

May 17, 2018

NFMA SUBMITS AMICUS BRIEF CONCERNING PUERTO RICO HIGHWAY REVENUE BOND RULING BY U.S. DISTRICT COURT

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The National Federation of Municipal Analysts (“NFMA”) announced today that it has filed an *amicus curiae* brief (the “Brief”) with the United States Court of Appeals for the First Circuit in support of the appeal filed by Assured Guaranty, Financial Guaranty Insurance Company and National Public Financial Guarantee Corporation of a decision of the United District Court for the District of Puerto Rico (the “District Court”) involving Puerto Rico Highway and Transportation Authority bonds (the “Highway Revenue Bonds”). The Brief can be found at www.nfma.org.

The NFMA files amicus briefs when it finds that there is a compelling matter affecting the municipal bond market where it can help to better educate the court about public finance issues and the functioning of the municipal marketplace; further the NFMA’s goal of promoting complete and timely disclosure; or avoid an adverse outcome which would cause significant disruption to the municipal marketplace by undermining a core principal upon which municipal analysis is founded.

The decision at issue primarily involved, the interpretation of Sections 922 and 928 of the Bankruptcy Code (the “Revenue Bond Provisions”), which have been incorporated into Title III of the Puerto Rico Oversight, Management and Economic Stability Act (“PROMESA”). The District Court held that the Revenue Bond Provisions did not require the continued application of pledged revenues to the payment of the Highway Revenue Bonds, nor permit the enforcement of a lien on the pledged revenues without first obtaining relief from the automatic stay. The decision further allows a diversion of revenues for any expense or obligation of the issuer. While this case is concerned with the Puerto Rico proceeding under PROMESA, the incorporation of the Revenue Bond Provisions into both the Bankruptcy Code and PROMESA broadens its application to bankruptcy proceedings affecting the entire municipal bond market.

The NFMA feels strongly that the decision is an incorrect interpretation of the Revenue Bond Provisions, and believes that, if upheld, the decision would reverse commonly held beliefs in the municipal bond market regarding the strength of the revenue pledge for revenue bonds during a bankruptcy proceeding. This, in turn, would undermine the underlying broad acceptance of revenue bonds by investors, and would increase borrowing costs for municipal issuers with pressing infrastructure finance needs. Accordingly, the Brief argues that the District Court decision is wrong both as a matter of statutory construction and sound public policy.

Mary Francoeur, Chair of the NFMA, stated that “We have filed this brief because the District Court’s decision, if upheld, would undermine protections expected by municipal bond investors, and would also likely result in higher borrowing costs for issuers going forward at a time when the nation’s significant infrastructure needs will need to be addressed.”

Established in 1983, the NFMA is an organization of nearly 1,500 members, primarily research analysts, who evaluate credit and other associated risks in the municipal market. These individuals represent, among others, mutual funds, insurance companies, broker/dealers, bond insurers, rating agencies, and financial advisory firms.