

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

THE CITY OF HARRISBURG, PA)
)
DEBTOR)
_____)

Bankruptcy No. 11-6938 (MDF)

Chapter 9

**RESPONSE OF GOVERNING BODY OF THE CITY OF HARRISBURG IN
OPPOSITION TO THE MAYOR OF HARRISBURG'S EMERGENCY MOTION FOR
AN ORDER CONFIRMING AUTHORITY OF CITY TO PAY PRE-PETITION CLAIMS
OF CERTAIN VENDORS, SERVICE PROVIDERS, EMPLOYEES, AND INSURANCE
PAYMENT OBLIGATIONS**

The Governing Body of the City of Harrisburg, its City Counsel through its counsel Mark D. Schwartz, Esquire and David A. Gradwohl, Esquire, requests that this Court dismiss the Mayor of Harrisburg's Emergency Motion for an Order Confirming Authority of City to Pay Pre-Petition Claims of Certain Vendors, Service Providers, Employees, and Insurance Payment Obligations and represents as follows:

1. This motion is neither factually supported nor legally called for.
2. At this Court's prior hearing held on October 17, 2011, it was represented by the undersigned that the City Controller had advised him as of the previous Friday that there was not a problem as to the payment of vendors in the ordinary course. As of this past Friday the undersigned again contacted the City Controller who advised him that there was not a problem with the payment of vendors. It is submitted that this motion is strategic and not substantive in effect and that in court testimony of City officials would be called for to characterize the current manner in which vendors and others are or are not being paid.
3. The Court squarely spoke to this issue in hearing of October 17, 2011 which at that time was raised by the Commonwealth advising the parties that it was elemental under Chapter 9 that payments to vendors could not and would not be held up.

4. The “wherefore” clause in the Mayor’s petition is ambiguous and contradictory asking that the Court “confirm[ing] the authority, but not requiring the City” to pay certain vendors and others.

5. There is no reason factually or legally for the Mayor’s motion to be approved.

WHEREFORE, the City Council of Harrisburg as the duly authorized Governing Body under Act 47, on its behalf and on behalf of the City of Harrisburg respectfully requests that this Honorable Court deny the Mayor’s request for an immediate status conference.

Dated: October 31, 2011 Respectfully submitted,

/s/ Mark D. Schwartz

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