

Fee bonanza for attorneys, accountants and consultants:

Who is getting paid for the plunder of Detroit?

Kevin Reed

28 December 2013

Nothing reveals more openly the criminal looting of Detroit by the wealthy elite than the hundred million dollars being paid out to well-connected law firms, accountants and consultancy businesses, which prepared the city's bankruptcy. The fee bonanza has been underway at least since early 2012 and accelerated immediately after Michigan Governor Rick Snyder signed a revised emergency manager law on December 27, 2012.

Snyder's anti-democratic act—the measure had been rejected by Michigan voters in the previous November election—cleared the way for the appointment of former Jones Day attorney Kevyn Orr as Emergency Manager of Detroit in March. Hired at an annual salary of \$275,000, Orr proceeded rapidly to sign “core restructuring advisers” to lucrative city contracts and intending all along to push the city into Chapter 9 bankruptcy.

Well before they were awarded city contracts several of these firms were already employed by the state of Michigan. According to court documents, the Jones Day law firm provided more than 1,000 hours of consulting work for top Michigan state officials before being officially retained by the city as a “restructuring counsel” in March 2013. This included encouraging state officials in early 2012 to expedite a bankruptcy filing before voters could defeat the emergency manager law.

Orr and his advisers were so confident that the federal courts would approve the July 18 Chapter 9 petition that multi-million dollar and long-term contracts with advisory services were concluded well before the filing. Meanwhile, as the contract documents show, services such as analyses of Detroit's financial condition, valuation of the city's assets, the development of a restructuring plan and preparations for management of the bankruptcy process had long been underway.

It is clear from the documents publicly available that Orr and his emergency management team moved in late spring and early summer of 2013 to extend the length of service and increase the financial commitments with the firms that were originally contracted by the City Council on January 16, 2013.

During the five-month legal process that ended with Judge Steven Rhodes' decision in favor of a court-supervised bankruptcy on December 3, the hired guns emerged as outspoken advocates of Chapter 9 approval. Many of them appeared on behalf of the city as expert witnesses during the bankruptcy trial. The exorbitant fees—expected to reach more than \$100 million—are seen as

justified compensation for services rendered to protect and enhance the wealth of the city's richest individuals and Wall Street investors.

While city employees and retirees are being told that their jobs, incomes, pensions and other benefits will be cut and Detroit's assets, like the artwork of the DIA, sold off, fees as high as \$1,000 per hour have been paid to those organizing the plundering operation. While the political and media establishment is on a mission to convince workers and residents that there is no money—according to a confidential document dated December 13, 2013—more than \$41.6 million has already been disbursed to 30 restructuring firms on city contracts.

The following is a review of four companies collecting the restructuring fees under contract with the City of Detroit. These are just the most prominent of the many firms, which are cashing in from the carve-up of the city.

Jones Day

Washington, DC law firm specializing in corporate bankruptcy
\$18,000,000 contract / Approved July 17, 2013 for 14 months

- As of December 13, 2013 Jones Day has been paid \$8.2 million with outstanding invoices of \$7.5 million.

- Because of its work during the Chrysler bankruptcy reorganization in 2008—where Kevyn Orr played a prominent role and his firm billed \$43 million for its services—Jones Day was well known to the Democratic and Republican Party political establishment in Detroit, Michigan and Washington, DC.

- In early 2011, Jones Day published “Pensions and Chapter 9: Can municipalities use bankruptcy to solve their pension woes?” a strategy document on how to raid retiree pension funds in cities in financial distress and on the brink of municipal bond default.

- Kevyn Orr officially resigned from Jones Day when Governor Snyder named him as Detroit's Emergency Manager in March 2013. The following month, in a blatant conflict of interest move, Orr signed Emergency Manager Order No. 4 retaining Jones Day and enabling his former boss Stephen Brogan to lead a team of lawyers to renegotiate the city's debt obligations.

- Bruce Bennett came from the Los Angeles office of Jones Day to run day-to-day legal strategy and lead the litigation and debt restructuring of the Detroit legal team. Previously working for the Dewey LeBoeuf law firm, Bennett has municipal bankruptcy experience with the 1994 restructuring of Orange County, CA at

that time the largest ever financial collapse of a local government in the US. He is paid \$1,050 per hour for his services.

- Jones Day's original contract was approved by the City Council on April 29, 2013 for \$3.35 million. Emergency Manager Orr expanded the scope and increased the city's commitment to \$18,000,000 on July 17, 2013.

Conway MacKenzie

Birmingham, Michigan consulting firm specializing in restructuring and crisis management

\$19,300,000 contract / Approved June 1, 2013 for 16 months

- As of December 13, 2013 Conway MacKenzie has been paid \$4.6 million with outstanding invoices of \$3.4 million.

- Michigan-based Conway MacKenzie was a consultant in the Obama administration's forced bankruptcy and restructuring of GM and Chrysler in 2009. It has been a restructuring adviser for auto companies and their suppliers impacted by the crisis of the industry going back to the 1980s, aiding the companies in the destruction of hundreds of thousands of jobs.

- Senior Managing Partner Charles Moore—who has been Conway MacKenzie's leading representative on the City of Detroit contract—was called as a witness for the city on September 18 during the bankruptcy trial. Moore's testimony regarding the dysfunction of city services and its financial problems was cited by Judge Rhodes to justify the Chapter 9 bankruptcy.

- A 22-year-old financial analyst for Conway MacKenzie billed \$275 per hour for services rendered during a two-week period in July 2013 totaling \$26,000. In all, 11 Conway MacKenzie analysts charged the city \$288,671 during the same period.

- Conway MacKenzie's original contract with Detroit was approved by the City Council in January 16, 2013 for \$4.2 million. The contract was amended by Emergency Manager Orr on June 1, 2013 and increased to \$19,300,000. The amended contract provides for up to \$400,000 in "Bi-weekly Advisory Fees" plus expenses to be "due and payable" to Conway MacKenzie by the third business day following each bi-weekly period.

Ernst & Young

New York City accounting firm specializing in cash flow analysis

\$19,830,000 contract / June 1, 2013 for 16 months

- As of December 13, 2013 Ernst & Young has been paid \$3.9 million with outstanding invoices of \$1.5 million.

- Ernst & Young has extensive experience in corporate bankruptcy and reorganization in Metro Detroit. Gaurav Malhotra, the principal Ernst & Young representative in Detroit, previously worked on the 2005 Chapter 11 bankruptcy of auto supplier Collins & Aikman, which ended in the loss of thousands of jobs. He was also a contract consultant during the reorganization of the Detroit Public Schools in 2011 that led to school closures and teacher layoffs.

- Malhotra, who is paid \$800 per hour for his services, provided testimony during the Chapter 9 trial that supported the city's bankruptcy petition and identified the ongoing pension and retiree health care obligations as the primary source of long-term city budget deficits.

- The original contract with Ernst & Young dates back to May 2011 and was renewed by the City Council on January 16, 2013

for \$7,830,000. Emergency Manager Kevyn Orr revised the agreement on June 1, 2013 to \$19,830,000.

- The amendment to the contract lists services on page 4 to be performed "in the event that the City considers filing for Chapter 9." The amendment also attempts to cover a potential conflict of interest by specifically stating that the services do not include "serving as an expert witness in connection with your Chapter 9 proceedings or otherwise."

Miller Buckfire

New York City investment banking firm specializing in asset monetization

\$8,000,000 contract / July 16, 2013 for 14 months

- As of December 13, 2013 Miller Buckfire has been paid \$1.2 million with outstanding invoices of \$640,000.

- Miller Buckfire was founded in 2002. Since that time it has been involved in providing financing for corporate reorganizations in the auto industry, including Dura Automotive Systems (Auburn Hills, MI firm, which filed for Chapter 11 bankruptcy and was acquired by the private equity firm Patriarch Partners in 2006) and Dana Corporation also in 2006. Miller Buckfire provided consulting services for the 2003 Kmart bankruptcy reorganization.

- Miller Buckfire's primary service to Detroit has been the valuation of city properties to determine what can be considered a "market asset" and be converted into a transaction such as a sale, a lease or some other type of monetary exchange. A primary city asset under review by Miller Buckfire is the Detroit Water and Sewerage Department (DWSD).

- Co-President & Managing Director Kenneth Buckfire represents the firm in its contract with the city of Detroit. Miller Buckfire is being paid a \$500,000 Monthly Advisory Fee. Additionally, any assets sold will incur "Restructuring Transaction Fees" to Miller Buckfire. If the city sells the DWSD, Miller Buckfire will receive a \$2,000,000 Opinion Fee as well as a transaction fee of \$8,000,000 or more.

- The original city contract with Miller Buckfire was approved by the City Council on January 16, 2013 for a sum of \$1,800,000. The agreement was amended by Orr on July 16, 2013 and increased the financial commitment to \$8,000,000.

What these facts prove is that the Democrats in the Detroit City Council, the Republicans in Lansing and their accomplices in the UAW and AFL-CIO have collaborated with the courts in a massive conspiracy against the working class in Detroit. For an entire year—long before the formal ruling by Judge Rhodes approving the Chapter 9 bankruptcy petition of Emergency Manager Kevyn Orr—a coterie of attorneys, accountants, investment bankers and bankruptcy reorganization experts have been busy at work. They are being paid tens of millions of dollars to carry through the looting of city assets and the gutting of workers' and retirees' pensions and health care benefits.



To contact the WSWS and the
Socialist Equality Party visit:

wsws.org/contact