

**UNITED STATES BANKRUPTCY APPELLATE PANEL  
OF THE NINTH CIRCUIT**

**BAP NO. EC-14-1550**

*In re* **CITY OF STOCKTON, CALIFORNIA, Debtor.**

**FRANKLIN HIGH YIELD TAX-FREE INCOME FUND and  
FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND, Appellants,**

**v.**

**CALIFORNIA PUBLIC EMPLOYEE'S RETIREMENT SYSTEM, ET AL.,  
Appellee.**

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**APPEAL FROM THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA, CASE NO. 12-32118**

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**BRIEF OF SAVE OUR SONOMA ROADS AS *AMICUS CURIAE*  
IN SUPPORT OF FRANKLIN HIGH YIELD TAX-FREE INCOME FUND  
AND FRANKLIN CALIFORNIA HIGH YIELD MUNICIPAL FUND  
IN SUPPORT OF REVERSAL OF ORDER CONFIRMING PLAN FOR  
ADJUSTMENT OF DEBTS**

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DATED: March 30, 2015

## CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Bankruptcy Procedure 8012, Save Our Sonoma Roads (“SOSroads”) submits the following statement:

SOSroads is a California nonprofit corporation and operates for the promotion of public welfare within the meaning of 26 U.S.C. § 501(c)(4). It is a private all-volunteer, grassroots organization in California that advocates improving local roads. Information about SOSroads, which formed in October 2011, can be found at <http://sosroads.org/>.

SOSroads has no stockholders and does not have a parent corporation. No publicly held corporation has a 10% or greater ownership interest in SOSroads.

DATED: March 30, 2015

Respectfully submitted,

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*Amicus curiae* Save Our Sonoma Roads (“SOSroads”) supports Franklin High Yield Tax Free Income Fund and Franklin California High Yield Municipal Fund (“Franklin Funds”) in seeking reversal of the confirmation of the *First Amended Plan For The Adjustment of Debts of City of Stockton, California, As Modified (August 8, 2014)*, *In re City of Stockton*, No. 12-32118 (Bankr. E.D. Cal. Aug. 8, 2014), ECF No. 1645 (the “Plan”); Order Confirming the Plan, *In re City of Stockton*, No. 12-32118 (Bankr. E.D. Cal. Feb. 4, 2015), Appellants’ App. ER224-303; Amended Opinion Regarding Confirmation and Status of CalPERS, *In re City of Stockton*, No. 12-32118 (Bankr. E.D. Cal. Feb. 27, 2015), Appellants’ App. ER304-61 (“Amended Op.”). This brief has been authored solely by counsel for SOSroads. No party, counsel for any party, or other person, aside from *amicus curiae*, its members, and its counsel, have contributed any money towards preparation or submission of this brief. Indeed, in keeping with the all-volunteer nature of SOSroads this brief has been prepared on a *pro bono publico* basis.

## **I. INTRODUCTION AND STATEMENT OF INTEREST**

SOSroads is a nonprofit corporation that promotes public welfare. It may be the only private all-volunteer, grassroots organization in California that advocates improving local roads.<sup>1</sup> SOSroads exists to: (1) educate Sonoma County residents

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<sup>1</sup> Private groups that support road funding are often comprised of contractors and labor unions who undertake such work as well as asphalt and concrete suppliers.

about how roads are funded; and (2) advocate for more public funds to restore local roads. See <http://sosroads.org/>. SOSroads and its members have a substantial interest in persuading this court to rule that public employee pension plans not only can but should be impaired in this bankruptcy proceeding to the extent that the City of Stockton seeks to impair the claims of other similarly-situated creditors. While SOSroads members do not reside in Stockton, if the plan of adjustment is confirmed public employee unions in Sonoma County will engage in labor negotiations secure in the knowledge that in a Chapter 9 proceeding their pensions would be safe. A Chapter 9 bankruptcy to address Sonoma County's failing infrastructure might become a futile option. Thus the outcome of this case will have direct effects on finances and road conditions within Sonoma County and will affect other counties and cities in California where services have been truncated by overly generous pension plans.

Like many local jurisdictions in California, Sonoma County is not technically bankrupt but can meet its current cash obligations only by failing to maintain its deteriorating road system. Sonoma County residents have for years been victims of service delivery insolvency because pensions and benefits to county workers have risen dramatically. Sonoma County has admitted that

“needed County road maintenance has been deferred for decades,”<sup>2</sup> and funding, adjusted for inflation, sharply declined from the late 1980s until 2012.<sup>3</sup> It has long acknowledged that “transportation revenues are woefully inadequate to address the road maintenance needs of Sonoma County,”<sup>4</sup> and that it has been on a trajectory whereby “a significant portion” of its road system “would require total reconstruction with such costs nearing or exceeding the public asset value.”<sup>5</sup>

While this situation has recently improved by increases in general fund spending and may further improve if voters approve a proposed sales tax increase, hundreds of miles of roads will remain in disrepair for decades.

While the nine-county Bay Area average pavement condition index is 66 out of 100 points, Sonoma County is the worst with a score of 45.<sup>6</sup> SOSroads has

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<sup>2</sup> Sonoma County Board of Supervisors, Ad Hoc Committee on Roads at 3 (June 19, 2012), *available at* [http://sonoma-county.org/public\\_reports/documents/roads\\_report\\_20120619.pdf](http://sonoma-county.org/public_reports/documents/roads_report_20120619.pdf).

<sup>3</sup> SOSroads White Paper No. 1, Sonoma County Roads Crumble as Funding Shrinks over Two Decades (Feb. 2012), *available at* <https://drive.google.com/file/d/0B0eYi-5QaOh5ZTI1NmVlOTgtMWY3YS00MjM0LWJkYTAzMGRkYjQ4NDFjYjNk/vi ew?pli=1>.

<sup>4</sup> County of Sonoma, Department of Transportation & Public Works, The Road Ahead at 1 (2008), *available at* <https://docs.google.com/file/d/0B8l8HksmrsFEMjFiMTQwZjktNjc5Ni00MDQzL TkxNzgtOTVmZDgxMWQ5MGRi/edit>.

<sup>5</sup> *Id.* at 37.

<sup>6</sup> Metropolitan Transportation Commission, “Street Fight - 2013 PCI Scores for Each Bay Area City and County” (last modified Oct 24, 2014),

access to unpublished county-by-county data for 2012 that ranked Sonoma County's pavement 56<sup>th</sup> among California's 58 counties. Sixty-five percent of Sonoma County roads are considered to be either poor or failed,<sup>7</sup> and its rural roads increasingly resemble those in less developed nations.

Because Sonoma County supervisors want to avoid expensive and uncertain litigation, they do not challenge public employee union positions that future pension benefits are vested and cannot be negotiated. The California Public Employees' Retirement System ("CalPERS"), with an unlimited legal budget ultimately paid for by the state treasury, might insert itself into any litigation to "bull[y] its way about . . . with an iron fist insisting that . . . municipal pensions . . . are inviolable."<sup>8</sup> This situation exemplifies Judge Klein's comment concerning "dysfunctional strategies to circumvent limitations and peculiarities in California public finance"<sup>9</sup> and severely limits options to address the road problems. Without a *deus ex machina* of a massive infusion of state or federal funds, the most available source of funds for roads is the \$390 million General Fund in a \$1.4

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[http://www.mtc.ca.gov/news/street\\_fight/pci.htm](http://www.mtc.ca.gov/news/street_fight/pci.htm) (the scores of the other eight counties are: Solano 75; Santa Clara 74; Alameda 71; Contra Cost 69; San Mateo 69; San Francisco 65; Napa 58; Marin 57).

<sup>7</sup> County of Sonoma, Department of Transportation & Public Works, Long-Term Road Plan at 26 (Oct. 28, 2014), *available at* <https://drive.google.com/file/d/0B0eYi-5QaOh5c0ZoTUJCRkhzZVE/view>.

<sup>8</sup> Amended Op. at 3, 14, Appellants' App. ER306, ER317.

<sup>9</sup> *Id.* at 39-40, Appellants' App. ER342-43.

billion budget.<sup>10</sup> As explained below, an increasing and unsustainable portion of these funds is instead committed to pensions and other retiree benefits. If courts allow pensions to escape impairment in bankruptcy proceedings, imprudent promises to “one percent” of Sonoma County’s residents condemn all residents to suffer when funds for basic services are starved. If much of the road system degrades to dirt or gravel, property taxes would decline as would the county economy. This would further weaken Sonoma County’s ability to deliver essential services.

## **II. SONOMA COUNTY’S UNSUSTAINABLE RETIREMENT OBLIGATIONS**

As detailed above, Sonoma County residents are experiencing service delivery insolvency. It will soon approach balance sheet insolvency when the Government Accounting Standards Board requires it to recognize a \$1.2 billion reduction in net assets.<sup>11</sup> Sonoma County has more retirees than active workers<sup>12</sup> and its pension problems exemplify Warren Buffet’s warning that “[l]ocal and state

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<sup>10</sup> County of Sonoma, California, Adopted Budget 2014-2015 at 4 (undated), available at [http://www.sonoma-county.org/auditor/pdf/fy\\_2014-2015\\_adopted\\_budget.pdf](http://www.sonoma-county.org/auditor/pdf/fy_2014-2015_adopted_budget.pdf).

<sup>11</sup> New Sonoma’s Report on County’s Pension Crisis, How We Got Here and Building a Framework for Solutions at 4 (Apr. 2014) (hereinafter “Pension Report”), Attachment A.

<sup>12</sup> It had 3,830 active employees and 4,385 retirees (including disability retirements). Sonoma County Employees’ Retirement Association Board Minutes at 1 (Jan. 16, 2014), <http://www.scretire.org/Administration/Minutes-Archive>. These figures are as of December 31, 2013.

financial problems are accelerating, in large part because public entities promised pensions they couldn't afford."<sup>13</sup> Sonoma County does not seem to report the total cost of its current pension obligations, let alone projections of future costs in any readily accessible document. Fortunately New Sonoma, a volunteer group of financial experts (<http://newsonoma.org/>), has conducted an in-depth analysis.

From the 1940s until 2002, Sonoma County had a sustainable pension system that provided up to 60 percent of salary together with social security and health care benefits.<sup>14</sup> Just prior to 2002, annual pension costs were about \$20-25 million.<sup>15</sup> In 1999 the legislature enacted S.B. 400 to allow retroactive pension increases of 50 percent to state workers and authorized counties to provide similar employee windfalls.<sup>16</sup> “California is in trouble because a retroactive expansion of benefits in the late 1990s made the state one of the most generous in the nation . . . .”<sup>17</sup> In 2002 Sonoma County was one of a handful of counties to enact retroactive

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<sup>13</sup> Luciana Lopez, *Buffett says more bad news on pension funds during next decade*, REUTERS (Mar. 1, 2014), available at [http://webcache.googleusercontent.com/search?q=cache:Tg55h05\\_7GEJ:www.reuters.com/article/2014/03/01/buffett-letter-munis-idUSL1N0LY0BT20140301+&cd=1&hl=en&ct=clnk&gl=us](http://webcache.googleusercontent.com/search?q=cache:Tg55h05_7GEJ:www.reuters.com/article/2014/03/01/buffett-letter-munis-idUSL1N0LY0BT20140301+&cd=1&hl=en&ct=clnk&gl=us).

<sup>14</sup> Pension Report at 2.

<sup>15</sup> *Id.*

<sup>16</sup> S.B. 400, 1999-2000 Reg. Sess. (Cal. 1999).

<sup>17</sup> Amended Op. at 40 n.32 (quoting Professor Alicia H. Munnell, STATE AND LOCAL PENSIONS: WHAT NOW? (Brookings Inst. 2012)), Appellants' App. ER343.

pension increases at the highest allowable formula of 3 percent of salary per year.<sup>18</sup> It apparently did not adhere to state law in adopting this increase because the supervisors failed to perform a required actuarial study or notify the public as required by § 7507 of the California Government Code.<sup>19</sup> The decision to enhance pensions is tainted by the fact that the supervisors and senior employees who advised them that increasing benefits retroactively was fiscally prudent greatly benefitted when their own pensions increased dramatically. For example, the County's chief financial officer at that time received a \$254,625 pension at age 58 which is more than he received when working.<sup>20</sup>

The changes took effect for safety workers in 2003 and 2006 and for general employees in 2004, increasing pensions for new retirees by 50 percent. The average age of new retirees declined from 62 to 57.<sup>21</sup> Thus new retirees paid into the retirement system for five fewer years and received pensions five years sooner. It doesn't take a statistician to recognize these changes can devastate a pension fund. Super-charged pensions beginning in 2004 are the heart of Sonoma County's

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<sup>18</sup> Pension Report at 3. "Retroactive" means that a 30 year employee could suddenly retire at 90 percent of salary instead of 60 percent of salary.

<sup>19</sup> *Id.* at 4.

<sup>20</sup> Brett Wilkison, *County pensions revealed: 98 reap more than \$100,000*, SANTA ROSA PRESS DEMOCRAT (Sept. 21, 2011), available at <http://www.pressdemocrat.com/news/2293386-181/county-pensions-revealed-98-reap>.

<sup>21</sup> Pension Report at 6.

financial problems.<sup>22</sup> Exacerbating these problems, and generally unknown to the public, retirees dramatically boosted their pensions by “spiking” their last year with overtime and non-salary payments to boost pension amounts and purchasing “air time” to add years in the retirement formula.<sup>23</sup> Similarly in Stockton, employees turned “pension spiking into an art form, using overtime and add-pays in their final working years to secure much larger pensions for the rest of their lives.”<sup>24</sup>

Sonoma County’s pension costs have quintupled from \$24 million in 2001 to \$122 million in 2012.<sup>25</sup> These costs, together with payments to service pension obligation bonds and health care costs, are projected to cost \$209 million per year by 2020.<sup>26</sup> This is analogous to Stockton’s problems, where annual pension payments will triple within a decade (from \$14.1 million to \$42.4 million) and then increase \$12 million more during the next decade.<sup>27</sup> Unfunded liabilities in

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<sup>22</sup> *Id.* (chart titled “New General Retirees”).

<sup>23</sup> New Sonoma has found examples of employees paying \$28,000 for five additional years of service credit, boosting the pension by \$12,000 per year (\$300,000 in 30 years).

<sup>24</sup> Tr. of K. Miller Bankruptcy Presentation on YouTube, Appellants’ App. ER783.

<sup>25</sup> Pension Report at 8 (chart titled “Growth of County and Employee Contributions”).

<sup>26</sup> *Id.*

<sup>27</sup> Revised City of Stockton Long-Range Financial Plan, Appellants’ App. ER822-27.

Sonoma County at the end of 2012 totaled \$1.3 billion,<sup>28</sup> which is unrealistically low because it assumes the County will earn 7.5 percent on its investment earnings.<sup>29</sup> Retirees managing their own funds typically limit spending to about 4 percent per year of the value of their assets.<sup>30</sup> The leading Sonoma County newspaper editorialized that “trusting that the stock market will somehow resolve [the pension problem] . . . is how we got into this fix in the first place.”<sup>31</sup> New Sonoma concluded that pension costs “have caused deep cuts to services and have greatly reduced the County’s ability to maintain its roads and infrastructure.”<sup>32</sup>

### III. ARGUMENT

The Bankruptcy Court should not have confirmed the Plan because it allows public employee retirement funds to emerge unscathed from the City of Stockton’s bankruptcy while Stockton reorganized on the backs of similarly-situated but less favored creditors. This result is contrary to law and has negative implications for

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<sup>28</sup> Pension Report at 9. This sums unfunded pension liabilities (\$527 million), medical liabilities (\$297 million) and remaining pension bond debt (\$495 million).

<sup>29</sup> *Id.*

<sup>30</sup> *See, e.g.,* Eilene Zimmerman, *4% Rule for Retirement Withdrawals Is Golden No More*, NEW YORK TIMES (May 14, 2013), available at [http://www.nytimes.com/2013/05/15/business/retirementspecial/the-4-rule-for-retirement-withdrawals-may-be-outdated.html?\\_r=0](http://www.nytimes.com/2013/05/15/business/retirementspecial/the-4-rule-for-retirement-withdrawals-may-be-outdated.html?_r=0).

<sup>31</sup> PD Editorial: *The Dangers of Ignoring San Jose Mayor*, SANTA ROSA PRESS DEMOCRAT (Feb. 28, 2014), available at <http://www.pressdemocrat.com/article/20140302/opinion/140229495>.

<sup>32</sup> Pension Report at 4.

local jurisdictions throughout California that are experiencing deteriorating road systems and other services because of pension promises that cannot be kept. While the Bankruptcy Court chastised CalPERS for its bullying tactics and ferocious behavior,<sup>33</sup> CalPERS is merely the junk yard dog that represents the views of retirees and prospective retirees. While acknowledging that “[t]he real creditors are the employees, retirees, and their beneficiaries,”<sup>34</sup> the Bankruptcy Court did not impair Stockton’s largest unsecured creditor whose unfunded pension liability was nearly \$412 million.<sup>35</sup> If this decision is not reversed, no resident in the Ninth Circuit can avoid suffering the effects of unaffordable public pensions that are becoming a dagger into the heart of our society.

To start, the Bankruptcy Court’s analysis of the law was correct in two respects. First, California statutes that forbid rejecting a contract with CalPERS and the granting of a \$1.6 billion lien to CalPERS in the event of termination of a pension administration contract are unenforceable because Congress has the exclusive power to enact bankruptcy laws and the Constitution is the Supreme Law of the land.<sup>36</sup> *See Cent. Va. Cmty. Coll. v. Katz*, 546 U.S. 356, 373 (2006) (“the

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<sup>33</sup> *See* Amended Op. at 3, 14, Appellants’ App. ER306, ER317.

<sup>34</sup> *Id.* at 26, Appellants’ App. ER329.

<sup>35</sup> *Id.* at 23, Appellants’ App. ER326; *id.* at 50, Appellants’ App. ER353 (“[T]he potential pension liability makes the employees and retirees the largest creditors of the City. . . .”).

<sup>36</sup> *Id.* at 26-47, Appellants’ App. ER329-50.

Framers' primary goal [in bankruptcy] was to prevent competing sovereigns' interference with the debtor's discharge. . . ."); *Perez v. Campbell*, 402 U.S. 637, 652 (1971) ("any state legislation which frustrates the full effectiveness of federal law is rendered invalid by the Supremacy Clause"). Second, California's judge-made "Vested Rights Doctrine" does not preclude the rejection or modification of a contract in a Chapter 9 bankruptcy.<sup>37</sup>

The Bankruptcy Court, unfortunately, failed to take the next logical step that flows from that otherwise sound legal analysis. It did not require that the pension contracts be impaired while Stockton sought to impair other general fund liabilities. Such a ruling would break no new ground. The court in the largest municipal bankruptcy in history held that pension rights are contractual and "are subject to impairment in a federal bankruptcy proceeding." *In re City of Detroit*, 504 B.R. 97, 154 (Bankr. E.D. Mich. 2013). In that case material pension reductions were approved, but the impact on pensions was less than proposed only because the State of Michigan and private donors contributed \$816 million to reduce pension cuts and to save the Detroit Institute of Arts as an independent institution.<sup>38</sup>

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<sup>37</sup> Amended Op. at 39-41, Appellants' App. ER342-44.

<sup>38</sup> Nathan Bomey, *et al.*, *Judge Oks Bankruptcy Plan, A Miraculous Outcome*, DETROIT FREE PRESS (Nov. 7, 2014), *available at*

While noting a “multi-decade, opaque pattern of above-market compensation of employees,” *In re City of Stockton*, 493 B.R. 772, 779 (Bankr. E.D. Cal. 2013), the Bankruptcy Court seems to assume that those employees (which includes elected officials) are innocent bystanders in the demise of Stockton’s finances. Elected officials approved super-charged pensions following negotiations between senior employees and more junior employees. Everyone in the process profited from the pensions that drove Stockton to bankruptcy. Those senior employees and elected officials then proposed a plan of adjustment that protects their own pensions and hired lawyers and consultants who were paid handsomely from city coffers to advance their interests. From the perspective of the insiders who want to protect their well-feathered nests, there is nothing not to like. The Bankruptcy Court explained how the CalPERS board gives municipal employees a large voice in decisions,<sup>39</sup> and in particular

municipal employees are permitted indirectly to participate in negotiations between a municipality and CalPERS. The process of voluntarily adjusting a CalPERS pension requires that the municipality, first, negotiate with its employees regarding the pension and, second, run the gauntlet of also satisfying the CalPERS board.<sup>40</sup>

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<http://www.freep.com/story/news/local/detroit-bankruptcy/2014/11/07/rhodes-bankruptcy-decision/18648093/>.

<sup>39</sup> Amended Op. at 10-14, Appellants’ App. ER313-17.

<sup>40</sup> *Id.* at 13, Appellants’ App. ER316.

While decrying the dysfunction in California public finance,<sup>41</sup> the Bankruptcy Court contributes to the invidious cynicism that the public directs toward all levels of government. It erred in failing to impair pensions that were boosted by unsavory practices such as spiking, air time, and retroactive pension increases while permitting discriminatory treatment of other creditors.

It is virtually impossible to address the financial problems caused by unsustainable public employee pensions in state proceedings, and now even when such problems are so severe that they result in a municipal bankruptcy the federal Bankruptcy Court has ducked resolving the issue. While it concluded “as a matter of law” that the pensions “may be adjusted as part of a chapter 9 plan,”<sup>42</sup> it declined to do so. CalPERS and public employee unions will no doubt characterize this legal conclusion as mere dicta during labor negotiations.<sup>43</sup>

Requiring that pension obligations be restructured along with all of Stockton’s other debts would have a salutary effect on the ability of public officials to provide essential services in Sonoma County and elsewhere. It would remove the handcuffs from public officials when they negotiate with unions who seem to believe that the fiscal condition of their employer will never impact their members

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<sup>41</sup> *Id.* at 39-41, Appellants’ App. ER342-44.

<sup>42</sup> *Id.* at 3, Appellants’ App. ER306.

<sup>43</sup> *See Exp. Grp. v. Reef Indus., Inc.*, 54 F.3d 1466, 1472 (9th Cir. 1995) (quoting Black’s Law Dictionary’s definition of “dictum” as “‘an observation or remark . . . not necessarily involved in the case or essential to its determination.’”).

no matter how onerous the effects may be on the delivery of services. If the confirmation of the Plan is not reversed, it will put off the day of reckoning and make the inevitable solutions more difficult while pension funds in counties and cities throughout the state are further depleted. Meanwhile, unaffordable pension obligations contribute to the third world condition of Sonoma County roads.

#### **IV. CONCLUSION**

For these reasons, SOSroads requests that this court reverse the confirmation of the Plan and order that any revised plan of adjustment impair the public employee pensions that are at the heart of Stockton's financial problems.

DATED: March 30, 2015

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## CERTIFICATE OF COMPLIANCE

Pursuant to Rules 8017(c)(6), 8015(a)(7)(C), and 8015(a)(7)(B) of the Federal Rules of Bankruptcy Procedure, I hereby certify that the foregoing Brief of Save Our Sonoma Roads As *Amicus Curiae* In Support of Franklin High Yield Tax-Free Income Fund and Franklin California High Yield Municipal Fund In Support of Reversal Of Order Confirming Plan for Adjustment of Debts contains 3,038 words, as counted by a word processing system that includes headings, footnotes, quotations, and citations in the count, and therefore is within the word limit set by the court. The brief was prepared using Microsoft Word in 14-point Times New Roman, a proportionally-spaced font.

DATED: March 30, 2015

Respectfully submitted,

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**CERTIFICATION REQUIRED BY  
NINTH CIRCUIT BAP RULE 8015(a)-1(b)**

**BAP NO.: EC-14-1550**

*In re City of Stockton, California, Debtor*

The undersigned certifies that the following parties have an interest in the outcome of this appeal. These representations are made to enable judges of the Panel to evaluate possible disqualification or recusal:

Debtor: City of Stockton, California

Appellants: Franklin High Yield Tax-Free Income Fund,  
Franklin California High Yield Municipal Fund

Appellees: City of Stockton, California  
California Public Employees' Retirement System  
Stockton Police Officers Association  
Stockton City Employees Association  
Stockton Police Managers Association  
Stockton Professional Firefighters-Local 456  
Operating Engineers Local No. 3  
Assured Guaranty Corp.  
Assured Guaranty Municipal Corp.  
National Public Finance Guarantee Corporation  
Wells Fargo Bank, National Association, as Indenture  
Trustee  
Official Committee of Retirees

DATED: March 30, 2015

/s/ Craig S. Harrison  
Craig S. Harrison  
*Attorney for Amicus Curiae*  
*Save Our Sonoma Roads*

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the Bankruptcy Appellate Panel for the Ninth Circuit by using the appellate CM/ECF system on March 30, 2015.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, to the following non-CM/ECF participants:

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