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THE HONORABLE EDWARD F. SHEA

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DEC 13 2001

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT SPOKANE

NUVEEN QUALITY INCOME
MUNICIPAL FUND, INC.; NUVEEN
PREMIUM INCOME MUNICIPAL
FUND 4, INC.; STRONG MUNICIPAL
BOND FUND, INC.; SMITH BARNEY
MUNICIPAL FUND LIMITED TERM;
SMITH BARNEY MUNICIPAL HIGH-
INCOME FUND; and VANGUARD
HIGH-YIELD TAX-EXEMPT FUND;
U.S. BANK TRUST NATIONAL
ASSOCIATION, in its capacity as
Indenture Trustee on behalf of Holders of
Spokane Downtown Foundation Parking
Revenue Bonds; and ASSET
GUARANTY INSURANCE
COMPANY,

Plaintiffs,

v.

PRUDENTIAL SECURITIES
INCORPORATED, a Delaware
corporation; WALKER PARKING
CONSULTANTS/ENGINEERS, INC., a
Michigan corporation; FOSTER PEPPER
& SHEFELMAN PLLC, a Washington
professional limited liability company;
SPOKANE DOWNTOWN
FOUNDATION, a Washington
corporation; PRESTON GATES &
ELLIS LLP, a Washington limited
liability partnership; CITIZENS

No. CS-01-0127-EFS
Consolidated with
No. CS-01-0128-EFS

ANSWER OF PRUDENTIAL
SECURITIES INCORPORATED
TO AGIC COMPLAINT

1 REALTY COMPANY, a Washington
 2 corporation; LINCOLN INVESTMENT
 3 COMPANY OF SPOKANE, a
 4 Washington corporation; RPS MALL,
 5 L.L.C., a Washington limited liability
 6 company; RPS II, L.L.C., a Washington
 7 limited liability company; RWR
 8 MANAGEMENT, INC., a Washington
 9 corporation, doing business as R.W.
 ROBIDEAUX AND COMPANY; CITY
 OF SPOKANE, WASHINGTON, a first-
 class charter city of the State of
 Washington; SPOKANE PUBLIC
 PARKING DEVELOPMENT
 AUTHORITY, an unregistered
 Washington corporation, doing business
 as RIVER PARK SQUARE PARKING,

Defendants.

CITY OF SPOKANE,,

Third Party Plaintiff,

v.

ROY J. KOEGEN and ANNE KOEGEN,
 a marital community, and PERKINS
 COIE, LLP,

Third Party Defendants.

COMES NOW defendant Prudential Securities Incorporated ("Prudential"), by
 and through its undersigned attorneys, and in response to the Complaint of Asset
 Guaranty Insurance Company, hereby states and alleges as follows:

ANSWER

1. Prudential admits that this Court has jurisdiction over this proceeding.
 Except as expressly admitted hereinabove, Prudential denies the remaining allegations
 of paragraph 1 of the Complaint.

1 2. Prudential admits that venue is proper in this Court. Except as expressly
2 admitted hereinabove, Prudential denies the remaining allegations of paragraph 2 of
3 the Complaint.

4 3. Prudential is without knowledge or information sufficient to form a belief
5 as to the truth of the allegations of paragraph 3 of the Complaint, and therefore, denies
6 the same.

7 4. Prudential admits the allegations in of paragraph 4 of the Complaint.

8 5. Prudential is without knowledge or information sufficient to form a belief
9 as to the truth of the allegations of paragraph 5 of the Complaint, and therefore, denies
10 the same.
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12 6. Prudential is without knowledge or information sufficient to form a belief
13 as to the truth of the allegations of paragraph 6 of the Complaint, and therefore, denies
14 the same.
15

16 7. Prudential is without knowledge or information sufficient to form a belief
17 as to the truth of the allegations of paragraph 7 of the Complaint, and therefore, denies
18 the same.

19 8. Prudential is without knowledge or information sufficient to form a belief
20 as to the truth of the allegations of paragraph 8 of the Complaint, and therefore, denies
21 the same.
22

23 9. Prudential is without knowledge or information sufficient to form a belief
24 as to the truth of the allegations of paragraph 9 of the Complaint, and therefore, denies
25 the same.
26

1 10. Prudential is without knowledge or information sufficient to form a belief
2 as to the truth of the allegations of paragraph 10 of the Complaint, and therefore,
3 denies the same.

4 11. Prudential is without knowledge or information sufficient to form a belief
5 as to the truth of the allegations of paragraph 11 of the Complaint, and therefore,
6 denies the same.

7 12. Prudential is without knowledge or information sufficient to form a belief
8 as to the truth of the allegations of paragraph 12 of the Complaint, and therefore,
9 denies the same.

10 13. Paragraph 13 does not set forth any allegations requiring an admission or
11 denial by Prudential.

12 14. Prudential is without knowledge or information sufficient to form a belief
13 as to the truth of the allegations of paragraph 14 of the Complaint, and therefore,
14 denies the same.

15 15. Prudential admits the allegations in paragraph 15 of the Complaint.

16 16. Prudential admits the allegations in paragraph 16 of the Complaint.

17 17. Prudential denies the allegations of paragraph 17 of the Complaint.

18 18. Prudential realleges and incorporates by reference all prior answers.

19 19. Prudential admits that the Foundation issued Bonds to fund the purchase
20 of the Garage. Prudential further admits that the debt of the Bonds was to be retired
21 through payments generated by revenue from the operation of the Garage. Prudential
22 admits that the City represented, in adopting the Ordinance, that it would loan money
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1 in the event that operating shortfalls precluded servicing of the Bonds. The
2 allegations of sentence two of paragraph 19 of the Complaint call for a legal
3 conclusion to which no response is required. Prudential denies the remaining
4 allegations of paragraph 19 of the Complaint.

5
6 20. Prudential is without knowledge or information sufficient to form a belief
7 as to the truth of the allegations of paragraph 20 of the complaint, and therefore,
8 denies the same.

9 21. Prudential denies the allegations of paragraph 21 of the Complaint.

10 22. Prudential denies the allegations of paragraph 22 of the Complaint.

11 23. Prudential denies the allegations of paragraph 23 of the Complaint.

12 24. Prudential denies the allegations of paragraph 24 of the Complaint.

13 25. Prudential denies the allegations of paragraph 25 of the Complaint.

14 26. Prudential denies the allegations of paragraph 26 of the Complaint.

15
16 27. Prudential neither admits nor denies the allegations with respect to the
17 substance of the Official Statement as that document speaks for itself. Prudential
18 denies the remaining allegations, including subparts, of paragraph 27 of the
19 Complaint.

20
21 28. Prudential denies the allegations of paragraph 28 of the Complaint.

22 29. Prudential denies the allegations of paragraph 29 of the Complaint.

23 30. Prudential denies the allegations of paragraph 30 of the Complaint.

24 31. Prudential denies the allegations of paragraph 31 of the Complaint.

25 32. Prudential denies the allegations of paragraph 32 of the Complaint.
26

1 33. Prudential neither admits nor denies the allegations with respect to the
2 substance of the Official Statement as that document speaks for itself. Prudential
3 denies the remaining allegations of paragraph 33 of the Complaint.

4 34. Prudential denies the allegations of paragraph 34 of the Complaint.

5 35. Prudential admits that Foster Pepper acted as counsel for underwriter.
6 Prudential admits that Foster Pepper issued an opinion letter. Prudential is without
7 knowledge or information sufficient to form a belief as to the truth of the remaining
8 allegations of paragraph 35 of the Complaint, and therefore, denies the same.

9 36. Prudential admits that the Foundation issued the Bonds. Prudential
10 denies the remaining allegations of the first sentence of paragraph 36 of the
11 Complaint. Prudential is without knowledge or information sufficient to form a belief
12 as to the truth of the remaining allegations of paragraph 36 of the Complaint, and
13 therefore, denies the same.
14

15 37. Prudential admits that Preston Gates acted as bond counsel and issued an
16 opinion letter. Prudential is without knowledge or information sufficient to form a
17 belief as to the truth of the remaining allegations of paragraph 37 of the Complaint,
18 and therefore, denies the same.
19

20 38. Prudential admits that Walker issued several documents in connection
21 with the issuance of the Bonds. Prudential is without knowledge or information
22 sufficient to form a belief as to the truth of the remaining allegations of paragraph 38
23 of the Complaint, and therefore, denies the same.
24

25 39. Prudential denies the allegations of paragraph 39 of the Complaint.
26

1 40. Prudential denies the allegations of paragraph 40 of the Complaint.

2 41. Prudential admits that Auble prepared a report relating to the Garage.
3 Prudential is without knowledge or information sufficient to form a belief as to the
4 truth of the remaining allegations of paragraph 41 of the Complaint, and therefore,
5 denies the same.

6 42. Prudential is without knowledge or information sufficient to form a belief
7 as to the truth of the allegations of paragraph 42 of the Complaint, and therefore,
8 denies the same.

9 43. Prudential admits the City adopted Ordinance C31823, the terms of
10 which speak for themselves. Prudential admits the allegations of sentences 4, 5, and 6
11 of paragraph 43. Prudential is without knowledge or information sufficient to form a
12 belief as to the truth of the remaining allegations of paragraph 43, and therefore,
13 denies the same.

14 44. Prudential is without knowledge or information sufficient to form a belief
15 as to the truth of the allegations of paragraph 44 of the Complaint, and therefore,
16 denies the same.

17 45. Prudential admits that Perkins Coie acted as special counsel and issued
18 an opinion letter, the terms of which speak for themselves. Prudential is without
19 knowledge or information sufficient to form a belief as to the truth of the remaining
20 allegations of paragraph 45 of the Complaint, and therefore, denies the same.

21 46. Prudential denies the allegations of paragraph 46 of the Complaint.
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1 47. Prudential is without knowledge or information sufficient to form a belief
2 as to the truth of the allegations of paragraph 47 of the Complaint, and therefore,
3 denies the same.

4 48. Prudential is without knowledge or information sufficient to form a belief
5 as to the truth of the allegations of paragraph 48 of the Complaint, and therefore,
6 denies the same.

7
8 49. Answering paragraph 49 of the Complaint, Prudential realleges and
9 incorporates all previous answers.

10 50. Prudential denies the allegations of paragraph 50 of the Complaint.

11 51. The allegations of paragraph 51 of the Complaint call for legal
12 conclusions to which no response is required. To the extent any such response is
13 required, however, Prudential denies the allegations.

14
15 52. The allegations of paragraph 52 of the Complaint call for legal
16 conclusions to which no response is required. To the extent any such response is
17 required, however, Prudential denies the allegations.

18 53. Prudential is without knowledge or information sufficient to form a belief
19 as to the truth of the allegations of paragraph 53 of the Complaint, and therefore,
20 denies the same.

21
22 54. Prudential denies the allegations of paragraph 54 of the Complaint.

23 55. Prudential denies the allegations of paragraph 55 of the Complaint.

24 56. Prudential denies the allegations of paragraph 56 of the Complaint.

25 57. Prudential denies the allegations of paragraph 57 of the Complaint.
26

1 58. Prudential denies the allegations of paragraph 58 of the Complaint.

2 59. Prudential realleges and incorporates all previous answers.

3 60. Prudential denies the allegations of paragraph 60 of the Complaint.

4 61. Prudential denies the allegations of paragraph 61 of the Complaint.

5 62. The allegations of paragraph 62 of the Complaint call for legal
6 conclusions to which no response is required. To the extent any such response is
7 required, however, Prudential denies the allegations.

9 63. The allegations of paragraph 63 of the Complaint call for legal
10 conclusions to which no response is required. To the extent any such response is
11 required, however, Prudential denies the allegations.

12 64. Prudential denies the allegations of paragraph 64 of the Complaint.

13 65. Prudential denies the allegations of paragraph 65 of the Complaint.

14 66. Prudential denies the allegations of paragraph 66 of the Complaint.

15 67. Prudential admits that it acted as underwriter for the issuance of the
16 Bonds. The remaining allegations of paragraph 67 of the Complaint call for legal
17 conclusions to which no response is required. To the extent any such response is
18 required, however, Prudential denies the allegations.

19 68. Prudential admits that Foster Pepper acted as underwriter's counsel for
20 Prudential. Prudential denies the remaining allegations of paragraph 68 of the
21 Complaint.

22 69. Prudential denies the allegations of paragraph 69 of the Complaint.

23 70. Prudential denies the allegations of paragraph 70 of the Complaint.
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1 71. Prudential denies the allegations of paragraph 71 of the Complaint.

2 72. Prudential denies the allegations of paragraph 72 of the Complaint.

3 73. Prudential admits that the City adopted the Ordinance. Prudential further
4 admits that the City and Perkins Coie issued opinion letters. Prudential denies the
5 remaining allegations of paragraph 73 of the Complaint.
6

7 74. The allegations of paragraph 74 call for legal conclusions to which no
8 response is required. To the extent any such response is required, however, Prudential
9 denies the allegations.

10 75. Prudential denies the allegations of paragraph 75 of the Complaint.

11 76. Prudential denies the allegations of paragraph 76 of the Complaint.

12 77. Prudential realleges and incorporates all previous answers.

13 78. Prudential denies the allegations of paragraph 78 of the Complaint.

14 79. Prudential denies the allegations of paragraph 79 of the Complaint.

15 80. Prudential is without knowledge or information sufficient to form a belief
16 as to the truth of the allegations of paragraph 80 of the Complaint, and therefore,
17 denies the same.
18

19 81. Prudential denies the allegations of paragraph 81 of the Complaint.

20 82. Prudential denies the allegations of paragraph 82 of the Complaint.

21 83. Prudential realleges and incorporates all previous answers.

22 84. The allegations of paragraph 84 of the Complaint call for legal
23 conclusions to which no response is required. To the extent any such response is
24 required, however, Prudential denies the allegations.
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1 85. Prudential denies the allegations of paragraph 85 of the Complaint.

2 86. Prudential denies the allegations of paragraph 86 of the Complaint.

3 87. Prudential denies each and every prayer in the plaintiffs' prayer for relief.

4
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6 **AFFIRMATIVE DEFENSES**

7
8 WHEREBY, as further answer to the claims asserted by the plaintiffs'
9 Complaint, Prudential asserts the following affirmative defenses:

10 A. The plaintiff's Complaint fails to state a cause of action against
11 Prudential upon which relief can be granted.

12 B. Plaintiff is barred by the statute of limitations from asserting some or all
13 of their allegations and causes of action.

14 C. Plaintiff lacks standing to assert some or all of its claims.

15 D. Plaintiff failed to mitigate its alleged damages, if any.

16 E. Plaintiff's alleged damages, if any, were caused, or are attributable to, the
17 acts or omissions, or the acts or omissions of persons or entities other than Prudential.

18 F. Prudential is not liable for any of the plaintiff's alleged damages, if any,
19 under a theory of contributory or comparative negligence.

20 G. Plaintiff has waived their right to assert the claims and causes of action
21 asserted in the Complaint.

22 H. Plaintiff is estopped from asserting the claims and causes of action
23 asserted in the Complaint.

24 I. Plaintiff is barred by the doctrine of laches from asserting the claims and
25 causes of action asserted in the Complaint.

1 J. Plaintiff has "unclean hands" and is precluded from asserting the claims
2 and causes of action asserted in the Complaint.

3 K. Plaintiffs' causes of action are not "ripe" for adjudication.
4

5 **PRAYER FOR RELIEF**

6 NOW, THEREFORE, having fully answered Plaintiffs' Complaint, defendant
7 Prudential respectfully requests and prays for the following relief:

- 8 1. For dismissal of Plaintiffs' Complaint with prejudice and without costs;
- 9 2. For its attorneys' fees and costs; and
- 10 3. For such other and further relief as the Court deems just and proper.

11 DATED this 12th day of December 2001.
12

13 LANE POWELL SPEARS LUBERSKY LLP

14 By 
 15 _____
 16 James L. Robart, WSBA No. 05333
 17 Rudy A. Englund, WSBA No. 04123
 18 Christopher B. Wells, WSBA No. 08302
 19 Christian N. Oldham, WSBA No. 14481
 20 Attorneys for Defendant
 21 Prudential Securities Incorporated
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 23
 24
 25
 26