

1 **24**

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9 Attorney for Movants
10 DEAN ANDAL

11 **UNITED STATES BANKRUPTCY COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**
13 **SACRAMENTO DIVISION**

14 In re:
15 CITY OF STOCKTON,
16 CALIFORNIA,
17 Debtor,

Case No. 12-32118-C-9
DC No.: JTS-02

Judge: Hon. Christopher M. Klein

**DECLARATION OF JOSEPH T.
SPEAKER IN SUPPORT OF MOTION
FOR ORDER SHORTENING TIME TO
HEAR MOTION FOR RELIEF FROM
AUTOMATIC STAY**

18 I, Joseph T. Speaker, declare as follows:

19 1. I am an attorney at law duly licensed to practice before all state and federal courts
20 in California, and I am an associate in the law firm of Koeller, Nebeker, Carlson & Haluck, LLP,
21 attorneys of record for movant DEAN ANDAL (hereinafter "Movant") in the above-entitled
22 action.

23 2. I am informed and believe Movant wishes to challenge proposed ballot language
24 in a measure that will be submitted to the voters in the City of Stockton in the November 5, 2013
25 election. Movant will bring a writ of mandate under California Elections code section 9295. Due
26 to the bankruptcy of the City of Stockton, Movant must first seek relief from the automatic stay in
27 order to bring the writ of mandate in state court.

28 3. Pursuant to California Elections Code section 9295(b)(1), Movant cannot bring a

1 writ of mandate in any state court until a certain “10-calendar-day public examination period”
2 has commenced.

3 4. I am informed and believe that the “10-calendar-day public examination period”
4 for the measure for which Movant seeks to challenge is scheduled to open on August 13, 2013.

5 5. The “10-calendar-day public examination period” commences immediately
6 following the filing deadline for submission of elections materials to the elections official. As a
7 result, it is possible that the elections official could begin the “10-calendar-day public
8 examination period” prior to August 13, 2013.

9 6. Based on the close proximity in time of the “10-calendar-day public examination
10 period”, Movant must seek relief from the automatic stay as quickly as possible to prevent
11 prejudice.

12 7. I notified counsel for Debtor, Marc Levinson of Orrick, Herrington & Sutcliffe
13 LLP, of Movant’s intent to file the instant Motion for an order shortening time on August 2, 2013,
14 after exchanging several emails regarding a potential stipulation from relief from the automatic
15 stay. A copy of the email notifying Mr. Levinson of the instant Motion is attached hereto as
16 Exhibit “A”.

17 8. A copy of the filed Motion for Relief from the Automatic Stay is attached as
18 Exhibit “B” hereto.

19 9. I declare under penalty of perjury, under the laws of the State of California that the
20 foregoing is true and correct of my own personal knowledge, and if called upon to testify, I could
21 and would competently testify thereto.

22 Executed this 2nd day of August, 2013, at Roseville, California.

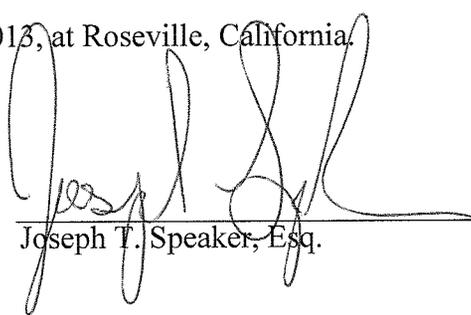
23
24
25 
26 _____
27 Joseph T. Speaker, Esq.
28

EXHIBIT A

Joseph Speaker

From: Joseph Speaker [Joseph.Speaker@knchl.com]
Sent: Friday, August 02, 2013 10:16 AM
To: 'Levinson, Marc A.'
Cc: 'Jessica Guzman'
Subject: FW: Stockton -- More follow-up re the request that the City stipulate to relief from the stay

Mr. Levinson,

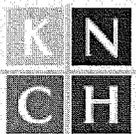
I wanted to notify you that our office will be filing a Motion for Relief from the Automatic Stay this morning in the underlying bankruptcy case for the City of Stockton, Case No. 12-32118-C-9. The hearing is being set for August 20, 2013 at 9:30 a.m. in Department 35. The moving papers will be made available upon request or they may be found on the court's website.

Additionally, **please be advised that our office is also filing a Motion for an Order Shortening Time to hear the Motion for Relief from the Automatic Stay** this morning. Our office is requesting that any hearing on the Motion for an Order Shortening Time be heard on August 6, 2013 at 9:30 a.m. or as soon thereafter as the Court's calendar will permit. We are requesting that the Motion for Relief from the Automatic Stay be heard prior to the August 20, 2013 noticed date, as the Court's calendar permits. Again, the moving papers will be made available upon request or they may be found on the court's website.

Our office is still willing to enter into a Stipulation for Relief should your client grant authority, but due to timing, we must move forward with the formal noticed motion. Should you have any questions, please do not hesitate to contact our office.

Sincerely,

KOELLER | NEBEKER | CARLSON | HALUCK LLP



Joseph T. Speaker

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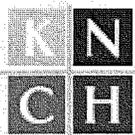
From: Joseph Speaker [mailto:Joseph.Speaker@knchl.com]
Sent: Thursday, August 01, 2013 9:25 AM
To: 'Levinson, Marc A.'
Cc: 'Jessica Guzman'
Subject: RE: Stockton -- More follow-up re the request that the City stipulate to relief from the stay

Mr. Levinson,

Rather than communicate via email, I would like to set up a time today to discuss this matter over the phone. I believe we can accomplish a lot more in an open dialogue. I understand your client's desire to see the moving papers for the writ of mandate, but your client must understand the sensitive nature of divulging those papers before the statutorily prescribed period. We are more than happy to discuss the content of the writ of mandate in detail and any stipulation can be drafted so as to tailor exactly what the writ will be brought for, however giving the entire moving papers appears unwarranted. Please let me know a time that works for you today to discuss the matter. I believe we can reach a solution in a relatively short period of time. Thank you for your understanding.

Sincerely,

KOELLER | NEBEKER | CARLSON | HALUCK LLP



Joseph T. Speaker

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From: Levinson, Marc A. [<mailto:MALEVINSON@Orrick.com>]

Sent: Wednesday, July 31, 2013 3:30 PM

To: Joseph Speaker

Cc: 'Jessica Guzman'

Subject: Stockton -- More follow-up re the request that the City stipulate to relief from the stay

Mr. Speaker,

Sorry I missed your call. Thanks for the v/m and for the email. My email of yesterday was sent because the City cannot decide whether to stipulate to relief from the stay without knowing what the writ of mandate lawsuit looks like. I understand from your v/m that the pleading is largely complete, but may be amended once final ballot language is presented. Even a near-complete draft would help the City both understand the issues and get a sense of whether it can stipulate to relief from the stay. I acknowledge and understand that the pleading may change pending new developments. My suggestion is that you mark each page as 7/31/13 DRAFT, and in your cover email expressly note that the draft may change in the future. If the draft is indeed 99% complete, as noted in your v/m, it ought to provide the City with what it needs in order to decide whether to agree with your stay request.

Thanks,
Marc Levinson

From: Joseph Speaker [mailto:Joseph.Speaker@knchlaw.com]

Sent: Wednesday, July 31, 2013 2:38 PM

To: Levinson, Marc A.

Cc: 'Jessica Guzman'

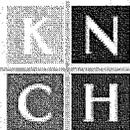
Subject: RE: In re City of Stockton California -- Follow-up re the request that the City stipulate to relief from the stay

Mr. Levinson,

I just left you a voicemail, but I wanted to follow up my email as well. I would like to discuss this matter with you in greater detail. Please give me a call at your soonest convenience. Thank you for your assistance.

Sincerely,

KOELLER | NEBEKER | CARLSON | HALUCK LLP



Joseph T. Speaker

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From: Levinson, Marc A. [mailto:MALEVINSON@Orrick.com]

Sent: Tuesday, July 30, 2013 2:51 PM

To: Joseph Speaker

Cc: 'Jessica Guzman'

Subject: In re City of Stockton California -- Follow-up re the request that the City stipulate to relief from the stay

Thanks for the heads up. Please forward a copy of the petition/application/complaint that your client(s) seeks to file in the Superior Court.

From: Joseph Speaker [mailto:Joseph.Speaker@knchlaw.com]

Sent: Tuesday, July 30, 2013 11:44 AM

To: Levinson, Marc A.

Cc: 'Jessica Guzman'

Subject: In re City of Stockton California

Importance: High

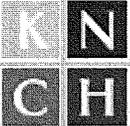
Mr. Levinson,

Our office has recently been retained to proceed with a Writ of Mandate proceeding in San Joaquin County Superior Court against the Stockton City Council (as real party in interest) for the City of Stockton, challenging proposed language

on the November 2013 ballot. The matter pertains exclusively to procedures under the California Elections Code regarding requirements for proposed ballot titles. As the City of Stockton is currently a debtor under Chapter 9 of the bankruptcy code, our office will be moving the Eastern District Bankruptcy Court for relief from the automatic stay in order to proceed with this purely state court elections law issue.

The purpose of this correspondence is to see if your office, as counsel for the City of Stockton, will stipulate to relief from the automatic stay in order to allow the state court Writ of Mandate proceeding discussed above. This will save both our clients time and money and allow for a quicker resolution of this matter. As time is of the essence with regard to this matter, we request that you notify our office of whether you are willing to enter into this stipulation by end of business day tomorrow, **July 31, 2013**. Please do not hesitate to contact our office should you have any questions. We look forward to hearing from you.

KOELLER | NEBEKER | CARLSON | HALUCK LLP



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EXHIBIT B

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Attorney for Movants
DEAN ANDAL

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

In re:

CITY OF STOCKTON,
CALIFORNIA,

Debtor,

Case No. 12-32118-C-9
DC No.: JTS-01

Judge: Hon. Christopher M. Klein

**DEAN ANDAL'S MOTION FOR
RELIEF FROM AUTOMATIC STAY
UNDER 11 U.S.C. SECTION 362(d)(1)
AND 28 U.S.C. 1334(c)**

Date: August 20, 2013
Time: 9:30 a.m.
Courtroom: 35

MOTION AND MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The purpose of this Motion is to seek relief from the automatic stay in order to allow DEAN ANDAL, an individual, (hereinafter "Movant") to bring a writ of mandate in the Superior Court for the County of San Joaquin against the CITY OF STOCKTON, CALIFORNIA (hereinafter "Debtor") as real party in interest, pursuant to California Elections Code section 9295. The writ of mandate will challenge the impartiality of proposed language on the upcoming November 5, 2013 ballot. The Debtor, through its elected City Council, approved proposed language for a measure to be placed on the November 5, 2013 ballot. Though the actions of the

1 City Council occurred on July 9, 2013, making them post-petition acts not covered by the
2 bankruptcy stay, out of an abundance of caution Movant makes the instant Motion for Relief from
3 the Automatic Stay and asks this Court to abstain from hearing this purely state law election
4 issue.

5 **I. NON-BANKRUPTCY ACTION**

6 Movant moves for relief from the automatic stay as to Debtor and Debtor's bankruptcy
7 estate in order to proceed in the Superior Court for the County of San Joaquin with a petition for
8 writ of mandate challenging proposed ballot language on the November 5, 2013 ballot
9 (hereinafter Non-Bankruptcy Action). Pursuant to California Elections Code section 9295, which
10 provides that a state court may issue a writ of mandate to prevent the publication of false or
11 misleading information in the ballot pamphlet for any election, Movant seeks to challenge the
12 proposed language of a measure titled "Law Enforcement, Crime Prevention, and other essential
13 City Services Measure" (hereinafter "Measure") in the upcoming November 5, 2013 election.¹
14 Movant believes the proposed Measure language is misleading to the average voter and seeks a
15 writ of mandate ordering the language altered. A copy of the resolution adopting the proposed
16 Measure language is attached as Exhibit "A" to the Declaration of Joseph T. Speaker in support
17 hereof.

18 Pursuant to California Elections Code section 9295(b)(3) the City Council for the City of
19 Stockton must be named as the real party in interest. As a result of this technicality, Movant must
20 bring suit against the Debtor, which is why the instant relief is sought. Movant does not seek any
21 asset of the Debtor nor seek to modify any decree of this Court or otherwise directly interfere
22 with the Chapter 9 bankrupt proceeding. The relief sought by Debtor in the Non-Bankruptcy
23 Action is related solely to a writ of mandate directing the modification of the proposed ballot
24 Measure language.

25 This Motion is made on the grounds that this Court should abstain from deciding those

26 ¹ The Measure is a "general tax" which, pursuant to Cal. Const., art. XIII C, § 1, subd. (a) requires that the tax be used for "general governmental
27 purposes" and is not earmarked for any specific purpose. (*Id.*) In contrast, a "special tax" is any tax earmarked for specific purposes (i.e. funding
28 law enforcement or crime prevention), even if the proceeds are placed into a general fund. (Cal. Const., art. XIII C, § 1, subd. (d).) A "special tax"
requires a 2/3 vote, while a "general tax" requires a simple majority. (*Id.*) The Measure at issue is a "general tax" being disguised as a "special
tax". Voters are being led to believe that the general tax must be used for law enforcement and crime prevention, however by virtue of being a
"general tax" the tax may be used for any lawful governmental purpose once approved.

1 claims under 28 U.S.C. 1334(c) and abstention constitutes good cause under 11 U.S.C. §
2 362(d)(1) to lift the automatic stay.

3 **II. CASE HISTORY**

4 Debtor filed a voluntary petition under Chapter 9 of U.S.C. on or about June 28, 2012, in
5 the United States Bankruptcy Court for the Eastern District of California, Sacramento Division,
6 captioned "In City of Stockton, California". The bankruptcy case number is 12-32118-C-9.

7 **III. GROUND FOR RELIEF FROM STAY**

8 Pursuant to 11 U.S.C. section 362(d)(1) and 28 U.S.C. 1334(c), good cause exists to grant
9 Movant's Motion for relief from automatic stay to proceed with the Non-Bankruptcy Action to
10 final judgment in the non-bankruptcy forum for a multitude of reason. First, the Non-Bankruptcy
11 Action involves a purely state law elections code matter arising out California Elections Code
12 section 9295. California Elections Code section 9295 states in pertinent part:

13
14 a) The elections official shall make a copy of the material ...
15 available for public examination in the elections official's office for
16 a period of 10 calendar days immediately following the filing
17 deadline for submission of those materials.

18 ...

19 (b)(1) During the 10-calendar-day public examination period
20 provided by this section, any voter of the jurisdiction in which the
21 election is being held, or the elections official, himself or herself,
22 may seek a writ of mandate or an injunction requiring any or all of
23 the materials to be amended or deleted. The writ of mandate or
24 injunction request shall be filed no later than the end of the 10-
25 calendar-day public examination period.

26 (2) A peremptory writ of mandate or an injunction shall be issued
27 only upon clear and convincing proof that the material in question
28 is false, misleading, or inconsistent with the requirements of this
chapter, and that issuance of the writ or injunction will not
substantially interfere with the printing or distribution of official
election materials as provided by law.

(3) The elections official shall be named as respondent, and the
person or official who authored the material in question shall be
named as real parties in interest. In the case of the elections official
bringing the mandamus or injunctive action, the board of
supervisors of the county shall be named as the respondent and the

1 person or official who authored the material in question shall be
2 named as the real party in interest.

3 Movant is informed and believes that the 10-day public examination period is set to take
4 place on August 13, 2013 and end on August 23, 2013. For this reason, time is of the essence with
5 obtaining relief from the automatic stay in order to timely file the Non-Bankruptcy Action.

6 Based on the unique nature of the Non-Bankruptcy Action abstention is proper here. 28
7 U.S.C. § 1334 provides in pertinent part:

8 (c)(1) Except with respect to a case under chapter 15 of title 11,
9 nothing in this section prevents a district court in the interest of
10 justice, or in the interest of comity with State courts or respect for
11 State law, from abstaining from hearing a particular proceeding
arising under title 11 or arising in or related to a case under title 11.

12 (2) Upon timely motion of a party in a proceeding based upon a
13 State law claim or State law cause of action, related to a case under
14 title 11 but not arising under title 11 or arising in a case under title
15 11, with respect to which an action could not have been
16 commenced in a court of the United States absent jurisdiction
under this section, the district court shall abstain from hearing such
proceeding if an action is commenced, and can be timely
adjudicated, in a State forum of appropriate jurisdiction.

17 A Federal Court has “power to abstain in the interest of justice, or in the interest of comity
18 with State courts or respect for State law” under 28 U.S.C. § 1334(c)(1). (*Williams v. Shell Oil*
19 169 B.R. 692-93 (S.D. Cal 1994).) Among the factors a court should consider in deciding whether
20 to abstain are: (1) the effect or lack thereof on the efficient administration of the estate if a Court
21 recommends abstention, (2) the extent to which state law issues predominate over bankruptcy
22 issues, (3) the difficulty or unsettled nature of the applicable law, (4) the presence of a related
23 proceeding commenced in state court or other nonbankruptcy court, (5) the jurisdictional basis, if
24 any, other than 28 U.S.C. 1334, (6) the degree of relatedness or remoteness of the proceeding to
25 the main bankruptcy case, (7) the substance rather than the form of an asserted 'core' proceeding,
26 (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to
27 be entered in state court with enforcement left to the bankruptcy court, (9) the burden of the
28 bankruptcy court's docket, (10) the likelihood that the commencement of the proceeding in

1 bankruptcy court involves forum shopping by one of the parties, (11) the existence of a right to a
2 jury trial, and (12) the presence in the proceedings of non-debtor parties. *In re Tuscan Estates*,
3 912 F.2d 1162, 1167 (9th Cir.1990), citing *In re Republic Reader's Serv., Inc.*, 81 B.R. 20 422,
4 429 (S.D. Tex.1987).

5 In the instant matter, the Non-Bankruptcy Action contains all of the hallmarks of an issue
6 ripe for abstention by the bankruptcy court. Specifically, the purpose of the Non-Bankruptcy
7 Action is to challenge proposed ballot language for the November 5, 2013 state election, which
8 Movant believes is misleading, confusing, and otherwise inaccurate. Any order by a state court
9 would be limited to altering the proposed language and have no direct impact on the Debtor in the
10 bankruptcy court or whether the Measure is submitted to voters. The Non-Bankruptcy Action
11 contains a purely state law issue centered on state election materials, thus state law “predominates
12 over bankruptcy issues” and is “remote” from any proceedings in this bankruptcy Court.

13 Additionally, California Elections code section 9295(c)(3) cited above specifically
14 mandates that the elections official be named in any writ of mandate as a real party in interest.
15 The current elections official for the City of Stockton is the Registrar of Voters Austin Erdman,
16 who is a San Joaquin County official. Mr. Erdman is not a party to Debtor’s bankruptcy before
17 this Court but is a required party to the Non-Bankruptcy Action, pursuant to statute. Thus, the
18 Non-Bankruptcy Action needs to proceed in state court in order to ensure all necessary parties are
19 brought into the action.

20 Finally, the determination of the issues in the Non-Bankruptcy Actions do not require the
21 expertise of the bankruptcy court, meaning that the interests of judicial economy would best be
22 served by allowing the Non-Bankruptcy Action to proceed in state court. (See Speaker Decl. ¶ 6.)
23 Accordingly, good cause exists to grant Movant’s Motion for relief from the stay to proceed with
24 the Non-bankruptcy Actions to final judgment in the non-bankruptcy forum.

25 **IV. EVIDENCE IN SUPPORT OF MOTION**

26 Movant submits the Declaration of Joseph T. Speaker, which filed concurrently herewith,
27 provides evidence in support of this Motion pursuant to Local Bankruptcy Rule.

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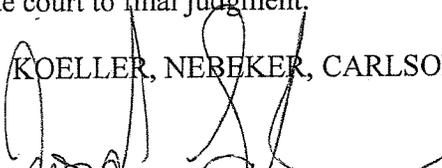
V. CONCLUSION

WHEREFORE, Movant prays that this Court issue an Order:

1. Granting relief from the automatic stay to allow Movant to proceed with the timely filing of the Non-Bankruptcy Action; and
2. Declaring abstention from ruling on the Non-Bankruptcy Action in order to allow Movant to proceed in state court to final judgment.

DATED: August 2, 2013

KOELLER, NEBEKER, CARLSON & HALUCK, LLP



Jerome R. Satran, Esq.
Joseph T. Speaker, Esq.
Attorneys for Movant
DEAN ANDAL

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Attorney for Movants
DEAN ANDAL

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

In re:

CITY OF STOCKTON,
CALIFORNIA,

Debtor,

Case No. 12-32118-C-9
DC No.: JTS-01

Judge: Hon. Christopher M. Klein

**NOTICE OF MOTION FOR RELIEF
FROM AUTOMATIC STAY UNDER 11
U.S.C. SECTION 362(d)(1) AND 28 U.S.C.
1334(c)**

**Date: August 20, 2013
Time: 9:30
Courtroom: 35**

TO ALL INTERESTED PARTIES AND TO THEIR COUNSEL OF RECORD:

NOTICE IS HEREBY GIVEN that on August 20, 2013 at 9:30 a.m. before the Honorable Christopher Klein, United States Bankruptcy Judge, 501 I Street, Courtroom 35, Sacramento, CA 95814, the Court will hear and consider Movant DEAN ANDAL's Motion for Relief from the Automatic Stay (the "Motion"). In the Motion, DEAN ANDAL seeks relief from the automatic stay in order to allow DEAN ANDAL, an individual, (hereinafter "Movant") to bring a writ of mandate in the Superior Court for the County of San Joaquin against the CITY OF STOCKTON, CALIFORNIA (hereinafter "Debtor") as real party in interest, pursuant to California Elections Code section 9295. The writ of mandate will challenge the impartiality of proposed language on the upcoming November 5, 2013 ballot. The Debtor, through its elected

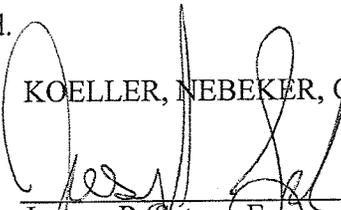
1 City Council, approved proposed language for a measure to be placed on the November 5, 2013
2 ballot. Movant makes the Motion for Relief from the Automatic Stay and asks this Court to
3 abstain from hearing this purely state law election issue.

4 A copy of the Motion and all supporting papers is part of the Court's electronic record,
5 which is the official record of the Court, and can be accessed either through the e-CalWebPACER
6 information system (see <http://www.caeb.uscourts.gov/> - subscription required) or is available for
7 inspection and printing at computer terminals which are located at the Office of the Clerk, Suite
8 3-200, 501 I Street, Sacramento, California. These documents are also available from the
9 Trustee's attorney upon reasonable request.

10 **NOTICE IS FURTHER GIVEN** that your rights may be affected. You should read this
11 Notice and the Motion carefully and discuss them with your attorney, if you have one in this case.
12 If you do not have an attorney, you may wish to consult one. Pursuant to LBR 9014-1 (f)(2)(C),
13 opposition to the Motion, if any, shall be presented at the hearing on the Motion. (LBR 9014-1
14 (f)(2)(C).) If opposition is presented, or if there is other good cause, the Court may continue the
15 hearing to permit the filing of evidence and briefs. (*Id.*) If you or your attorney do not take these
16 steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter
17 an order granted the relief requested.

18 DATED: August 2, 2013

KOELLER, NEBEKER, CARLSON & HALUCK, LLP


Jerome R. Satran, Esq.
Joseph T. Speaker, Esq.
Attorneys for Movant
DEAN ANDAL

6

Jerome R. Satran, Esq. (SBN 188286)
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1478 Stone Point Drive, Suite 400
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Telephone: (916) 724-5700
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Attorney for Movants
DEAN ANDAL

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

In re:

CITY OF STOCKTON,
CALIFORNIA,

Debtor,

Case No. 12-32118-C-9
DC No.: JTS-01

Judge: Hon. Christopher M. Klein

DECLARATION OF JOSEPH T.
SPEAKER IN SUPPORT OF MOTION
FOR RELIEF FROM AUTOMATIC
STAY UNDER 11 U.S.C. SECTION
362(d)(1) AND 28 U.S.C. 1334(c)

Date: August 20, 2013
Time: 9:30
Courtroom: 35

I, Joseph T. Speaker, declare as follows:

1. I am an attorney at law duly licensed to practice before all state and federal courts in California, and I am an associate in the law firm of Koeller, Nebeker, Carlson & Haluck, LLP, attorneys of record for movant DEAN ANDAL (hereinafter "Movant") in the above-entitled action.

2. I am informed and believe Movant wishes to challenge proposed ballot language in a measure that will be submitted to the voters in the City of Stockton in the November 5, 2013 election. Movant will bring a writ of mandate under California Elections code section 9295 requesting that the proposed language of the ballot be modified to prevent misleading language.

1 Due to the bankruptcy of the City of Stockton, Movant must first seek relief from the automatic
2 stay in order to bring the writ of mandate in state court.

3 3. Movant desires to challenge the specific language of the "Law Enforcement,
4 Crime Prevention, and Other Essential City Services Measure" (hereinafter "Measure") which has
5 been approved by the City Council for the City of Stockton to be placed on the November 5, 2013
6 ballot. (A true and correct copy of the Measure is attached hereto as Exhibit "A".)

7 4. Movant's writ of mandate proceeding will challenge only the proposed language
8 of the Measure and has no direct impact on the City of Stockton (hereinafter "Debtor") nor any of
9 Debtor's estate.

10 5. The City of Stockton, through its elected City Council must serve as a "real party
11 in interest" pursuant to California Elections code 9295.

12 6. Finally, the determination of the issues in the writ of mandate proceeding do not
13 require the expertise of the bankruptcy court, meaning that the interests of judicial economy
14 would best be served by allowing the writ of mandate to proceed in state court.

15 7. I declare under penalty of perjury, under the laws of the State of California that the
16 foregoing is true and correct of my own personal knowledge, and if called upon to testify, I could
17 and would competently testify thereto.

18 Executed this 2nd day of August, 2013, at Roseville, California.

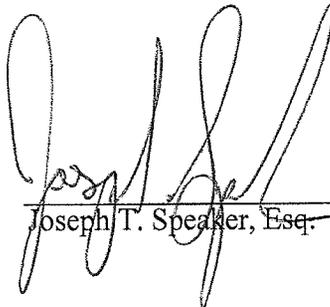
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22 
23 Joseph T. Speaker, Esq.
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EXHIBIT A

Resolution No. 2013-07-09-1601

STOCKTON CITY COUNCIL

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF STOCKTON, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF STOCKTON A CERTAIN MEASURE RELATING TO A PROPOSED ORDINANCE IMPOSING A 3/4 CENT TRANSACTION AND USE TAX FOR GENERAL PURPOSES, GIVING NOTICE, AND REQUESTING CONSOLIDATION OF A SPECIAL ELECTION TO BE HELD TUESDAY, NOVEMBER 5, 2013

WHEREAS, the City Council desires to hold a special municipal election on November 5, 2013 (the "Election"); and

WHEREAS, the City Council has submitted to the voters at the Election an ordinance imposing a general transactions and use tax (the "Ordinance"); and

WHEREAS, the Ordinance imposes a general tax, the revenues from which are to be placed in the general fund of the City and to be used for any lawful purpose of the City (the "Tax"); and

WHEREAS, the City Council desires to submit an advisory question to the voters regarding the use of proceeds of the Tax; and

WHEREAS, the City Council desires to submit its advisory question to the voters at the Election; now, therefore,

BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF STOCKTON, CALIFORNIA, AS FOLLOWS:

SECTION 1. Pursuant to Elections Code section 10210, there shall be and hereby is called a special election in the City of Stockton on Tuesday, the 5th day of November, 2013. The City Council hereby finds that a fiscal emergency exists in the City that necessitates placing the general tax proposal stated in Section 2 of this resolution on a special election ballot. The City's next general municipal election will not occur until November 2014 but the City has an urgent need for additional funding to provide adequate levels of law enforcement and other public services to protect public safety and to help resolve the City's bankruptcy. Accordingly, this resolution is adopted by a unanimous vote of the Councilmembers present to declare that emergency as required by Article XIII C, section (b) of the California Constitution.

SECTION 2. The City Council hereby orders the following question to be submitted to the voters at the special municipal election called for Tuesday, November 5, 2013:

Law Enforcement, Crime Prevention, and Other Essential City Services Measure		
To pay for law enforcement and crime prevention services such as those described in Stockton's Marshall Plan on Crime, to help end the bankruptcy and restore other City services; and provided it shall sunset in ten years or when economic recovery occurs, a Citizen's Oversight Committee reports on the use of proceeds, and independent audits are done annually; shall Ordinance ___ be adopted to impose a 3/4-cent transaction and use (sales) tax?	YES	
	NO	

This question requires the approval of a majority of those casting votes and the Ordinance referenced therein is Ordinance No. _____ of the City, attached hereto as Exhibit 1.

SECTION 3. The City Council hereby orders the following question to be submitted to the voters at the advisory municipal election called for Tuesday, November 5, 2013:

Advisory Vote Only		
If Measure ___ is approved by the voters, shall (i) 65% of its proceeds be used only to pay for law enforcement and crime prevention services in the City such as those described in the City's Marshall Plan on Crime and (ii) 35% of its proceeds be used only to pay for the City's efforts to end the bankruptcy and for services to residents, businesses, and property owners?	YES	
	NO	

This question requires the approval of a majority of those casting votes. It is an advisory measure only. The City Clerk is hereby authorized to complete the blanks in the ballot label set forth above with the letter or number assigned to the measure proposed by Section 2 of this resolution.

SECTION 4. The City Attorney of the City of Stockton is hereby authorized and directed to prepare by July 26, 2013, an impartial analysis of the measure and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election in time, form, and manner as required by law.

SECTION 5. The City Council hereby declares its intent to consolidate the Advisory Election with the Special District Election to be held on November 5, 2013, and requests that the San Joaquin County Board of Supervisors add this Ordinance to said ballot as set forth herein.

SECTION 6. The deadline for the filing of arguments for or against the measure shall be August 2, 2013, for direct arguments, and August 12, 2013, for rebuttal arguments.

SECTION 7. The City Council authorizes Councilmember Elbert Holman to oversee the drafting of a direct argument in favor of the Ordinance, and to oversee the drafting of a rebuttal to the direct argument against the Ordinance, and give preference and priority to such arguments pursuant to Elections Code section 9287(a); and delegates to Elbert Holman the selection of others to join him in signing such arguments.

SECTION 8. In all particulars not recited in this Resolution, the Election shall be held and conducted as provided by applicable law.

SECTION 9. Notice of the time and place of holding the Election is hereby given and the City Clerk is authorized, instructed, and directed to sign and publish notice as required by law.

SECTION 10. The City Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City of Stockton's cost of placing the Measure on the election ballot and to execute any necessary agreements, including the agreement substantially in the form of Exhibit 2.

SECTION 11. The City Clerk is hereby authorized and directed to take all steps necessary to place the Measure on the ballot and to cause the Measure to be printed. A copy of the Measure shall be made available to any voter upon request.

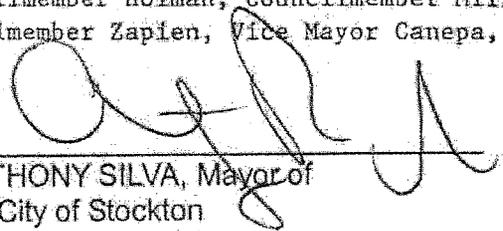
SECTION 12. The City Clerk is directed to file a certified copy of this Resolution with the Board of Supervisors of San Joaquin County and the Registrar of Voters of San Joaquin County.

PASSED AND ADOPTED by the City Council of the City of Stockton, on July 9, 2013, by the following vote:

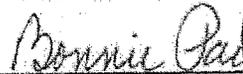
AYES: Councilmember Burgos, Councilmember Holman, Councilmember Miller
Councilmember Tubbs, Councilmember Zapfen, Vice Mayor Canepa, Mayor Silva

NOES: 0

ABSENT: 0


ANTHONY SILVA, Mayor of
the City of Stockton

ATTEST:


BONNIE PAIGE, Clerk
the City of Stockton



1 **1**
Jerome R. Satran, Esq. (SBN 188286)
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5 Attorney for Movants
6 DEAN ANDAL

7
8 **UNITED STATES BANKRUPTCY COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10 **SACRAMENTO DIVISION**

11 In re:
12 CITY OF STOCKTON,
CALIFORNIA,
13
14 Debtor,

Case No. 12-32118-C-9
DC No.: JTS-01

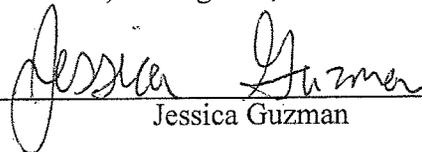
Judge: Hon. Christopher M. Klein

PROOF OF SERVICE

15 I, the undersigned, hereby declare:

16 I am over eighteen years of age and not a party to the above-entitled action. My address is
17 1478 Stone Point Drive, Suite 400, Roseville, California 95661. On August 2, 2013 I served a
18 copy of the following documents: Dean Andal's Motion for Relief From Automatic Stay Under
19 11 U.S.C. Section 362(d)(1) and 28 U.S.C. 1334(c); Notice of Motion for Relief From Automatic
20 Stay Under 11 U.S.C. Section 362(d)(1) and 28 U.S.C. 1334(c); Declaration of Joseph T. Speaker
21 in Support of Motion for Relief from Automatic Stay Under 11 U.S.C. Section 362(d)(1) and 28
22 U.S.C. 1334(c); Form EDC 3-468, Relief from Stay Summary Sheet; and Dean Andal's
23 [Proposed] Order Granting Motion for Relief From Automatic Stay. I caused the documents to be
24 sent via electronic transmission.

25 I declare under penalty of perjury the foregoing is true and correct under the laws of the
26 State of California and executed at Roseville, California, on August 2, 2013.

27 
28 _____
Jessica Guzman