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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

**IN RE RIVER PARK SQUARE PROJECT  
BOND LITIGATION.**

NO. CS-01-0127-EFS

DECLARATION OF THE BOARD  
OF DIRECTORS OF THE SPOKANE  
DOWNTOWN FOUNDATION IN  
OPPOSITION TO PRESTON GATES  
& ELLIS' MOTION FOR PARTIAL  
SUMMARY JUDGMENT  
RE: WSSA CLAIMS

Christine Schnug, David Broom, and Thomas White declare, under penalty of perjury under the laws of the State of Washington, that the following statements are true and correct:

1. The Spokane Downtown Foundation (“the Foundation”) was incorporated on or about November 14, 1996.

2. Christine Schnug (“Schnug”) , David Broom (“Broom”), and Thomas White (“White”) have each been on the Foundation’s board of directors from early 1997 until the present. The Foundation’s Articles of Incorporation were amended on or about February 10, 1998, and the Amended Articles were filed with the Washington Secretary of State on or about August 27, 1998.
3. Schnug, Broom, and White are volunteers and receive no compensation for their service on the non-profit Foundation board.
4. Schnug, Broom, and White did not have experience with local or city government bond offerings or public parking facility operations prior to their appointment to the Foundation’s board of directors.
5. Michael Ormsby (“Ormsby”) and David Thompson (“Thompson”) are lawyers with the law firm of Preston Gates & Ellis, LLP (“Preston”). William Mantle (“Mantle”) was a lawyer with Preston at material times. Ormsby, Thompson, and Mantle performed municipal finance and legal work for the Foundation related to the River Park Square garage transaction and revenue bond issue.
6. Schnug, Broom, and White (“the Board”) did not know that Preston performed legal services for the Developer related to financing for the River Park Square garage transaction prior to the Foundation’s incorporation. The Foundation did not waive any conflict that might exist as a result of Preston’s representation of the Developer and the Foundation.

7. Preston did not advise the Foundation about the potential securities disclosure implications that could or did result from Preston's prior representation of the Developer.
8. Before Schnug, Broom, and White agreed to serve as volunteer directors for the Foundation, Ormsby advised them that he and the Preston firm were experts in municipal finance, including on-behalf-of or 63-20 financing, and that the Foundation could rely on Preston's expertise in respect to the Foundation's role in the bond financing and garage purchase.
9. Ormsby advised Schnug, Broom, and White that the only qualifications they needed to serve on the Foundation's board of directors were to be thoughtful members of the community who were willing to serve on a volunteer basis.
10. Preston was general counsel, issuer's counsel, and bond counsel for the Foundation.
11. Preston did not propose a written engagement letter and there was no written engagement letter which limited the scope of work that Preston would provide for or to the Foundation.
12. Preston did not advise the Board that its work for the Foundation was or would be limited with respect to the Foundation's responsibility for the accuracy, completeness or sufficiency of the Official Statement. Rather, as represented, Preston performed the work and undertook the Foundation's disclosure and due diligence obligations with respect to the Official Statement.

13. Preston advised the Foundation regarding disclosures, presented a draft of the Preliminary Official Statement to the Board, and performed the Foundation's "due diligence" on the Official Statement.
14. The Foundation signed the General Certificate contained in the Official Statement pursuant to Preston's direction and assurances that the Foundation's obligations had been met.
15. The Foundation relied on Preston to fulfill its obligations (to the extent such obligations existed) with respect to information contained in the Official Statement, not just information related to the Foundation.
16. The Foundation and the Board relied on Preston's expertise with respect to all aspects of the garage transaction and the bond issue.
17. Preston did not inform the Board that the Board had an "independent obligation" to evaluate the terms of the garage financing plan and, as indicated, the Foundation relied on the undertaking, work and expertise of Ormsby and the Preston firm.
18. To illustrate, Ormsby called and attended meetings with the PDA, the City, the Developer, the Underwriter and others. Ormsby and members of the Preston firm participated in discussions and developed strategies regarding the timing of the underwriting, obtaining investment grade ratings, and issues related to the Official Statement.
19. Additionally, Preston handled routine matters related to the Foundation. For instance, Preston prepared budgets for the Foundation and processed bills for payment.

20. Ormsby coordinated and worked with the contractor and the Developer on the final construction of the garage, participated in the construction walk through and the garage conveyance, all the while assuring the Foundation that Preston was handling all matters without expressing any limitations on the extent or nature of its services.
21. The Board members believed and understood that the price for the garage had been negotiated by the City, the Developer, and Ormsby.
22. The Board members were informed that Ormsby was involved in negotiating the terms of the ground lease and parking facility lease agreement.
23. Ormsby and Preston undertook application for an exemption from local property taxes for the garage.
24. The Board members were informed that Preston, on behalf of the Foundation, along with representatives of the City, the PDA, Prudential, the Developer and others formed a working group to resolve issues related to the garage transaction.
25. Ormsby advised that the working group was comprised of experts including the municipal finance experts from Preston.
26. Ormsby was the Foundation's primary representative in the working group. The Board did not attend working group sessions.
27. Ormsby consistently assured the Foundation Board that all issues related to the bonds, the garage transaction and the tax exempt status of the bonds were taken care of by the working group.

28. Preston did not inform the Board members that the Foundation was not obligated to and/or should not close on the garage purchase as a result of AMC's notice of default.
29. After AMC's notice of default, Ormsby negotiated a Reimbursement Agreement on behalf of the Foundation, and advised the Board that the Agreement resolved the AMC issue.
30. Preston did not inform or advise the Board that the Foundation was not required to close the purchase of the garage because the Developer failed to comply with paragraph 12.1(k) of the Parking Facility Purchase Agreement, as alleged by plaintiffs.
31. The Board members were informed that Preston consulted, on behalf of the Foundation, with the City and the PDA regarding the garage closing.
32. Preston did not inform the Foundation Board of anything that Preston opined or believed would jeopardize the viability of the transaction.
33. Preston recommended that the Foundation close the garage transaction.
34. The Foundation Board members followed Preston's recommendation.
35. In respect to the Foundation, Ormsby and the Preston firm were responsible for the structure of the bond finance and garage purchase transaction to the extent it affected the tax exempt status.
36. Preston gave an unqualified opinion that interest on the bonds was exempt from federal income tax.

Dated this \_\_\_\_ day of October 2003.

SPOKANE DOWNTOWN FOUNDATION

By: \_\_\_\_\_  
Christine Schnug, in her capacity as Director  
Spokane Downtown Foundation

By: \_\_\_\_\_  
David Broom, in his capacity as Director  
Spokane Downtown Foundation

By: \_\_\_\_\_  
Thomas White, in his capacity as Director  
Spokane Downtown Foundation

PROOF OF SERVICE

I hereby declare under the penalty of perjury and the laws of the State of Washington that the following statements are true.

On the \_\_\_ day of \_\_\_\_\_, 2003, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

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DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2003, at Spokane, Washington.

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Pam Warnick