

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.	:	

**THE INDIVIDUAL DEFENDANTS’
MOTION TO DISMISS THE COMPLAINT**

Defendants Kevyn D. Orr, John Naglick, Michael Jamison, and Cheryl Johnson (collectively, the “individual defendants”), by and through their undersigned counsel, hereby file this Motion to Dismiss, and request, 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 them individually and/or in their official capacities. In support of this Motion, the individual defendants respectfully refer the Court to the Memorandum in Support attached hereto as Exhibit 3.

Counsel for the individual defendants 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 individual defendants respectfully request that the Court grant their 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,

Bruce Bennett (CA 105430)
JONES DAY¹
555 South Flower Street
Fiftieth Floor
Los Angeles, CA 90071
Telephone: (213) 243-2382
bbennett@jonesday.com

Brad B. Erens (IL 6206864)
JONES DAY
77 West Wacker
Chicago, Illinois 60601-1692
Telephone: (312) 269-4050
bberens@jonesday.com

Geoffrey S. Stewart (DC 287979)
JONES DAY
51 Louisiana Ave., N.W.
Washington, D.C. 20001
Telephone: (202) 879-3939
Facsimile: (202) 626-1700
gstewart@jonesday.com

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
Robert S. Hertzberg (P30261)
Deborah Kovsky-Apap (P68258)
Lesley S. Welwarth (P75923)
PEPPER HAMILTON LLP
4000 Town Center, Suite 1800
Southfield, MI 48075
Telephone: (248) 359-7300
Facsimile: (248) 359-7700
hertzbergr@pepperlaw.com
kovskyd@pepperlaw.com
welwartl@pepperlaw.com

ATTORNEYS FOR THE INDIVIDUAL
DEFENDANTS