

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re	:	Chapter 9
	:	
CITY OF DETROIT, MICHIGAN,	:	Case No. 13-53846
	:	
Debtor.	:	Hon. Steven W. Rhodes
	:	
	:	
AMBAC ASSURANCE CORPORATION,	:	
	:	Chapter 9
Plaintiff,	:	
	:	Adv. Pro. No. 13-05310
v.	:	
	:	Hon. Steven W. Rhodes
	:	
THE CITY OF DETROIT, MICHIGAN,	:	
KEVYN D. ORR, individually and in his	:	
official capacity as the EMERGENCY	:	
MANAGER, JOHN NAGLICK, individually	:	
and in his official capacity as FINANCE	:	
DIRECTOR, MICHAEL JAMISON	:	
individually and in his official capacity as	:	
DEPUTY FINANCE DIRECTOR, and	:	
CHERYL JOHNSON, individually and in her	:	
official capacity as TREASURER,	:	
	:	
Defendants.	:	

CITY OF DETROIT'S
MOTION TO DISMISS THE COMPLAINT

Defendant City of Detroit, by and through its undersigned counsel, hereby files this Motion to Dismiss, and requests, pursuant to Federal Rule of Civil Procedure 12(b)(6) and Federal Rule of Bankruptcy Procedure 7012(b), that this Court dismiss in full all counts of the Complaint asserted against it. In support of this Motion, the City respectfully refers the Court to the Memorandum in Support attached hereto as Exhibit 3.

Counsel for the City sought the concurrence in the relief requested herein from counsel for the plaintiff, but such concurrence was not obtained, necessitating the filing of this motion.

WHEREFORE, the City of Detroit respectfully requests that the Court grant its Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b) and Fed. R. Bankr. P. 7012(b), and grant such other and further relief as the Court deems appropriate.

[signature page follows]

Dated: December 9, 2013

Respectfully submitted,

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¹ National Public Finance Guarantee Corporation (“National”) recently indicated to Jones Day its concern that Jones Day may have a conflict of interest in representing the City against National in Adversary Proceeding 13-05309, a companion to this adversary proceeding, which National brought against the City on November 8 and in which Jones Day has already appeared. (National is a Jones Day client in unrelated matters. National has consented to Jones Day’s taking adverse positions in certain circumstances.) In the time available, Jones Day has not been able to complete its investigation into National’s concerns. In an abundance of caution, Jones Day is not appearing as counsel of record in Adversary Proceeding 13-05309 until this issue is resolved. Jones Day has no conflict it is aware of in this adversary proceeding, and will continue to appear as counsel of record in this case.

/s/ Deborah Kovsky-Apap
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