr. E.D. Okla. Dec. 20, 2006)
- West Contra Costa Healthcare District (Bankr. N.D. Cal. Oct. 01, 2006)
- Los Osos Community Services District (Bankr. C.D. Cal. Aug. 25, 2006)
- Town of Marshall Creek, Texas (Bankr. E.D. Tex. Jan. 23, 2006)
- East Hot Springs Multi-Purpose Municipal Owners (Bankr. W.D. Ark. Jan. 12, 2006)

## SCHEDULE OF CHAPTER 9 BANKRUPTCY CASES (1990 – 2011) (cont'd)

- Reclamation District Number 768 (Bankr. N.D. Cal. Nov. 17, 2005)
- Sanitary and Improvement District #425 of Dou (Bankr. D. Neb. Oct. 26, 2005)
- Slocum Lake Drainage District of Lake County (Bankr. N.D. Ill. Oct. 25, 2005)
- City of Camp Wood, Texas (Bankr. W.D. Tex. Aug. 05, 2005)
- Sierra Nevada Public Financing (Bankr. C.D. Cal. Aug. 03, 2005)
- Sierra Nevada Public Financing (Bankr. C.D. Cal. Aug. 03, 2005)
- Ridges Master Property Owner's Improvement Di (Bankr. W.D. Ark. Jul. 07, 2005) Town of Millport, Alabama (Bankr. N.D. Ala. Dec. 14, 2004)
- City of Westminster (Bankr. E.D. Tex. Apr. 16, 2004)
- Tri-City Mental Health Center (Bankr. C.D. Cal. Feb. 13, 2004)
- Village of Brooklyn (Bankr. S.D. Ill. Oct. 13, 2003)
- Madison County Property Owners' Improvement D (Bankr. W.D. Ark. May 16, 2003)
- Roman Forest Public Utility District No 3 (Bankr. S.D. Tex. May 01, 2003)

## SCHEDULE OF CHAPTER 9 BANKRUPTCY CASES (1990 – 2011) (cont'd)

- City of Reeds Spring, Missouri (ADMIN TRNSFD TO SPRINGFIELD DIV) (Bankr. W.D. Mo. Nov. 08, 2002)
- Bentonville Municipal Property Owners Improvement (Bankr. W.D. Ark. Jul. 15, 2002)
- Alpaugh Irrigation District (Bankr. E.D. Cal. Jul. 09, 2002)
- ETOWAH SOLID WASTE DISPOSAL AUTHORITY (Bankr. N.D. Ala. Jun. 25, 2002)
- City of Rio Bravo, A Municipality (Bankr. S.D. Tex. Jun. 23, 2002)
- West Jefferson Amusement & Public Park Authority (Bankr. N.D. Ala. Jun. 04, 2002)
- Alta Healthcare District (Bankr. E.D. Cal. Aug. 21, 2001)
- The City of Macks Creek, Missouri (Bankr. W.D. Mo. Nov. 30, 2000)
- Timpanogos Community Mental Health (Bankr. D. Utah Jan. 29, 1990)



## Lorraine S. McGowen Bio

Lorraine McGowen is a partner in the Restructuring Group and a member of the Executive Committee. Ms. McGowen received her J.D. from Columbia Law School in 1986. She has practiced in the areas of creditors' rights and bankruptcy for more than 20 years, with a particular focus on the enforcement of creditors' rights and remedies in out-of-court work-outs and bankruptcy proceedings. Ms. McGowen represents formal and ad hoc creditors' committees and secured and unsecured creditors and other significant parties in complex bankruptcy cases, corporate restructurings and other insolvency matters and has extensive experience representing public and private entities in out-of-court work-outs and bankruptcy proceedings.

She has most recently been involved in representing a lender syndicate in connection with the chapter 11 bankruptcy case involving the toll road operator of the 9-mile express toll road in southeast San Diego (The South Bay Expressway, one of four privately financed toll highway projects in California, opened to traffic in November 2007, and was the first PPP transportation project in California since 1995). She also represented the City of Detroit with the restructuring of certain swap agreements and has been involved in the liquidity crisis advising significant counter-parties with respect to troubled financial institutions, monoline insurers, and other troubled companies and other troubled companies.

## Orrick's Municipal Bankruptcy and Workout Experience

**City of Vallejo, California.** Orrick represents the City of Vallejo, California, which filed its chapter 9 case in May 2008. Orrick helped the City win significant and cutting-edge bankruptcy court rulings, one of which found the city eligible to be a chapter 9 debtor and the other of which marked the first time a chapter 9 debtor was authorized to reject a labor agreement with one of its unions. The eligibility ruling upheld the important principles of fund accounting, making it clear that legal restrictions on funds must be maintained, and that municipal debtors cannot invade legally restricted funds (other than for intra year cash management purposes) even under bankruptcy protection. This was an important ruling for creditors holding obligations payable from restricted funds.

- Orrick led the City through the myriad federal and state pre-filing requirements to ensure compliance with chapter 9 eligibility requirements, including satisfying the Bankruptcy Code requirement for pre-filing negotiation with creditors. This process involved negotiating with the City's two primary creditor constituencies: the City's four labor associations, in an effort to resolve issues with respect the individual collective bargaining agreements, and Union Bank, the City's credit enhancer and holder of over \$50 million in Certificates of Participation.

## Orrick's Municipal Bankruptcy and Workout Experience (cont'd)

**City of Detroit.** Orrick represented the City of Detroit, Michigan in connection with the restructuring of certain swap agreements associated with the City of Detroit's 2006 Pension Obligation Certificates (the "POCs"), of which \$800 million were variable rate taxable certificates. The scheduled payments of principal and interest were guaranteed under insurance policies on specifically designated 2006 POCs by Financial Guaranty Insurance Company ("FGIC") and XL Capital Assurance Inc., now Syncora ("XL", together with FGIC, the "Insurers"). Additionally, to hedge against its variable rate exposure on certain of the 2006 POCs, the City entered into rate swap agreements with UBS AG and SBS Financial Products Company, LLC.

- Because the ratings of the Insurers and of the POCs fell below investment grade, the swap counterparties had the right to declare an early termination event in respect of the swap agreements which, based on the timing of the termination event, could have required the City to make a termination payment to the counterparties of between \$300 and \$400 million. Orrick represented the City in the successful restructuring of the city's obligations under the swap agreements which enabled the City to avoid the declaration of an early termination event.

**Davidson Kempner Capital Management.** Orrick represents Davidson Kempner Capital Management with its potential debt investment in the Alameda Corridor Transit Authority and in Ports America.

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## Orrick's Municipal Bankruptcy and Workout Experience (cont'd)

**South Bay Expressway.** Orrick represented Banco Bilbao Vizcaya Argentaria, S.A., as Administrative Agent and the other bank syndicate members in connection with the bankruptcy case of South Bay Expressway, L.P.. The bankruptcy case involved the toll road operator of the 9-mile express toll road in southeast San Diego (The South Bay Expressway, one of four privately financed toll highway projects in California, opened to traffic in November 2007, and was the first PPP transportation project in California since 1995). The case involved the restructuring of \$560 million in loans that had been extended (of which the senior lenders had originally financed \$400 million in principal). This was the first public-private infrastructure project involving toll road to seek bankruptcy relief and the case was more complicated because of the contested litigation regarding the validity, priority and amount of alleged mechanics liens asserted by the principal general contractors who constructed the toll road and provided the tolling equipment.

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## Orrick's Municipal Bankruptcy and Workout Experience (cont'd)

**Palm Drive Health Care District.** Orrick worked with Palm Drive Healthcare District in designing the financing that allowed them to exit chapter 9 bankruptcy.

**City of Half Moon Bay.** Orrick worked with the City of Half Moon Bay to identify financing methods that would help the City pay an \$18 million judgment stemming from a lawsuit with a developer over the failed Beachwood development. Orrick helped negotiate the settlement and assisted the City in the issuance of Judgment Obligation Bonds to pay a portion of the settlement cost (net of payments in cash from the City and possibly State level assistance). Orrick was asked to advise the City on the possibility of filing a chapter 9 bankruptcy case but advised that the City would not likely be eligible to file due to its financial standing. The bonds have been given a rating of "AA-" by Standard and Poor's.

## Orrick's Municipal Bankruptcy and Workout Experience (cont'd)

**Richmond, California.** The City of Richmond, California experienced significant financial difficulties from 2000-2004. In early 2004, Richmond projected a deficit in the general fund equal to approximately 30 percent of the general fund budget for fiscal year 2003-04. Richmond's audited financial statements were late, and its accounting system was unable to produce reliable reports on the state of the City's finances. Orrick attorneys worked closely with Richmond and its financial advisors to develop a Fiscal Recovery Plan for the City. The plan included one-time emergency measures to plug the 2003-04 budget gap as well as assistance in reviewing the City's plans to create structural balance. We also worked with Richmond's auditing firms to get its audited financial statements caught up. As counsel to Richmond, Orrick attorneys provided critical advice to resolve its cash flow problems, and allow it access to the market. We also identified innovative methods for Richmond to borrow money to resolve its cash flow problems. Richmond successfully emerged from its fiscal crisis and now has a solid "A" rating and has been able to access the bond market for needed public programs and projects.

**Jefferson County, Alabama.** Orrick has been closely involved in the Jefferson County matter for a number a years, representing a significant creditor of the county.

## Orrick's Municipal Bankruptcy and Workout Experience (cont'd)

**COPIA.** Orrick represented the California Infrastructure and Economic Development Bank in 2007 in connection with the issuance of more than \$77 million of its refunding revenue bonds to restructure a similar amount of outstanding debt on behalf of COPIA: The American Center for Wine, Food & the Arts in Napa, California and its bond insurer ACA. COPIA was in desperate need for debt restructuring and an infusion of working capital to give it the breathing room to execute on its refocused business plan and take advantage of promising new developments in the Napa area. Adding complexity was that the 1999 bonds were being audited by the IRS. An Orrick team comprised of public finance, tax, real estate, and bankruptcy attorneys worked under considerable time pressure to remove obstacles, solve problems and ensure the bonds were sold and issued on a time frame that allowed COPIA to meet its restructuring objectives. Unfortunately, COPIA ultimately declared chapter 7 bankruptcy and Orrick advised the I-Bank in connection with the chapter 7 bankruptcy proceedings.