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November 21, 2011

**Neal Colton**

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The Honorable Mary D. France  
Chief Judge  
U.S. Bankruptcy Court for the Middle District  
of Pennsylvania  
228 Walnut Street, # 320,  
Harrisburg, PA 17101-1737

Re: The City of Harrisburg  
Bankruptcy No 11-6938 (the "Bankruptcy Case")

Dear Judge France:

As the Court may be aware, the Commonwealth of Pennsylvania, through C. Alan Walker, in his capacity as Secretary for the Department of Community and Economic Development, filed on November 18, 2011 a Petition in the Commonwealth Court of Pennsylvania for Appointment of Receiver for the City of Harrisburg (the "Receivership Petition"). Because this affects the City of Harrisburg and, as explained below, has caused counsel for the Petitioner to communicate with the Commonwealth Court regarding the pending Bankruptcy Case, we thought it appropriate to inform Your Honor of these events.

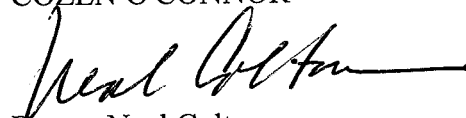
Upon being provided a copy of the Receivership Petition, counsel for the Petitioner in the Bankruptcy Case sent a letter to the Commonwealth Court challenging the Commonwealth's right to file the Receivership Petition in light of the pending Bankruptcy Case. The Commonwealth, in response, has sent a letter to Commonwealth Court explaining why, in its reading of the relevant statutory and case law authorities, the automatic stay arising from the commencement of the Bankruptcy Case does not apply to the filing of the Receivership Petition. Copies of the Petitioner's letter and the Commonwealth's response are attached.

In addition to the exchange of correspondence, counsel for the Petitioner has also filed a Preliminary Objection to the Receivership Petition. The Commonwealth will be filing a responsive pleading tomorrow.

The Commonwealth is not requesting the Court to take any action at this time with respect to this issue. If the Commonwealth decides to do so, it will be by appropriate motion or other pleading. The Commonwealth believes, however, that Your Honorable Court should be aware of these developments.

Respectfully,

COZEN O'CONNOR



By: Neal Colton

cc: Mark Schwartz, Esquire



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November 21, 2011

**VIA FACSIMILE: 717-787-9559**

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Ms. Kristen Brown  
Chief Prothonotary  
Commonwealth Court of Pennsylvania  
601 Commonwealth Avenue, Suite 2100  
P.O. Box 69185  
Harrisburg, PA 17106-9185

Mr. Michael Krimmel  
Chief Clerk  
Commonwealth Court of Pennsylvania  
601 Commonwealth Avenue, Suite 2100  
P.O. Box 69185  
Harrisburg, PA 17106-9185

RE: *C. Alan Walker v. City of Harrisburg*  
Docket No. 569 MD-11

Dear Ms. Brown and Mr. Krimmel:

We represent the Commonwealth of Pennsylvania in the above matter, and I write with regard to the letter addressed to you from attorney Mark Schwartz last Friday, November 18, 2011. For your convenience, a copy of Mr. Schwartz's letter is attached. Mr. Schwartz appears to suggest that the Petition for the Appointment of a Receiver for the City of Harrisburg, filed by the Commonwealth on that day, runs afoul of federal bankruptcy law.

Although Mr. Schwartz has filed a Petition for Chapter 9 relief under the Federal Bankruptcy Code on behalf of a majority of the City Council for the City of Harrisburg, it is the position of the Commonwealth and a number of other interested parties that Mr. Schwartz had no authority to do so. Proceedings to dismiss that Petition are pending in the United States Bankruptcy Court for the Middle District of Pennsylvania. Indeed, there is a hearing scheduled for this Wednesday, November 23, 2011.

Regardless of the outcome of those proceedings, however, the automatic stay under the Bankruptcy Code can have no effect on the appointment of a Receiver for the City of Harrisburg. Mr. Schwartz's letter neglects to cite authority that clearly provides for a state's ability to govern as it sees fit, even in the face of a Chapter 9 filing. Section 903 of the Bankruptcy Code provides that "[Chapter 9] does not limit or impair the power of a State to control, by legislation or otherwise, a municipality of or in such State in the exercise of the political or governmental powers of such municipality including expenditures for such exercise." 11 U.S.C. § 903. In addition, Section 362 of the Bankruptcy Code, which provides for the automatic stay alluded to

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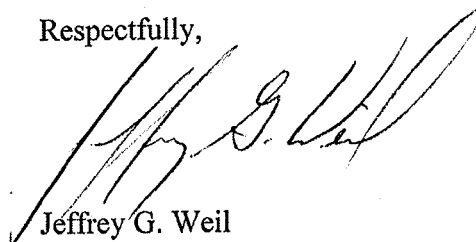
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by Mr. Schwartz, includes an exception for any action or proceeding by a governmental unit to enforce such governmental unit's police and regulatory power. 11 U.S.C. § 362(b)(4). *See also In re Richmond Unified School District*, 133 B.R. 221 (Bankr. N.D. Cal. 1991)(recognizing authority of State of California to appoint Administrator over Chapter 9 debtor after commencement of its bankruptcy case).

Accordingly, the Court should not be deterred from proceeding promptly to appoint a receiver in accordance with controlling Pennsylvania law (53 P.S. §§ 11701.601-1170.610 and 53 P.S. §§ 11701.701-11701.712). For, contrary to Mr. Schwartz's suggestion, Chapter 9 of the Bankruptcy Code does not disturb the Commonwealth's right and ability to govern its municipalities.

We respectfully request that proceedings with respect to the Commonwealth's Petition for the Appointment of a Receiver be scheduled without delay.

Respectfully,



Jeffrey G. Weil

cc: Mark D. Schwartz, Esq.

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Via Fax to 717 787-9559  
November 18, 2011

The Honorable Kristen Brown, Chief Prothonotary  
The Honorable Michael Krimmel, Chief Clerk  
The Commonwealth Court of Pennsylvania

Re: 569 MD-11

Gentlemen:

I represent City Council for the City of Harrisburg, which has filed on October 11, 2011 a petition for municipal readjustment of debts pursuant to Chapter 9 of the Federal Bankruptcy Code in the US Bankruptcy Court for the Middle District of Pennsylvania.. This proceeding can be found at 1:11-bk-06938-MDF.

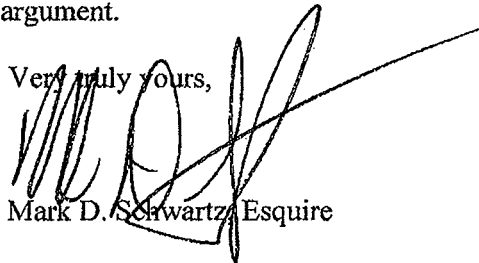
I learned from the press earlier this afternoon of a Petition for the Appointment of a Receiver with Respect to the City of Harrisburg. This was filed by the same law firm representing the Commonwealth in the bankruptcy proceedings

I called your office to find that indeed the petition had been filed and that the Court has already issued an Order calling for service of the petition by next Monday with responses due on Tuesday.

Aside from the fact that the dates are totally impractical for service and a response, as counsel for the petitioner Commonwealth knows, it is a fact that there is an automatic stay in effect as a result of filing with the Bankruptcy Court of the Middle District of Pennsylvania. Any proceedings including 569 MD-11 are subject to that automatic stay.

Should the court want to entertain argument with respect to this, then a more realistic period should be accorded for briefing and argument.

Very truly yours,



Cc: Neal D. Colton, Esq. for Petitioner (via email) Mark D. Schwartz Esquire

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