
In the Matter of the Rehabilitation of:

Segregated Account of
Ambac Assurance Corporation

Case No. 10 CV 1576

**PNC BANK, N.A.'S NOTICE OF MOTION AND MOTION TO
MODIFY ORDER FOR TEMPORARY INJUNCTIVE RELIEF AND
OBJECTIONS TO ORDER FOR TEMPORARY INJUNCTIVE RELIEF**

TO: Sean Dilweg, Commission of
Insurance of the State of WI
c/o David G. Walsh
Michael B. Van Sicklen
Matthew R. Lynch
Foley & Lardner LLP
150 East Gilman Street
Madison, WI 53701

Ambac Assurance Corporation
c/o Daniel W. Stopher
Stafford Rosenbaum LLP
222 W. Washington Avenue, Suite 900
P.O. Box 1784
Madison, WI 53701-1784

and

and

c/o Keven G. Fitzgerald
Andrew A. Oberdeck
Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, WI 53202

c/o William G. Primps
Emily L. Saffitz
Allison H. Weis
Peter A. Ivanick
Lynn Roberts
Dewey & Leboeuf LLP
1301 Avenue of the Americas
New York, NY 10019

PLEASE TAKE NOTICE that PNC Bank, N.A. ("PNC"), by its attorneys Gass Weber Mullins, LLC and Jones Day (of counsel to PNC), at a time and place to be set by the Court, will move and does hereby move the Court as follows:

- For an order modifying the Order for Temporary Injunctive Relief to enjoin Ambac and the Segregated Account from terminating PNC as servicer of certain loans held in Citigroup HELOC Trust 2006-NCB1; and
- For an order vacating the Order for Temporary Injunctive Relief because the Segregated Account Violates Wisconsin Law, the Wisconsin Constitution and the U.S. Constitution.

BACKGROUND

1. PNC, as successor-in-interest to National City Bank, is the Servicer of certain loans held in Citigroup HELOC Trust 2006-NCB1 ("the Trust"). Certain of the Trust's securities were insured by Ambac. As the loan Servicer, PNC is a party to a loan-servicing agreement that applies to the loans in the Trust; Ambac is a defined third-party beneficiary under that agreement.

2. Before the Segregated Account was established and placed into Rehabilitation, PNC and Ambac were engaged in discussions and negotiations concerning Ambac's desire to terminate PNC as Servicer and transfer servicing to another entity chosen by Ambac. PNC does not believe that Ambac has the right to terminate PNC as Servicer, and also does not believe Ambac is properly interpreting the loan-servicing agreement in other respects. Ambac disagrees with PNC's position.

3. Following entry of this Court's Order for Temporary Injunctive Relief ("the Injunction Order"), discussions on these issues have continued between PNC and representatives of Ambac, the Segregated Account, and the Office of the Commission of Insurance (collectively, "Ambac"). Over the last several weeks, PNC and Ambac have discussed possible resolution of these matters, and those discussions are continuing, but the parties have not yet reached a resolution.

4. Due to these ongoing discussions, Ambac and PNC have agreed that PNC should file a motion in order to protect its rights, but that briefing may be deferred to a date to be determined. (*See* Exhibit 1, 6/22/10 email from M. Van Sicklen to J. Franke.)

5. PNC hopes that the issues relating to the servicing transfer, and related issues, can be worked out between it and Ambac, obviating the need for PNC to seek the relief set forth herein and avoiding having this Court unnecessarily devote resources to this issue. Accordingly, PNC files this motion identifying the relief it will seek from the Court if these matters cannot be resolved with Ambac, and requests that the Court defer briefing on these issues until such time as PNC or Ambac advises the

Court that a briefing schedule is necessary. To the extent other parties file objections to the Injunction Order and the Court sets a briefing schedule on such objections, PNC will be also prepared to follow that briefing schedule.

OBJECTIONS AND RELIEF SOUGHT BY PNC

6. PNC objects to the Injunction Order, and contends that the Injunction Order is improper for the reasons set forth below and should be modified and applied as follows:

- The Injunction Order violates Wisconsin Law requiring that temporary injunctions preserve the status quo. Accordingly, the Injunction Order should be modified and applied to ensure that Ambac, the Segregated Account, and/or the Insurance Commissioner do not take actions that permanently change the status quo.
- Ambac should not be allowed to terminate PNC as Servicer acting under the Injunction Order because doing so will irreparably harm PNC, the HELOC borrowers whose loans are in the Trust, and the holders of the securities in the Trust, and because doing so will irreversibly alter the status quo. At the very least, before Ambac may terminate PNC as Servicer, PNC is entitled to a full and fair hearing as to whether Ambac has the right to terminate PNC.

7. PNC also objects to the Injunction Order, and the establishment of the Segregated Account, on the basis that they violate PNC's due process rights and constitute an unlawful taking under the United States and Wisconsin Constitutions.

Dated this 22nd day of June, 2010.

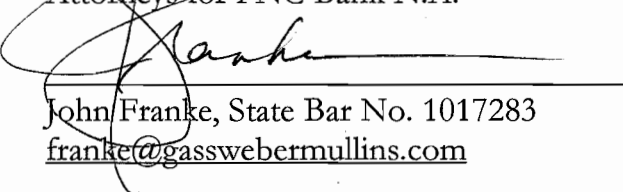
309 N. Water St., Suite 700
Milwaukee, WI 53202
(414) 223 3300 Tel
(414) 224-6116 Fax

OF COUNSEL

Peter D. Laun
JONES DAY

500 Grant Street – Suite 4500
Pittsburgh, PA 15219-2514
(412) 394 7930 Tel; (412) 394 7959 Fax
pdlaun@jonesday.com

GASS WEBER MULLINS LLC
Attorneys for PNC Bank N.A.



John Franke, State Bar No. 1017283
franke@gasswebermullins.com

John Franke

From: Van Sicklen, Michael B. [MVanSicklen@foley.com]
Sent: Tuesday, June 22, 2010 12:10 PM
To: John Franke; Lynch, Matthew R.
Subject: RE: Ambac Segregated Account Rehabilitation

From the Desk of: Michael B. Van Sicklen



[My Location](#)

[My V-card](#)

[My Bio](#)

www.foley.com

John-- Yes, on behalf of the Rehabilitator and OCI, we agree that the briefing schedule for your client and ours may be worked out as you suggest.

From: John Franke [mailto:franke@gasswebermullins.com]
Sent: Tuesday, June 22, 2010 11:58 AM
To: Van Sicklen, Michael B.; Lynch, Matthew R.
Subject: RE: Ambac Segregated Account Rehabilitation

Michael:

Will you agree that we can file a protective motion today seeking modification of the Temporary Injunction, with either a date certain or date to be determined for the filing of a supporting brief and exhibits?

We are prepared to file everything today, but would prefer to continue negotiations first.

Thanks,
John

Gass Weber Mullins LLC
309 N. Water Street, Suite 700
Milwaukee, WI 53202
Direct Dial: 414 224-3450