Federal Judge Orders Detroit to Pay Another $85 Million to Banks Implicated in the City's Bankruptcy

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A ruling by Federal Eastern District Bankruptcy Court Judge Steven W. Rhodes has awarded yet another large-scale payment to two banks that are heavily implicated in the financial ruin of Detroit and other cities throughout the United States.

Rhodes ruled on April 11 that the third negotiated attempt to terminate an interest-rate swap agreement involving Bank of America Merrill Lynch and the Union Bank of Switzerland (UBS) arrived at a "reasonable" plan for the working people of the city who will pay for this decision. The judge said that it was legal to hand over more money to these financial institutions despite the fact that they have been paid over $300 million since 2006.

Two earlier negotiated agreements between the state-imposed Emergency Manager Kevyn Orr and the two banks were so outrageous that they were rejected by the court. Another ruling late last year forced the EM to disclose the fees associated with crafting deal which is $4.4 million.

The deal will be financed by Barclay's Bank which has been targeted in media reports and by regulatory agencies in England and the U.S. Justice Department for rigging interest rates related to inter-bank borrowing. The so-called 'LIBOR scandal" (London Interbank Offered Rate) exposed even further the role of the finance capital in controlling the terms of lending to ensure that profit margins are maintained at the expense of working people and the poor.

Objections to the deal were presented from other capitalist interests, including Syncora, a bond insurer which traps Detroit casino tax revenue in order to pay for the usurious debt . The other financial firms and bond-related entities only opposed the deal because it sets a legal precedent for placing a higher priority on pleasing the larger banks such as UBS and BOfA.

Nonetheless, the only real opposition to the deal came from Atty. Jerome Goldberg representing Detroit resident and City retiree David Sole. Goldberg had argued successfully in the previous hearing during December and January that the proposed settlement of initially $230 million and later $165 million were not only excessive but ignored the potential for regaining hundreds of millions in damages which are rightfully owed to the City of Detroit.

Judge Rhodes in his Jan. 16 ruling rejecting the second proposed settlement, clearly stated that the City should not engage in financial arrangements that were disadvantageous and that there was a possibility of suing the banks to regain resources needed for the operations and the maintenance of assets. Goldberg quoted from Rhodes' ruling on Jan. 16 in his closing arguments on April 3, yet the decision on April 11 appeared to have moved 180 degrees in the opposite direction.

After reading his ruling on April 11 awarding BOfA and UBS the $85 million, Rhodes went on to “commend” the state-imposed EM and the banks for reaching the agreement. The City of Detroit is being tragically represented by Jones Day law firm which was also involved in the Chrysler bankruptcy of 2009.

Kevyn Orr, the EM appointed in March 2013 by multi-millionaire Republican Gov. Rick Snyder, is a former partner at Jones Day and was involved in the disastrous bankruptcy and restructuring at Chrysler which resulted in the loss of tens of thousands of jobs and hundreds of dealerships. Jones Day and the EM have spent nearly $100 million on consultants over the last year which is enough money to hire three thousand city workers at $30,000 plus per year.

What’s at Stake in the Detroit Bankruptcy?

On April 1 retirees, workers, union representatives and community people took over the streets in front of the federal court downtown. They were demanding the preservation of their pensions and the re-instatement of their healthcare plans which were terminated by the EM on March 1.

Hundreds of pensioners, city residents and other interested parties have filed over 500 legal objections to the so-called “Plan of Adjustment” presented by Orr during late February. The EM document is vague about the source of its findings and only presents a series of draconian austerity measures as a method for “restructuring” the City’s finances.

Retirees who have sacrificed decades of service and deferred wages face cuts up to one-third of their monthly checks on the surface, but when the theft of their annuities and healthcare benefits are calculated into the scheme, the reductions amount to over 60 percent. The banks and bond holders are said to be asked to take up to an 80 percent cut, however, a deal reached with “unsecured” creditors involving insurers and other corporate interests provides between 70-80 percent of payments which they claim are owed to them by the working people of the city.

These attacks on unions, pensioners and residents in this majority African American city is setting the stage for a national assault on the deferred wages and benefits of workers. Corporate media editorials and news stories daily publish reports claiming that public pension funds are grossly underfunded and mismanaged.

In Illinois, which is said to have the worst funded pension system in the country, steps were taken by the state legislature in December which lawmakers say will cut $145 billion in public investments for the system over the next three decades. These measures have enhanced bond sales for the state since most capitalist investors favor the lessening and even abandonment of constitutional protections for public pensions. (Bloomberg, April 11)

Bloomberg stated that even though legislation was approved to purportedly remedy the system’s weaknesses, “The passage didn’t bolster the fifth-most-populous-state’s rating, as the credit companies cited legal challenges to the pension overhaul and the expiration at year-end of a temporary personal-income tax increase. “ (April 11)

The California Public Employees Retirement System (Calpers) is also under attack by the bankers, bondholders and rating agencies. Calpers sued the rating agencies in 2009, and in 2012, a California judge ruled that Standard & Poor and Moody's must answer to claims that they misrepresented actual bond values.

These bond-rating agencies are seeking an appeals court hearing in San Francisco to reverse the previous decision calling to account the role of the firms. According to Karen Gullo, a writer for Bloomberg, the bond-rating agencies are saying in court papers that "At the heart of Calper's claim is an effort to hold the rating agencies liable for their publicly disseminated opinions on the grounds that these opinions failed accurately to predict the future." (April 9)

This same article goes on to point out that "S&P is being sued separately for fraud in federal court in Santa Ana, California by the U.S. Justice Department, which accuses the company of lying about its ratings being free of conflicts of interest and may seek as much as $5 billion in penalties. It also faces similar lawsuits by U.S. states, including one by California Attorney General Kamala Harris."

Another Bloomberg Municipal Market article notes that "New York state and localities including Westchester County borrowed a record $1.4 billion to cover retirement contributions this year, showing how even the wealthiest communities are struggling to make the payments….Even as Standard & Poor's is poised to raise the state's grade to its highest since 1972, rating companies have cut some New York City suburbs, citing the loans as a sign of imbalanced budgets." (April 8)

The Wall Street bankers, bondholders, insurers and rating agencies are attempting to not only eliminate legal protections for public pensions but to also destroy their structures through the dissolution of their boards of directors and trustees which have representation from union officials and politicians. In Detroit at least $5-6 billion in pension funds are up for grabs and the EM is attempting to replace the pension boards of both the General Retirement System as well as the separate one established for Police and Firefighters.

On April 10, representatives for the Police and Firefighters unions held a press conference stating that if the bankers' "Plan of Adjustment" put forward by Orr and Jones Day was approved by the federal bankruptcy court it would mean "destitution" for their membership. Judge Rhodes in his ruling took a swipe at the massive public opposition to the attacks on workers and retirees saying that now was the time to negotiate.

However, such an assertion does not acknowledge the massive cuts that workers have already endured in Detroit. Prior to the appointment of the EM last year, another "cost-cutting" plan worked out among City officials and unions was totally rejected by Gov. Snyder who then imposed Orr as the city's dictator where he then unjustifiably placed the municipality in bankruptcy, the largest in the history of the U.S.

Forward to May Day

In response to these ongoing attacks and the failure of the federal courts to acknowledge the criminal role of the banks in destroying both the housing and municipal infrastructure of Detroit, a coalition of organizations are calling for demonstrations on May Day. Under the theme of "No Business As Usual", activists want people to refrain from shopping and work and to protest against the banks and other centers of power that are putting in place additional mechanism to further exploit and oppress the people of the city.

The event will begin with a gathering at UAW Local 600 at 8:00 a.m. A car caravan will transport people downtown for a series of actions that will protest the undemocratic and racist character of the forced bankruptcy and restructuring of the city.

On July 16 the hearing will begin on the bankers' "Plan of Adjustment" seeking approval by the federal court. The Moratorium NOW! Coalition based in Detroit is calling for a national demonstration in front of bankruptcy court demanding the preservation of pensions, healthcare, jobs, public assets and democratic rights.

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