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In re City of Stockton, Cal.

United States Bankruptcy Court, E.D. California - June 12, 2013 - B.R. - 2013 WL 2629129

“Chapter 9 is unique among voluntary Bankruptcy Code cases in that a municipality must litigate its way to the order for relief before restructuring its debt. Capital markets creditors of the City of Stockton have required the City to prove its eligibility for chapter 9 relief under 11 U.S.C. §§ 109(c) and 921(c). Such a proceeding is like a qualifying round in a competition; success leads only to the main event—the process of achieving a viable plan of adjustment. Without a confirmed plan, a municipality lacks constitutional authority to compel impairment of contracts.”

“This opinion addresses chapter 9 eligibility issues that arose during the three-day trial on the question whether to order relief and the post-trial motion to alter or amend the findings regarding the strategy adopted by certain creditors. The focus is on pre-filing obligations of the municipality in dealing with creditors and stakeholders. Concluding that the City carried its burden to establish the elements required for an order for relief and concluding that the objectors inappropriately used an issue relating to plan confirmation, but that is irrelevant to eligibility, as a pretext to decline to negotiate in good faith and to force a trial that should not have been necessary, relief will be ordered.”

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