

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

IN RE:)
CITY OF PRICHARD, ALABAMA) **Civil Action No. 1:10-00622-KD-M**
Appellant.)

ORDER

Previously, the City of Prichard, Alabama filed a bankruptcy petition under Chapter 9 of Title 11 of the United States Code. The United States Bankruptcy Court for the Southern District of Alabama dismissed the City's Chapter 9 petition upon deciding that the City lacked capacity under Alabama law to file the petition. The City appealed the decision and also filed a motion to certify to the Supreme Court of Alabama an unresolved question of state law regarding the capacity of an Alabama municipality to file for Chapter 9 protection based upon conflicting interpretations of Ala. Code § 11-81-3. The motion was granted and the following question was certified:

Whether Ala. Code § 11-81-3 (1975) (as amended) requires that an Alabama municipality have refunding or funding bond indebtedness as a condition of eligibility to proceed under Chapter 9 of Title 11 of the United States Code ?

(Doc. 16).

The Supreme Court of Alabama consented to answer the certified question. (Doc. 19) In *City of Prichard v. Balzer*, - - - So. 3d - - - , 2012 WL 13711413 (Ala. 2012) (slip opinion), the Court answered in the negative concluding that “[i]t is clear that the legislature intended to authorize every county, city, town, and municipal authority organized pursuant to Article 9, Chapter 47 of Title 11, Ala. Code 1975, to file for federal bankruptcy protection. Therefore, §

11–81–3 does not require that an Alabama municipality have indebtedness in the form of refunding bonds or funding bonds as a condition to eligibility to proceed under Chapter 9 of Title 11 of the United States Code.” *Id.* *5.

The question regarding the City’s capacity to file a Chapter 9 petition has now been answered. Accordingly, the stay is lifted, the decision of the United States Bankruptcy Court dismissing the City’s Chapter 9 petition is reversed, and this action is remanded to the United States Bankruptcy Court for further proceedings not inconsistent with the decision of the Supreme Court of Alabama.

DONE and **ORDERED** this 7th day of May, 2012.

s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE