



**CHRISS W. STREET**  
**OFFICE OF THE TREASURER TAX COLLECTOR**

# Memo

**To:** Honorable Members of the Orange County Board of Supervisors  
**From:** Chriss Street, Treasurer  
**Date:** 3/20/2008  
**Re:** Whistlejacket Update & Overview

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The situation with the Whistlejacket Capital SIV is too important to permit the media, politicians, and union bosses to create unnecessary panic with speculation and misinformation. The issue is too serious for individuals to take matters into their own hands without the knowledge of County Counsel. Off-the-cuff remarks, inaccurate assessments and veiled threats serve only to undermine the efforts of County Counsel and the Treasurer's office.

This office has operated, and will continue to operate, with openness, transparency and candor in regard to all of its operations and investments. We have maintained a running dialogue with members of your staff, sent email updates as new information becomes available, and have been holding monthly investment meetings attended by your staff and some members of our voluntary pool participants. We are doing everything we can to keep you abreast of an evolving situation. As noted by our County Counsel, John Abbott, new information has been coming out very slowly.

On March 11 our investment team received "A Notice of Court Decision" from Deloitte & Touche, the Receiver. This very brief description of the British Chancery Court's holding was immediately turned over to County Counsel for review and comment. The twenty three page document referenced at Tuesday's Board of Supervisors meeting was not received by our office until last Friday afternoon, March 14. Again, the document was immediately given to County Counsel for review and comment.

Rather than espousing my personal beliefs and hastily disseminating the court document, prudence dictated any comments be withheld until the trained eye of the County's lawyers had an opportunity to review the holding. We continue to work closely with County Counsel and will provide you with their conclusions in a timely manner. Considering only one full working day passed between the time the County received the Chancery Court decision and Tuesday's Board meeting, it is understandable that answers were not yet available. It is imperative that the matter be addressed in a professional manner, and that we do not permit a serious financial matter to be politicized.

Our office learned yesterday from Whistlejacket's Trustee, Bank of New York, that on February 27 one of the Board circumvented the established legal protocol of utilizing County Counsel and obtained independent access to confidential documents. We believe all Board members should have equal access to information so that when snippets of these documents appear in the press, each of you has the facts and can make your own conclusions. As such, if any other Board member desires their own confidential access code and password to the secured Trustee website please contact my office and we will make the necessary arrangements.

With regard to last week's article in the Register, the Board of Supervisors was not given advance notice because we did not know when or if the article was going to run. We were told it was a "complex story" and that the editor had misgivings about it. More importantly, the article contained nothing new because there was no news to report. The piece simply rehashed old opinions by disconnected "experts" ignorant of our particular facts. I did not think that the Board wanted to be bothered with the incomplete and inaccurate ramblings of a reporter every time the Register feels compelled to rile up the public. The statements in Wednesday's article continue to misstate facts and do nothing but incite hysteria to the County's detriment.

It is important to reiterate that Whistlejacket Capital was approved as an investment in December 2006 by my predecessor, with issues purchased in January and July of 2007. These vehicles were bought when their ratings were Aaa and AAA as determined by Moody's and Standard and Poor's, respectively. As recently as February of this year, pursuant to the independent audit commissioned by the Board of Supervisors, these investments, along with all other investments by this office, were considered sound and stable.

Last year, investments by the Treasurer's office earned over \$300 million for the County and local schools. While our investment represents a significant sum, the eighty million dollars that the county has in Whistlejacket represents only 1.3% of our entire portfolio. As such, the county is in no danger of failing to fulfill its obligations or meet its responsibilities. It is irresponsible for the media to base stories on speculation and for politicians to manipulate that conjecture to advance a personal agenda.

The placement of a Receiver actually serves to protect the County's position. With the Receiver in place, assets cannot be randomly liquidated and the proceeds will not be paid on an ad hoc basis. In short, there will be no fire sale. Mr. Justice Etherton, of Her Majesty's Royal Court of Justice, in an opinion dated March 10, 2008 the placement of the Receiver "puts all holders of US Medium Terms Notes on an equal footing..." with all other Senior Creditors. What this means is that, pursuant to Section 6.6 of the original agreement, Senior Creditors, such as the County of Orange, will be among the first to get their money back. This is a far cry from the speculations of the Register and their "experts" that the county has lost \$80 million.

In a Moody's report dated February 21, 2008, six days after the default was announced and after the placement of the Receiver, a B2 rating was given to the senior notes. According to Moody's the B2 rating reflects "the likelihood of a high or full recovery upon the probable liquidation of the collateral portfolio by the Security Trustee as directed by the Receiver." Moody's goes on to say that "Aaa-rated assets represent 64.4% of the portfolio; Aa 32.8%; and A 2.8%". The underlying assets have withstood the recent turmoil in the fixed income markets. On the attached March 14, 2008 Whistlejacket report and corresponding spreadsheet, you will note the current market value of the portfolio assets, cash, and near cash assets backing Whistlejacket are 101.3% of par value of senior debt.

The Register article also leads the reader to believe that pristine assets of the SIV were cherry picked by junior creditors to the detriment of the Senior Note holders such as the County. In fact, over \$11 billion of the Whistlejacket SIV was purchased in the last few months by Junior Creditors at 100% of par in *pro rata* "vertical slices." This means that if 4% of the portfolio is security XYZ, then 4% of the assets the Junior Creditor (also known as Capital Note Holder) vertical slice purchases will also be XYZ. The sale of vertical slices does not hurt Orange County's prospect of recovery. We have submitted to the Register a request for a retraction and attached it for your perusal.

Continuing to monitor the situation, my office participated in a conference call with the Receiver. During the conversation two critical points were made by Deloitte & Touche that reinforce our position and support our analysis. First, while the matter is being appealed in the UK courts, no payments of any kind are being made to any note holder regardless of position or due date. This reaffirms our belief that the placement of a Receiver was a positive step. As seen from this statement, Deloitte & Touche is protecting the assets and positioning itself for an orderly distribution of funds based on recognized and prudent economic principles. Second, per the original agreement and the subsequent court ruling, all obligations accelerated on March 16, 2008, effectively making all senior notes due at that time. As such, per the Receiver's interpretation of the agreement, an interpretation we agree with, all obligations become *pari passu* and will be paid equally when a distribution is made. The Receiver and the court essentially agree as to all obligations which mature after March 16, 2008 and only disagree as to a single obligation that became due prior to that date. This convergence of interpretation further repudiates the hysterical explanations proffered by the press and certain politicians that we have already lost eighty million dollars.

Despite what some would have you believe, the sky is not falling and the county has not lost \$80 million. In fact, as of today, the county has lost nothing and any statement to the contrary is simply overreaction to turbulence in the market. This speculation can only be fueled by a desire to either sell papers or promote a political agenda.

In closing, I would again refer each of you back to the independent PFM report presented to the Board of Supervisors a little over a month ago. That report found this office

transparent and open. Furthermore, they concluded that our investments were safe and stable. We are all questioning some of the investments we have made in our personal and professional accounts over the last couple of years be it in stocks, bonds or adjustable rate mortgages. As the turbulence of these economic times continues to jostle and challenge us, we must not panic. Nor can we yield to speculation and innuendo based upon half truths, misplaced assumptions and ulterior motives. We must work together to protect and enhance our financial assets. We must all commit to confront the challenges of the future as a team; this is what our tax payers expect and deserve.