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Income Fund and Franklin California High

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11 **UNITED STATES BANKRUPTCY COURT**

12 **EASTERN DISTRICT OF CALIFORNIA**

13 **SACRAMENTO DIVISION**

14 In re:

15 CITY OF STOCKTON, CALIFORNIA,

16 Debtor.

) Case No. 12-32118

) D.C. No. OHS-26

) Chapter 9

) **FRANKLIN'S RESPONSE TO CITY**
) **OF STOCKTON'S MOTION TO**
) **AMEND FINDINGS OF FACT IN**
) **CONFIRMATION OPINION**

) Hearing: February 25, 2015

) Time: 10:00 a.m.

) Dept: C, Courtroom 35

) Judge: Hon. Christopher M. Klein

1 The City requests that the Court amend its Opinion on confirmation to make it “consistent”
 2 with Paragraph 3 of the Confirmation Order, which fixes the amount of Franklin’s unsecured claim
 3 at \$30,480,190.¹

4 Franklin agrees that the Confirmation Order properly accounts for Trustee-held reserve
 5 funds by reducing the allowed amount of Franklin’s unsecured claim. The City, however, makes
 6 two inaccurate assertions that do not follow from that fact. It claims that the reduction in Franklin’s
 7 unsecured claim “means that the Franklin secured claim increases from \$4,052,000 to
 8 \$6,123,435.15” and that “[t]his raises Franklin’s total recovery on its secured and unsecured claims
 9 from approximately 12% to approximately 17.5%.” Motion at 3.

10 Neither assertion is correct. The accounts maintained by the Trustee were funded by
 11 Franklin with a portion of the proceeds of Franklin’s bonds. Virtually all of the funds held by the
 12 Trustee were deposited in the Reserve Account,² the sole purpose of which was to provide for
 13 payment of the bonds.³ The City cannot now and never could draw upon those funds, and it
 14 accurately concedes that the reserve “could not be recovered by the City, through bankruptcy or
 15 otherwise.” Motion at 2.

16 As a consequence, the reserve funds held by the Trustee do not “increase” Franklin’s
 17 secured claim. They merely reduce the City’s total obligation to Franklin. Thus, as both the Plan
 18 and the Confirmation Order correctly provide, the allowed amount of Franklin’s secured claim is
 19 \$4,052,000 and the allowed amount of Franklin’s unsecured claim is \$30,480,190 – representing a
 20 total claim of \$34,532,190.

21 The Plan provides a recovery on Franklin’s secured claim of \$4,052,000 and a recovery on
 22 Franklin’s unsecured claim of \$285,227.52.⁴ That is a total recovery of \$4,337,227.52 on
 23

24 ¹ *City Of Stockton, California’s Motion Pursuant To Federal Rule Of Bankruptcy Procedure*
 25 *7052 To Amend Findings Of Fact In Opinion Regarding Confirmation And Status Of CalPERS*
 [DN 1889] (“Motion”) at 4. Capitalized terms are as defined in the Motion.

26 ² The Reserve Account held \$2,245,260.94 on the petition date. Stipulation ¶ 2.

27 ³ *See* Indenture § 5.05 [Trial Ex. 3047] (“Amounts in the Reserve Account shall be used and
 28 withdrawn by the Trustee solely for the purpose of making transfers to the Interest Account and
 the Principal Account . . . or for the retirement of all Bonds then outstanding . . .”).

⁴ $0.93578\% \text{ of } \$30,480,190 = \$285,227.52.$

