

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

C. ALAN WALKER, in his capacity as
Secretary for the Department of Community
and Economic Development,

Petitioner

v.

CITY OF HARRISBURG,

Respondent

Docket No. 569 MD 2011

RECEIVED & FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
2012 MAY 11 A 10:03

**PETITION FOR APPOINTMENT OF RECEIVER FOR THE CITY OF HARRISBURG
AND RELATED RELIEF PURSUANT TO SUBSECTION 702 and 705(c)
OF ACT 47 AS AMENDED**

C. Alan Walker, in his capacity as the Secretary (the “Secretary”) for the Department of Community and Economic Development (the “DCED”), and in exercise of the powers delegated to the Secretary pursuant to the Act of July 10, 1987, P.L. 246, (*as amended*), 53 P.S. § 11701.101 *et seq.* (“Act 47 as amended”), hereby petitions this Honorable Court for the appointment of Major General William B. Lynch, USAF, Ret. to fill the vacancy in the office of the receiver and to act as the receiver (the “Receiver”) for the City of Harrisburg, Dauphin County, Pennsylvania. In support hereof, the Secretary respectfully represents as follows:

I. FACTUAL AND PROCEDURAL BACKGROUND

A. The City of Harrisburg is a Financially Distressed Municipality Pursuant to the Provisions of Act 47 as Amended.

1. On October 1, 2010, Linda D. Thompson, Mayor of the City of Harrisburg, filed a Request for Determination of Municipal Financial Distress pursuant to the provisions of Subsections 202 and 203 of Act 47. By and through the aforesaid Request, Mayor Thompson

requested that Austin Burke, the former Secretary of the DCED, determine that the City of Harrisburg is a financially distressed municipality pursuant to the provisions of Subsection 201 of Act 47.

2. Subsequent to its receipt of the City of Harrisburg's Request for Determination of Municipal Financial Distress, the DCED fulfilled its obligations pursuant to the provisions of Subsections 201, 202, and 203 of Act 47 to investigate the financial affairs of the City prior to rendering a determination of financial distress.

3. On December 15, 2010, following public hearings on the City's Request for Determination of Municipal Financial Distress, and upon consideration of the Certified Record of such proceedings and review and consideration of the Proposed Findings of Fact and Conclusions of Law submitted by the City and other interested parties, Austin Burke, the former Secretary of the DCED, ordered that the City of Harrisburg had met the criteria set forth in Subsections 201(3) and 201(9) of Act 47 and, therefore, a determination of municipal financial distress was issued.

4. On January 12, 2011, Secretary Burke appointed the Novak Consulting Group as Recovery Plan Coordinator for the City of Harrisburg pursuant to the provisions of Subsection 221 of Act 47. The Recovery Plan Coordinator filed Harrisburg's Act 47 Recovery Plan with the municipal clerk in accordance with Subsection 242 of Act 47 on June 13, 2011. That Recovery Plan contained a comprehensive plan designed to overcome the City of Harrisburg's financial distress. The Recovery Plan Coordinator filed Harrisburg's Final Act 47 Recovery Plan with the municipal clerk in accordance with Subsection 244 of Act 47 on July 8, 2011 containing a revised comprehensive plan designed to overcome the City's financial distress. On

July 19, 2011, a majority of the Harrisburg City Council rejected the Recovery Plan Coordinator's Final Act 47 Recovery Plan.

5. Following the City Council's failure to adopt the Recovery Coordinator's Final Act 47 Plan, Mayor Thompson developed and filed an alternate Final Recovery Plan pursuant to the provisions of Subsection 246 of Act 47 and filed such Plan with the municipal clerk on August 22, 2011. On August 31, 2011, a majority of the Harrisburg City Council rejected Mayor Thompson's Final Recovery Plan. On September 13, 2011, a majority of the Harrisburg City Council declined to reconsider its rejection of Mayor Thompson's Final Recovery Plan, leaving the City with no plan to alleviate its fiscal distress.

6. On June 20, 2011, Governor Tom Corbett signed into law Senate Bill 1151, amending Act 47 and providing for the Declaration of a Fiscal Emergency in circumstances in which a financially distressed city of the third class fails to adopt a financial recovery plan (Chapter 6) and providing for the appointment and confirmation of a receiver should the distressed city of the third class fail to enact a consent agreement as provided for in Subsection 607 of the amended Act (Chapter 7). *See* the Act of July 10, 1987, P.L. 246 (*as amended*), 53 P.S. § 11701.601 - § 11701.610 and 53 P.S. § 11701.701 - § 11701.712.

B. Governor Corbett Declared a State of Fiscal Emergency Within the City of Harrisburg Pursuant to Subsection 602 of Act 47 as Amended, on October 24, 2011 and Delegated Certain Emergency Powers to the Secretary.

7. As a result of the totality of the fiscal circumstances existing in the City of Harrisburg, including but not limited to the City's insolvency, the City's inability to ensure the continued provision of vital and necessary services as such term is defined by Subsection 601 of Act 47 as amended, and the City's continued failure to adopt a fiscal recovery plan prepared for the City and designed to alleviate its fiscal distress, Governor Corbett determined that a fiscal

emergency exists in the City of Harrisburg. A true and correct copy of the Concise Statement of Facts Supporting the Determination of Fiscal Emergency in the City of Harrisburg as required by 53 Pa. C.S. § 11701.602(b)(2) was attached to the first Petition for Appointment of Receiver filed on November 18, 2011 as Exhibit “A” and is incorporated herein by reference as if set forth in full.

8. Accordingly, pursuant to Subsection 602(b) of Act 47 as amended, Governor Corbett issued a Declaration of Fiscal Emergency for the City of Harrisburg (the “Emergency Declaration”) on October 24, 2011. A true and correct copy of the said Declaration was attached to the first Petition for Appointment of Receiver filed on November 18, 2011 as Exhibit “B” and is incorporated herein by reference as if set forth in full.

9. As part of the Emergency Declaration, Governor Corbett directed the Secretary to prepare an Emergency Action Plan as prescribed by Subsections 602(c) and 603 of Act 47 as amended to ensure that vital and necessary services are maintained within the City of Harrisburg during the state of fiscal emergency. The Emergency Declaration also delegated the Governor’s authority pursuant to Chapter 6 of Act 47 as amended to the Secretary. See Exhibit “B” to the 11/18/2011 Petition for Appointment of Receiver.

10. Following the issuance of the Emergency Declaration, on November 15, 2011, Governor Corbett directed the Secretary to file a petition with this Honorable Court in accordance with the provisions of Chapter 7 of Act 47 as amended, 53 P.S. § 11701.702(a) to appoint David Unkovic as the Receiver for the City of Harrisburg.

11. On November 18, 2011, the Secretary filed a Petition for Appointment of Receiver for the City of Harrisburg in accordance with Governor Corbett’s directive.

12. On December 2, 2011, following hearing, the Honorable James R. Kelley, Senior Judge of this Honorable Court, issued a Memorandum and Order granting the Secretary's Petition, declaring the City of Harrisburg to be in receivership, and appointing Mr. Unkovic as the Receiver for the City of Harrisburg. A true and correct copy of Judge Kelley's Memorandum and Order is attached hereto as Exhibit "A" and incorporated herein by reference as if set forth in full.

13. Subsequent to his appointment, the Receiver filed a Recovery Plan for the City of Harrisburg on February 6, 2012 ("Recovery Plan"). On March 9, 2012, following hearing, the Honorable Bonnie Brigance Leadbetter issued an Order and confirmed the Recovery Plan pursuant to Section 703(d) of Act 47 as amended. A true and correct copy of Judge Leadbetter's Order is attached hereto as Exhibit "B" and incorporated herein by reference as if set forth in full.

C. A Vacancy in the Office of the Receiver Arose on March 30, 2012 and Temporary Administration of the Office by DCED Ensued Pending the Appointment of a New Receiver.

14. On March 30, 2012, Mr. Unkovic resigned as the Receiver for the City of Harrisburg.

15. On April 2, 2012, in confirmation of Mr. Unkovic's resignation being filed of record in this Court, the Secretary filed a Notice of Vacancy in the Office of the Receiver for the City of Harrisburg. A true and correct copy of the Notice of Vacancy is attached hereto as Exhibit "C" and incorporated herein by reference as if set forth in full.

16. On April 10, 2012, resolute in the Commonwealth's pursuit of fiscal recovery for the City of Harrisburg, and in furtherance of the Declaration of Fiscal Emergency issued on October 24, 2011, the Governor temporarily assigned DCED the responsibility of administering

the Office of the Receiver, such assignment to expire concurrently, and without further notification, upon this Honorable Court's appointment of a new Receiver. In assigning DCED the temporary responsibility of monitoring the ongoing implementation of the Recovery Plan, Governor Corbett mandated that the DCED be strictly guided by the Recovery Plan approved by this Court on March 9, 2012 and prohibited any action that was not consistent with the Court-confirmed Plan. See Exhibit "A" attached to the Status Report filed on behalf of the Office of the Receiver on April 11, 2012.

17. Following the Governor's action to stabilize the Office of the Receiver and ensure the ongoing implementation of the Recovery Plan for the benefit of the citizens of Harrisburg, Secretary Walker designated Frederick Reddig, Executive Director of the Governor's Center for Local Government Services, to fulfill the temporary assignment of administering the Office of the Receiver, pending the appointment of a new Receiver. See Exhibit "B" attached to the Status Report filed on behalf of the Office of the Receiver on April 11, 2012.

18. Since his designation as temporary acting administrator of the Office of the Receiver, Mr. Reddig has overseen the ongoing implementation of the Court-confirmed Recovery Plan as more specifically detailed in the Status Report to be filed this date pursuant to the Court's Order dated April 26, 2012. Mr. Reddig's service as temporary acting administrator shall expire contemporaneously with this Honorable Court's appointment of the Receiver as requested herein.

II. RELIEF SOUGHT

A. Entry of an Order Pursuant to Section 702(E) of Act 47 as Amended.

19. Pursuant to Subsection 705(c) of Act 47 as amended, "[a] vacancy in the office of the receiver shall be filled in the same manner as the original appointment." 53 P.S. §

11701.702(c). Accordingly, on May 10, 2012, Governor Corbett directed the Secretary to file a petition with this Honorable Court in accordance with the provisions of Chapter 7 of Act 47 as amended, 53 P.S. § 11701.702(a), to appoint Major General William B. Lynch, USAF, Ret. as the Receiver for the City of Harrisburg.

20. In fulfillment of the Governor's directive pursuant to Subsection 702(a) of Act 47 as amended, the Secretary hereby petitions this Honorable Court for the appointment of Major General William B. Lynch, USAF, Ret. as the Receiver for the City of Harrisburg.

21. The Secretary respectfully submits that General Lynch meets the qualifications set forth under Subsection 705 of Act 47 as amended to act as the Receiver, in that he has over 5 years of experience and demonstrable expertise in financial and state budgetary matters, in addition to a wealth of crisis management and coordination experience and expertise, and has been a resident of the Commonwealth of Pennsylvania for at least one year prior to this appointment. The resume of General Lynch is attached hereto as Exhibit "D" and incorporated herein by reference as if set forth in full.

22. The Secretary requests the Court to conduct a hearing on this Petition in accordance with the provisions of Subsection 702(c) of Act 47 as amended within fifteen (15) days of the date hereof.

23. The Secretary also petitions the Court for the entry of an Order as soon as practicable, but in no event later than 60 days following the date hereof, as prescribed by Subsection 702(e) of Act 47 as amended, subject to appropriate modification to reflect the existence of the Recovery Plan already confirmed by this Honorable Court, including a directive that the Receiver continue the implementation of the existing Plan, as well as continue

development of modifications and amendments to the Plan to be confirmed by this Honorable Court in furtherance of a final and complete Recovery Plan for the City of Harrisburg.

24. The Court need not include the findings set forth in Subsection 702(d)(1)-(3) of Act 47 as amended in the Order requested herein, such findings already having been made by this Honorable Court at the time of the appointment of the former Receiver on December 2, 2011. See Exhibit "A" attached hereto.

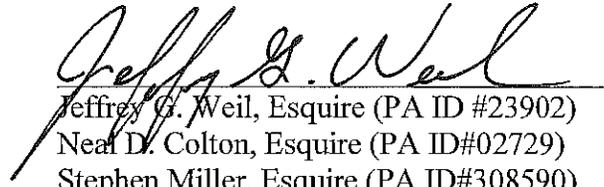
III. NOTICE

25. In compliance with Subsection 702(b) of Act 47 as amended, the Secretary has caused this Petition to be served upon: (i) the Harrisburg City Council; (ii) Mayor Thompson; and (iii) the governing body of each Authority (as defined in Chapter 7 of Act 47 as amended). The Secretary will also publish notice of this Petition once in a newspaper of general circulation.

WHEREFORE, for the reasons set forth above, the Secretary of the Department of Community and Economic Development respectfully requests that this Honorable Court conduct a hearing within fifteen (15) days of the date of filing of this Petition and enter an Order as soon as practicable thereafter, but in no event later than sixty (60) days from the date of this filing, (i) appointing the individual named in this Petition to be the Receiver for the City of Harrisburg for a period not to exceed two years, subject to extension under Subsection 710(b) of Act 47 as amended; (ii) directing the Receiver to continue the implementation of the Recovery Plan confirmed by this Court on March 9, 2012; and (iii) directing the Receiver to continue the development of modifications and amendments to the Recovery Plan to be confirmed by this Honorable Court in furtherance of a final and complete Recovery Plan for the City of Harrisburg.

Respectfully submitted,

COZEN O'CONNOR

A handwritten signature in cursive script, appearing to read "Jeffrey G. Weil", is written over a horizontal line.

Jeffrey G. Weil, Esquire (PA ID #23902)

Neal D. Colton, Esquire (PA ID#02729)

Stephen Miller, Esquire (PA ID#308590)

Eric L. Scherling, Esquire (PA ID#87925)

1900 Market Street

Philadelphia, PA 19103

(215) 665-2000

Attorneys for the Commonwealth of Pennsylvania
and the Secretary for the Department of Community
and Economic Development

Dated: May 11, 2012

EXHIBIT

“A”

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

C. Alan Walker, in his capacity as
Secretary for the Department of
Community and Economic Development,
Petitioner

No. 569 M.D. 2011

v.
City of Harrisburg,
Respondent

MEMORANDUM AND ORDER

C. Alan Walker, in his capacity as Secretary of the Department of Community and Economic Development (Department), has filed a "Petition for Appointment of Receiver for the City of Harrisburg and Related Relief Pursuant to Subsection 702 of Act 47 [Act] as amended"¹ (Petition) in this Court's original jurisdiction. For the reasons that follow, this Court grants the Petition and appoints David Unkovic as Receiver for the City of Harrisburg (City).

On November 18, 2011, the Department filed the Petition alleging, among other things, that Governor Thomas Corbett, Jr., has declared a state of financial emergency existing in the City of Harrisburg pursuant to Section 602(b) of Act 47, 53 P.S. §-11701.602(b). In that declaration, the Governor directed the Department to file the Petition with this Court seeking the appointment of a Receiver.²

¹ The Municipalities Financial Recovery Act (Act 47), Act of July 10, 1987, P.L. 246, as amended, 53 P.S. §§ 11701-101-11701.710.

² Certain members of the Harrisburg City Council, by Attorney Mark Schwartz, filed
(Continued....)

Section 702(c) of Act 47, 53 P.S. § 11701.702(c), requires this Court to hold a hearing on the Petition within 15 days of the filing of the Petition and Section 702(d) of Act 47, 53 P.S. § 11701.702(d), requires the Court to render a determination on the Petition within 60 after the filing of the Petition. Given the statutory time limits, this Court conducted a hearing on the Petition on December 1, 2011. The Department and the City, through Mayor Linda Thompson, appeared. The Department and the City placed the following stipulation on the record:

STIPULATION

Petitioner, C. Alan Walker, in his capacity as the Secretary for the [Department], and Respondent, the City of Harrisburg, by and through Linda T. Thompson, in her capacity as the Mayor of the City of Harrisburg, hereby stipulate as follows:

1. The conditions set forth in Section 702(d)(1), (d)(2)(i), and (d)(3), exist as of the time of this

preliminary objections to the Petition alleging that it filed Chapter 9 bankruptcy in the U.S. Bankruptcy Court for the Middle District of Pennsylvania and that, therefore, any proceedings in this Court are stayed as a result of the bankruptcy petition. On November 23, 2011, the Honorable Mary D. France of the U.S. Bankruptcy Court dismissed the bankruptcy petition. Notwithstanding the issue of whether preliminary objections are permissible in statutory procedures, we dismissed City Council's preliminary objections and the City's, by Mayor Linda Thompson, preliminary objections to City Council's preliminary objections.

Thereafter, Attorney Schwartz notified the Court in a November 25, 2011 letter that he would no longer participate in the proceedings on the preliminary objections and any *future proceedings* before this Court. As a result of the unclear nature of Attorney Schwartz' letter, this Court treated the letter as a notice of non-participation and directed the Chief Clerk to copy all parties and members of City Council with Attorney Schwartz' letter. As a result, this Court precluded Attorney Schwartz from participating in the proceedings on the Petition currently before this Court for disposition.

Of note, Attorney Schwartz alluded in his November 25, 2011 letter that Act 47, as amended, is unconstitutional. However, at the time of this Court's December 1, 2011 hearing on this Petition, no party had filed a challenge to the validity of Act 47.

Stipulation and the entry of this Honorable Court's Order granting the said Petitioner, specifically:

(a) Thirty days have elapsed from the date of the Governor's Declaration of Fiscal Emergency on October 24, 2011 in satisfaction of Section 702(d)(1);

(b) There has been a failure by the Harrisburg City Council, the governing body of the City of Harrisburg, to adopt an ordinance under Section 607 of Act 47 as amended in satisfaction of Section 702(d)(2)(i); and

(c) a fiscal emergency under Section 602(a) of Act 47 as amended continues to exist in the City of Harrisburg in satisfaction of Section 702(d)(3).

2. David Unkovic meets and satisfies the qualifications set forth by Section 705(b) of Act 47, as amended.

3. During the fiscal emergency, the Mayor shall continue to carry out her duties, including duties relating to the City's budget, subject to and consistent with the provisions of the Emergency Act Plan, and Recover Plan developed by the Receiver and approved by this Court, and Chapter 7 of Act 47, as amended.

Hearing Transcript (H.T.), 12/1/11, at ___.

Pursuant to Section 702(d) of Act 47, this Court shall issue an order under Section 702(e), 53 P.S. §11701.702(e),³ if it finds by a preponderance of the evidence that all of the following apply:

³ Section 702(e) of Act 47 provides as follows:

- (e) Order.—An order issued under this subsection shall:
- (1) set forth the findings under subsection (d);
 - (2) grant the petition and declare the distressed city to be in receivership;

(Continued...)

- 1) Thirty days have passed since the declaration of a fiscal emergency.
- 2) There has been a failure by:
 - (i) The governing body of the distressed city to adopt an ordinance under section 607;
 - (ii) The governing body of the distressed city to implement an ordinance under section 607; or
 - (iii) An elected or appointed official of the distressed city or authority to strictly comply with an order issued by the Governor under section 604.
- 3) A fiscal emergency under section 602(a) continues to exist.

Section 702(d) of Act 47, 53 P.S. § 11701.702(d).

As the parties' stipulation is sufficient evidence that the statutory requirements for the appointment of a receiver are satisfied, the Court must then consider whether the person named in the Petition as the putative receiver likewise meets the statutory qualifications. See Kershner v. Prudential Ins. Co., 554 A.2d 864 (Pa. Super. 1989) (parties may bind themselves by stipulation on matters relating to the individual rights and obligations, as long as their stipulations

(3) appoint the individual named in the petition to be the receiver for a period not to exceed two years, subject to extension under section 710(b);

(4) direct the receiver to develop a recovery plan within 30 days under section 703 and submit it to the court, the secretary, the governing body and the chief executive officer of the distressed city; and

(5) require and empower the receiver to implement the emergency action plan developed by the secretary under section 602 until a recovery plan developed by the receiver is approved by the court under section 703.

do not affect the court's jurisdiction or order of business; stipulations are binding on the court as well as the parties agreeing to them); Park v. Greater Delaware Savings & Loan Ass'n, 523 A.2d 771 (Pa. Super. 1987). (stipulated facts are binding upon the court as well as the parties). Section 705 of Act 47, 53 P.S. §11701.705, requires a putative receiver to "[h]ave a minimum of five years' experience and demonstrable expertise in business, financial or local or state budgetary matters" and to "[b]e a resident of the Commonwealth for at least one year prior to the appointment as receiver."

Upon consideration of the putative Receiver's credible testimony,⁴ the Court is convinced Mr. Unkovic meets the statutory qualifications and that there are no demonstrable conflicts which would prevent Mr. Unkovic from performing his fiduciary duties in the best interests of the City and the Commonwealth. First, Mr. Unkovic testified as to his legal education and experience in public finance law. Mr. Unkovic assuaged the Court's concerns in relation to possible conflicts regarding payment as Receiver and his position as a state employee, possible involvement with all of the City's authorities or stakeholders, financial interest in entities involved either directly or tangentially in these proceedings, as well as financial interests and conflicts remaining from past employment. Mr. Unkovic testified that he has stepped down from his position as Chief Counsel for the Department and that he will continue to receive the same wages that he received as a state employee for his services as Receiver should the Court appoint him to the

⁴ "It is well settled that the trial court, sitting as fact finder, is free to believe all, part or none of the evidence presented, to make all the credibility determinations and to resolve any conflicts in the evidence. Thus, when acting as a fact finder, the trial court is free to reject even uncontroverted evidence that it finds lacking in credibility." Roethlein v. Portnoff Law Assocs. Ltd., 25 A.3d 1274, 1279 n.4 (Pa. Cmwlth, 2011).

position. Further, Mr. Unkovic impressed upon the Court that should a conflict arise, he will so advise the Court.

Accordingly, it is hereby ordered as follows:

ORDER

AND NOW, this 2nd day of December, 2011, upon consideration of the stipulation of the parties to this proceeding and the credible testimony of David Unkovic, it is hereby ORDERED and DIRECTED as follows:

1. The parties having agreed and stipulated to the existence of the conditions set forth in Section 702(d)(1), (d)(2)(3), and (d)(3) of Act 47, this Court finds, by a preponderance of the evidence, that the following conditions apply and are established:

a. Thirty days have elapsed from the date of the Governor's Declaration of Fiscal Emergency on October 24, 2011; in satisfaction of Section 702(d)(1) of Act 47, 53 P.S. § 11701.702(d)(1);

b. There has been a failure by the Harrisburg City Council, the governing body of the City of Harrisburg, to adopt an ordinance under Section 607 of Act 47 in satisfaction of Section 702(d)(2)(i) of Act 47, 53 P.S. § 11701.702(d)(2)(i); and

c. A fiscal emergency under Section 602(a) of Act 47, 53 P.S. § 11701.602(a), continues to exist in the City of Harrisburg in satisfaction of Section 702(d)(3) of Act 47, 53 P.S. § 11701.702(d)(3).

2. The Commonwealth's Petition for Appointment of Receiver for the City of Harrisburg is hereby granted. The City of Harrisburg is hereby declared to be in receivership as provided for in Section 702(e)(2) of Act 47, 53 P.S. § 11701.702(e)(2).

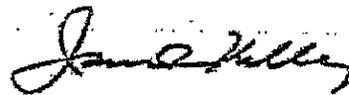
3. David Unkovic is found qualified, has no disqualifying conflicts of interest, and is hereby appointed to be the Receiver for the City of Harrisburg for a period not to exceed two years, subject to extension under 710(b) of Act 47, 53 P.S. § 11701.710(b).

4. The Receiver is ordered to develop a recovery plan within 30 days of the date of this Order under 703 of Act 47, 53 P.S. § 11701.703, and submit it to this Court, the Secretary for the Department of Community and Economic Development, the Harrisburg City Council, and the Mayor of Harrisburg.

5. The Receiver is required and empowered to implement the emergency action plan developed by the Secretary of the Department of Community and Economic Development under Section 602 of Act 47, 53 P.S. § 11701.602, until a recovery plan developed by the Receiver is approved by the Court pursuant to Section 703 of Act 47, 53 P.S. § 11701.703.

6. During the fiscal emergency, the Mayor shall continue to carry out her duties, including duties relating to the City of Harrisburg's budget, subject to and consistent with the provisions of the Emergency Action Plan, any Recovery Plan developed by the Receiver and approved by this Court, and Chapter 7 of Act 47 as amended.

Jurisdiction retained.



JAMES R. KELLEY, Senior Judge

Certified from the Record

DEC 02 2011

And Order Exit

EXHIBIT

“B”

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

C. Alan Walker, in his capacity as	:	
Secretary for the Department of	:	
Community and Economic	:	
Development,	:	
	:	Petitioner
	:	
	:	
v.	:	No. 569 M.D. 2011
	:	
City of Harrisburg,	:	
	:	Respondent

ORDER

And now this 9th day of March, 2012, following review of the Recovery Plan for the City of Harrisburg [Plan] filed with this Court on February 6, 2012, as well as consideration of various applications filed with the Court or asserted by persons permitted to participate at the hearing on March 1, 2012, the Court finds that:

1. The Plan submitted February 6, 2012, is by its terms preliminary. The Receiver acknowledges that further investigation is necessary to determine the value of assets owned by the City, and the full extent of its structural deficit. Further, negotiations with creditors and other entities will be necessary to determine the City's ability to compromise its debt and stabilize its fiscal health going forward. Only thereafter can the Receiver bring to the Court a modified plan setting forth more specifically the particular actions proposed to alleviate the City's current fiscal emergency.

2. While undertaking these investigations and negotiations, the Receiver proposes taking certain steps, in cooperation with City officials, to increase revenue and reduce expenses through increased management efficiencies, while maintaining necessary services. These interim proposals are reasonable and well within his authority under Act 79 of 2011.¹

3. The Receiver has committed to return to this Court for approval before contracting to sell or lease assets of the City, and to submit periodic reports to the Court on the status of his ongoing efforts.

4. The Plan submitted February 6, 2012, is neither arbitrary nor capricious, and I do not find it to be wholly inadequate to alleviate the fiscal emergency of the City of Harrisburg.

Now, therefore, it is hereby ORDERED:

1. The Plan, as modified in open court on March 1, 2012, [regarding water and sewer transfer funds; see Exhibit 6] is hereby CONFIRMED.

2. A ruling on the Application for Leave to Intervene by the Suburban Municipalities² is held in abeyance pending the receipt of a Response. Objections attached as an exhibit thereto were withdrawn without prejudice, with the Court's permission, during the hearing.

¹ The Act of October 20, 2011, P.L. 318. Act 79 amended the Municipalities Financial Recovery Act, the Act of July 10, 1987, P.L. 246, *as amended*, 53 P.S. §§ 11701.101 – 11701.712.

² Susquehanna Township, Susquehanna Township Authority, Lower Paxton Township, Lower Paxton Township Authority, Steelton Borough, Steelton Borough Authority, Swatara Township, Swatara Township Authority, Paxtang Borough, and the Borough of Penbrook.

3. A ruling on the Application for Leave to Intervene by Debt Watch Harrisburg and Neil A. Grover, Esquire [Debt Watch] is held in abeyance pending receipt of a Response thereto. Objections asserted by Debt Watch during participation at the hearing, to the extent they challenge the constitutionality of Act 79 of 2011, are **DISMISSED WITHOUT PREJUDICE** as not cognizable in the context of objections to a recovery plan filed by a Receiver duly confirmed by the Court under Act 79. The remaining Objections asserted by Debt Watch are **DISMISSED WITHOUT PREJUDICE** as premature.

4. The "Request to Enjoin the Receiver from Further Action Pending Submission and Court Approval of a Comprehensive Recovery Plan" filed by the Honorable Wanda Williams, the Honorable Dan Miller and the Honorable John R. Campbell is **DENIED**. The objections to the Plan stated within that application are **DISMISSED WITHOUT PREJUDICE** as premature.


BONNIE BRIGANCE LEADBETTER,
Judge

Certified from the Record

MAR 09 2012

And Order Exit

EXHIBIT

“C”

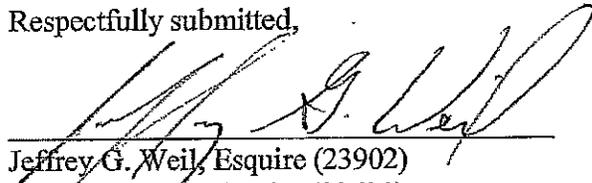
3. Despite Mr. Unkovic's unexpected resignation, the Commonwealth remains resolute in its pursuit of fiscal recovery for the City of Harrisburg. To that end, in his capacity as the Commonwealth official authorized to move for the appointment of a Receiver pursuant to section 702(a) of Act 47, 53 P.S. § 11701.702(a), Secretary Walker will ensure the continued implementation of and compliance with the Recovery Plan confirmed by this Honorable Court on March 9, 2012, pending the appointment of a new Receiver.

4. Section 705(c) of Act 47 provides as follows: "A vacancy in the office of the receiver shall be filled in the same manner as the original appointment." 53 P.S. § 11701.705(c).

5. Accordingly, the Commonwealth will move expeditiously to nominate an individual to fill the vacancy in the office of the Receiver and petition this Honorable Court to appoint such individual in accordance with the procedures outlined in section 702 of Act 47.

6. This Notice will be served in accordance with the provisions of section 702(b)(1) of Act 47, 53 P.S. § 11701.702(b)(1).

Respectfully submitted,



Jeffrey G. Weil, Esquire (23902)
Neal D. Colton, Esquire (02729)
Stephen Miller, Esquire (308590)
Eric L. Scherling, Esquire (87925)
COZEN O'CONNOR
1900 Market Street
Philadelphia, PA 19103
(215) 665-2000

Attorneys for the Secretary for the Department of
Community and Economic Development and the
Commonwealth of Pennsylvania

Dated: April 2, 2012

EXHIBIT

“D”

William B. Lynch
1351 Valley of Lakes
Hazleton, PA 18202

PERSONAL

DOB: 10 Jan 1943; Married: Kathleen A. Lynch

EDUCATION

Brown University, A.B., American Literature 1964
Ohio Northern University College of Law, J.D. (honors; Law Review) 1976
National War College 1990

MILITARY

United States Air Force/ Air National Guard 1964- 2004

Active Duty USAF

- ~ Enlisted 1964, Commissioned through Officer Training School 1965
- ~ USAF Pilot Training, Fighter Training, flew 100 unarmed reconnaissance missions over North Viet Nam, as an RF4C aircraft Commander, 1968
- ~ Overseas assignments in Thailand and England. Left active duty, 1972

Ohio Air National Guard 1973-1979

- ~ F-100 and A7D Fighter Pilot (part time while working for Corning Glass then Law School, then practicing Law)

Active USAF Recall to Active Duty (Voluntary) 1979-1984

- ~ F-111D and A7D Instructor Fighter Pilot.

Pennsylvania Air National Guard

1984-2004

~ Full time Director of Operations, 112th Tactical Fighter Group; National Guard Bureau, Washington, D.C. Director of Operations for the entire Air National Guard during Operation Desert Shield/Desert Storm. Wing Commander 171st Air Refueling Wing. Commander Pennsylvania Air National Guard, Adjutant General.

USAF and Air National Guard service characterized by command positions at all levels with increasing responsibility, and a reputation for "fixing" problem units. Numerous military awards including the Distinguished Service Medal, the Legion of Merit, the Air Medal with nine devices and the Republic of Viet Nam Cross of Gallantry. Security Clearance: Top Secret/SCI

Command Pilot with over 5,000 hours

Military Parachutist

Achieved the rank of Major General

STATE GOVERNMENT

Deputy Adjutant General and Commander of the Pennsylvania Air National Guard 1995
~ Appointed by Governor Ridge.

Cabinet Officer: Adjutant General and Secretary of the Department of Military and Veterans Affairs 1999

~ Appointed by Governor Ridge. Responsible for the 22,000 person Department made up of state and federal employees, military and civilian, the men and women of the Pennsylvania National Guard, six state owned Veterans Homes and a residential school for veterans' children. A very large, very complex department with an annual budget of \$550 million; six largest "business" in the Commonwealth of Pennsylvania. First member of the Air National Guard to be named the Adjutant General.

~ Reappointed by Governor Mark Schweiker 2001
Served as Chairman of the Pennsylvania Emergency Management Council

~ Reappointed by Governor Ed Rendell 2003
First time an Adjutant General has ever been reappointed by a newly elected governor from the other party.

~ Left State Government and retired from the National Guard to run for Congress 2004

CIVILIAN PROFESSIONAL WORK EXPERIENCE

Senior Associate C2 Associates; Consultant www.c2az.com 2004- Present
~On leave of absence 2006-2007; 2008-2009 to serve in Baghdad with the State Department.
Lawyer; Pickerel, Schaffer and Eberling; Dayton, Ohio
Corning Glass Works: Wellsboro, PA; Greenville, Ohio

Numerous awards from civic organizations, including: the Catholic War Veterans, the Marine Corps league, the Viet Nam Veterans Leadership Program, the Government of Lithuania, and others.

BOARD and TRUST MEMBERSHIPS

Former: Member and Chair, Air Reserve Forces Policy Committee. Board Member, United Way of Southwestern Pennsylvania. Board Member and Vice Chairman, National Guard Association of the United States (NGAUS). Board Member, Pennsylvania National Guard Foundation. Trustee, NGAUS Insurance Trust. Board Member, MEDAFOR Inc.

DEPARTMENT of STATE

Chief of Staff Iraq Reconstruction Management Office (IRMO) then Iraq Transition Assistance Office (ITAO), US Embassy Baghdad 2006-2007

Director Office of Joint Strategic Plans and Assessment, US Embassy Baghdad 2008-2009

Security Clearance: Top Secret

