

Leaked emails reveal conspiracy to throw Detroit into bankruptcy

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Leaked emails show that as far back as January, there were backroom discussions being held between Detroit and Lansing public officials and corporate law firm Jones Day suggesting that the best course for Detroit would be to send it through Chapter 9 bankruptcy.

The revelations expose the charade by Emergency Manager Kevyn Orr who claimed he only made the “tough decision to file bankruptcy reluctantly after thorough negotiations with creditors, pension trustees and public sector unions. In fact, all along Orr, Republican Governor Snyder, Detroit’s Democratic mayor and the powerful financial interests behind them, were determined to use federal bankruptcy laws to circumvent legal obstacles, including the state constitution and the city charter, for the gutting of city worker pensions and sale of public assets.

The emails were obtained by Robert Davis, a figure in the local political establishment tied closely to the American Federation of State, County and Municipal Employees (AFSCME) Council 25. The Detroit unions have complained that Orr’s bankruptcy filing halted their efforts to reach a “good faith” deal with the emergency manager to impose his demands on their members.

Davis is involved in an ongoing lawsuit over whether Michigan Governor Rick Snyder violated Michigan’s open meeting laws by ultimately appointing Orr not by the interview process through the Emergency Financial Assistance Loan Board (ELB), but through closed door discussions.

One of the emails dated January 31, from Dan Moss, an associate at Jones Day who worked with Orr on the Chrysler bankruptcy and restructuring, told Orr the “ideal scenario” would be for Detroit Mayor Dave Bing and Snyder to “go through an orderly Chapter 9.” Moss then stated his own reservations about whether an

emergency manager would be useful in a city where his powers would be questioned at every turn, versus bankruptcy, where a federal judge simply dictates to the city what to sacrifice. Others involved in the discussions include Jones Day Managing Partner Stephen Brogan, Jones Day Partner Corinne Ball and Rick Snyder’s Transformation Manager Richard Baird.

As last week’s events showed an emergency manager can declare bankruptcy anyway. As Orr himself once said, “I have a very powerful statute. I have a more powerful Chapter 9.” From the perspective of the local and national ruling elites—who consider Detroit a test case for cities around the country—they got the best of both worlds: an emergency manager essentially unchallenged from the Detroit establishment and a Chapter 9 bankruptcy to expedite the gutting of the city.

Davis previously revealed secret correspondence between Governor Snyder and Mayor Bing over the selection of Orr as emergency manager long before any public vetting process began. Orr was part of a Jones Day team, which pitched its services to the governor last January. The governor selected Orr because of his role as a bankruptcy attorney for Chrysler during the 2009 restructuring, where he shut down hundreds of dealerships, wiping out thousands of jobs. Moreover, as an African American and Democrat, Orr, would give the Republican governor some political cover in an overwhelmingly black population, officials thought.

The emails expose the anti-democratic nature of the emergency manager law itself. Voters last year rejected Public Act 4 overturning the emergency manager law passed in 2011. In response, Governor Snyder declared that an old law, Public Act 72, was back in force, allowing the state to appoint an “emergency financial manager.” Then, against the will of the public, the

governor essentially changed the name of Public Act 4 to Public Act 436—the current EM law—and forced it through with bipartisan support in a lame duck Congress. PA 436, which gives even greater dictatorial powers to an “emergency manager” than PA 72, went into effect just after Orr was installed under the old law, and then was automatically upgraded three days later.

In his emails to his law partners at Jones Day, Orr expressed concern over the voter’s defeat of the previous law, noting, “So although the new law provides the thin veneer of a revision it is essentially a redo of the prior rejected law and appears to merely adopt the conditions necessary for a chapter 9 filing. The news reports state that opponents of the prior law are already lining up to challenge this law.”

Corinne Ball from Jones Day seems to have been a sounding board for Orr as to whether he would accept the position. An email sent by Orr from January 31 thanks her for showing him “alternative ways to skin this cat.” Such comments also show that Orr was being scouted by Snyder well before his appointment was officially announced or he was even interviewed, illegal under even PA 436, much less other Michigan laws.

It should come as little surprise that the decision to bankrupt Detroit was made long before the imposition of the emergency manager. The Obama administration used the same cynical ploy during the restructuring of GM and Chrysler in 2009, first claiming it wanted to avoid bankruptcy and then using the courts and the collaboration of the UAW to carry out a “managed bankruptcy.” The result was the shutdown of a dozen plants, the destruction of tens of thousands of jobs and the halving of wages for new workers.

Last year’s consent agreement with Detroit, where city workers had their wages and benefits cut by 10 percent, was the first step in this process. Emergency management and bankruptcy were the next logical steps, providing Wall Street free access to loot not just workers’ wages and benefits, but legally protected pensions and public assets. The latter includes the city’s lighting and water systems and even the masterpieces of the Detroit Institute of Art.

All the talk about the tragic, “tough choice” to declare bankruptcy was a lie. There was even discussion of how to present it, so that local politicians would take as little heat as possible. One email from Jones Day lawyer Dan Moss to Orr notes, “Making this

[bankruptcy] a national issue is not a bad idea. It provides political cover for the state politicians.” The same email also notes that a successful Detroit bankruptcy, and the requisite destruction of living standards, will open up further patronage jobs for Snyder and Bing—“Cabinet, Senate or Corporate”—once their terms are ended.

Jones Day was involved in the discussions on Detroit’s bankruptcy, and knew it was the end goal. As such, they positioned themselves to be hired by the city as its “restructuring consultant” to a tune of millions of dollars, and now stand to make even more. One estimate placed the legal costs for Detroit’s bankruptcy at around \$100 million, of which Jones Day now will most likely make a significant fraction.

Even the late July 18 filing was carried out on a conspiratorial basis. Orr and Snyder rushed the bankruptcy filing to preempt lawsuits filed by pension trustees and public-sector unions seeking to block bankruptcy on the grounds that it would lead to unconstitutional pension cuts. Attorneys for Snyder reportedly asked the lawyers representing the pension funds for a five-minute delay before they sought a temporary restraining order to block the bankruptcy filing. During those five minutes, Orr’s attorneys filed the bankruptcy petition in Detroit.

The destruction of basic democratic forms in Detroit is part of the broader assault on democracy nationally and internationally. The financial aristocracy realizes it cannot impose deeply unpopular measures on the population through democratic means and is therefore increasingly adopting authoritarian methods.



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