STAFF REPORT ON

TRANSACTIONS IN SECURITIES OF THE CITY OF NEW YORK

CHRONOLOGY OF EVENTS

OCTOBER 1, 1974 - APRIL 8, 1975

August 26, 1977

SECURITIES AND EXCHANGE COMMISSION

STAFF REPORT

ON

TRANSACTIONS IN SECURITIES
OF THE CITY OF NEW YORK

Chapter One

CHRONOLOGY OF EVENTS

OCTOBER 1, 1974 - APRIL 8, 1975

August 26, 1977

TUESDAY, OCTOBER 1, 1974

A memorandum to Harrison J. Goldin, Comptroller of the City of New York, from Steven Clifford, consultant to the Office of the Comptroller, examined "unsound budgeting and accounting practices" of the City of New York. The memorandum commenced:

> To balance the expense budget, the City employs a series of unsound budgeting and accounting practices, including carrying forward bogus receivables, levying taxes on city-owned property, paying retroactive wage settlements from judgement and claims, postponing payments (or postponing the recognition of expenses), appropriating chemical [sic] balances, speeding up the recognition of revenue, overestimation of revenues, and underestimation of expenses.
>
> These practices produce a supposedly balanced budget, at least at the start of the year. Unfortunately they do not generate any cash, and force [the] City to increase short term borrowings which currently total about $4 billion. In addition to increasing debt service costs, these practices subvert the budgeting and taxation processes. By translating discretionary costs in one year to mandatory debt service costs in subsequent years, they deprive the taxpayers and voters of a choice between services and taxpayers [sic]. By allowing the City to increase expenses without an immediate increase in taxation, these practices encourage the City to over commit itself and disregard the future consequences.

The memorandum recommended "[a]udits of property taxes and other city receivables to be completed by October 15;" "[p]ublication of a white paper, about Jan. 15, documenting the effects of unsound accounting and budgeting on City debt service costs;" and "[i]nclusion of a five year forecast of revenues and expenditures in the Comptroller's Feb. 15 statement." 1/

1/ Memorandum, Steven Clifford to Harrison J. Goldin, October 1, 1974.

Indeed, as early as May 6, 1974, Jonathan Weiner, Special Advisor to the Comptroller, in a memorandum to Comptroller Goldin, noted that

(footnote continued)

WEDNESDAY, OCTOBER 2, 1974

The City announced the sale of $420.4 million in Bond Anticipation Notes ("BANS") at an interest rate of 7.79%, the highest interest the City ever paid on BANS, and $97.4 million in Urban Renewal Notes ("URNS") at a rate of 7.7%. The successful bidders were syndicates headed by Chemical Bank and by First National City Bank ("Citibank") and Chase Manhattan Bank ("Chase"). 1/ There was no public dissemination of an offering circular or comparable document.

MONDAY, OCTOBER 7, 1974

A monthly meeting was held of the Comptroller's Technical Debt Management Committee ("CTDM Committee"), a committee first established by Goldin's predecessor, Abraham D. Beame, to advise the Comptroller on debt issuance, the condition of the municipal securities markets and related matters. 2/

(continued)

Mayor Abraham Beame's proposed plan to meet the 1974-75 gap of $1.5 billion consisted of (1) one-shot items totalling $185.1 million, (2) phony savings and revenues totalling $80 million, and (3) other less-than-sound fiscal practices totalling $151 million, for a total of $416.1 million. In addition, Weiner stated that the Mayor's plan accepted the Governor's "outrageous proposal" that the State accelerate its aid payments to the City totalling $114 million. Weiner concluded:

> "Hence, thus far $530.1 million (at least) in budget balancing items for 1974-75 is gimmickry, a total which I believe surpasses most previous years excesses. Very seriously, of this total $299.1 [million] is in one-shot ventures, and an additional $80 million (at the very least) is phony. Beame is storing up a lot of trouble for himself. What in fact will be done next year? Borrow again?"

Weiner then urged Comptroller Goldin to "responsibly disassociate [himself] from some of these practices."

1/ News Release, Office of the Comptroller, 74-118, October 2, 1974.

2/ Testimony of Harrison J. Goldin (August 26, 1976) at 37. Hereinafter all testimony will be cited by the witness' name and the page(s) of the transcript of such witness' testimony. The testimony of several witnesses who testified on more than one occassion began on each occasion with page one. In those instances, the date of the person's testimony being cited will also be included.

All references to exhibits marked for identification during a witness' testimony will be referred to as " ____ Ex. __ ".

Present at the meeting, besides Goldin, were Dr. Seymour Scher, First Deputy Comptroller; William T. Scott, Third Deputy Comptroller; Sol Lewis, Chief Accountant; and various other members of the Comptroller's staff. John Devine of Chase, Gedale D. Horowitz of Salomon Brothers, Richard F. Kezer and Paul S. Tracy, Jr. of Citibank, Zane Klein of Berlack, Israels & Liberman, Richard B. Nye of First Security Co., Wallace O. Sellers of Merrill Lynch, Pierce, Fenner & Smith ("Merrill Lynch"), Frank P. Smeal of Morgan Guaranty Trust Co. ("Morgan"), and James F. Trees of Fisher, Francis, Trees & Watts, Inc., all members of the CTDM Committee, were also present. 1/

At this meeting, the Comptroller announced various changes in the City's borrowing schedule, including changes to ensure compliance with the New York State Local Finance Law requirement that outstanding Revenue Anticipation Notes ("RANS") not exceed likely Federal and State receivables. Deep concern was expressed by CTDM Committee members about the potential saturation of the market because of the magnitude of the City's projected borrowings; that a point might be reached where the City would not be able to market its securities at any yields; and that difficulties might arise with the next scheduled bond offering on October 16th. The Comptroller and his staff were informed by CTDM Committee members that the volume of City securities being introduced into the market might bring a negative reaction from the municipal securities rating agencies and that, because of extreme market pressure, a negotiated sale might be more beneficial to the City than selling the securities through competitive bids. The Comptroller indicated that he also was extremely concerned about these matters and solicited assistance from the CTDM Committee. 2/

1/ Minutes of the CTDM Committee, October 7, 1974.

2/ Id.

The CTDM Committee requested a tentative schedule of proposed sales of City securities through June 30, 1975, including proposed sales of the obligations of the Stabilization Reserve Corporation ("SRC"). 1/ Lewis promised to provide such a schedule excluding proposed sales of the SRC which was under the control of a separate Board. 2/

TUESDAY, OCTOBER 8, 1974

A memorandum was addressed from Steven Clifford and Jonathan Weiner, Special Advisor to the Comptroller, to Seymour Scher and other members of the Office of the Comptroller, concerning the increasing frequency and amount of the City's issuance of short-term debt and the validity of the State and Federal receivables used to support the issuance of RANS. It was noted that end-of-year outstanding short-term debt had risen 241.1% from June 30, 1970 to June 30, 1974, whereas State and Federal aid in the expense budget had increased only 64.1% between the 1969-70 and 1973-74 fiscal years.

The memorandum noted that, as of June 30, 1974, all but $75 million of the 1973-74 expense budget appropriations had been spent and there was a $40 million negative balance of cash on hand. Clifford and Weiner observed that, "[H]ence, barring some as yet unknown revenue windfall or barring some accounting effort to charge expenditures already incurred to other fiscal years, we actually needed substantially all the borrowing we did on expense budget account." 3/

1/ The SRC was one of several "moral obligation" financing entities utilized by the City to raise funds, outside constitutional debt limits, for various projects and purposes

2/ Minutes of the CTDM Committee, October 7, 1974.

3/ Memorandum, Steven Clifford and Jonathan Weiner to Seymour Scher, October 8, 1974.

The memorandum stated:

> At this point we should have a very good idea as to whether the $300 million borrowing for general fund revenues was appropriate (the expected revenues as of 6/30/74 should have come in during the July-September 1974 quarter). If not, we have a clear indication of over-estimation on these accounts.

Clifford and Weiner maintained that it was important to resolve the validity of State and Federal receivables as of June 30, 1974, and outlined the steps required to verify the receivables. They postulated, "[T]he amounts of RANS outstanding in . . . major accounts [totaling $998.1 million] as of 6/30/74 at first blush suggests that the results of such an undertaking as outlined may be alarming." 1/ The authors added the following caveat:

> ... [A]t the macro budget-balancing level everything through one technique or another is fungible. Surpluses on one account in one fiscal year can be matched against deficits in another. 2/

The memorandum concluded with the following listing of "Suggested Tactics":

1. Engage in some relatively discrete and rapidly accomplished post audits perhaps of such items as the possibility that the City may be taxing its own property, some miscellaneous revenue accounts (e.g., limited profit housing) and one or more state and federal accounts, perhaps Elementary and Secondary school aid.

2. Undertake a more comprehensive set of audits.

3. Develop on-going procedures and policies as follows:

   a. What evidence of validity would be sufficient for us to borrow?

   b. What evidence (or cash collected) would be sufficient for us to approve vouchers? On items a & b we should develop rules flexible

---

1/ Id.

2/ Id.

enough to allow certain lags in receipt of information.

c. What evidence do we need to credit receivables to a given fiscal year account?

d. How should we write off bad receivables if such exist in large amounts?

e. What reporting system do we want to develop in-house to track receivables through the billing, collection and credit procedures? 1/

* * *

Mayor Beame, by letter to Comptroller Goldin, elected to charge debt incurred for specified housing projects as housing or urban renewal indebtedness against the 2% limitation on such indebtedness rather than as long-term debt, which was legally limited, thereby allowing the City to incur additional long-term debt under the legal limitation. 2/

* * *

A memorandum of this date from Melvin N. Lechner, Director of the Budget for the City, to Mayor Beame, discussed the 1976 Capital Budget. Among other things, this memorandum proposed including at least $390 million of expense items in the Capital Budget and raised the possibility of using capital funds to subsidize the transit system. In discussing ways in which to reduce an anticipated budget gap of up to $648

1/ Id.

2/ Letter, Abraham D. Beame to Harrison J. Goldin, October 8, 1974.

This practice, also engaged in under the administration of Mayor John V. Lindsay, is treated separately in the "City" section of this Report.

million, Lechner made the following comments:

(2) While there are a number of methods to reduce the "budget gap" -- use of TCF [Transit Construction Fund], use of Convention Center bonds, refusing to fund lower priority projects--a substantial problem would remain. Use of these devices might reduce the $648 million gap mentioned above by as much as $500 million, depending on the extent to which TCF can be used.

(3) The remainder of the budget gap -- together with any increase in reserve that may be desired -- will require a combination of rescindments and reduction of new projects. I regard the size of the reserve as particularly important because of its effect on the City's credit rating and the marketability of our bonds. Marketability has become and will continue to be increasingly difficult for the following reasons:

(a) The size and frequency of bond and note offerings has increased.

(b) One of the two syndicates currently bidding on City debt -- headed by First National City -- may drop out of competition, leaving only one effective bidder.

(c) A rating change to BBB is entirely possible.

(d) There is a growing concern in the bond market with the City's fiscal condition, a concern which is amplified by the relatively "thin" market for City obligations.

In these circumstances, I believe public, affirmative action is important to demonstrate the City's willingness to acknowledge and deal with its fiscal problems. A reduction in the rate of capital spending, as exemplified by an increase in the reserve achieved by cancelling or deferring projects, would be the most dramatic demonstration.

(4) While specific rescindments may not have to be identified at this time, I believe it important to communicate our intention to enforce budget stringency as early as possible. An indication of this intention will affect not only the bond community and rating agencies but also those interested in advancing City projects we may ultimately decide to delay

> or eliminate. Currently, a number of lower priority projects have completed designs and are ready for bid; if we are to prevent commencement of this work, a clear signal will be required. 1/

WEDNESDAY, OCTOBER 9, 1974

A memorandum for internal circulation from James Carney of the Office of the Comptroller summarized discussions among himself, Scott and Lewis, concerning the current and proposed allocation of responsibility within that Office for debt management. The memorandum proposed that the Bureau of Accountancy continue to determine the need to issue debt, but not continue to make the policy decision as to how to incur the necessary debt, including the decisions as to maturity, the length and type of obligations issued and the timing of their sale. These decisions would be made by a standing committee, to be established, comprised of the Comptroller, the First and Third Deputy Comptrollers and the Chief Accountant, which would meet once a month prior to the meeting of the CTDM Committee and would determine the borrowing schedule and the form of the borrowing for the month. The implementation of debt issuance would continue to be handled by the Bureau of Investments. The memorandum stated that the debt redemption part of debt management was "in poor condition in terms of records, systems and procedures" and that an overhaul of the current system was necessary before the decision to transfer the debt redemption function to a banking institution could be made. 2/

1/ Memorandum, Melvin N. Lechner to Abraham D. Beame, October 8, 1974.

2/ Memorandum, James Carney to Harrison J. Goldin, Seymour Scher, William Scott and Sol Lewis, October 9, 1974.

THURSDAY, OCTOBER 10, 1974

On this date, Fitch Investors Service, Inc., ("Fitch) issued an update 1/ of its July 24 report. 2/ The earlier report was an analysis of the City and its debt, prepared by David M. Breen, Vice President of Fitch, pointing out the increasing reliance of the City, over the preceding five years, upon short term financing and upon the capital budget, as opposed to the expense budget, to finance recurring expense items. According to the report, almost half of the 1974-75 capital budget was being used to finance recurring expenses which equalled 5.68% of the City's total operating budget. Additionally, the report noted that the City had lost jobs, that its expenses continued to increase and that new or increased taxation would be required to fund the contributions to the City's pension funds. The report stated that speculative factors rather than investment characteristics might predominate unless the City took steps to halt the "recent course of financial debilitation." 3/

In its update, Fitch reduced the rating for New York City Bonds from "A" to "BBB" for maturities prior to January 1, 1980 and to "BB" for maturities January 1, 1980 and thereafter. The updated report was based upon a review of the Comptroller's Annual Report for the fiscal year ended June 30, 1974.

Among the items cited by the Fitch updated report were:

(i) the increase in real estate tax delinquencies requiring more short-term borrowing at higher costs;

1/ "New York City --- Its Debt, Financial Structure (Financial Future?)-- An Analysis; An Update of July 24, 1974 Report," Fitch Investors Services, Inc., October 10, 1974 ("Fitch Update").

2/ "New York City -- Its Debt, Financial Structure (Financial Future?) -- An Analysis," Fitch Investors Services, Inc., July 24, 1974.

3/ Id.

(ii) the City's waiver of the requirement to appropriate money for the Rainy Day Fund for seven successive years; 1/

(iii) the current deficit (disbursements over receipts) for the 1974 fiscal year of $1.977 billion, an increase of 152% over the preceding fiscal year; and

(iv) deferral of on-going maintenance and provision in the 1974-75 capital budget of only $165 million for new construction. (The update stated that continual deferral of on-going maintenance would necessitate complete reconstruction of many City properties, a task likely requiring new or increased taxes.)

Referring to the constitutional "first lien" on city revenues for debt service, the update noted that funding for the "police power" function of government might have an equal or superior lien. A chart contained in the update showed that for the four years prior to fiscal 1974, the City maintained a year-end cash balance by utilizing borrowings and, despite such borrowings, had a deficit for fiscal 1974.

Fitch's reduction of the ratings for City bonds was based on "the predominance of speculative factors" as follows:

(a) previous and continuing short-falls in realization of revenue projections;

(b) continued reliance on short-term borrowing for cash flow purposes;

(c) continued use of the Capital Budget for operating expenses which reduced the ability of the City to properly maintain its properties; and

(d) reliance upon financing vehicles outside the City's debt limitations (Stabilization Reserve Corporation).

The Fitch report concluded that the City's failure to reverse these trends suggested that it might have "difficulty in meeting all its financial

---

1/ The Rainy Day Fund was a reserve fund which was supposed to be maintained for the purpose of helping the City through fiscal difficulties.

obligations, debt service as well as operating expenses." 1/

FRIDAY, OCTOBER 11, 1974

A memorandum written from Weiner to Goldin, Scher and Scott concerning the market for the City's short-term debt noted that major banks were finding it unprofitable to carry tax exempt debt for trading and holding purposes because other types of loans and leases had provided the banks with sufficent tax shelters for their purposes, thus eliminating the value of tax exempt obligations. The memorandum discussed a suggestion that the Federal Reserve "give commercial banks some differential credit against demand deposit reserve requirements depending on the average daily size of municipal debt held in their portfolios." It was noted that this proposal would avoid the criticism directed towards an earlier proposal in that the Federal Reserve "need not be called upon to support the debt of particular states or localities or operate with less than desirable anonymity in its open market program in what is, compared to the Treasury Bill market, a relatively thin sector." Commenting generally on market absorbability, the memorandum referred to attached tables that showed that City short-term issues, as a percentage of all municipal offerings, comprised 20.56% of all 1973 issues and 27.57% of all issues in the first half of 1974. It was indicated that both percentages would soon increase substantially as certain "project notes" backed by HUD were removed from the market. 2/

1/ Fitch Update.

2/ Memorandum, Jonathan Weiner to Harrison J. Goldin, Seymour Scher and William T. Scott, October 11, 1974.

TUESDAY, OCTOBER 15, 1974

Comptroller Goldin issued his required report on the proposed 1975-76 capital budget of the City and the capital program for the five succeeding fiscal years, as mandated by Section 212 of the City Charter, which directs that the report be submitted to the Mayor, the Board of Estimate, the City Council and the City Planning Commission, and that it be published in the City Record. In his report, the Comptroller stated that 53% of the contemplated capital budget would be used to pay for items usually considered to be expense items, noting that, as a result of this practice, the City's capital projects would not receive the attention they required and real estate taxes could increase. 1/

*　　　*　　　*

An internal report of Bankers Trust Company ("Bankers Trust") discussed the updated Fitch Report of October 10, and the October 15 Goldin report. The report noted that the City had $5.33 billion in notes outstanding, with $1.2 billion to be rolled over before December 31, 1974, and that there was a possibility of growing pressure on Moody's and Standard & Poor's to downgrade their "A" ratings of City securities. It concluded, however, that it was expected that the City would maintain its ability to meet its debt service obligations. 2/

1/ "Report Pursuant to Section 212 of the Charter with Respect to the 1975-1976 Capital Budget and the Capital Program for the Succeeding Five Years" Office of the Comptroller, October 15, 1974.

2/ "New York City's Credit," Bankers Trust Internal Report, October 15, 1975.

WEDNESDAY, OCTOBER 16, 1974

Messrs. O'Connor, Ranschburg and Jany of the Citizens Budget Commission, Inc. ("CBC"), an independent citizens' organization, met with Richard Adams, Senior Vice President of Chemical Bank, to discuss New York City finances and debt management. A memorandum from Richard Adams to William S. Renchard, Chairman of the CBC, and Donald Platten and Norborn Berkley, of the Chemical Bank, stated that the initial question raised by the CBC staff was whether the City could use the proceeds of a one-time $500-700 million bond issue outside the capital budget to replenish operating funds and thereby reduce the amount under the Capital Budget which had to be used for current operations. The memorandum characterized this approach as a "gimmick" and noted that, during the meeting, Adams had stated that:

> ...two basic things must be done to improve the City's finances:
>
> (1) stop running budget deficits, balance receipts and expenditures, and
>
> (2) rationalize the financing operations of the City by regularizing market borrowings and by extending the average maturity of the City's debt.

According to the memorandum, the meeting ended with Adams agreeing to do some technical work on the November 8 presentation which the CBC was going to make to the Mayor's Council of Economic and Business Advisors. _/

* * *

The City announced the sale of $475.58 million in bonds at an average interest rate of 7.3318%. This was the largest sale of municipal bonds ever

---

_/ Memorandum, R. V. Adams to W. S. Renchard, October 16, 1974.

conducted by the City up to that time. 1/

SATURDAY, OCTOBER 19, 1974

As reported in The New York Times, the Chairman of the State Charter Study Commission, State Senator Roy Goodman, issued a report that charged that the fiscal operations of the City involved the use of "a bewildering and perhaps questionable variety of devices to muddle through to the next year." In an accompanying statement, Senator Goodman described the expense and capital budgets as involving "an elaborate web of decision-making and, at times, conscious deception." 2/

TUESDAY, OCTOBER 22, 1974

Mayor Beame issued a press release stating that despite increasingly higher interest rates, New York City's credit position had improved considerably. The release stated, in part:

> The Mayor emphasized that the City's credit position was "solid and strong," even though the national economy is under the stresses of both inflation and recession, and even though these inflationary-recessionary trends are "creating some budget balancing problems for the City."
>
> The Mayor said, "There is absolutely no question about the City's ability to repay all of its debts on time, and that this ability has improved over the last fifteen years."
>
> As proof, Mayor Beame cited three commonly accepted fiscal indicators in the October issue of the City's "Fiscal Newsletter," issued by Finance Administrator Ivan E. Irizarry.
>
> The Mayor stressed that these indicators of the City's sound credit position were over and above the absolute guarantee which the City's bondholders had under the State Constitution

---

1/ News Release, Office of the Comptroller, 74-122, October 16, 1974.

2/ The New York Times, "City Is Criticized On Budget-Making," October 20, 1974, p. 37.

that they would receive their scheduled interest and principal payments on time.

The indicators cited in the "Newsletter" were:

* The full value of taxable real estate rose much faster than the City's net funded debt. The net debt was only 8.5% of the full value of real estate in 1973-74, compared with 11.8% in 1959-60.

* Similarly, the City's revenues rose much faster than its debt service, that is, what the City has to spend in interest payments and bond and note redemptions. The significance of this lies in the fact that the State Constitution makes the City's debt service payments a first lien on <u>all</u> revenues not just revenue from real estate. Revenues were a full nine times more than debt service in 1973-74, compared with only 5.5 times in 1959-60.

* Finally, a full 71.1% of the City's current debt will be repaid in ten years. And, 47.3% of the present debt — almost half — will be repaid in only five years — a better maturity schedule of its obligations than the schedules of eight other large cities. 1/

FRIDAY, OCTOBER 25, 1974

One of a series of periodic memoranda from Adams to Platten at Chemical Bank concerning the status of the dealer inventory in the various departments of the bank reported that most of Chemical Bank's municipal inventory was in City notes and that there was very little liquidity in the market for such notes. 2/

SATURDAY, OCTOBER 26, 1974

A memorandum from First Deputy Mayor James Cavanagh to Mayor Beame concerning the 1974-75 expense budget described the environment surrounding the budget, listed the causes of the budget problems, and outlined a series of

---

1/ News Release, Office of the Mayor, 529-74, October 22, 1974.

2/ Memorandum, R. V. Adams to D. C. Platten, October 25, 1974.

steps and solutions designed to meet the budget crisis. The causes cited in the memorandum were:

I. The environment

-- New York City is in deep economic trouble (N. Y. Times)

-- Mayor has warned of large deficit

-- Mayor says (at Chamber of Commerce) "an even wider gap is opening"

-- Broad range of fiscal authorities agree that crisis has arrived

II. The causes

-- Inflation - increased costs

-- Recession - depressed revenues, increased welfare and health costs

-- Borrowing for day-to-day expenses

-- Gimmicks - overstatement of revenues, understatement of expenses

-- Depletion of reserves

-- New York City economy has not been able to grow enough to meet government needs

-- Difficulties of cutting the budget

-- Heavy temporary borrowing

III. Solutions

-- New and higher taxes - drive people and business from City

-- Layoffs - add to unemployment

-- Postponements - adds to general unemployment

-- Reduced services - politically difficult 1/

1/ Memorandum, James A. Cavanagh to Abraham D. Beame, October 26, 1974.

SUNDAY, OCTOBER 27, 1974

In an article in The New York Times, the City was described by a group of fiscal authorities as being in deeper economic trouble than at any time since the Great Depression. "Fiscal crises are annual events in New York, and Mayors have cried wolf so often that Mr. Beame felt compelled to tell his audience that 'what I'm talking about is real -- it's not phony.'" The fiscal authorities cited the use of budget gimmicks and borrowing for day-to-day expenses as among the causes of the City's problems and the City was described as facing fiscal decisions that were unattractive both politically and economically. 1/

MONDAY, OCTOBER 28, 1974

Comptroller Goldin announced that on November 4, 1974 the City would sell $500 million of Revenue Anticipation Notes ("RANS") and $115 million of Tax Anticipation Notes ("TANS"). 2/ A Wall Street Journal article appearing the next day stated that, with this offering, the City would have placed $2.5 billion of its notes in the market in 2 months, causing a dramatic increase in the yield on City notes while the yield on other short-term notes had been falling sharply. 3/

TUESDAY, OCTOBER 29, 1974

In a news wire entitled "New York City Bonds," Jean Rousseau 4/ stated, "We do not have any serious concern about the city's willingness and ability

---

1/ The New York Times, "Fiscal Experts See the City in Severe Financial Crisis". October 27, 1974.

2/ News Release, Office of the Comptroller, 74-125, October 28, 1974.

3/ Wall Street Journal, "Yields Rise on Notes of New York City as New Issue is Slated," October 29, 1974, p. 35.

4/ Mr. Rousseau was a vice president of Merrill Lynch and the manager of its Municipal Bond Department.

to pay the interest and principal on its debt, although we do believe that marketability has been affected by recent publicity." 1/

FRIDAY, NOVEMBER 1, 1974

The 1973-1974 Annual Report of the Comptroller was issued. 2/ The numerous omissions and misstatements of this document were largely the results of the City's innovative accounting and disclosure practices and lack of internal control. The more salient deficiences included:

1. A failure to disclose the probable inaccuracies of cash balances. (As a result of the City's inadequate bank reconciliations, the City's cash balances later had to be reduced by some $19 million.) 3/

2. Failure to disclose that payroll costs were based on a 364 day year, and the related cummulative [sic] unrecorded liability. In addition, there was no liability reflected for unpaid payroll and fringe benefit related costs, such as vacation pay. 4/

3. Failure to disclose the City's massive obligation for unfunded pension costs. 5/

4. Real estate taxes "receivable" of $502 million of which $408 million was later estimated to be uncollectible. 6/

5. Material Federal and State aid receivables recorded as if they were 100% collectible. 7/

1/ Merrill Lynch Newswire, October 29, 1974.

2/ News Release, Office of the Comptroller, 74-127, November 1, 1974.

3/ Annual Report of the Comptroller of the City of New York for the Fiscal Year 1975-1976, n. M, p. 25.

4/ See the section of this Report entitled "Accounting Practices and Financial Reporting" at 40-44.

5/ City of New York, Official Statement, May 20, 1977, p. 52.

6/ Audit Report of the New York State Comptroller, "Interim Report No. 2 - Uncollected Real Estate Taxes," Report No. NYC-26-76, August 4, 1975, p. 2.

7/ Audit Report of the New York State Comptroller, "Interim Report No. 1 - Prior Year Accounts Receivable," Report No. NYC3-76, July 1, 1975, Managerial Summary, at 3.

6. A non-existent "revenue" from the New York Stabilization Reserve Corporation ("SRC") (organized to issue debt for the City to meet its expenses and balance its budget). The debt was never issued and the SRC did not provide the needed funds. The report reflected $150 million as a "Source of Revenue of the General Fund." 1/

7. A significant undisclosed cumulative deficit. 2/

MONDAY, NOVEMBER 4, 1974

The New York Times published an editorial entitled "Near-Bankrupt City," stating that the current deficit of the City could run to $1 billion and that the "city is sliding into bankruptcy with dismaying speed." 3/

* * *

The City issued $500 million of RANS and $115 million of TANS, through a syndicate headed by Morgan Guaranty at an average interest rate of 8.3359%. 4/ No offering circular or comparable document was publicly disseminated.

1/ Audit Report of the New York State Comptroller, Interim Report No. 3 - Special and Miscellaneous Revenue Accounts, Report No. NYC-31-76, January 5, 1976, p. 3.

2/ Annual Report of the Comptroller of the City of New York For the Fiscal Year 1975-1976, pp. 4, 25; Municipal Assistance Corporation Press Release, August 29, 1975, at 2.

3/ The New York Times, Editorial, "Near-Bankrupt City," November 4, 1974, at 36.

4/ News Release, Office of the Comptroller, 74-128, November 4, 1974.

FRIDAY, NOVEMBER 8, 1974

The CBC made a presentation to Mayor Beame's Council of Economic and Business Advisors. William Renchard, Dr. Herbert Ranschburg and Roderic O'Connor of the CBC were present. Deputy Mayor Cavanagh represented the Mayor's office. The presentation was reduced to a typewritten report and sent to the members of the CBC with the notation "not for publication". The covering letter included a statement that Deputy Mayor Cavanagh had no argument with the CBC projections. 1/

The report stated that "[f]or the past eleven years, New York City's total budget expenditures have exceeded the City's expense budgets in increasing amounts," that "the gap between these two budgets has grown to $1,486 million, equal to 13.4% of the expense budget," that "in 1974-75, $722 million will be borrowed to cover 48.6% of that gap," and that the net debt of the City rose 72% from 1965 to 1974 while debt service rose 147%. It projected a minimum deficit of $1 billion in the 1975-76 fiscal year.

The report recommended three basic approaches to the City's problems:

(1) decrease expenditures and limit borrowing;

(2) increase revenues - from City, State and Federal sources; and

(3) seek legislative and/or constitutional reforms of certain fiscal practices.

1/ Letter, Roderic L. O'Connor to All CBC Subscribers, November 20, 1974; and attached "A Presentation to Mayor Beame's Council of Economic and Business Advisors by the Citizens Budget Commission," November 8, 1974.

After setting forth various ways of accomplishing these objectives the presentation ended with the CBC officers requesting the support of the members of the Council. _/

* * *

A memorandum concerning the City's finances was drafted for Alfred Brittain, III, Chairman of the Board of Bankers Trust, as background for a meeting with Goldin. This internal memorandum stated that the recently released City financial statement for the fiscal year ended June 30, 1974, showed that the City continued to deteriorate financially as evidenced by the following:

(1) the excess of expenditures over revenues by nearly $2 billion, with less than half of the difference to be made up eventually by planned state and federal payments;

(2) the increase of short-term interest payments from $62.5 million the preceding year to $300 million the current year;

(3) SRC was being used to retire budget notes that were refunded by revenue anticipation notes, leaving only some $200 million to aid in balancing the more recent deficits. _/

The memorandum also stated that expense items accounted for 53% of the capital budget; that there had been a reduction of the ratings on City bonds by Fitch Investors Service to BBB and BB; that during the first half of 1974, New York City accounted for 27% of the nationwide tax exempt short-term borrowing; and that there was $55 million of long-term bonds unsold from the last month's offerings. _/

_/ Id.

_/ Draft Memorandum to Alfred Brittain, III, November 8, 1974.

_/ Id.

Notes from the files of Bankers Trust also indicated that there was pressure on rating agencies to keep the ratings of City obligations above the point at which savings banks would be required to divest themselves of such obligations. 1/

SATURDAY, NOVEMBER 9, 1974

As reported by The New York Times, Mayor Beame ordered a $330 million budgetary reduction consisting of pay reductions to City employees and reduced services to residents, in response to an emergency situation brought about by inflation and the recession. Mayor Beame stated, "for eight years John Lindsay cried 'wolf' and the public no longer believes — they think it is just for Albany's sake . . . I want you to know this is not crying wolf." At his press conference, Mayor Beame said that the situation the City found itself in was no fault of the present administration and the bulk of the problem was inflation and recession. He stated, "I want you to understand that this has no relationship to the word 'bankruptcy.' Our bonds are good and secure. They will be paid." 2/

MONDAY, NOVEMBER 11, 1974

A letter from Mayor Beame and Comptroller Goldin to The New York Times, responding to an editorial of November 4, entitled "Nearly-Bankrupt City," appeared in the Times. The letter stated that the two officials agreed with the catalog of fiscal problems contained in the editorial, but took issue with the use of the word "bankrupt," on the basis that this word might create

---

1/ Handwritten notes received from Bankers Trust, November 8, 1974.

2/ The New York Times, November 9, 1974, pp. 1, 64.

"unwarranted fears for the safety of their investments among the city's bondholders." The letter stated that, under the State Constitution, City bonds and notes had a first lien on all revenues, and that "[o]ver and above the constitutional, legal and moral guarantees afforded to investors in New York City notes and bonds is the fact that they are investing in the world's wealthiest and soundest city as far as these obligations are concerned." They agreed that tough fiscal decisions and reforms had to be made and asserted that they would do what was necessary to protect the City "and to insure the continuing soundness of the City's obligations as an investment medium." 1/

TUESDAY, NOVEMBER 12, 1974

At the monthly meeeting of the CTDM Committee, Comptroller Goldin and members of his staff, including Scher, Scott, and Lewis, were in attendance, as well as John Devine and Thomas Labrecque of Chase; Mark Kessenich and Paul S. Tracy, Jr. of Citibank; Gedale Horowitz of Salomon Bros.; Zane Klein of Berlack, Israels & Liberman; Richard Nye of First Security Co.; Wallace Sellers of Merrill Lynch; and James Trees of Fisher, Francis, Trees & Watts, Inc.

At the meeting, a new borrowing schedule was distributed which added a January bond sale of $500 million to those previously planned. The City reported that a cash projection computer program had been installed and was in the process of being brought up to date. The Comptroller

---

1/ Letter, Abraham D. Beame and Harrison J. Goldin to the Editor, The New York Times, dated November 7, 1974, published in The New York Times, November 11, 1974.

indicated a desire to reduce the minimum denomination of City notes to $10,000 for the December 2 sale. Additionally, he drew the CTDM Committee's attention to a series of articles in The New York Times concerning City finances, indicated his hope that these articles would enhance the public's understanding of the City's problems, and announced that the letter he had written jointly with the Mayor, which had been published on November 11 in the Times, would be reprinted as a full-page advertisement paid for by a brokerage firm. 1/

* * *

A meeting was held in the Office of Comptroller Goldin between City officials and analysts of Standard & Poor's. This meeting had been requested by the analysts who had become concerned after having reviewed the City's Annual Report for the fiscal year ending June 30, 1974. At this meeting, the City officials present took the position that the City acknowledged the problems detailed in the Annual Report and was in the process of instituting cutbacks in expenditures and of improving management operations to remedy the situation. 2/ No rating change was effected by Standard & Poor's as a result of this meeting and it was ultimately decided that the City should be allowed time to implement its proposed solutions to its problems. 3/

THURSDAY, NOVEMBER 14, 1974

A meeting similar to the Standard & Poor's meeting was held between

---

1/ Minutes of the CTDM Committee, November 12, 1974.

2/ Margolies at 38-42.

3/ Id. at 38-46.

City officials and analysts of Moody's. 1/

* * *

The Comptroller issued a press release quoting the CBC as endorsing the joint effort by Mayor Beame and the Comptroller to "reassure investors concerning the City's basic financial strength while at the same time pledging Capital Budget reductions and other economies to close a looming budget gap." 2/

* * *

A four page document, prepared for a meeting with the agencies that rated the City's securities and captioned "City of New York Office of the Comptroller - Some Essential Facts About the City of New York's Debt Position," discussed several aspects of the City's debt and its financial situation, including the following:

(1) with regard to outstanding long-term debt, as of June 30, 1974, the City had incurred debt ($5 billion) totaling 68% of its debt incurring capacity ($7.4 billion) under the 10% legal borrowing limit;

(2) the City's full faith and credit is behind all its obligations;

(3) net funded City debt had decreased as a percentage of full value of real property over the past decade and, from 1964-65 to 1973-74, net outstanding funded debt as a percentage of personal income generated in the City had also declined;

(4) thirty percent of the total funded debt is either self-sustaining or guaranteed by the Sinking Funds' assets;

(5) as of June 30, 1974, 21% of total outstanding debt was for transit, a service which few other cities pay for, and the remainder of the debt is proportionately comparable to other "Grade A" cities;

1/ Handwritten notes and diary page provided by Moody's, November 14, 1974.

2/ News Release, Office of the Comptroller, November 14, 1974.

(6) the amount of City debt held by City pension systems and sinking funds had been reduced to maximize their earnings and minimize tax levy appropriations and, correspondingly, the percentage of City debt publicly held had increased;

(7) the City's debt maturity schedule compared favorably with that of other major cities of the United States in that, as of November 30, 1974, 72.7% of the City's $8.027 billion outstanding debt would mature within 10 years while 48.6% would mature within five years; and

(8) with regard to outstanding short term debt, out of a total of $3.416 billion, $1 billion was for housing and was secured by mortgages and $308 million stemmed from budget notes that had been issued in 1970-71 and redeemed on July 31, 1974. 1/

The document also discussed various aspects of debt service and taxing authority, stating, among other things:

(1) debt service represented 16.2% of projected expense budget revenues in the 1974-75 budget which debt coverage ratio is "comfortable;"

(2) although the City Real Estate Tax Levy for general purposes and for debt service had increased 120.7% for the decade ending in 1974-75, effective rates per $100 of full value of taxable property had increased only 7.9% in that decade;

(3) in the last five years, the assessed value of real estate had increased 12% and the full value had increased 28%; and

(4) the City had not utilized all its taxing power within the 2-1/2% limit in the past two years. 2/

In a discussion of real estate tax delinquencies it was stated:

> Although arrears of real estate taxes have gone up to 5.59 percent in 1973-74 from 4.94 percent in 1972-73, only 3.27 percent of the total real estate taxes for the past five years remained uncollected on 6/30/74. This relatively good collection record, plus the fact that 3 of the past 5 years resulted in expense budget surpluses, was reflected in the fact that no appropriation has been required for the Tax Deficiency Account to offset the accumulating cancellations of taxes. The most recent increase in arrears is in large part a reflection of high interest rates compared to the City's 9 percent penalty on late taxes. We expect this is a temporary phenomenon. 3/

1/ "Some Essential Facts About the City of New York's Debt Position," Office of the Comptroller, November 14, 1974.

2/ Id.

The document also pointed out that the ratio of current assets to current liabilities exceeded 100% for the second successive year, the welfare rolls in 1973-74 had declined by 6,000 persons per month, and the population of the City had been stable for more than 10 years.

The final section of the document dealt with steps already taken by the City to economize on its resources, stating that:

(1) the Mayor's certificate for the 1975-76 capital budget set aside a "true" reserve of $225 million;

(2) construction appropriations would be limited largely to renovations and modernizations instead of new projects;

(3) by June 30, 1975, the City's work force would be reduced by 8,000 through an attrition program, in addition to the 2,500 provisional employees dismissed prior to the current fiscal year; and

(4) high-cost programs would be eliminated as a result of an intensive review of facility utilization. 1/

FRIDAY, NOVEMBER 15, 1974

Mayor Beame and Comptroller Goldin issued a joint statement, which closely paralleled their November 7, 1974 letter to The New York Times, directed against the "unwarranted fears" bondholders might have for the safety of their investments. The statement pointed out that "there is a distinction between the problems of balancing the budget and the basic ability of the City to meet its credit obligations." Budget problems were acknowledged by the two officials, but they asserted that the City's ability to meet its credit obligations was not affected in light of the facts that (1) New York City bonds and notes had a first lien on all City revenues, (2) the payment of

---

1/ Id.

interest and redemption of bonds had priority over any other obligations, and (3) both the Mayor and Comptroller would do what had to be done in order to preserve the City's economy and insure the soundness of its obligations. 1/

TUESDAY, NOVEMBER 19, 1974

The Comptroller's Office decided to use $10,000 denomination certificates in connection with a December 2 offering of $600 million of TANS and RANS. Citibank had suggested that 10 percent of the offering consist of $10,000 denomination certificates while Chase felt that 40 percent of the issue should be in this denomination; the City compromised at 15%. 2/ The sale of such small demoninations was initially resisted by the banks because it would increase costs and thus decrease profitability to the underwriters. 3/ In the course of the underwriting effort, additional amounts of $10,000 notes were made available. 4/

1/ "Joint Statement by Mayor Abraham D. Beame and Comptroller Harrison J. Goldin," Office of the Mayor, November 15, 1974.

2/ Memorandum, Paul S. Tracy, Jr. to Richard F. Kezer and others, November 19, 1974.

3/ Charbonneau at 116-17.

4/ See page 29, *infra*.

WEDNESDAY, NOVEMBER 20, 1974

An article appeared in The Daily Bond Buyer quoting Mayor Beame and Comptroller Goldin as stating that the City was fully capable of meeting its obligations. These obligations were said to have a first lien on all revenues and would be repaid on time. "'I'm not a rich man,'" the Mayor said, "'but I've got a good portion of my assets in City bonds.'" Mayor Beame stated that one of the chief reasons for the City's heavy short-term borrowing was the tardiness of the State and Federal governments in transmitting their aid payments. Comptroller Goldin admitted the seriousness of the City's financial problems, but also referred to the City as a "'superb investment.'" 1/

* * *

A memorandum to Merrill Lynch account executives advised them that New York City notes were then available in multiples of ten thousand dollars. The release emphasized that "this should open up a whole new market of potential tax-exempt note buyers. This should afford a great opportunity to open up new accounts and to bring in new funds." 2/

THURSDAY, NOVEMBER 21, 1974

In a memorandum to New York State Senator Roy Goodman, Chairman of the State Charter Revision Commission, Steven Clifford, then Consultant to the Comptroller, pointed out that the City's 1974-75 budget was out of balance by $400 million and that the problems for fiscal year 1975-76 would be greater.

1/ The Daily Bond Buyer, November 20, 1974, pp. 1, 22, 23..

2/ Memorandum, John S. de Graffenried to Account Executives, November 20, 1974.

* * *

The Comptroller issued a press release announcing that City notes would be available in $10,000 denominations beginning with the $600 million offering of December 2 in order to achieve a broader market for the City's notes and possibly improve bids for the City's securities. He noted that the City did not sell securities directly to individual investors but stated that interested individuals should contact their banks or brokerage houses. The release stated: "'The change to smaller denominations will permit additional private investors to obtain the good yields which are currently being offered on the City's short-term obligations.'" Although City bonds are issued in $5,000 units, the City had not sold its notes in denominations as small as $10,000 in over four years. 1/

MONDAY, NOVEMBER 25, 1974

In an article in The New York Times, the City was depicted as facing four major problems:

(1) its "A" credit rating was in serious jeopardy;

(2) its demand for money — already straining the market — would be more difficult to meet;

2/ News Release, Office of the Comptroller, November 22, 1974.

(3) its interest costs would soar well above market norms; and

(4) the budget — already pinched — would be increasingly eroded by the cost of paying off the loans.

The remainder of the article quoted various municipal experts disagreeing about the City's fiscal problems and possible remedies. It was noted that the underwriting of City securities had become a dangerous profession, with huge amounts of unsold bonds still in syndicate hands from the October issue threatening the banks with substantial losses. 1/

TUESDAY, NOVEMBER 26, 1974

State Senator Goodman issued a press release based on the Steven Clifford memorandum of November 21, 1974. The release estimated a $1.7 billion deficit for the next 19 months and stated that "[t]he City is a sick patient with a rapidly spreading form of financial cancer. The cancer is runaway short-term borrowing to cover huge expense budget deficits." The items in the Clifford memorandum were reiterated in this public release, including the statement that the banks might refuse to continue underwriting City short-term debt. 2/

* * *

The statement issued by Mayor Beame and Comptroller Goldin on November 15, 1974 was reprinted in The New York Times in the form of an advertisement paid for by Lebenthal & Company. The letter distinguished between the admitted fiscal problems of the City and the soundness of the City securities. 3/

1/ The New York Times, November 25, 1974, pp. 1, 48.

2/ News Release, State Senator Roy M. Goodman, November 26, 1974.

3/ The New York Times, November 26, 1974.

* * *

The Citizens Budget Commission issued a press release stating that the City had "serious problems, but they are not insoluble." "Neither do they warrant any concern regarding the City's ability to meet its credit obligations." The Mayor's efforts to respond to the fiscal crisis were endorsed. 1/

* * *

The New York Times printed an article concerning the City's budget deficit. The article discussed the size of the deficit, its origin and various approaches to eliminate it. Mayor Beame was quoted as saying that the deficit was caused by the dual problems of recession and inflation. 2/

WEDNESDAY, NOVEMBER 27, 1974

The Daily Bond Buyer published an article reporting over $1 billion of unsold municipal securities (including those of New York City) in dealer accounts. There had been substantial price erosion of the City's October bonds and it was reported that "there was simply no market for the City bonds at the original price levels." When the October bonds were released from syndicate price restrictions, the prices of the bonds dropped dramatically. The article stated that City notes were reaching 8.33% in interest while rates on other short-term obligations were declining. 3/

1/ "Statement on New York City's Fiscal Crisis by William S. Renchard, Chairman of the Board," CBC, November 26, 1974.

2/ The New York Times, November 26, 1974.

3/ "New York City Prices Plummet 100 Basis Points in Free Market," The Daily Bond Buyer, November 27, 1974.

* * *

In a Merrill Lynch release to its account executives entitled, "Opportunity Knocks," they were advised that six hundred million dollars of New York City notes were available in minimum denominations of ten thousand dollars. Account executives were told not to "overlook the opportunity afforded here to call accounts and prospects who are normally precluded from buying tax-exempt notes because of the $25,000 requirement", and to do their customers and themselves a favor by bringing this new issue to their attention. 1/

1/ Merrill Lynch Release, November 27, 1974.

FRIDAY, NOVEMBER 29, 1974

Comptroller Goldin sent a letter to Mayor Beame, which was publicly released on Sunday, December 1, 1974. In the letter, Comptroller Goldin stated that the budget deficit for the current fiscal year, 1974-75, would be \$650 million, \$250 million higher than projected by the Mayor. The budget deficit was calculated as being composed of \$250 million in revenue shortfall and \$400 million in expenditure over-runs. Goldin warned the Mayor that the deficit could be increased by adverse economic conditions, and that it must be closed in the remaining seven months of the fiscal year. He also stated: "As you know from my private and public statements starting as early as last February, I strongly support the policy of giving the public full and frank information on the City's serious fiscal problems, not only because the public has a right to know, but also because only an informed and concerned public can provide the support for difficult measures necessary to erase the deficit." As to solutions, Goldin said that it would not be possible to rely on the prospect of additional federal or state aid. He also ruled out higher taxes. With respect to additional borrowings, he stated: "I think it vital also that we say a clear and firm 'no' to any prospect of additional borrowing to close the budget gap." He stated that significant cuts in spending and a freeze on new capital commitments and newly announced commitments constituted the only sound solution, together with more federal or state aid, if obtainable. He concluded: "You know, far better than most, that the City's situation today is largely the result of a practice in previous years of getting through the present by mortgaging the future." 1/

1/ News Release, Office of the Comptroller, 74-138, December 1, 1974.

SATURDAY, NOVEMBER 30, 1974

The Mayor's office, through Deputy Mayor Cavanagh, issued an immediate rebuttal press release stating that the Comptroller's figures were incorrect and more than twice the deficit the Budget Bureau had projected, and that a cut of $650 million in the budget would mandate at least 28,000 employee layoffs and unthinkable reductions in City services. The release indicated that the City did have fiscal problems, but far fewer than the Comptroller stated, and it was addressing those problems. 1/

SUNDAY, DECEMBER 1, 1974

Comptroller Goldin issued a press release containing the text of the letter sent to Mayor Beame on November 29, 1974. The current fiscal year deficit was said to be $650 million, and Mr. Goldin contended that additional borrowing to cover this deficit would only worsen a serious situation. He stated, however, that the budget deficit "should not impair investor confidence in the essential soundness and safety of the City's obligations." 2/

MONDAY, DECEMBER 2, 1974

The Comptroller announced the sale of $400 million of RANS and $200 million of TANS to a combined syndicate led by Bankers Trust, which syndicate had submitted the only bid for the notes. Interest on the RANS was 9.5%, and on the TANS 9.4%, the highest rates ever paid by the City. The Comptroller, in his acceptance of the bid, stated that borrowing, both short-term and long-term, must be curtailed and put under rigid control. He also said, "[T]here

---

1/ News Release, Office of the Mayor, 585-74, November 30, 1974.

2/ News Release, Office of the Comptroller, 74-138, December 1, 1974.

is no question in the world that these borrowings will be repaid fully and on time . . . ." 1/

*   *   *

It was at one point planned that $160 million of the RANS would be in $100,000 denominations, $180 million in $25,000 denominations and $60 million in $10,000 denominations. 2/ Ultimately, however, only $80 million of the notes were in $100,000 denominations; $140 million were in the relatively small $10,000 denominations. 3/

*   *   *

The Wall Street Journal reported that the City had borrowed $6.8 billion short-term since the beginning of the calendar year. Losses on the unsold October City bonds and inventory losses on City paper were said to have dramatically hurt the bidding ability of many dealers. 4/

*   *   *

Pursuant to a letter from Cavanagh, a meeting was scheduled for

---

1/ News Release, Office of the Comptroller, 74-139A, December 2, 1974. The December RANS offering was the first offering of City securities which was not fully repaid in reliance on the Moratorium Act ($249.6 million became subject to the Moratorium Act). (See Municipal Assistance Corporation exchange offer to holders of certain short-term notes of the City of New York, November 26, 1975.)

2/ Memorandum, Paul S. Tracy, Jr. to Richard F. Kezer and others, November 19, 1974.

3/ Certificate of Delivery and Payment for $400 Million Revenue Anticipation Notes, signed by Harrison J. Goldin, December 13, 1974.

4/ Wall Street Journal, "New York City's $600 Million Note Offer, Due Today, Is Hurt by Losses on Its Bonds", December 2, 1974, p. 25.

December 3 between members of the staffs of the Mayor and the Comptroller to review their differing budget estimates. 1/

TUESDAY, DECEMBER 3, 1974

A letter of this date on the letterhead of Richard L. Tauber, a Vice President of Morgan, addressed to a substantial client, advised on the status of New York City debt instruments. The letter indicated that the City's ability to pay its obligations was not in question, but the City was undergoing a financial crisis. The letter stated that although the author believed that the rating agencies would give the City the benefit of the doubt, a downgrading was very possible if the financial deterioration of the City continued; this would narrow the market for City securities. The letter recommended that the client reduce his holdings of City securities by not renewing maturing obligations and by tax loss trading. 2/

* * *

In a Merrill Lynch release to its office, account executives were told that the recent issue of New York City tax-exempt notes offered them an opportunity to call customers and prospects with "something interesting to talk about." The release went on to state that all the recent adverse publicity had "hurt the market for New York City bonds and notes." Branch offices were given "[u]p to 250 M [sic] notes firm overnight to work on a sales campaign." Salesmen were advised "[w]hy not make some calls this evening and discuss New York City notes with your customers or prospects." 3/

1/ Letter, James A. Cavanagh to Seymour Scher, December 2, 1974; letter, Seymour Scher to James A. Cavanagh, December 2, 1974.

2/ Letter, Richard L. Tauber to Corey R. Smith, December 3, 1974.

3/ Merrill Lynch Release entitled "Something to talk about," December 3, 1974.

WEDNESDAY, DECEMBER 4, 1974

The New York Times reported that aides to the Mayor and the Comptroller met for two hours on December 3, 1974 and, after arguing over their differing estimates of the size of the City's expense budget deficit, "agreed to disagree." 1/ The Times published an editorial attacking the practice of including expense items in the capital budget, thereby increasing their cost in the long run, by running up larger interest payments and reducing allocations for true capital projects. The editorial stated that the proposed capital budget listed $780 million for expense items. 2/

The Wall Street Journal reported that individual investors, responding to the high interest rates on the recent offering, flooded dealers with purchase orders for notes in the new $10,000 denomination. 3/

THURSDAY, DECEMBER 5, 1974

The New York Times reported that in spite of Mayor Beame's previously announced austerity program, 12,950 persons had been added to the City payroll over the preceding four months. 4/

FRIDAY, DECEMBER 6, 1974

A statement by the Mayor attacked the Times article of the previous day concerning the increase in City jobholders. It alleged that the story was "misleading" and used "raw payroll data" which was difficult to analyze.

1/ The New York Times, "Aides to Beame and Goldin Disagree at Budget Deficit Parley," December 4, 1974.

2/ The New York Times, Editorial, "Capital Loss," December 4, 1974.

3/ Wall Street Journal, "Several Firms Put Off Offerings As Price Cuts Continue On Old Issues," December 4, 1974, p. 34.

4/ The New York Times, "City Payroll Rose 12,950 in 4 Months," December 5, 1974, pp. 1, 52.

The statement cited Budget Bureau figures showing a net increase of 1,213 employees. 1/

MONDAY, DECEMBER 9, 1974

The CBC issued a press release calling for a total freeze on both City hiring and existing wages which it claimed would result in savings of over $1 billion over a two-year period. 2/

TUESDAY, DECEMBER 10, 1974

Roderic O'Connor, President of the CBC, appeared before the City Planning Commission to discuss the proposed 1975-76 capital budget. O'Connor stated that this day was "the day the capital budget died." "This budget is a terminal case - murdered by a decade of fiscal mismanagement." Referring to the $780 million of expense items in the draft capital budget, he stated that the CBC had warned repeatedly that such practices deplete the capital budget of money for capital needs, and accelerate the growth of future debt service payments in the expense budget. 3/ He called for a total job and wage freeze.

* * *

Comptroller Goldin appeared before the CBC and pledged his support to Mayor Beame to help close the projected budget gap. Goldin cited "basic areas of agreement with the Mayor," including the need for substantial cuts in City expenditures, renewed efforts to secure increased Federal and State aid, and a careful review of capital commitments. He acknowledged

---

1/ News Release, Office of the Mayor, 599-74, December 6, 1974.

2/ News Release, CBC, December 9, 1974.

3/ News Release, CBC, December 10, 1974.

> It is clear that, under the above provisions regarding appropriation, New York City, as well as the other political subdivisions, must make appropriation for interest on all indebtedness and the maturing principal of bonds. However, as to revenue anticipation notes, tax anticipation notes, and bond anticipation notes, the above provisions apparently contemplate that repayment of principal may be accomplished by roll-overs of short term debt during a period limited to five years after the date of original issue. At the end of this period, the political subdivision must either (1) make appropriation for the payment of the unpaid principal of tax anticipation notes or revenue anticipation notes or (2) in the case of bond anticipation notes, sell the series of bonds in anticipation of which the notes were issued.

This memorandum also briefly discussed the question of hardship to a municipality as a defense to payment of indebtedness noting "[w]hether, in a case of extreme hardship, the court would require the payment of bondholder in full before any payment of municipal employees' salaries has never been decided." 1/

* * *

WEDNESDAY, DECEMBER 11, 1974

An internal Bankers Trust memorandum reported that during 1974 the City issued $8 billion in short-term notes. 2/ It stated that the early

---

1/ Memorandum, Paul S. Tracy, Jr. to Salesmen and Traders, December 10, 1974.

2/ Memorandum, Truxton B. Pratt to William H. Moore, December 11, 1974.

December issue of $600 million in notes was sold after only one bid had been submitted because of the following:

(1) the market was overburdened with City paper;

(2) the October bond sale had met a poor reception; and

(3) there had been a public dispute, between the Mayor and Comptroller, over the size of the budget deficit.

The memorandum noted that it appeared there might be only one bid for future City underwritings resulting in high interest rates and that there might be some necessity for the Clearinghouse Association 1/ to respond to a plea for help by the City. The memorandum mentioned the "Bankers Agreement" of the 1930's, under which all short-term City financing was negotiated with New York City banks and noted that in 1970 Mayor Beame, then Comptroller, decided to use competitive bidding.

Noting that some projected City offerings to fund prior deficits would not be subject to the City's constitutional debt limit, including an SRC plan to offer $500 million in bonds, the memorandum suggested that "the Clearing House should address this problem in advance of the next sale while the atmosphere is relatively cool and unemotional." 2/

THURSDAY, DECEMBER 12, 1974

The New York Times reported that prices continued to move downward on the New York City bonds and that some dealers estimated that losses on some bonds were close to 20% on trades consummated at current prices. It was reported that many of the October bonds were still in dealers' hands and

---

1/ The New York City Clearinghouse is a voluntary association of New York banks.

2/ Memorandum, Truxton B. Pratt to William H. Moore, December 11, 1974.

would have to be sold if these dealers were to be capable of bidding on other issues. 1/

FRIDAY, DECEMBER 13, 1974

In an internal Morgan Guaranty memorandum, Amos T. Beason reported on the New York City situation to Frank Smeal, Executive Vice President. 2/ The memorandum stated that the City's financial problems were still solvable, but that City officials did not appear to comprehend the seriousness of the situation. It was asserted that, in the recent past, the City's problems were solved by more borrowings, budget gimmicks and increased Federal and State aid receivables. The reported attitude among dealers and investors was that the New York City financial institutions and the State and Federal governments would not permit the demise of the City to occur. However, investors were said to need concrete signs that the City's problems were being addressed by City officials and the financial institutions. The memorandum asserted that the bank's ability:

> . . . to apply some financial discipline to the City's operation will be better accomplished while they can still fund themselves in the marketplace than when our vaults are loaded with nonmarketable City debt. Once the pattern becomes established of the City's not being able to sell debt and the City's financial institutions providing funds, we will find ourselves on a one way street.

1/ The New York Times, December 12, 1974, p. 73.

2/ Memorandum, Amos T. Beason to Frank P. Smeal, December 13, 1974.

The memorandum suggested that the banks require:

(1) a substantial moratorium on capital expenditures;

(2) a substantial cut in the City payroll;

(3) a review of the City tax structure;

(4) a termination of the public disagreements between Beame and Goldin;

(5) "an honest certified assessment" of Federal and State receivables;

(6) the development of "honest three-year plans" on revenues and expenses;

(7) a solicitation of additional State relief; and

(8) an analysis of the City's overall debt structure be conducted by officials of the City, State and City's business community with particular attention toward ameliorating the effects of the State's "phantom debt" requirements, i.e., the City's policy of repaying bond issues within half the useful life of the project for which debt has been incurred; the results of the study should include suggested remedial legislation.

In return for this program, the memorandum suggested that the City banks would take on substantial amounts of short-term City debt. The situation was said to require forthright discussion between the City officials and the bankers. 1/

* * *

One of a continuing series of internal memoranda from Richard Adams, Senior Vice President for the Bank Investment Division of Chemical Bank, to Donald Platten, Chairman of the Board and Chief Executive Officer of the Chemical Bank, reported on the status of Chemical's municipal dealer accounts.

1/ Id.

The memorandum stated the following: that the market for City securities was no longer viable, while the bond market was otherwise generally strong; the market was paralyzed with concern about the City's affairs and there were huge dealer inventories, which would not be sold except at heavy losses; the banks were forecasting a declining need for tax free bond income; the proposed purchase of City securities by the municipal employee pension funds would help the situation, but at least some of the contemplated financing would quite possibly have to be negotiated with New York City banks. 1/

* * *

The New York Times reported a statement by Mayor Beame urging the trustees of the City's five employee pension funds to purchase City bonds. 2/

MONDAY, DECEMBER 16, 1974

The New York Times reported that in recent weeks both banks and brokerage houses were suffering enormous underwriting losses on New York City bonds. Approximately $200 million of the October bond offering was still unsold and losses on the bonds that had been sold approached $40-50 million. The article stated that the possibility of future borrowing by the City had become increasingly uncertain and the market was described as a "disaster." The public bickering between the Mayor and the Comptroller was cited as a partial cause of the situation and several City

---

1/ Memorandum, Richard Adams to Donald Platten, December 13, 1974.

2/ The New York Times, December 13, 1974.

bankers were said to be planning to meet with the Comptroller to discuss the market problems. 1/

* * *

Karen Gerard, a researcher for Chase, wrote an internal memorandum entitled "The City's Fiscal Situation — The Budget Gap Is Real." 2/ It noted that a "'budget crisis'" was an annual event in New York City but unlike previous ones, this crisis was real. Ms. Gerard presented a general overview and analysis of the City's budget problems. She concluded that the City's economic base had been weakening at the same time that expenditures had grown at a more rapid rate than revenues, thus compounding the City's long-standing fiscal problems.

* * *

The CTDM Committee met at 5:00 P.M. at the Comptroller's office. Comptroller Goldin and eight members of his staff attended, along with Wallace Sellers of Merrill Lynch, Gedale Horowitz of Salomon Bros., Richard Nye of First Security Co., Richard Kezer of Citibank, Frank Smeal of Morgan, Thomas Labrecque and John Devine of Chase, James Trees of Fisher, Francis, Trees & Watts, Inc. and Zane Klein of Berlack, Israels and Liberman. The Comptroller distributed a new proposed borrowing schedule designed to stabilize the market by reducing the large quantities of City obligations and stated that his purpose in disclosing the magnitude of the developing

---

1/ The New York Times, December 16, 1974.

2/ Karen Gerard, Internal Memorandum for the Economics Group of the Chase Manhattan Bank, December 16, 1974.

deficit in the current budget was to refute rumors of a $1 billion deficit estimate which had been circulating.

Members of the CTDM Committee expressed concern about the problems of rolling over short-term debt and the Comptroller stated that the current level of short-term borrowing would be continued at least through the first quarter of the next fiscal year. The CTDM Committee suggested that both the Mayor and Comptroller commence a public relations effort to inform the public of approaches that were being taken with respect to some of the City's problems. The serious nature of the market problems was discussed. The CTDM Committee indicated that pension purchases would provide only temporary relief and that this had to be told unequivocally to the Mayor. The meeting adjourned to reconvene at Gracie Mansion the next day at 8:00 A.M. 1/

TUESDAY, DECEMBER 17, 1974

The meeting of the CTDM Committee reconvened at Gracie Mansion. A memorandum by Frank Smeal indicates that Messrs. Beame, Goldin, Cavanagh and Lechner apparently caucused for approximately 15 minutes prior to the start of the meeting. 2/ At the reconvened meeting, Mr. Sellers of Merrill Lynch told the Mayor that the City securities market was a "total disaster" in recent weeks. 3/ Therefore, he stated, it was likely that there would be no bid on the January bonds. The CTDM Committee did not question the City's ability to pay its debt, but indicated that the market could not absorb offerings of the magnitude contemplated. The basic

---

1/ Minutes of the CTDM Committee, December 16, 1974.

2/ Memorandum, Frank Smeal to the File, December 17, 1974.

3/ Minutes of the Special Meeting of the CTDM Committee, December 17, 1974.

problem was said to be the size and frequency of the borrowings. He stated that purchases by the pension systems could afford only temporary relief and borrowing to finance deficits was no longer a viable procedure.

The Mayor disagreed with the CTDM Committee about the effect of the purchases by the pension funds, indicating that these purchases could continue as long as the rates of interest remained high. Furthermore, he asserted that it was the timing and not the size of the borrowing that was the problem and the banks should help "sell" the City and not just tell the City to reform. In addition, because of the ever-growing militancy of the municipal unions, Mr. Smeal indicated there were doubts as to whether City debt really had a first lien on revenues. Mr. Sellers stated that losses on the October bonds totalled nearly $50 million and it was important to the City that the banks survive.

The Mayor stated that, with the exception of the borrowing by the SRC, all City borrowing was against expected revenues, as it always had been. He refused to commit himself to the elimination of deficit financing. The CTDM Committee indicated that the institutional market was closed to City securities and that the out-of-state banks were not buying these obligations. The Mayor stated that the City was borrowing against "firm receivables" and that the banks must "'sell'" the City to the rest of the country. The meeting concluded with the Mayor requesting, and the

CTDM Committee offering, support for attempts to obtain increased federal and state aid. 1/

* * *

Following the meeting, the Comptroller issued a press release stating that the consensus of the CTDM Committee was that City obligations continued to offer absolute security to investors. In response to the market problem of oversupply, the City would reduce its borrowing and thus improve the supply-demand balance in the marketplace. The Comptroller explained that the reduction in public offerings would be chiefly accomplished by short-term limited investments of City pension fund and sinking fund money in City obligations. 2/

WEDNESDAY, DECEMBER 18, 1974

Bankers Trust generated an internal memorandum listing the maturity dates and amounts of all outstanding City notes and the reduced borrowing schedule for the City through June 1975. The memorandum demonstrated a cumulative increase in outstanding notes of over $1.5 billion as of the end of June 1975. 3/

* * *

The local newspapers, The New York Times, Daily News and The Daily Bond Buyer, printed stories to the effect that the City would reduce its borrowing for the rest of the fiscal year by $1 billion. 4/ They reported

---

1/ Id.

2/ News Release, Office of the Comptroller, 74-141, December 17, 1974.

3/ Memorandum entitled "New York City Maturity Schedule of Outstanding Notes," December 18, 1974.

4/ The New York Times, Daily News, and The Daily Bond Buyer articles, December 18, 1974.

that the market reacted well to the news and the effective rates on City securities trading in the market declined.

THURSDAY, DECEMBER 19, 1974

An internal Citibank document addressed to Richard Kezer, Vice President, stated that the City still had a $135 million deficit for fiscal year 1974-75 and, in order to balance the expense budget for 1975-76, the City would require more State and Federal aid as well as additional City taxes.1/

* * *

Steven Clifford addressed a memorandum to the Comptroller and Seymour Scher, William Scott, Sol Lewis, Jonathan Weiner, Jerome Turk, James Carney and Richard Wells, all of the Comptroller's Office, regarding a proposal for a restructuring of City finances. Clifford characterized the City's accounting as "questionable," and identified the problem as two-fold: the City needed to issue $7.3 billion in short and long-term debt during the next ten months in what was already a saturated market; and (2) unsound accounting and budgeting practices increased the need to issue debt while causing a decrease in investor confidence. He proposed that the City introduce various budgeting and accounting practices, including placing the City's general fund on a cash basis; putting the payroll and other payables on an accrual basis; establishing annual audits and certifications of receivables by an independent certified public accounting firm; removing City-owned property from the tax rolls; creating and maintaining three reserve funds, a general fund reserve, a debt service reserve

---

1/ Memorandum, John Berenyi to Richard Kezer, December 19, 1974.

and a social service reserve; recognizing reductions in real estate taxes due to delinquencies and reduced assessments in the current year; and repaying the prior year's deficits, i.e., $520 million of stabilization notes and $200 million of the 1974-75 deficit.

Mr. Clifford's memorandum indicated that federal legislation would be necessary to implement his proposal. In instituting the accounting reforms, the City would write off and retire $2.7 billion short-term debt. The U.S. Treasury would lend the City the funds required at 8 1/2% interest and the City could repay the loan over 20 years.

Clifford cited the financial advantages of this proposal for both the City and the Treasury and noted that the sound practices established would also be advantageous. The final item on his list of advantages was: "Total collapse of city, capital markets and U.S. economy postponed for at least six months." 1/

Clifford urged that this proposal not be limited to aiding New York City but should be available for all states and municipalities that encountered deficits when they applied the sound accounting and budgeting practices. This would be the first step towards the regulation of the municipal market. It was also noted that maintenance of the accounting and budgeting standards should be covenants of the Treasury's loan and that, should the City violate them, it would be in default. 2/

1/ Memorandum, Steven Clifford to J. Goldin, B. Scott, S. Lewis, J. Weiner, J. Turk, J. Carney and R. Wells, December 19, 1974.

2/ Id.

FRIDAY, DECEMBER 20, 1974

Comptroller Goldin delivered a public address to the City Club of New York in which he discussed the fiscal problems of the City, with particular emphasis on the budget deficit. He stated:

> New York's budget problems should be of only marginal interest to investors, who are protected by the State Constitutional guarantee making New York City bonds and notes a first lien on all revenues.
>
> It would be a great disservice to investors and to the City if important fiscal information were withheld or manipulated. The City's bondholders and noteholders must have justified faith that government officials will be open and candid about the fiscal state of New York City.
>
> Distrust is bred not by prompt public disclosure but by concealment of truth. 1/

MONDAY, DECEMBER 23, 1974

The Daily Bond Buyer reported that Standard & Poor's issued a report stating that they were retaining their "A" rating for New York City bonds, provided that the City continue its efforts to put its financial house in order. 2/

* * *

Mayor Beame issued a press release, commenting on the Standard & Poor's announcement, saying "It shows the proper awareness of the fact that the City's current budget balancing problems do not impair the City's ability to repay its debts...." 3/

1/ Remarks by Harrison J. Goldin at the City Club of New York, December 20, 1974.

2/ The Daily Bond Buyer, December 23, 1974.

3/ News Release, Office of the Mayor, 618-74, December 23, 1974.

THURSDAY, DECEMBER 26, 1974

In a memorandum to Amos T. Beason, Vice President of Morgan, Eric Altman, a researcher at Morgan, stated that the City was using short-term borrowing as an ordinary source of revenue. He asserted that the City had violated accredited accounting standards and was using gimmicks to achieve the appearance of a balanced budget; that the City had switched to an accrual basis for receivables while retaining a cash basis for payables; that the City budget assumed full collection of all revenues despite experience to the contrary; and that the City employed one-shot revenues to balance the budget. "By some estimates, restating the City's financial position in realistic terms according to accepted accounting principles will involve a write-off [of] $2.7 billion at June 30, 1975." Altman contended that this write-off was too large for the banking community to finance and that the State could be [of] limited financial assistance because of its own fiscal difficulties. 1/

FRIDAY, DECEMBER 27, 1974

In another report to Donald Platten of Chemical Bank, Richard Adams, Senior Vice President for the Bank Investment Division, stated that the market for City securities was narrow and dependent on the New York City

---

1/ Memorandum, Eric Altman to Amos T. Beason, December 26, 1974.

banks. Problems in the 1976 fiscal year loomed large, with expenses outgrowing the economic base of the City. He declared that there was a need to reorganize the City's debt structure. 1/

MONDAY, DECEMBER 30, 1974

Moody's confirmed their "A" rating for New York City bonds in a detailed 19-page report. The City's fiscal situation was reviewed and the "A" rating was said to be confirmed because the City's debt was well-secured by a constitutional requirement for debt service, its internationally important economy and the prospects for administrative control of its financial difficulties. 2/

* * *

The Mayor issued a press release praising the action of Moody's and stating: "As Standard & Poor's did, Moody's also shows its awareness of the fact that the City's current budget-balancing problems do not impair the City's ability to repay its debts" 3/

TUESDAY, DECEMBER 31, 1974

The Comptroller's Office performed a review of the debt service accounts as of December 31, 1974. The memorandum summarizing this review

---

1/ Memorandum, Richard Adams to Donald C. Platten, December 27, 1974.

2/ Moody's Investors Service, Inc., Municipal Credit Report, December 31, 1974.

3/ News Release, Office of the Mayor, 624-74, December 30, 1974.

stated that over the years, the controls used in determining the liabilities in the various debt service accounts had been discontinued and bank reconciliations had not been effected. It was indicated that accurate data as to these accounts was not available on a timely basis. 1/

THURSDAY, JANUARY 2, 1975

In an internal Citibank document, David Gaston, investment officer, reported to Paul Collins, Senior Vice President, that Citibank held $23 million par value in New York City obligations in accounts for which the bank had fiduciary responsibility. Mr. Gaston also reported that the bank was not purchasing City bonds for fiduciary accounts at the present time. 2/

MONDAY, JANUARY 6, 1975

In a letter to Comptroller Goldin, Mayor Beame directed that certain indebtedness incurred for loans to limited profit housing companies be excluded from the legally imposed two percent limitation on long-term debt with respect to housing and urban renewal and further instructed that certain other indebtedness incurred with respect to similar housing companies be charged against the two percent limitation. 3/

* * *

1/ New York City Report of Debt Service Reconcilations as at December 31, 1974.

2/ Memorandum, David W. Gaston to Paul Collins, January 2, 1975.

3/ Letter, Abraham D. Beame to Harrison Goldin, January 6, 1975.

Marine Midland Municipals Co. sent a letter to its municipal customers informing them of the actions of Moody's and Standard & Poor's in confirming their "A" ratings for City bonds and stating that Marine Midland believed that the securities of New York City were a sound and attractive investment. The letter also included a copy of a Joint Statement by Mayor Beame and Comptroller Goldin dated November 15, 1974, that restated the constitutional, legal and moral guarantees afforded to investors in New York City notes and bonds. 1/

TUESDAY, JANUARY 7, 1975

The Comptroller announced the sale of $620 million of RANS to a syndicate headed by Chase and Citibank at an interest rate of 9.4%. The announcement was not made until 3:00 p.m. because the Comptroller had sought to determine whether there was any alternative to this bid. The Mayor and Comptroller each issued a press release attacking the 9.4% rate of interest. They stated that this rate was not reflective of the City's "A" rating and that they were going to meet with members of the financial community in order "to avoid a repetition of this unfair, unwarranted and outrageously high interest rate." 2/

1/ Letter, Marine Midland Municipals Co. to its clients, January 6, 1975, with attachment.

2/ News Release, Office of the Comptroller, 75-1, January 7, 1975.

* * *

<u>WEDNESDAY, JANUARY 8, 1975</u>

In an internal memorandum, Richard Adams of Chemical Bank reported to Donald Platten, Chairman of Chemical Bank, that there had been only one bid, at an interest rate of 9.4%, on the $620 million RANS. The market was said to be improving and all of the notes had been sold; this was the second successive offering where a merged sydicate submitted the only bid on the notes. Adams said, "Support of the City of New York by the New York banks as 'lending institutions' has been enormous. Chemical Bank holds an amount of N.Y.C. obligations which far exceeds the amount it could or would lend to any other borrower, except the U.S. Treasury." 1/

Mr. Adams noted that the City may argue that the 9.4% interest rate was excessive, but that the following points, among others, might be made:

(1) there was still an oversupply of City securities in the market;

(2) there was much negative publicity about the City in the marketplace;

1/ Memorandum, Richard V. Adams to Donald C. Platten, January 8, 1975.

(3) the market was continuing to narrow with several institutions withdrawing;

(4) the real size of the City's deficit for fiscal 1975 was in doubt ("[w]e just don't know the facts."); and

(5) figures between $1 and $2 billion had been discussed as the deficit for fiscal 1976. 1/

THURSDAY, JANUARY 9, 1975

The Mayor had requested that leaders of the financial community attend a meeting at Gracie Mansion at 8:00 A.M. Messrs. Beame, Goldin and Cavanagh, among others, represented the City. David Rockefeller and Thomas Labrecque represented Chase; Richard Kezer and William Spencer represented Citibank; Richard Adams and Donald Platten represented Chemical Bank; Ellmore Patterson and Frank Smeal represented Morgan; Charles Sanford and Alfred Brittain represented Bankers Trust; and John McGillicuddy and David Barry represented Manufacturers Hanover Trust Co. ("Manufacturers Hanover"). 2/

The primary topic of conversation was the 9.4% interest rate on the $620 million RANS offering of January 7, 1975. The Mayor stated that the banks were not selling the City and its securities. He said that the 9.4% rate of interest forced upon the City by the single bid was not reflective of the City's financial strength, its substantial tax base,

---

1/ Id.

2/ The Daily Bond Buyer, January 10, 1975, pp. 1, 15.

and of the fact that City securities had a first lien on all City revenues. The mayor stated that the City was aware that it had problems, but he said that these were inherited from the previous administration, and there already had been great cuts in the budget. He claimed the financial community had been "bad mouthing" the City. 1/

The bank representatives responded by describing their views as to the status of the market for City securities. They said that there were serious doubts as to the market's capacity to absorb more City securities and that the clearing house banks did not have the capacity to take on all of the proposed City financing by themselves. They further stated that (1) the underwriters of the October bonds had incurred large losses, (2) the rate of 9.4% was not a rate set by the underwriters but one imposed by the marketplace, and (3) the market had reacted to the public dispute between the Mayor and the Comptroller over the size of the City's deficit and other fiscal problems. The bankers indicated that the City's investment community was willing to assist and work with the City to solve the market problems. 2/

The Mayor and the bank executives agreed that a committee would be established to work with the City to re-open the marketplace for City securities. Ellmore Patterson, then the head of the Clearing House Association and Chairman of Morgan, was to lead this committee which would become known as the Financial Community Liaison Group ("FCLG"). 3/

1/ E. Patterson at 23-24, 27.

2/ E. Patterson at 25, 28-29; Sanford at 22, 25.

3/ E. Patterson at 28-29; Memorandum, David A. Grossman to Willard C. Butcher, January 22, 1975.

* * *

In a briefing memorandum prepared for David Rockefeller by Thomas Labrecque prior to the meeting, it was reported (1) that the City would issue or refinance approximately $7 billion in bonds and notes during calendar 1975, (2) out-of-state banks were withdrawing from the underwriting syndicates, (3) institutional investors were selling their City obligations, and (4) an estimated $50 million was lost by the underwriters in the fourth quarter on City underwritings. 1/

* * *

The Mayor and Comptroller issued a joint press release after the meeting stating that, as a result of the meeting, "closer communications between the financial community and the City could provide potential investors with information that would strengthen confidence in the City as a sound investment." 2/

FRIDAY, JANUARY 10, 1975

In a speech delivered to the City Club of New York, David M. Breen, an analyst for Weeden & Co., formerly employed by Fitch, informed the

---

1/ Memorandum, Thomas Labrecque to David Rockefeller, January 8, 1975.

2/ Joint Statement from the Offices of the Mayor and the Comptroller, 18-75, January 9, 1975.

club members of particular City problems that were causing him concern. 1/ He stated that delinquent real estate taxes had increased from $80 million to $149 million in four years and, if the first quarter percentage delinquency continued, it appeared that $190 million of such taxes would not be collected in the current fiscal year. He noted that, as the tax rate increased, the delinquency rate appeared to increase. Further, Breen asserted that the City had been in an economic slump since fiscal 1969-70 and the rate of abandonment of real property was considerable. He noted that the City had deferred, for the most part, its maintenance programs because little money was available in the Capital Budget, which was almost entirely being utilized for operating expenses. Eventually, he said, this practice "must mean complete reconstruction and/or replacement of the City's physical plant." The City's short-term borrowing was said to display its acute cash-flow problem. Mr. Breen claimed that (1) the City's deficit for the current fiscal year would be substantially larger than the Mayor's estimate and somewhat above that of the Comptroller and (2) the Rainy Day Fund had been depleted. He declared that:

> The City, actually, has had deficits averaging $1.1 billion annually for the past five years. The bottom line[s]... have shown cash balances only because of the City's ability to borrow for its cash flow needs.

Mr. Breen suggested three possible approaches to the City's problems:

(1) mass firings of City workers;

(2) a procedure whereby the financial institutions would manage the City's fiscal affairs, similar to what occurred in the 1930's; and

---

1/ Remarks by David M. Breen, Municipal Bond Analyst, Weeden & Co., before the City Club of New York, January 10, 1975.

(3) reorganization pursuant to Chapter IX of the Bankruptcy Act.

The City's fiscal problems were alleged to be the result of fiscal mismanagement and political expediency, exacerbated by the departure of the middle class from the City. 1/

* * *

The New York Daily News reported that the City was exploring the possibility of offering City bonds to its employees on a payroll deduction basis in the hope that $250 million could be raised. 2/

* * *

A meeting was held among Richard Adams and Herman Charbonneau of Chemical Bank and David Grossman of Chase to discuss possible efforts by the clearing house banks to help improve the City's financial condition, including the organization of a financial committee to assist the City. Among the matters discussed were New York City debt management and financial reporting, the latter's quality being described as "poor." 3/

SATURDAY, JANUARY 11, 1975

The Mayor and Comptroller issued a joint press release attacking the speech by David Breen at the City Club, characterizing it as a call for bankruptcy. The press release stated that budget-balancing problems "have nothing to do with a city's ability, willingness and legal mandate to repay its debt." Mr. Breen was described, not by name, as irresponsible and as a person who

---

1/ Id.

2/ Daily News, January 10, 1975, p. 23.

3/ Memorandum, Herman R. Charbonneau to Richard V. Adams, January 14, 1975.

would yell "Fire" in a crowded theater when there was no fire. 1/

MONDAY, JANUARY 13, 1975

In a letter to Melvin Lechner, Director of the Budget, Comptroller Goldin stated that the estimated debt service for fiscal year 1975-76 would be $2 billion, an increase of about 12% over the prior year. He estimated that the interest payments on temporary debt for the same period would show an increase of 160% from $145 million to $377 million because of the recent higher interest rates. The fact that the City had issued $7 billion of short-term debt in fiscal 1973-74, an increase of $3 billion over fiscal 1972-73, was said to be due to larger budgets and cash flow problems. 2/

* * *

Mayor Beame met with Ellmore Patterson and Frank Smeal and continued the discussion that began on January 9 at Gracie Mansion regarding the formation of a financial committee. They decided that the committee would work on financial planning and economic development for the City. 3/

* * *

The New Yorker magazine published an article concerning the City's fiscal crisis with an emphasis on the job cuts ordered by Mayor Beame. The announced job reductions of Phases I, II and III, which totalled 7,935, were shown by the author to have actually resulted in the dismissal of

---

1/ Joint Statement by Mayor Abraham D. Beame and Comptroller Harrison J. Goldin, 20-75, January 11, 1975.

2/ Letter, Harrison J. Goldin to Melvin N. Lechner, January 13, 1975.

3/ E. Patterson at 31-32.

436 employees, none of whom was a member of a civil service union. The remainder of the job cuts were accomplished through attrition, retirement or the elimination of unfilled positions. 1/

* * *

Barron's, the financial weekly, printed an editorial stating that "[y]ou can't win on New York City bonds." The editorial discussed the problems of the City as well as the City officials' declaration that they would address these problems. The editorial noted, however, that despite highly publicized gestures toward economy the City's financial plight was growing worse with the City continuing to borrow and spend. It was asserted that the City's repeated assurance that its securities were sound "smacks of the repeated assurances of no devaluation which invariably precede a currency's debasement." 2/

TUESDAY, JANUARY 14, 1975

Alan Weeden, President of Weeden & Co., sent a letter to the Mayor in response to the Mayor's comments of January 11 on David Breen's speech to the City Club. Mr. Weeden wrote that Mr. Breen had not advocated bankruptcy for the City but had mentioned reorganization as an alternative approach to the City's fiscal problems. He further stated that Weeden & Co. was an active supporter of the market for City securities but it had sensed a concern in the marketplace over the rate of interest necessary

---

1/ New Yorker, January 13, 1975, p. 67.

2/ Barron's, January 13, 1975, p. 7.

to sell these securities. Weeden asserted that the City's fiscal problems should be discussed candidly and openly. 1/

* * *

Herman Charbonneau of Chemical Bank received a memorandum from Edward A. Rabson, also of the bank, regarding Chapter IX of the Bankruptcy Act as pertaining to New York City. Mr. Rabson outlined provisions of this Chapter and stated:

> While we agree with Mr. Breen's charges of "fiscal mismanagement" and "political expediency" as adding to New York City's financial difficulties, <u>we cannot, at this time, foresee a default on the City's general obligations, nor can we foresee the necessity of the City taking as drastic a step as filing a petition of insolvency under Chapter 9.</u> [Emphasis in original]. 2/

* * *

Comptroller Goldin delivered an address to the Association for Corporate Growth in which he discussed the City's current financial difficulties. The City was said to be cutting back its expense budget spending, reviewing costly capital projects and sharply curtailing public borrowing. None of these efforts, he said, were reflected in the single bid by City underwriters of 9.4% on the last offering of City notes, which were sold out to yield 8-1/2 per cent and below. He asserted that such a yield was "an incredible bargain for investors." Mr. Goldin contended that the City was not being treated fairly by the lending institutions. He

---

1/ Letter, Alan N. Weeden to Abraham D. Beame, January 14, 1975.

2/ Memorandum, Edward A. Rabson to Herman R. Charbonneau, January 14, 1975.

admitted that the City was suffering from inflation and recession but he assured his audience that the Mayor and Comptroller would meet the economic challenge confronting the City. 1/

WEDNESDAY, JANUARY 15, 1975

Karen Gerard, of Chase Manhattan, prepared a memorandum for David Grossman entitled "A Note on the Relationship Between New York City's Immediate Debt Problems and the Longer Range Budget Situation." At the outset of the memorandum she noted that "it is generally claimed" that the City's "mushrooming of short-term debt" has expanded "with the growth of federal and state aid." However, she stated that the growth in short-term debt had increased more rapidly than the growth in aid. She provided figures to support her observation, e.g., in 1969 the City issued $885 million in RANS and received $2.57 billion in aid, but in 1974 the City issued $4.51 billion in RANS and received only $4.55 billion in aid. She noted that, "In fiscal 1974 alone, federal and state aid rose $450 million while new issues of [RANS] for federal and state aid rose by $2.8 billion." Gerard stated that the trend suggested "that one of three things has been happening. And a knowledge of which is primarily responsible is necessary if one is to judge whether the volume of temporary debt is a 'temporary' phenomenon or indicative of more deep-seated problems." The enumerated causes were:

(1) ...[S]hifts in financing schedules, particularly at the state level...;

_/ Remarks by Harrison J. Goldin before Association for Corporate Growth, New York Chapter, January 14, 1975.

(2) ...[W]orsening efficiency in the lag between city expenditures and reimbursements...;

(3) The large volume of new issues could conceal a more serious problem of whether there is in fact anticipated aid behind the debt. If the latter were true, the consequences would be grave for both the short-term and the long-term municipal market.

She concluded that:

> Because the impact is far different depending upon which factor is behind the rise, it is extremely important to have this question answered candidly. If there is no cause for long-term concern, it is easier to find pragmatic solutions and it would be well to advertise the fact that the short-term debt problem, at least, is temporary. If the issue is deeper, then it is essential to find out what the real situation is. 1/

THURSDAY, JANUARY 16, 1975

Minutes of a regular meeting of the Trust Investment Committee of the Trust Department of First National Bank of Boston indicated that:

> A progress report on the Credit of the City of New York was presented for discussion. The previous improvement in the City's financial operations noted in August, 1974 has been deteriorating. The double adverse impact of inflation on operating costs and an increase in accounts receivable has produced a budget deficit gap requiring substantial short-term borrowing. A running controversy between the mayor's office and the comptroller on budget matters has damaged investor confidence.
>
> Despite the possibility of some temporary improvement, it was felt the longer term prospects for the City's finances were not encouraging. Therefore, it was voted to discontinue approval for the purchase for general trust investment of all obligations of the City of New York, and sale should be considered on all issues maturing after August, 1975. 2/

FRIDAY, JANUARY 17, 1975

William Scott, Third Deputy Comptroller, addressed a memorandum to Sol Lewis, Chief of the Bureau of Accountancy, asking that certain analyses be performed with respect to BANS. This request was said to be pursuant to a conversation among Scott, Lewis, the Comptroller and Steven Clifford. Scott requested:

1/ D. Grossman Ex. 1.

2/ Minutes of Regular Meeting of Trust Investment Committee of the Trust Department of First National Bank of Boston, January 16, 1975

(1) a listing of the amount, interest rate, and bond buyer index for each BAN issuance since July 1, 1967 as well as the same information on the RAN and/or TAN issues immediately preceding or following each BAN issue; and

(2) a computation of the total interest charges on BANS for each fiscal year beginning with 1967-68 and the total amount of interest payments that the City received from projects funded by the BANS.

Additionally, the following two questions were posed in this memorandum:

1. Are these BANS a first lien on all City revenues?

2. Are they a first lien on the project properties themselves? If yes, please calculate the assessed value of the projects.

Finally, Mr. Scott asked whether the City had ever converted housing BANS to funded debt and, if so, he requested the dates and the amounts involved. 1/

Early in January, Dr. Jackson Phillips, Executive Vice President of Moody's, met with the Comptroller and informed him that Moody's analysts were considering reducing its MIG-1 rating for the City's BANS to MIG-2. 2/ The Comptroller stressed the recent measures taken by the City to enforce budget cuts and asked that they be taken into consideration. He asked for and was granted time to prepare a presentation as to why the rating should not be reduced.

MONDAY, JANUARY 20, 1975

Comptroller Goldin gave an address to the New York City Treasurers Club in which he discussed the City's fiscal problems and its new computerized cash projection system. He stated that this system would enable the City to minimize interest costs and increase its return on short-term investments. With regard to the City's fiscal problems, Mr. Goldin asserted that the City was making the hard decisions that were required and was moving towards fiscal reform. 3/ He reported in part:

1/ Memorandum, William T. Scott, Third Deputy Comptroller, to Sol Lewis, Chief, Bureau of Accountancy, January 17, 1975.

2/ Memorandum, Freda Stern Ackerman to the files, January 17, 1975.

3/ Remarks by Harrison J. Goldin before the New York City Treasurers Club, January 20, 1975.

The difficult and painful steps which New York is taking to meet the Challenges posed by the current economy, and to deal with the effects of past fiscal practices, are unmatched by any other municipal government in the country.

* * * *

Its not easy for a mayor to order mass lay-offs. The pressures mitigating against such cutbacks are far greater than those confronting a corporation president.

Its not easy to bring to a halt capital projects of great importance to the people of the City.

But these actions, and more to come, prove that the City means business in stressing economy, austerity, and improved fiscal planning.

In my office, we have developed, in line with a sharp curtailment of public borrowing for the remainder of the fiscal year, a regularized borrowing schedule, through the use of our new computerized cash projection system.

* * * *

For New York City to come out of the current economic crunch with renewed strength and a justified confidence in the future, the restraint and self-discipline, which have been forced upon the City by inflation and competing demands in the capital markets, must be adopted as conscious, long-term policy.

We can begin this year by ruling out any additional borrowing to close the budget gap. The issuance of Budget Notes obviously does not "solve" a deficit. It merely adds to future debt service. This year we are paying the price of the Budget Notes issued in Fiscal 1971 by repayment and, in fact, borrowing to make the repayment.

I am strongly opposed to any such "solution" this year.

* * * *

Next year's debt service, as I informed the Director of the Bureau of the Budget last week in the Comptroller's annual official estimate, will be in excess of $2 billion.

This rising trend, the result of past fiscal practices, clearly must be reversed. And the only effective way to do it is to make a first consideration of how much the City can afford to take away from the delivery of services, rather than how much it can get away with borrowing each year.

A percentage of the Expense Budget should be established which can reasonably be committed to debt service, then translated into dollars and the impact on tax rates determined. The amount of debt issued should be restricted to what the established level of debt service can sustain -- and no more.

Each year we should be narrowing the gap between redemption of debt and new debt commitments.

That is the first trend which must be reversed.

The second, which relates closely to the first, is the increasing load of current expense items which are charged to the Capital Budget.

More than half of the Capital Budget for the current fiscal year or $724 million, is consumed by these items.

Next year, inflation could push that figure above $800 million. With a combined estimated total of more than $200 million going for transit and for judgments and claims, over a billion dollars would already be committed out of a Capital Budget debt-incurring capacity of $1.36 billion.

Furthermore, I have recommended to the Mayor, who has concurred that an unencumbered margin of $225 million must be held inviolate.

* * * *

But if the City is to renew itself, if it is even to build for essential purposes of health and safety, the trend of mounting expense items in the Capital Budget must be reversed.

The shifting of current expenses to the Capital Budget is akin to the back-door financing which has plagued Expense Budgets, increasingly over the past ten years, as quasi-independent authorities and public corporations have proliferated in New York State and throughout the nation, floating bond issues at great cost to the taxpayers but remaining unaccountable to public control.

There is a common theme running through all of these trends: the short-sighted approach of fiscal finagling which takes us one year at a time toward the day of reckoning.

Thus far, municipal governments have managed to survive from year to year on what appeared to be a limitless reservoir of mathematical ingenuity.

But the game is over. The stakes have grown higher and the clock has run out.

There is no possible way for cities, and even smaller communities, to maintain their viability unless stop-gaps and gimmicks are replaced by long-range fiscal planning which looks ahead not just to the close-out of a fiscal year, and not just to next year, but to five years ahead, and into the next decade.

I believe that New York City is beginning to take important steps in this direction.

It really has no choice.

My optimism is based on what I perceive to be a growing sense of realism in this City.

New York has a bright future precisely because it is beginning to face the urgent realities of the present, and to recognize the mistakes of the past.

The City is sadder but wiser today. It has experienced the same fiscal pains as every community in the nation, but magnified because of New York's size, its vitality, its influence, and its high visibility.

It is still the strongest and most creative city on earth. And it has in full the capacity and the will for the kind of tough fiscal planning which is the hallmark of successful management. 1/

TUESDAY, JANUARY 21, 1975

Steven Clifford provided the Comptroller with a background memorandum on the City's fiscal crisis. 2/ The memorandum reported that:

1) there had been a "massive increase" of $5 billion in short-term debt over five years;

1/ Id.

2/ Memorandum, Steven Clifford to Harrison J. Goldin, January 21, 1975.

2) the increase could not be explained merely by delays in the receipt of Federal and State aid and such receivables had "not been audited" and may have been "seriously over-stated";

3) $2.4 billion in short-term debt could be attributed to "budget gimmicks (i.e. disguised deficit financing) and recognized deficits," broken down as follows:

Gimmicks	Amount of Current Short Term Debt Generated ($ million)
Accruals of revenue	$ 440
Changing from cash to accrual on payables	239
Raiding reserves	136
Double use of fund balances	50
Excess stabilization borrowing	62
Subtotal	$ 927
Recognized Deficits	
70/71 Budget Notes	$ 308
71/72 Receivable Writeoff	86
72/73 " "	180 (?)
73/74 " "	180 (?)
73/74 Stabilization Borrowing	150
74/75 Anticipated Deficit	600
Subtotal	$1,504
Total Recognized Deficits and Gimmicks	$2,431

4) the City had financed $700 - $1500 million of expense items through the capital budget since June 30, 1969;

5) in total the City had overspent its expense budget revenues by $3.1 - $3.9 [billion] since June 30, 1969;

6) the deficit for the 1974-75 fiscal year would be $400-$600 million and would reach $1.2 to $1.4 billion for fiscal 1975-76;

7) long-term debt had increased by $3.3 billion since June 30, 1969;

8) the City would have to issue $8 billion "plus" in new debt obligations in the next 12 months;

9) interest rates were at an all time high of 9.4% - 9.5% on the last City note issues, secondary trades were as high as 11.5%, and if City debt could not sell at these rates it could not sell at all; and

10) the market could collapse forcing a bankers' agreement or a moratorium on redemption of debt.

Mr. Clifford listed the following under the heading of "Solutions":

1. Restrictive Finances - term loan to Fund $2 - $3 billion of debt.
2. Drop at least $1 billion of City services - CUNY, Health & Hospitals, Welfare, etc.
3. Keep wage and salary increases in line with normal revenue growth - 4% - 5%. 1/

* * *

In an internal Bankers Trust document, it was reported that the Mayor had announced 11,985 job cuts but only 2,000 jobs had been eliminated to date. 2/

WEDNESDAY, JANUARY 22, 1975

G. C. McCarthy, a Vice President of Citibank, sent a memorandum to Paul Collins, Senior Vice President of the bank, stating that Citibank would not purchase City securities for any fiduciary account. The only exception to this policy would be where a client requested the purchase in writing and the securities sought had a maximum maturity of two years. 3/

1/ *Id.*

2/ Memorandum, Bankers Trust, "New York City Financial Update," January 21, 1975.

3/ Memorandum, G. C. McCarthy, Jr. to Paul J. Collins, January 22, 1975.

* * *

David Grossman, Senior Vice President of Chase, prepared a background memorandum for Willard C. Butcher, President of Chase, in preparation for a breakfast meeting with City officials to be held on January 24, 1975. The earlier meeting of January 9 with the Mayor and City bankers was reviewed. The memorandum stated that the City faced two serious fiscal problems, the debt situation and the budget situation. Mr. Grossman reported that there had been a rapid increase in the City's short and long-term borrowing which brought heavy pressures on the market. The City had issued $7.3 billion in short-term debt in fiscal 1974 and over $5 billion of City notes were outstanding. Further, the City planned to issue at least $500 million of notes each month for the rest of the fiscal year and over $600 million in bonds. The City's debt problems were seen as an outgrowth of its budget situation which could only be solved by bringing under control the imbalance between revenues and expenditures. Grossman reported that the City faced a current year deficit of $450-650 million and $1 billion for next year. Further complicating the problem was the fact that there were differences between City officials and commercial City banks as to the specific nature of the current problems that the City was encountering. 1/

<u>THURSDAY, JANUARY 23, 1975</u>

First National Bank of Boston offered for sale $150 million of City RANS from their portfolio. Notes aggregating $100 million were

---

1/ Memorandum, David A. Grossman to Willard C. Butcher, January 22, 1975.

dated September 30, 1974 to mature on August 22, 1975, and the remaining $50 million in notes were dated September 16, 1974 to mature on September 15, 1975. A syndicate led by Chase, which included the joint managers of the two classical New York City note syndicates, purchased these notes for resale and investment purposes. This underwriting was completely sold by January 30 at a profit. 1/

* * *

George Roniger and C. E. Wainhouse, researchers for Citibank, addressed a memorandum to Peter Crawford, a Vice President of the bank, concerning the City's current fiscal difficulties. They stated that the City was faced with two types of problems: 1) an imbalance between revenues and expenditures; and 2) an imbalance between the issue of, and the demand for, City securities at other than premium rates of interest. These difficulties were said to be related inasmuch as concerns about the City's ability to meet budget requirements raised questions about its ability to service and refund its rapidly growing volume of debt. The memorandum states:

> [T]he City's administration generally finds it to its own advantage to create the strongest possible impression of fiscal crisis. This strategy is pursued in order to improve its case for new State and Federal aid and for new taxes, and to prepare the public for a lower level of public services than demanded. It also serves the purpose of scaling down the demands of the administrators of City programs themselves and of municipal unions, and to prepare taxpayers for possible increases in taxation.

1/ Notes from files of Manufacturers Hanover, January 23, 1975.

The memorandum asserted that the City also employed a series of gimmicks in preparing the budget. Tables included in the memorandum demonstrated that over a five year period there had been a pattern of overestimates of City revenues. Additionally, short-term borrowing had been used to finance budget deficits and the SRC was created to provide borrowed funds to finance current expenses and to rollover debt incurred in 1971. Finally, the authors stated that the current recession had adversely affected New York's budgetary position, particularly causing a decline in "real" tax collections. The City's borrowing to pay for current expenses, characterized as a mortgaging of its future tax base, was alleged to be the greatest fiscal danger to the City and a risk to its long-term financial viability. 1/

FRIDAY, JANUARY 24, 1975

Mayor Beame, Comptroller Goldin, James Cavanagh, Melvin Lechner, Alfred Eisenpreis and other City officials met with leaders of the City's financial community for breakfast at Gracie Mansion. 2/ The following persons were also present, among others: 3/ Ellmore Patterson and Frank Smeal of Morgan, Alfred Brittain, III, and

---

1/ Memorandum, George Roniger and C.E. Wainhouse to Peter Crawford, January 23, 1975.

2/ News Release, Office of the Comptroller, January 24, 1975; News Release, The City of New York, January 24, 1975.

3/ Letter, David A. Grossman to Paul Busse, Economic Development Council, January 24, 1975.

Truxton Pratt of Bankers, Willard Butcher and David Grossman of Chase, William Spencer and Richard Kezer of Citibank, Albert Gordon of Kidder, Peabody & Co., Inc. ("Kidder Peabody"), Donald Regan and Wallace Sellers of Merrill Lynch, Dr. John Fey of Equitable Life Insurance Co., George Jenkins of Metropolitan Life Insurance Co., Arthur Miles of Dime Savings Bank and Morris Crawford of Bowery Savings Bank. 1/

The meeting began with a distribution of documents and a presentation by Melvin Lechner, the Director of the Budget, as to the status of the 1974-75 budget, including the budget gap, the steps taken by the administration to eliminate it, the service reductions and cuts already accomplished, the additional cuts that had been planned, the deficits in tax levies and the programs designed to meet these problems. 2/

Mr. Alfred Eisenpreis, Economic Development Administrator for the City, also made a presentation 3/ on the City's general economic picture and the steps being taken to build the City's tax base and to stimulate business activity despite the nationwide recession. 4/

1/ This was the first meeting of the FCLG which was to be chaired by Ellmore Patterson (E. Patterson at 32).

2/ D. Grossman at 28-29; E. Patterson at 32-33; Smeal at 46-48, 55-56; Letter, Ellmore C. Patterson to Donald T. Regan, January 27, 1975.

3/ Patterson at 33; Smeal at 46-47.

4/ In the days following the meeting, Patterson caused a working staff level of the FCLG to be formed (Letter, Patterson to Regan, January 27, 1975).

* * *

Mayor Beame testified before the State Commission on Tax Limitations, and asserted that the State had avoided its responsibility for the fiscal problems of the cities by permitting them to borrow for current expense items in order to avoid providing them with additional revenues. The Mayor reiterated his opposition to borrowing for expenses but acknowledged that economic circumstances had forced him to engage in it. 1/

* * *

John Fava, Deputy Finance Administrator of the City, addressed the New York Municipal Analysts Group on the City's fiscal base. 2/ Mr. Fava stated that the City provided more services than other cities in the country but that the recession had affected its capacity to finance those services. The large increase in short-term borrowing could be attributed, he said, to the manner in which budget gaps of the past several years had been closed. He said that one shot revenues would be put into a particular budget and anticipation notes would be issued against these receivables thereby increasing the debt. If the receivable proved to be overestimated, the City had four options: 1) the budget could be cut; 2) budget notes could be issued; 3) new notes against new receivables could be issued, or; 4) real estate taxes

---

1/ Statement by Abraham D. Beame before the Temporary State Commission to Study Constitutional Tax Limitations, January 24, 1975.

2/ The text of this address was printed in The Daily Bond Buyer, January 27, 1975.

could be increased. Mr. Fava ended his presentation with the thought that the City had the will to make budget cuts to solve its fiscal problems and was taking positive steps in that direction. 1/

MONDAY, JANUARY 27, 1975

William L. Wood, Jr., counsel to the Comptroller, addressed a memorandum to Comptroller Goldin concerning two important aspects of the City's 1975 legislative program. The first was a provision which would suspend the application of two sections of the Local Finance Law that established a maximum rate of interest of 5% per annum for City bonds or notes. These sections had been suspended yearly for the last several years and Mr. Wood noted, "[i]f the interest rate limitation is not suspended for this coming year, New York City obligation [sic] will become unmarketable." He also stated that if the Comptroller approved, Mr. Wood would seek the State Comptroller's support for the permanent removal of the interest rate limitations. The second proposal was an amendment to the City Charter that would repeal a section limiting the permissible investments of Sinking Fund monies. The section was characterized as precluding the City from "purchasing City obligations at par in many cases if such obligations are available in the market place at less than par." Wood stated that the section did not make good sense from an investment management perspective and greatly reduced the desired flexibility that the

---

1/ Remarks by John L. Fava, Deputy Finance Administrator, before the New York Municipal Analysts Group, January 24, 1975.

Comptroller should have in the continuing fiscal crisis of the City. The proposal was said to have been reviewed and approved by Ken Hartman of the Corporation Counsel's Office, the law firm of Wood, Dawson, Love & Sabatine, ("Wood Dawson"), Steven Clifford and Jon Weiner. Attached were texts of the proposed legislative enactments as well as texts of the proposed memoranda in support, prepared for the Comptroller's signature. 1/

TUESDAY, JANUARY 28, 1975

The CTDM Committee held its monthly meeting; Comptroller Goldin, Dr. Seymour Scher, William Scott, Sol Lewis and other staff members represented the City. Gedale Horowitz of Salomon Bros., Richard Kezer of Citibank, Wallace Sellers of Merrill Lynch, Frank Smeal of Morgan, Zane Klein of Berlack, Israels & Liberman and Richard Nye of First Security Co. were also present. The Comptroller informed the Committee that Moody's was considering rescinding the MIG-1 rating assigned to the City's BANS. He stated that another meeting might be scheduled with Moody's to discuss the City's view of this change and a position paper was being prepared. The Comptroller then outlined the proposed February borrowing.

A discussion ensued as to the relationship between the FCLG and CTDM Committee. Various members of the latter described their views as to the role of the FCLG, and statements ranged from the FCLG being merely to "sell the City" to its being a financial and budgetary

---

1/ Memorandum, William L. Wood, Jr. to Harrison J. Goldin, January 27, 1975.

consultant. The Comptroller was concerned that the public might perceive that the financial affairs of the City were in the hands of the bankers. Mr. Horowitz and Mr. Sellers stated that the information presented at the January 24 meeting of the FCLG was too general and incomplete and had been heard many times before.

The Comptroller raised the question of alternative ways to market City securities, such as the City's plan to initially sell the securities to its employees. The meeting concluded with the Committee agreeing to provide Sol Lewis with thoughts on what the maximum interest rates would be for the February offerings. 1/

* * *

Comptroller Goldin, in a speech to the Harvard Business School Club on the fiscal plight of the City, pointed out that the City was suffering enormously from the nationwide recession which was putting great stress on the capital markets. He noted, for example, that the banks had committed more than 50% of their portfolios to municipal obligations.

Mr. Goldin stated that, in this time of high interest rates, some lending institutions had taken unfair advantage of the cities. The City was forced to pay 9.4% interest on an offering of City notes backed by an "A" rating and various legal and moral guarantees. Mr. Goldin conceded that the City had problems but he asserted that

---

1/ Minutes of CTDM Committee, January 28, 1975.

the City would "never default on the payment of its obligations, under any circumstances, barring the collapse of the entire economic system." He stated that the City recognized its fiscal problems and had the will and the capacity for the fiscal planning necessary to meet those problems and fulfill its responsibilities. 1/

THURSDAY, JANUARY 30, 1975

In the continuing series of memoranda from Richard Adams to Donald Platten, it was reported that Chemical's holdings of City securities in their dealer and portfolio accounts had decreased $15.5 million since late December, after acquiring $58 million of City securities from Security National Bank when that bank was acquired by Chemical. The market for City securities was said to have improved and it did not appear that Chemical would have to increase its holdings of City securities because of an inability to sell the forthcoming issues. Mr. Adams stated: "The syndicate pricing will be aimed squarely at prompt sales to investors." He also asserted:

> [W]e continue to believe that the City will meet its obligations. The real new money financing pressure for the City is likely to occur after August of this year. By this time we will be in a position to assist the City if necessary since by then $185.5 million of our holdings will have run off. Recommendation: that we do nothing precipitous with regard to reducing our holdings immediately, but let maturities do this for us. 2/

1/ Remarks of Harrison J. Goldin to Harvard Business School Club, January 28, 1975.

2/ Memorandum, Richard V. Adams to D.C. Platten, January 30, 1975.

* * *

Comptroller Goldin announced that, with the advice and participation of labor leaders and representatives of the financial community, the City would establish a procedure to sell City securities through a system of voluntary payroll deductions. 1/

FRIDAY, JANUARY 31, 1975

The Mayor submitted the Executive Capital Budget for 1975-1976 to the City Council and Board of Estimate. Expense items which were to be funded by the Capital Budget were set forth for the first time in a separate schedule "in the interest," in the Mayor's words, "of greater accountability and disclosure." 2/

* * *

In January, members of the staff of the Office of the Comptroller prepared a number of drafts of a proposed letter to the Queens Community Board #10 regarding the draft capital budget. In one such draft, dated January 29, 1975, it was suggested that the Comptroller state that although the Mayor and he projected that more than $1.3 billion would be potentially available to be borrowed for long-term capital purposes, after the deduction of a $225 million reserve, almost $800 million would have to be set aside for the sale of bonds to finance current and recurring expenditures, $109 million was being allocated for judgments and claims and $70 million would be used to subsidize the 35 cent transit fare. The draft letter indicated

---

1/ News Release, Office of the Comptroller, 75-9, January 30, 1975.

2/ Letter, Office of the Mayor to City Council and Board of Estimate, January 1, 1975, accompanying Executive Capital Budget for 1975-1976.

that there was virtually no money available for new capital priorities, and stated:

> We must start the process of freeing up bonding capacity for true capital purposes. Otherwise we run the risk of repetitions of the West Side Highway collapse and the perpetuation of the virtual standstill in capital renewal that we are now experiencing.

The draft letter further stated that the formulation of the Capital Budget "appears to be little more than an exercise in futility" and was in danger of becoming a "charade." 1/

Victor Marrero, a staff member of the Comptroller's Office, in a memorandum dated January 31, 1975 to the Comptroller, stated that the draft letter contained terms "that may be unnecessarily blunt," could be misinterpreted, might incur the ill-will of the Board of Estimate and City Council, and might attract newspaper headlines focusing on the words "charade" and "exercise in futility." 2/

SUNDAY, FEBRUARY 2, 1975

A New York Times article contrasted the views of the Mayor with those of "others" with regard to the causes of the City's fiscal crisis. According to the article, since September, when the Mayor first announced the City's troubles, he had blamed forces out of his control, i.e., inflation and recession, which created greater costs and produced lower revenues than anticipated. Others, such as the CBC, criticized the use of "soft" figures in the Mayor's budget and "the budgetary

---

1/ Draft letter, Office of the Comptroller to William Fells, Chairman, Queens Community Board #10, January 29, 1975.

2/ Memorandum, Victor Marrero to Harrison J. Goldin, January 31, 1975.

gimmicks of past administrations," some of which Mayor Beame had continued. Mayor Beame, the article stated, placed his hope in a federal takeover of the costs of welfare and a State takeover of the costs of the educational and court systems, but the Times stated that "in view of the budgetary problems at the Federal and state levels, the prospect of a huge infusion from the outside seems unlikely." Rather, it was indicated, the City would have to put its house in order on its own through service and employee reductions or higher taxes. 1/

MONDAY, FEBRUARY 3, 1975

J. Chester Johnson, an assistant Vice-President of Morgan, addressed a memorandum concerning the City to Amos T. Beason, a Vice-President of the bank. Reacting to a David Grossman memorandum on the fiscal problems of the City, dated January 28, 1975, Mr. Johnson stated that the memorandum offered virtually no opportunity for analyzing the City's "structural problems." Johnson contended that for the FCLG to offer the City more than its image of a "patching" plan, it would have to study, in addition to the agenda in the Grossman memorandum, the City's inadequate budgetary controls, the impact of "phantom debt" and "down payments" on the expense budget, the historic trend of the City's short and long-term debt load and the erosion of the City's economic base. 2/

1/ The New York Times, "Just How Did New York City's Finances Come to This?", February 3, 1975.

2/ Memorandum, J. Chester Johnson to Amos T. Beason, February 3, 1975.

TUESDAY, FEBRUARY 4, 1975

The Comptroller announced the sale by the City of $290 million in RANS, at an interest rate of 7.55%, to a syndicate headed by Morgan and the Bank of America. Other bids on this issue were received from a syndicate headed by Citibank/Chase and from the European-American Bank & Trust Company. 1/

* * *

In a memorandum to David Rockefeller of Chase, David Grossman stated that, after a review of the potential areas of involvement by Chase in

---

1/ News Release, Office of the Comptroller , 75-12, February 4, 1974 [sic].

City affairs in 1975, he recommended that he (Grossman) concentrate on the following items: the City budget problem; the subway system, primarily the Second Avenue Subway; the economic development of lower Manhattan; and strengthening municipal productivity and manpower utilization. 1/

THURSDAY, FEBRUARY 6, 1975

Moody's announced that it was retaining its "A" Rating for General Obligation Bonds of the City, as well as its "MIG 1" rating on City BANS and its "MIG 2" rating for other notes. Moody's stated: "New York City has a revenue problem, a systemic difficulty in raising additional revenues to keep up with expanding needs." 2/

* * *

Mayor Beame, in a letter to Ellmore Patterson, amplifying a prior telephone conversation, complained about the interest rate of 7.55% on the $290 million of RANS sold on February 4th. The Mayor pointed to several concurrent developments in the money market which, he stated, showed that 7.55% was an unwarranted rate: these RANS had sold so briskly that the yield had dropped to 7%; local Public Housing Agencies, through HUD, had sold $680 million of tax exempt notes recently at an average rate of 3.485%, the lowest rate in two years;

1/ Memorandum, David A. Grossman to David Rockefeller, February 4, 1975.

2/ Munifacts, February 6, 1975.

notes of other governmental units, including taxable notes, were being sold at rates substantially lower than those for tax-exempt City notes; and the Federal Reserve had lowered its discount rate for member banks on February 4 from 7.25% to 6.75%, signalling the coming of easier credit. Accordingly, the Mayor could not understand how taxable notes could be sold at yields less than tax-exempt City notes. The Mayor also stated:

> There have been disturbing reports of brokers advising clients not to invest in New York City bonds and notes because of the "risk" involved. I cannot believe that persons peddling this kind of destructive advice are ignorant of the tremendous legal, constitutional and moral guarantees of repayment which back our obligations. I can only conclude that the peddlers of this nonsense are being malicious, and it is unfortunate that the investing public is so impressionable that false and misleading information can sweep the investing public like a prairie fire and this kind of sabotage and disloyalty among financial institutions tends to reduplicate itself.
>
> The financial community's leading institutions themselves not only feed on this kind of unjustified fright, but they contribute to it when they submit bids for City obligations which are wholly out of line both with the basic strength of our obligations and the actual current market developments.

The Mayor reiterated his concern for the pricing of City notes at higher yields than comparable taxable Treasury bills, and further stated:

> I think it is up to the financial community to turn this topsy-turvy situation right side up again. As I said at our meetings, I believe the financial community has a selling job to do to make the investing public see the financial strengths of our obligations.
>
> We in the City government are doing everything in our power to deal with the budget problems which the national recession - inflation created, and I believe the general public supports what the City Administration is doing. 1/

1/ Letter, Abraham D. Beame to Ellmore C. Patterson, February 6, 1975.

FRIDAY, FEBRUARY 7, 1975

David Grossman requested comments on his outline of the City's problems, which he enclosed in a letter to Frank Smeal of Morgan. 1/ The outline, labelled "draft", stated that the City's budget had increased between 10% and 15% in each of the last three years because of the wide range of services provided by the City, and not provided by other municipal governments; the rapidly increasing welfare costs (which had risen six fold in 10 years); rapid increases in wage and benefit costs of city workers; and the rapid rise in debt service. 2/ The outline stated that this growth in expenditures had been only partially balanced by growth in revenues, and that the growing gap between revenues and expenditures had been made up by short and long-term borrowing. Grossman noted that "[a]n increasing portion" of the short-term borrowing, such as over $400 million in TANS to finance uncollected real estate taxes, appeared to represent "'permanent' temporary debt, rolled over from year to year," and that "budget-balancing 'gimmicks,'" such as requiring advance payment of water and sewer charges, had resulted in an additional $150 million in rolled-over short-term debt. Also utilized since 1964 was the practice of borrowing against general fund receipts due in June of each year but not collected until after the end of the fiscal year. Mr. Grossman noted that, since Fiscal Year 1969-70, the cash gap had ranged from $92 million to $986 million, and that the gap had largely been made up by an increase in short-term debt. The outline stated that

---

1/ Letter, David A. Grossman to Frank P. Smeal, February 7, 1975.

2/ Draft, "An Outline Discussion of New York City's Budget Problems," February, 1975.

City borrowing for other than operating purposes also had increased greatly in recent years, and further stated:

> The City has also developed a number of means to issue additional debt not subject to Constitutional limitations through various public benefit corporations authorized by the State Legislature.

These included the Educational Construction Fund, the City University Construction Fund, the Housing Development Corporation, the Stabilization Reserve Corporation, and the Transit Construction Fund. While some of this debt was said to be for self-supporting projects, the back-up was the City's expense or capital budgets and claims on State aid to the City. It was also asserted that the current year budget was badly out of balance.

Grossman's outline continued:

> -- The City's plans to meet its next year problem — which have been kept secret until now — will almost certainly involve efforts to obtain major amounts of aid from the State. In light of the Governor's own budget statements, success does not appear likely.

The outline concluded that, in light of the absence of State aid and the limited capacity to cut City expenditures, the City would "almost certainly" seek to increase taxes and look toward more borrowing to meet its 1975-76 budget gap. 1/

1/ Id.

MONDAY, FEBRUARY 10, 1975

In a memorandum to David Rockefeller, copies of which were addressed to Messrs. Bergford, Labrecque, Elliott and Reed, dated February 10, 1975, Grossman stated that he anticipated a budget gap for the next year of over $1 billion, and stated that his own analysis showed a "'hard core' gap of around $900 million - 'a very difficult problem to meet.'" Grossman also stated that the City would be discussing the 1975-76 budget gap for the first time with State officials on February 12, and that Deputy Mayor Cavanagh had agreed to provide Grossman with copies of certain materials the next day. 1/

* * *

The Comptroller announced that the SRC had postponed the sale of $260 million of its BANS scheduled for February 13, because a lawsuit had been filed challenging the constitutionality of the SRC Act. 2/ The news release stated that the Corporation Counsel had advised that the suit was without merit, but that the SRC had decided to postpone the offering because of the possible adverse effect on interest rates that this suit may have had. It further stated that the suit alleged that the City had exceeded its

---

1/ Memorandum, David A. Grossman to David Rockefeller, "Progress Report — New York City," February 10, 1975.

2/ New Release, Office of the Comptroller, 75-15, February 10, 1975.

The officials of the SRC (and their City affiliation), as shown in the official sale statement, were: James D. Carroll, Chairman, James A. Cavanagh, Vice-Chairman (First Deputy Mayor), Melvin N. Lechner, Executive Director (Director of the Budget), W. Bernard Richland, Attorney and Counsel *ex officio* (Corporation Counsel), Kenneth F. Hartman, Secretary and General Counsel (Assistant Corporation Counsel), Dennis C. During, Treasurer (Analyst, Bureau of the Budget), and Alexandra Altman, Assistant Secretary and Deputy General Counsel (Attorney, Bureau of the Budget). SRC, Official Statement and Notice of Sale, January 31, 1975.

constitutional debt limit, but the Comptroller's computations showed a remaining constitutional debt capacity of $1.97 billion, and that the City intended to sell $141.44 million of bonds on February 11. 1/

TUESDAY, FEBRUARY 11, 1975

The staff committee of the FCLG met at the Chase Bank at 3:00 P.M. 2/ Present, in addition to David Grossman of Chase, were Jac Friedgut of Citibank, William Fish of Bankers Trust, Amos T. Beason of Morgan, Gene Crowley of Salomon Bros., Jean Rousseau of Merrill Lynch, Duncan Gray of Kidder Peabody, Elmer Harmon of Bowery Savings, Francis Schott of Equitable Life, Karen Gerard of Chase and William Solari of Donaldson, Lufkin & Jenrette. 3/ The meeting was opened by David Grossman, who distributed a memorandum he had prepared entitled "Areas for Analysis - the New York City Budget." The memorandum stated that the current year's budget deficit was between $400 and $600 million and the budget gap for the following year (1975-76) was estimated at between $1 and $1.5 billion. 4/

1/ News Release, Office of the Comptroller, 75-15, February 10, 1975.

2/ "Meeting of Technical Advisory Staff of Mayor's Financial Liaison Committee," attached to Memorandum, Jean J. Rousseau to Donald Regan, February 12, 1975 ("Rousseau Memorandum").

3/ Id.

4/ "Areas for Analysis - The New York City Budget," attached to letter of David A. Grossman to Ellmore Patterson, February 13, 1975.

The basic discussion at the meeting concerned what the scope of the Staff Committee's activities should be. 1/ It was agreed that the Staff Committee would begin an analysis of the City's budget problems and borrowing practices, 2/ and would work toward development of a long-range plan for the City's financial management. 3/ William Solari stated that there had been a serious lack of adequate information about New York City, and suggested that the Staff Committee consider assembling a data book of information or working on an Official Statement, disclosing information concerning the City's fiscal condition, for City debt offerings. 4/ There was a discussion of how to improve the investing public's understanding of the City's problems. Gene Crowley raised the question of whether all of the participants at the meeting, the principal underwriters in the City, would become "insiders." 5/

Francis Schott stated that the Mayor should be told to cut the 1975-76 budget gap by $1 billion, and that the participants at the meeting would help the Mayor at the federal and state level. 6/ It was decided that the "crunch"

1/ Rousseau Memorandum.

2/ Letter, David A. Grossman to Ellmore Patterson, February 13, 1975.

3/ Rousseau Memorandum.

4/ Id.; See also, Memorandum, Duncan C. Gray to Albert H. Gordon, February 13, 1975 ("Duncan Memorandum").

5/ Crowley at 38-39.

6/ Duncan Memorandum.

would come with the 1975-76 budget gap of $1.5 billion, which needed the most immediate attention, after which the long-term could be addressed. 1/

The members agreed to collect a "library" of useful working papers already available in-house and circulate a bibliography to the Committee. The next meeting of the group was scheduled for February 25 at 3:30 P.M. 2/

Ellmore Patterson wrote a letter to Alfred Brittain, III, apprising him of a letter received from Mayor Beame and the telephone call that had preceded it, complaining about the rate of interest on the last City offering. 3/

* * *

Comptroller Goldin announced the sale by the City of $141.44 million of serial bonds, at an average interest rate of 7.169%, to a syndicate headed by Chase. In the news release announcing the sale, Goldin was quoted as saying that the interest rate "'does not adequately reflect the security and quality of the City's tax-exempt obligations.'" 4/

* * *

In the evening, the Comptroller delivered an address to the National Secretaries Association. Mr. Goldin stated:

1/ Id.; Handwritten notes marked "2/11 N.Y.C. meeting."

2/ Rousseau Memorandum.

3/ Letter, Ellmore C. Patterson to Alfred Brittain, III, February 11, 1975.

4/ News Release, Office of the Comptroller, 75-16 February 11, 1975.

... I would say that budgets are conceived in illusion and dedicated to the proposition that the hand is quicker than the eye.

* * * *

But budget-making is serious business. It has become habitual with government to over-estimate certain revenues and under-estimate certain expenditures as a matter of routine.

It's a game of numbers, in order to meet the statutory requirement of a Balanced Budget. 1/

WEDNESDAY, FEBRUARY 12, 1975

The Comptroller announced that the City would sell $260 million of TANS on February 19, 1975, and that the proceeds of this sale would replace the funds which the City had expected to receive from the sale of SRC BANS, postponed on February 10, 1975. 2/

* * *

The Comptroller issued another news release which contained the text of his speech to the National Secretaries Association delivered the previous evening. 3/

1/ Address by Harrison J. Goldin, National Secretaries Association Dinner Meeting, February 11, 1975.

2/ News Release, Office of the Comptroller, 75-18, February 12, 1975.

3/ News Release, Office of the Comptroller, 75-17, February 12, 1975.

THURSDAY, FEBRUARY 13, 1975

In a statement before the Board of Estimate and City Council Finance Committee, the Citizens Budget Commission warned that the City's physical plant was deteriorating because of the fiscal practice of using capital budget funds to pay for operating expenses. 1/ It noted:

> The rescindment process has made more construction money available for high priority projects necessary for the maintenance of the city's capital stock. However, the continued diversion of capital funds to the operating budget has resulted in a level of true capital funding too low to prevent the city's infrastructure from deteriorating at a rate faster than it is being replaced. For example, the rate of water main replacement indicated in this proposed budget implies that the pipes are expected to last 145 years! Street resurfacing is done at a rate still 30 percent short of what is necessary to stay even! This same problem exists in varying degrees for all the other public facilities: parks, sewers, and so on. This may soon present a hazard to the city's very economic base.
>
> The city has two options. It can either continue to use the capital budget as an escape route for operating expenses and in so doing further damage the infrastructure of the city, accelerate the growth of future debt service payments in the expense budget, and add some 15 percent to the cost of operating expense financed this way. Alternatively, City Hall can slow the growth of the capital and expense budgets and begin to recover from our past fiscal excesses. The capital budget will have to be kept low for a number of years in order to produce savings in debt service paid from future expense budgets. The Mayor has rightly kept the proposed debt incurred below the constitutional limit. But the city must go further by phasing out such borrowing over a five-year period. The city then could use part of the borrowing power thus freed for capital construction purposes.

SATURDAY, FEBRUARY 15, 1975

The Mayor announced that after the receipt of increased revenues and other final measures, the City would have a budget gap for fiscal 1975-1976 of $883.9 million. "This gap," stated the Mayor, "is the

---

1/ Statement of Roderick L. O'Connor, President CBC, to the Board of Estimate and Finance Committee of the City Council on the Executive 1975-76 Capital Budget, February 13, 1975.

result of a carry-over of part of the inherited $1.5 billion gap which was not closed by recurring revenues last year, of the inflation and recession of 1974-1975 and of new requirements for 1975-1976." He asserted that "increased revenue from existing and anticipated sources and other fiscal measures will produce $800.6 million," leaving an $883.9 million gap, which he proposed to fill by additional federal and state aid. 1/

SUNDAY, FEBRUARY 16, 1975

The Comptroller issued a report addressed to the Mayor, the Board of Estimate and the City Council, and a news release stating that two reserve funds (the tax deficiency account and the Rainy Day Fund), maintained for the purpose of helping the City through fiscal difficulties, had been depleted and would require an allocation of $123 million in the next budget. In the same report, he stated that in the next expense budget the City would be required to provide over $2 billion for debt service, an increase of $212 million over the amount appropriated for the current fiscal year. 2/

* * *

An article in The New York Times on the Mayor's report of the previous day reported that various legislative sources had expressed "skepticism mixed with caution" as to whether the City would receive

---

1/ News Release, Office of the Mayor, 74-75, February 16, 1975.

2/ Report of the Comptroller, City of New York, February 15, 1975; News Release, Office of the Comptroller, 75-19, February 16, 1975.

the aid it desired from Albany and Washington. 1/

TUESDAY, FEBRUARY 18, 1975

In a press release, the City's Finance Administrator, Ivan Irizarry, said that printed reports of the City's real estate tax arrears, appearing over the past weekend, tended to be misleading and needed clarification. Of the reported $460 million in real estate tax arrears, $356 million was chargeable to prior fiscal years, $43 million was an error and $61 million represented the true amount due and uncollected on the first half of the current year's total levy. Mr. Irizarry stated:

> Experience has shown that at the end of the fourth year, arrears of taxes due and uncollected are only about one percent of the levy, so the amounts needed for redemption of any outstanding tax anticipation notes out of future budgets has been minimal.
>
> Of the prior year's delinquencies of $356 million, late collections continue to reduce that figure. Frequently owners pay up when In Rem foreclosure proceedings are started.
>
> For the quarterly payments due in January 1975, figures as of February 10, 1975, show that collections are running about 85.8 percent of the levy, or 2.8% behind last year's levels for the same period. Additional payments for this quarter, as well as for the first two quarters, continue to come in during the balance of the fiscal year. 2/

1/ The New York Times, "1.68 - Billion Gap Projected in City Expense Budget," February 16, 1975.

2/ News Release, Finance Administrator, February 18, 1975.

* * *

Roderic O'Connor, President of the CBC, issued a press release stating that the $1.68 billion expense budget gap projected by the Mayor for 1975-1976 was due to "a decade-old policy of spending in excess of revenues." In addition, he asserted, the proposed increase in the real estate tax rate was a "brutal imposition on what is a very sick sector of the city's economy." The CBC supported the Mayor in his attempt to obtain additional Federal and State aid, but did not agree with the Mayor's contention that the only alternatives to additional State or Federal aid were deep service cuts or sharply higher taxes. The Mayor must freeze wages and city jobs, argued the CBC. The future of the City was said to be at stake. 1/

* * *

The New York Times published an editorial entitled, "City Hall Fantasia," directed towards the Mayor's announcement of a $1.68 billion deficit for fiscal 1975-76. The City was described as facing "a fiscal crisis from which there can be no escape without drastic cuts in personnel and services and substantial increases in taxes." The editorial continued:

> Incredibly, there is little indication in the Mayor's budget presentation so far that Mr. Beame, once widely hailed as a tough fiscal expert, is prepared at last to grapple with these hard realities. His plan for closing an anticipated $1.68 billion deficit with the help of nearly $900 million in hypothetical new state and Federal aid leaves knowledgeable observers gasping in disbelief.

* * * *

1/ News Release, CBC, February 18, 1975.

> It is time the Mayor and his aides came down to earth and offered the citizens of New York a realistic budget, a budget that reflects the still substantial capacity of this city to support a reasonable level of city services, a budget that begins to reverse the long-term reliance on borrowing, and hocus-pocus, that have reduced the city to its present plight. 1/

WEDNESDAY, FEBRUARY 19, 1975

Comptroller Goldin announced the sale by the City of $260 million of TANS at an average interest rate of 7.0783%, the lowest rate on City short-term notes in eight months. A syndicate headed by Bankers Trust purchased $100 million of the TANS at 6.455%, while the remaining $160 million were purchased by a syndicate headed by Chase at 7.18%. 2/

THURSDAY, FEBRUARY 20, 1975

The New York Times reported that the Office of the Comptroller was seeking an amendment to the City Charter to obtain $245 million for an imminent "cash flow emergency." The amendment would permit the City's sinking funds to purchase $200 million in City securities originally purchased by the municipal pension funds the preceding January. The pension funds would then use the money, augmented by $45 million in cash, to purchase $245 million in new City securities. 3/

*　　*　　*

Representatives of the FCLG and its staff attended a meeting with City officials including Mayor Beame, James Cavanagh and Melvin Lechner. The meeting began, as noted by Jean Rousseau of Merrill Lynch, 4/ with a presentation by Melvin Lechner

---

1/ The New York Times, Editorial, "City Hall Fantasia," February 18, 1975.

2/ News Release, Office of the Comptroller, 75-20, February 19, 1975.

3/ The New York Times, "Rate on City's Notes Drops to the Level of 8 Months Ago," February 20, 1975.

4/ Memorandum, Jean J. Rousseau to Donald T. Regan, February 27, 1975.

concerning the 1975-76 budget. He estimated that a net gap of $883.9 million would remain after the Mayor completed economies totalling $714 million. The Mayor then described his plans to organize a national lobby to urge the assumption of the welfare burden by the Federal Government. He also indicated that he anticipated meeting with 25 groups to explain to them the problems encountered with the budget. Mr. Beame expressed a distaste for additional short-term borrowing to meet the aforementioned budget gap, stated his unwillingness to engage in this practice, and said he expected to close the gap with Federal and State assistance alone. Finally, he described various positive aspects of the City's financial outlook.

Ellmore Patterson raised the question of the interest rate on City borrowings and Mr. Beame again accused the underwriters of unfair treatment. The Mayor agreed to work towards attaining a more favorable rate by improving the flow of information to the banks. Mr. Spencer 1/ mentioned the rising curve of New York City expenditures as opposed to the much slower growth of revenues and the recent tendency to close the growing gap through short-term borrowing, and cited this as having much to do with the City's higher interest rates because of investor concern. The Mayor asked the attendees for help in selling the City's story to the investing public. 2/

1/ Mr. Spencer was the President of Citibank.

2/ Memorandum, Jean J. Rousseau to Donald Regan, February 27, 1975.

Jean Rousseau of Merrill Lynch, in his notes of the meeting, wrote:

> As forthcoming and open as it [the meeting] was, the Mayor and his aides didn't mention the City's prospective one day cash shortfall and the legislative amendment then in process to let them close it by having the Sinking Fund invest in additional City notes. 1/

* * *

David Grossman sent a letter to the members of the FCLG Staff Committee. Enclosed was a copy of a letter and attachments he had previously sent to Ellmore Patterson apprising him of the Staff Committee's activities and seeking guidance as to the direction that this Committee should take. This letter to Patterson had attached a copy of Grossman's "Areas for Analysis" memorandum and a membership list of the Staff Committee. A review of the November 8, 1974 presentation of the Citizens Budget Commission to the Mayor's Council of Economic and Business Advisors was included in this package as was a copy of the Mayor's recently issued statement with regard to the budget gap for fiscal year 1976. 2/

* * *

In a Citibank memorandum concerning New York City's financial difficulties, 3/ it was reported that, over a 5 year period, a persistent pattern of overestimates of budget revenues had developed, particularly

---

1/ Id.

2/ Letter, David Grossman to Members of the Budget Committee, FCLG, February 20, 1975.

3/ Friedgut Ex. 2.

as to the sales tax, OTB revenues and business tax collections. In fiscal 1973-74 the budget had been balance by some $300 million of borrowed funds, in part through RAN issuances and from a waiver of a legally-required City payment to its Stabilization Reserve Fund. The memorandum stated: "In the long run, the City's tax base should expand only modestly." The memorandum noted that:

> The City has exhausted a significant portion of its potential financial flexibility. One example is the "Tax Appropriation and General Fund Stabilization Fund," commonly referred to as the "Rainy-Day Fund," which is supposed to be financed by annual appropriations of roughly one half of one per cent of the Expense Budget. In the best of circumstances, the maximum funded level provided for — roughly $500 million, today -- probably is inadequate as a source of meeting budget gaps. However, even this buffer is now gone — the consequence of seven years during which the requirement for replenishment has been waived as one means of closed Expense Budget gaps.
>
> A second potential means of filling these gaps is through long-term borrowing. The State constitution limits such borrowing to financing items with long-term durability and usefulness. Technically, this excludes long-term borrowing as a way of meeting Expense Budget shortfalls. The City has not directly circumvented this constraint. However, it has secured a stretching of definitions. This includes outlays for such items as textbooks and vocational training. This device has allowed a shifting of some $700 million of current expenses to the capital accounts in fiscal 1975. This increases future debt-service charges and reduces the City's ability to finance genuine capital projects.
>
> A principal device to meet shortfalls in recent years is short-term borrowing in anticipation of Federal and state aid funds and borrowing in anticipation of future tax receipts.
>
> * * * *
>
> The issuance of debt for reasons other than capital projects puts the City in an increasingly vulnerable position. This type of debt forces the City to enter the capital markets repeatedly and regardless of market conditions, for funds which are required immediately. Additionally, this type of debt is used to make immediate current outlays based on future revenue inflows. The City's future is being mortgaged off.

The memorandum restated the Mayor's estimate of a $900 million gap for fiscal 1976 and concluded by stating:

> The Mayor is opening a new round of an old game - projecting a substantial gap in the forthcoming budget. As this game is usually played, the City Administration forecasts conservative increases in revenues and liberal growth in expenditures. This strategy is designed to improve the City's case for new state and federal aid and for higher taxes, as well as to prepare the public for a lower level of public services than many people are demanding. It also helps to scale down demands of program administrators and municipal unions. Thus, none of the Mayor's 1976 numbers should be taken too seriously at this point. They are the opening notes of the 1976 budget waltz. 1/

* * *

Members of the Economic Development Council, George Champion, Walter Wriston, Richard Shinn, and Robert Hatfield, met with Mayor Beame to discuss the City's financial crisis. Wriston subsequently told Jac Friedgut, a Citibank Vice President, who in turn reported to William Spencer that, at the meeting, the Mayor was told that "today was the day that the money ran out." 2/ Friedgut also reported to Spencer that, at the same meeting, the Mayor was told that the City's adoption of a five year plan was "absolutely essential." 3/ Mr. Champion suggested that the City put managers in place, give them authority and make them accountable. The Mayor said he wished to discuss the matter further. 4/

FRIDAY, FEBRUARY 21, 1975

A New York Post article reported that the City Council was expected to approve a bill permitting the City's sinking funds to acquire $200 million in City securities from the municipal employee's pension funds. The pension funds would then add $45 million in cash to the $200 million and purchase newly issued City securities. The article stated that this money was needed by the

---

1/ Friedgut Ex. 2.

2/ Friedgut Ex. 1; Friedgut at 42.

3/ Friedgut Ex. 1; Friedgut at 43.

4/ Memorandum, William G. Herbster to Walter B. Wriston, February 20, 1975.

City to meet its payroll the following week. 1/

*   *   *

Comptroller Goldin testified before the City Council Legislation Committee in support of an amendment to the City Charter which would permit the City's sinking funds to purchase City securities at par. Goldin told the Committee that he and the Mayor had conferred on the matter of using sinking fund assets to purchase new offerings of City securities and that the Mayor had originally proposed the City Charter amendment when the Mayor was Comptroller. Goldin asserted that in purchasing City securities for the sinking funds he would meet his "fiduciary responsibilities" to the sinking funds and at the same time save money for the City. 2/ (Ten days before Goldin's testimony, William Scott, Third Deputy Comptroller, directed John Reilly, Principal Investment Officer (Bonds), to sell $200 million of BANS from the City's pension funds to the City's sinking funds.) 3/

MONDAY, FEBRUARY 24, 1975

The clearing house banks negotiated a "bridge loan" of $170 million with the City in the form of RANS at a 6.5% rate of interest. 4/ The clearing house banks, acting as a syndicate, sustained a loss in connection with the transaction. 5/ These RANS were dated February 24, 1975 to mature on February 28, 1975 but were called by the City on February 25, 1975. 6/ A legal opinion as to the validity of the notes was issued by Wood Dawson. 7/

1/ New York Post, "City Needs Payroll Cash," February 21, 1975.

2/ Statement of Comptroller Harrison J. Goldin to the City Council State Legislation Committee, February 21, 1975.

3/ Memorandum, William Scott to John Reilly, February 11, 1975.

4/ Letter, Abraham D. Beame and Harrison J. Goldin to Chase Manhattan Bank et al., undated.

5/ Letter, Anthony J. Botti to Joseph Isolano, December 5, 1975.

6/ Letter, Anthony J. Botti to Joseph Isolano, October 14, 1975.

7/ Letter, Wood Dawson to Chase Manhattan Bank et al., February 24, 1975.

* * *

By memorandum dated February 20, 1975, William G. Herbster of Citibank advised Walter B. Wriston, Chairman of Citibank, of the points which should be made to the Mayor at the meeting on February 24, 1975 of the Council of Business and Economic Advisers. 1/ Herbster stated that the Mayor should be told that the "market is trying to tell the city something," and that the recent more favorable rates of interest had been a reflection of confidence brought about by the formation of the FCLG, the lessening of the public debate between Goldin and Beame and the beginning of efforts by the City to cut costs. The memorandum also stated that the high rates of interest for City securities reflected the deficit for fiscal 1976, the absence of a strong move towards economies, and the potential effect of possible increased taxes on the tax base and revenues.

The memorandum suggested that Mayor Beame be advised to reduce the budget gap to nil over a 3 to 5 year period, to bring in the "best" people in key management positions, to reduce significantly the amount of expense items in the capital budget, and to create a "Hoover Commission" for City government. It was additionally recommended that the members of the Council advise the Mayor to:

(1) reduce the number of City workers;

(2) increase productivity;

(3) institute certain service cutbacks, such as the elimination of costly unproductive training programs;

(4) institute certain changes to bring these charges closer to the actual cost of the services, _e.g._ increase the subway fare; and

(5) make major reductions in capital expenditures which mandate future operating costs _e.g._ the CUNY building program. 2/

1/ Memorandum, William G. Herbster to Walter B. Wriston, February 24, 1975.

2/ _Id._

TUESDAY, FEBRUARY 25, 1975

The Daily News, The Daily Bond Buyer and The New York Times reported an address given by Comptroller Goldin to the Queens Chamber of Commerce on Monday, February 24. The articles stated that Goldin warned against relying on massive new Federal and State aid to fill an $880 million gap which the Mayor expected in the 1975-76 expense budget. 1/ The Comptroller was quoted as saying:

> We cannot continue to depend on massive Federal and State assistance to erase next year's deficit, when all indicators point clearly toward something considerable [sic] less. We must get on with the task of effecting the stringent economies in operation which are as essential as they are painful. 2/

* * *

In preparation for a luncheon meeting with Mr. Beame, Jac Friedgut of Citibank prepared a "crib sheet" for use by Mr. William Spencer, President of Citibank. Mr. Friedgut pointed out the growth of the City's expense budget in the past 15 years, showing that City expenditures for social services had increased nine-fold in this period while the total budget had increased five-fold. The cost of education was said to have increased six-fold despite a decrease in public school enrollment. The growth in debt service was due, to some extent, to interest and amortization payments on a steadily rising list of operating expenses in the capital budget. 3/

1/ Daily News, February 25, 1975, p. 26; The New York Times, February 25, 1975, p. 39; The Daily Bond Buyer, February 25, 1975, p. 23.

2/ The Daily Bond Buyer, p. 23.

3/ Friedgut Ex. 4. (Memorandum, Jac Friedgut to William Spencer, February 25, 1975).

The conclusion drawn in the memorandum was that a tough program of holding down expenditures was a necessity for the City. Five immediate and specific suggestions included in this document were:

(1) an intensive review of all City programs and a cutback in low priority items;

(2) a freeze on jobs;

(3) a joint effort by the City and the business community to convince the Federal and State governments to assume more of the expense burden;

(4) an increase in productivity; and

(5) a reduction of debt and an immediate termination of the issuance of debt for operating expenses.

Mr. Friedgut concluded:

> These proposals will, not surprisingly, be unpopular with the Mayor. He will complain that he has no authority over such leviathans as the municipal unions, the Board of Education, the hospitals corporation, and other quasi-independent agencies. Such a defense is both true and not true. If the situation is critical enough (which it is) and if the Mayor is tough enough (which he might be) many things can be done even if they are technically not possible. The time is now. 1/

The Staff Committee of the FCLG met at Chase. The agenda for the meeting indicated, among other items, that the following matters would be discussed: (1) a report on the status of policy guidelines for the Committee; (2) the City budget gap for fiscal 1976, including the probable timing of the budget cycle, a preliminary estimate of the budget, and the nature and difficulty of the budget problem; and (3) possible work projects for the Committee, including the market outlook for municipal

---

1/ Id.

debt in general and City debt in particular. 1/

At the meeting, the discussion concerned, among other things, the fiscal problems of the City, the preparation of an official statement and prospectus, the general municipal debt issue and the fact that there were a large number of City short term securities in the market. 2/ The judgment of the Committee was that the City's expense budget for 1975-76 might be $12.9 billion. 3/ In a memorandum from Friedgut of Citibank to Spencer, the former reported that it was the feeling of various members of the Committee that: "the Mayor's emphasis on presenting the 1975-76 budget <u>gap</u> rather than the actual dimensions of the budget itself, shows that he wanted to get people thinking about how to close the gap rather than the more basic issue of why the City insists on living beyond its means." 4/ Frank Schott of Equitable, Karen Gerard of Chase and Friedgut insisted that the real issue was the need for the City to reduce expenditures. Mr. Grossman did not disagree but felt that such an issue was the province of the policy level committee of the FCLG. Friedgut ended his memorandum on the meeting by stating that the staff committee and the CBC should work in concert "to prepare a unified analysis which would

---

1/ Memorandum entitled Tenative Agenda for Staff Committee, February 25, 1975.

2/ Solari at 29; D. Grossman at 55, 57.

3/ Friedgut Ex. 3.

4/ Id.

clearly demonstrate the absolute inviability of the City if it continued on its present course." 1/

* * *

BANS in the amount of $248,980,000 were purchased by New York City pension funds at a rate of 6.455%. 2/ Emergency legislation, passed the previous day, permitted certain City sinking funds to purchase $200 million in outstanding City obligations from the pension funds, thereby providing the money necessary to purchase the BANS. Prior to passage of the legislation, Section 275(b) of the Local Finance Law precluded such a purchase by the sinking funds if sinking fund obliga-ions were available at a price below par. With respect to the Transit Unification Sinking Fund, Wood Dawson advised the City that the requirement that the fund not purchase City obligations when transit unification obligations were available at less than par, was a part of the contract with holders of the obligations and the change in the legislation would not affect this covenant. 3/

1/ Id.

2/ As noted above at p. 101, the bridge loan of $170 million made by the banks on February 24, 1975 was repaid on February 25, 1975.

3/ As noted in the section of this report entitled "Role of Bond Counsel" at p.23, of approximately 100 City bond offerings since the 1930's, Wood Dawson has acted as bond counsel with respect to all but two or three.

WEDNESDAY, FEBRUARY 26, 1975

David Grossman mailed an updated copy of a memorandum entitled "Areas for Analysis" to Ellmore Patterson stating that it represented a reasonable work program for the Staff Committee of the FCLG to undertake. 1/

* * *

The Daily News printed an editorial entitled "Fiscal Folderol" concerning passage of the emergency law permitting the purchase of City securities by the City's sinking funds. The editorial stated:

> This is just the latest in a series of financial gimmicks City Hall has concocted to plug the deficits created by its inability to curb spending.
>
> We have reached the sad state where the municipal administration is reduced to budget-making based on wishful thinking - looking to Washington and Albany for a $900 million aid windfall.
>
> Comptroller Harrison Goldin warns that those expectations are pure pipe dreams, and urges that the City awake to the reality that drastic expense cutbacks are required.
>
> That may be the most painful answer, but in the long run it is the only one that will enable New York to haul itself out of the hole the politicians have dug for us. 2/

Bankers Trust representatives informed members of their syndicate that White & Case, bond counsel, had discovered a problem with regard to the February 19 sale of $260 million of TANS which was to have had a closing date of February 28. 3/ The February 19 sale had been

---

1/ Memorandum entitled "Areas for Analysis," February 26, 1975.

2/ Daily News, February 26, 1975, p. 41.

3/ Eide Ex. 3

to two syndicates, one headed by Chase and one by Bankers Trust. Chase had retained the law firm of Wood Dawson as bond counsel while Bankers Trust had retained White & Case to act in that capacity. 1/ This was the first City underwriting in which White & Case had been engaged as bond counsel. 2/

The members of the managerial level of the Bankers Trust syndicate were told by Bankers Trust that, based on figures provided to White & Case by an "'accountant from NYC,'" it appeared that the City had exceeded its debt limit for TANS by approximately $112 million. 3/ The managers were further informed that White & Case was not willing to give a clean legal opinion for the issue at that time, but that several possible solutions were being discussed, including the possibility of the City buying back $112 million worth of notes from the Street. 4/ The problem was that White & Case had been offered documentation as to the outstanding real estate taxes as of January 30, 1975, but the firm desired more current figures. 5/

1/ Altman at 88.

2/ Epley at 24.

3/ Eide Ex. 3.

4/ Eide Ex. 3.

5/ Epley at 115-16.

Lawyers from Wood Dawson met with lawyers from White & Case at the office of Wood Dawson. During at least part of this meeting, City officials from the Office of the Comptroller were present. 1/ The problem with which White & Case was concerned was discussed. 2/

1/ Love at 199.

2/ Love at 197-200.

THURSDAY, FEBRUARY 27, 1975

On February 27th, a meeting of the Bankers Trust syndicate occurred. In attendance were representatives from Bankers Trust, Chemical, Morgan, Merrill Lynch, Bank of America and Salomon Bros. Marion J. Epley of White & Case was also present. 1/ Epley reported the problems encountered in trying to issue a clean legal opinion for the February 19 TANS offering. The first set of figures provided by the City through Sol Lewis, the City's Chief Accountant, indicated that the City did not have receivables to cover $112 million of the proposed TANS and would be exceeding its debt limit. 2/

On this day, however, the Comptroller's office provided Bankers Trust with a second set of figures which indicated that there were sufficient revenues to support the TANS and that the previous figures were not authorized. 3/ Advised of this information, White & Case informed the syndicate that they were willing to issue a clean legal opinion if the City would (1) certify the accuracy of the second set of figures and (2) establish two closings with the Bankers Trust syndicate closing first. 4/ (The latter requirement related to the fact that the Bankers Trust syndicate had purchased $100 million of the $260 million TANS offering. Since coverage of only $112 million of the offering was then in doubt, there appeared to be

---

1/ Sanford at 45-50; Eide Ex. 2.

2/ Eide Ex. 2; Eide Ex. 3; Sanford at 49-50.

3/ Eide Ex. 3.

4/ *Id*.

sufficient receivables to cover the Bankers Trust portion of the offering, provided they received the first $100 million of TANS and closed before the Chase syndicate.) 1/

During this period of time, Mr. Sabatine advised Mr. Epley that Wood Dawson would issue a clean opinion with respect to the TANS offering based on information current as of January 30. 2/ Indeed, Sabatine took the position that Wood Dawson affirmatively did not want any information more current than January 30. Further, according to a memorandum written by Epley summarizing a telephone conversation later on February 27 with Mr. Sabatine, the latter observed that:

> (1) In municipal financings, everything is always "'OK unless you ask questions.'"
>
> (2) Failures to analyze statutes or obtain documentation are not significant in municipal financings since there is "generally plenty of fat all over the place." 3/

The Bankers Trust syndicate held a second meeting later on the afternoon of February 27 to bring the joint managers up to date on White & Case's progress in seeking to obtain more current information on the amount of outstanding real estate taxes. 4/ In response to questions from White & Case, Comptroller Goldin had previously stated that he would provide a "cold comfort" letter to White & Case indicating that the $100 million issue bought

---

1/ Eide Ex. 2 and 3.

2/ Epley at 116.

3/ Memorandum, White & Case, February 28, 1975 ("Epley Memorandum").

4/ Sanford at 49-54.

by the Bankers Trust syndicate was within the legal limits. Mr. Goldin also indicated that he would send a copy of the letter to Wood Dawson, counsel to the Chase note syndicate. A representative of Wood Dawson told Mr. Epley that if Wood Dawson were to receive such a "cold comfort" letter, they would be unable to issue a clean legal opinion. In the absence of such a letter, they would issue a clean legal opinion based on their interpretation of the Local Finance Law and the practice for several years of accepting figures that were several weeks old. 1/

Charles Sanford of Bankers Trust chaired the syndicate meeting and polled the syndicate members as to whether they wished to use White & Case or Wood Dawson as bond counsel. The syndicate members voted to continue with White & Case. The syndicate members also instructed Mr. Sanford to inform the Chase syndicate that at this time, the Bankers Trust syndicate would not proceed to accept delivery of the notes. 2/ Mr. Sanford then contacted Thomas Labrecque of Chase who was chairing the Chase syndicate meeting and advised him of the Bankers Trust syndicate decision. Sanford also contacted Comptroller Goldin and relayed the same information to him. Goldin asked Sanford and Labrecque to come to a meeting at the Comptroller's office at 9:30 that evening. 3/

1/ Eide Ex. 2.

2/ Id.

3/ Id., Epley Memorandum at 5.

A log of the Comptroller's incoming telephone calls indicates that Mr. Goldin spoke with Mr. Sanford at 3:15, 3:40, 5:25 and 6:25, and with Mr. Labrecque at 6:40. 1/

Mr. Sanford went to the meeting that evening with the Comptroller with the impression that the meeting would be on an informal basis with few people present. 2/ Instead, in addition to Goldin, W. Bernard Richland (the City's Corporation Counsel), James Greilsheimer (Chief Litigating Attorney of the Corporation Counsel's office), William Wood (counsel to the Comptroller), Sidney Scher, William Scott, Sol Lewis, and several others from the Comptroller's office were present. In addition, Steven O'Grady of Bankers Trust, John Devine of Chase, and Leroy Love of Wood Dawson were in attendance. 3/

The meeting began with Goldin stating that the City was prepared to go forward with the offering. Epley responded by saying that based on figures provided by Sol Lewis, and his firm's reading of the statute (Section 24 of the Local Finance Law which relates to the requirement of a sufficient amount of tax receivables) "in order to render a clean legal opinion, it would be necessary to obtain reasonable satisfaction as to the amount of tax collections subsequent to January 30." 4/ The Comptroller answered that he could only certify figures

---

1/ Comptroller's Telephone Log, February 27, 1975.

2/ Sanford at 60.

3/ Love at 208; Epley at 92; Lewis at 132-33; Epley Memorandum at 5.

4/ Epley Memorandum at 6.

that were available, rather than estimates, but that the books of the City were open to examination by White & Case. 1/ The main question, according to Epley, was whether there were sufficient uncollected taxes to cover this issue of $260 million of TANS. 2/ Leo Sabatine suggested that White & Case examine the J-73's (the daily postings of tax receipts); Goldin and Sol Lewis stated that this information was highly unreliable, and Lewis said that he did not know how current the information was. Goldin stated that he would attempt to learn the current status of the postings. 3/

The Comptroller and the City Corporation Counsel stated that this request for more current information by White & Case was unprecedented. 4/ In response, concern was expressed that, in view of the recent default of the Urban Development Corporation ("UDC") on its debt securities, underwriters should be reviewing new and different types of information than had been previously requested. 5/

The Corporation Counsel, Mr. Richland, stated that this request by White & Case represented a change in procedure and there was a possibility of suit by the City against the underwriters for breach of contract if they should refuse to go through with the sale. 6/ Mr. Epley responded that the firm was hesitant to provide a clean legal opinion absent reasonable

---

1/ Goldin at 55, 60-61, 111-12; Lewis at 132; Eide Ex. 2.

2/ Epley Memorandum.

3/ Id. at 7-8.

4/ Id. at 8.

5/ Goldin (August 28, 1976) at 58.

6/ Sanford at 60-61; Epley Memorandum at 6.

satisfaction as to the amount of tax collections which would occur after January 30. 1/ If the data provided by the City would adequately answer the question posed by this requirement, White & Case would issue their opinion. 2/

A recess was called at 11:20 P.M. after which the meeting continued. It was agreed that at 9:00 the following morning, representatives of White & Case would go to the Comptroller's office to examine the J-73's. 3/

During the day, there were also several conversations between representatives of the firms of White & Case and Wood Dawson concerning the problem of issuing a clean legal opinion for the notes purchased by the Bankers Trust syndicate. 4/

* * *

The Comptroller announced in a press release that the City would sell two issues of BANS, totaling $537,270,000, on Thursday, March 6, 1975. 5/

FRIDAY, FEBRUARY 28, 1975

The next morning, representatives from White & Case went to the Comptroller's office to examine the J-73 forms. After some delay, J-73's were

---

1/ Epley Memorandum at 6.

2/ Id. at 7.

3/ Eide Ex. 2.

4/ Epley Memorandum.

5/ News Release, Office of the Comptroller, 75-22, February 27, 1975.

shown to the representatives and they proceeded to examine the available records. 1/

The Bankers Trust syndicate assembled in the early morning and discussed the events of the prior evening. Mr. Epley related to the syndicate the difficulties in acquiring the requested information at the Comptroller's office. He stated that the City was now prepared to certify figures as of February 6, 1975, but this was still not sufficiently current. White & Case was said to have decided not to issue their legal opinion because they were unable to state that, according to City documents, there were adequate uncollected taxes to cover the issuance of these TANS. 2/

It was unclear what course of action would be taken by the Chase syndicate. 3/ The Bankers Trust syndicate agreed not to accept delivery of the notes based on the lack of a legal opinion by White & Case and then discussed how to handle this decision when it was made public. It was agreed that a statement would be made only in reaction to statements by the City. If the City persisted in the charge that the syndicate breached a legal contract, the syndicate would respond by stating that the City was unable to demonstrate that the notes did not exceed legal limits for this type of borrowing. 4/ Charles Sanford of Bankers Trust telephoned the Comptroller and informed him that the syndicate would not take delivery of the notes.

1/ Lewis at 139-40.

2/ *Id.*; Eide Ex. 2.

3/ Labrecque at 206.

4/ Eide Ex. 2.

Similarly, the Chase syndicate advised the Comptroller that they, too, would not accept delivery of the notes. 1/

* * *

In the interim, the Comptroller, through a spokesman, issued a press release stating:

> Contrary to inaccurate reports which have been circulated, there is no question concerning the sufficiency of City tax revenues to meet all obligations including the February 19th offering. The certainty of repayment is in no way an issue in the deliberations now taking place. 2/

* * *

During conversations between Sanford, Labrecque, Goldin and other City officials, it was discussed that if the $260 million TANS offering did not go through, the City would require an alternative source of cash. 3/ The City and the clearing house banks agreed that the banks, acting as a syndicate, would purchase $140 million of RANS, dated March 4 and maturing on March 20, 1975, as a bridge loan. 4/

* * *

The log of the Comptroller's incoming telephone calls indicates that at 9:30 A.M., the Comptroller spoke with Mr. Labrecque of Chase and with Mr. Sanford of Bankers Trust. Mr. Sanford also spoke to Mr. Goldin at 10:15 A.M. and 1:25, 1:45 and 5:45 P.M. Mr. Labrecque spoke to Mr. Goldin at 1:40 and 5:35 P.M. 5/

* * *

1/ Id.; Labrecque at 206.

2/ News Release, Office of Comptroller, 75-23, February 28, 1975.

3/ Labrecque at 207-08; Eide Ex. 2.

4/ Eide Ex. 2.

5/ Comptroller's Telephone Log, February 28, 1975

The Comptroller published Notices of Sale with respect to two issues of BANS totaling $537.27 million. 1/ The Notices of Sale contained the following language:

> Notes will be general obligations of The City, all the taxable real property within which will be subject to the levy of ad valorem taxes to pay the said Notes and the interest thereon, without limitation as to rate or amount. Payment of debt service shall be the first lien on all The City's revenues. The State Constitution requires The City to pledge its faith and credit for the payment of the Principal of the Notes and the interest thereon.

SATURDAY, MARCH 1, 1975

Articles appeared in The New York Times, the New York Post, and the Daily News, among other newspapers, concerning the cancellation of the sale of $260 million in TANS. In the Times article, Comptroller Goldin was quoted as saying that the cancellation came about because of "a sudden demand by the underwriters, unprecedented in the history of the city, for data that could not physically be compiled, checked and verified in the short time available." Representatives of Chase and Bankers Trust were quoted as stating that the cancellation was the result of the City's failure to demonstrate that the contemplated borrowing was within its borrowing limits. The Comptroller estimated that, through January 31, 1975, $409 million in real estate taxes were uncollected. In the same article, Finance Administrator Ivan Irizarry was reported as stating that most of that money [$409 million] was from past fiscal years and that current uncollected real estate taxes were only about $60 million. The article quoted the Comptroller as stating:

> It is completely inaccurate to report or imply that there's any question concerning the sufficiency of tax revenues to meet all obligations, including the notes which are the subject of today's report [February 28]. 2/

1/ Notices of Sale, with respect to $387,270,000 and $150,000,000 of Bond Anticipation Notes, February 28, 1975.

2/ The New York Times, March 1, 1975, p. 29.

In the Post article, Mayor Beame and Comptroller Goldin were reported to have stated that the City had no immediate cash problems and that future contemplated borrowings would be more than sufficient to meet New York's obligations on its upcoming March 14 payroll. 1/ The Daily News article reported that the offering was cancelled by Goldin after Bankers Trust had refused to take delivery of the notes and that Chase had taken no action before Goldin cancelled the entire sale. 2/

SUNDAY, MARCH 2, 1975

A Sunday New York Times article, entitled "Fiscal Adversity Makes Beame and Goldin Strange Bedfellows," reported that Comptroller Goldin had revised his budget deficit figure for 1974-75 twice since his December estimate, but the Comptroller had refused to make his latest estimate public in an attempt to avoid a confrontation with Mayor Beame. The cooperation between the Mayor and the Comptroller was described as resulting from the deteriorating fiscal foundation of the City and their view of the banks as the common adversary because the banks had extracted high interest rates from the City and challenged the soundness of the City's notes. 3/

MONDAY, MARCH 3, 1975

The Daily Bond Buyer printed an article on the TANS cancellation which began:

1/ New York Post, March 1, 1975, pp. 3, 10.

2/ Daily News, March 1, 1975, p. 5.

3/ The New York Times, March 2, 1975.

> Responding to reports that New York City may have exceeded its borrowing limit for tax anticipation notes when it sold $260 million tax anticipation notes on February 19, Comptroller Harrison J. Goldin late Friday announced that the sale has been cancelled. 1/

Mr. Goldin was reported to have stated that the sale was cancelled because of a sudden unprecedented request for information which could not be collected before Friday's settlement date. The article stated that the underwriters had requested the amount of real estate taxes collected for February as well as the amount of such taxes due but uncollected. The aborted TANS offering was described as being a replacement for an offering of a similar amount of notes of the SRC that was to have taken place on February 13 but which had been postponed. 2/

* * *

Moody's revoked its rating on the aborted TANS issue. 3/

* * *

Jean Rousseau of Merrill Lynch addressed a memorandum to Roger Birk, President of Merrill Lynch, concerning the City's short-term financings. Rousseau reported that the sale of $260 million of SRC notes had been prevented by a lawsuit in early February. He said that the City then obtained legislation permitting its sinking funds to buy outstanding City notes from the City's pension funds and that the pension funds subsequently purchased a new issue of City notes, which replaced the cancelled SRC offering. Rousseau also reported that the closing on the $260 million TANS offering of

---

1/ The Daily Bond Buyer, March 3, 1975, p. 1.

2/ Id.

3/ Moody's Municipal Credit Report, March 3, 1975.

February had been cancelled because the City had only $140 million in uncollected taxes, net of $800 million TANS outstanding and, therefore, could not issue TANS in excess of that amount. According to Rousseau, the City was said to be planning to sell $536 million of BANS in early March, for which there would be only one bid; Merrill Lynch was to participate to the extent of $35 million of the issue. 1/

* * *

Jac Friedgut, 2/ in a memorandum to William Spencer entitled "The City Budget Mess," noted:

> The basic problem, in plain English, is that the City's expenditures chronically rise more rapidly than its income, and the deficit has been financed by a combination of long-term borrowing (behind the fiction that specified current expenditures can justifiably be put in the capital budget) and short-term borrowing against subsequent income to close budgetary gaps.

The current year (1974-75) deficit was said to be about $200 million and the deficit for 1975-76 was estimated at $884 million. Friedgut asserted that the size of the City's deficit increases yearly and a growing percentage of income anticipated during each forthcoming year must be applied to pay off the borrowings from the preceding year. Thus, he stated, since the public sees a technically balanced budget each year end, the City's fiscal erosion is not understood by the taxpayers and voters. According to the memorandum, there existed a "floating temporary debt" of $5 billion and a long-term debt of $8 billion which placed a heavy demand on the obligation markets and caused "staggering" increases in the debt service portion

---

1/ Memorandum, Jean Rousseau to Roger Birk, March 3, 1975.

2/ Mr. Friedgut was a vice president of Citibank.

of the expense budget, and that, in the current year alone, debt service had risen 26% to $1.435 billion. 1/

Friedgut stated that the City needed an assured supply of short-term credit at reasonable cost to finance the 1976 deficit, to slow the growth of expenditures and to reduce anticipatory borrowing. In return for such an undertaking by the financial community, the City would be required to reduce its expenditures, end the financing of expense items through the capital budget, and "undertake a solemn obligation to desist from any further quasi-legal procedures such a overestimates of revenues, underestimates of expenditures, advance collection of revenues, changing accounting practices in midstream, etc." Friedgut also recommended that the City impose a freeze on its total labor costs.

In conclusion, Friedgut stated:

> The UDC crisis and the well publicized cash problems of the MTA have now given rise to fears that the City might be next. Legal litanies citing constitutional protection for the City's creditors are not enough, as shown by the questions raised about the validity of recent anticipatory borrowing. Imediate action on a new City-bankers agreement is needed to change the City's fiscal outlook. 2/

David Grossman mailed to the Staff Committee of the FCLG a corrected copy of the preliminary budget estimate discussed in the preceding meeting of the group. He also included a copy of a paper on the City's fiscal problems, prepared by Grossman, which was being distributed by Ellmore Patterson to the policy committee of the FCLG.

1/ Friedgut Ex. 6.

2/ *Id.*

The revised preliminary budget estimate indicated that the City's budget gap for 1975-76 would be $884 million. 1/ The paper prepared by Grossman noted that the City's budget had grown rapidly over the last 10 years and this growth had been only partially balanced by a growth of revenues. 2/ The expanding gap between revenues and expenditures had been bridged by short and long-term borrowing. The City was also said to have developed agencies such as the Educational Construction Fund ("ECF"), the Housing Development Corporation ("HDC"), the SRC and the Transit Construction Fund ("TCF"), to issue "off-budget" debt not subject to the City's constitutional debt limits. The rapid increase in the level of City debt had placed much pressure on the markets for tax exempt debt and it appeared that the City would require additional borrowing for the current and succeeding years. 3/

* * *

A series of notes, memoranda, drafts and other documents prepared by the Comptroller's Office advocated dealing with the problems presented during the pendency of the *Wein* litigation by taking the position that, if all the indebtedness incurred by public benefit corporations (off balance sheet financing entities such as the ECF, HDC, SRC, and TCF) was added to the long-term debt of the City, the City would still be within its constitutional debt limits. 4/

1/ Memorandum, David Grossman to Staff Committee FCLG, March 3, 1975, with attachments.

2/ *Id.*

3/ *Id.*

4/ Comptroller's Office Memoranda, March 3, 1975, with attachments.

In a draft letter dated March 2, 1975 to be signed by the Mayor and the Comptroller and sent to the heads of public benefit corporations, the following language appeared:

> As you may know, the City and its undersigned Mayor and Comptroller are now defendants in the case of Wein v. The City of New York, et al., in which the plaintiff alleges that the City's debt limit has been exceeded by virtue of sales of City obligations during last February, and in which the plaintiff demands that the City be enjoined from selling bonds in excess of its debt limit — despite the fact that the City's borrowing margin within its debt limits was roughly $1.76 billion after all such February sales.
>
> The underwriters of the City's bonds (and bond anticipation notes, which are also chargeable against the City's debt limit) have advised us, through their counsel, that the City will be required to furnish them with certifications regarding all public benefit corporations with obligations outstanding or authorized to be issued for City-related purposes, where the City is by statute or agreement made responsible for debt service on such obligations. The purpose of such certifications — which must be furnished at the closing of each sale by the City of its bonds (or bond anticipation notes) during the pendency of the Wein case — is to show that even if all such obligations were treated as City debt, the City would nonetheless have sufficient debt-incurring capacity to issue its bonds (or bond anticipation notes). 1/

TUESDAY, MARCH 4, 1975

A meeting of the Comptroller's Technical Debt Advisory Committee ("CTDA Committee") commenced at 8:00 A.M. in the Comptroller's office. Mr. Goldin, Dr. Scher, Mr. Scott, Mr. Lewis and others represented the Comptroller's office. Gedale Horowitz, Richard

---

1/ Id.

Kezer, Zane Klein, Thomas Labrecque, Richard Nye, Frank Smeal and James Trees also attended. 1/

The Comptroller requested, in connection with the pending BANS sale, that any requests by bond counsel for special or "'never-before-requested'" information be made sufficiently in advance of closing to enable the City to supply the information. Mr. Horowitz requested a financing schedule for the remainder of the fiscal year and the Comptroller responded that the only change contemplated was the addition of an interim bridge loan, in the form of $140 million in RANS, to be offered to the clearing house banks on March 5. A permanent replacement for the cancelled SRC offering had not yet been developed. Mr. Kezer and Mr. Horowitz pointed out that, because of the UDC bond anticipation note problems, the City might encounter difficulties with its BANS offering the following Thursday. Mr. Labrecque stated that he would talk with bond counsel, who wanted to ensure City compliance with the laws pertaining to City borrowings. Mr. Kezer inquired why the $140 million bridge loan was in the form of a sale of RANS rather than TANS; Mr. Goldin replied that this was done to avoid the problems encountered with the $260 million TANS sale. The Comptroller ended the meeting by stating that, as a matter of prudence, he would confer later in the day with prospective syndicate managers on any possible problems that might arise with regard to the upcoming BANS sale. 2/

1/ Minutes of CTDA Committee, March 4, 1975.

2/ Id.

* * *

A Chase Manhattan syndicate pricing sheet on the negotiated $140 million RANS sale, purchased by ten New York City banks headed by Chase, reported that the maturity date of the offering was March 20, 1975, the notes were not reoffered, and the syndicate account closed out at a loss of $6,717.40. This amount represented the fee for legal services but did not take into account the interest that the purchasers would receive on the RANS. 1/

* * *

Comptroller Goldin, addressing a luncheon meeting of the New York Financial Writers' Association, explained the cancellation of the $260 million TANS offering stating that the underwriters at the last moment had requested information never before required in connection with such an offering. According to Goldin, this data could not be physically gathered within the time demanded and, as a result, the sale was cancelled. 2/

The Comptroller asserted that City obligations "'are not now and never have been a credit or security risk.'" Moreover, the City, according to the Comptroller, was beginning to take the difficult and painful steps necessary to overcome its fiscal problems. The acid test for the City

---

1/ Chase Manhattan Syndicate Pricing Sheet, March 4, 1975.

2/ The Daily Bond Buyer, March 5, 1975.

would be how it proceeded to meet the current year's budget gap and prevent future deficits. 1/

> It means abandoning the game of numbers which has been played by municipalities throughout the country in which revenues are routinely overestimated and expenditures underestimated in order to meet artificially the statutory requirement for a balanced budget. 2/

* * *

In an internal memorandum to Comptroller Goldin and First Deputy Comptroller Scher on the City's borrowing needs for the remainder of the fiscal year, Sol Lewis, Chief Accountant, reported that he, Steven Clifford and Jonathan Weiner had a meeting with John Lanigan of the Bureau of the Budget on March 3, 1975. 3/ According to Lewis, the latter advised Lanigan that the projected cash needs of the City for the remainder of the fiscal year would require short-term borrowing of $2.025 billion and that a compilation of all available borrowing authority indicated a limit of $1.122 billion. Thus, the City would be short $903 million of needed borrowing authority. Mr. Lanigan took the position that $520 million of this total related to the inability of the SRC to sell obligations and that he had no answers to this problem. As to the balance of $380 million, he suggested that the City might (1) increase Federal and State receivables, or (2) borrow ahead for expense items included in the Capital Budget in excess of actual expenditures but based on authorizations to provide the required cash.

1/ Id.

2/ Dow Jones Broad Tape, March 4, 1975.

3/ Memorandum, Sol Lewis to Harrison Goldin and Seymour Scher, March 3, 1975.

Mr. Lewis stated:

> ...we have traditionally borrowed long term only to the extent of actual expenditures for capital projects. Borrowing long term to finance cash flow needs engendered by Expense Budget deficits would, in my opinion, be a questionable practice.... In addition, any sale that would involve additional charges to our legal borrowing capacity would come up against the problems raised by the filing of the Wene [sic] case. 1/

WEDNESDAY, MARCH 5, 1975

The initial merged syndicate meeting of the managers interested in the City's $537 million BANS offering began at 9:30 a.m. at Chemical. The lead member of the merged syndicate, Chemical, was represented by Herman Charbonneau and Richard Adams. Representatives were also present from Chase, Citibank, Morgan Guaranty, Bankers Trust, Manufacturers Hanover, Salomon Bros., A.G., Becker, Bear Stearns, Merrill Lynch, Weeden & Co., First Pennco, and Ehrlich-Bober. Included among those present were attorneys from White & Case, Wood Dawson, and Davis, Polk and Wardwell. 2/ Later in the day, Bank of America and First National Bank of Boston were in telephone contact with the meeting. 3/

The first portion of the syndicate meeting was dominated by discussion of bond counsel's problems with the wording of the legal opinion. Both White & Case and Wood Dawson were working on this particular offering and the syndicate would have to decide what role each law firm would play. The form

---

1/ Id.

2/ Isolano at 60-1; Rousseau (April 14, 1976) at 42-43; Ehrlich at 64, 66-7; Epley Ex. 15; D. Coleman at 58-60; Brophy at 14-16.

3/ Charbonneau at 161; D. Coleman at 68; Eply at 203.

of the opinion was also discussed. 1/ The status of the Wein litigation and its effect on the offering were discussed. Counsel felt generally that Professor Wein did not have a strong case. 2/ During the day it was stated that this City offering was one for which there would be only a single bid. 3/ There was also a discussion regarding preliminary thoughts on pricing. 4/

The meeting broke into a series of smaller discussions among various groups of underwriters and attorneys. 5/ Various City officials, including the Comptroller, were in touch with the underwriters and their attorneys throughout the progress of the meeting. 6/

Late in the afternoon, the various groupings of individuals converged for a large meeting. The purpose of this meeting was to define problems concerning disclosure and to discuss marketing the issue, the level of participation of each firm and the interest rate. 7/

1/ Eide at 50-51; Love (March 30, 1976) at 223.

2/ Epley Ex. 15; Love (March 30, 1976) at 223.

3/ Charbonneau at 156-57; Love (March 30, 1976) at 246.

4/ Eide at 45.

5/ D. Coleman at 64, 78-80; Love at 225.

6/ Rousseau (March 26, 1976) at 76; Epley at 215; Ehrlich at 69-70; Love at 227-28.

7/ Charbonneau at 160.

White & Case indicated that they could issue a clean legal opinion on the notes provided that certain conditions were met. 1/ One condition was that the Attorney General of the State of New York and the City's Corporation Counsel provide an opinion to the effect that the City had the legal authority to issue these notes. 2/ Wood Dawson adopted the position that they would proceed with the note offering in the same manner as they had handled prior note offerings. 3/ In addition, assurances that the proceeds would be used properly and that the City figures were as accurate as possible would be requested. 4/ After a discussion about the potential differences in language between the opinions of White & Case and Wood Dawson, it was suggested that the group would proceed with both counsel working on the matter, inasmuch as various parties favored one firm over the other. 5/

An ensuing discussion concerned Rule 10b-5 promulgated under the Securities Exchange Act of 1934. In this context, a memorandum of the meeting stated: "Into the 10b-5 aspects of whether foreseeing that City is up against its limit and may be handicapped in future borrowings and thus lack funds to pay off notes as they become due." 6/

1/ Epley Ex. 15; Isolano 70.

2/ Epley Ex. 15.

3/ Isolano at 60-61.

4/ Epley Ex. 15; Moos at 92.

5/ Epley Ex. 15; Eide at 50-51.

6/ Epley Ex. 15.

The discussion generally revolved around the obligation of an underwriter of City securities to disclose facts within his knowledge about the limits on the City's issuance of debt. The question of whether an underwriter must issue a disclosure sheet or prospectus was raised. 1/ Mr. Epley of White & Case stated that, at this stage, his firm intended to insert a paragraph in its opinion as to the borrowing situation and the opinion itself would be based on the opinions of the Attorney General and Corporation Counsel. 2/

A poll was taken to ascertain whether the institutions wished to proceed with this public offering and what each institution wanted to do about the problem of disclosure. Chase indicated it wanted to proceed with the sale with full disclosure. The Bank of America, which was participating in the meeting by phone, indicated they were withdrawing from the syndicate but indicated a preference for full disclosure. Chemical Bank expressed the desire to participate but was unsure about full dis closure, commenting that perhaps a brief but comprehensive statement would suffice. Citibank was unsure whether it wanted to participate but thought a disclosure statement would raise additional issues. Questions were raised by Citibank as to whether disclosure would be modeled on a Securities Act of 1933 registration statement; what should or should not be included; and whether the fact that the notes would be backed

---

1/ Epley Ex. 15; Isolano at 63.

2/ Epley Ex. 15; Epley at 428.

by unlimited ad valorem taxes would satisfy all problems. 1/

Manufacturers Hanover seemed to prefer full disclosure of the City's problems but suggested that the offering be done on a limited liability basis. Bankers Trust wanted to participate but noted that there was a marketability problem. 2/ Weeden wished to drop out. Salomon Bros. desired to participate in a limited fashion with full disclosure and was willing to listen to all views. Bear, Stearns did not wish to participate because of the marketing problems that would be caused by a posture of full disclosure. Merrill Lynch favored not having a disclosure statement. Merrill Lynch also indicated that it would participate in the underwriting without disclosure. 3/ A.G. Becker wished to drop out but believed full disclosure to be the proper approach. 4/ First National Bank of Boston, in touch with the meeting by phone, decided to withdraw from the syndicate. 5/

1/ Epley Ex. 15.

2/ Id.

3/ Epley Ex. 15; Charbonneau Ex. 19.

4/ Epley Ex. 15.

5/ Id.

In the evening there were conference calls between Herman Charbonneau of Chemical, John Hamill, in-house counsel to Chemical, Richard Simmons of Cravath, Swaine & Moore, outside counsel to Chemical, and Richard Kezer and Mark Kessenich of Citibank during which there were discussions concerning what disclosures would have to be made with respect to the BANs offering. The discussions included how they could possibly, in the time alloted, put together an adequate disclosure statement and what would constitute such a statement. 1/

* * *

In an internal memorandum entitled "The Banks and New York City," 2/ Jac Friedgut of Citibank stated, "[t]he primary role of banks in the Municipals market is <u>not</u> to buy and hold the paper, but to underwrite/syndicate/distribute it." He asserted that the banks were being attacked because of high interest rates, but that the reason for the high rates was that something was "seriously amiss within the budget."

Friedgut stated that, in recent years, the City's expense budget balancing had involved some "phony" practices including: use of the capital budget for operating purposes; use of "special budget notes;" issuance of short-term debt "under the guise of TAN's, RAN's or BAN's but the taxes, revenues or bonds being anticipated are further into the future and less certain than they should be;" and the depletion and postponement of replenishment of the Rainy Day Fund. Friedgut also said that short-term borrowing by the City had expanded

---

1/ Charbonneau at 164-66.

_/ Friedgut Ex. 7.

from $1.3 billion in June 1970 to approximately $5 billion currently and that the City "is now on a debt treadmill (averaging $500 million per month of short-term and $500 million every six months of long-term)." 1/ He contended that the City's expenses had rapidly risen with welfare, personnel costs, free or discounted citizen services (such as free higher education) and debt service.

According to Friedgut's draft memorandum, the Mayor claimed that he could effect additional economies and obtain moderate revenue increases but would still have an $884 million budget gap for 1975-76 without additional revenues. Additional taxes would be counterproductive and huge aid infusions were highly unlikely. Unless there was some decrease in this figure of $884 million, "[t]he City's fiscal situation would simply not be viable, and investors would probably be uncomfortable about buying N.Y.C. paper regardless of interest rate." 2/ The City debt "overhang" and cash flow problems were so acute that they could not be solved overnight. The Friedgut memorandum contained a section entitled "Biting the Bullet" which contained a series of recommendations, including reducing expenditures by freezing labor costs and decreasing services. This section went on to state:

> Even with all these sacrifices, the "debt overhang" will be slightly worse in June 1976 than at present. For the entire program to be effective in saving the City, therefore, planning has to be done concurrently to moderate budgetary increases subsequent to June 1976 also, to phase out capital borrowing for operating purposes, to establish integrity through the City's budget-making process, and generally to live within our means.

1/ Id.

2/ Id.

> As a practical matter, the huge volume of short-term debt outstanding may not be reducible to any significant extent even with the City's best efforts. A basic restructuring of the inter-governmental program burdens and funds flows [sic] will be necessary. 1/

* * *

In a Daily Bond Buyer article of March 5, 1977, Comptroller Goldin was reported to have blamed the banks involved for the $260 million TANS cancellation and was emphatic in asserting that the banks had been "unfair" in seeking what he called "unprecedented" information on what he considered too short notice. Mr. Goldin further "insisted that the unusual action had nothing to do with the City's fiscal health." The Comptroller was also reported to have stated that the City at no time had exceeded its legal borrowing capacity in selling the TANS. In the same article, Tom Parisi, a spokesman for Bankers Trust, was reported to have stated that: "Counsel for all the banks and investment houses involved concurred that the City had failed to comply with the law which mandates that the tax receivables information be as of the last of the current month" and that "[t]his was the sole reason for refusal to consummate the sale." 2/

1/ Id.

2/ The Daily Bond Buyer, "Goldin Blames Cancellation of TANS on Banks Involved," March 5, 1975.

On March 5, 1975, in a negotiated sale, a group of banks headed by Chase purchased $140 million of RANS with a 15 day maturity at an interest rate of 7.25%. 1/

THURSDAY, MARCH 6, 1975

The prior day's meeting was reconvened at 9:00 A.M. at Chemical and was chaired by Herman Charbonneau and Richard Adams of that bank. They were assisted by John Hamill, in-house counsel to Chemical, Peter Tufts, John Devine, James O'Sullivan and Frank Puleo (of Milbank Tweed Hadley & McCloy) who at various times represented Chase. 2/ Richard Kezer, Mark Kessenich and Joseph Doyle (of Shearman and Sterling) represented Citibank. 3/ Steven O'Grady and Marion J. Epley (of White & Case) represented Bankers Trust. 4/ Gedale Horowitz and counsel (from Cleary, Gottlieb, Steen and Hamilton) represented Salomon Bros., 5/ Steven Kenney and Ralph Jones (of Brown, Wood, Ivey, Mitchell & Petty) and Jean Rousseau represented Merrill Lynch. 6/ Giles Brophy represented First Pennco, Joseph Isolano represented Manufacturers Hanover and Robert Moos represented Weeden & Co. 7/ Ehrlich-Bober was represented by Fred Ehrlich. 8/ Richard Eide and John Clark (of Davis, Polk and Wardwell) represented Morgan Guaranty. 9/ Dennis Coleman

---

1/ News Release, Office of the Comptroller, 75-28, March 6, 1975.

2/ Labrecque at 209; Moos at 98, 100; Charbonneau at 203-04.

3/ Charbonneau at 204; Horowitz at 72.

4/ Charbonneau at 204.

5/ Horowitz at 80.

6/ Charbonneau at 205-07; Rousseau (April 14, 1976) at 58.

7/ Brophy at 18; Charbonneau at 204.

8/ Moos at 122; Charbonneau at 204.

9/ Eide at 61-62.

represented Bear Stearns. 1/ Leo Sabatine of Wood Dawson also attended the meeting. 2/ The Bank of America and First National Bank of Boston were in contact with the meeting by conference phone. 3/

Various conference rooms were again being used and several meetings were being held at different times. 4/

The same general problems of the previous day continued to be discussed — whether the syndicate was interested in purchasing the $537 million of BANS and what disclosure was necessary to accomplish the sale. 5/ Again the Wein litigation and its effect on the ability of the City to issue notes was discussed. 6/ White & Case now appeared to be acting as both bond counsel and counsel to the underwriters. 7/ Wood Dawson, at Chase's request, was "hanging in there," providing assistance to White & Case in their attempt to form an opinion. 8/

1/ D. Coleman at 63.

2/ G. Horowitz at 78.

3/ Moos at 122.

4/ Charbonneau at 203; Isolano at 61-62.

5/ Labrecque at 212-13; Charbonneau at 205-06; D. Coleman at 63-64.

6/ Moos at 123-124, 138; Horowitz at 78-79.

7/ Rousseau (April 14, 1976) at 67-68.

8/ Love (March 30, 1976) at 221-22.

Additionally, Chemical Bank, as lead underwriter, was in telephone communication with the Comptroller and the Mayor. 1/ Individual members of the merged syndicate were also in contact with City officials. 2/ Thomas Labrecque of Chase had several phone conversations with Comptroller Goldin during the period of the syndicate meetings and discussed the progress of the sale. 3/

The syndicate again discussed the possibility of purchasing the BANS as a private placement among the clearing house banks. 4/ Rather than a private placement, however, it was discussed that if the public offering went through, the syndicate account would be divided. This represented a departure from the previous practice of having an undivided participation by all members of the underwriting syndicate. Some felt the acceptance of the limited liability approach was preferable because some

---

1/ Charbonneau at 308-09; Goldin (August 29, 1975) at 125; Adams at 92-93; Kezor at 114.

2/ Goldin Exhibit 72.

3/ Id.

4/ Eide at 56-57.

of the banks could place the securities in their investment accounts. 1/

With regard to the Wein litigation, the lawyers felt that although the suit was not frivolous, it should ultimately be dismissed. 2/ This part of the discussion produced more requests for information from the City concerning its constitutional debt limit. 3/

For the second time the members of the merged syndicate were polled as to their willingness to participate and their feelings as to the disclosure issue. 4/ The responses generally remained the same, with the syndicate leaning towards some type of disclosure. 5/ There were remarks that full disclosure would limit the marketability of the notes. 6/

During these discussions, Mayor Beame and Deputy Mayor Cavanagh met privately with the Chairman (Donald Platten) and the President (Norborn Berkley) of Chemical Bank, the lead underwriter of the syndicate and Frank Smeal of Morgan Guaranty, David Rockefeller of Chase and Walter Wriston of Citibank. 7/ The problems with underwriting

---

1/ Brophy at 24, 25; Moos at 144; Adams at 90-92.

2/ Document entitled, "Excerpt from White & Case Opinion," dated March 5, 1975.

3/ Moos at 126.

4/ Epley Ex. 15; Brophy at 19; Moos at 130-131; Rousseau (April 14, 1976) at 88-89.

5/ Rousseau (April 14, 1976) at 89; Rousseau Ex. 3.

6/ Rousseau (April 15, 1976) at 95; Charbonneau at 237; Charbonneau Ex. 19.

7/ Memorandum, Jac Friedgut to William Spencer, March 14, 1975. Five page handwritten notes entitled "3/6 Chemical."

the BANS were discussed, including the interest rate. Mayor Beame indicated that he "expected [the] banks to take [the BANS] into their portfolio therefore [making the] marketability problem moot." The Mayor also expressed concern that the "rate would trigger investigation." 1/ Walter Wriston of Citibank stated that the banks must have access to a public marketplace and that there was "no way [the banks] will stuff" the notes into their portfolio accounts. 2/ Frank Smeal of Morgan Guaranty stated that "there is no market for $537 million [BANS]." 3/

Several times throughout the day, the deadline, originally 11:00 A.M., for submission of bids was extended. 4/ In the late afternoon, the syndicate decided to submit a bid for the BANS provided five conditions were met. 5/ Those conditions were:

> (1) The disclosure statement prepared by the underwriters must be issued as a press release by the City at the time the announcement of the award of the Notes is made...
>
> (2) The City must furnish the underwriters with a "STATEMENT OF ESSENTIAL FACTS" as of January 30, 1975.
>
> (3) The legal opinion of White and Case must be unqualified.

. . . .

1/ Five page handwritten notes entitled "3/6 Chemical."

2/ Id.

3/ Id.

4/ Kezer at 115; Love (March 30, 1976) at 229.

5/ Moos at 140-41.

(4) The New York City Corporation Counsel must issue an opinion declaring that, in his opinion, the Wein Suit is without merit.

(5) The Attorney General of the State of New York must issue an opinion to the same effect as that of the Corporation Counsel. 1/

At the conclusion of the meeting, the single bid, with its conditions, was agreed upon. 2/ The interest rate the syndicate decided upon was approximately 8.69%. 3/ The lawyers present at the meeting prepared drafts of the release to be issued by the Comptroller. 4/ The bid was submitted to City officials and the City rejected it. 5/

During the course of the day, the following people spoke by telephone to the Comptroller: Richard Adams of Chemical (six times), Herman Charbonneau of Chemical (two times), Thomas Labrecque of Chase (four times), and Gedale Horowitz of Salomon Brothers (one time). 6/

* * *

On March 6, 1975, the New York Post printed an article reporting that the City was preparing to sell $537 million in BANS. The article further stated that the City had $176 million in cash and that on

---

1/ Charbonneau Ex. 11

2/ Horowitz at 97; Charbonneau at 310.

3/ Document marked "Draft 3/6/75."

4/ Horowitz at 96.

5/ Horowitz at 99-100; Charbonneau at 310.

6/ Goldin Ex. 72.

March 14 it would need $427 million to redeem maturing City notes and meet a payroll that averaged between $180 to $200 million. 1/

FRIDAY, MARCH 7, 1975

Another meeting took place at Chemical Bank. On this occasion, senior officials and syndicate representatives from the largest banks and broker-dealers in New York met to review the City's financial situation. Donald Platten chaired the meeting and Richard Adams presented an updated report on the proceedings of the previous day. Among those present were Walter Wriston of Citibank, Walter Page and Frank Smeal and Richard Eide of Morgan Guaranty, David Rockefeller, David Grossman and Thomas Labrecque of Chase, and Jean Rousseau of Merrill Lynch. 2/

The group discussed the same issues treated during the preceding two days at the syndicate meetings. Once again, the possibility of doing the offering as a private placement among the clearing house banks was discussed. Several of the bankers present stated that the banks currently had too much of their equity in City paper and that it just was not feasible to keep taking such paper into inventory. 3/ Frank Smeal spoke in favor of a private placement. 4/ The City's cash needs and the seriousness of its fiscal difficulties were discussed. 5/

1/ New York Post, March 6, 1975.

2/ Charbonneau Ex. 21; Charbonneau at 331; Labrecque at 220; Smeal at 95, 104-105; Adams at 98.

3/ Smeal at 107-11.

4/ Id. at 109.

5/ Charbonneau Ex. 21.

It was decided that the FCLG would work with the City to help in the preparation for future borrowings and to develop a Statement of Essential Facts. 1/

After the bid was resubmitted and the City decided to accept it, a joint press release was issued by the Mayor and the Comptroller announcing the sale of the $537 million in BANS at a negotiated rate of 8.69%. 2/ They described this rate as very high and as a result of the UDC crisis. 3/ The press release also stated:

> We are most unhappy with the rate negotiated today, but it was the best we were able to do under the circumstances. The City needs the money immediately, in order to provide an adequate cash flow. 4/

* * *

The Comptroller also issued a separate press release regarding the BANS sale, in which he termed the 8.69% rate of interest a "relatively high rate." 5/ He stated that this rate was a result of, among other things, the Wein litigation which attacked the proposed borrowing as beyond the City's constitutional debt limit. Comptroller Goldin's release concluded with the following statements:

1/ Rousseau (April 14, 1976) at 97-98.

2/ News Release, Office of the Comptroller, 75-30, March 7, 1975.

3/ Id.

4/ Id.

5/ News Release, Office of the Comptroller, 75-31, March 7, 1975.

> Other factors contributing to this high rate of interest are the recent negative occurrences in the municipal credit markets, adverse economic conditions and the City's ever increasing cash needs which have necessitated extraordinary borrowings by the City and every expectancy of a continuing need for high borrowings. While solution of the City's fiscal problems is not an easy matter, Comptroller Goldin expressed his confidence that the City would, when the time comes, be in a satisfactory legal and fiscal position to sell Bonds to fund these Notes. 1/

In contrast, the earlier draft of this release, which had been prepared by lawyers present at the syndicate meeting of March 6, stated:

> Economic conditions and cash needs of the City have necessitated an extraordinary amount of borrowings by the City in the municipal credit markets in recent years and the need for such borrowings will remain large in the near future. Past and prospective borrowings are causing the City to approach its constititutional debt limit. These conditions adversely affect the City's access to the municipal credit markets, to which the City must look for the financing it deems necessary to meet expenses and maturing obligations. Thus, the interest rates on the Notes awarded today reflect the risk inherent in the City's present financial condition. While solving the City's fiscal problems is not an easy matter, we shall nevertheless make every effort to sell bonds to fund these notes when the time comes, and I am confident it can be done. [Emphasis added] 2/

* * *

The Comptroller delivered an address at a luncheon of the New York Society of Security Analysts where he announced the sale of the BANS. He also commented upon the UDC crisis and its negative impact on the sale of City securities. He stated that it was necessary for the City to bring its budget under control and advocated a five part program to accomplish

---

1/ Id.

2/ Document marked "Draft - 3/6/75"; Horowitz at 96.

this task: (1) that the City stop borrowing to close budget gaps; (2) that expense items be eliminated from the capital budget; (3) that the unemcumbered margin in the capital budget be increased; (4) that the amount of debt service the City could afford be given first consideration in the expense budget and the debt issued be restricted to that amount; and (5) that the City, ultimately, not issue any new long-term debt except to the extent that old debt is retired. 1/

* * *

The Comptroller announced in a press release that the City would sell $375 million in RANS on Thursday, March 13, 1975. 2/ The Notice of Sale for this issue indicated that of these RANS, $150 million were to be sold in $100,000 denominations, $168.75 million in $25,000 denominations and $56.25 million in $10,000 denominations. 3/

* * *

In the afternoon, the Grossman committee of the FCLG met at Chase. 4/ The Committee meeting also attracted a number of people who were not official members of the FCLG. 5/ The meeting was chaired by David Grossman of Chase. At the meeting were Thomas Labrecque, Walter Carroll and

---

1/ Remarks by New York City Comptroller Harrison J. Goldin at Luncheon Meeting of the New York Society of Security Analysts, Friday, March 7, 1975, 1:00 P.M., 15 William Street, New York City.

2/ News Release, Office of Comptroller, 75-32, March 7, 1975.

3/ Notice of Sale for Issue of RANS on March 13, 1975.

4/ Labrecque at 222.

5/ D. Grossman at 97.

James O'Sullivan of Chase, Herman Charbonneau of Chemical, Jac Friedgut of Citibank, Ross Mathews of Morgan Guaranty, Jean Rousseau of Merrill Lynch and William Solari of Donaldson, Lufkin & Jenrette. Messrs. Fenton of Kidder Peabody, Thomson of W. H. Morton and Co., Harmon of Bowery Savings, Vatter of Metropolitan Life, Schott of Equitable Life, Anderes of Bankers Trust and Crowley of Solomon Bros. were present. Leroy Love and Leo Sabatine of Wood Dawson, Marion J. Epley and John Osnato of White & Case and Frank Puleo of Milbank, Tweed, also attended. 1/

It was stated that despite the sale of $537 million BANs, there were still problems. It was said that the City needed $350 million currently and $1 billion in each succeeding month, for a total of approximately $2.5 billion by June. It was further stated that the clearing house banks could not handle this volume by themselves and therefore the public market had to be kept open. The complication appeared to be that this sum was probably in excess of the City's borrowing capability; it was uncertain whether the City had the legal authority to incur this additional debt. 2/

1/ D. Grossman Ex. 7A.

2/ D. Grossman Ex. 4; Charbonneau at 316.

It was felt that the City needed a definite plan and the Committee agreed to assist the City in the preparation of the Statement of Essential Facts. 1/ The Committee decided to examine the repayment schedule of City notes maturing prior to June 30, 1975 and the revenue estimates through June 30, 1975, to see what portion of this revenue had already been pledged for outstanding debt and what part was available for the issuance of new debt. The City's expenditure estimates through June 30, 1975 were to be reviewed and evaluated. The Committee would also examine the statutory borrowing authority for the proposed City bonds and notes to be issued, in light of the Wein litigation. Finally, the Committee would assess the marketability of the proposed City borrowing schedule in terms of volume and timing. 2/

The Committee then turned to the legal problems raised by the Wein suit. Wood Dawson suggested a technical amendment to the SRC legislation allowing the City to borrow in anticipation of the SRC borrowing which was now blocked by the lawsuit. It was said that Wein apparently had no direct effect on the upcoming RANS. There were outstanding unresolved legal issues with regard to TANS and BANS but as to the RANS, Wood Dawson believed that as long as the City maintained that it had authority to borrow, underwriters had no reason to look behind the City's statements, unless they had some definite reason to suspect "hanky-panky." The question arose whether the group should review in depth the City's basis for present and future RANS and whether repayment of specific issues of RANS were legally tied to specific Federal, State or other revenues. It was noted that this review

1/ D. Grossman Ex. 4; Labrecque at 221-22.

2/ Charbonneau Ex. 21; Charbonneau at 331.

could raise problems for the next Wednesday's proposed sale of RANS. If this review indicated that the City was over-anticipating its receivables, there would be a potential disclosure issue. If a disclosure problem arose in this review, White & Case believed that a possible "due-diligence" question would then arise. Wood Dawson and Milbank Tweed did not believe that a due diligence issue existed. 1/

Alternative means of meeting the large cash needs of the City were discussed. Suggestions included additional Federal and State aid and Federal loans or purchases of City securities. Possible methods of helping the market absorb the huge amount of debt included a public airing of the City's fiscal and legal situation, a resolution of the UDC crisis and an attempt to balance the budget (which appeared to be out of balance for the following year by $2 billion). The subject of the budget brought about a discussion of the City's accounting problems and the "gimmicks" used by the City which had led to the existing cash crisis. 2/

The Committee established a task force to work on some of these problems and to help with the sale of the RANS. This task force would meet the next day at Chase at 9:00 A.M. 3/

* * *

1/ Id.

2/ Id.

3/ D. Grossman Ex. 4.

An article in The New York Times reported the events of the previous day, Thursday, March 6, from their start at 8:30 A.M. until 9:30 P.M. The article reported:

> The lawyers for the banking community demanded legal evidence that the city was empowered to sell the long-term bonds required to pay off yesterday's issue. A spokesman for Mr. Goldin said that the information requested was 'unprecedented.' 1/

* * *

In a New York Post article on the contemplated BANS sale it was reported:

> The difficulties apparently revolved around a request by the Chemical Bank syndicate that Goldin provide an absolute guarantee that the city has the legal ability to back up the notes it is offering. 2/

SATURDAY, MARCH 8, 1975

There was a meeting of the FCLG task force at 9:00 A.M. at Chase. This was the group that had been created the previous day at the Grossman Committee meeting. David Grossman chaired the meeting. James O'Sullivan and Walter Carroll of Chase attended. Chester Johnson of Morgan Guaranty, Jac Freidgut of Citibank, Roy Anderes of Bankers Trust, William Solari of Donaldson, Lufkin & Jenrette, and John Thompson of W. H. Morton also were present. Willis MacDonald and John Osnato of White & Case and Leroy Love and Leo Sabatine of Wood Dawson were there as well. 3/

1/ The New York Times, March 7, 1975 p. 1.

2/ New York Post, March 7, 1975, p. 1.

3/ D. Grossman at 96-97 and 103-04; D. Grossman Ex. 4; Love Ex. 15; Love at 273-74; Solari at 39.

The purpose of the meeting was to discuss the type of information for disclosure purposes which might be useful in aiding the City in its future offering of notes. 1/

The concept of creating a disclosure document began to take shape during the meeting "roughly simultaneously" as the group developed increasingly serious questions as to the credit and the fiscal condition of the City. Due diligence and disclosure problems were discussed. Mr. Osnato reported discussions along these lines to Mr. Epley of White & Case that day.

Moreover, the group discussed the applicability of the 1933 and 1934 Federal securities acts as well as inside information problems. 2/

1/ D. Grossman at 98, 100; Eply at 274-75.

2/ Position Paper of White & Case, "In the Matter of Transactions In Securities of the City of New York" at 33-34; D. Grossman at 108; Emply at 249-50.

the issuance of notes. 1/ The information was needed quickly, so that it could be submitted to the underwriters or their counsel, in connection with the next issuance of BANS and the forthcoming issuance of RANS. 2/ It was agreed that the requested information would be provided within two days. 3/ The City provided the Grossman Committee with a list of new short-term borrowings scheduled through June 30, 1975, totalling $2.045 billion, not including $249 million in BANS held by the City's Pension Fund, to be rolled over, and $500 million in capital construction bonds scheduled to be issued in April. 4/ The City was requested to provide the Committee with a detailed day-by-day schedule of revenues and expenditures through June 30; a balance sheet as of June 30, 1975; a schedule of debt maturing prior to June 30; materials concerning the City's legal authority for existing and prospective borrowings through June 30 and similar data. 5/ The Corporation Counsel was said to expect the issues raised by the Wein suit, to be cleared up in six to eight weeks. If not, the City expected to ask the State legislature to permit new BANS issues in anticipation of issuing SRC

1/ Solari at 44; D. Grossman Ex. 32.

2/ D. Grossman at 137.

3/ Thompson Ex. 10.

4/ Id.; D. Grossman Ex. 32.

5/ Id.; Thompson at 68.

MONDAY, MARCH 10, 1975

The task force of the Grossman Committee met with representatives of the Bureau of the Budget and the Comptroller's Office. Also present were representatives of the Corporation Counsel's Office. David Grossman, James O'Sullivan and Walter Carroll represented Chase, John Thompson represented W. H. Morton, Chester Johnson represented Morgan Guaranty, William Solari represented Donaldson, Lufkin & Jenrette and Roy Anderes represented Bankers Trust. Steven Clifford, Sol Lewis, Seymour Scher and William Scott were there from the Comptroller's Office and John Lanigan, Alexandra Altman and Eugene Keilen represented the Bureau of the Budget. 1/

The meeting concerned the banks' request to secure from the City information concerning (1) the cash flow requirements of the City through June 30, 1975, (2) the debt service requirements of the City, and (3) the sources of the City's funds to service those debt requirements, including

---

1/ Two page document, with second page on letterhead of Office of the Comptroller, March 10, 1975; D. Grossman at 130-132.

notes or bonds, 1/ and the City would have to look for alternatives by mid-April in that event. 2/ The City was said to need all of its planned short-term borrowing of over $2 billion by June 11, but that there was a small amount of flexibility in the borrowing schedule. 3/ During the same period, the City was scheduled to redeem at least $1.8 billion of its obligations. 4/ The City officials stated that the Comptroller's Office would be able to provide the basis for the City's legal authority for the proposed and outstanding issues within a day. 5/

It was disclosed that the then current outstanding level of City short-term borrowings was $5.8 billion, plus about $310 million net in BANS issued the last week for roll-over purposes, resulting in a grand total of just over $6 billion. 6/

David Grossman of Chase prepared a memorandum concerning this meeting meeting, which indicated that copies were provided to several officers of Chase, including David Rockefeller. Attached to the memorandum was a listing of the City's borrowing needs through June 30. 7/

1/ Thompson Ex. 10; D. Grossman Ex. 32.

2/ Six pages of handwritten notes and accompanying material, entitled "3/10 at Scher's Office."

3/ Thompson Ex. 10; D. Grossman at 277-78; D. Grossman Ex. 32.

4/ Document entitled "Statement of Essential Facts" at 5; D. Grossman Ex. 32.

5/ D. Grossman Ex. 32.

6/ Thompson Ex. 10; D. Grossman Ex. 32.

7/ Thompson Ex. 10.

At 4:00 P.M., the FCLG, under the chairmanship of Ellmore Patterson 1/ met at Morgan Guaranty. The general topic of the meeting was a review of the financial status and financing plans of the City. 2/ Frank Smeal of Morgan Guaranty; Alfred Brittain and Truxton Pratt of Bankers Trust; George Roeder and David Grossman of Chase; Richard Kezer of Citibank; Albert Gordon and Duncan Gray of Kidder Peabody; Donald Regan of Merrill Lynch; William Salomon and Gedale Horowitz of Salomon Bros.; Francis Schott of Equitable Life; Charles Mueller of Metropolitan Life; Gordon Braislin of Dime Savings; John Larsen of Bowery Savings; John McGillicuddy and David Barry of Manufacturers Hanover; Donald Platten of Chemical; Leroy Love and Leo Sabatine of Wood Dawson; and Roger Blough, Marion Epley, John Osnato and Willis McDonald of White & Case, among others, attended the meeting. 3/

The meeting was called, in part, to prepare for the following day's meeting with the Mayor and the Comptroller. 4/ Patterson called the meeting after he had been brought up to date on the problems with the previous week's underwriting. Discussion ensued regarding the fact that the issue was not selling well. 5/ David Grossman provided a report on the status of his Committee's work with the City to develop information concerning the two debt offerings scheduled for Thursday and Friday. 6/ It was also

---

1/ Epley at 285, 295-296; D. Grossman Ex. 9.

2/ Epley at 295.

3/ Love Ex. 22; Epley at 285.

4/ D. Grossman at 143.

5/ E. Patterson at 56-57.

6/ D. Grossman at 140.

stated that the underwriters should tell the City they must start "shaping up and get their budget in balance" to show the public that the City was "focusing on the problem." 1/ A discussion then developed on the legal issues surrounding City offerings, including those issues raised in the Wein litigation. 2/

Patterson questioned whether the same disclosure problem existed with respect to the Thursday issuance as existed with respect to the past issues. The response was that the lawyers would consider that issue after Grossman developed more information. 3/

Frank Smeal stated that the City was preparing figures as of February 1975, and that the lawyers would have to see the figures before deciding whether a legal opinion would be needed to accompany the new notes, and, if so, what type of legal opinion. It was further stated that the information requested by the Grossman Committee at the meeting was due the next afternoon. 4/

Frank Smeal expressed doubt about the marketability of the upcoming \$375 million RANS issuance, despite the relative size of the offering and short-term maturity, if disclosure were necessary . Alfred Brittain and

---

1/ Patterson at 56-57.

2/ Five pages of handwritten notes, March 10, 1975.

3/ Id.

4/ Id.

George Roeder agreed with Smeal. William Salomon agreed that it would be hard to sell the new issue. It was stated that there was not much of a market for City bonds at that time. A point mentioned in favor of the upcoming RANS offering was that it was easier to issue a clean legal opinion concerning RANS than BANS. Patterson noted that the parties present must be prepared to discuss with the Mayor on the next day the issue of marketability. 1/

It was asserted during the meeting that positive signs were also present in the City's fiscal crisis. Examples were that the City's revenues were holding despite the recession; the level of uncollected real estate taxes was as good or better than in most cities; the tax base was found to be elastic enough to rebound at a fast rate; the real property tax base was increasing; the City was trying to keep the welfare rolls under control and increases occurring at a slower rate than in other major cities; school reading scores were increasing; and the heroin plague was decreasing. 2/

It was stated that the City's current problems were the result of two phony budgets, 1973-74 and 1974-75. In addition, it was stated that the State and Federal governments had not helped, and that the recession had hurt the City. 3/ Patterson contended that this news was not helping the bond sales. It appeared to him that the Mayor could not understand why the notes

---

1/ Id.

2/ Id.

3/ Id.

and bonds were not selling, and was refusing to recognize the "confidence factor." It was stated that the budget gap would continue because wage negotiations were outrunning revenue increases. Smeal advised the underwriters of the following week's RANS to concentrate on the topic of disclosure at the next day's meeting with the Mayor. 1/

It was decided that the banks' holdings of City securities be quantified to support the banks' statement to the City that the banks were unable to absorb "the whole problem." 2/

Each bank anonymously wrote down their approximate holdings of City securities. The total was between $1.2 and $1.3 billion. Patterson compared this total to a listing of the banks' equity and found that it represented 20% of all the banks' equity. 3/

* * *

An advertisement appeared in the Wall Street Journal on March 10, 1975 relating to a new issuance of $537.27 million of BANS dated March 14, 1975, in denominations of $100,000, $25,000 and $10,000, and listing Chemical, Chase, Morgan Guaranty, Citibank, Bankers Trust, Manufacturers Hanover, Salomon Brothers, and Merrill Lynch as underwriters. 4/

1/ Id.

2/ Patterson at 57-58.

3/ Id.

4/ Advertisement, Wall Street Journal, March 10, 1975.

* * *

Paul Collins, Senior Vice President of Citibank, addressed a memorandum and attachment to G. C. McCarthy, Jr., a Vice President of Citibank, which reported that Citibank held $23 million in bonds and $6.8 million in notes in its fiduciary accounts, and that, as of December 1974, New York City bonds were not being bought for fiduciary accounts. Collins asked that these numbers be updated. 1/

* * *

A private investor addressed a letter to Francis J. Rogers of the Chemical Bank Municipal Bond Department inquiring about any possible difference in the quality of City BANS, TANS, RANS and bonds. He asked whether all City debt securities had a "first priority" (i.e. would security holders be paid before city employees?). 2/

TUESDAY, MARCH 11, 1975

David Grossman sent copies of a package of materials he had received from the Comptroller's Office at 3:00 P.M., to James O'Sullivan of Chase, Roy Anderes of Bankers Trust, William Solari of Donaldson, Lufkin & Jenrette, John Thompson of W. H. Morton and Chester Johnson of Morgan Guaranty. He also scheduled a meeting of the task force for Wednesday, March 12, at 10:00 A.M. at Chase. The materials included schedules listed as

(1) Short-term debt — Issues and Redemptions--3/10 to 6/30/75;

(2) TANS to be rolled over 6/11/75 and receivables for same;

(3) short-term debt outstanding as of 3/5/75;

(4) short-term debt outstanding 3/5/75 and receivables for same;

1/ Memorandum Paul J. Collins to G. C. McCarthy, Jr., March 10, 1975, with attachment.

2/ Letter to Francis J. Rogers, March 10, 1975.

5) required short-term borrowing 3/20 - 6/30/75;

6) short-term debt outstanding 6/30/75 and authorization for same;

7) detailed cash forecast to 6/30/75;

8) summary cash forecast to 6/30/75; and

9) estimated general fund accrual. 1/

The schedules estimated: that the City would issue $2.5823 billion of various notes and redeem $2.6219 billion of various notes between March 10, 1975 and June 30, 1975; that revenue to the end of the fiscal year would be $1.2304 billion and estimated collections would be $872 million, leaving a balance of unreceived revenues of $358.4 million; and that the City also intended to roll-over $230 million of TANS. Cash flow projections also demonstrated that despite the proposed City borrowing through the end of the fiscal year, the City would still be in a substantial negative cash position as of June 30, 1975. 2/

* * *

Frank Smeal addressed a memorandum entitled "Random thoughts on New York City" to Messrs. Patterson and Page. Mr. Smeal stated in his memorandum that the Wein lawsuit had challenged the legal capacity of the City to issue additional debt and was not regarded by lawyers to be totally without merit. As part of Mr. Smeal's description of the "environment," he reported that: the State of New York was in default on $100 million bond anticipation notes; it appeared the City had to use pension funds and special borrowing to meet payrolls; purchasers of City BANS had to wait nearly 24 hours because

---

1/ D. Grossman Ex. 33.

2/ Id.

of the delay in the $537 million issue; and that distributors of City securities were advised by lawyers that they had to disclose explicitly both the legal and economic difficulties of the City to potential investors. Lawyers as well as financial analysts were said to be concerned about the size of the unfunded short-term debt. Additionally, the long-term market appeared to be closed to the City. 1/

As to the $537 million of BANS issued the previous week, it was suggested that the short maturities of this issue, i.e. the notes coming due in September 1975, had been placed, but that there was less investor interest in the longer one year maturities. 2/ The six underwriting banks were said to hold, at that time, about $1.25 billion of City securities in their accounts. The banks alone could no longer underwrite borrowings of the size and frequency required by the City. Mr. Smeal noted that only two investment bankers, Merrill Lynch and Salomon Bros., participated in the $537 million BANS offering and that they only participated in a nominal amount. 3/

Mr. Smeal indicated that the City, as well as other cities, could not operate without access to the credit market and that a total effort of all parties concerned must be directed to maintaining such access. Other sources of credit, such as the Federal Government, had to be actively explored. He continued:

> Many investors feel that the City is in deep financial trouble. Revenue shortfalls way in excess of expenditure

---

1/ Smeal Ex. 11.

2/ Id.

3/ Id.

> reductions, weak and weakening economy, high unemployment, loss of industry, high tax rates, changing profile of population, enormous pension burdens, out-of-line wage and salary levels, exhausted tax and revenue sources, are all cited to document that concern.
>
> The problems of UDC merely focused attention on the problems of the City and accelerated the City's financial crisis.
>
> Because of these factors, it is no longer enough to cite the strong legal claim that holders of the City's general obligation debt have on gross revenues of the City. Although the claims of the unpaid holders of UDC BAN's are vastly different from this claim, investors [sic] confidence in legal claims of bondholders generally were not reassured when the State legislature elected to pay contractors and construction workers while a $100 [million] BAN went and goes unpaid. 1/

Mr. Smeal asserted that the City must do or seek to do something dramatic, such as a wage freeze, to restore investor confidence and that the Wein litigation must be quickly resolved. He stated that:

> The serious allegations of that suit going as it does to the very capacity of the heaviest borrower to borrow is [sic] deadly serious. 2/

As to the issue of disclosure, Mr. Smeal reported:

> It is imperative that the City open its books totally and not seen [sic] to be hiding anything. Claims that the information has never been sought before and delays in supplying data on City finances only aggravate a very nervous market. 3/

He further contended that the City's ability to borrow in the market was severely limited and that the Mayor could only fall back on the clearing house banks. Taking into consideration that at least one bank was unwilling to place additional City securities in its portfolio and other

---

1/ Id.

2/ Id.

3/ Id.

banks were either unable or unwilling to underwrite their share of City securities, the City might have no solution to its borrowing problem. 1/

The memorandum concluded:

> I suspect they will try to get through Thursday by claiming the issue, because they are RANs and short and may be sold with more limited disclosure, can be underwritten. If this is so, and it may be, we defer the confrontation until mid-April.
>
> If not, I would like to determine whether or not City Bank [sic] would participate in a Clearing House loan to the City of the kind that will be paid off by the RAN's to be sold this Thursday. 2/

* * *

In a memorandum to William Spencer of Citibank, Jac Friedgut set forth some past quotes of Mayor Beame. Mr. Friedgut reported:

> On January 20, 1970, in decrying the fact that the City did not have an A rating at that time, he said: "The City originally lost its A rating because the rating agencies were concerned we were using borrowed money to pay for some day-to-day expenses." He then indicated that such practices had ceased. Unfortunately, as we all know only too well, the combination of capital budget borrowing for operating expenses and the sizeable "permanent floating" short-term debt strongly suggest that the City is now right back where it was when it had lost its A rating. 3/

* * *

A memorandum captioned "New York City Problem" stated that, in the calendar year 1975, the City must borrow \$500 million to \$1 billion, "or more", in addition to amounts that had to be borrowed to roll over maturing short-term obligations. If the City were to lose access to the public market, its needs would be approximately \$6 billion because of these maturities.

1/ Id.

2/ Id.

3/ Memorandum, Jac Friedgut to William Spencer and others, entitled "Past Quotes from Mr. Beame," March 11, 1975.

The public market was alleged to be closing to the City due to the apprehension among investors caused by the City's deficit, the "sheer magnitude" of its borrowing and the UDC situation. It was asserted that the public market could only be revitalized if: the City publicly acknowledged its problems and announced tough measures to meet those problems; the banking community (including prominent dealers) adopted the position that City debt was sound; and the Federal and State Government assured the public that they would assist the City when necessary. The memorandum concluded:

> The time available for the above steps is extremely limited - weeks, not months. The Thursday sale of $375 million RAN's can probably be effected because of their very short maturity, but a great deal will have to be accomplished before an April note sale will be feasible. In any event, we are very dubious of the prospects for a large bond sale in April. 1/

* * *

The FCLG held a meeting with City officials. Ellmore Patterson, Walter Page and Frank Smeal represented Morgan Guaranty; Alfred Brittain and Truxton Pratt represented Bankers Trust; George Roeder, David Grossman and Thomas Labrecque represented Chase; Donald Platten and Richard Adams represented Chemical Bank; William Spencer, Richard Kezer and Jac Friedgut represented Citibank; Albert Gordon and Duncan Gray represented Kidder Peabody; Donald Regan represented Merrill Lynch; William Salomon and Gedale Horowitz represented Salomon Bros.; John Fey represented Equitable Life; Charles Mueller represented Metropolitan Life; John Larsen and Elmer Harmon represented Bowery Savings; and John McGillicuddy and David Barry represented Manufacturers. Leroy Love and Leo Sabatine of Wood Dawson; Roger Blough, Marion Epley, Willis McDonald and John Osnato from White &

1/ Memorandum entitled "New York City Problem," March 11, 1975.

Case; and Richard Smith of Davis, Polk & Wardwell were also present. 1/

Prior to the arrival of the City representatives, members of the FCLG discussed the general financial condition of the City and the need for the members of the FCLG as underwriters and representatives of major institutions to help the City. 2/ Subsequently, Mayor Beame, Deputy Mayor Cavanagh, Comptroller Goldin, and other City representatives arrived at the meeting. 3/

Mr. Patterson reviewed the history behind the formation of the Committee and stated that its purposes were to improve the reception of the market to New York City securities, to reduce the interest cost to the City and to provide it with advice in financial matters. 4/ He then noted that the group's initial approach was long-range, but the focus had shifted to the City's immediate problems with the issuance of short-term debt, in part because of the publicity the City was receiving concerning its budget and cash problems. 5/ He pointed out that the banks represented at the meeting held $1.2 billion of City securities in their own portfolios and that this sum represented 20% of their net capital. Given this fact, Mr. Patterson asserted, it was absolutely vital that the public market be kept open to the City because the banks themselves could not "take on the amount of City paper necessary" unless the City's securities could be sold publicly. 6/ Mr. Patterson noted that only one half of the $537 million BANS sale was sold in the market. Richard Kezer indicated that the syndicate was optimistic about

---

1/ Schott Ex. 10.

2/ D. Grossman at 147.

3/ D. Grossman at 146-47.

4/ Rousseau Ex. 15.

5/ Id.; E. Patterson Ex. 4.

6/ Rousseau Ex. 15; E. Patterson Ex. 4

underwriting the sale of the $375 million of RANS to be issued shortly if the disclosure problems could be settled beforehand. 1/

The Mayor responded that the City's fiscal problems were not unique and cities throughout the country were also experiencing similar problems. The Mayor indicated that the Governor and the State Legislature had told the City to resort to short-term borrowing to close the budget gap. He stated that the City had taken austerity measures totaling hundreds of millions of dollars and that the 1976 budget gap of $889 million would be met with help from the Federal and State Governments. Mr. Beame reiterated his need for help from the banks in selling the "City story" and its debt to the public. He noted that the City was improving its information flow to the public through the CTDM Committee and claimed that short-term borrowing had not increased dramatically because such borrowing was against anticipated revenue due to the City. 2/

Mr. Patterson commented that the City's attacks on the interest rates ultimately hurt the City by generating adverse publicity. William Spencer stated that the public had lost confidence that the City could restrain its budget increases and did not believe the City would live within its means. 3/

Mr. Friedgut cited Mayor Beame's warnings, when he was Comptroller, that the City's budget was increasing at a rate that could not be sustained. The Mayor replied that the rate of increase was diminishing. 4/

Messrs. Rousseau, Smeal and Spencer remarked that the sheer size of the City's rolled over short-term debt was becoming almost impossible to handle; and the mere assertion of the constitutional priority of the City's debt would no longer suffice to persuade the public to buy City

---

1/ Rousseau Ex. 15.

2/ Id.

3/ Id.

4/ Id.

securities. Rather, Rousseau said, the City must publicly describe the specific steps it was taking to face its budget problems and meet its obligations, in a manner which the banks could endorse. The Mayor replied that he had made, and would continue to make, this information public. 1/

Thomas Labrecque indicated that a general apprehensiveness due to the Wein litigation had caused the members of the FCLG to ask questions and seek further information from the City. The Mayor responded that he was disturbed because the timing of these requests unfairly put the City in a bad light. The Mayor reiterated the City's willingness to work with the FCLG to resolve any problems and indicated that, in his opinion, the Wein suit would be dismissed before June 30th. 2/

Mr. Spencer expressed concern that the underwriting syndicate would not be able to sell any additional City notes or bonds unless the City could better demonstrate its ability to control its expenses and/or increase its non-borrowed revenues. He complimented the Mayor on the steps already taken in dealing with the unions but indicated that much more was necessary. The Mayor described the limited range of the budget over which he had direct control and indicated savings of $600 million which he stated indicated his determination to control City expenses. 3/

Jean Rousseau stated that the market for City securities was disappearing rapidly and the City must come forward with affirmative programs to meet its fiscal crisis and thereby improve the market situation. Mayor Beame said that the City had reduced expenses, had sought increased Federal and State aid and would be raising taxes in a concerted effort to gain control over its fiscal problem. 4/

1/ Id.

2/ Id.

3/ Id.

4/ Goldin Ex. 76.

Gedale Horowitz stated that, despite the institution of a regular borrowing schedule by the City, the number of purchasers of City securities was dwindling, causing the April bond issue to be in jeopardy. Comptroller Goldin contended that the City's cash needs were rigid through June and that the borrowing must go forward. 1/

Patterson concluded the meeting by stating that dialogue between the investment community and the City was in the interests of both groups, and was absolutely essential, to keep the public market open. 2/

* * *

Copies of a Wood Dawson memorandum were sent to various members of the FCLG. The memorandum discussed the large amount of permanent short-term City debt and suggested a means to refinance this debt over a longer period of time. It reported that the City's constitutional debt incurring power was close to being exhausted and recommended that a public corporation be established to borrow money to pay over to the City and, effectively stretch out this debt. The corporation would be similar to the SRC but would be used to establish fiscal discipline for the City. It would issue securities only if the City ceased borrowing for recurring operating expenses, stopped establishing or increasing off-balance sheet financing, ended bonding to finance leases, avoided budget balancing "gimmicks" such as anticipating revenues from water and sewer charges in

---

1/ Id.

2/ Id.

advance, and anticipating the receipt of questionable revenues. Furthermore, such a corporation might serve to effect a "quick settlement" of any Wein - type litigation. 1/

WEDNESDAY, MARCH 12, 1975

At 10:00 A.M., the Grossman task force met with representatives of White & Case; Milbank Tweed and others at Chase. 2/ Materials provided by the City were reviewed. 3/ The group discussed the problems of cash flow and receivables and the preparation of a document to reflect the City's financial condition. In addition, William Solari and other members of the group had a discussion about problems of the City's cash flow. There was also a discussion concerning the Statement of Essential Facts being prepared by White & Case. 4/

* * *

At 2:00 P.M., the task force met with members of the Bureau of the Budget and the Comptroller's Office in the office of the First Deputy Comptroller, Seymour Scher. Representatives of White & Case also were present. 5/ A first draft of a Statement of Essential

---

1/ Memorandum, Wood Dawson, March 11, 1975, entitled "A Proposal for Providing One of the Essential Elements in Finding A Long Range Solution for the Current Financial Difficulties of New York City."

2/ D. Grossman at 152; Solari at 47.

3/ D. Grossman at 153.

4/ Id. Solari at 47-48; D. Grossman at 153.

5/ D. Grossman at 154.

Facts had been prepared by White & Case based on the materials provided by the City to the task force. 1/ Deputy Comptroller Scher added a separate sheet, entitled "Cash Flow Projections," to the package of materials already given to the task force. This sheet contained a paragraph which stated that the cash flow chart was produced on March 9, 1975 and that future borrowings and projected revenues "will be both necessary and sufficient to meet the City's cash needs through June 30, 1975, including the redemption of maturing debt. The City requires continuing access to the capital markets in the approximate amounts listed . . . in order to meet its cash needs through June 30, 1975." 2/

* * *

White & Case sent a letter to the prospective members of the bidding syndicate for the $375 million of RANS asking for their comments on the enclosed first draft of the Report of Essential Facts, and advising the members to have their counsel contact White & Case prior to 3:00 P.M. that day with any comments or questions. The letter also indicated that a draft of the White & Case legal opinion as to the RANS was enclosed. A copy of the letter produced by Morgan Guaranty contained a handwritten note: "Smith if borrowing is essential, must point out — i.e. 'large amounts of borrowing required, no assurance can borrow.' Typical corp disclosure." 3/

1/ Altman at 107; D. Grossman Exs. 33, 34 and 41.

2/ Document entitled "Cash Flow Projections," on the letterhead of Seymour Scher, March 12, 1975.

3/ Letter, White & Case, "to Prospective Members of the Bidding Syndicate for RANs to be Offered on March 14, 1975," March 12, 1975.

* * *

Marion J. Epley, of White & Case, addressed a letter to William Scott, Third Deputy Comptroller, stating that the Report of Essential Facts being developed should be identified as the document referred to in the Notice of Sale for the $375 million of RANS. 1/

* * *

The March 12 draft of the Report of Essential Facts included a cover sheet stating:

> Attached is certain information prepared by The City of New York with respect to its financial position and certain other matters which may be of interest to purchasers of the Revenue Anticipation Notes of the City to be issued on March 20, 1975 and to mature on June 30, 1975. The Underwriters of the Revenue Anticipation Notes have not attempted to verify independently the material prepared by the City. However, based upon discussions with representatives of the City, the Underwriters have no reason to believe that such information is not correct. 2/

This draft contained a schedule of anticipated short-term borrowings, a summary cash forecast to July 29, 1975, a schedule of RANS outstanding as of March 11, 1975, a statement of debt outstanding at February 28, 1975, and other information. 3/

* * *

The first meeting of the merged syndicate, led by Citibank, which would submit the only bid for the $375 million RANS issue, met at Citibank to discuss the offering. 4/ Representatives from

---

1/ Letter, Marion J. Epley to William Scott, March 12, 1975.

2/ Report of Essential Facts, Draft of March 12, 1975.

3/ Id.

4/ This meeting continued on March 13, 1975. All references herein are to either or both meetings.

Citibank, Chase, Morgan Bank, Bank of America, Bankers Trust, Chemical, Manufacturers Hanover, Salomon Bros., Merrill Lynch, Weeden & Co., A. G. Becker, Bear Stearns, Ehrlich-Bober, First Pennco, and First National Bank of Boston were represented at this meeting, either in person or by individual counsel. White & Case, represented by Marion J. Epley, attended the meeting and again appeared to be acting as both bond counsel and counsel to the underwriters. 1/

This offering was designed to replace the cancelled $260 million TANS issue of February. As had been the case with the BANS of the preceding week, a poll was taken of the entities as to whether the securities could be sold and also as to their willingness to participate in the underwriting. The majority of the banks and broker-dealers believed that the issue could be marketed provided the disclosure problems were resolved by the Statement of Essential Facts and the opinions of White & Case, the State Attorney General and the City Corporation Counsel. Another factor favoring a successful marketing was the short maturity date of the issue. Again, there was a discussion of the possibility of effecting the offering as a private placement among the clearing house banks, but the overwhelming majority of the underwriters were in favor of a public underwriting in order to maintain the public market. 2/

1/ Rousseau Ex. 3; Smeal Ex. 15.

2/ Smeal 182-83; Rousseau Ex. 3; Eide at 68.

The effect of the Wein litigation to City borrowing was discussed, which led to a further discussion of the work being done to develop a Statement of Essential Facts by the Grossman task force, White & Case, and City officials. It was reported that the Statement of Essential Facts would be available the following day and that the Notice of Sale for the RANS would refer to it. Additional comments and suggestions were sought as to what should be included in the Statement. It was contemplated that this document would be sent to purchasers with confirmation slips and would contain information regarding the financial position of the City, including projections of maturities and borrowings through June 30 and a schedule of outstanding City RANS as of March 11. 1/

It was stated that the underwriters would not be verifying the figures supplied by the City but, the underwriters would be representing that they had no reason to believe that these figures were incorrect. Attorneys present discussed the participants' obligations with regard to the notes to be sold. There was some agreement that the participants' obligation was to provide rather than to verify the information. 2/

1/ Smeal at 183; Rousseau Ex. 3; Eide at 71; D. Grossman Ex. 9.

2/ Rousseau Ex. 3.

Notes taken at the meeting by Jean Rousseau of Merrill Lynch reported that there was some discussion about "poss[ible] criminal liability if we participate." 1/

There were various proposals as to what income must or could be "earmarked" to pay off the notes. One proposal was that State Comptroller Arthur Levitt would advance fiscal year 1976 welfare payments (due in the fall of 1975) and the City would use these funds to help pay off the RANS when they matured on June 30, 1975. The conversation expanded to include proposals of raising and "earmarking" additional funds for the City . 2/

The City officials and other parties present wanted the RANS offering to proceed in the same manner as had the original City RANS offerings. 3/

* * *

A New York Post article reported that major banks had demanded and received from Comptroller Goldin "written assurance that the city will be able to pay off its latest loan even if it loses a lawsuit challenging its authority to borrow more money." The statement was described as a condition of the sale of $537 million

---

1/ Rousseau Ex. 4A.

2/ *Id.*

3/ *Id.*

in BANS and was reported to have been the subject of substantial negotiations. The $537 million BANS sold the previous week were scheduled to be paid off by the issuance of bonds. Goldin was quoted as telling the banks that the Wein lawsuit would "hamper" the bond sale, but that the City will be "in satisfactory [sic] legal and fiscal position to sell bonds" to pay off the money borrowed the previous week. Goldin was quoted as stating that he did not know if the borrowing would have gone through without that assurance. He emphasized that the City's ability to repay the BANS was "never in question" and further stated that the BANS were full faith and credit obligations and that the City was pledged to pay off those notes. Goldin said that the banks were distributing his press release on Friday, March 7, to dealers as a "disclosure," a term with which he did not disagree. The article also reported that the sale of the BANS was going poorly with only one-half sold. 1/

THURSDAY, MARCH 13, 1975

David Grossman met with officers of the Federal Reserve Bank of New York. The purpose of this luncheon meeting was to allow

---

1/ *New York Post*, March 12, 1975.

Mr. Grossman to detail for them the City's problems. Grossman outlined the City's current year deficit as well as the outlook for the next fiscal year. The fact that the rate of increase in City expenditures tended to exceed the growth of revenues was discussed, as that phenomenon related to the growth of both short and long-term debt. 1/

* * *

The Comptroller issued a press release announcing the sale of the $375 million of RANS by the City at an interest rate of 8% with a premium of $13,625 resulting in an effective rate of 7.9870%. The release noted that there was only a single bid by the merged syndicate led by Citibank. The Comptroller also stated:

> The rate the City is paying today is still a very high one but is more acceptable than the rate paid last week and earlier this year. I am pleased that we were able to avoid the long and difficult negotiations which took place on our sale last week.
>
> One new development in the situation is the establishment of a process by which data on the City's fiscal condition is made regularly available to a committee of financial community representatives. Through this process we hope to avoid the circulation of inaccurate information and also to prevent a reoccurence [sic] of the events which forced a cancellation of a sale when information, demanded at the last minute, could not be immediately supplied. 2/

1/ D. Grossman at 178-80.

2/ News Release, Office of the Comptroller, 75-33, March 13, 1975.

In a Merrill Lynch document, Jean Rousseau directed that a copy of the Report of Essential Facts be distributed to purchasers of the BANS and RANS of March 1975. 1/

*　　　　*　　　　*

Marion J. Epley, wrote a letter to Kenneth Hartman, Assistant Corporation Counsel, stating:

> This will confirm our advice to Bill Scott yesterday afternoon and to you last evening that receipt by us of the opinions of the Attorney General and of the Corporation Counsel to be delivered as a condition of the issuance of our opinion at the closing tomorrow will also constitute a condition to the delivery of our opinion with respect to the RANs being offered today.

Copies of the letter were sent to William Scott, Third Deputy Comptroller, and Richard Kezer of Citibank. 2/

*　　　　*　　　　*

David Gaston of Citibank, updating his prior report in a memorandum to Paul Collins, a Senior Vice President, stated that the bank's fiduciary accounts held $22 million in bonds of the City and $6.5 million in notes of the City. 3/

*　　　　*　　　　*

An internal Salomon Brothers document stated:

1/ Memorandum, Jean Rousseau to Marcus Cuevas, March 13, 1975.

2/ Letter, Marion J. Epley to Kenneth Hartman, March 13, 1975.

3/ Memorandum, David Gaston to Paul Collins, March 13, 1975, entitled "Re: New York City."

> The following memorandum has been prepared to assist investors in the credit evaluation of New York City obligations. All of the statistics contained herein have been taken from various reports by the Comptroller of the City of New York.

Each sheet of this document bears a legend which reads "FOR INTERNAL DISTRIBUTION ONLY NOT TO BE SENT OUT." 1/

The memorandum stated that City bonds were secured by the full faith and credit of the City and the unlimited taxing power of the City. In addition, real estate tax levies could not be limited by the State or local legislature and, if the City failed to pay debt service, State law provided that a sufficient sum must be set aside from the first revenues available. 2/

There were a series of tables in this document. Table #1 stated that as of August 1974, the City's net funded debt was $6.818 billion. Temporary debt (BANS, RANS and TANS) was listed as $3.767 billion as of December 1974. In 1968, the temporary debt had been $686 million. Table #2 traced the trend in real estate tax delinquencies. In 1963-64, the amount of tax delinquencies was $45.8 million, a rate of 3.65%. In 1973-74 the amount was $148.6 million, a 5.59% rate. Table #3 reported on the ratio of receipts to debt service. In 1963-64, debt service was $439 million with a ratio of receipts to debt service of 7.1%. In 1973-74, debt service was $1.141 billion

---

1/ Memorandum, Salomon Brothers, entitled "Memorandum Re: The City of New York," undated.

2/ Id.

with a ratio of 9.0%. Table #4 compared the bond maturity schedule of New York City with those of other large cities. Within 5 years, 47.3% of bond principal would be due and, in 10 years, 71.1% would be due. Table #5 demonstrated that net debt as a percentage of full value of taxable real estate declined from 9.8% in 1963-64 to 8.5% in 1973-74. Table #6 indicated that during this same period, net debt as a percentage of assessed value of taxable real estate increased from 12.9% to 17.3%. 1/

The memorandum also reviewed budget information about the City, listed the income and expenses of the 1973-74 fiscal year and described the general fund revenue shortfall of $237 million for that fiscal year. The report concluded with a description of the SRC, indicating that the $520 million to be borrowed by that entity would be used for budget note redemption and filling budget gaps for 1973-74 and 1974-75. _/

* * *

David Grossman distributed the Report of Essential Facts to the Staff Committee of the FCLG. His covering letter stated:

> Development of the statement involved a high degree of cooperation among staff of the Office of the Comptroller the Bureau of the Budget, White & Case (bond counsel to the underwriters) and a task force made up of members of the staff committee including: Roy Anderes, Banker's Trust; William Solari, Donaldson, Lufkin; Chester Johnson, Morgan Guaranty; John Thompson, W.H. Morton; Jac Friedgut, Citibank; and Jim O'Sullivan and Walter Carroll, Chase. 3/

1/ Id.

2/ Id.

3/ Epley Ex. 10.

A covering page, affixed to the final version of the Report stated:

> Attached is the report of essential facts referred to in the Notice of Sale by the City of New York with respect to Revenue Anticipation Notes of the City offered for sale on March 13, 1975. Harrison J. Goldin, Comptroller, City of New York. 1/

In place of the summary cash forecast through July 29, 1975, which had been contained in an earlier draft of the Report of Essential Facts, the final version contained a statement entitled "Statement With Respect to Cash Flow Projections." It said:

> New York maintains a computerized cash flow forecasting system to project cash receipts and disbursements. Projections produced by this system on March 9 indicate that the future borrowing listed on Page 3, together with projected City revenues, will be both necessary and sufficient to meet the City's cash needs through June 30, 1975, including the redemption of maturing debt. The City requires continuing access to the capital markets in the approximate amounts listed on Page 3 in order to meet its cash needs through June 30, 1975. 2/

In this final version, two charts were added. The first showed short-term debt outstanding as of March 6, 1975, maturing prior to June 30, 1975 and totaling $2.496 million. The second was a schedule of maturities of long term (funded) debt to be paid in the period March 6, 1975 to June 30, 1975, totaling $191.729 million. The schedule of anticipated short-term borrowings contained a footnote stating:

1/ Id.

2/ Id.

> The validity of the Stabilization Reserve Corporation and its power to issue bonds and notes is presently being challenged by a lawsuit in a New York State court. The complaint in this lawsuit has been dismissed, but such dismissal may be appealed. The sale of such bonds or notes is subject to the successful final disposition of such suit.

The final version of the Report of Essential Facts also contained a schedule of RANS outstanding as of March 11, 1975, a statement of debt outstanding as of February 28, 1975, supplemental information with respect to the City's debt incurring power as of February 28, 1975 and other related matters. 1/

* * *

The Mayor issued a press release reporting that the State Supreme Court had upheld the right of the SRC to sell $520 million of bonds or notes to help finance municipal services in New York City. Mr. Beame stated:

> While the case has no legal bearing on the City's own bonds and notes, some people in the investment community have not understood this fact.

* * * *

> Professor Wein has asserted that bonds and notes of the Corporation would be City debt chargeable against the City's constitutional debt limit and that the 1974 State law creating the Stabilization Reserve Corporation was unconstitutional. Judge Korn ruled against him on both points. 2/

* * * *

Comptroller Goldin issued a press release stating:

1/ Id.

2/ News Release, Office of the Mayor, 101-75, March 13, 1975.

> As I stated earlier, the Wein case did not, in actuality, pose a threat to the security of City obligations, but it may have contributed to an unhelpful climate in which to market City debt. 1/

* * *

In a New York Times article, the Comptroller was quoted as saying that the City's bankers (the FCLG) were receiving a daily "continuous flow of information" on municipal receipts and expenses. The information flow was said to be an attempt by the City to avoid "repetitions of the cancellation of a recent note sale [the February 28 cancellation of the $260 million TANS offering]." 2/

FRIDAY, MARCH 14, 1975

The CTDM Committee met at the Comptroller's office at the suggestion of Ellmore Patterson and Frank Smeal in order to discuss the City's financing schedule for the balance of the fiscal year ending June 30, 1975. 3/

In a memorandum from Mr. Smeal to Mr. Patterson, it was reported that the meeting opened with a discussion of what amount of money, if any, could be raised by the City through the sale of long-term debt. Opinions ranged from $100-$250 million, depending on the method of sale. Mr. Smeal took the position at the meeting that the City's banks were at or close to saturation with respect to City securities and further noted that the problems encountered with the most recent City issues indicated that "the credit markets were

---

1/ News Release, Office of the Comptroller, 75-34, March 13, 1975.

2/ The New York Times, March 13, 1975.

3/ Memorandum, Frank Smeal to Ellmore Patterson, March 14, 1975.

closing on the City." 1/ He suggested that the Committee should concern itself with the problems of the $550 million needed by the City on April 14, 1975 and recommended that other sources of funds, such as savings banks, insurance companies, City pension funds and State, Federal and Federal Reserve sources, be explored. He pointed out that the budget gap for the current year was so great that some substantial amount of additional borrowing was necessary and that financing plans for July, August and the rest of the calendar year were required as soon as possible. 2/

Smeal advised Patterson:

> Daily flow of fund schedules disclosed, of course, that the city absolutely had to have the proceeds of a $500 MM long term bond issue and was depending on raising $520 MM under Stabilization Reserve Corporation authority. I had serious doubts about the City's ability to do either of these things.
>
> In the meantime, initial optimistic expectations that the $375 MM RAN's might be readily placed and at the same time create some movement in the unsold BAN's were not realized. This, in spite of the fact, that we had a clean legal and a thoroughly acceptable "record of essential facts" as a substitute for a very damaging disclosure statement. As I write this, late Friday morning, only $57 MM (15%) of the $375 MM RAN's had been placed, leaving a balance of $318 MM. $240 MM, roughly half, of the BAN's are still in underwriters [sic] hands, leaving an overhang of New York City paper of $558 MM on the market. 3/

The memorandum further stated:

> The credibility of repeated assertions by the Mayor that the budget will be balanced, is now about zero. Analysts, bankers and very soon the world at large believe that this has been done only by the use of gimmicks and meaningless numbers adding up, after at least 2 years of phoney budgets, to an enormous floating debt of as much as $3 or $4 billion.

1/ Id.

2/ Id.

3/ Id.

> Furthermore, we do not know how to raise revenues or cut expenditures so as to produce honestly balanced budgets, certainly not under prevailing economic conditions. We cannot identify the substantive areas, transit fare, pension payments, where the problems can be solved. The City has to set its own social balance sheet and decide where to tax and where to spend. We can only ask that it be done honestly.
>
> The members of the Controller's Committee, including Chase, City Bank [sic], Salomon Brothers, all agree with this view and told the Controller that they were "scared." This message was transmitted to the Mayor at 10:40 this morning by the Controller so that he will not be completely surprised by any message you deliver on Monday.
>
> There is only one place I know of where one can go for the hundreds of millions of dollars, if not billions, that may be required to keep the City running. I haven't the slightest idea whether they, the Fed, have the authority or the willingness to do so. 1/

* * *

Copies of the final version of the Report of Essential Facts, dated March 13, 1975, were sent to Comptroller Goldin, Sol Lewis, William Wood, William Scott, Melvin Lechner, Eugene Keilen, Kenneth Hartman, Steven Clifford and James Greilsheimer. 2/

* * *

Wood Dawson submitted a bill for legal services to Chemical Bank with reference to the $537 million BANS. The cover letter of the bill stated that Chase Bank had instructed the firm to bill Chemical as manager of the merged syndicate. 3/ The bill itself indicated that the fee was for, among other things:

1/ Id.

2/ Memorandum to Harrison Goldin, Sol Lewis, William Wood, and William Scott, March 14, 1975.

3/ Letter, Wood Dawson to Herman Charbonneau, March 14, 1975, with enclosure.

> [E]xamination of certificates of the Comptroller authorizing the issuance of the Notes, debt statements of the City and a Report of Essential Facts; attending meetings of the merged underwriting accounts on March 5 and 6, and advising The Chase Manhattan Bank account with respect to various matters, including the form of legal opinion to be rendered by designated bond counsel and the form of statement for release by the City Comptroller used in connection with marketing the Notes ...1/

* * *

In a New York Times article, it was reported that the City Council and Board of Estimate had agreed the preceding day to a $1.9 billion capital budget. Of this total, only $5.1 million was allocated for new projects. The rest of the budget, it was reported, was to be used for maintenance and rehabilitation of existing City facilities. 2/

* * *

In another New York Times article, the sale of the $375 million in RANS was reported. The article stated that the City had pledged to the banking community that both City Corporation Counsel Bernard Richland and State Attorney General Louis J. Lefkowitz would guarantee in writing that the City was not exceeding its borrowing authority. The sale of the RANS was said to have been contingent upon the delivery of the two opinions. The article commented that a provision of the State Attorney General's letter "forb[ade] the banks [from using] the opinion to resell the notes." Chemical Bank was reportedly concerned about the effect that a pending lawsuit

---

1/ Id.

2/ The New York Times, March 14, 1975.

challenging the constitutionality of the SRC might have on the two sales. 1/ In addition, the Comptroller was quoted as saying that data about the City's fiscal health was being supplied "regularly and continuously to a committee of financial community representatives." The Comptroller noted that $140 million of the RANS issue plus $417,000 in interest would be paid to Chase for a $140 million short-term loan the bank had given to the City on March 5; the Comptroller also pointed out that "[m]uch of the city's borrowing simply pays off previous borrowing." 2/

*　　　*　　　*

The Daily Bond Buyer reported: (a) the City sold $375 million of RANS immediately after the Wein lawsuit, was dismissed by a state court; (b) the sale was accomplished by a single bid, from a merged underwriting syndicate; (c) sales to the public were reported to be proceeding only at a fair rate, at best; and (d) investors were still not purchasing the unsold $245 million of BANS of the previous week still available in the market. 3/

1/ The New York Times, March 14, 1975.

2/ Id.

3/ The Daily Bond Buyer, March 14, 1975, p. 1, 3.

*　　　*　　　*

In a letter to one of its clients, Morgan Guaranty recommended that the client sell "New York City holdings" and reinvest the proceeds in "high grade notes." 1/

MONDAY, MARCH 17, 1975

Early in the morning, at Gracie Mansion, Mayor Beame met with David Rockefeller of Chase, Ellmore Patterson of Morgan Guaranty, William Spencer of Citibank and other individuals. 2/ The meeting came about as the result of a desire by several bankers to communicate the serious nature of the City's financial problems to the Mayor, in a group smaller than the FCLG. 3/

1/ Letter, Walter B. Terry to a client, March 14, 1975.

2/ Rockefeller at 45.

3/ Smeal at 191.

A memorandum written in preparation for this meeting stated:

> Knowledge of the participants, purpose and the message of this meeting could trigger a real panic in the market for New York City securities and have a serious impact on markets, worldwide, because of the extensive ownership of the billions of dollars of New York City securities and especially because of the concentration of that ownership among the large New York City banks. Because of this, it is important that some advance thought be given to the presence of the press and the explanations that might have to be made about the presence of these three distinguished bankers. It was generally agreed at breakfast that no effort to conceal the fact of the meeting should be made but that the visit should be related to the continuing effort of the liaison group to help the City solve its problems. 1/

The memorandum indicated that at the time there was an overhang of $558 million in unsold City notes on the market and that the City would require $1.7 billion in short-term funds and $500 million in long-term funds through the end of fiscal year 1975. Further, about half of the projected short-term borrowing was to take the form of BANS or SRC issues, both of which were "tarnished in the market." According to the memorandum it was doubtful that any significant portion of the City's short or long-term borrowing could be obtained through traditional sources because: the City banks had already invested between 1/5 and 1/4 of their capital in City securities and their ability to supply additional money was virtually exhausted; the market for City securities appeared saturated, as evidenced by its inability to absorb even one half of the prior week's offerings; and the proposed borrowings will occur at a time when the City's "borrowing needs are greatest and budget problems most visible." 2/

1/ Memorandum entitled "Proposed Statement to Mayor Beame by the Messrs. Patterson, Rockefeller, Spencer, on March 17, 1975." (E. Patterson Ex. 7).

2/ *Id.*

The memorandum continued:

> The market will not be reassured by assertions of balanced budgets when balance is achieved by further borrowings or gimmicks or shifting accounts or a general overstatement of revenues and understatement of expenses. Somehow, a large part, billions perhaps, of the floating debt must be "funded."
>
> We see no way of achieving this through the market in the prevailing environment. 1/

The reference in the memorandum to "gimmicks" used to balance the City's budget, was explained as meaning any of the following:

(1) capitalizing expense items;

(2) deferring expenses until the next year;

(3) switching the City's books from an accrual to a cash basis for certain items;

(4) suspending required payments;

(5) changing billing dates;

(6) overestimating Federal and State receivables;

(7) adjusting the timing of estimated payments; and

(8) suspending payments to reserve funds. 2/

The memorandum further stated that it was not alleged that these "gimmicks" were illegal, but rather, that they had become standard operating procedures for the City over the years.

The memorandum asserted that the City was "out of credit and credibility," that events such as the weak national economy, the Wein litigation and the UDC default, perhaps, aggravated the problem and accelerated the present crisis,

---

1/ Id.

2/ Id.

but that the root cause of the problem was that the City had been living way beyond its means. It urged that other non-market sources of funds be found and that the magnitude of the City's needs are such that they could only be supplied by the Federal Government. The memorandum concluded with the comment that the rating agencies might be reviewing their rating for City notes, a potential "time bomb in the market." It was asserted that the confidence of the banks and the underwriters must be restored before attempts could be made to restore the confidence of the marketplace. 1/

Mr. Patterson stated that the general topics covered by the memorandum were discussed with the Mayor when he and Messrs. Rockefeller and Spencer met with the Mayor on March 17, 1975. The bankers indicated to the Mayor that things were getting tighter and something positive in the way of fiscal improvement had to be demonstrated. 2/

1/ Id.

2/ E. Patterson at 78-79.

The meeting ended with the bankers relating to the Mayor that he must quickly take dramatic actions. They stated: (a) there was little or no time left; (b) any future borrowing was doubtful; and (c) the City had to reach out to the State, the Federal Reserve Bank and the Federal Government. 1/

* * *

David Grossman of Chase prepared a memorandum entitled "Part II Toward a Solution" which he later sent to Ellmore Patterson for consideration by the FCLG. 2/

In his memorandum, Mr. Grossman stated that "[w]hile the City's budget and borrowing problems are very serious they have not yet seriously sapped its basic economic strength" and quoted various statistics to show this strength. He contended that the budget must be balanced and borrowing reduced. 3/

> The total amount of outstanding short-term borrowing at the end of the current fiscal year (both City and Stabilization Reserve Corporation) will be in excess of $6 billion, compared to $3.4 billion at the end of the previous fiscal year and only $1.3 billion five years ago. 4/

1/ E. Patterson at 78; E. Patterson Ex. 7.

2/ Smeal Ex. 20.

3/ Id.

4/ Id.

The true budget imbalance for the current fiscal year was indicated to be approximately \$2 billion. 1/ He also asserted that the City must cut expenditures and consider a \$1 billion increase in taxes. 2/

Mr. Grossman said that the City had a "permanent" component of short-term debt of \$3 to \$4 billion, including \$1 billion for Mitchell-Lama housing, \$400 million in TANS issued against real estate taxes uncollected during the past 5 years; \$450 million in budget notes from 1970-71 and 1973-74 which were to be re-issued as SRC notes; year-end accrual borrowing against the next year's receipts of over \$300 million; and notes issued against a sizeable portion of State and Federal receivables. In order to fund this debt over the long-term, Mr. Grossman noted, the State could establish an authority to issue long-term debt and the proceeds could be used to retire the temporary debt. In addition to the funding accomplished by this agency, it would also have to ensure that this situation did not arise again in the future. Additionally, a Federal financing agency might purchase City debt.

Mr. Grossman stated that there would be difficult political problems involved in balancing the budget because the City would not welcome any intervention by outside governmental or private groups and the municipal unions and other interest groups would not welcome any interference with the funds and services they received through the City budget. 3/

1/ Id.

2/ Id.

3/ Id.

* * *

David Grossman addressed a letter to Ellmore Patterson enclosing his proposed outline of an "Investor's Data Book" on New York City. 1/ He stated that the outline, dated March 13, 1975, was in response to a request of one Mayor and that "[t]he purpose of the data book would be to provide a consolidated, comprehensive and factual statement on the City and its finances." Grossman suggested that it was appropriate to determine whether the Comptroller would be interested in such a document and, if so, whether personnel from the Mayor's and Comptroller's offices, in cooperation with members of the Staff Committee of the FCLG, would work on a rough draft and hopefully develop something within four to six weeks. 2/

* * *

Frank Smeal of Morgan was in Washington for a meeting of a Treasury financing committee. While in Washington, Mr. Smeal met with William Simon, Secretary of the Treasury, to discuss matters other than those involving the City. However, the subject of the City arose and a short conversation ensued. Mr. Simon suggested that Mr. Smeal discuss the situation with Under-Secretary of the Treasury, John Bennett, and attempt to provide him with a general overview of the City and its fiscal problems. 3/

1/ Letter, D. Grossman to E. Patterson, March 17, 1975.

2/ Id.

3/ Smeal at 173-74, 192.

TUESDAY, MARCH 18, 1975

In Washington, D.C., Jac Friedgut of Citibank made a presentation on the City's financial condition to the Congressional delegation from New York City. He explained that the City had two budgets, expense and capital, with total expenditures of $13 billion. The City was said to use various types of short-term borrowing to realize its income stream. Its expense budget was growing at the compound rate of 13% per year and there was a growing disparity between revenues and expenditures which could not be eliminated by the Rainy Day Fund because that fund had become depleted. The City had closed gaps over the past several years "by various techniques, such as the issuance of special 'budget notes' or else the 'stretching' of TANS, RANS, and BANS, involving borrowings against revenues which were not always collected in the amounts anticipated." 1/

Mr. Friedgut reported: (a) the City had financed large amounts of expense items through the capital budget, including $722 million in the current fiscal year; (b) the City's short-term debt had grown to approximately $6 billion, equalling 25% of the total outstanding tax-exempt short-term debt in the country; (c) "New York City is now on a debt 'treadmill' which appears to average more than $500 million per month of short-term debt in addition to its long-term debt offerings;" and (d) the City's expenditure level had been rapidly rising, e.g., welfare and related payments had experienced a six-fold increase over the preceding

---

1/ Jac Friedgut, Presentation to New York City Congressional Delegation entitled, "New York City's Financial Situation," March 18, 1975.

10 years to the current level of $2.4 billion and City employee salaries and benefits had tripled in 10 years to over $6.5 billion for the current fiscal year. It was said that municipal wages exceeded those in the private sector by 25%. Additionally, the City was said to support a high level of free or discount services, such as higher education, mass transit and hospitals, and the City could not afford all of them. Finally, debt services had greatly expanded, putting additional burdens on the expense budget.

The City's revenues were also rising, but at a slower rate than its expenses. Although Federal and State aid had eased the situation, this aid had recently diminished. Friedgut stated that the budget gap for the current fiscal year would approach $120-$200 million, and the City was facing an $884 million gap for 1975-76. Additional taxes probably would be counterproductive as they might tend to drive more businesses and people out of the city. Expectations of large scale additional Federal and State aid were unrealistic. The only alternative was to cut the expense budget. "Unless something 'gives,' the City fiscal situation might not be viable and New York City paper would then be suspect, regardless of interest rate." 1/

Friedgut concluded that the City had a substantial borrowing schedule which depended on investor confidence, and could only be maintained if the City was perceived as being determined to live within a balanced budget.

1/ Id.

Layoffs would be avoided, if possible, but wages would have to be frozen for at least a year. Also, a comprehensive package, including additional Federal and State aid and soundly conceived taxes, would have to be instituted. 1/

Mayor Beame and Deputy Mayor Cavanagh received copies of the materials, prepared by Friedgut, were disturbed by their contents, and considered arranging a counter-meeting to discuss the situation with the City's congressional delegation. 2/

* * *

City officials James Cavanagh, Sidney Frigand, Eugene Keilen and Richard Bing accompanied Mayor Beame to Washington, D.C., to discuss possible legislation to help reduce City borrowing costs. This group met with Chairman Ullman of the House Ways and Means Committee, Senator Harrison Williams of the Senate Banking, Housing and Urban Affairs Committee and Senator James Buckley of New York. City officials suggested that the Federal Financing Bank Act be amended to allow the U.S. Treasury to purchase municipal securities. All of the legislators were

---

1/ Id.

2/ Memorandum, Richard Bing to Melvin Lechner and John Lanigan, March 19, 1975.

interested in the City's problems and were informed of the high rates of interest the City was paying on its debt. The City promised to send the legislators drafts of suggested legislation. 1/

* * *

Eugene Keilen, Bruce Kirschenbaum and Richard Bing met with Under-Secretary of the Treasury John Bennett to discuss possible legislation which would permit the Treasury to purchase municipal securities. Mr. Bennett, and several associates present, asked a series of questions about the City offerings. Mr. Bennett had been assigned by Secretary Simon to work on New York City fiscal problems and requested the name of a City official who would be capable of providing information to the Treasury Department. 2/

James Cavanagh called the Comptroller and briefed him on the various meetings that had occurred in Washington. 3/

The City officials also hosted a luncheon for the presidents of major labor unions in the United States to obtain their support for a variety of federal revenue measures for the City. A joint business-labor-City lobby effort was to be arranged. 4/

1/ *Id.*

2/ *Id.*

3/ *Id.*

4/ *Id.*

* * *

A New York Times article reported that the New York State Pension Commission had stated that the City's $6.7 billion employee pension funds "have been dangerously depleted by a decade of budget 'gimmickry'." The article stated that in a report to Governor Carey, the Pension Commission had written that "[t]he financial soundness of the New York City public employee [sic] pension systems is in jeopardy unless corrective action is taken immediately." The Pension Commission's report stated: (a) the City had chosen to use pension underfunding as one method of balancing its operating budget; (b) the gimmickry had started during the Lindsay administration and had mounted during the Beame administration; and (c) the underfunding between 1967 and 1975 totalled $2 billion. The article reported that the Mayor had stated that he had not had the opportunity to study the report, and quoted the Comptroller as stating, "The Kinzel commission report highlights deeply troublesome questions relating to the adequacy of the assets base on which the city has historically counted for generating pension payments." 1/

* * *

Irving Shapiro of the Comptroller's Office wrote a memorandum to Jerome Turk, also of that office, concerning the "Validity of Real Estate Taxes Receivable as Basis for Outstanding Tax Anticipation Notes." 2/ This memorandum contained figures showing that as of June 30, 1974 the amount

---

1/ The New York Times, March 18, 1975.

2/ At the bottom of the first page, the memorandum said, "TO: SOL LEWIS, STEVE CLIFFORD PLEASE LET ME HAVE YOUR COMMENTS 3/19 SS."

of uncollected real estate taxes for all prior years (including 1973-74) totaled $408 million. As of the same date, there were TANS outstanding in the amount of $317 million. The memorandum included a chart which stated the percentage of real estate taxes receivable as of June 30 of a particular year that was in fact collected in the subsequent year. The memorandum concluded: "It is apparent that payment for the above outstanding Tax Anticipation Notes payable during the 1974/75 year will have to be met from current revenues and not from the collection of Real Estate Taxes Receivable as of 6/30/74." 1/

* * *

Thomas Labrecque addressed a memorandum to William Butcher, concerning the "New York City Financing Picture." Labrecque reported that, at that time, Chase held $212 million of City obligations in its portfolio account and $133.7 million in its dealer account. The memorandum continued:

> Of the total of 95.7 million in Notes in the Dealer account, $78.5 million were the result of the two Note financings in the last two weeks. Our original liability was $127.8 million and we have sold $49.3 million to date. In addition, $31.1 million of the portfolio's $56.8 million in Notes were our share of the negotiated 15 day loan which matures on Thursday, March 20th.
>
> In calendar 1975, New York City projects it will need to issue approximately $7 billion in Notes and Bonds. They need $2,150 million from now to the end of the fiscal year, June 30th, as follows:

1/ Clifford Ex. 20.

	Notes	Bonds
APRIL	$550 million	$500 million
MAY	550 million	-
JUNE	550 million	-

Given the sales performance of New York City obligations over the last two weeks, the City's ability to float this amount of debt is tenuous at best. While this picture could be helped by a significant budget cut on the Expense side, the probability of this happening over the short run is minimal, if in fact, there is a chance at all. 1/

1/ Memorandum, Thomas Labrecque to William Butcher, March 18, 1975.

WEDNESDAY, MARCH 19, 1975

An Investors' Conference Committee meeting, organized by Deputy Mayor James Cavanagh and chaired by Ivan Irizarry, the Finance Administrator of the City, was held. Present were Frank Smeal and Ross Mathews of Morgan Guaranty, William Beahan of Lebenthal & Co., John Devine of Chase, Gedale Horowitz of Salomon Bros., Richard Kezer of Citibank, Jean Rousseau of Merrill Lynch, John Thompson of W. H. Morton and City officials. 1/

It was strongly recommended that the Investors' Conference Committee meeting previously scheduled for May would be cancelled because of concern about the City's budget gaps, the UDC situation and a judgment by the Committee "that New York City does not at this time have effective answers to the questions and criticisms that have been raised about the City fiscal procedures . . . ." 2/ The following points were made:

(1) the UDC problem had to be resolved;

(2) the City should consider issuing a sinking fund bond;

(3) the City should consider issuing near term bonds at discount;

(4) the City should set up segregated accounts for payment of debt service;

(5) the City should improve, expand and standardize fiscal reporting; and

---

1/ Memorandum, Jean J. Rousseau to Donald T. Regan, March 20, 1975; Memorandum, Ivan Irizarry to James Cavanagh, March 21, 1975.

2/ Memorandum, Ivan Irizarry to James Cavanagh, March 21, 1975.

(6) the City should "take strong action to restore belief that the City administration was not just 'doing what it can' but actually, 'doing what is necessary,' however distasteful, to fundamentally improve its fiscal position." 1/

* * *

Jean Rousseau's March 20, 1975 memorandum concerning this meeting indicated that everyone had agreed that the best and only practical plan was to postpone any decision on accelerating the next Institutional Investors Tour until after the close of the fiscal year. He continued:

> We then had a more general discussion of how the marketing of the City's debt could be improved. I presented the thought that I had previously expressed; to whit, [sic] it is first necessary for the City to develop detailed plans to resolve its budget and financial crisis and then attempt to revive confidence in the investment community and buyer enthusiasm with the institutional and retail buying public. In this view, marketing and "image" become subordinate concerns for the City, as they presently ought to be. Bill Beahan, President of Lebenthal, then added that the public attitude toward the City's debt has swung sharply to the negative in recent months and that it is rapidly becoming impossible for his firm to distribute City issues. He said that concrete positive steps; budget cutting, staff cutting, or whatever, were necessary to restore investor acceptance. (You may recall that at the March 11 meeting, the Mayor beat us all over the head with Lebenthal and the superior marketing job they have done on the City issues. I think that Bill's remarks are all the more significant as coming from a fresh source and one that has previously been very constructive about New York City issues). 2/

* * *

1/ Id.

2/ Memorandum, Jean Rousseau to Donald T. Regan, March 20, 1975.

Undersecretary of the Treasury John Bennett called Frank Smeal and inquired about people in the banking community familiar with the City's financial crisis. Smeal provided Bennett with the name of David Grossman, who had previously been employed by the City as a high official in the Bureau of the Budget. Bennett then called Grossman and invited him to a meeting in Washington the following day. 1/

A meeting was held at Comptroller Goldin's office between officials of that office and City officials from the Bureau of the Budget. The purpose of this meeting was to assemble material for delivery to the Treasury pursuant to the request from the Treasury the preceding day. 2/

The Comptroller called Governor Carey to advise him of the City's situation and of the meetings between City officials and the Treasury. 3/

* * *

David Grossman, as Chairman of the FCLG, continued his practice of distributing memoranda and materials to all members of the FCLG and its staff. On this day, he distributed a document captioned "Part II Toward a Solution", discussed previously under date of March 17. 4/

* * *

1/ D. Grossman at 7; Memorandum of Interview of John Bennett, April 19, 1976 ("Bennett Interview").

2/ Goldin Ex. 77.

3/ Id.

4/ Memorandum, David Grossman to John Thompson, March 19, 1975.

In a statement issued by the Citizens Budget Commission, the City was described as facing a deficit for 1974-75 of $200 million, a prospective deficit for 1975-76 of $884 million and a chronic cash flow problem requiring annual short-term borrowing of $7 billion. 1/ The statement reported:

> City officials maintain that the City is not going to default on its obligations because of the full faith and credit backing of the City's debt, and because the annual revenues of the City far exceed the debt service due each year. This statement is correct.
>
> It fails, however, to deal with the fact that the costs of current operations can no longer be met by the City out of current revenues. Nor can cash flows be sufficiently accelerated through anticipatory borrowings to mask any longer the basic deficit situation in which the City finds itself. 2/

The following steps were said by the CBC to be necessary:

(1) reduce expenditures by $800 million;

(2) end the financing of expense items in the capital budget; and

(3) desist from further "gimmicks" such as overestimates of revenue, underestimates of expenditures, advance collection of revenues, postponed payments, and changing accounting practices in midstream. 3/

It was also asserted that the City's labor costs had to be frozen by job attrition, deferment of wage increases, pay cuts, payless furloughs, and

---

1/ "Statement by the Citizens Budget Commission on New York City Fiscal Situation," March 1975, p. 1.

2/ Id.

3/ Id.

stretching out contract time periods. 1/ The statement ends with the admonition:

> In conclusion, it must be emphasized that legal litanies citing constitutional protection for the City's creditors are not enough. The recent high borrowing costs to the City indicate that the City's fiscal reputation is slipping. Immediate deficit-cutting action by the City is needed to reverse the City's present critical fiscal outlook. Anything less spells fiscal disaster. 2/

* * *

Jac Friedgut of Citibank gave a presentation to senior Citibank officials on the City's fiscal situation. This presentation was somewhat similar to the one he had given to the New York City Congressional delegation. 3/

* * *

David Grossman, in a memorandum to David Rockefeller concerning the "City Problems in April," stated that if the City were unable to sell its scheduled debt for April, it would be in a cash deficit position of over $400 million on Monday, April 14. 4/ He explained that although the City appeared to be able to meet its payroll of April 11, only $68 million would then remain to redeem $600 million in TANS maturing on Monday, April 14. The then-current City debt schedule called for bids for a note issue on April 2 or 3 with a settlement

---

1/ *Id.*, p. 3.

2/ *Id.*, p. 4.

3/ Friedgut at 69.

4/ D. Grossman Ex. 44.

date of April 14. Mr. Grossman concluded his memorandum with the comment that there was very little time available to develop viable alternatives. 1/

THURSDAY, MARCH 20, 1975

Undersecretary of the Treasury John Bennett met with David Grossman of Chase and others at the Treasury in Washington. 2/ This meeting was intended to prepare Bennett for his scheduled meeting with City officials in the afternoon. 3/ During the meeting Grossman outlined, in general terms, the New York City financial problem. 4/

Bennett and the other Treasury officials offered very little advice to Grossman, but Bennett noted the potential legal exposure under Rule 10b-5 under the Securities Exchange Act of 1934 if facts were withheld from the investing public. 5/

* * *

1/ *Id.*

2/ D. Grossman at 190.

3/ Bennett Interview.

4/ D. Grossman at 190.

5/ D. Grossman at 191; Bennett Interview.

After the meeting, David Grossman called David Rockefeller in New York and briefed him on the meeting with the Treasury officials. 1/

* * *

In the afternoon, Bennett and other Treasury officials met with Comptroller Goldin; Melvin Lechner, Director of the Budget; Eugene Keilin, General Counsel to the Bureau of the Budget; and Bruce Kirschenbaum, the City's Washington lobbyist. Joining this group were Messrs. Oltman and Sandburg of the Federal Reserve System. Comptroller Goldin did not present a specific proposal to the Treasury officials but requested assistance in whatever form it could be obtained. 2/

The question was also raised as to whether the Federal government would accelerate revenue sharing payments. Bennett questioned Keilin as to whether the City had reviewed the procedures to be followed in declaring bankruptcy since, based solely upon the information he had received from Grossman that morning, Bennett felt that this was a real possibility. Keilin expressed some familiarity with such procedures but acknowledged that the matter had not been researched fully. He indicated his belief that a court would not enforce the first lien on City revenues available to bond or noteholders. 3/.

1/ D. Grossman at 196-98.

2/ Bennett Interview.

3/ Id.

Bennett looked into some federal payments that the City officials alleged were in arrears, but later found that those payments were current. 1/

* * *

In an internal memorandum, Roy Anderes, Vice President of the Portfolio Management Group for Bankers Trust, wrote to Edward Sibert and William Lutz of Bankers Trust concerning New York City notes and bonds. Mr. Anderes stated:

> Recent events in the tax-exempt note market have emphasized and accentuated the selectivity and nervousness of that market. The market is steeply discounting lesser credits so that the spread between prime paper and lesser credits is historically wide, reflecting in part investor preference for quality.
>
> New York City is highly dependent upon the short-term market to remain financially viable or solvent. Recently the City has found access to this market increasingly difficult. Although the City's budget problems as well as their other well publicized financial problems have contributed to these difficulties, events beyond the sphere of the City's management, such as the New York State Urban Development Corporation default on its notes, have also had their impact.
>
> In view of New York City's high degree of reliance on the note market as well as the increasing budget deficits being experienced by the City, we no longer feel this credit suitable for retention. We suggest an orderly selling program such as we are doing with the port bonds but perhaps at a more accelerated rate.
>
> For internal purposes we are changing New York City's rating from 3B to 4. 2/

* * *

1/ *Id.*

2/ Anderes Ex. 3.

Mayor Beame issued a press release stating:

> I am confident that the City will be able to meet both its payrolls and its debt service payments in April.
>
> The "scare" talk by some persons in the banking community does the City a severe disservice, since it does make it more difficult for the City to market its new short-term obligations.
>
> I want to reassure the general public, city employees and the investing public that the City will meet its payrolls and debt service if the banks cooperate and stop casting unwarranted suspicion on the City's ability and willingness to pay all of its obligations on time. 1/

* * *

In a speech made by Comptroller Goldin to the New York Fraternal Congress, he stated, "[W]ith apologies to Abraham Lincoln, I would say that by and large, budgets are conceived in illusion and dedicated to the proposition that the hand is quicker than the eye." Mr. Goldin also stated:

> It has become habitual with government to overestimate certain revenues and underestimate certain expenditures as a matter of routine.
>
> It's a game of numbers, in order to meet the statutory requirement of a balanced budget.
>
> When it finally becomes apparent to everyone that a budget is not going to balance, one technique is to balance it by pushing the onus over onto the next administration. 2/

* * *

1/ Statement by Mayor Abraham D. Beame, March 20, 1975.

2/ Remarks by New York City Comptroller Harrison J. Goldin, Annual Meeting of the New York Fraternal Congress, Statler-Hilton Hotel, Seventh Avenue, 33rd Street, N.Y.C., 1 P.M., Thursday, March 20, 1975.

A _New York Times_ article described Jac Friedgut's March 18 briefing of the New York City Congressional Delegation. Mr. Friedgut was reported to have said that his bank (Citibank) would not buy City securities because it could not sell them due to the fact that investors were convinced that, if the City's money ran out, the City would pay its employees and default on its bank obligations. The article quoted Mayor Beame as responding: "If he made that statement its outrageous." A spokesman for Mr. Friedgut said that Mr. Friedgut definitely did not say what was reported. Mr. Friedgut had told the Congressional Delegation that "[i]t is becoming difficult to market New York City issues." The spokesman noted that as much as half of the two most recent offerings were unsold but that Citibank "is in the market." 1/

Mr. Goldin was reported to be considering a cancellation of the next scheduled RANS sale ($550 million on April 14, 1975) and the banks were said to be "grumbling" that they could not participate in a City offering in a market in which they could not resell City securities. Deputy Mayor James Cavanagh was asked about the possibility of bankruptcy for the City and he replied: "Nonsense, the banks and us are in a community of interests. If we go down, they go down." 2/

* * *

1/ _The New York Times_, March 20, 1975, p. 43.

2/ _Id._

FRIDAY, MARCH 21, 1975

David Grossman of Chase met with Roy C. Haberkern of Milbank Tweed, counsel to Chase, and discussed his (Grossman's) meeting of the previous day with John Bennett of the Treasury Department. 1/

* * *

Mayor Beame and Comptroller Goldin met for most of the morning to review information that had been sought by the Treasury at their meeting of March 20. They were also preparing for the meeting with Treasury officials scheduled for the afternoon. They discussed the advice of the Treasury officials to reduce the amount of City short-term borrowing in fiscal year 1975-76 as compared to fiscal year 1974-75. 2/

* * *

In a March 24, 1975 Merrill Lynch wire flash, authorized by Jean Rousseau, it was reported that "On Friday [March 21, 1975], apparently because of a number of alarming press reports concerning New York City's budget crisis,

---

1/ D. Grossman at 199-202.

2/ Goldin Ex. 21.

the Street experienced a heavy influx of sell orders in city notes and bonds." 1/

A meeting commenced at 3:00 P.M. in the Comptroller's Office between officials of the City, the Treasury and the Federal Reserve Bank. John Bennett, Mayor Beame, Comptroller Goldin, Deputy Mayor Cavanagh, Budget Director Lechner and other representatives of the City attended this meeting. Bennett asserted that the City officials apparently were not communicating properly with investors and pointed out as one example of this the fact that the City referred to its own "balanced budget." Bennett offered to arrange a meeting in Washington with nationwide representation to assist the City in understanding what had to be done to obtain investor confidence. 2/

The Comptroller later briefed Governor Carey on both the meeting with the Treasury officials and on the present status of the City's fiscal crisis. 3/

* * *

The Comptroller and Deputy Mayor Cavanagh met and discussed certain fiscal steps that the Mayor planned to announce publicly on Sunday, March 23. 4/

* * *

1/ Merrill Lynch Wire Flash, March 24, 1975, 9:35 A.M.

2/ Bennett Interview; Goldin Ex. 77.

3/ Goldin Ex. 77.

4/ Id.

The New York Times reported that the CBC had issued a warning that the City must cut its expense budget by $800 million through a total freeze of its labor costs in order to insure a sound credit position. According to the Times, the CBC advocated job attrition, deferment of wage increases, pay cuts, payless furloughs and stretching out of contract time periods. The Mayor reportedly responded by stating that there was "nothing new in what they're saying." 1/

The article described the previous day's meeting with Comptroller Goldin and Undersecretary of the Treasury Bennett as a meeting to discuss ways of getting large amounts of money for the City. "Discussed, according to participants, was Mayor Beame's proposal to create a Federal municipal-finance agency that could issue bonds and buy city note issues at low rates of interest...." The possibility of loans from the Federal Reserve System was also reported to have been a topic of conversation. 2/

The article also reported that the CBC stated that the City was not going to default on its obligations, as some had suggested, but could no longer meet the cost of current operations out of current revenues because of the constant need to borrow to finance the City's business as well as to pay off prior indebtedness. 3/

* * *

1/ The New York Times March 21, 1975, p. 31.

2/ Id.

3/ Id.

In a <u>New York Post</u> article it was reported that the City would need nearly $1 billion in April to meet a payroll and redeem two note issues maturing during that month. The City had planned to borrow $1 billion in April but the Comptroller's Office declined to say whether this borrowing would proceed as scheduled. It was reported that State Attorney General Louis Lefkowitz had issued a legal opinion indicating that the City had the legal authority to issue long term bonds. Lefkowitz said, "I concluded that default was a possibility if the opinion wasn't rendered." 1/

* * *

The <u>Daily News</u> reported that the Office of the Comptroller stated that the City's cash needs between April 14 and 18 would be less than $1 billion rather than the $1.5 billion estimated in a CBC report. The amounts required were $745.7 million for the redemption of notes, $50.5 million for the redemption of bonds and about $200 million for a payroll. A spokesman for the Comptroller denied that the City would be unable to meet these cash needs. 2/

1/ <u>New York Post</u>, March 21, 1975.

2/ <u>Daily News</u>, March 21, 1975, p. 5.

SATURDAY, MARCH 22, 1975

Mayor Beame called Ellmore Patterson, Chairman of the FCLG and Chairman of the Board of Morgan Guaranty, and stated that he planned to announce a ten point reform program for the City on television. Mr. Beame asked if Mr. Patterson would make a statement in response to the Mayor's announcement. Patterson stated that he would need some time to prepare a response. The phone call was very brief and the parties did not discuss in depth the substance of the planned speech or the accompanying press release. Mayor Beame did, however, read the ten points of the program to Mr. Patterson. 1/

*   *   *

A New York Times article reported the meeting the previous day between City, Treasury and Federal Reserve officials. The request by the City for a massive amount of cash to meet the City's needs was mentioned. According to the article, estimates of the City's cash requirements for the month of April — to help pay maturing bonds and notes and two City payrolls -- ranged from $250 million to $750 million. City budget officials were reported to have said that a lack of cash could mean that the City might have to delay meeting its payrolls or repaying its maturing debts. 2/

It was also reported that, in the afternoon, the Mayor announced that he had called a press conference for noon the following day at Gracie

---

1/ E. Patterson at 84-85.

2/ The New York Times, March 23, 1975, article entitled "City Asks For Federal Aid To Get Cash in 30 Days."

Mansion to "reassure the public and those who buy and deal in New York City securities and give them confidence in their investments." The Mayor said he was "concerned with the unwarranted stories concerning the City's fiscal strengths." He said his press conference would involve the City's borrowings, the next year's budget and other steps the City would take to reassure the public. 1/

* * *

In a Daily News article concerning the meeting between City, Treasury and Federal Reserve officials, it was reported that, in April, the City had to retire $50.4 million of bonds; $633 million of TANS; and $111 million of urban-renewal notes. In addition, the City would have to meet two payrolls, each of about $200 million, on April 11 and April 25, as well as other cash expenses which might arise during the month. The City planned to borrow $550 million in April and a similar amount was scheduled to be borrowed in May. In the latter month, the City had to repay $220 million of notes and $69 million of bonds and had to meet three payrolls. 2/

_/ Id.

_/ Daily News, March 22, 1975, article entitled "City Seeking Help from Washington."

SUNDAY, MARCH 23, 1975

The Mayor held a press conference. According to the official text of his statement, Mayor Beame stated the following:

> I have called this press conference to announce a series of major steps designed to ease the City's borrowing and fiscal problems in the years ahead.
>
> I am calling on the State and Federal governments, on the banking community, on the business community, on organized labor and on the general public for cooperation and for support of the program I am announcing today.
>
> I also wish to clear the air of some misconceptions and misunderstandings which, if left unchallenged, could seriously damage the City's economy and its position in the short-term and long-term money markets.
>
> I want to stress the City's ability and willingness to meet all of its obligations on time. I also want to stress my determination to meet the City's expense budget problems without resorting to deficit financing.
>
> We will pay all interest and redemption costs on time.
>
> We will meet our payrolls.
>
> We will not lose our basic fiscal strengths.
>
> By no stretch of the imagination can this great City, with its unparalleled assets, sink under the weight of the current wave of unwarranted negative publicity attributed to certain segments of the financial community.
>
> The economic strengths of this city are unparalleled. Our business activities, alone, generate more than $100 billion a year. Our taxable real estate exceeds $80 billion in value. The City government is capable of raising $7 billion in revenues annually.
>
> Our total revenues are six-fold greater than annual cost of debt service. The City provides constitutional and legal guarantees of repayment for our note holders and our bond holders.

The underwriters of our obligations know this and they know our assets better than most others, and that is why I cannot understand the 'scare' statements regarding the City, its assets and its obligations.

It is true that as a result of the abnormal economy, the City of New York has been adversely affected - more so than most other cities - because of New York's unique concentration of fiscal responsibilities.

No City in the nation - or the world - is called upon to provide so many functions and services. New York, in effect, is a City-State - as large in population as Sweden and with a budget greater than India's - and which is, nevertheless, without the sovereign powers to raise funds or regulate its own economy.

Despite this paradox, the city functions as well in terms of the services it must provide for its citizens ranging from basic housekeeping which cities pay for out of taxes - to courts, welfare, medicaid, correctional facilities, education, parks, and recreation - which, combined, no city except New York City, pays for out of its own resources.

Accordingly, the City of New York needs a large, continuing cash flow to maintain these services. This is achieved by short-term borrowing on a monthly schedule from the financial community in anticipation of tax revenues and Federal and State aid.

During the current national inflation and depression - with tight money and runaway interest rates - the City, and the market in which it must function - have been adversely impacted. Further, the City's budget has been affected because revenues have fallen below projections - as a result of the depressed economy - and expenditures have skyrocketed, because of inflation, increased energy costs and the rapid rise in welfare rolls.

The City was among the first in the nation to call attention publicly to these problems. It was also among the first to take bold steps to deal with them.

We have acted quickly to institute an unprecedented fiscal austerity program which will significantly reduce the number of jobs on the city payroll by the end of the fiscal year; which has placed a freeze on hirings; and which steps up revenue and fee collections. As a result, we will have reduced by more than 10% the operational cost of running the City.

In addition to these actions, I am announcing the following programs:

(1) We expect to reduce the volume of next year's temporary borrowing by $2 billion for the following reasons:

(A) With the cooperation of the Federal and State governments, there will be a more timely transmission of Federal and State aid payments to the City including revenue sharing funds and education aid. This will also be accomplished through expediting claims to the Federal and State governments for reimbursements. The City will also install an improved system of monitoring charges to funds other than tax levies, thus reducing the need further for temporary borrowings.

(B) A continuation of the recent practice of short-term borrowing, on a regularized basis, for long periods during the year.

(2) As a result of the above actions, we expect to reduce year-end balances of outstanding short-term borrowings by about a half-billion dollars.

(3) Total long and short-term debt outstanding at the end of the 1975-76 fiscal year will increase by about $800 million as compared to an increase of $3 billion at the end of the current fiscal year. This is further evidence of our determination to reduce our debt.

(4) A new borrowing schedule will be instituted for the rest of this fiscal year, reducing the April borrowing from the $1.05 billion previously scheduled to $450 million. This will allow for additional time in working on immediate-range and long-range programs with the Federal and State governments.

(5) We are developing a joint cooperative State-City approach to our fiscal and borrowing problems.

I have submitted legislation to create a joint State-City Fiscal Commission. Such a Commission would be in constant session throughout the year, studying the needs and revenues of both the City and State.

Furthermore, it would study approaches to the ever-present problem of lowering the cost of government in the City and in the State, such as through transferring functions to that level of government which is best equipped to perform such service, at the lowest cost.

It would also help develop a full partnership with the Federal government on urban problems.

(6) This year, for the first time, we are instituting a program of accrual deductions of the expense budget items funded in the capital budget. So far this year, we have already taken $25 million of expense items out of the new capital budget.

This is a first step in a continuing program to reduce the impact on the capital budget and to move towards having these charges reflected in the expense budget.

(7) The $135 million of economies in the next year's budget which I announced recently will mean drastic cutbacks in such services as:

* Reduced cleaning and collection services by the Department of Sanitation.

* Reduced services by the Police Department, such as emergency services, traffic control and harbor control.

* Elimination of some fire companies and transferring firemen now performing certain non-fire fighting duties to fire-fighting duties.

* Closing of some day care centers and consolidation of staffs.

* Increased class sizes in the schools.

* Increased teaching hours at City University.

* Continuation of the hiring freeze.

* Continuation of forced retirement after age 65.

As indicated above, these reductions in services and other economies will result in a direct saving of tax levy funds of $135 million. Combined with the $478.6 million already achieved, the savings will total $613.6 million within two fiscal years. The economies will also mean a reduction of about 30,000 City positions in the same period.

(8) I am determined to balance next year's budget by recurring revenues in order to avoid further borrowing.

This will require the cooperation of Congress, the State legislature, the City Council and the executive branches of all three levels.

Next year's budget gap is basically the unresolved part of the $1.5 billion gap which this administration inherited when it took office.

(9) We are in process of developing a national coalition of labor leaders and businessmen, who along with the country's mayors, will press the Federal government for an emergency assistance program for local governments, welfare reform, a loan fund for municipalities and massive public works and public employment programs to relieve the country of its severe unemployment problem.

(10) Finally, it is my intention to institute a study of the continuing and future requirements of the City, and the fiscal revenues necessary for these needs, and to develop a realistic program of action.

I will review this with the Mayor's Council of Business and Economic Advisors with the intention of getting the study underway rapidly.

Despite all of the self-help efforts by the City, it is clear that we will need the cooperation of the State and Federal governments, and, of course, the financial community. I have been deeply involved in constructive discussions with all of these interests and I am confident that their cooperation will be forthcoming. 1/

* * *

It was reported that the Mayor also stated that, some weeks ago, he had invested in City securities to indicate his confidence in these obligations, and noted that, despite the banks' and brokers' contention that there was no demand for City securities, he nevertheless had to pay a premium to purchase his notes. 2/

1/ News Release, Office of the Mayor, 111-75, March 23, 1975.

2/ The New York Times, March 24, 1975, articles entitled "Beame Outlines Plan to Reduce City Borrowing" and "Beame Purchase Backs His Confidence in City."

The Mayor reportedly stated:

> Nothing I've presented today is as a result of bankers' suggestions. We asked them for suggestions, but at no time did they offer anything specifically. And let me say this: Nobody's going to tell me how to run the city. I'm going to try to run it in the best interests of the people. We're always open for suggestions. But we got none. 1/

The Mayor continued, stating that one bank in particular was irresponsible, naming the Citibank, and asserted that Citibank had sent a representative to Washington, D.C. who had told the City's congressional delegation that investing in City securities was risky. "He could at least have had the courtesy of letting us know he was going." 2/

Mr. Beame reportedly further stated:

> I think the banks have to exercise the responsibility to let the public know that New York securities are good investments, to restore confidence in their investors. I think our program should be a strong catalyst to restore confidence, because we're trying to do things to reduce our need to go into the market as often as we do now. 3/

The Mayor also said, "We're dealing with a condition, not a theory. The cash will be there to pay our bills. How? Possibly the Federal government. Perhaps an advance against cash owed us. I'm not worried. I'm not concerned. I'm not concerned about our ability to meet expenses." The Mayor was then asked if the Comptroller was cooperating with him on this program and responded: "We're completely cooperative, aren't we, Jay?" The Comptroller nodded. "You have to realize that I've been dealing

---

1/ The New York Times, March 24, 1975, article entitled "Beame Outlines Plan to Reduce City Borrowing."

2/ Id.

3/ Id.

with some of these bankers for a long time, since I was Comptroller. So I make inquiries. The Comptroller makes his inquiries. But if something happens, it's the Mayor's neck." 1/

MONDAY, MARCH 24, 1975

A meeting commenced at 8:00 A.M. in the Comptroller's Office to discuss the borrowing needs of the City. Present at the meeting were Comptroller Goldin, Richard Kezer of Citibank, Thomas Labrecque of Chase, Frank Smeal of Morgan Guaranty, Gedale Horowitz of Salomon Bros., Herman Charbonneau of Chemical, and others from the Comptroller's Office and the investment community. 2/

The Comptroller stated that the City needed $2.3 billion to get through June, the end of the fiscal year. 3/ Several parties responded that with the full participation of the clearing house banks, the maximum that could be underwritten in April was between $100 and $200 million. Other parties stated that there was no marketplace for City securities at all. It was suggested that the underwriting picture would improve if the City were to make real cuts in its labor costs and remove expense items from the capital budget. 4/

1/ Id. The New York Times also reported that Messrs. Goldin, Cavanagh and Lechner, among others, were present during the news conference.

2/ One-page document produced by Chemical Bank.

3/ Id.

4/ Id.

The Comptroller pointed out that the City had to meet a payroll on April 11 and redeem maturing notes on April 14, and therefore required several hundred million dollars. He asserted that there were difficulties in seeking relief directly from the Federal Government. The Treasury Department had indicated that the City should come to it only after having first sought the funds from New York State. A second problem mentioned was that it would be difficult for Congress to act to aid the City before the Easter recess. A Chemical internal document describing this meeting included the notation "Stop Payment on NYC checks." 1/

* * *

Ellmore C. Patterson issued a press release the day following the Mayor's press conference, stating:

> Mayor Beame is to be commended for his determination to take steps to improve the city's fiscal position. The program he has outlined - particularly the balancing of the budget in the next fiscal year - is certainly moving in the right direction. When the program is implemented it should be beneficial to the city. Meanwhile the Financial Community Liaison Group continues to work with the city officials to help wherever it can. 2/

* * *

Various City newspapers reported the Mayor's March 23 press conference. 3/ Endorsements from various civic, business and financial

---

1/ Id.

2/ One page E. Patterson press release, dated March 24, 1975.

3/ The New York Times, March 24, 1975, article entitled "Beame Outlines Plan To Reduce City Borrowing;" New York Post, March 24, 1975, article entitled "New Beame Cuts: Mixed Reaction."

leaders were cited. 1/ Leaders of the municipal unions, however, expressed opposition and concern with regard to further budget cuts in the areas of City services in which the members of their unions were employed. 2/ It was also separately reported that sources had confirmed that Mayor Beame had purchased $50,000 in City notes and that other members of the Board of Estimate were expected to make "symbolic purchases" of such securities. 3/

The New York Times published an article reporting that the City had recently discovered a $33 million deficit resulting from the previous fiscal year's budget. According to statements attributed to Deputy Budget Director John Lanigan, the deficit occurred because the City's cash shortage forced it to undertake greater amounts of short-term borrowing at increasing interest rates. 4/ The continuing disagreement between the Mayor and the Comptroller over the size of the current deficit was also reported. Mayor Beame reportedly had maintained that the 1974-75 budget deficit originally had been $430 million, but had been reduced through dismissals, economies and new sources of revenue to $120 million. Mr. Goldin had estimated the original deficit to be $650 million, which estimate was reduced to $340 million in consideration of the Mayor's economies. Mr. Lanigan was reported to have

---

1/ New York Post, March 24, 1975, article entitled "New Beame Cuts: Mixed Reaction."

2/ Id.

3/ The New York Times, March 24, 1975, article entitled "Beame Purchase Backs His Confidence in City."

4/ The New York Times, March 24, 1975, article entitled "City Finds A Leftover $33 Million Deficit."

stated that the City's total cost of borrowing had declined. However, an official in the Comptroller's office reportedly disagreed, stating such costs would remain at the previous year's levels. 1/

* * *

Steven Clifford addressed a memorandum to Comptroller Goldin and Seymour Scher regarding the Mayor's plan to reduce borrowing. Clifford indicated that the major objectives of the Mayor's plan were to:

(1) Decrease short term debt outstanding by $500 million from 6/30/75 to 6/30/76.

(2) Decrease short term debt issuances by $2 billion in F.Y. '75-'76 from F.Y. '74-75 level.

(3) Limit total debt increase in '75-'76 to $800 million. 2/

Clifford further observed:

> It should be noted that the Mayor's plan is <u>not</u> based on budgetary and fiscal restraint. In fact, it assumes that real and/or disguised deficits for '75-'76 will remain at present levels, and an additional $700 million of short term debt will be generated by budget balancing gimmicks or outright deficit financing. [Emphasis in original.] 3/

1/ *Id.*

2/ Memorandum, Steven Clifford to Harrison Goldin and Seymour Scher, March 24, 1975.

3/ *Id.*

TUESDAY, MARCH 25, 1975

A meeting was held in Washington, D.C. at the Treasury Building to discuss the New York City fiscal crisis. This meeting was arranged by John Bennett, Undersecretary of the Treasury, to help to clear the air on the City crisis and to reassure the investment community as to the soundness of the City's securities. 1/ The meeting was attended by Arthur Levitt, Comptroller, and Peter Goldmark, Budget Director, of the State of New York. Messrs. Goldin, Cavanagh, Lechner, Keilin, Kerschenbaum and Marcesi represented the City. Members of the financial community included Amos T. Beason, Edward Bennett of Hartford Life & Casualty Co. ("Hartford Life"), Robert Bethke of the Discount Corporation of America, Richard Doyle of Supervised Investor Services, Gedale Horowitz, Richard Kezer, Thomas Labrecque, Thomas Masterson of Underwood Neuhaus Inc., Leland Prussia and Arthur Toupin of Bank of America, Robert Rivel of Union Dime Savings Bank and David Taylor of Continental Illinois National Bank. Representing the Federal Reserve System were J. Charles Partee and Richard Puckett. The Federal Reserve Bank of New York was represented by Richard Debs and Peter Sternlight. John Bennett, Edward Snyder, Robert Gerard and David Stoughton represented the Treasury Department. 2/

1/ Bennett Interview; Memorandum of New York City Meeting on March 25, 1975 in Room 4121 of the U.S. Treasury; Lechner at 349.

2/ Bennett Interview; Memorandum of New York City Meeting on March 25, 1975 in Room 4121 of the U.S. Treasury.

John Bennett opened the meeting by stating that, at times, the City's fiscal crisis looked like a "game of chicken" between the City, the State, the Federal Government, and the banks. Fortunately, he indicated, the Mayor's press release of Sunday [March 23] appeared to be a move away from such a confrontation and a stride towards cooperation. Comptroller Goldin pointed out that the Mayor had said that the City's budget would be balanced by receiving additional revenues and not by borrowing. Budget Director Lechner stated that the City's fiscal crisis was the result of the ravages of inflation and recession. The State was said to be encountering the same problems. The City had to borrow $2.3 billion to get through the fiscal year ending in June and would be repaying over $1 billion in maturing TANS in that period. It was noted, however, that there was some flexibility as to the precise time that the City needed all of this money. Deputy Mayor Cavanagh then stated that, in general, TANS could be rolled over for a period of five years and then could be redeemed with normal revenues. David Taylor asserted that this fiscal crisis was a crisis of confidence, adding that the City needed the endorsement of its banks in order to foster confidence. 1/

John Bennett wanted to know what could be done to make the City saleable and asked what the alternative was if this were not possible. The City was said to need access to the short-term market for an increasing number of millions of dollars. Richard Kezer stated that $500 million in unsold City notes were currently in the marketplace. John Bennett reported

---

1/ Id.

that the Federal Government was not in a position to guarantee City securities, indicating that this was an issue for the Congress to explore. 1/

Comptroller Goldin stated that because of the problems with the SRC and the magnitude of City receivables, the City had to issue increasing amounts of short-term debt. Robert Rivel, of Union Dime Savings, suggested that the size of the short-term borrowing should be explained to the investing public, including the life insurance companies and the savings institutions. Gedale Horowitz stated that the City had been living beyond its means for several years, thereby impairing its ability to repay its obligations. He said that investors were concerned about repayment and that the City had lost its old buyers and was not getting new ones. 2/

Edward Bennett of Hartford Life wanted Cavanagh to provide "hard copy" on the City's financial plan but it was pointed out that there were only two weeks before the City had to raise new funds. Several parties suggested that various institutions in the City must stand by the City and that this included purchasing City securities. Thomas Masterson pointed out that the City's past acts of gimmickry had now come back to haunt the City. Amos Beason mentioned the rating agencies and

---

1/ Id.

2/ Id.

questioned the fact that the City still had an "A" rating while it was close to not meeting its bills. There was a general discussion about the cause of the City's crisis. Although there were some differences of opinion, the general consensus was that the crisis was not caused by the UDC difficulties, the total debt outstanding, or by the volume of future borrowings. Rather, the crisis could be attributed to a basic lack of confidence in the eventual repayment by the City of its obligations. 1/

Arthur Levitt indicated that the State was exploring a type of back-up bond for City financings but noted that he was pessimistic. He pointed out that unlike UDC obligations, New York City's obligations were full faith and credit securities. Robert Rivel asked Levitt why the State could not assist the City on a short-term basis. John Bennett asked whether or not the New York Federal Reserve Bank could help by buying City securities. Richard Debs responded that the Federal Reserve statutes would not permit such activity by the Bank. 2/

Thomas Labrecque stated that a short-term solution would not help because the City's fiscal crisis was a chronic, long-term problem. John Bennett stated that everybody, including the Federal and State governments, was examining the situation. In the meantime, Bennett said, the Federal Government would be examining the schedule of payments of Federal receivables to the City. No decisions were reached at this meeting but most parties

---

1/ Id.

2/ Id.

agreed that the unsold City paper on the market had to be cleared up. 1/

Participants at the meeting described Mayor Beame's television speech of Sunday, March 23, as a disaster for its failure to consider reality. Additionally, it was stated that James Cavanagh had chosen to filibuster and had ignored the intended purpose of the gathering; Cavanagh blamed everything on the banks and refused to consider the City's problems. 2/

1/ Id.

2/ Id.

* * *

An internal Citibank document addressed to Paul Collins, Senior Vice President, by Philip Heston, a Vice President, reported that Citibank held over $34 million of City bonds and notes in its fiduciary accounts. The document also noted that the bank held $286 million of New York City debt on a custody basis. 1/

* * *

In mid or late March, Herman Charbonneau, a Vice President of Chemical Bank, and another Chemical Bank official had lunch with a member of the Comptroller's staff. During this lunch, the City's fiscal problems were discussed at length. The City employee, who worked on the City's finances, told Charbonneau that a substantial amount of Federal and State aid receivables being carried on the City's fiscal books were "fabricated." 2/

* * *

David Grossman addressed a memorandum to David Rockefeller entitled "Progress Report (4)", which was also sent to several members of the FCLG. Grossman's report stated that the Treasury Department apparently had been designated as the Federal agency to coordinate any Federal action on the City's borrowing problems. Further, there had been a series of meetings with various Federal officials and meetings between City and Treasury officials. Grossman also noted that the staff committee of the FCLG would be meeting the following day and that Evan Davis of the law

---

1/ Memorandum, Philip W. Heston to Paul Collins, March 25, 1975.

2/ Charbonneau at 351-54.

firm of Cleary, Gottleib, Steen & Hamilton, formerly general counsel to the Budget Bureau, was being added to the group. 1/

* * *

In a Daily News article, it was reported that State Attorney General Louis J. Lefkowitz had replied to six questions posed by bankers before they would agree to underwrite the most recent issue of City BANS (the $537 million issue). The Attorney General specifically ruled that bonds of public benefit corporations, City contracts, and contributions to retirement funds were not subject to the City's constitutional debt limit and that short-term City debt also was excluded from that limit. 2/

WEDNESDAY, MARCH 26, 1975

The Staff Advisory Committee of the FCLG held a meeting which was conducted by David Grossman. 3/ He reported on the task force that had worked with the City in preparing the Statement of Essential Facts in its present form. Grossman described the various meetings in Washington concerning the City's situation and indicated that there was no present prospect that the federal government would provide money to solve the City's problems. He characterized the Mayor's speech of Sunday, March 23, as encouraging, but noted that there was nothing new from the numbers previously

---

1/ Memorandum, D. Grossman to Rockefeller, March 25, 1975.

2/ Daily News, March 25, 1975.

3/ Memorandum of Staff Advisory Committee Meeting, March 26, 1975; Rousseau (April 14, 1976) at 139.

presented to the Committee except for changes in the April borrowing schedule (reducing the note sale from $550 million to $450 million and deferring of a bond sale to May or June). 1/

When the discussion turned to the budget gap, Grossman stated that if various expedients were eliminated ("one time shots," the financing of current expenses in the capital budget, the overestimating of revenues, etc.), the true budget gap would be $2 billion. Grossman stated that if the City doubled its income tax and fully applied it to all commuters and also effected a 1% increase in the City sales tax, $1 billion would be raised. Additionally, he pointed out that a total wage and benefit freeze would save $300 million. 2/

Grossman asked Jean Rousseau of Merrill Lynch to present his views on the public market for City securities. Rousseau stated that the market for City securities was now "crippled" and, although able to limp along, it was very unlikely to absorb another note issue without more encouragement. Rousseau observed that "we are, in effect, letting Mayor Beame do our advertising and not taking an affirmative stand ourselves," and that the Mayor had not been very persuasive with the public, lately. Rousseau further observed that the market has become more and more sensitive to bad publicity and, consequently, unless revitalized, it probably will simply "expire whenever the next rude shock occurs." 3/ Rousseau suggested that, to restore the market, it would be necessary for the banks and dealers to advertise that

---

1/ Id.

2/ Id.

3/ Id.

the City was doing and would do what was necessary and sufficient to resolve the City's problems. The reaction to the suggestion was divided. Some thought the Federal and State governments must step in to help and direct the City; others wanted the City to commit itself to some requirements before "we could go out on a limb." 1/ Mr. Rousseau suggested that any requirements proposed to the City be presented as coming, in effect, from the investing public and necessary to reassure the investors, rather than as coming from "the Banks" for their own selfish and/or reactionary purposes. Grossman said that he would discuss the matter with the FCLG. 2/

The Staff Committee then set up three "task forces." The first would work on a "Data Book" describing the City in full economic detail, to be maintained on a current basis. The second would study the feasibility of separating water and sewer revenues and expenses from the general fund and then issuing water and sewer revenue bonds which presumably would be better rated and/or more saleable than City general obligation securities. The third task force would study major elements of the City budget, including pension costs and an analysis of City revenues and expenditures. 3/

* * *

Representatives of six banks of the Clearing House Association met at Morgan Guaranty to discuss the City's financial condition. Present, in addition to those of Morgan Guaranty, were representatives of Chase, Citibank,

---

1/ Id.

2/ Id.

3/ Id.

Manufacturers Hanover, Bankers Trust and Chemical. The immediacy of the City's cash needs was discussed with particular emphasis on the redemption of $400 million of City notes due on April 14, 1975. Because of this large maturity and the inability of the City to go to the public market, the possibility of default was discussed. At approximately this time, White & Case, as counsel to the FCLG, and Davis, Polk & Wardwell, as counsel to Morgan Guaranty, were exploring various procedural and legal implications of a municipal default and bankruptcy. 1/

* * *

John Lanigan, First Deputy Director of the Budget, in a memorandum to First Deputy Mayor James Cavanagh concerning cash flow projections, reported that the City would need to borrow $1.6 billion in notes and $500 million in bonds by the end of the fiscal year (June 1975). Lanigan stated, "If we ignored the legal need to place cash in escrow for revenue anticipation notes our actual cash borrowing needs could be reduced by $250 million for the fiscal year." 2/

* * *

On March 5, 1975, Mayor Beame and Comptroller Goldin wrote a letter to Jack Poses of the City University Construction Fund ("CUCF"). They requested that the CUCF furnish at the closing of each sale of its securities a certification which would show that even if certain "City-related" obligations

---

1/ Chronological Narrative of the Participation of Morgan Guaranty Trust Company of New York City in Matters Relating to New York City: December 1974 through March 1975, pp. 36-37.

2/ Memorandum, John J. Lanigan to James A. Cavanagh, March 26, 1975.

were treated as City debt, the City would nonetheless have sufficient debt incurring capacity to issue its notes or bonds. This information would be requested by the City during the pendency of the Wein litigation. By letter of March 26, 1975, Jack Poses recommended that the City reconsider following this procedure as it was his view that such City-related obligations were not legally to be treated as City debt. 1/

* * *

In a New York Times article covering the prior day's annual meeting of Citicorp, the parent of Citibank, Walter Wriston, Chairman, was quoted as saying that the City was "fortunate" to have a Mayor so "well equipped to read the numbers." 2/

* * *

In a Daily Bond Buyer article about the day-long meeting at the Treasury Department the preceding day, Jack E. Bennett, Deputy Undersecretary for Monetary Affairs, was reported to have said that New York City would not get any special federal grants but that revenue sharing payments and federal grants might be accelerated. 3/

* * *

A Long Island Press article about the same meeting quoted Deputy Mayor Cavanagh as saying: "I think we are going to be ok. Our big problem is April 14 and we are gearing everything now to meeting that deadline. We

---

1/ Letter, Jack Poses to Mayor Beame and Comptroller Goldin, March 26, 1975, with attachments.

2/ The New York Times, March 26, 1975, p. 55.

3/ The Daily Bond Buyer, March 26, 1975, p. 1.

think we can do it. First we take care of today and then we worry about tomorrow." 1/

THURSDAY, MARCH 27, 1975

Messrs. Patterson, Rockefeller and Spencer of the FCLG, together with Mr. Hayes of the Federal Reserve Bank of New York met with Mayor Beame, Comptroller Goldin and Deputy Mayor Cavanagh at Gracie Mansion. 2/ This meeting involved a long discussion of the City's fiscal problems, the lack of interest in the market for City securities, and the urgency of the City's cash needs, particularly the April 14 maturity. Mr. Hayes stated that there was no possibility that the Federal Reserve could loan money to the City. Given the exigency of the situation, it was decided to assemble representatives of all interested parties - the City, State, and Federal governments, and the financial community - to develop a specific program of fiscal reform to restore investor confidence. 3/

At the close of the meeting, the bankers indicated they wanted three things: (1) details on the City's cash position; (2) the financial plan relating thereto, especially for funding a portion of short-term debt that could not be supported under a cash system; and (3) details of the 1975-76 budget, including specific plans for cuts and for holding labor costs down. 4/

* * *

1/ Long Island Press, March 26, 1975, p. 1.

2/ Goldin Ex. 83.

3/ Rockefeller at 57-58; E. Patterson at 89-90; Beame at 189; Labrecque Ex. 22.

4/ Goldin Ex. 77.

David Grossman wrote a memorandum entitled "Possible Frameworks to Address the New York City Fiscal Situation." Grossman suggested a few alternatives to meet the immediate cash problem: (1) the City might borrow the money required and pledge a specific City revenue flow for repayment; (2) the underwriters could buy City obligations for the account of the Treasury or the Federal Reserve; (3) the State could buy City notes; or (4) the Treasury or Federal Reserve could buy City notes directly. 1/

As a long-term approach, Grossman suggested a corporation similar to the SRC to convert short-term debt into long-term debt. Other possibilities suggested were Federal insurance of City obligations and Federal and State purchases of these securities. 2/

Additionally, Grossman posed, as alternatives, that the City raise a number of taxes and cut City services. A fiscal reform package was described which included (a) limiting short-term borrowing, (b) eliminating expense items from the capital budget, (c) reforming various accounting practices, and (d) developing a three or five year fiscal plan for the City. 3/

1/ D. Grossman Ex. 47.

2/ Id.

3/ Id.

FRIDAY, MARCH 28, 1975

Various individuals met at Chase to develop a program to open the public market for New York City obligations. Representing the City were Messrs. Cavanagh, Lechner, Lanigan, Goldin and Clifford. New York State was represented by Peter Goldmark, Director of the Budget and Michael Diffley, also with the Division of the Budget. Robert Gerard represented the Treasury Department, Peter Sternlight represented the Federal Reserve Bank of New York, and the financial community was represented by David Grossman and Thomas Labrecque of Chase, Amos T. Beason and Frank Smeal of Morgan Guaranty, Gedale Horowitz of Salomon Bros., Charles Sanford of Bankers Trust, David Barry of Manufacturers Hanover, Jean Rousseau of Merrill Lynch, and Richard Kezer of Citibank. 1/

1/ Labrecque Exs. 21 and 22; Goldin Ex. 84; D. Grossman at 209.

According to a memorandum written by David Grossman, the immediate objective of the discussions was to determine what steps were necessary and what time schedule was appropriate to bring about adequate financing by April 14. 1/ The meeting lasted about five hours. 2/

A document dated March 28, 1975, apparently prepared to serve as a basis for discussion at this meeting, detailed a six-point program for fiscal improvement of the City. 3/ The elements of the plan were:

1. A program of revenue and expenditure changes to close the $884 million budget gap for 1975-76.

2. Phase out the use of long-term borrowing to finance operating expenses over a 5 to 10 year period by amendments to the Local Finance Law. This should include requirements for disclosure of all such items now included in the capital budget or "outside the certificate."

3. Reduction of the City's short-term debt position in line with a plan for the next 12 to 18 months. This should include a program of improved advances/reimbursements of State and Federal aid.

4. Improvements in the City's financial accounting and reporting systems by means including:

    Work toward adoption of MFOA principles and standards

    Install improved accounting systems

5. Installation of a long-range fiscal planning process (3 to 5 years) for City expenditures and--insofar as feasible--revenues.

6. Establish a City-State fiscal commission to review aid programs, show financing of operating programs, etc. along the lines of the Mayor's proposal. 4/

1/ Labrecque Ex. 22; See also D. Grossman at 210.

2/ Labrecque Ex. 22.

3/ Goldin Ex. 84.

4/ *Id.*

Of immediate concern to the group was improvement of the City's cash flow and balancing of the budget. 1/

1/ *Id.*

* * * *

In a memorandum addressed to J.H. Fleiss, D.S. Howard, Senior Vice President for finance of Citibank, requested an update, as of March 31, of Citibank's total holdings of municipal securities. He specifically requested a listing of the maturity schedule for the municipal securities at par value held by Citibank on a month-by-month basis for 1975 and 1976 and by year thereafter. 1/

SATURDAY, MARCH 29, 1975

The meeting of the previous day reconvened. A second draft of the six point fiscal improvement program was discussed and several elements were tentatively agreed upon by the gathering. Among these was a commitment by the City to phase out carrying expense items in the capital budget over a five to ten-year period by seeking amendments to State legislation. Items in the capital budget that were of an expense nature would be disclosed annually "outside the certificate." Each year, for several years, the maximum amount of these expense type items permitted in the capital budget would be decreased. State law allowing the use of capital funds to make debt service payments would be amended or repealed, which would affect the Transit Facilities

---

1/ Memorandum, D.S. Howard to J.H. Fleiss, March 28, 1975.

Construction Fund, the City University Construction Fund, the State Health Facilities Corporation, UDC and other entities. 1/

It was decided that the City would embark upon a program to upgrade the quality of its financial reporting and accounting systems by adopting the standards of the MFOA, instituting modern accounting procedures for all City agencies, and preparing and issuing a comprehensive bond or note prospectus for each securities sale, in order to provide complete information on the financial organization, procedures and status of the City. 2/

The group also agreed that the State should establish a permanent commission composed of City officials, State officials, and members of the financial and business community, to study the fiscal relationship between the State and the City. This commission would examine the present responsibilities of each unit and determine whether there should be some adjustments. 3/

The last point tentatively agreed upon by the group was the enactment of a State law to establish multi-year fiscal planning for the City, including a three to five-year projection of anticipated expenditures and revenues. 4/

1/ Lanigan Ex. 20.

2/ *Id.*

3/ *Id.*

4/ *Id.*

MONDAY, MARCH 31, 1975

The working group established at the Friday and Saturday meetings continued their work at Chase. City and State officials did not attend these meetings. 1/

The meeting convened at approximately 2:00 p.m. Present were Thomas Labrecque, David Grossman, Palmer Turnheim and Lawrence Toal of Chase, Richard Adams and Herman Charbonneau of Chemical, Amos T. Beason of Morgan Guaranty, Richard Kezer and Jac Friedgut of Citibank, David Barry of Manufacturers Hanover, Charles Sanford of Bankers Trust and Peter Sternlight of the New York Federal Reserve Bank. Halliburton Fales and Marion J. Epley of White & Case were also present. 2/

The meeting began with with Mr. Labrecque's suggestion that the attorneys address the issue of possible anti-trust problems arising from the meetings among the banks and others. Mr. Fales emphasized that each bank must make an individual judgment in its own best interest and that cooperative action by the banks should preferably be taken at the request of the City officials. 3/

There was also a discussion about the possibility of underwriting City notes to be sold on April 14. Mr. Epley advised the group that any underwriting where notes were resold to the public would raise very serious disclosure problems and that the fiscal status of the City might make

---

1/ Memorandum, Marion J. Epley to the Files, March 31, 1975.

2/ Id.

3/ Id.

adequate disclosure impossible. He also expressed the opinion that the disclosure required would probably cause serious marketing problems for any City notes. 1/

Richard Kezer of Citibank raised a question about continued trading in outstanding City notes. Epley replied that White & Case had advised Bankers Trust that, in view of the developments since the issuance of the March notes, continued selling of those notes might give rise to "10b-5 liability" to a selling underwriter. 2/ Epley stated that he was giving the same advice to all those present and that the parties should consult their own counsel. 3/ Charles Sanford of Bankers Trust stated, and Thomas Labrecque of Chase agreed, that their banks might continue selling City notes with the understanding that if the City should default, the banks would repurchase the notes at the original sales price. 4/

Mr. Labrecque informed the group that City representatives had requested the group to make a review and clarify their proposals made to the City over the weekend. 5/ In addition, Mr. Labrecque stated that White & Case had been given two assignments. The first was to examine the effects of a City default if the City could not redeem the $600 million of TANS due on April 14. Mr. Epley stated that work was continuing in this area and

---

1/ Id.

2/ Id.

3/ Id.

4/ Id.

5/ Id.

a report would be made to the banks as soon as possible. The second assignment was to study the possibility of setting up a "secured" City financing in April. 1/ Mr. Epley stated that it appeared that the most hopeful means of obtaining "security" would be to require, by contract, that the City comply with the Local Finance Law requiring the "earmarking" of certain types of tax and other revenues. 2/ There was further discussion of a "secured" offering. 3/

Mr. Friedgut then stated that the real issue was not securing an issue of City debt, but whether or not the City was willing to recognize the priority of debt repayment over such expenditures as salaries to police and payments to welfare recipients. Mr. Sanford agreed and said that the City still had not demonstrated its willingness to lay off City employees, if required, in order to balance the budget. 4/

The assemblage then considered the third draft of "Elements of a Fiscal Improvement Program for New York City". 5/ The principal focus of the discussion concerned balancing the budget without additional borrowing. It was agreed that if that point was satisfied, the other parts of the plan would probably be achieved. 6/

1/ Id.

2/ Id.

3/ Id.

4/ Id.

5/ Id.

6/ Id.

Mr. Labrecque described the Saturday meeting as ending with Deputy Mayor Cavanagh indicating his view that the banks had a "real problem" which he hoped they would be able to resolve. 1/ Mr. Beason pointed out that such statements meant that the City was still not listening to the comments expressed by the investment community. Mr. Friedgut observed that, in his view, Messrs. Beame and Goldin felt that they were being very successful in their negotiations with the banks and had no particular reason to yield on any points at this time. 2/

It was pointed out that, at the Saturday meeting, Steven Clifford had stated that the City needed only $350 million to accommodate its needs through May 9, contradicting the figure of $450 million which City officials had previously quoted. 3/

The conversation again returned to the third draft of "Elements of a Fiscal Improvement Program for New York City" and the means of insuring compliance by City officials with the points contained therein. There was a brief discussion about various federal officials who had stated that the City would not receive "one red cent" of additional aid. 4/ Other sources of financial aid for the City were discussed, including the receipt of Federal and State aid. 5/ The establishment of a committee of independent parties to "audit" the City's compliance with its budget was discussed

---

1/ Id.

2/ Id.

3/ Id.

4/ Id.

5/ Id.

and various potential participants were mentioned. 1/

White & Case was instructed to proceed with revision and expansion of the Report of Essential Facts used with an earlier offering of RANS. The possibility that adequate disclosure was impossible under the circumstances was discussed and acknowledged by the bankers present. 2/ The meeting ended with Peter Sternlight stating that although it remained disturbed about the City's problem, the Federal Reserve Bank was nevertheless unwilling to advance funds to the City. 3/

In an internal City document, meetings between City officials and banks were summarized. 4/ The banks were described as carrying a large inventory of City securities which they claimed were difficult to move. Consequently, they would not increase their holdings. The difficulty, according to the banks, was that the market had no confidence in the City because of the adverse climate created by the absence of a plan to solve the fiscal crisis, the growing annual amount of borrowing and the adverse experience with UDC.

The banks were characterized as wanting a fiscal plan, a reduction in expenses, a reduction in borrowing, the transfer of expense items out of the capital budget, the creation of a City-State fiscal relations committee,

---

1/ Id.

2/ Id.

3/ Id.

4/ Cavanagh Ex. 51.

the establishment of long range planning, and the development of improved financial reporting and accounting systems. 1/

It was asserted that if the banks refused to buy the $350 million of notes, the City should proceed with, among other things, pension fund purchases of City notes and advances of aid from the State. The summary lists the alternatives available to the City in the event that it was unable to raise the necessary money; default was included on the list. 2/

* * *

The New York Post printed an article on the possibility of a City bankruptcy. Various City officials were asked their positions on this possibility. Comptroller Goldin reported stated: "The City is not on the verge of bankruptcy." An aide to Mayor Beame was asked for the Mayor's position on bankruptcy and replied: "No way." 3/

* * *

The Daily News reported that Mayor Beame and various City budget experts would participate in a budget "retreat" at the municipal building for three afternoons during the week to grapple with the current credit crunch and a projected $800 million gap in the budget for the next fiscal year. It was also reported that, during a television interview, Comptroller

---

1/ Id.

2/ Id.

3/ New York Post, March 31, 1975.

Goldin expressed confidence that the City would be able to borrow $450 million later in the month. 1/

* * *

John Thompson of W.H. Morton sent a memorandum to Frank Smeal and Amos T. Beason providing suggestions for resolving the City fiscal crisis. 2/

Mr. Thompson began his memorandum with the statement that he recognized that a solution to the City fiscal crisis was impossible before April 14. Thompson discussed the possibility of default by the City and provided details of some of the City fiscal problems. He reported that there was almost $3 billion of outstanding RANS resulting from the City's practice of paying off RANS issued in previous years with the proceeds of even larger borrowings against new revenues. According to the memorandum, the deficits resulting from revenue shortfalls in several years "have in effect been folded into a cumulative balance of RANS outstanding." 3/

Thompson suggested that the investment community might consider filing an *amicus curiae* brief in the *Wein* litigation. He also asserted that the City, in conjunction with the investment community, should retain an independent accounting firm to help revise City accounts and reports "so that the records will be understandable in the future to all concerned." 4/

1/ *Daily News*, March 31, 1975, p. 10.

2/ Memorandum, John F. Thompson to Amos T. Beason and Frank P. Smeal, March 31, 1975 with attachment.

3/ *Id*.

4/ *Id*.

He also stated that the banking community could help the City in pressing the Federal and State governments for more timely payment of aid. He asserted that "many of us were late in sensing the adverse developments which have taken place," 1/ and continued:

> I am convinced that the over-borrowing was all done legally, and in numerous cases was based on special amendments to the Finance Law adopted to permit it. Their significance in the issuance of debt was understood by bond counsel. If the rest of us had understood them better their significance in terms of credit, cash flow and marketing short term city debt would have been clearer to us. Some of us first learned certain of the disillusioning facts at early meetings of the Grossman subcommittee, when Leo Sabatine was addressing various of the problems of legal issuance. For that reason I believe we will need the continued cooperation of his firm, Wood Dawson, in order to be sure that we fully understand the implications of the way things have been done. 2/

TUESDAY, APRIL 1, 1975

A fourth draft of the City's six point fiscal improvement program was distributed by David Grossman to the FCLG. The initial item required the City to balance its budget without increased reliance on borrowing and required City officials to commit themselves to this objective by April 14, 1975. 3/

The second item called for the development of a program to accelerate the payment of State and Federal aid and advances against expenditure reimbursements. Other items indicated that the City would end the use of the capital budget to finance expense items, improve

---

1/ Id.

2/ Id.

3/ Document entitled "A Fiscal Improvement Program for New York City" (Fourth Draft) prepared by D. Grossman, April 1, 1975.

its financial accounting and reporting, and establish a fiscal commission to study the City's financial problems and develop long-range fiscal planning. 1/

* * *

A letter dated April 1, 1975, written by Marion J. Epley of White & Case to Thomas Labrecque of Chase (with copies to Richard Kezer of Citibank, Herman Charbonneau of Chemical, David Barry of Manufacturers Hanover and Charles Sanford of Bankers Trust), discussed the disclosure question involving City securities. 2/ The text of the letter was as follows:

> Dear Tom:
>
> In view of the rapidity with which events are developing in connection with the City's finances, we feel it is appropriate to summarize for the Banks our views on what has come to be known as the question of "disclosure". You will recall that an attempt was made to address the problem in the form of the City's Report of Essential Facts dated March 13, 1975. While it may be possible by updating and supplementing that Report to satisfy the applicable legal requirements with respect to future underwritten offerings, we understand from our discussions with the Banks that the adverse information which would be required in such a Report would in all likelihood render the City securities unsaleable.
>
> One of the suggestions which has evolved from various meetings over the last several days has been the preparation by the City of a comprehensive prospectus to be updated and circulated in connection with each sale of bonds or notes by the City. Preparation of such a prospectus would assume and reflect the taking of appropriate corrective actions by the City with respect to its Budget and finances. It is recognized by all involved that preparation of such a prospectus will be a massive undertaking, and in our view it could not be completed in less than four to six weeks.

1/ Id.

2/ Letter, Marion J. Epley to Thomas Labrecque, April 1, 1975.

Even to meet that time schedule, substantial effort by numerous City personnel, Bank representatives and counsel, as well as full cooperation and access to City records, will be required.

We understand that the Banks have tentatively determined, and we would concur, that the most desirable form of disclosure in connection with the traditional underwriting of City securities, in which resales are made to the public, would be through the use of such a comprehensive prospectus.

Regardless of the form which any ultimate disclosure document may take, we reemphasize our advice that public sales of New York City securities, in the absence of what may be agreed upon as full and meaningful written disclosure, would be contrary to the best interest of both the City and the Banks and could result in a substantial exposure to liability both to primary and secondary purchasers of the securities.

We believe that the Banks should be aware of our position in conducting further discussions with the City.

Sincerely,

/s/ Jay Epley 1/

WEDNESDAY, APRIL 2, 1975

Mr. Epley forwarded to Ellmore Patterson essentially the same letter that had been written to Thomas Labrecque the previous day. 2/ Copies were again sent to Messrs. Labrecque, Kezer, Charbonneau, Sanford and Barry. The text of the two letters differed only in the last sentence

---

1/ Id.

2/ Charbonneau Ex. 15.

of the first paragrpah.

The first letter stated:

> While it may be possible by updating and supplementing that Report [of Essential Facts dated March 13, 1975] to satisfy the applicable legal requirements with respect to future underwritten offerings, we understand from our discussions with the Banks that the adverse information which would be required in such a Report would in all likelihood render the City securities unsaleable.

The corresponding sentence in the second letter began with the word "it" and ended with the word "offerings", entirely omitting the clause which stated that as a result of discussions with the banks it appeared that disclosure of "adverse information" would "render the City securities unsaleable." Additionally, while the April 1 letter had been signed by "Jay Epley," the April 2 letter was signed by "White & Case." 1/

Sometime during mid-April (according to White & Case) an associate at White & Case wrote a memorandum to the files with respect to conversations he had with City employees concerning anticipation notes and first lien. The text of the memorandum 2/ is as follows:

> Clearing House Banks
> re: NYC Financing Plan
>
> I called Sandy Altman to discuss the "first lien" language in Article 8 Section 2 of the New York State Constitution. I told her that it appeared BANS were not covered in that Section and yet the Notice of Sale for the March issue contained the first lien language. Sandy was aware of the problem and stated that the Notice of Sale and advertisements contained "a lot of loose language". She said that the gap in Article 8 Section 2 may have been filled by the fact that the underlying bonds have a first lien. She also stated that the first

---

1/ Id.

2/ Undated Memorandum For the Files by John Osnato.

> lien language had been dropped from the Notices of Sale for RANS and TANS at the request of either Hawkins, Delafield or Wood, Dawson. She stated that she was not the proper person in the City to get this information from and told me to call Ken Hartman.
>
> I called Ken Hartman today and he was also aware of the problem. He agreed that it appeared the BANS were excluded from the first lien language. He stated that there were a lot of problems in Notices of Sale and with the use of the first lien language generally. He further stated that if the City continued to use the first lien language it could "get blown out of the water". He said he would do some further research in the area and get in touch with us (he said his research would concentrate on the _Vanderzee_ case). 1/

Later in April, in a letter from White & Case to Citibank, as manager of the underwriting syndicate for a prior RANS issue, the basis for White & Case's fee was discussed. The letter referred to an earlier discussion between the parties regarding the fee, stating: "As I told you at the time, we feel that the traditional practice of so many 'cents per Note' may not be appropriate in the new environment for these municipal financings where, among other developments, efforts are being made for the first time to disseminate relevant information with respect to the City's financial condition." 2/

* * *

A Dow Jones Wire Service Release indicated that Standard & Poor's had suspended the City's "A" rating on general obligation bonds. 3/ It stated, in part:

1/ _Id_.

2/ Letter, White & Case to Richard Kezer, April 17, 1975.

3/ Dow Jones Wire Service Release, April 2, 1975.

> ...New York City's rapidly deteriorating ability to raise money in the capital markets places unusual strains on its cash position for the immediate future.
>
> The possible "inability or unwillingness of the major underwriting banks to continue to purchase the City's note[s] and bonds" was cited by S & P as a primary contributing reason for the suspension.
>
> * * * *
>
> The City's present cash flow problems reflect not only its inability to meet operating expenses without resorting to borrowing but the same may hold true for the meeting of debt service requirements coming due shortly on long-term debt. 1/

Prior to the suspension [in March 1975] two Standard & Poor's analysts had been informed by New York State Budget personnel that the State could not afford to bail the City out. Sol Lewis, in response to questions from a Standard & Poor's representative, stated that "if the city could not borrow what it needed when it had to, it could go bankrupt and all sorts of lawsuits would follow." 2/ Standard & Poor's then suspended the City's "A" rating. Standard and Poor's stated that the City's "rapidly deteriorating ability to raise money in the capital market places unusual strains on its cash position for the immediate future." 3/

FRIDAY, APRIL 4, 1975

The major commercial banks and three non-bank underwriters met with State Comptroller Arthur Levitt at Morgan Guaranty Trust at 2:00 p.m., to discuss the proposed "advance" from New York State to New York City of approximately $400 million. Comptroller Levitt stated that he did not know of the advance

---

1/ *Id.*

2/ Internal memorandum dated April 3, 1975 from H. Grossman to B. W. Harris (Standard & Poor's).

3/ *Wall Street Journal*, April 3, 1975; Standard & Poor's, *The Fixed Income Investor*, April 5, 1976, at 756.

prior to the Mayor's visit with the Governor. Levitt also said that Mayor Beame told Governor Carey that without assistance, the City would default on April 14th. The Mayor had stressed that he was not asking for new money, but rather an advance.

During the course of the meeting, Richard Kezer of Citibank, indicated that the lawyers had found a serious problem with Governor Carey's announcement of an "advance" to the City because the City had already issued the March RANs against the particular revenue sharing funds referred to by the Governor. The difficulty was said to be not in the State making the funds available to the City, but should the City receive an advance on the June revenue sharing, it would be compelled to place it in an escrow account against the March RANs. 1/

TUESDAY, APRIL 8, 1975

In a report, Moody's confirmed its "A" rating for New York City bonds, its MIG-1 rating for BANS and its MIG-2 rating for all other notes. The report states:

> For half a century now, it has been widely known that New York City has a revenue problem, a systemic difficulty in raising additional revenues to keep up with expanding needs. It is also well known that revenue problems are aggravated by business recession and that liquidity is impaired in some proportion to declines in economic activity. But New York City's debt is secured by much more than its current liquidity position. The strong legal backing of the City's obligations and the City's unique position in the American economy provide a considerable amount of assurance to the creditor. These assets, managed by political leaders of even average competence, would represent adequate backing for any City's securities. In the case of New York City its securities become a good buy for investors seeking yield and willing to withstand adverse and often irrelevant publicity. The vulnerablility of the City to cash stringencies, however, is the very reason the rating is not

---

1/ Document entitled "Meeting at Morgan Guaranty," April 4, 1975.

higher. Our ratings encompass all these and other considerations and simply cannot in fairness to the investor be changed capriciously. The bond rating of New York City's general obligation bonds remains A, the bond anticipation notes MIG 1 and all other notes MIG 2. 2/

2/ Moody's Investors Services Municipal Credit Report, April 8, 1975.

EPILOGUE

Efforts by the City during May 1975 to market its short-term debt were unsuccessful. A proposed short-term debt sale of $280 million was cancelled on May 19, 1975. During April and May 1975, the City received substantial advances from New York State, and certain sums from the federal government.

In June 1975, the Municipal Assistance Corporation for the City of New York ("MAC") was formed. MAC, another public benefit corporation, was an agency and instrumentality of New York State. Its purpose was to assist the City in providing "essential services to [the City's] inhabitants without interruption and [to create] investor confidence in the soundness of the obligations of the City." MAC was authorized to borrow up to three billion dollars and was initially supported by revenue streams derived from sales taxes and stock transfer taxes due the City. Standard & Poor's rated the MAC securities A+.

MAC sold $1 billion of its securities to the public in June and July 1975. Additional sales aggregating approximately $2 billion were made through October 1975.

On September 9, 1975, the State Legislature adopted the New York State Financial Emergency Act for the City of New York which, among other things, created the Emergency Financial Control Board. One of the Control Board's primary functions was to develop a three-year financial plan for the City with a view to achieving a balanced expense budget for the City for its fiscal year ending June 30, 1978. The financial plan was to be prepared in accordance with accounting principles different from those previously employed by the City, which principles were intended to reflect more accurately the City's revenues and expenditures.

On November 15, 1975, the State Legislature enacted the Moratorium Act, which provided for suspension of the enforcement of short-term obligations of the City outstanding on November 15, 1975.

On January 5, 1976, the Commission commenced its investigation concerning transactions in the securities of the City and related matters. In its January 8, 1976 release announcing the investigation, the Commission stated, in part:

> Securities issued by the City of New York or by any municipality are not required to be registered with the Commission. However, the Commission is authorized to conduct investigations and, where appropriate, seek remedial relief where violations of the Securities Act and/or the Exchange Act have occurred in the trading of such securities.
>
> * * * *
>
> The Commission notes that a major reason for its investigation is its desire to restore investor confidence in the municipal bond markets.
>
> The Commission's investigation is also being undertaken to determine what, if any, additional legislation or rulemaking is necessary in light of the facts uncovered during the investigation to protect investors in municipal securities.

On November 19, 1976, the Moratorium Act was declared unconstitutional by the New York State Court of Appeals.