

# Detroit bond insurers press for sale of art and other city assets

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The US Bankruptcy court in downtown Detroit heard opening statements Wednesday from attorneys representing the city and various parties objecting to the city's Plan of Adjustment.

The morning session was largely occupied with more opening statements in defense of the restructuring plan from Jones Day attorney Bruce Bennett. He argued that there was no alternative to confirmation of the city's bankruptcy plan, acknowledging that the only alternative was outright dismissal of the case.

"Governor Snyder was right when he said that this will not be lowest point in city's history, but will be the beginning of its recovery," Bennett declared.

The court then heard opening statements from Sam Albert, the attorney for the federally appointed Official Committee of Retirees (OCR). Albert confirmed the support of the union-backed OCR for the city's Plan of Adjustment, and then proceeded to detail the devastating cuts to retiree pensions and benefits outlined in the plan.

Albert noted that General Retirement System pensioners receive an average of less than \$20,000 per year. He said the plan included cuts to monthly pensions of 4.5 percent, plus the elimination of their 2.25 percent annual cost of living adjustments (COLA), the slashing of 90 percent of the city's outlay for health benefits, and the "claw back" of funds accumulated in their annuity savings funds (ASF).

Taken together, the cuts will have "a serious cumulative effect" equivalent to a 15-20 percent cut to the average retiree income, Albert said, noting that retiree health benefits are "eviscerated under the plan." Out of the \$4.3 billion in funds allocated to pay for retiree health care over the next decade, only \$450 million will actually be paid.

The \$450 million will be distributed by two

Voluntary Employees' Beneficiary Association (VEBA) funds, with the police and fire VEBA receiving 51 percent of remaining funds and the general retirement system (GRS) VEBA receiving 49 percent. The VEBA funds will effectively be controlled by the union bureaucracy, and have been set up precisely to win the full support of the unions for the bankruptcy process.

Albert acknowledged that many retirees believe the plan to be "unlawful and improper," but concluded by voicing support for the plan, saying that he "stands with these retirees, and urges the court to approve confirmation of the plan and overrule objections to the plan."

The attorney for the bond insurer Syncora, Marc Kieselstein, then made opening statements denouncing the plan as illegal. Kieselstein said the plan "cannot be confirmed without doing mayhem to the rule of law, popular demands notwithstanding," due to "epic levels of discrimination among equal creditors."

Crucially, Kieselstein argued, the plan gives up the city's control over the Detroit Institute of Arts collection for "a relative song."

The arguments of Syncora and FGIC are directed against Judge Rhodes, not just against former Jones Day partner and Detroit Emergency Manager Kevyn Orr and the city's Jones Day legal team. The insurers are arguing that the judge has made legal errors and they are laying the basis for a possible appeal should Rhodes rule in favor of the existing bankruptcy plan.

Rhodes responded today by asking explicitly how much FGIC and Syncora would require to drop their objections to the bankruptcy. Partway through Kieselstein's lengthy presentation, Rhodes interrupted, saying, "you've made some very powerful arguments."

"I want your percentage and I want it now," Rhodes

said, in an unusually harsh tone for the judge, who has maintained a very restrained demeanor throughout the proceedings.

After equivocating and being rebuffed by Rhodes more than once, Kieselstein replied that 75 cents on the dollar would be an appropriate payment for Syncora.

“Where could the city find that money?” Rhodes asked.

“There’s the art, you could sell one or two pieces, finance a couple pieces, and you could get to our number easily.” If not from the DIA, the money would have to come “from revenues or asset sales,” Kieselstein said.

Recent media reports show that this is not idle talk. Orr is already considering transfer of assets including the Detroit City Airport, a stake in the Windsor tunnel, and other city real estate, the *Detroit News* reported Saturday, and the city is now involved in “11th-hour talks” with Syncora towards this end.

Under the cover of solemn legal proceedings, a bitter conflict has been brewing between opposed financial interests and their representatives inside Detroit’s federal courthouse.

Rhodes has proven to be a shrewd defender of the interests of the dominant faction, spurring Orr and Jones Day to adopt a more tactical approach and craft a deal with the unions and as many of the objectors as possible.

Overseen by Rhodes’ chosen man, Judge Gerald Rosen, secret mediation sessions led to the full integration of the unions into the bankruptcy through the finalizing of a so-called Grand Bargain. This includes the creation of the VEBAs, as well as a package of deals consolidating the support of the major creditors and the pension and retiree boards for the Plan of Adjustment.

Fearing a social explosion, the bulk of the corporate-financial interests involved have lined up behind the Rhodes-Rosen-Orr deal, and are seeking to pack up the bankruptcy process through the speediest possible approval of the Plan of Adjustment. Given their initial moves to carry out a more direct looting operation of the DIA, it is reasonable to infer that they chose to make “saving” the DIA through its de facto privatization the main selling point of the Grand Bargain in response to the historic “Defend the DIA” demonstration called by the Socialist Equality Party

and International Youth and Students for Social Equality on October 4, 2013.

For their part, FGIC and Syncora have begun to challenge the grand bargain with increasing ferocity, successfully excluding testimony by one of the Jones Day’s central witnesses, Kenneth Buckfire, from the confirmation proceedings and directly challenging the legality of the plan as a whole during opening statements.

As corporate insurance providers, FGIC and Syncora are paid by investors to insure their municipal bonds, and are legally required to make up the difference when the bonds they are backing lose value. For every additional dollar that remains in the pension accounts of city workers (or on the walls of the DIA in the form of paintings) instead of going to the bondholders, the insurers must pay out of their own pockets. Under the Rhodes-Orr bankruptcy plan, FGIC and Syncora stand to lose as much as 90 percent of the funds they committed to back the bonds of the city’s investors.

That is why the bond insurers are sparing no effort to pressure Rhodes into modifying the terms of the bankruptcy. Faced with severe monetary losses after being effectively excluded from the Grand Bargain and forced to pay for the losses of the other financial vultures, FGIC and Syncora are desperately seeking to pressure Rhodes, by whatever means, into including additional funds for them in the plan.

The attacks launched by the FGIC and Syncora attorneys against the bankruptcy plan are driven by the objective antagonism between the insurers and the city’s biggest bondholders. A ruthless economic struggle is unfolding inside the courthouse, fought out between the legal hired guns of competing factions of predatory financial capitalists, both of which are virulently hostile to the interests of the working class in Detroit.



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