

# Top banker, emergency manager testify in third day of Detroit bankruptcy trial

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Investment banker Kenneth Buckfire and Emergency Manager Kevyn Orr were among those who testified Friday in the third day of the Detroit bankruptcy hearings.

Kenneth Buckfire, a prominent New York City investment banker who has played a leading role on the emergency manager team, gave extended testimony during the session. Buckfire spoke about efforts by the emergency management team to sell off masterpieces from the Detroit Institute of Arts art collection, cut services and pensions and privatize the Detroit Water and Sewerage Department.

Buckfire took credit for suggesting that Christie's Auction house appraise the value of the DIA artwork, but said discussions between Orr's representatives and the DIA administration during the summer "did not prove fruitful" because the DIA resisted the sale of the publicly owned art.

Buckfire said he continued to strongly favor the sale of the museum's artistic assets to pay off the banks and big bondholders, saying, "They [the city] should be concerned about doing something about the DIA as soon as possible."

The banker's testimony moved on to the issue of pensions, which under Michigan's state constitution are protected as contractual obligations that cannot be reduced.

Buckfire claimed that these protections were trumped by creditors' claims on city revenue streams. "I have heard that argument," Buckfire said dismissively of the constitution. "They don't have security," he said of some 23,500 pensioners. "We did give it some weight, but did not deem it relevant."

Buckfire admitted he met with and briefed Michigan's Republican Governor Rick Snyder about restructuring alternatives in general during the summer, and that the meeting was also attended by a representative of Jones Day—Orr's former law firm, which was hired to represent the city in bankruptcy proceedings. "We were exploring monetization of Water and Sewerage as of June 14," Buckfire said.

The banker made it clear that Wall Street was prepared to starve the city of funds unless deep spending cuts were made. "Detroit would have no access to the capital market,

they'd have no credit," he declared.

Buckfire, however, was very guarded throughout his testimony, frequently responding that he could "not recall." At one point, Judge Rhodes chastised the witness, saying, "Less than half the questions you have been asked you have given a straight answer."

Buckfire sought to dodge questions because his testimony substantiated charges made by retirees in the case. They have challenged the constitutionality of the bankruptcy filing on the grounds that its essential purpose was to slash pension benefits and therefore was an intentional violation of the state constitution.

Although the bankruptcy was officially filed in July, Buckfire's testimony made clear that discussions with Snyder and Jones Day on the attack on pensions and the selling off of assets, including the DIA, had been initiated months before. This underscores the fact that the filing was a political decision, not an economic inevitability. The plan, from the get-go, was to use the bankruptcy court to attack the social benefits of the working class.

Pressed by an attorney for the Detroit retiree committee, Buckfire would not directly deny that he had met with Orr to discuss cuts to social benefits.

"When, sir, is the first time you recall you and Mr. Orr discussing the reduction of pension benefits and health care benefits, if ever?" Claude Montgomery, attorney for the Detroit retiree committee, asked.

"I don't recall," Buckfire said.

"It never happened?" Montgomery persisted.

"I said I don't recall," Buckfire replied.

Buckfire did confirm, however, that Orr told him "a decision had been made to expedite the filing because they feared the possibility of losing control of the process." Buckfire related comments made by Orr about the possibility that lawsuits filed in defense of pensions could prevent the city from gaining Chapter 9 status. "He simply said there were lawsuits pending that might have made it very difficult for us to move forward."

The arguments advanced by attorneys for the unions and

retiree committee are basically true: the city and the governor conspired to slash pensions well in advance of the bankruptcy, and this objective was the real driving force behind the bankruptcy filing.

Yet, while they seek to pose as defenders of the pensions, the trade unions approach the question not from the standpoint of the workers who earned them, but as another “creditor” seeking to defend the assets of the trade union apparatus. Advised by their own set of Wall Street consultants, and lawyers, the chief concern of the unions is maintaining control of their multibillion-dollar retiree trust funds, which have become a crucial source of investment income for the union bureaucracy.

That is why the unions have been the most adamant in insisting that city assets should be sold off before bankruptcy was declared. At the same time, the unions are prepared to sacrifice the pensions, not to mention the jobs, wages and benefits of current workers, as they have for decades.

The only concern of the executives who run the American Federation of State, County and Municipal Employees (AFSCME) and the United Auto Workers (UAW) is that they have a seat at the table and participate in “good faith” negotiations with Orr so they can preserve their own institutional interests.

Detroit police chief James Craig was called by the city and gave testimony clearly intended to bolster the case for bankruptcy. Craig spoke about conditions inside the Detroit police force, including a 50-minute average response time, shortfalls of equipment, and low pay for Detroit police officers. The city attorney claimed the police chief’s statements about the conditions inside Detroit’s police force were relevant to the case because they reflected the city’s insolvency.

When asked about cuts to benefits, however, Craig was ambivalent, expressing some reluctance about cuts to pensions. “Would it be fair given what they face every day to impair those accrued vested and previously earned pension benefits?” Barbara Patek, an attorney for the public safety unions, asked the police chief.

“I do support, uh, public service workers having a pension but I also understand the necessity to take action as it relates to addressing this fiscal crisis in Detroit,” Craig said. “I’m not the expert on what should happen but I certainly am concerned about pensions.”

Jones Day attorney Greg Shumaker questioned Emergency Manager Kevyn Orr during the final hour of the session. In an unusual move, Orr was accompanied by a bodyguard in addition to the regular court security. A US Marshal was also present in the courtroom.

During his brief testimony, Orr related biographical information about himself and his appointment as

emergency manager. Orr was previously a leading partner at Jones Day, and was selected to head the firm’s Miami office before taking the emergency manager position.

Orr described his response to the offer to become emergency manager saying he had “been approached about this crazy idea.” Orr said that he and his wife saw the opportunity as “a call to action.”

When it became clear that Orr was the top candidate for the emergency manager position, he says he began receiving “attaboy emails” from Governor Snyder.

In fact, Orr was selected because of his ruthless role in the 2009 forced bankruptcy and restructuring of the auto industry by the Obama administration. Orr represented Chrysler as the company slashed tens of thousands of jobs, shut factories and hundreds of dealerships, and reduced the wages of new workers to poverty levels.

With the connivance of Snyder and State Treasurer Andy Dillon—a Democrat and former investment banker—Orr was installed as financial dictator over Detroit against the will of the people of Michigan, who had voted to repeal the antidemocratic emergency manager law before it was rewritten and rushed through the state legislature.

Orr testified that city services are “substandard.” He spoke about problems with the police and fire departments and about urban blight, portraying himself as a humble civil servant seeking only to improve services for the people of Detroit. In reality, he is outlining a slash-and-burn policy on behalf of Wall Street, gutting pensions, selling off assets and privatizing services and restructuring the city to meet the needs of the corporate and financial elite. If successful in Detroit, these measures will be repeated throughout the country.

Orr’s testimony was cut short by the end of the session Friday and he will continue testifying on Monday. Governor Snyder is also set to testify on Monday.



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