

STATEMENT OF JEAN COSTANZA
Before the Senate Special Committee
on Local Government Investments
February 16, 1995

I am Jean Costanza, a partner at LeBoeuf, Lamb, Greene & MacRae, LLP. I acted as Bond Counsel to Orange County in connection with certain debt issues which were closed in the summer of 1994.

As a preliminary matter, I and other members of my firm are deeply saddened by the personal and financial pain that has been caused by the County's fiscal situation. We support this Committee's goals and will cooperate with the Committee to the fullest possible extent, consistent with our professional obligations to the County of Orange as our former client.

I have worked in the field of municipal finance for approximately 12 years. I began working in public finance at O'Melveny & Myers and continued this work at Buchalter, Nemer, Fields & Younger. With respect to such work, I have acted as Bond Counsel, Underwriter's Counsel, or Letter of Credit Counsel on numerous transactions. The different roles played by the various professionals who work on a bond transaction are important to an understanding of my representation of the County; I will describe these roles briefly in a moment.

I began representing the County of Orange as Bond Counsel for its short term note issues in the late 1980's. In December, 1993, I moved to LeBoeuf. Subsequently, the County sent out a Request For Proposals for Bond Counsel Services. LeBoeuf was one of the firms that responded to this Request, and was selected as Bond Counsel. Subsequently, LeBoeuf entered

into an agreement with the County to provide such services (which included acting as Bond Counsel for the County Flood Control District) and any other special services requested by the County and agreed to by LeBoeuf.

Pursuant to the agreement, LeBoeuf acted as Bond Counsel for the County's five short term note issues that closed during the summer of 1994, as well as the short term note issued by the County Flood Control District. We had no role in the County's other, long term debt issues. It is important that I point out, so that the nature of LeBoeuf's representation of the County is clear, that the firm was never asked to advise the County regarding its investment policies, investment strategies, or the legality of the investments in the County's investment pool.

I would like to describe briefly the roles played by the various parties in connection with the note issues on which I represented the County. The principal entities are: the County, as issuer; the Office of County Counsel, as legal adviser to the County; Leifer Capital as financial and marketing specialists; Brown & Wood (except, in one instance, Orrick, Herrington & Sutcliffe), as counsel to the Financial and Marketing Specialists, which acted as Disclosure Counsel; the Underwriter; and LeBoeuf as Bond Counsel.

The County of Orange was the entity that issued the notes. That is, the County borrowed money, to be repaid with interest after a specified period. I understand that Leifer Capital gave advice to the County about the market with the goal of obtaining the most favorable financial terms for its borrowing. As Bond Counsel, LeBoeuf was responsible for preparation of the resolutions approving the note issues that were adopted by the County Board of Supervisors.

LeBoeuf also gave its opinion that the notes were valid and legally binding obligations of the County and that, to the extent applicable, interest paid on the notes was excluded from gross income for federal income tax purposes. In most cases, LeBoeuf also gave a supplemental opinion as to the description of the notes to the extent that such description summarized specific provisions of the notes. The opinions did not address disclosure in other portions of the Official Statement.

Disclosure Counsel prepared the disclosure documents, the preliminary Official Statement, and the Official Statement. These documents discussed, among other things, the risks associated with a purchase of the notes. Disclosure Counsel also gave its opinion that, based upon the information made available to it, the Official Statement did not contain any material misstatements or omissions. The County Treasurer-Tax Collector provided a certificate attesting to the absence of any misstatements or omissions in the Official Statement. LeBoeuf did not act as Disclosure Counsel in connection with any of the notes or bonds issued by Orange County.

In each transaction, the Underwriter agreed to purchase the notes from the County pursuant to the terms of a purchase contract drafted by Disclosure Counsel. County Counsel reviewed and commented on documents prepared by others, including Bond Counsel and Disclosure Counsel, and delivered an opinion with respect to the transaction.

In addition, I attended presentations made by the County in May, 1994, to the rating agencies which rate the risk of municipal bond issues. County personnel met with Moody's Investors Service and Standard & Poor's Corporation. The County's notes were rated A-1+ by

S&P, and P-1 by Moody's. These are the highest ratings given to short term municipal obligations.

Apart from the work described above, my firm was also asked to assist the County in April, 1994 with respect to an informal inquiry by the Securities and Exchange Commission concerning the County's investment pool. We assisted the County in providing all requested documents to the SEC, and one of my partners, John Cotton, attended a meeting with representatives from the SEC and County Counsel, Mr. Citron and Mr. Raabe.

Finally, in November, 1994, LeBoeuf was asked by the County to provide guidance on how to deal with a potential problem with the investment pool. LeBoeuf assisted the County in locating specialists to help evaluate the pool. Those specialists preliminarily estimated in November that there was a market loss, on paper, of approximately \$1.5 billion. The County held meetings on November 29 and December 1 to advise the pool participants of the situation and, on November 30 and the morning of December 1, had conference calls to advise the broker-dealers from whom it had purchased investments. I participated in those meetings, together with Mr. Citron, Mr. Raabe, and representatives of the County Counsel's and County Auditor's offices. In addition, lawyers from the County Counsel's office met again with the SEC, together with Mr. Cotton and me.

Between December 2 and December 6, it became apparent that the liquidity needs of the pool were far greater than had been preliminarily estimated. LeBoeuf attorneys participated in

meetings with the County throughout this time period to develop a response to the problem.

Ultimately, the County made the decision to file for bankruptcy.

LeBoeuf's representation of the County ended at that time, with the exception of the SEC proceeding. LeBoeuf's representation of the County in connection with that proceeding ended shortly thereafter.