WALL STREET GENOCIDE

Judge Rules To 'Bail-In' Detroit Workers' Pensions

by Nancy Spannaus

Dec. 9—The Dec. 3 ruling by U.S. Bankruptcy Judge Steven Rhodes, which gave Detroit's dictatorial Emergency Manager Kevyn Orr the "right" to put the city through Chapter 9 bankruptcy, and to eviscerate public sector retirees' pensions, demonstrates the imminent threat of the Wall Street/City of London "bail-in" policy against the U.S. population. Under that policy, anybody and everybody holding legal liabilities of a bankrupt bank (or, as in this case, the City of Detroit) can be illegally wiped out, *but* the process produces chaotic liquidation anyway because the protected payments to the *exceptions*—the financial institutions that hold "qualified financial contracts" (financial derivatives, repo agreements, etc.)—take top priority.

Only the day before the ruling, Lyndon LaRouche had warned of the "bail-in" threat, and said precisely what had to be done:

"First of all there is a general breakdown crisis, reaching a point of what's called 'bail-in,' and we're about to reach the bail-in level, around the world essentially, but especially in certain troubled areas, such as Europe and the United States. The United States is going to have to deal with a bail-in threat. That means that *we're going to have to cancel Wall Street*, essentially, and what Wall Street represents in most parts of the world.... We're headed for a fundamental change *which is already under way....*"

Wall Street speculators have already destroyed the once-advanced industrial base of Detroit, and turned the city of nearly 2 million, with the highest average household income in the country, into a depopulated hulk of a ghetto, burdened with some $18 billion in debt and long-term liabilities. Michigan's right-wing Gov. Rick Snyder (R) imposed technocratic Emergency Manager Orr on the city, taking all real power out of the hands of elected officials. Orr led the effort to put the city through Chapter 9 bankruptcy, to which, after much to-ing and fro-ing, Judge Rhodes gave his oral blessing, and later, a 140-page ruling.

Orr's intent to cast out the city's commitment to its retired workers, who include police and firemen *not* eligible for Social Security, has been clear all along. As former Congressional pre-candidate and LaRouchePAC Policy Committee member Bill Roberts said in a video statement Dec. 4, Orr, in the name of the City of Detroit, is planning to grab pension fund assets in order to pay the banks for fraudulent interest rate swap agreements, putting Detroit's citizens at increased risk of death. This is "Wall Street genocide," he charged, and if Americans don't stop it, it will soon engulf the nation.

Indeed, on the same day that Judge Rhodes ruled, the Illinois state legislature passed a bill cutting state workers' pensions—and spokesmen for the financiers, such as the London *Economist*, are already hailing the Detroit and Illinois decisions, both of which override state constitutional guarantees that pension obligations can't be abrogated, as the wave of the future.

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The court ruling upholding Detroit's bankruptcy is nothing other than a blatant theft of city workers' pensions (average, $19,000/year), as a "bail-in" for the very banks which had looted the city with their fraudulent "interest-rate swaps." Here, homeless people line up for food in downtown Detroit.

The Judge's Decision

In ruling in favor of the State's decision to declare bankruptcy for Detroit, Judge Stevens dismissed the argument by the lawyers for the unions and retirees, that Manager Orr's operatives hadn't negotiated in good faith. Good faith negotiation is one of the primary requirements for a valid bankruptcy.

He also decided, de facto, to ignore the Michigan State Constitution, declaring that Orr could use Chapter 9 bankruptcy to dump the pension obligations, saying that "Pension benefits are a contractual right and are not entitled to any heightened protection in a municipal bankruptcy." This is despite the explicit statement of Section 24 of the State Constitution: "The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby."

On the issue of "good faith," the judge conceded that the plaintiffs had a point, but said that it was impractical for Orr to negotiate in good faith because the financial crisis in Detroit was growing worse (!).

In the written ruling, Judge Rhodes actually summarizes the "support in the record" for the unions' arguments that the City of Detroit did *not* file this case in good faith. He puts together a composite narrative, the beginning of which reads:

"According to this composite narrative of the lead-up to the City of Detroit's bankruptcy filing on July 18, 2013, the bankruptcy was the intended consequence of a years-long, strategic plan. The goal of this plan was the impairment of pension rights through a bankruptcy filing by the City.

"Its genesis was hatched in a law review article that two Jones Day attorneys wrote. This is significant because Jones Day later became not only the City's attorneys in the case, but is also the law firm from which the City's emergency manager was hired." That article was titled: "Can Municipalities Use Bankruptcy to Solve Their Pension Woes?" and "It laid out in detail the legal roadmap for using bankruptcy to impair municipal pensions."

While carefully noting that the above argument is not the Court's opinion, he then writes:

"The Court finds, however, that in some particulars, the record does support the objectors' view of the reality that led to this bankruptcy filing. It is, however, not nearly supported in enough particulars for the Court to find that the filing was in bad faith."

The lawyers representing the unions and retirees are already appealing the judge's decision that has made Detroit now the largest municipal Chapter 9 bankrupt in the nation's history.

License To Speculate and Loot

As cited above, one of the major contributing factors to Detroit's bankruptcy, in addition to the shutdown of industry, was the opening of the city to looting by the major international banks through city borrowing, which included buying derivatives on those loans, so-called "interest-rate swaps." These swap products have cost Detroit $107 million a year, since 2006—plus loan fees and loan refinancing fees—in all, an estimated full *year* of revenue in the eight years through 2012. (See "End Wall Street's Theft of Pensions: Re-Enact Glass-

Steagall," *EIR*, Aug. 2, 2013.)

In paying out on these swaps, Detroit is *not* paying down the actual loans, but only the gambling losses that the bankers' contracts led to. Had Glass-Steagall remained in force, the big banks that buy and/or syndicate the municipalities' bond offerings, would not have been able to trap cities and states into such "financial weapons of mass destruction."

Now that the judge has ruled the bankruptcy can go ahead, however, Emergency Manager Orr wants to expand the very same looting process! He plans to enter into more derivatives swap agreements, in order to pay off previous swaps to Wall Street.

In March, two days before moving to enter bankruptcy, Orr had made a separate deal with the holders of interest rate swaps which Detroit had been induced to enter into—UBS and Bank of America's Merrill Lynch investment bank—to pay them 75% of their claims on these swaps by the end of this year (about $225 million) or 82% by next March (about $245 million).

Meanwhile, Orr immediately stopped the city's payments on bonds held by its municipal pension funds, and has already "bailed in" those funds to the tune of about $120 million in defaulted payments. He proposed to replace Detroit's retirement health benefits with $120/month/retiree to buy health insurance "bronze" or "silver" plans on the Obamacare exchanges, or Medicare supplements if the retiree is Medicare-eligible. Rhodes rejected public-sector unions' objections to the pension cuts: The pension fund is now only 80% funded and falling. The average $19,000/year pensions are likely to be cut by more than 20%, and the unions fear, by half, impoverishing the retirees, many of whom do not get Social Security.

But Judge Rhodes did not menace the payments to UBS and BoA. City creditors may yet sue in objection to their payoff. But now Orr has filed to borrow $350 million in "debtor-in-possession (DIP) financing" from the Libor-rigging specialists at Barclays bank, in order to pay UBS and BoA their $225 million on their swaps fast, and apply the rest to "city operations." And part of the Barclays DIP loan package consists of new interest-rate swaps; Orr will not reveal either the terms of the new swaps, or Barclays' fees. The Detroit City Council has voted unanimously against taking this DIP loan from Barclays; but Orr thinks the Federal court will approve it on Dec. 17.

The next steps of liquidation apparently will also include privatization sales of the Detroit Water and Sewerage Commission, and the Detroit Institute of Arts.

Genocide

As *EIR* and LaRouchePAC have documented, the City of Detroit has already been turned into a depopulated hell-hole, as a result of the deindustrialization, looting policy of Wall Street. (See "Interview: LaMar Lemmons: Detroit Does Not Need a Financial Dictatorship; It Needs Glass-Steagall," *EIR*, July 26, 2013.) The bankruptcy decision, which some compare to the Big MAC takeover of New York City in the mid-1970s, is being presented as a way to start a "turnaround." To the contrary. As in the case of New York, the result will be the even more rapid destruction of the city's population and productive potential, at a rate that could only be characterized as genocide.

Detroit city pensioners do *not* receive Social Security, and so, for many, their pension is their only source of income, unless they are able to find another job.

"Retirees are going to be put out of house and home. They're not going to be able to afford a car, food, or medicine," said a retired Detroit firefighter, quoted by the *New York Times*, Dec. 4, in reaction to the ruling.

"We'll be thrown out of our homes and starving if they seriously slash our pensions. Then they'll tell us to go to the soup lines," the AP quoted David Sole, 65, who retired from the Detroit Public Works Department in January after 22 years, and whose wife is also a city retiree.

"Pension is all we got, and now they want to cut that," Catholic Online quotes a former city worker, who pointed out that neither police officers nor firefighters are eligible for Social Security.

"They're going to lose their homes," Sharon L. Levine, a lawyer for AFSCME Council 25, told the *Times*. "They're going to lose medical benefits. They're not going to be able to feed their families. These are very scary issues."

"Pensions in Detroit average $19,000 a year, and there is a good possibility that they will be reduced. That is dead-ass wrong and morally corrupt," declared Lee Saunders, president of the AFSCME trade union.

The alternative, of course, is to foreclose on those predators who created this crisis: Wall Street.

Franklin Bell, Paul Gallagher, Dennis Mason, and Ed Spannaus contributed to this article.