

# Bond Case Briefs

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## **BONDS - ALABAMA**

### **Water Works and Sewer Board of City of Prichard v. Synovus Bank**

**Supreme Court of Alabama - May 17, 2024 - So.3d - 2024 WL 2229194**

Trustee under bond indenture of city water works and sewer board brought breach-of-contract action against board, alleging that board defaulted in several respects under the indenture and requesting, among other things, the appointment of a receiver pursuant to the indenture.

The Circuit Court entered order appointing a receiver to administer the water works and sewer system. Board appealed.

The Supreme Court held that:

- Trial court properly considered not only the provision of the indenture allowing for the appointment of a receiver, but also the factors set forth in *Carter v. State ex rel. Bullock Cnty.*, 393 So.2d 1368, for appointing a receiver pursuant to statute;
- Board had the power under state statute to agree contractually to the appointment of a receiver under an indenture;
- Sufficient evidence supported finding that irreparable harm would have occurred to the system had a receiver not been appointed; and
- Trial court properly exercised its discretion in vesting the receiver with all powers necessary to administer and operate the system.

When deciding motion by trustee under bond indenture of city water works and sewer board to have a receiver appointed, the trial court properly considered not only the provision of the indenture allowing for the appointment of a receiver, but also the factors set forth in *Carter v. State ex rel. Bullock Cnty.*, 393 So.2d 1368, for appointing a receiver pursuant to statute; the appointment of a receiver was an extraordinary remedy, and trustee sought the appointment of a receiver under the indenture and pursuant to Alabama law.

Water works and sewer board had the power under state statute to agree contractually to the appointment of a receiver under an indenture; although board could not contractually agree to the foreclosure of a mortgage or deed of trust encumbering the system, legislature did not prohibit a public-utility corporation, such as the board, from contractually agreeing to a receivership over its system.

Sufficient evidence supported finding that irreparable harm would occur to city water works and sewer system if a receiver were not appointed, as would support trial court's granting of motion by trustee under bond indenture of city water works and sewer board to have a receiver appointed pursuant to the indenture and Alabama law due to events of default; condition of the system had developed into a crisis because of years of mismanagement and fiscal irresponsibility.

When granting motion by trustee under bond indenture of city water works and sewer board to have a receiver appointed pursuant to the indenture and Alabama law due to events of default, trial court

properly exercised its discretion in vesting the receiver with all powers necessary to administer and operate the system, despite argument that receiver's powers should have been limited to the enforcement of ministerial duties of the board and trustee's should not have had control of the receiver's decisions; trial court balanced the competing interests of the parties by considering their respective equities and obligations, all for the benefit of creating a viable system to provide water and sewer services that would enable the bondholders to not lose their investments.