IN AND FOR THE UNITED STATES BANKRUPTCY COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

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BEFORE THE HONORABLE CHRISTOPHER M. KLEIN, JUDGE

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In re:	)	
	)	
CITY OF STOCKTON, CALIFORNIA,	)	No. 12-32118-C-9
	)	
Debtor,	)	Chapter 9
	)	

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REPORTER'S TRANSCRIPT OF PROCEEDINGS
FINDINGS OF FACT AND CONCLUSIONS OF LAW

Held on Thursday, October 30, 2014

10:00 a.m.

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Reported by: Jodi Till, CSR #10381

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Also Present in the Courtroom:

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From Franklin:
Jennifer Johnston
Thomas Walsh
John Riley

Kathryn Nance
President of Police Officers Association

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SACRAMENTO, CALIFORNIA, THURSDAY, OCTOBER 30, 2014, 10:00 A.M.

BEFORE THE HONORABLE CHRISTOPHER M. KLEIN

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THE COURT: This is the time set for hearings in the City of Stockton case. Let's start with entries of appearance of persons appearing in the courtroom, starting with the City.

MR. LEVINSON: Good morning, Your Honor, Marc Levinson and Patrick Bocash of Orrick on behalf of the City. Also present in the courtroom from the City of Stockton are the Mayor, Anthony Silva; the City Manager, Kurt Wilson; two deputy City Managers, Laurie Montes and Scott Carney; the City Attorney, John Leubberke; and the Deputy City Attorney, Neal Lutterman.

MR. JOHNSTON: Good Morning, Your Honor. Jim Johnston and Joshua Morse of Jones Day on behalf of Franklin California High Yield Municipal Fund and Franklin High Yield Tax-Free Income Fund. With us today are Jennifer Johnston, Thomas Walsh, and John Riley from Franklin.

MR. RIOS: Good morning, Your Honor. Jason Rios of Felderstein Fitzgerald Willoughby & Pascuzzi for the Official Committee of Retirees.

MR. BJORK: Good morning, Your Honor. Jeff Bjork, Sidley Austin, on behalf of Assured Guaranty.

MS. GARMS: Good morning, Your Honor. Margaret Garms

from Parkinson Phinney on behalf of the Stockton Police Officers Association and Stockton Police Managers Association, and also with me today are Donna Parkinson, David Mastagni, both attorneys, and Kathryn Nance who is president of the Police Officers Association.

MR. GEARIN: Good morning, Your Honor. Michael Gearin, K&L Gates, from CalPERS. With me, my colleague Michael Ryan, and also with me this morning is CalPERS General Counsel Matt Jacobs.

MR. BLAIR: Good morning, Your Honor. From the Attorney General's Office, representing the Department of Boating and Waterways.

THE COURT: I missed your name.

MR. BLAIR: Jerry Blair.

THE COURT: I have a note that there are telephone appearances. Let's see, Ms. Dandeneau?

MS. DANDENEAU: Good morning, Your Honor. Debra Dandeneau from Weil Gotshal & Manges, appearing on behalf of National Public Finance Guarantee Corporation.

MR. DE LANCIE: Nicholas De Lancie, Your Honor, from Jeffer Mangels Butler & Mitchell, LLP, appearing on behalf of the MUFG Union Bank as trustee.

THE COURT: Union Bank as trustee.

Mr. Kannel?

MR. KANNEL: Good morning, Your Honor. William Kannel

on behalf of Wells Fargo Bank, N.A., as trustee.

THE COURT: Wells Fargo.

Ms. Walker?

MS. WALKER: Good morning, Your Honor. Adrienne Walker as well for Wells Fargo Bank as indenture trustee.

THE COURT: And everybody else I have noted as listen only. Are there any other counsel making appearance?

I infer from the silence that there are not.

Of course, I have a large number of things on calendar. Let's start with a brief review of them.

Mr. Levinson, I note that I promised to make Findings of Fact and Conclusions of Law on confirmation.

MR. LEVINSON: Almost everything on calendar besides confirmation deals with motions to exclude and the like, so I assume you would deal with those as part of your ruling. So last time you told us you didn't want oral argument, so I don't think I need to prepare an oral argument. I think you heard enough.

The only thing I would add, the last time I was here on October 1st, I told you we haven't quite made peace with Assured Guaranty on the lease on 400 East Main. We have since done that. It hasn't been fully documented, but the City and Assured believe we have an agreement with respect to the new lease of 400 East Main, so that is off the checklist.

THE COURT: And the issue was something about the rent?

MR. LEVINSON: It wasn't an economic issue so much as how to allocate the space within the building and goes where on which floor and things like that.

THE COURT: This is the building that would be used as the City Hall?

MR. LEVINSON: That's correct. That has been resolved.

THE COURT: While you are up, I do have a question regarding the Plan, if I can find the Plan. I'm focused on pages 58 to 59, the Retention of Jurisdiction Provision, which goes for about two pages, and I'm trying to figure out how long I'm going to have to live with this case if I confirm the Plan. In other words, how long does that retention of jurisdiction go on?

MR. LEVINSON: We did not enter an end date, so our goal is that you would retain jurisdiction until we pay off Assured, which is in 2052. Seriously, Your Honor, we didn't put an end date. We assumed once there was substantial compliance with the Plan and assuming there be no appeal or the appeal would be resolved and the case would be closed at that point in time. If there was a need to reopen the case and come back to court, we would do so -- or my successor would do so because I wouldn't be around either.

THE COURT: All right. Mechanically, when the ordinary business of a case is completed, we close the case, and it can be reopened if there is some reason to deal with something related to the Plan. I gather that if somebody in 2025 or 2030 thinks that the Plan has not been complied with, they can seek to have the case reopened and come in and complain about it. Is my understanding correct?

MR. LEVINSON: It could be; however, at that point in time I would assume someone would just take the matter to state court, not come back to the bankruptcy court unless there was some particular bankruptcy issue involved. But if it makes you more comfortable, we can insert an end date, but since there are different types of jurisdiction, we just assume we would leave it to -- the case would be closed if appropriate and reopened if necessary.

THE COURT: I wanted to clarify exactly what was meant by this provision.

MR. LEVINSON: That was the intent.

THE COURT: In principle, it can go to the end of the Plan.

MR. LEVINSON: (Mr. Levinson nods head.)

THE COURT: All right. Thank you.

All right. When we were here on October 1st there was argument over the question of confirmation of the plan of adjustment of the City. The evidence was adduced at trial

earlier this year. It was a trial that also involved a determination of the extent to which Franklin is secured, and I determined that Franklin is secured to the extent of $4,052,000. And then Franklin continues to object to confirmation of the Plan.

I'll make these Findings of Fact and Conclusions of Law, and I'll do it orally on the record pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014. I'll work my way generally through the confirmation -- through the matrix of the confirmation provisions that apply in Chapter 9, and that requires us to go back and forth between Section 1129 and Section 943.

The Plan has been proposed. It is a first amended plan that was filed August 8, 2014, and of course the Plan proponent, the City, is in total control of the terms of the Plan until the moment that it is confirmed, so -- and I take it, other than clarifying the situation with Assured, Mr. Levinson, the Plan is not being otherwise modified?

MR. LEVINSON: That's correct. There is no need to modify the Plan due to the Assured agreement.

THE COURT: All right. The first thing I'm going to do is incorporate the Findings of Fact and Conclusions of Law that I made at the close of the eligibility trial. All of those findings of fact I continue to adhere to, and I will

summarize some of them at this point because it is important to look at this case from the standpoint of the big picture.

The City of Stockton recognized that it was in serious financial trouble back in 2008 or 2009. It began a program with the city management to rachet down expenses as much as it could. There were emergencies associated with payment of employees. There were -- that enabled the City to cut down some expenses. The City worked to eliminate expenses, a number of -- there were significant reductions in staff of the City, and it reached the point in early 2012 of recognizing it had still not resolved its problems and would need the benefit of a proceeding under Chapter 9 of the Bankruptcy Code so that it could actually formally impair contracts that shed particularly burdensome expenses.

The State of California specifies the procedure that the municipality must go through before it is allowed to file a Chapter 9 case. As I explained in the decision regarding eligibility, the State is a gatekeeper. The State gets to specify whether there can be a Chapter 9 case. If so, under -- in what situations.

There are essentially two routes into Chapter 9 -- to the Chapter 9 gate under applicable California law. One is the declaration of a fiscal emergency. That was not the route in Stockton. Stockton went with the longer term requirement that there be pre-filing mediation, a mediation period of

60 days with a mediator knowledgeable about matters of finance and reorganization, finance and other issues, and that is extendable to 90 days, and that is what occurred.

City Counsel made the appropriate determinations, followed the procedures of California law. A mediator was selected. Retired Former Bankruptcy Judge Ralph Mabey functioned as the mediator. He worked extensively with the parties for a period of 90 days. I do not know the details of that mediation because it never became important for me to know exactly what positions people took, so snippets of it may be revealed during the course of the case.

What I do know is that when we got to the filing of the Chapter 9 case, which the City did after it fully complied with the California law on getting through the gate into Chapter 9, it was reported that all -- all unexpired collective bargaining agreements have been worked out and deals have been worked out with respect to them.

I know that in those collective bargaining agreements there were considerable changes and concessions that the unions made regarding compensation and conditions of employment in terms of matters relating to retirement. There was a new retirement plan agreed to for new employees. There was -- the employees' portion, the contributions to retirement plans which the City had previously been picking up and paying in excess of six percent, was shifted back to the employees.

The City had been paying it. That shifted across.

There were a number of other changes in the Plan that were negotiated, and those were carried forward in the case. The one expired collective bargaining agreement, if I understand it correctly, the police, that was resolved relatively early in the case.

I appointed at the outset of the case a judicial mediator, Bankruptcy Judge Elizabeth Perris from the District of Oregon, who worked at great length with all of the parties to reach consensus and agreements on what could be achieved in a Plan of Adjustment of Debts.

One of the major financial problems of the City was the Retiree Health Plan. The City's plan beforehand was a "pay as you go" plan, in which the City paid 100 percent of health benefits for retirees and their dependents. This, through the years, started to hemorrhage funds. The City imposed right at the outset of the case a new Retiree Health Plan that came in in several segments, but the net result is that there is now a much less generous Retiree Health Plan, and the retirees are required to contribute funds to pay a portion of the expense of that plan.

Once I determined that the City was eligible for Chapter 9 and ordered relief, a committee was appointed to represent the 1100 -- or merely 1100 retirees collectively to negotiate. As a result of the negotiations, it was recognized

that the amount of value that the retirees were giving up or that was taken away from them by the City's unilateral change of its retiree health benefit was approximately $550 million, and that, of course, has translated to an unsecured claim, a general unsecured claim in that amount, and that's one of the significant expenses that has been reduced in the course of the case.

In addition, there were a large number of bond financings that occurred which the City had gone to the capital markets to borrow large amounts of money. Many of those were guaranteed. Those bond issues were guaranteed by insurers who provide backup for the -- assuring payment on municipal bonds. National Public Finance is one that was involved in a large number of the guarantees. Another was Assured Guaranty. They are both represented here today because they have been required to step in and perform.

The City had agreed to or pledged the General Fund of the City to pay a number of the bonds, and that was in addition to the guarantee -- the separate insurance, and one of the changes that has been worked in the course of the Chapter 9 Plan, worked out largely by agreement, is that the City's general fund will now not be responsible for backing up most of the bond issues where it had previously been doing so, and that will give greater freedom to the City in the management of its finances going forward.

The City also, before the case was filed, intentionally defaulted on bonds relating to certain parking garages. The bond indentures provided the bond default. The bond trustee could then apply to a state court to get a receiver appointed. The City acquiesced in that, and the receivers were appointed to the parking facilities and are still running the parking facilities. The City did not fight that at all.

That has, of course, become part of the matters that parking worked out through the Plan of Reorganization -- the Plan of Adjustment of Debts, excuse me, Chapter 9. It's a Plan for the Adjustment of Debts. In Chapter 11 it's a Plan of Reorganization. Because there is so much overlap, I think every lawyer and most judges will occasionally slip and say "reorganization" when they mean adjustment. I make that same mistake.

So that is the situation that got us where we are today. The one unresolved matter is the objection by Franklin to Confirmation of the Plan, and the Franklin Funds issue was the following: It is -- we are dealing with an issue of bonds, approximately $36 million. Is that number right, Mr. Johnston?

MR. JOHNSTON: Principal amount, yes, Your Honor.

THE COURT: Principal amount of $36 million. Of course, I have previously determined that the secured portion

of that is $4,052,000 and the City has elected to pay that directly on the effective date, so that provides a recovery for Franklin of about -- nearly 12 percent, and then Franklin is put into the general unsecured class for the remainder of its claim, which is something over $31 million, nearly $32 million. And, of course, in the general unsecured class are the Retirees whose unsecured claims are $550 million. The Retirees have voted to accept the Plan, as they voted in favor of confirmation.

Franklin has voted against, but in terms of the requirements for confirmation of the Plan, there is no contention that the unsecured creditors, if they are lumped together as one class, have accepted the Plan, and Franklin objects to confirmation, and its theory is largely that it should be separately classified; in other words, it challenges both on good faith and the legitimacy on classification and contends that I should look at them separately from the general unsecured class and treat them as a nonconsenting class.

And as a matter of law, that would then throw us into what is known as a cramdown under 11 USC Section 1129(b) where a plan can be confirmed over the opposition of a dissenting class only if it does not discriminate unfairly and is fair and equitable with respect to that particular class. So the way the case was argued, the position of the City and

those in support of confirmation, is that this is not a cramdown case in the first place. The argument of Franklin is that it should be a cramdown case, and we get through it through the path I just described.

Getting on that path required me to figure out what the situation was regarding the pension obligations of the City, and on October 1st I made an oral ruling regarding the status of the CalPERS pension -- or the CalPERS contract, and I ruled that the contract can be rejected under 11 USC Section 365 by the City. And the City has declined to reject the contract, saying it exercises its business judgment to conclude that the pension contract -- that CalPERS is, in effect, the low cost provider of the City's pensions, and that it would, under any theory, cost more to use some other pension provider, and pensions themselves might also produce less.

And there is another aspect of it in that CalPERS pensions have a feature commonly referred to as "portability," where an employee of one California municipality can move to other employment in California, either a different municipality or the state, and carry their CalPERS pension benefits with them. And the contention from the City is that if I do not approve a plan, that does not impair the CalPERS pensions, and that is what is involved here. There would be immediate flight within the first six months of a large number

of City employees, particularly police and fire. And as a result, a City that is already stressed in terms of its ability to provide an adequate level of services, would be a situation near collapse.

The Plan of Reorganization that does not impair pensions is the Plan that was worked out in various extensive mediations with Judge Perris. And one of the requirements for the Plan, as it was worked out, was that the voters of the City of Stockton actually approved a tax increase that was on the ballot last year, and the voters did, and, indeed, it's the projected tax revenues from that that provided the funds that enable the City of Stockton to be able to pay what is proposed under the Plan. Nevertheless, it is contended that the pensions should be impaired.

Now, when I ruled that the CalPERS contract can be rejected, I explained there was a triangular arrangement that some press workers have not really picked up on that, although, of course, the point is made quite clearly in the briefs provided by the counsel for the Retirees Committe, and in other briefs, Mr. Hansen's brief, also covers the point, and that is we have a triangle of bilateral relationships in the law of viewing the matter through the matrix of the law of contract. There is a contract between the City and its employees to hire them and to pay them and to provide a pension, and there is an agreement, all part of the

relationship, the contractual relationship, between the City and its employees or their representatives on the parameters on what the pension will be. That's the basic pension contract that exists.

Then the City has elected to have the pension administered by the California Public Employee Retirement System, known as CalPERS, and CalPERS is willing to do so if the local pension matches a template that CalPERS is willing to service under a variety of options that one can make. But any such pension must conform to one of the options, and I think the permutations and combinations are in the hundreds, actually, when you get done with all the calculations. That's a separate leg of the triangle. That's a separate contract, and that's the contract that I said could be rejected by the City.

Then the third leg of the triangle is a relationship between CalPERS and the employees in which the employees are, as we learned in our contracts courses in law school, intended third-party beneficiary. Third-party beneficiaries have certain rights to enforce contracts. So if the City were to impair or were to actually reduce the pensions, it would be necessary not just to reject the CalPERS contract, but more importantly, it would be necessary as a separate matter to reject the pension contract with the City -- or with the employees.

The problem with that is that the pension is part of the overall compensation scheme with the employees. When one looks at employment from the big picture, the quid pro quo is not just salary; it's salary plus pension. So when one looks at -- compares public sector compensation and private sector compensation, it really is fallacious just to look at what salaries are. One has to look at what the total compensation is, including pension benefits, and there is a fair amount of social science research that is focused in on making that point.

Well, I have collective bargaining agreements that cover most of the employees that have been hammered out in part through this -- well, hammered out over time and then reworked as part of this Chapter 9 case, and it has been made clear that the negotiations in those particular contractual negotiations were on a basis of the employees and their representatives saying, all right, we will give up certain aspects of our basic compensation, but we do not want any of the pensions touched. So all of concessions that were made--and there are quite substantial concessions--were made on the income side, the direct income side, not on the pension side.

So it's been argued that -- well, first that CalPERS is the biggest creditor of the City and it is not being touched at all, and it is also argued that the employees have

not given up anything. Both of those assertions are incorrect. The first assertion that CalPERS is the biggest employee is, as I explained on October 1st, is -- or the biggest creditor rather, is not correct because when one studies the Public Employee Retirement Law, known as the PERL, it becomes apparent that the failure of a California municipality to pay its bills to CalPERS would lead to termination of the CalPERS contract. And upon termination, the consequence for retirees is that their pensions are reduced pro rata, so CalPERS figures out how much it has by way of funds and what level the pensions are funded, and if they are funded at 40 percent, then that is all that would be paid in the pensions to the employees. So they are, as I have said on several occasions, the real victims of any adjustment. It's not as though, well, CalPERS would make less money, and it would just back up and give the City a free ride. The Public Employee Retirement Law is not structured that way at all. I don't think any private sector pension provider would provide that kind of guarantee, as well.

So CalPERS is a creditor really only to the extent that CalPERS is entitled to compensation out of the pension administration relationship, and, of course, CalPERS is entitled to compensation for pension administration expenses and investment management expenses. Those are explicitly referred to, but that's a relatively small number compared to

the actual pension obligation that flows to the employees.

Then also we have in connection with the Public Employee Retirement Law, upon termination there is a statutory lien that was created by the California legislature in 1982, legislature making explicit reference to bankruptcy saying, well, we are doing this because we have -- there could be a bankruptcy, and, otherwise, CalPERS would be an unsecured creditor, so the link is unmistakable, and that lien works as follows:

CalPERS, on an actuarial basis, figures out at the point of termination what likely pension obligations are in the future and how much it has on hand that's been provided by the terminating entity, and it uses -- and then it calculates the extent to which those funds on hand would be sufficient to pay the obligations. And here the mathematics of finance become important because CalPERS uses -- well, mathematics of finance focus on what is the discount rate that is used to calculate what amount of funds on hand will be worth in the long run, and the discount rate that CalPERS currently uses is 7.5 percent. It has actually reduced that from higher numbers in the past, and higher discount rates make a pension look like it is more funded -- the funding levels are higher.

And so the City's pensions right now are CalPERS looking at it at the 7.5 percent rate when one looks at the declaration of Mr. Lamoureux, the Assistant Chief Actuary of

CalPERS. And the exhibits he provided show that the CalPERS pensions, depending on whether one uses actuarial or market value, are underfunded by maybe 200- or $400 million, which, relative to the total amount, works out to somewhere around -- averages about 85 percent funded is the way the Stockton pension looks right now using the 7.5 percent calculation.

And CalPERS has pointed out that the City of Stockton is in full compliance with all of its obligations under its pension administration contract and has made all of its required contributions. The required contributions -- they increased when CalPERS decided to reduce its normal discount rate to 7.5 percent from a higher number. That necessarily reduced the percentage that the pension was deemed to be funded, so there is an underfunding that is being recaptured with a period of amortization, which shows up in the Plan in the schedules of payments because there is an additional payment that has to be made over a period of years that is intended to, in effect, bring the pensions up to a full funded level based on the 7.5 percent discount rate.

Now, on termination though, termination lien, the actuarial analysis is much more conservative, much more cautious, and assumes that there is -- investment returns will not be as robust, so the discount rate that is used for the year that ended on June 30, 2012, which was a couple days after the filing of this case, was 2.98 percent. Well, when

you run those numbers, suddenly the underfunding is not in the 200- to $400 million range. It's 1 billion, 618 million, some-odd-thousand dollars, and that is the so-called $1.6 billion termination lien that has been referred to.

Now that is a statutory lien that jumps ahead in line ahead of all other liens except prior liens for wages, according to the terms, and the argument throughout the case has been if that -- it would cost $1.6 billion to get out of CalPERS. Well, I'm not sure that in the end that's the way it would work, because among other things, that lien looks like it is avoidable under 11 USC Section 545 as a statutory lien, and -- but what one would have is the proposition that the lien is valid as a matter of California law and the obligation is valid as a matter of California law, and, therefore, the City would have another $1.6 billion of unsecured debt to put in the unsecured plan, that is, the unsecured class, along with the 550 million of the Retirees and 32 million of Franklin and the others.

So that termination lien is, looking at the end game in a plan of adjustment, is not as big of an impediment as it would otherwise look. It's outside of a Chapter 9 case. There is no question that it would be valid as a matter of California law, at least I have no reason to doubt that. Nobody suggested it would be invalid for some reason other than the Federal Bankruptcy Code.

But if that contract were to be terminated, notwithstanding that lien and all those extra unsecured creditors, that would still not terminate or modify the contract on the bottom of the triangle, the one between the City and its employees. That would have to be dealt with separately, and the City would have to provide a pension. Its contract is to provide a pension that is a pension that, at the moment, conforms to CalPERS' obligation. So it would have to set up some way to pay it or it would have to go through all the problems of modifying it, but there the issue would be whether it's appropriate to insist upon modification of pensions when the other half of the compensation equation is where very significant adjustments were made in terms of reducing compensation to employees.

Of course, there is a secondary effect on pensions because the lower compensation one has over time, the lower the pension has to be paid. That's a point I made back in my findings in May in the eligibility phase when, again, there was great emphasis on the proposition that CalPERS was the biggest creditor. As I have just said, no, CalPERS is not the biggest creditor. The biggest creditor is really the employees with the pensions, if one wants to treat the pensions as a claim.

If the City were to reject or adjust its pensions, it would have to be doing so under a more substantial showing

than what we required with the pension administration contract. The usual pension regarding rejection of contracts under 11 USC Section 365 is what is called the "business judgment rule"; the debtor in it's business judgment can choose to reject the contract. While it's not free from doubt, I think that rule would probably apply to a choice by a municipality or any other employer to shift from one pension administrator to another pension administrator. But when one comes to rejecting pensions that have been agreed to in collective bargaining, one has an overlap with the problem of rejecting collective bargaining agreements.

As I ruled at the outset of the case, the standard was established by the U.S. Supreme Court in a case called Bildisco back in 1984. In the Bildisco case, the Supreme Court made clear the business judgment rule was not the rule for rejecting the collective bargaining agreement. Indeed, there was a much more significant showing that was required. I can summarize it, in effect, saying it's been negotiated at length, and rejection is really a last resort after having explored all other alternatives and there being no other alternative for the employer. That's a slight oversimplification of the Bildisco standard. The point is it's a significant standard.

Congress reacted to that by enacting Bankruptcy Code Section 1113 to provide very significantly higher standards to

get rid -- to reject a collective bargaining agreement, so the question of -- kind of like a hurdles race in track and field; there is a mid-level hurdle that -- there is a very low hurdle for rejecting the garden-variety contract; there is a higher hurdle set by the U.S. Supreme Court for rejecting a collective bargaining agreement; and there's even a higher hurdle set by the Congress for rejecting the collective bargaining agreement in a Chapter 11 case. Congress did not make that provision applicable in Chapter 9. I suppose Congress can do so but has not done so yet, so the standard is Bildisco. And either way, Bildisco, or Section 1113, if it applied, would be a distinctly higher standard than good business judgment, so it would be no simple task to go back and redo the pensions.

Also, we have the fact that in this case, through collective bargaining and negotiations over the collective bargaining agreements, there already have been substantial concessions made, so really reopening would be reopening the whole package of matters, and as a practical matter that would be difficult to do.

I have been talking for about 50 minutes. People keep telling me I need to take a break once an hour, so why don't I take a break until about 11:00, for about ten minutes.

(A break was taken from 10:54 a.m. to 11:06 a.m.)

THE COURT: All right. As I was saying before we

took the break, if you look at the overall compensation situation for the City, you have a situation where if you look back at 2008, overall compensation was what would be described as above market. The compensation for the employees in Stockton was above what comparable municipalities within the market were paying.

As you look at the situation now, compensation is not above market, and that has been, in effect, ratcheted out as a part of the overall change. As a matter of fact, come back to the focus on what has been accomplished, as I said at the time of the eligibility trial, the relevant period to look at is not just from the start of this case or from the start of the California pre-filing mediation that was in earlier in 2012, but one has to look all the way back to 2008 and say where are they then and where are they now because it has been a continuing process.

As I indicated back on October 1st, my conclusion that the CalPERS contract could be rejected as a matter of law, that the provisions of the Public Employee Retirement Law that were intended to block that, including the termination lien and the provision in which the PERL expressly says a municipality may not reject a contract with CalPERS under 11 USC Section 365, were provisions that would give way in a bankruptcy case just due to the Supremacy Clause of the Constitution and the proposition that contracts can be

impaired in bankruptcy. And, of course, that undermines what has heretofore been assumed to be an important assurance of pensions under applicable nonbankruptcy law.

And under applicable nonbankruptcy law, it probably is an important assurance, but as I said at the outset of the case, bankruptcy is all about the impairment of contracts. That's what we do, and that's why Congress has given the authority in Article I, Section 8 of the Constitution and the Contracts Clause of the U.S. Constitution does not prohibit the contract -- the Congress for making a law impairing the obligation of contracts. It prevents states from making a law impairing the obligation of contracts. And under the Supremacy Clause of the U.S. Constitution, state provisions, be they be in constitutions or statute or any other source of law, give way to the Federal Constitution. So that is the situation regarding my view of the pensions and the argument that the classification is inappropriate, that is, the classification of Franklin Funds that the classification is inappropriate.

I am not persuaded by Franklin Funds are -- have a secured claim and an unsecured claim. It's not appropriate to say, well, Franklin Fund is only getting less than one percent on the dollar. You have to look at the combination of the secured and unsecured claim. When you do that, the accurate statement is -- it's more like 12.18 percent is what they are

getting, which is still not much, but it's certainly higher than what some people have asserted.

Now, with that as background, I'll come back to the elements of confirmation. The Plan must comply with the provisions of Title 11 that are made applicable by Sections 103(e) and 901 of Title 11, Title 11 being U.S. Bankruptcy Code.

The focus is on -- in that is on compliance with a number of requirements, one of which is what must be in a plan, and that starts with the classification, Section 1122: "A plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to other claims or interests of a class." And the bonds are all separately classified, and that's appropriate because each one has its own unique legal rights and status. The general unsecured claims are all in the same spot in that they are general unsecured claims. That includes the Retirees claims, Franklin claims and all the other creditors who are included within the unsecured class.

The Plan must designate -- subject to what I just described in Section 1122, it must designate classes of claims other than claims specified in Section 507(a)(2). That's the only one mentioned in 1123(a)(1) that is relevant to a Chapter 9 case. And the Plan does designate classes.

The Plan, next, under Section 1123(a)(2), requires

that there be specification of classes of claims or interests that are not impaired under the Plan, and the Plan does specify the impaired status of each of the classes. It's presented in the Plan at paragraph Roman III, starting at page 32. It specifies the classes, and then in paragraph Roman IV -- or Section IV, beginning at page 34, it goes through class by class, designating who is impaired, who is not impaired.

Thus, for example, one looks at Class 1B, claims of holders of 2003 Fire/Police/Library Certificates, and that is impaired, impaired class, and Ambac is the deemed holder of the class, and it's pointed out it's entitled to vote. The next class, Class No. 2, SEB claims of 2006, SEB Bond Trustee, is designated as not impaired, and so it goes. So Section 1123(a)(2) has been satisfied.

Section 1123(a)(3) requires that treatment of any class of claims or interest that is impaired be specified; thus, looking at Class 3, the Arena Bonds, for example, among the other classes, treatment is specified as set forth in the settlement with National Public Finance, which is available on the docket, and the Plan does not modify, amend, or alter the 2004 Arena Bonds or the obligations of National Public Finance to pay principal or the redemption price or interest on the 2004 Arena Bonds, as and when such amounts become due under the 2004 Arena Bond indenture, which payment shall be made by

National Public Finance in accordance with and subject to terms of the 2004 Parking Bond Insurance Policy on the effective date, without the need to file any further motions. The Arena Lease Out and Arena Lease Back shall be assumed, subject to modification of the City's obligations, pursuant to the terms of National Public Finance Arena Settlement. So each class has a description of that nature, and that complies with Section 1123(a)(3).

1123(a)(4) requires that there be the same treatment of each claim or interest of a particular class unless the holder of a claim or interest agrees to less favorable treatment. I have examined all of the classes, and there is within the class equal treatment, and, of course, the principle focus here is on the Class 12, General Unsecured Claims. One has to read it carefully to confirm there is equal treatment, but there is equal treatment with respect to all of the claims that are general unsecured claims, and the precise payment terms depend upon the amount of what will be paid on the effective date and what will be paid in two equal annual installments and what would be paid -- as I indicated, two equal annual installments. So I conclude that Section 1123(a)(4) has been satisfied.

Section 1123(a)(5) requires that there be adequate means for the Plan's implementation. There is a long laundry list of possible means. The most important one of which is

the retention by the debtor of all or part of the property of the estate, which would play itself out as the continuing operations of the City. I am satisfied that there are adequate means for the Plan's implementation, and particularly that the taxpayers have stepped up and approved the measure that added a local sales tax to the extent permitted by California law that will provide -- that will assure that there are funds adequate to pay the City's obligations under the Plan, so I conclude that the Plan does comply with the provisions of Title 11 within the meaning of Section 543(b)(1).

The Plan must also comply with the provisions of Chapter 9, Section 943(b)(2). Here the Plan does comply with the requirements of Chapter 9 in terms of recognizing the difference between special revenues and general revenues and other matters. And there has been no contention that the Plan does not satisfy that requirement; therefore, I conclude that Section 943(b)(2) has been satisfied.

The Plan must also conform -- or the plan proponent must comply with the applicable provisions of Title 11, Section 1129(a)(2), specifically the -- I come back to the analysis that I just made with respect to Section 1122. Also, the Plan must have been proposed in good faith and not by any means forbidden by law. That's Section 1129(a)(3) which applies in the Chapter 9 case, and here I do have an objection

to confirmation.

The question of good faith is a question of fact for the Court. As I have indicated in my earlier discussion this morning, the contention was that it was not good faith to propose the Plan that was proposed treating Franklin the way that it is being treated, and while simultaneously not affecting pensions, as I explained, it is not accurate to say that pensions have not been affected.

The general reduction in compensation has an indirect effect on pensions. The reduction in amount of number of employees has a significant effect to pensions. There are fewer people entitled to pensions in the first place. Also, the City has a plan for new employees in which pensions are less generous than the existing pensions, and those have all been approved and signed off in the collective bargaining agreements.

And I dealt with the $1.6 million termination liability. Disregard that. That does not make CalPERS the biggest claimant, biggest creditor in the case. As I indicated, the termination lien is avoidable under Section 545 in a Chapter 9 case, even though it might not be avoidable outside of bankruptcy, and it would be treated just as a general unsecured claim. Therefore, I'm satisfied that the Plan has been proposed in good faith and not by any means forbidden by law.

And I take particular note of the obviously intensive arms-length negotiations that occurred throughout the course of this case. In working with Judge Perris as the judicial mediator, I, of course, do not know the details of what exactly was done, other than seeing the results in the form of the various agreements that have been made in which significant concessions have been made by virtually all of the various parties in interest, not only on the labor side but also on the capital market side of the equation.

What I'm left with is a comparatively small amount of debt owed to Franklin Funds relative to the total amount of capital market debt, as to which agreements were not made for whatever reason. And I note also that one of the features of the agreements with other capital market creditors is a contingent fund that is available in a number of years down the Plan that is designed to provide for additional payment if the finances of the City prosper and that almost 25 percent -- more than 20 percent of that was reserved for Franklin Funds if it wished to take advantage of it before the time of confirmation. It elected not to do that, so I conclude that Section 1129(a)(3) has been satisfied. The Plan has been proposed in good faith and not any means forbidden by law.

Section 1129(a)(6) requires that any governmental regulatory commission with jurisdiction has approved any rate change provided for in the Plan, and there is no rate change

that is specified. I'm unaware of any governmental regulatory commission that has jurisdiction over the City's rates, so I conclude Section 1129(a)(6) is not applicable, and nobody in the case has contended the contrary.

Section 1129(a)(8) requires that with respect to each class of claims or interests, such class has accepted the Plan or is not impaired by the Plan, and the evidence is that every class has accepted the Plan. That was -- of course, the question of classification was challenged by Franklin, to the effect argued that it should have been classified separately from the Retirees so that it would not be automatically out-voted by the Retirees, and I concluded that that classification is correct, and, of course, the unsecured creditors by overwhelming vote have accepted the Plan, and each of the impaired classes has accepted the Plan. There are several classes that are designated as not impaired, and any vote by them is irrelevant; therefore, I conclude Section 1129(a)(8) has been satisfied.

Section 1129(a)(10) requires that if there is an impaired class, at least one class of claims that is impaired under the Plan has accepted the Plan, determined without including any acceptance of the Plan by any insider. Any of the classes of bond claims count, as they have all accepted. They were all impaired. They are not insiders. The Retirees have accepted; that is, the general unsecured creditors have

accepted, and the large -- the vast majority of the unsecured creditors in number are the Retirees, nearly 1100 of them, and they are not insiders; therefore, I conclude that Section 1129(a)(10) has been satisfied.

That brings me back to Section 943(b)(3). All amounts to be paid by the debtor or any person for services or expenses in the case or incident to the Plan have been fully disclosed and are reasonable. Those have been disclosed. This is a very expensive case and probably should be an object lesson in why the Chapter 9 process is not lightly to be entered into.

The City's expenses of professionals in this case is far more than what was predicted at the outset of the case, largely because of the number and extent of the battles that needed to be fought just in the course of working through all the various agreements that need to be made. And nobody has contended that Section 943 has not been satisfied, but in the cold light of day, I would imagine that the industry overall will take a look at the cost of a Chapter 9 case and would be sobered by the results and expenses in this case, just as that was the situation in the other case in this district, the City of Vallejo case. Nobody should think a Chapter 9 is an easy or inexpensive process.

Having concluded that Section 943(a)(3) has been satisfied, I turn to Section 943(b)(4). The requirement is

that the debtor not be prohibited by law from taking any action necessary to carry out the Plan. I am unaware of any law that would prevent the debtor from carrying out any action that is proposed under the Plan. Nobody in position to object to confirmation has contended otherwise; therefore, I conclude that Section 943(b)(4) has been satisfied.

Section 943(b)(5), except to the extent that the holder of a particular claim has agreed to different treatment of such claim, the Plan provides that on the effective date of the Plan, each holder of the claim specified in Section 507(a)(2) of this Title will receive, on account of such claim, cash equal to the allowed amount of such claim. Section 507(a)(2) is administrative expenses allowed under Section 503(b), as well as unsecured claims of any federal reserve bank related to loans made through programs or facilities authorized under Section 13(3) -- 13, subparagraph 3, of the Federal Reserve Act, and any fees and charges assessed against the estate under 123 of Title 28. And the Plan does provide for a payment of all administrative expenses in a manner that would comply with Section 943(a)(5), and, therefore, I conclude that it is -- that is, 943(b)(5). I conclude that has been satisfied, and nobody has contended to the contrary.

Section 943(b)(6) requires that any regulatory or electoral approval necessary under applicable nonbankruptcy

law in order to carry out any provision of the Plan has been obtained, or such provision is expressly conditioned upon such approval. In this case there was electoral approval necessary to provide the funding to enable the City to perform under the Plan that was worked out in the negotiations. It went to the taxpayers. The taxpayers approved it; therefore, the electoral approval necessary has been obtained. And as I understand it, there is no regulatory approval that is in play and necessary; therefore, I conclude that Section 943(b)(6) has been satisfied.

Finally, I get to Section 943(b)(7), which requires that the Plan be in the best interest of creditors and is feasible. In Chapter 11 cases we often refer to the best interest of creditors test, and it focuses on whether people are getting at least as much as what they would get in a hypothetical Chapter 7 liquidation, but, ironically, Chapter 11 does not say "best interest of creditors." It does not say "best interest of creditors and feasible." Here, it does. The question is, what does that mean? It's different than in Chapter 11. The focus of Chapter 11, because it goes without saying that a municipality cannot be liquidated, so it's kind of hard to figure out what a hypothetical liquidation would be.

The case law that is involved says, in effect, that it must be the best possible plan under the circumstances and

must be doing the best that is available under the circumstances. So I have looked long and hard at the history of this case and the responses that have been made and considered the alternatives, including the alternative of putting the whole situation back to square one, which is what would be required, and going -- and running up many more millions of dollars in terms of expenses for the City for what I view as probably not likely very much difference, and that's because this Plan, I'm persuaded, is about the best that can be done -- or is the best that can be done in terms of the restructuring and adjustments of the debts of the City of Stockton; therefore, I conclude that Section 943(b)(7) has been satisfied because the Plan is in the best interest of creditors and is feasible, and, accordingly, the Plan will be confirmed.

Mr. Levinson, did I miss anything? Are there supplementary findings I should make?

MR. LEVINSON: A few points, Your Honor. Needless to say, the City and I are very pleased.

First off, you said that the Retiree Health Plan had been reduced. In fact, it's been eliminated. What happened was in the first year, the City ratcheted down its payments relating to how long the employee had worked for the City, and then the second year was cut off completely, so there has been no healthcare since July 1, 2013.

Secondly, Franklin did object under 943(b)(3) about the attorneys' fees, if you want to hear from Mr. Johnston.

THE COURT: I should hear from Mr. Johnston because I had not focused on that. I was more focused on the arrears.

MR. LEVINSON: And there is one other issue. Class 14 did not accept the Plan. Class 14 is the -- essentially the Tort Claimants. And while a majority in number rejected the Plan, a majority in amount accepted it, and I think we only had seven or eight votes or something like that. The City's position is that is an easy cramdown, because the people in Class 14 are treated the same as the creditors in Class 12, the Other General Unsecured Creditors. It's just the Class 14 creditors, to the extent that the ultimate judgments against the City exceed $1 million, which is the City's self-insured retention, then they have the equivalent of an insurance company from the City's risk pool.

There probably aren't that many claims in that amount, but they will have to be litigated sometime after the case when their claims are fixed, so that is one nonconsenting class. We see that as a very easy cramdown because those members are treated the same as the members in Class 12, although they have the extra bonus of insurance coverage to the extent their claims exceed $1 million.

THE COURT: When I originally viewed the Plan, I actually regarded them as general unsecured creditors. I

recognize you separately stated them, but, logically, they fit right in just like the Convenience Class, the Class 13, which I did not mention.

MR. LEVINSON: That's correct, Your Honor. Had I to do it over again, we might have put them in the same class. That's all we have.

THE COURT: Mr. Johnston.

MR. JOHNSTON: Thank you, Your Honor.

Obviously, we are disappointed by your ruling. We will evaluate our next steps, but I do have a point of clarification and two questions.

As Mr. Levinson noted, we did lodge a formal objection under Section 43(b)(3). We do not believe that the City's fees relating to the bankruptcy have been either fully disclosed or are reasonable. Frankly, there is no basis on which you can determine they are reasonable because they have not been fully disclosed.

I believe the state of the record is the City filed a one-page piece of paper back in May during the trial that summarized what they had paid to professionals. I do not believe that disclosure has been updated. Our argument is there needed to be more disclosure, and the Court would have to then determine whether the fee is reasonable, so that objection is outstanding.

With respect to two questions, has Your Honor made a

finding of the amount of the Retirees' healthcare claims as of the petition date? I know you made a reference to the amount of those claims in the amount of $550 million. One of our components of our objection was that, in fact, that claim is substantially smaller due to the fact that it had not been discounted to present value. The reason why that is important in the context of the Plan is that the size of the Retirees' healthcare claim drives the pro rata recovery under Class 12. To the extent that that claim is discounted to present value and reduced, Franklin's pro rata recovery in Class 12 under the terms of this Plan is increased.

I guess the last question is simply the next step in terms of whether Your Honor intends to write something. Are you incorporating the ruling regarding our secured claim into your confirmation ruling? Will it be separate? Logistical issues like that.

THE COURT: Last first. No, I'm not planning on writing something separately. My practice with respect to Findings of Fact and Conclusions of Law is to exploit the opportunity afforded by Federal Rule of Civil Procedure 52 to make Findings of Fact and Conclusions of Law orally on the record, and, of course, the rule also provides a period in which parties can ask for supplementary findings or ask for the findings to be adjusted, and, of course, that remains fully in effect. So Federal Rule of Civil Procedure 52(b), on

a party's motion filed no later than 28 days after the entry of judgment, the Court may amend its findings or make additional findings and may amend the judgment accordingly. The motion may accompany a motion for a new trial under Rule 59. That's just garden-variety of Federal Civil Procedure. And Federal Rule of Bankruptcy Procedure 7052 incorporates that, except that it changes the time for making -- for seeking amended or additional findings from 28 days to 14 days, shortens it to 14 days, so it would be 14 days in which -- from entry of judgment in which to request supplemental findings. So I've historically left it for pretty complicated cases for the parties who want a finer point on the pencil, to propose additional findings, and, if so, then I'll battle that -- we will battle that out and see what additional findings or what revisions I need to make. That's the process.

MR. JOHNSTON: And the one thing that I want to make sure is not swept under the rug is the valuation of our secured claim. I know you intend to enter an order confirming the Plan. Do you intend for that order to subsume the valuation of our secured claim?

THE COURT: I will enter a judgment in the adversary proceeding. I think that's the appropriate thing to do. The trial of the confirmation was consolidated with the trial in the adversary proceeding. The logical end to an adversary

proceeding is a judgment, and the logical end to a confirmation is an order confirming the Plan, which has the status of the judgment. But since I took procedurally distinct matters and tried them together because of the overlap of the evidence, still as we come out from it, we need to do it consolidated, so that's what I propose to do there.

MR. JOHNSTON: Okay.

THE COURT: Why don't I hear from Mr. Levinson on the two other issues you raised. The first question is the amount of the Retirees' health -- I took a moment and looked at the objection to procedures, and I see Franklin has not been given the opportunity to object to the claim.

MR. LEVINSON: Franklin and the City and the Retirees Committe agree that rather than force Franklin to file 1100 objections to claim, that it would be handled as a matter of pure law as part of the confirmation process, so it was fully and well-briefed by the parties, and you will just have to decide that. We both stated our positions in the briefs.

The City intends to lodge -- upload a confirmation order and a separate judgment for the adversary. Having heard you on October 1st, the current draft of the confirmation order is three and a half pages long. The current draft of the judgment is two pages long, and we, obviously, served everybody with that. And that would probably happen sometime

next week.

MR. RIOS: Your Honor, Mr. Rios. If I can just clarify for the Retirees Committe.

THE COURT: Mr. Rios.

MR. RIOS: We also addressed the valuation of the Retiree Health Benefit Claims in our brief in support of the Plan, so I would refer Your Honor to our brief as well. It's been briefed and submitted.

I would also note just for the record, Your Honor, there is approximately 2500 retirees. Your Honor referenced 1100. There is 1100 Retiree Health Benefit Claims overall.

THE COURT: Thank you for that clarification. I suppose I should have picked it up in the CalPERS Annual Statements that were included as Exhibits 7 and 8 to the Lamoureux Declaration.

MR. RIOS: There was a lot of materials.

THE COURT: Those are fairly dense documents.

With respect to the Retiree Health Claims, the contention from the Retirees in the City is $545 million.

MR. LEVINSON: That's correct.

THE COURT: I realize Franklin is less. I'm going to make a determination that it's $545 million. It's fair game for a Rule 52(b) Motion to try to get me to adjust that number. So I'll take a harder look at it, full and fair harder look at that question if an appropriate motion is made.

Okay. That gets me back to the objection that amounts to be paid by the debtor for services or expenses have been fully disclosed and are reasonable.

Mr. Levinson, do you want to respond? We have an objection on that basis that I had not focused on and I need to focus on.

MR. LEVINSON: The City filed a disclosure on, I believe, June 3rd that listed the fees through, I believe, May 20th.

THE COURT: I do recall that.

MR. LEVINSON: And the fees were not only my firm's fees but the fees of the labor lawyers, management partners, consultants. We even listed the cost of the election.

The City's position is that the language of 943(b) is pretty clear that it's fees "to be paid," not "fees paid." And we think that was not an accident that it appears in the statute that way because of the restriction on the Court's power under Section 904 to tell the City how to spend its money. Otherwise Section 923, et seq., would have been incorporated in the Chapter 9. So the Plan provides--or if it doesn't it should--all administrative fees that remain current, like my firm's bill, for example, for the month of October, which doesn't yet exist, will be paid in the ordinary course of business.

That's the fees to be paid, and if Franklin wants to

squabble over my October bill, I'm delighted to do so, but I don't believe that's the intent of 943(b). In fact, except for the extraordinary step that Judge Rhodes took in the Detroit case by examining fees by appointing a fee examiner on the consent of the parties who had no choice but to consent, most courts have laid their hands off, except where the debtor has asked under 914 for the judge to rule in that issue.

So our position is that we have done a disclosure because it's the right thing to do. If it were important to you, we can do another disclosure of the fees through September or something like that, but, again, 943(b) is prospective, not retrospective.

THE COURT: Mr. Johnston -- oh, Mr. Levinson, can you help me with the docket number of the fee disclosure? My computer is taking a while to get the docket up because it's so extensive.

MR. LEVINSON: We may have it with us. I believe it was filed on June 3rd.

THE COURT: Maybe Mr. Johnston knows.

MR. JOHNSTON: I do not have the docket number handy, Your Honor. I just wanted to point out to you that in both of our objections to confirmation, we cited to you authority that is directly contrary to the City's reading of the statute in which the courts hold that, in fact, 943(b)(3) requires disclosure, not just a line item of an aggregate

sufficient to enable a court to evaluate the reasonableness of the fees as the statute provides. What we have right now before you is a line-item disclosure of fees incurred through, I think, Mr. Levinson said May 28th -- May 20th. It's now the end of October. The statute requires that fees be fully disclosed and are reasonable.

MR. LEVINSON: Your Honor, it's Docket 1452.

THE COURT: My computer is still thinking about it. Refresh my recollection of what the motion was that was disclosed back then.

MR. LEVINSON: I believe maybe we can pull it up. 13- or $14 million of which about, I believe, 10 million was payable to my firm, and the balance to other firms, but --

THE COURT: My very efficient law clerk has bailed me out here.

MR. LEVINSON: How is my memory?

THE COURT: This is as of May 20, 2014, the grand total spread over two fiscal years $13,886,323, consisting $10,446,216 to the Orrick firm, your firm. Retiree Committe Counsel $297,171. The expense of the special election was $627,558. There are a number of consultants that bring the grand total $13,886,000. The largest consultant was Management Partners.

MR. LEVINSON: You remember, Management Partners testified.

THE COURT: Management Partners testified, I think, both at eligibility and at confirmation, right?

MR. LEVINSON: I know Mr. Belmont testified at confirmation. I believe that he did eligibility.

THE COURT: I thought somebody from Management Partners testified at the eligibility trial as well. My memory -- you may have a good measure of the half life of my memory.

MR. LEVINSON: It's been raised in the communication with Mr. Johnston. I just look at the statute and it says, "All amounts to be paid." And "to be paid" means something to me. If it was "paid," then I get it, and we can file fee applications. If 326 were incorporated, we would file fee applications. That ain't the deal in Chapter 9. The language is clear. That's our position.

THE COURT: I checked off 943(b)(3) because of the submission that I had seen as of May 20th. I checked it off in my notes at trial of the confirmation which was shortly after that.

I have looked at that attorneys' fee question beforehand, and it's very interesting because Section 329 of the Bankruptcy Code addresses the debtor's transactions with attorneys, and it requires statements of compensation to be made, Section 329. And that Section 329 is implemented by a parallel rule in the Federal Rules of Bankruptcy Procedure,

and Section 329 is not incorporated in Chapter 9. It does not apply in Chapter 9.

There would be no question in a Chapter 11 case that we would have to do this. And the section, of course, only those sections that are referred to in Section 901(a) and in Section 103(e) apply in a Chapter 9 case, and as a result of that, Section 329 does not apply.

In effect, I'm being asked to say it does apply, at least to the extent of requiring the disclosure. While the matter is not free from doubt, I am persuaded that the provision of Section 943(b), by looking to the future, is looking at payments that are to be made during and under the Plan in the future, and that it is not retrospective.

There was a disclosure made as of May 20th in connection with the confirmation that shows what the fees are. I just indicated the amount for counsel for the debtor. My recollection is that is not significantly different in terms of the attorneys' fees in the Vallejo case, City of Vallejo case. I think you represented the debtor in that case, Mr. Levinson, and that was 8- or 9 million for your firm, wasn't it?

MR. LEVINSON: It was something like that, but that was stretched over three and a half years, and, of course, this included some prebankruptcy time as well, I believe.

THE COURT: So it's part of the theme that I

referred to, that it's impossible, in my view, to do a Chapter 9 case without spending an eight-digit number. That's just -- any municipality planning it should be prepared for the possibility that there is going to be an eight-digit number tied up in the expenses of the case.

So I am persuaded that what has been disclosed actually was more than what technically needed to be disclosed at the time of confirmation, and that the focus of Section 943(b)(3), good or bad, is in accordance with the verb tense, "to be paid" in the case or incident in the Plan to refer to payments from here on out. So if there had been some promise of extra payments to any of the professionals for services or fees that have not been paid and that are not -- or that will have to be paid in the future, they need to be disclosed; and, here, none have been disclosed because the fees are all paid current, as I understand it.

MR. LEVINSON: That's correct. There are no promises of bonuses or things like that.

THE COURT: All right. So I conclude that -- I still conclude that in the face of the objection by Franklin, that the fees have been -- that Section 943(b)(3) has been satisfied.

If I was writing the Chapter 9 and I owned 220 votes in the House of Representatives and 51 votes in the Senate and could influence the President, I would say it should be under

the same provision as under Chapter 11, although the least favorite job of bankruptcy judges is reviewing fee applications.

Okay. So I dealt with the 943(b)(3) objection. I'm sticking with the 545 million for the Retirees.

Is there any other loose ends? You are not giving up anything. If you say no, you are not giving up anything.

MR. JOHNSTON: I was going to say not from Franklin, reserving all of our rights.

THE COURT: Well, the cold light of day, at least for 14 days, you get to revisit anything. You haven't given up anything.

MR. LEVINSON: It's 14 days from the entry of judgment. The 14 days hasn't started yet.

THE COURT: That's correct, and I'm not imagining I would be entering the order today, because the order confirming the Plan needs to be settled among the parties. Ordinarily, I write it, but in a case of this complexity, I'll let you prepare it, Mr. Levinson, and make sure the various parties who need to be assured that it says what it is supposed to say has had an opportunity to go over it.

MR. LEVINSON: Will do.

THE COURT: All right. You say that process is already underway?

MR. LEVINSON: Yes, Your Honor.

THE COURT: Okay.

Mr. Johnston, for his client, can figure out what they want to do. I don't know. Of course, there is an appellate system. They can do its job.

My job was to make sure I can make a competent set of findings, so if the parties think that supplementary findings would be appropriate, I would generously entertain them to make sure the fact-finding has been done at this level.

MR. LEVINSON: In the event that a motion under Rule 52 is filed, any idea that there would be time to respond? How would that work?

THE COURT: Sure. Sure.

MR. LEVINSON: Would it be a normal motion under the 28-day rule?

THE COURT: It's a garden-variety motion under Local Rules of Procedure, and it will have to be noticed to everybody who is entitled to notice of such a motion, and there will be a full and fair opportunity for people to weigh in.

MR. LEVINSON: But you are not going to delay entering the confirmation order for the hearing?

THE COURT: Probably not.

MR. LEVINSON: Okay. The City would like to move on.

THE COURT: The motion contemplates that it's a

post-order motion.

MR. LEVINSON: That's right. Never mind.

THE COURT: The motion can be -- Mr. Johnston can make the motion this afternoon. That would be before 14 days after entry of the order, so he can go ahead and do it right away, just like he can file a Notice of Appeal on his way out of the courthouse. I announced the ruling; therefore, it's fair game to do that.

MR. LEVINSON: Okay.

THE COURT: That's just garden-variety procedure.

MR. LEVINSON: Okay.

THE COURT: Any other loose ends?

Oh, the judgment on the adversary proceeding determining that Franklin is secured and the value of security is $4,052,000. Is that a judgment, Mr. Johnston, that I can just prepare? Do I -- does it need to say anything other than Franklin is determined to be secured to the extent of $4,052,000?

MR. JOHNSTON: No, for the reasons you set forth on the record on July 1st or whenever that was.

THE COURT: My Findings of Fact and Conclusions of Law. They were July 1st.

MR. JOHNSTON: Yes. I know Mr. Levinson said he had one of those in the works, so he can circulate that to us when he circulates the confirmation order, and we can sign off on

it at the same time, but I wouldn't envision it saying more than that.

MR. LEVINSON: I'll do that. It's literally two pages long, and I'll circulate that as well.

THE COURT: I don't know why it couldn't be one page.

MR. LEVINSON: We deal with each of the -- what is it, five causes of action, and we have a little more than a page, maybe a page and a half.

THE COURT: That's appropriate. Okay. Then I'll let parties submit the order on the adversary proceeding judgment.

MR. LEVINSON: All right.

THE COURT: Is there anything else that I should take up here?

I suppose I should deal with all the other motions. At this point they are all moot, right?

MR LEVINSON: Well, they really deal with can you rely properly on the testimony of Robert Leland when some of it has been objected to, so I leave it to you as to how to deal with it. But there are pending objections to evidence, so I think they have to be dealt with, maybe not here, but sometime.

THE COURT: Okay. I'll look at them separately, and I'll deal with them in chambers.

I need to have a continued status conference because I will keep a status conference on calendar as long as the case is open. And any date that gets picked would be an okay date for any other motions too. What makes sense?

MR. LEVINSON: Well, we will be filing, sometime next week, the two proposed forms of judgment or the order confirming and the judgment in the adversary, and I don't know if we need to schedule a hearing for that. Hopefully it will be resolved and you can resolve it without the need for a hearing. If that's the case, maybe we can do it sometime the short week of Thanksgiving.

I have a personal problem. I'm gone from the 12th through the 20th. Anytime before that or after that. I don't know if the week of Thanksgiving works for people, maybe the Monday or Tuesday of that week?

MR. JOHNSTON: I'm not available the week of Thanksgiving, Your Honor.

MR. LEVINSON: Maybe the first week in December? Is that too far? That's four weeks from now.

THE COURT: How about Thursday, December 4th?

MR. GEARIN: Your Honor, I wouldn't be available. The BDI conference is that weekend, starts that Thursday, and I think there is a fair chance that CalPERS wishes to file a motion.

THE COURT REPORTER: Appearance, please.

MR. GEARIN: Michael Gearin.

THE COURT: For CalPERS.

MR. LEVINSON: Is that the time that we have a hearing on any Rule 52 Motion?

THE COURT: Depends on when the motion is filed.

MR. LEVINSON: If they are filed in two weeks, and there is a 28-day notice, because the City may want to respond, I kind of think the City will be filing its motion.

THE COURT: We can throw it into January?

MR. LEVINSON: Well, let Gearin miss his conference. What about the week of the 8th or 15th of December?

THE COURT: I'm not available the week of the 15th. I can probably do it Wednesday the 10th.

MR. LEVINSON: That's fine with the City.

THE COURT: That is just a regular Chapter 11 day. This should not be -- I don't know if it would be a big event or not. I will see what the motions are. I'll say 10:00 on the 10th. That puts it into a regular Chapter 11 Law and Motion/Status Conference calendar, and if there is a bunch of stuff on calendar, you may find me saying I'll see you at 1:30.

MR. LEVINSON: Do you want to set it for 1:30?

THE COURT: I probably have pretrials too, right?

THE CLERK: Yes.

MR. LEVINSON: Ten o'clock is fine with the City, or

1:30.

THE COURT: Let's make it 11:00. I have been finishing the regular Chapter 11 calendars before noon, so if I put it at 11:00, that will give me at least an hour to get through that calendar. I might be done within that time. I'm more likely to be done about 11:30 or so, but that way you would not have to have a bunch of people sitting and listening to a bunch of motions and cases that you are not interested in. Okay?

All right. December 10, 2014, at 11:00 a.m.

Is there any other business to take care of? Then we are adjourned.

MR. LEVINSON: Thank you, Your Honor.

(The proceedings concluded at 12:14 p.m.)

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REPORTER'S CERTIFICATE

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STATE OF CALIFORNIA)

(ss.

COUNTY OF SACRAMENTO)

I, JODI TILL, certify that I was the official court reporter, pro tem, for the proceedings named herein, and that as such reporter, I reported in shorthand writing those proceedings;

That I thereafter caused my shorthand writing to be reduced to typewriting, and the pages numbered 1 through 60, inclusive, constitute a complete, true, and correct transcript of the proceedings:

BEFORE: THE HONORABLE CHRISTOPHER M. KLEIN

United States Bankruptcy Court, Eastern District of CA

CAUSE: In re: City of Stockton, California

Case No. 12-32118

DATE: October 30, 2014

IN WITNESS WHEREOF, I have subscribed this certificate at Sacramento, California, on this 1st day of November, 2014.

S/Jodi Till

JODI TILL, CSR No. 10381