



DIVISION OF
MARKET REGULATION

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

September 21, 2001

Monty Humble, Esq.
Vinson & Elkins LLP
3700 Trammell Crow Center
2001 Ross Avenue
Dallas, Texas 75201-7700

Re: Digital Assurance Certification L.L.C.

Based on your representations and the facts presented in your letter dated September 7, 2001 (the "Request"), the Division of Market Regulation will not recommend any enforcement action to the Commission against any broker, dealer, or municipal securities dealer (each, a "dealer") for violation of Subsection (c) of Rule 15c2-12 of the Securities Exchange Act of 1934 because the dealer uses the DAC Database as its source of Information in the procedures it establishes in order to have reasonable assurance that it will receive prompt notice of any event disclosed pursuant to paragraph (b)(5)(i)(C), paragraph (b)(5)(i)(D), and paragraph (d)(2)(ii)(B) of Rule 15c2-12 for DAC Bonds.

For purposes of this letter, the "DAC Database" is an Internet-accessible database maintained by Digital Assurance Certification L.L.C. ("DAC") and a municipal security included in the DAC Database is a "DAC Bond." "Information" refers to the Annual Financial Information, Audited Financial Statements, Notice Event notices, and Voluntary Reports, as such terms are used in the Request.

In reaching this position, we note in particular that:

1. Pursuant to a Continuing Disclosure Agreement for a DAC Bond, the issuer or obligated person will name DAC as its exclusive dissemination agent. The issuer or obligated person will agree to provide DAC with the Annual Financial Information and Audited Financial Statements (certified by a designated representative of the issuer or obligated party) by deadlines described in the Agreement and with all Notice Events notices and Voluntary Reports (each certified by a designated representative of the issuer or obligated party) for filing with nationally recognized municipal securities information repositories, state information depositories and/or the Municipal Securities Rulemaking Board (collectively, "Repositories") as required by Rule 15c2-12. DAC will agree to make such filings promptly upon its receipt of the Information.

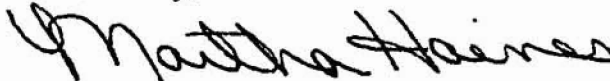
2. DAC will be irrevocably instructed by the issuer or obligated person to file Notice Event notices of failure to file annual financial information with the appropriate Repositories at the times and under the circumstances which you have described in the Request.
3. Information in the DAC Database, including Notice Event notices, will be identical to the information DAC files with the Repositories.
4. Whenever DAC enters into a Continuing Disclosure Agreement with respect to an issue of municipal securities that is already outstanding, it will use its best efforts to obtain all Information with respect to that issue from the Repositories and include that Information in the DAC Database.

This no-action position is expressly conditioned on the current and continuing accuracy of the facts and representations contained in the Request; any different facts or conditions might require a different response. This position is based on current laws, rules, and regulations governing participants in, and the markets for, municipal securities. Any changes in such laws, rules, or regulations may supersede this no-action position or require the Division to reevaluate its position. In addition, DAC shall advise the Division of any material change in its standard form of Continuing Disclosure Agreement or the operations and procedures described in the Request, and, if possible, shall provide such information 30 days prior to any contemplated change, to enable the Division to reevaluate this no-action position in light of such change.

This no-action position is subject to modification or revocation at any time the Division determines that such action is necessary or appropriate. The Division may, from time to time, request that DAC provide it with additional information concerning the DAC Database and the DAC System referred to in the Request.

The position expressed herein is the Division's position on enforcement action only; it does not represent a legal conclusion on the question presented.

Sincerely,



Martha Mahan Haines, Chief
Office of Municipal Securities

Vinson & Elkins

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September 7, 2001

Martha Mahan Haines, Chief
Office of Municipal Securities
Division of Market Regulation
U. S. Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, D.C. 20549

Re: Digital Assurance Certification

Dear Ms. Haines:

On behalf of Digital Assurance Certification L.L.C. ("DAC"), we respectfully request that you advise us that the Division of Market Regulation will not recommend that the Securities and Exchange Commission take any enforcement action against a broker, dealer, or municipal securities dealer (each, a "dealer") for violation of Subsection (c) of Rule 15c2-12 under the Securities Exchange Act of 1934, due to its recommendation of a DAC Bond to a customer using Information in the DAC Database (as defined below) as part of the procedures it must have in place that provide reasonable assurance that it will receive prompt notice of any event disclosed pursuant to paragraph (b)(5)(i)(C), paragraph (b)(5)(i)(D), and paragraph (d)(2)(ii)(B) of Rule 15c2-12.

The DAC System and Database. DAC has developed an Internet-based platform (the "DAC System") designed to assist issuers and obligated persons in complying with the provisions of undertakings called for by Rule 15c2-12 ("Disclosure Undertakings"), which require the dissemination of certain information to nationally recognized municipal securities information repositories ("National Repositories"), state information depositories ("State Repositories") and the Municipal Securities Rulemaking Board (the "MSRB", and together with National Repositories and State Repositories, "Repositories"). Information submitted to DAC through the DAC System is filed electronically with Repositories as described below. All information filed by DAC with Repositories is simultaneously included in an Internet-accessible database maintained by DAC (the "DAC Database") in which it may be accessed through use of 9-digit CUSIP number, issuer, issue name, and obligated person. The municipal securities for which information is included in the DAC Database are referred to as "DAC Bonds." Access to information in the DAC Database is available to all without charge over the Internet. Persons

wishing to access information in the DAC Database must register on-line and receive a password.

For information concerning a bond issue to be included in the DAC Database, the related issuer or obligated person must execute a Disclosure Undertaking with DAC entitled a Disclosure Dissemination Agent Agreement (the "Continuing Disclosure Agreement"), appointing DAC as exclusive dissemination agent with respect to that issue. The issuer or obligated person may appoint DAC to serve as dissemination agent with respect to one or more bond issues under the same Continuing Disclosure Agreement and the Continuing Disclosure Agreement may be amended to include additional bond issues.

The relevant provisions of the Continuing Disclosure Agreement used by DAC are as follows:

Under the Continuing Disclosure Agreement, an issuer or obligated person appoints DAC as disclosure dissemination agent for the issue of bonds described in the Continuing Disclosure Agreement. The issuer or obligated person agrees to provide DAC with the full name of and all CUSIP numbers in 9-digit form for each issue of bonds covered by the Continuing Disclosure Agreement.

Under the Continuing Disclosure Agreement, the issuer or obligated person agrees to provide, annually, an electronic copy of an Annual Report (the contents of which are hereinafter described) and a Certification to DAC not later than 30 days prior to the Annual Filing Date. (For purposes of the Continuing Disclosure Agreement, "Certification" means a written certification of compliance signed by the Disclosure Representative stating that the document submitted to DAC is the specific document required to be submitted to the Repositories and "Disclosure Representative" means the senior member of the issuer or obligated person or his or her designee, or such other person as the issuer or obligated person shall designate in writing to DAC.)

Each Annual Report will contain: (i) Annual Financial Information (as such term is used in paragraph (b)(5)(i) of Rule 15c2-12) with respect to the issuer or obligated person (this information will be identified by the issuer or obligated person by reference to specific headings contained in the official statement prepared in connection with the bonds); and, (ii) either Audited Financial Statements (as such term is used in paragraph (b)(5)(i) of Rule 15c2-12) or unaudited financial statements, prepared in accordance with generally accepted accounting principles ("GAAP"), and/or alternate accounting principles as described in the official statement, as indicated by the issuer or obligated person.

Promptly¹ upon receipt of an electronic copy of the Annual Report and the Certification, DAC agrees to provide an Annual Report to each National Repository and State Repository, if any. The issuer or obligated person is obligated to provide those

¹ Subject to any time required to convert the electronic file format to the standard electronic file format employed by DAC.

copies to DAC not later than a certain number of days (set in the Continuing Disclosure Agreement by the issuer or obligated person) after the end of each fiscal year of the issuer or obligated person, commencing with the end of such entity's current fiscal year. Such date and each anniversary thereof is the Annual Filing Date². Audited financial statements will be included in the Annual Report if so indicated by the issuer or obligated person, otherwise they will be provided when and if available.

If DAC has not received a copy of the Annual Report and Certification fifteen days prior to the Annual Filing Date, DAC will contact the Disclosure Representative by telephone and in writing (which may be by e-mail) to remind the issuer or obligated person of its undertaking to provide the Annual Report. Upon such reminder, the Disclosure Representative will either (i) provide DAC with an electronic copy of the Annual Report and the Certification no later than two (2) business days prior to the Annual Filing Date, or (ii) instruct DAC in writing that the issuer or obligated person will not be able to file the Annual Report within the time required under the Continuing Disclosure Agreement, state the date by which the Annual Report for such year will be provided and instruct DAC that a Notice Event has occurred and to immediately send a notice to each National Repository or the MSRB and the State Repository, if any. For purposes of the Continuing Disclosure Agreement, a Notice Event means the occurrence of any of the 11 specified events listed under paragraph (b)(i)(5) of Rule 15c2-12, if material, with respect to the bonds, as well as any failure to file an Annual Report by the Annual Filing Date.

If DAC has not received an Annual Report and Certification by 12:00 noon on the first business day following the Annual Filing Date, a Notice Event will have occurred and DAC will immediately send a notice to each National Repository or the MSRB and the State Repository, if any.

If Audited Financial Statements of the issuer or obligated person are prepared but not available prior to the Annual Filing Date, the issuer or obligated person will, when the Audited Financial Statements are available, provide in a timely manner an electronic copy to DAC, accompanied by a Certificate, together with a copy for the trustee, for filing with each National Repository and State Repository, if any.

In addition to the Annual Report, the issuer or obligated person will file all Notice Events with DAC for dissemination to the appropriate Repository or Repositories. Furthermore, if an issuer or obligated person desires to file additional information with the Repositories (a "Voluntary Report"),³ it must provide such information and a Certification of Disclosure Representative to DAC for filing.

² In certain circumstances, the Annual Filing Date may be modified.

³ We request no advice with respect to such Voluntary Reports.

DAC will promptly file the text of each disclosure together with a completed copy of the MSRB Material Event Notice Cover Sheet and provide evidence of such filings on the DAC System to the issuer or obligated person.

DAC's duties are specifically set forth in the agreement and are limited, among other respects, to the extent the issuer or obligated person provides information as required by the Continuing Disclosure Agreement. DAC has no duty with respect to disclosure content, no duty or obligation to review or verify any Information supplied to it.

The obligations of the issuer or obligated person and DAC under the Continuing Disclosure Agreement will terminate with respect to the bonds upon the legal defeasance, prior redemption or payment in full of all of the bonds, when the issuer or obligated person is no longer an obligated person with respect to the bonds, or upon delivery by the Disclosure Representative to DAC of an opinion of nationally recognized bond counsel to the effect that continuing disclosure is no longer required.

The Annual Financial Information, the Audited Financial Statements, if any, the Notice Event notices, and the Voluntary Reports are collectively referred to herein as the Information. Whenever DAC enters into a Continuing Disclosure Agreement with respect to an issue of municipal securities that is already outstanding, it uses its best efforts to obtain all Information with respect to such issue and includes such Information in the DAC Database.

Whenever an issuer or obligated person fails to provide the annual financial information required under the Continuing Disclosure Agreement, DAC will continue to maintain any information that is made available to DAC by that issuer or obligated person, including the notice of failure to file information under paragraph (b)(5)(i)(D) of Rule 15c2-12, for so long as DAC remains dissemination agent under the Continuing Disclosure Agreement. When DAC Bonds are no longer subject to the requirements of Rule 15c2-12, DAC will archive the Information on a separate portion of its site.

Analysis. Rule 15c2-12(c) states:

Recommendations. As a means reasonably designed to prevent fraudulent, deceptive, or manipulative acts or practices, it shall be unlawful for any broker, dealer, or municipal securities dealer to recommend the purchase or sale of a municipal security unless such broker, dealer, or municipal securities dealer has procedures in place that provide reasonable assurance that it will receive prompt notice of any event disclosed pursuant to paragraph (b)(5)(i)(C), paragraph (b)(5)(i)(D), and paragraph (d)(2)(ii)(B) of this section with respect to that security.

As explained in the release adopting amendments to Rule 15c2-12,⁴ the Rule contains:

⁴ No. 34-349961.

a requirement that dealers have procedures in place that provide reasonable assurance that they will receive promptly any notices of material events regarding the securities that they recommend. The events are any of the eleven events disclosed as described in Rule 15c2-12(b)(5)(i)(C), or the notice of failure to provide annual financial information in accordance with an undertaking as described in Rule 15c2-12(b)(5)(i)(D) with respect to that security. Many dealers currently subscribe to electronic reporting systems that give notice of significant events made public by municipal issuers. *To comply with the rule's requirement, these dealers should make certain that these systems receive, directly or indirectly, material event notices for issues the dealer recommends.* (emphasis added)

In our opinion, dealers using the DAC Database or using electronic reporting systems that incorporate the Information in the DAC Database with respect to particular DAC Bond issues will be able to "make certain that these systems receive, directly or indirectly, material event notices for issues the dealer recommends," because the DAC System electronically delivers material event notices received for DAC Bonds from issuers and obligated persons to the Repositories using 9-digit CUSIP numbers, issuers, issue name, and obligated person for each bond issue for which notice is filed and the Information in the DAC Database for DAC Bonds, including material event notices, will be identical to the Information filed by DAC with the Repositories. It is also our opinion that a dealer using the Information in the DAC Database would have part of the "procedures in place" required by Rule 15c2-12 and would not be in violation of Rule 15c2-12(c) with respect to recommendations made of DAC Bonds to customers. Our opinions are provided for the benefit of our client DAC and yourselves and no other party may rely upon it.

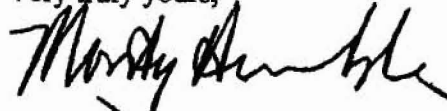
Therefore, on behalf of DAC, we respectfully request that you advise us that the Division of Market Regulation will not recommend that the Securities and Exchange Commission take any enforcement actions against a dealer for violation of Subsection (c) of Rule 15c2-12 under the Exchange Act, due to its recommendation of a DAC Bond to a customer using Information in the DAC database as part of the procedures that it must have in place to provide reasonable assurance that it will receive prompt notice of any event disclosed pursuant to paragraph (b)(5)(i)(C), paragraph (b)(5)(i)(D), and paragraph (d)(2)(ii)(B) of Rule 15c2-12.

In accordance with the procedures outlined in Release No. 33-3269 (December 5, 1980), we enclose an original and seven copies of this letter for the convenience of the staff. If the Staff disagrees with our conclusions set forth above, or if any additional submissions are desired in support of the our position, we would appreciate an opportunity to speak with you prior to the issuance of your response.

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September 7, 2001

Any comments or questions with respect to the DAC System should be addressed to Paula Stuart at (888) 842-2663 and with respect to this letter to Monty Humble at (214) 220-7746.

Very truly yours,

A handwritten signature in black ink, appearing to read "Monty Humble". The signature is written in a cursive style with a large, sweeping initial "M".

Monty Humble