

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ALABAMA
3 SOUTHERN DIVISION

3 THE BANK OF NEW YORK MELLON,)
4 as trustees for Sewer Revenue)
5 Refunding Warrants Series; Sewer) Case No. 2:08-cv-01703-RDP
6 Revenue Capital Improvement) Birmingham, Alabama
7 Warrants Series, et al.)

6 PLAINTIFFS,) June 1, 2009
7) 10:15 a.m.

7 VS.)

8 JEFFERSON COUNTY, ALABAMA, et al.)

9 DEFENDANTS.)

10 VS.)

11 WILLIAM BELL, et al.)

12 COUNTER-CLAIMANTS.)

13 * * * * *
14 TRANSCRIPT OF HEARING IN THE ABOVE CASE
15 HELD BEFORE THE HONORABLE R. DAVID PROCTOR
16 UNITED STATES DISTRICT JUDGE

15 APPEARANCES:

16 FOR THE TRUSTEES: Larry B. Childs, Esq.
17 Henry E. Simpson, Esq.
18 Gerald Mace, Esq.
19 Brian Malcom, Esq.

19 FOR FINANCIAL GUARANTY
20 INSURANCE COMPANY: Laurence J. McDuff, Esq.
21 Hovey S. Dabney, Esq.

21 FOR JEFFERSON COUNTY,
22 ALABAMA: Joseph B. Mays, Jr., Esq.
23 Dylan C. Black, Esq.
24 J. Patrick Darby, Esq.
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24 COURT REPORTER: Anita M. McCorvey, RMR
25 Hugo Black Courthouse
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1 got to work my way through exactly what that means in this
2 context, but --

3 COMMISSIONER BELL: And it seems to me -- and maybe
4 I shouldn't say this, but I think that the other side is just
5 looking for a pyrrhic victory that has no substance in reality
6 to the operation of the system. They just want a receiver to
7 say we got a receiver. But if the receiver does not have the
8 power to raise rates, I don't know how much more blood you can
9 squeeze out of this turnip. If they think just having a
10 receiver to run the system is going to give them the economic
11 leverage that they need to recoup whatever monies they think
12 they deserve, I just don't see it.

13 THE COURT: Well, I think they are also suggesting
14 that a receiver might wake a few people in Montgomery up too.
15 I don't know if that's true or not. That was certainly the
16 implication of some testimony I heard earlier.

17 COMMISSIONER BELL: Yes, Mr. Bloom, yes.

18 THE COURT: Let me mention a dirty word to y'all.
19 Rates. And raising rates. As I understand it, we're 3-2 on
20 virtually every issue as it relates to the sewer system other
21 than this one. We're 5-0 on one factor. We really don't want
22 to raise rates a whole lot right now. Fair? To just put
23 those cards on the table and say that's a fair
24 characterization of where we are right now?

25 COMMISSIONER HUMPHRYES: Absolutely.

1 COMMISSIONER CARNS: Yes.

2 THE COURT: Okay. Do any of you have any expertise
3 in determining what a reasonable rate is? I know you get an
4 earful about it from your constituents, but I'm talking about
5 expertise in determining what a reasonable rate is.

6 COMMISSIONER FINE-COLLINS: I don't have the
7 expertise, but I know that we're approaching Atlanta's rates
8 for their sewer fees, and that their per capita income, the
9 median income, is far above ours. We've talked about this
10 before.

11 THE COURT: Right.

12 COMMISSIONER FINE-COLLINS: But I think it's
13 unrealistic of us to sit here and say we don't want to raise
14 sewer rates, but we want support to try to straighten this out
15 by the means that are available to us.

16 So, you know, I'm against raising the rates, but I'm also
17 for asking that we be allowed to use that existing one cent
18 sales tax to come up with a way to fix this. So I think --
19 not to say that I'm being unrealistic when I say that. We
20 have a way that we can avoid this.

21 THE COURT: Well, and again, the indenture probably
22 never contemplated we would be in this position because if
23 those who loaned you the money ever thought we would be in
24 this position, they wouldn't have given you an indenture in
25 the first place, right?

1 emotions take over for logic and legal arguments. All right.
2 And I do appreciate all the hard work and good work the
3 lawyers on both sides have done. And we'll be adjourned.

4 MR. MAYS: Thank you, Your Honor.

5 (Proceedings concluded.)
6

7 C E R T I F I C A T E
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12 I certify that the foregoing is a correct
13 transcript from the record of proceedings in the
14 above-entitled matter.
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18 _____
19 Anita M. McCorvey, RMR
20 Official Federal Court Reporter
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