UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re	**: Chapter 9**
CITY OF DETROIT, MICHIGAN,	**: Case No. 13-53846**
Debtor.	**: Hon. Steven W. Rhodes**

FINANCIAL GUARANTY INSURANCE COMPANY'S MOTION TO EXCLUDE THE OPINION OF KENNETH BUCKFIRE REGARDING <u>PLAN TREATMENT COMPARED TO TREATMENT UPON DISMISSAL</u>

Financial Guaranty Insurance Company ("FGIC") respectfully submits this Motion to Exclude the Opinion of Kenneth Buckfire Regarding Plan Treatment Compared to Treatment Upon Dismissal, pursuant to Federal Rule of Evidence 702[1] and *Daubert*.

PRELIMINARY STATEMENT

1. To support its argument that the Plan[2] satisfies the "best interest" test of 11 U.S.C. § 943(b)(7), the City intends to call Kenneth Buckfire as an expert to opine that "the City's creditors will be treated better under the City's plan of adjustment than if the bankruptcy case were dismissed" (the "Best Interests Opinion").[3] But Mr. Buckfire utterly failed to employ any type of discernible methodology in reaching this opinion, let alone the type of reliable methodology required by Rule 702 and *Daubert*. He made no attempt to systematically evaluate what creditors could or would receive in the event the City's bankruptcy case were dismissed, nor did he consider various factors relevant to creditors' recoveries in such a scenario.

2. Instead of providing a reliable foundation for his opinion, Mr. Buckfire made a handful of unsupported, generalized assumptions and then simply concluded that "all of the City's creditors" will fare better under the Plan than in a dismissal scenario. Buckfire Rep. ¶¶ 7-9. Indeed, many of the assumptions on which Mr. Buckfire relies either ignore critical evidence or are directly controverted by the evidence. Critically, Mr. Buckfire is admittedly not

[1] Federal Rule of Bankruptcy Procedure 9017 provides that "[t]he Federal Rules of Evidence … apply in cases under the Code."

[2] All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Objection of Financial Guaranty Insurance Company to Plan for the Adjustment of Debts of the City of Detroit, filed May 12, 2014 [Docket No. 4660] and the Supplemental Objection of Financial Guaranty Insurance Company to Plan for the Adjustment of Debts of the City of Detroit, filed August 12, 2014 [Docket No. 6674].

[3] Kenneth's Buckfire's Expert Witness Report, dated July 8, 2014 ("Buckfire Rep.") (attached hereto as Ex. 8), at 2.

even qualified to assess one of the central assumptions underlying his opinion – that attempts to increase taxes in a dismissal scenario will not increase the City's revenue. Mr. Buckfire's failure to perform the type of analysis that could reliably substantiate a best interests opinion, coupled with his reliance on unsubstantiated and often counterfactual assumptions, render his testimony unreliable, unhelpful and inadmissible under Rule 702 and *Daubert*.

JURISDICTION

3. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

ARGUMENT

I. Legal Standard

4. Federal Rule of Evidence 702 ("Rule 702"), which governs the admissibility of expert testimony, provides that:

> A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if: (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; (b) the testimony is based on sufficient facts or data; (c) the testimony is the product of reliable principles and methods; and (d) the expert has reliably applied the principles and methods to the facts of the case.

5. Rule 702 compels courts to act as "gatekeepers" over the admissibility of expert evidence to make certain that unreliable testimony does not reach the trier of fact. *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579, 597 (1993). This gatekeeping function "applies to all expert testimony, not just testimony based in science." *In re Scrap Metal Antitrust Litig*., 527 F.3d 517, 528 (6th Cir. 2008) (citing *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999)). The proponent of the expert testimony "bears the burden of proving its admissibility." *E.E.O.C. v. Kaplan Higher Educ. Corp*., 748 F.3d 749, 752 (6th Cir. 2014) (citation omitted).

6. Pursuant to Rule 702, the Sixth Circuit has delineated that "a proposed expert's opinion is admissible, at the discretion of the trial court, if the opinion satisfies three requirements." *In re Scrap Metal Antitrust Litig.*, 527 F.3d at 528-29. First, a witness must "establish his expertise by reference to 'knowledge, skill, experience, training, or education.'" *Pride v. BIC Corp.*, 218 F.3d 566, 577 (6th Cir. 2000) (quoting Fed. R. Evid. 702). "A witness is [not] an expert simply because he claims to be." *Id.* Moreover, "the issue with regard to expert testimony is not the qualifications of a witness in the abstract, but whether those qualifications provide a foundation for a witness to answer a specific question." *Berry v. City of Detroit*, 25 F.3d 1342, 1351 (6th Cir. 1994).

7. The second element of Rule 702 "requires a proffered expert to testify to scientific, technical, or other specialized knowledge … [which] serves to establish a standard of 'evidentiary reliability' or 'trustworthiness.'" *Pride*, 218 F. 3d at 577 (citing *Daubert*, 509 U.S. at 591). The Sixth Circuit has explained that by requiring evidentiary reliability, "the *Daubert* Court instructed district courts that their primary function as gatekeepers is to determine whether the principles and methodology underlying the testimony itself are valid." *Id.*

8. While there is no single criterion for determining reliability, "the *Daubert* Court identified several factors that a district court should consider when evaluating the [] validity of expert testimony, notably: the testability of the expert's hypotheses (whether they can be or have been tested), whether the expert's methodology has been subjected to peer review, the rate of error associated with the methodology, and whether the methodology is generally accepted within the scientific community." *Id.* As the Sixth Circuit noted in *Clay v. Ford Motor Co.*, "the specific *Daubert* factors – testing, peer review and publication, potential rate of error,

and general acceptance in the relevant community – may be considered by the district court even when the proffered expert testimony is not scientific." 215 F.3d 663, 667 (6th Cir. 2000).

9. Finally, Rule 702 "requires that the expert's testimony assist the trier of fact." *Pride*, 218 F.3d at 578. "Courts have framed the inquiry as 'whether expert testimony improperly addresses matters within the understanding or common knowledge of the [trier of fact].'" *Dow Corning Corp. v. Weather Shield Mfg.*, No. 09-10429, 2011 U.S. Dist. Lexis 67244, at *37 (E.D. Mich. June 22, 2011) (quoting *U.S. v. Thomas*, 74 F.3d 676, 684 n.6 (6th Cir. 1996)). As stated by the Court in *Berry*, "[i]f everyone knows [something], then we do not need an expert because the testimony will not 'assist' the trier of fact to understand the evidence or to determine a fact in issue." 25 F.3d at 1350 (citation omitted).

II. Mr. Buckfire's Best Interests Opinion Should Be Excluded Because It Is Not Based on Any Reliable Methodology or Data

A. Mr. Buckfire's Opinion Lacks a Reliable Foundation

10. In order to meet the requirement of reliability, an expert's proposed testimony "must be supported by appropriate validation – *i.e.*, good grounds based on what is known." *Daubert*, 509 U.S. at 590; *In re Scrap Metal Antitrust Litig.*, 527 F.3d at 529-530. Accordingly, an expert's opinions must "rest[] upon a reliable foundation." *Id.*; *see also Gass v. Marriott Hotel Servs.*, 558 F.3d 419, 426 (6th Cir. 2009) ("an expert's opinion testimony must have a reliable basis in the knowledge and experience of his discipline") (citation omitted). This ensures that the expert's opinions are not "connected to existing data only by the *ipse dixit* of the expert." *Gen. Elec. Co. v. Joiner,* 522 U.S. 136, 146 (1997). Both the Supreme Court and the Sixth Circuit have recognized that this requirement applies to all forms of expert testimony, not just scientific testimony. *Kumho*, 526 U.S. at 137; *Berry*, 25 F.3d at 1350.

11. Mr. Buckfire's Best Interests Opinion is precisely the type of opinion that lacks the reliable foundation mandated by the Supreme Court and the Sixth Circuit. To satisfy the best interests of creditors test in chapter 9, the debtor must show that creditors would fare better under the plan than outside of the plan. *See In re Cnty. of Orange*, 191 B.R. 1005, 1020 (Bankr. C.D. Cal. 1996). In a chapter 9 case, this requires a comparison of creditor recoveries under the proposed plan against estimated creditor recoveries if the bankruptcy were dismissed. *Id*. (quoting 4 Collier on Bankruptcy ¶ 943.03(7)(a) (15th rev. ed. 1995) ("The courts must … apply the [best interests] test to require a reasonable effort by the municipal debtor that is a better alternative to its creditors than dismissal of the case.")). Such a comparison necessarily requires a detailed analysis of a host of complex issues related to the dismissal scenario, including: the debtor's forecasted revenues subsequent to dismissal; the value of the debtor's assets and possible monetization of those assets; the remedies available to creditors under applicable state law; and how the debtor would use its revenues and other resources to satisfy creditor judgments. *See In re Barnwell County Hosp.*, 471 B.R. 849, 869 (Bankr. D.S.C. 2012) (conducting a "best interests" analysis under § 943(b)(7), pursuant to which the Court considered the debtor's revenue in the absence of the proposed plan, the value of the debtor's assets in the absence of the proposed plan, and the likely distribution of assets to the creditors in the absence of the proposed plan).[4]

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[4] It is instructive to consider the types of analyses that have been deemed acceptable in the context of the best interests test of chapter 11, which requires an evaluation of creditor recoveries in a liquidation compared to creditor recoveries under the debtor's proposed plan. For instance, in *In re AbitibiBowater Inc.*, the court upheld an expert's best interest opinion where the expert conducted a thorough liquidation analysis, including: (a) an estimation of liquidation proceeds; (b) an estimation of allowed claims against the debtor on a liquidation basis; and (c) a comparison of the net value available to unsecured creditors under liquidation versus under the plan of adjustment. No. 09-11296, 2010 WL 4823839, at *11 (Bankr. D. Del. Nov. 22, 2010). As this Court is aware, it is customary in a chapter 11 case for the debtor to provide with its

12. While Mr. Buckfire opines that "the City's creditors will be treated better under the City's plan of adjustment than if the bankruptcy case were dismissed," Buckfire Rep. 2, his report evidences no discernible effort to systematically evaluate creditor recoveries in the event the City's bankruptcy case were dismissed, whether through an estimated dollar or percentage amount, or some other numerical formula. In fact, Mr. Buckfire repeatedly confirmed at his deposition that he and his team "**have not done a dismissal analysis**" of any kind in order to test his opinion, including any analysis as to: (a) the City's revenues and costs in a dismissal scenario, Buckfire Dep. 236:8-13, July 16, 2014 (attached hereto as Ex. 7); (b) the total value of claims that would be asserted against the City in a dismissal scenario, *id*. at 276:19-22; (c) how the City would use its surplus revenues to satisfy creditor claims in a dismissal scenario, *id*. at 280:11-16; and (d) the extent to which the City would monetize its assets in a dismissal scenario, including the DIA Assets, and how that monetization would impact creditor recoveries, *id*. at 194:19-195:5; 288:18-21; 294:25-295:18; 298:5-8.

13. Critically, neither the City nor any of its representatives have filed, produced or otherwise provided such an analysis in any respect. *See id.* at 236:8-25 ("Q. And no one else has [conducted an analysis of the City's revenues and costs in a dismissal scenario] either, correct? A. Correct."); *id.* at 243:15-18 ("Q. . . . Ernst & Young, they did not do a forecast for the situation where the petition is dismissed, correct? A. That's correct."); Malhotra Dep. 116:4-6, July 15, 2014 (excerpts of which are attached hereto as Ex. 9) ("we do not have a scenario of what happens if the City's bankruptcy proceedings are dismissed"); *id.* 144:9-25 (confirming that he has no opinion, and nobody has asked him to do an analysis, regarding how

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proposed plan and disclosure statement a detailed liquidation analysis setting forth this information in numerical form, including the estimated percentage recovery to each class of creditors in an alternative liquidation. This typically is prepared by a financial advisor with expertise in preparing such analyses.

much creditors would receive in a dismissal scenario); Moore Dep. 91:17-21, July 23, 2014 (excerpts of which are attached hereto as Ex. 10) ("Q. In connection with preparing those projections, did you perform any financial projections or analysis that assumed that the City's Chapter 9 case was dismissed? A. No.").

14. Only by systematically analyzing each of these issues (along with various other relevant factors) can an expert reliably estimate creditor recoveries in a dismissal scenario – and therefore reliably opine on how creditor recoveries in a dismissal scenario compare with recoveries under the Plan. As courts have held in the context of the best interests test of chapter 11, the analysis "is to be based on evidence not assumptions." *In re Multiut Corp.*, 449 B.R. 323, 345 (Bankr. N.D. Ill. 2011*); see also In re Adelphia Commc'n Corp.*, 361 B.R. 337, 366 (S.D.N.Y. 2007) (holding that in order to demonstrate that creditors will fare better under the plan than outside of the plan, "there must be a liquidation analysis of some type that is based on evidence and not mere assumptions or assertions"). Thus, where a debtor "provides very little in the way of a liquidation analysis" and "[other than conclusory testimony [] and assertions [], there is no actual evidence or analysis to indicate what creditors would receive in a Chapter 7 case versus a Chapter 11 case," the best interest analysis is insufficient. *In re Multiut Corp.*, 449 B.R. at 346.

15. Notably, the expert report of Stephen Spencer[5] stands in stark contrast with Mr. Buckfire's report. In his report, Mr. Spencer engages in a detailed dismissal analysis, forecasting (among other things) the City's future cash flow in a dismissal scenario, COP Claim recoveries outside of chapter 9, the impact of dismissal on the City's tax base, and the potential for asset monetization. *See* Spencer Rep. 57-61, 79-92. Without having done such an analysis,

[5] Stephen Spencer's Expert Witness Report, dated July 25, 2014 (attached hereto as Ex. 11) ("Spencer Rep.").

Mr. Buckfire's opinion lacks a reliable foundation and is, instead, connected to existing data only by own his "*ipse dixit*." *Joiner*, 522 U.S. 136, 146. Certainly, concluding that creditors will do better under the Plan without having conducted any sort of detailed analysis as to how creditors will fare outside of the Plan is not a "best interests" methodology that has been tested, subjected to peer review or publication, has a known rate of error, or is generally accepted. *See Berry*, 25 F.3d at 1350 (applying the *Daubert* factors to non-scientific testimony and excluding the expert's opinion in part because it did not satisfy any of the factors). Given these shortcomings in his methodology, Mr. Buckfire's Best Interests Opinion fails to pass muster under *Daubert* and Rule 702. *See id.*; *In re Scrap Metal Antitrust Litig.*, 527 F.3d at 529-30.

B. Mr. Buckfire Reaches His Opinion By Ignoring Facts and Relying on Unsupported Assumptions

16. Rather than employing a reliable methodology by which to appropriately validate his Best Interests Opinion, Mr. Buckfire rests his testimony solely on a handful of generalized and largely unsupported assumptions, while ignoring a plethora of critical information. Rule 702 requires "more than subjective belief or unsupported speculation." *Daubert*, 509 U.S. at 590; *see also Tamraz v. Lincoln Elec. Co.*, 620 F.3d 665, 671 (6th Cir. 2010) ("no matter how good experts credentials may be, they are not permitted to speculate") (quotation marks and citation omitted); *Smelser v. Norfolk S. Ry.*, 105 F.3d 299, 303 (6th Cir. 1997) ("an expert's subjective belief or unsupported speculation will not … satisfy Fed. R. Evid. 702). Thus, any assumptions made by an expert "must be supported by evidence in the record." *Rose v. Truck Ctrs., Inc.*, 388 Fed. App'x 528, 535 (6th Cir. 2010); *see also McLean v. 988011 Ontario, Ltf.*, 224 F.3d 797, 801 (6th Cir. 2000) ("An expert's opinion, where based on assumed facts, must find some support for those assumptions in the record."). An "expert opinion that assumes facts not supported by the record should be excluded." *Davison v. Cole Sewell Corp.*,

231 Fed. App'x 444, 449 (6th Cir. 2007) (citing *Shaw v. Strackouse*, 920 F.3d 1135, 1142 (3d Cir. 1990)); *see also Waskowski v. State Farm Mut. Auto Ins. Co.*, 970 F. Supp. 2d 714, 722 (E.D. Mich. Sept. 10, 2013) (finding that expert's report was not based on sufficient facts or data because the expert "resorted to assumptions, estimates, and representations from Plaintiff's counsel" that were not supported by the record in the case).

17. In addition, expert testimony is inadmissible when an expert "fail[s] to consider[] admittedly important information," because then the opinion "cannot be considered reliable." *Smelser*, 105 F.3d at 305 (reversing district court admission of an expert who failed to consider various facts that undermined the assumption underlying his opinion); *see also Brown v. Lewis*, 2014 U.S. Dist. Lexis 11867, at *9 (E.D. Mich. Jan. 31, 2014) (expert opinion that "does not address the factual allegations that do not comport" with the facts on which he relies is inadmissible because then the opinion "is not based on sufficient facts or data, and therefore [the] conclusions are not reliable"). Similarly, "expert testimony [] is inadmissible when the facts upon which the expert bases his testimony contradict the evidence." *Greenwell v. Boatwright*, 184 F.3d 492, 497 (6th Cir. 1999); *see also DeMerrell v. City of Cheboygan*, 206 Fed. App'x 418, 427 (6th Cir. 2006) (upholding the exclusion of an expert whose reports contained "premises that contradict the uncontroverted facts").

18. Mr. Buckfire's conclusion that the City's creditors will be treated better under the Plan than in a dismissal scenario rests, in large part, on his assumption that "creditor recoveries upon dismissal will be *de minimis*." Buckfire Rep. ¶ 7. But, as discussed in detail below, Mr. Buckfire reaches that assumption by ignoring numerous important facts (many of which he would have had to consider had he conducted a dismissal analysis), instead relying on a handful of subsidiary assumptions that he admittedly cannot substantiate.

i. Mr. Buckfire Fails to Consider Whether City Assets Would be Sold to Satisfy Creditor Claims in a Dismissal Scenario

19. A central assumption on which Mr. Buckfire relies in opining that creditor recoveries upon dismissal will be *de minimis* is his "understand[ing] that, in [a race to the courthouse] scenario, creditors are unable to compel the City to sell assets or to take a lien on public property." Buckfire Rep. ¶ 7. Mr. Buckfire testified that this assumption is based on advice conveyed to him by attorneys at Jones Day, and that he did not do any analysis to determine whether that advice was correct. Buckfire Dep. 282:4-16. Mr. Buckfire also testified that he did not consider the extent to which the City could or would independently sell assets in order to satisfy creditor claims in the event of a dismissal, and how such monetization would impact creditor recoveries. For instance, with respect to the DIA Assets, Mr. Buckfire testified as follows:

> Q. [H]ave you evaluated the likelihood that the City might choose to sell its art collection in a dismissal scenario?
> A. No.
> Q. And have you – I take it then you haven't evaluated the impact such a sale would have on creditor recoveries, correct?
> A. We have not done a dismissal analysis.

Buckfire Dep. 288:14-21. Mr. Buckfire confirmed the same lack of analysis with respect to the City's other assets. *See, e.g., id.* 298:5-8 ("Q. But like the other assets of the City, it's not one that you've studied to determine its impact on creditor recoveries correct? A. In a dismissal scenario, that's correct.").

20. Critically, Mr. Buckfire admitted that the City has sold assets in the past to satisfy creditor claims. *Id*. 201:2-4 ("Q Do you know if in its history the City of Detroit has -- has done that [sold off assets to satisfy the claims of creditors]? A. Yes.").[6] Indeed, as

[6] *See also* Spencer Rep. 56 (discussing various instances in which the City has pursued asset monetization as a means to fund its operations and repay creditors).

discussed in more detail in Mr. Spencer's report, municipalities routinely sell assets to bolster liquidity and satisfy obligations to creditors. Spencer Rep. 53-55. Yet, Mr. Buckfire wholly failed to consider whether such monetization would or could occur here and the resulting impact on creditor recoveries. Because Mr. Buckfire ignored this important information in forming his assumptions, his opinion "cannot be considered reliable" under *Daubert*. *Smelser*, 105 F.3d at 305; *see also Brown*, 2014 U.S. Dist. Lexis 11867, at *9.

ii. Mr. Buckfire Fails to Consider the Extent to Which Increased Revenues Would Impact Creditor Recoveries in a Dismissal Scenario

21. Mr. Buckfire's assumption that creditor recoveries upon dismissal would be *de minimis* also fails to take into account whether – and how – creditors could benefit from the City's future surplus revenues. If the City were to ultimately improve its current financial situation, the creditors in a dismissal scenario would – as Mr. Buckfire acknowledged – be entitled to any excess revenue. Buckfire Dep. 279:7-280:10; 238:2-239:12. Moreover, as Mr. Buckfire admitted, creditor remedies in a dismissal scenario would be *pari passu*. *Id*. at 278:19-23. Under the Plan, however, surplus revenue is a windfall for the City and will not enhance creditor recoveries (while certain unsecured creditors are receiving preferential treatment). But Mr. Buckfire testified that he never considered any of these facts and how they might impact his assumptions. *See* Buckfire Dep. 280:11-16 ("Q: Okay. But you haven't actually done the analysis, though, to see who would get any surplus revenue that exists above operating expenditures and secured debt, correct? A. You've already asked me this, we have not done a dismissal analysis."). His ignorance to these issues only further undermines the reliability of his opinions. *See, e.g., Smelser,* 105 F.3d at 305.

iii. Mr. Buckfire's Assumptions Regarding the Ability and Practicality of Raising Taxes Are Controverted by the Facts

22. In assuming that creditor recoveries upon dismissal would be *de minimis*, Mr. Buckfire makes a subsidiary assumption that "in a dismissal scenario, the City would be unable and it would be impractical for the City to raise taxes without further eroding revenue." Buckfire Rep. ¶ 17. Mr. Buckfire speculates that: (a) the City would be "unable" to raise taxes because it is at or near statutory tax limits; and (b) it would be "impractical" to do so because increasing tax rates would have a negative effect on revenue as a result of delinquencies and mass exodus from the City. *Id*. ¶¶ 7, 17. However, Mr. Buckfire admitted at his deposition that statutory caps do not prevent the City from raising taxes to satisfy creditor judgments. Buckfire Dep. 238:2-20 (testifying that it is his understanding "[t]hat it's under certain circumstances a creditor might seek a judgment requiring the City to raise taxes"). Indeed, the Revised Judicature Act of 1961, M.C.L. 600.6093, specifically provides that a court could compel the City to levy property taxes sufficient to satisfy a judgment, irrespective of limitations on property taxes imposed by the Michigan Constitution, the Home Rule Cities Act or the City Charter. *Am. Axle & Mfg., Inc. v. City of Hamtramck*, 461 Mich. 352 (2000). Thus, the "facts upon which [Mr. Buckfire] bases his testimony contradict the evidence." *Greenwell*, 184 F.3d at 497 (holding that expert testimony is inadmissible when it contradicts the evidence).

23. As to Mr. Buckfire's assumption that tax increases would negatively impact future revenue generation by causing residents to leave the City and increasing delinquency rates, Mr. Buckfire admitted he never personally analyzed the issue:

> Q. [D]id you ever attempt to quantify how delinquency rates would go up if taxes went up?
> A. No.
> ….
> Q. And you don't know whether there's a historical connection in Detroit between the income tax rate and the delinquency tax rate, correct?
> A. That's correct.
> ….

> Q. Have you conducted any analysis to determine how many people will leave under different scenarios where taxes are increased?
> A. No.
> ….
> Q. You have not conducted, however, any quantitative analysis assessing the relationship between tax rates and population levels over historical time periods in Detroit, correct?
> A. Correct.

Buckfire Dep. 243:11-252:17.

24. As discussed in more detail in Section III, *supra*, Mr. Buckfire testified that he formed his assumption regarding the impracticality of raising taxes based on an analysis purportedly conducted by Mr. Cline of Ernst & Young. *See* Buckfire Dep. 240:3-242:3 ("A. [W]e did ask the tax experts at E&Y to do an analysis of the City's revenues and take into account the sensitivity of revenues to tax rates. Q. So you asked Mr. [Cline] at E&Y? A. I did…. Q. And did you rely on that information from Mr. [Cline] in reaching your conclusion about the fact that City's not going to generate additional revenue from raising taxes? A. Yes."). However, Mr. Cline testified that he has not rendered any opinions regarding the effect of potential tax increases, nor did he undertake any of the work necessary to form such opinions.

> Q. And you haven't done any work that would allow you to testify that Detroit couldn't generate significant additional revenue by either adding new taxes or increasing tax rates?
> A. We were not asked to look at policy options for the City of Detroit…. We did not – were not asked to and **<u>did not provide forecasts under alternative policy options, whether it's a tax rate change or adoption of a new tax, or change, in the base of an existing tax.</u>**
> …
> Q. You didn't do any work that would allow you to testify that by increasing tax rates, Detroit would not increase substantially its tax revenues?
> A. **<u>We did not run alternatives with our model at different tax rates.</u>**
> ...
> Q. Okay. But is it technically feasible for you to do an analysis like that?
> A. We would have to do additional work compared to what we have done to this point, because as I mentioned, it's not just changing the rate, it's also understanding the behavioral response of the base in response to the change in the rate. **<u>We are not set up to do that</u>** in our current runs.

> Q. And you also haven't done the work that would allow you to testify that Detroit couldn't significantly increase revenues by adding new taxes, correct?
> A. We have not analyzed the addition of new revenue sources for Detroit.

Cline Dep. 96:6-98:2; 100:13-101:12, July 14, 2014 (excerpts of which are attached hereto as Ex. 12).[7]

25. Thus, the entire basis for Mr. Buckfire's views regarding the practicality of raising taxes is based on his reliance on an analysis that Mr. Cline **never** performed and was not equipped to perform. Accordingly, Mr. Buckfire's assumptions regarding the ability and practicality of raising taxes – an assumption that is central to his ultimate assumption regarding creditor recoveries in a dismissal scenario – are unsupported by the facts in the record, rendering his opinion excludable under *Daubert*. *See, e.g., Davison*, 231 Fed. App'x at 449; *DeMerrell*, 206 Fed. App'x at 427.

iv. There Is No Support for Mr. Buckfire's Assumptions Regarding a "Race to the Courthouse"

26. Mr. Buckfire also assumes in his Report that creditor recoveries in a dismissal scenario will be *de minimis* in part because creditors would "race to the courthouse" to exercise their legal rights against the City, resulting in "chaos and inefficiency." Buckfire Rep. ¶¶ 7-8. But Mr. Buckfire engaged in no analysis whatsoever regarding the claims or sources of claims that would result in a "race to the courthouse," or the consequences of such a race on creditor recoveries:

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[7] The City's other representatives have also confirmed that they have not performed such an analysis. *See* Malhotra Dep. 115:25-116:4, July 15, 2014 ("Q You haven't been asked to do any analysis of the costs and revenues to the City if the bankruptcy petition is dismissed, correct? A. We do not … have a scenario of what happens if the City's bankruptcy proceeds are dismissed."); Sallee Dep. 51:1-13, July 24, 2014 (excerpts of which are attached hereto as Ex. 13) ("Q. So you're offering no opinion about whether the City can increase tax revenues, correct? A. I'm not offering an opinion about whether they can increase tax revenues…. Q. And you're not offering an opinion about how much revenue the City would have if the bankruptcy case is dismissed, correct? A. That's correct.").

> Q. … [D]id you do any analysis of well here's what we think would happen, here's the creditors we think would have a certain type of priority, here's the creditors we think would have a different type of priority here's how we think … the race to the courthouse might come out, did you do any analysis like that?
> A. No.

Buckfire Dep. 179:2–179:9.

27. Mr. Buckfire's response as to why no such analysis was performed was that "we thought it was pretty obvious." *Id.* at 179:10-17. Mr. Buckfire's assumptions regarding a race to the courthouse are therefore unmoored from any reliable data or analysis other than his own subjective presumptions. An opinion based on such presumptions is plainly impermissible under *Daubert*. *See, e.g., Smelser*, 105 F.3d at 303 ("an expert's subjective belief or unsupported speculation will not … satisfy Fed. R. Evid. 702").

v. There is No Support for Mr. Buckfire's Assumptions Regarding the Availability and Benefit of the Settlement Funds

28. Yet another assumption by Mr. Buckfire is that creditors would not have the benefit of "hundreds of millions of dollars" stemming from the "Grand Bargain" in a dismissal scenario. Buckfire Rep ¶ 8. But Mr. Buckfire never evaluated whether the City would be able to solicit funding from the Grand Bargain participants in a dismissal scenario:

> Q. Have you evaluated the extent to which [the Grand Bargain] might be reconstituted in a dismissal?
> A. That's speculation and I've already testified we haven't done a dismissal analysis.

Buckfire Dep. 289:11–14.

29. Moreover, Mr. Buckfire's Best Interests Opinion "extends to all of the City's creditors," yet Holders of COP Claims are not slated to receive **any** of the proceeds of the Grand Bargain under the Plan. Indeed, when questioned about this at his deposition, Mr. Buckfire testified that the Grand Bargain infuses money "[i]nto the City for the [] benefit of the

City's creditors, **which in this case happen to be the retirees**."[8] Thus, even if the proceeds of the Grand Bargain were unavailable in a dismissal scenario (an assumption Mr. Buckfire could not confirm), that says nothing about the impact of dismissal on COP Claim recoveries. The fact that Mr. Buckfire failed to acknowledge this in his Report while nevertheless extending his opinion to "all of the City's creditors," further demonstrates the unreliability of his testimony. *See, e.g.*, *Smelser*, 105 F.3d at 305; *Davison*, 231 Fed. App'x at 449.

vi. Mr. Buckfire's Assumptions Regarding Reinvestment Initiatives Ignore the Relevant Facts

30. Another one of Mr. Buckfire's assumptions is that the reinvestment initiatives proposed under the City's Plan are "necessary to provide adequate levels of municipal services," and in their absence the City will "further deplete the City's tax base." Buckfire Rep. ¶17. However, Mr. Buckfire never evaluated the extent to which the City would or could engage in these initiatives in a dismissal scenario. *See* Buckfire Dep. 277:24–278:4 ("Q. And so I take – so you have never personally evaluated the extent to which the City would undertake the restructuring reinvestment initiatives in the dismissal scenario, correct? A. Correct."). Indeed, Mr. Charles Moore, the City's expert with respect to reinvestment initiatives, testified that he saw no reason the City could not pursue these initiatives if the bankruptcy case were dismissed. Moore Dep. 92:7–19. Mr. Buckfire's failure to consider this fact in relying on assumptions regarding the reinvestment initiatives further renders his opinion unreliable and inadmissible. *See, e.g.*, *Smelser*, 105 F.3d at 305.

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[8] Moreover, the City's Emergency Manager, testifying as a designee for the City, could not think of a way in which the Grand Bargain benefits Holders of COP Claims. Orr Dep. at 341:8-10, July 22, 2014 (excerpts of which are attached hereto as Ex. 14).

31. In sum, Mr. Buckfire has not employed any appropriate or recognizable methodology by which to validate his Best Interests Opinion. Instead, just as the expert's opinion in *Tamraz,* Mr. Buckfire's opinion "contains not just one speculation but a string of them: A suggests by analogy the possibility of B, which might also apply to C, which, if we speculate about D, could eventually trigger E." 620 F.3d at 672. As was the case in *Tamraz,* however, "the train [is] too long to pull and the couplings too weak to hold the cars together." *Id.* This is even truer here given that Mr. Buckfire's train of assumptions admittedly ignores numerous important facts. Accordingly, Mr. Buckfire's Best Interests Opinion should be excluded as unreliable.

III. Mr. Buckfire's Best Interests Opinion Should Be Excluded Because He Is Not Qualified to Opine on a Central Assumption on Which His Opinion Is Based

32. In expounding on the requirement that an expert be sufficiently qualified under *Daubert*, the Sixth Circuit held in *Berry* that "[t]he issue with regard to expert testimony is not the qualifications of a witness in the abstract, but whether those qualifications provide a foundation for a witness to answer a specific question." 25 F.3d at 1351-52 (holding that a witness proffered as an expert "under the general label of 'police policies and practices'" was not qualified to testify on matters of police "discipline," in part because his testimony relied on various assumptions of which he knew nothing about). Accordingly, circuit courts have excluded experts as unqualified when their opinion is predicated on an analysis conducted by a third party, but the witness "himself lacks the necessary expertise to determine whether the techniques [of the third party] were appropriately chosen and applied." *Dura Auto. Sys. of Ind., Inc. v. CTS Corp*., 285 F.3d 609, 615 (7th Cir. 2002). The court in *Dura* observed that "a theoretical economist, however able, would not be allowed to testify to the findings of an

econometric study conducted by another economist if he lacked expertise in econometrics and the study raised questions that only an econometrician could answer." *Id.* at 614.

33. The holdings of *Berry* and *Dura* are instructive in this instance. As discussed above, one of the central assumptions underlying Mr. Buckfire's Best Interests Opinion is that "in a dismissal scenario, the City would be unable and it would be impractical for the City to raise taxes without further eroding revenue." Buckfire Rep. ¶ 17; *see also id.* ¶ 7. This informs his ultimate assumption that "creditor recoveries upon dismissal will be *de minimis*" and that the City's creditors will therefore be treated better under the Plan than if the bankruptcy were dismissed. *Id.* ¶ 7. Yet, Mr. Buckfire admittedly lacks expertise in forecasting future revenues of a municipality. Buckfire Dep. 244:12-15 ("Q. Now, is forecasting future revenues of a municipality something that falls within your area of expertise as an expert? A. No."). Thus, like the expert in *Berry*, Mr. Buckfire's expertise in financial restructuring does not qualify him to opine on the "specific question" of future revenue generation, rendering him unqualified to offer an opinion predicated on that question. 25 F.3d at 1351.

34. Notably, Mr. Buckfire testified that he relied on an analysis purportedly conducted by Mr. Cline of Ernst & Young with respect to this issue:

> A. [W]e did ask the tax experts at E&Y to do an analysis of the City's revenues and take into account the sensitivity of revenues to tax rates.
> Q. So you asked Mr. [Cline] at E&Y?
> A. I did.
> ….
> Q. And did you rely on that information from Mr. [Cline] in reaching your conclusion about the fact that City's not going to generate additional revenue from raising taxes?
> A. Yes.
> Q. Did you take any steps to pressure test Mr. [Cline]'s advice to you that raising taxes would not yield marginal revenue?
> A. No, **<u>I haven't done mathematical economics in a really long time</u>** and he is a very well-qualified econometrician and so I relied on him.

Buckfire Dep. 240:3-242:3.[9] As the Court made clear in *Dura*, Mr. Buckfire's lack of expertise in revenue generation prevents him from relying on an (alleged) analysis conducted by another "econometrician," especially because he admittedly was not qualified to determine whether Mr. Cline's "techniques were appropriately chosen and applied." 285 F.3d at 615. Thus, because Mr. Buckfire is not qualified to conduct or assess the purported analysis informing his assumption that increasing taxes will decrease the City's future revenue, he is not qualified to render an opinion that is predicated on that assumption. *See id*.

IV. <u>Mr. Buckfire's Best Interests Opinion Should Be Excluded Because It Is Unhelpful to the Trier of Fact</u>

35. Under Rule 702, expert testimony is admissible only if it "will help the trier of fact to understand the evidence or to determine a fact in issue." Fed. R. Evid. 702. The Sixth Circuit has made clear that "[i]t is not helpful to the [trier of fact] when expert testimony gives lay testimony interpreting the facts of the case or addressing matters that are equally within the competence of the [trier of fact] to understand and decide." *Youngberg v. McKeough*, 534 Fed. App'x 471, 479 (6th Cir. 2013) (citation omitted); *see also Wendorf v. JLG Indus., Inc.*, No. 08-CV-12229, 2010 WL 148255, at *4 (E.D. Mich. Jan. 11, 2010) ("an expert ... must testify to something more than what is 'obvious to the layperson' in order to be of any particular assistance to the [trier of fact]") (citations omitted). As the court in *Jones v. Pramstaller* articulated, "[i]t is well established that an expert witness's testimony is not helpful where the [trier of fact] has no need for an opinion because it easily can be derived from common sense, common experience, the [trier of fact's] own perceptions, or simple logic." 874 F. Supp. 2d 713, 720 (W.D. Mich. 2012) (citation omitted). Similarly, expert testimony does not assist the trier of fact when it

[9] As discussed in Section II.B.iii, *supra*, Mr. Cline testified that he never actually performed, nor was he capable of performing, such an analysis.

"merely express[es] a legal conclusion." *DeMerrell*, 206 Fed. App'x at 426. Rather, expert testimony must "result[] from a process of reasoning which can be mastered only by specialists in the field." *U.S. v. White*, 492 F. 3d 380, 401 (6th Cir. 2007).

36. Certainly, to the extent Mr. Buckfire had engaged in a systematic dismissal analysis by reliably evaluating future revenue generation, potential asset monetization, the size of creditor claims, and the extent to which revenues could be used to satisfy creditor claims, then an expert opinion would be helpful to the trier of fact in this instance. But Mr. Buckfire admittedly performed no such analysis. Instead, he relied on a handful of generalized assumptions that do not "result[] from a process of reasoning which can be mastered only by specialists in the field." *Id.* Indeed, he admitted as much.[10] Certainly, that is not to say the trier of fact *would* use the same assumptions as Mr. Buckfire (on the contrary, for the reasons described herein, it should not), only that the trier of fact *could* understand and interpret those assumptions without Mr. Buckfire's assistance. Thus, given that Mr. Buckfire performed no actual expert analysis, but rather addressed matters that are well within the competence of this Court as the trier of fact to understand and decide, it is clear that his testimony is unhelpful and inadmissible. *See Youngberg*, 534 Fed. App'x at 479 (upholding exclusion of expert testimony because the trier of fact was "competent to determine" the issue on which the expert opined).

STATEMENT OF CONCURRENCE SOUGHT

[10] For instance, when asked why he did not perform a detailed analysis with respect to how a "race to the courthouse" scenario would turn out, Mr. Buckfire testified it was because "[w]e thought it was pretty obvious." Buckfire Dep. 179:10-17. As to his assumptions regarding the impact of tax increases on future revenue generation, no expert analysis was actually conducted to evaluate that issue. And, with respect to his assumption regarding the sale of City assets, Mr. Buckfire relied solely on legal conclusions conveyed by the City's attorneys.

37. Pursuant to Local Rule 9014-1(g), on August 18, 2014, counsel for FGIC sought the concurrence of counsel for the City in the relief sought in the Motion. Counsel for the City has advised that they oppose the filing of the Motion.

WHEREFORE, FGIC respectfully requests that the Court enter an Order granting FGIC's Motion in its entirety and excluding the opinion of Kenneth Buckfire regarding Plan treatment compared to treatment upon dismissal.

DATED: August 18, 2014

/s/ Alfredo R. Pérez
Alfredo R. Pérez
WEIL, GOTSHAL & MANGES LLP
700 Louisiana Street, Suite 1600
Houston, TX 77002
Telephone: (713) 546-5000
Facsimile: (713) 224-9511
Email: alfredo.perez@weil.com
– and –
Edward Soto
WEIL, GOTSHAL & MANGES LLP
1395 Brickell Avenue, Suite 1200
Miami, FL 33131
Telephone: (305) 577-3177
Email: edward.soto@weil.com
-and-
Ernest J. Essad Jr.
Mark R. James
WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.
280 North Old Woodward Avenue, Suite 300
Birmingham, MI 48009
Telephone: (248) 642-0333
Facsimile: (248) 642-0856
Email: EJEssad@wwrplaw.com
Email: mrjames@wwrplaw.com

Attorneys for Financial Guaranty Insurance Company.

ATTACHMENTS

Exhibit 1	Proposed Form of Order
Exhibit 2	Notice
Exhibit 3	None [Brief Not Required]
Exhibit 4	Certificate of Service
Exhibit 5	None [No Affidavit]
Exhibit 6	None [No Documentary Exhibits]
Exhibit 7	July 16, 2014 K.Buckfire Deposition Transcript
Exhibit 8	July 8, 2014 K. Buckfire Expert Witness Report
Exhibit 9	July 15, 2014 G. Malhotra Deposition Transcript (excerpted)
Exhibit 10	July 23, 2014 C. Moore Deposition Transcript (excerpted)
Exhibit 11	July 25, 2014 S. Spencer Expert Witness Report
Exhibit 12	July 14, 2014 R. Cline Deposition Transcript (excerpted)
Exhibit 13	July 24, 2014 C. Sallee Deposition Transcript (excerpted)
Exhibit 14	July 22, 2014 K. Orr Deposition Transcript (excerpted)

Exhibit 1

Proposed Order

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re	:	**Chapter 9**
CITY OF DETROIT, MICHIGAN,	:	**Case No. 13-53846**
Debtor.	:	**Hon. Steven W. Rhodes**

ORDER EXCLUDING THE OPINION OF KENNETH BUCKFIRE REGARDING PLAN TREATMENT COMPARED TO TREATMENT UPON DISMISSAL

This matter having come before the Court on *Financial Guaranty Insurance Company's Motion to Exclude the Opinion of Kenneth Buckfire Regarding Plan Treatment Compared to Treatment Upon Dismissal* (the "**Motion**"), filed by Financial Guaranty Insurance Company ("**FGIC**"); and due and proper notice of the hearing to consider the relief requested therein (the "**Hearing**") having been given to all parties registered to receive electronic notices in this matter; and the Court having held the Hearing with the appearances of interested parties noted in the record of the Hearing; and upon the entire record of all the proceedings before the Court; and the legal and factual bases set forth in the Motion establishing just and sufficient cause to grant the relief requested therein;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is granted.

2. The opinion of Kenneth Buckfire regarding Plan treatment compared to treatment upon dismissal shall be excluded at the Confirmation Hearing.

It is so ordered.

Signed on _________________, 2014

____

STEVEN RHODES
UNITED STATES BANKRUPTCY JUDGE

Exhibit 2

Notice

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re	:	
	:	**Chapter 9**
	:	
CITY OF DETROIT, MICHIGAN,	:	**Case No. 13-53846**
	:	
Debtor.	:	**Hon. Steven W. Rhodes**
	:	
	:	

NOTICE OF FINANCIAL GUARANTY INSURANCE COMPANY'S MOTION TO EXCLUDE THE OPINION OF KENNETH BUCKFIRE REGARDING PLAN TREATMENT COMPARED TO TREATMENT UPON DISMISSAL

Financial Guaranty Insurance Company has filed papers with the Court seeking entry of an order pursuant to Federal Rule of Evidence 702 to exclude the testimony and opinion of Kenneth Buckfire at the Confirmation Hearing regarding treatment of claims under the Plan of Adjustment compared to treatment upon dismissal (the "**Motion**").

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, **within fourteen (14) days**, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:[1]

United States Bankruptcy Court
211 W. Fort Street, Suite 2100
Detroit, Michigan 48266

[1] Response or answer must comply with F. R. Civ. P. 8(b), (c) and (e).

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also mail a copy to:

Alfredo R. Pérez
WEIL, GOTSHAL & MANGES LLP
700 Louisiana Street, Suite 1600
Houston, TX 77002
Telephone: (713) 546-5000
Facsimile: (713) 224-9511

Edward Soto
WEIL, GOTSHAL & MANGES LLP
1395 Brickell Avenue, Suite 1200
Miami, FL 33131
Telephone: (305) 577-3177

Ernest J. Essad Jr.
Mark R. James
WILLIAMS, WILLIAMS, RATTNER & PLUNKETT, P.C.
280 North Old Woodward Avenue, Suite 300
Birmingham, MI 48009
Telephone: (248) 642-0333
Facsimile: (248) 642-0856

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

DATED: August 18, 2014

Respectfully submitted,

/s/ Alfredo R. Pérez

Alfredo R. Pérez
WEIL, GOTSHAL & MANGES LLP
700 Louisiana Street, Suite 1600
Houston, TX 77002
Telephone: (713) 546-5000
Facsimile: (713) 224-9511
Email: alfredo.perez@weil.com

– and –

Edward Soto
WEIL, GOTSHAL & MANGES LLP
1395 Brickell Avenue, Suite 1200
Miami, FL 33131
Telephone: (305) 577-3177
Email: edward.soto@weil.com

-and-

Ernest J. Essad Jr.
Mark R. James
WILLIAMS, WILLIAMS, RATTNER &
PLUNKETT, P.C.
280 North Old Woodward Avenue, Suite 300
Birmingham, MI 48009
Telephone: (248) 642-0333
Facsimile: (248) 642-0856
Email: EJEssad@wwrplaw.com
Email: mrjames@wwrplaw.com

Attorneys for Financial Guaranty Insurance Company

<u>Exhibit 3</u>

None [Brief Not Required]

Exhibit 4

Certificate of Service [To be filed separately]

Exhibit 5

None [No Affidavit]

Exhibit 6

None [No Documentary Exhibits]

Exhibit 7

July 16, 2014 K. Buckfire Deposition Transcript

KENNETH BUCKFIRE, VOLUME 2
IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

In Re:) Chapter 9

CITY of DETROIT, MICHIGAN,) Case No. 13-53846

Debtor.) Hon. Steven Rhodes
____

VOLUME 2

The Videotaped Deposition of KENNETH BUCKFIRE,
a Rule 30(b)(6) witness,
Taken at 1114 Washington Boulevard,
Detroit, Michigan,
Commencing at 8:09 a.m.,
Wednesday, July 16, 2014,
Before Leisa M. Pastor, CSR-3500, RPR, CRR.

KENNETH BUCKFIRE, VOLUME 2
APPEARANCES:

THOMAS F. CULLEN, JR., ESQ.
Jones Day
51 Louisiana Avenue, N.W.
Washington, D.C. 20001
Appearing on behalf of the Debtor.

CORINNE BALL, ESQ.,
BENJAMIN ROSENBLUM, ESQ.
Jones Day
222 East 41st Street
New York, New York 10017
Appearing on behalf of the Debtor.

KENNETH BUCKFIRE, VOLUME 2

CLAUDE D. MONTGOMERY, ESQ.
Dentons US LLP
1221 Avenue of the Americas
New York, New York 10020
Appearing on behalf of the Retirement Committee.

JENNIFER K. GREEN, ESQ.
Clark Hill, PLC
500 Woodward Avenue, Suite 3500
Detroit, Michigan 48226
Appearing on behalf of the Retirement Systems for the
City of Detroit.

KENNETH BUCKFIRE, VOLUME 2
ROBIN D. BALL, ESQ.
Chadbourne & Parke, LLP
350 South Grand Avenue, 32nd Floor
Los Angeles, California 90071
Appearing on behalf of Assured Guaranty Municipa
Corporation.

GUY S. NEAL, ESQ.
Sidley Austin, LLP
1501 K Street, N.W.
Washington, D.C. 20005
Appearing on behalf of National Public Financing.

KENNETH BUCKFIRE, VOLUME 2

PAUL S. DAVIDSON, ESQ.
Waller, Lansden, Dortch & Davis, LLP
511 Union Street, Suite 2700
Nashville, Tennessee 37219
Appearing on behalf of U.S. Bank National Association
as Trustee for the Water and Sewer Boards.

ROBERT A. WEISBERG, ESQ.
Carson Fischer, PLC
4111 Andover Road West
Second Floor
Bloomfield Hills, Michigan 48302
Appearing on behalf of Oakland County.

FARAYHA ARRINE, ESQ.
Dickinson Wright
500 Woodward Avenue, Suite 4000
Detroit, Michigan 48226
Appearing on behalf of the State of Michigan.

KENNETH BUCKFIRE, VOLUME 2

EDWARD SOTO, ESQ.,
COREY D. BERMAN, ESQ.
Weil, Gotshal & Manges, LLP
1395 Brickell Avenue, Suite 1200
Miami, Florida 33131
Appearing on behalf of FGIC.

CHRISTOPHER L. FILBURN, ESQ. (VIA TELEPHONE)
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019
Appearing on behalf of UBS.

KENNETH BUCKFIRE, VOLUME 2

A.W. PHINNEY, III, ESQ. (VIA TELEPHONE)
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C.
One Financial Center
Boston, Massachusetts 02111
Appearing on behalf of Fidelity, Franklin & Eaton
Vance as Members of the Ad Hoc Bondholders Committee

ALSO PRESENT:
John Schmitzer - Video Technician

KENNETH BUCKFIRE, VOLUME 2

TABLE OF CONTENTS

KENNETH BUCKFIRE, VOLUME 2

KENNETH BUCKFIRE, VOLUME 2

Detroit, Michigan
Wednesday, July 16, 2014
8:09 a.m.

VIDEO TECHNICIAN: We are now on the record, this is the videotaped deposition of Ken Buckfire, Volume 2, being taken on Wednesday, July 16th, 2014. The time is now 8:09 a.m. We are located at 1114 Washington Boulevard, Detroit, Michigan. We are here In Re: City of Detroit Bankruptcy. This is case No. 13-53846 this matter is being held in the United States Bankruptcy (sic) for the Eastern District of Michigan. My name is John Schmitzer, video technician.

Will the court reporter swear in the witness and the attorneys briefly identify themselves for the record, please?

MR. BALL: The witness is sworn. You understand, Mr. Buckfire, that you're still under oath today?

THE WITNESS: I do.

MR. BALL: Okay, and -- but counsel should still state their appearances for the record. This is Robin Ball for Chadbourne & Parke for Assured.

KENNETH BUCKFIRE, VOLUME 2

MR. NEAL: Guy Neal, Sidley Austin, for National Public Finance Guaranty.

MR. WEISBERG: Bob Weisberg, Carson Fischer, for Oakland County.

MR. SOTO: Ed Soto and Corey Berman from Weil, Gotshal, Manges, FGIC.

MS. GREEN: Jennifer Green from Clark Hill on behalf of the retirement systems.

MR. MONTGOMERY: For the, Claude Montgomery, Dentons, U.S., for the Retiree Committee.

MR. DAVIDSON: Paul Davidson, Waller Lansden, for U.S. Bank.

MR. HACKNEY: Steve Hackney, Kirkland & Ellis for Sycora.

MR. ROSENBLUM: Ben Rosenblum, Jones Day, for the City.

MS. BALL: Corinne Ball, Jones Day, for the City.

MR. CULLEN: Tim Cullen, Jones Day, for the City.

MR. BALL: And can we have counsel who are on the phone identify themselves for the record, please?

(Electronic Phone Announcement: Chris

KENNETH BUCKFIRE, VOLUME 2

Filburn, Paul Weiss, has left the conference.)

THE WITNESS: Well, that answers that.

MR. BALL: Is there anyone else?

MR. PHINNEY: A.W. Phinney of Mintz Levin, for Fidelity, Franklin & Eaton Vance as Members of the Ad Hoc Bondholders Committee.

MR. BALL: Is anybody else on the phone?

EXAMINATION (CONTINUED)

BY MR. BALL:

Q. Good morning, Mr. Buckfire, welcome back.

A. Thank you.

Q. And you, as you just said, understand that you're still under oath. Can you tell me did you do any additional work last night after you left the deposition related to your testimony in this matter?

A. I went back and examined other things I might have consulted in order to answer the questions that you asked me yesterday.

Q. Okay. And a number of documents were served on us last night. Are those documents you found as a result of that search?

A. Yes.

Q. Okay. And is there anything else you relied upon besides the documents that were produced last night

KENNETH BUCKFIRE, VOLUME 2

and the items that are identified in your report?

A. The only thing that wasn't specifically identified in those documents was the source of the information of how we know that Detroit's the largest single customer of the Water and Sewer Department, and I'd have to go back and check again where we found this --

(Electronic Phone Announcement: Chris Filburn, Paul Weiss.)

A. It wasn't in those particular documents --

(Electronic Phone Announcement: Has joined the conference.)

BY MR. BALL:

Q. Sorry, I think your answer got cut off, interrupted by the phone, so I apologize, but if you could start over, I would appreciate it.

A. The only -- the only information that was not in the the documents served last night was related to the question -- question of how we know Detroit was the single largest customer of the Water and Sewer Department.

Q. Okay. And were you able to find any documentation about that?

A. We just haven't had a chance to identify the source data of that. We'll find it.

KENNETH BUCKFIRE, VOLUME 2

Q. Okay. And the items --

MR. CULLEN: If I may, counsel, sorry, it's Exhibit L from the plan of disclosure.

BY MR. BALL:

Q. All right. If you can, I don't have a copy with me, so if you can identify it, that's fine, but do you know that it's Exhibit L in the plan of disclosure counsel -- I mean Mr. Buckfire?

A. Yes, but that Exhibit L was based on original source of information. I believe it was the financing statements published by the department on a regular basis, and I thought that's what you were asking me to identify.

Q. Okay. And the documents produced last night include -- there are a number of documents, and I'm not going to go through them all on the record, but there was -- I understand from conversations with your counsel that -- that included among those documents, there was one document that you did not rely upon that you're providing to us, a Bloomberg transcript.

A. I'm sorry? Did I review that?

Q. Had you -- did you rely upon that in preparing your report?

A. My staff did.

KENNETH BUCKFIRE, VOLUME 2

Q. Okay.

A. But I hadn't seen it before last night.

Q. Okay. So you believe your staff used it but that you had not seen it before previously?

A. That's right.

Q. Okay. At the end of the day yesterday, I asked you a couple of questions that you said you were too tired to answer; do you recall that?

A. I do.

Q. And one of the questions was about the tax advantages of certain investors of premium coupon bonds, and are you able to answer that question this morning?

A. Yes.

Q. Okay. Actually, before I get there, did you do any -- other than looking for additional reliance materials, did you do any other work last night related to this -- this matter?

A. No.

Q. Did you have any discussions with anyone concerning the subject matter of your testimony last night?

A. I had a brief conversation with my partner, Mr. Doak, about, you know, the reason we picked certain index curves and whether there were any other choices available and how we selected those curves.

KENNETH BUCKFIRE, VOLUME 2

Q. And why did you speak to Mr. Doak about that?

A. Because I wanted to make sure I remembered correctly what he had told me originally about how our team had selected those curves.

Q. Okay. And what was the content of your conversation with Mr. Doak last night?

A. He referred to other conversations that other members of our team had had with Bloomberg and various market participants about what curves they relied upon in terms of pricing municipal debt. They had directed us to certain curves produced by Bloomberg, which we've already testified to as what we relied upon, and he explained to me that, in fact, one of those curves had been modified by Bloomberg, I guess it was maybe in April or May, and they had adopted a new curve to replace an old curve, and so that was why I asked.

Q. Okay. Did you have any other -- was there anything else you discussed with Mr. Doak, anything else he told you?

A. No.

Q. And the market participants, are those the same that you referred to in your discussion with him? Are those the same market participants that you testified about yesterday?

KENNETH BUCKFIRE, VOLUME 2

A. I testified about the market participants in several different contexts. Which context are you now referring to?

Q. So there are -- there was testimony yesterday about market participants with whom you had -- your staff had discussions about appropriate rate curves. Is it the same market participants that you referred to in your testimony yesterday?

A. Yes.

Q. And do you have anymore information about those market participants than you provided to me yesterday?

A. No.

Q. Okay. So going back to the questions you were too tired to answer, and the first one being the tax advantages of premium coupon bonds, do you have an understanding now of what the tax -- you said certain -- for certain investors there are tax advantages to premium coupon bonds. Can you explain that now?

A. Yes. There are two broad categories of municipal bond issuance. One category is tax exempt, one is taxable. Let's set aside taxable bonds for the moment, let's talk about bonds which are issued at a premium. Why bonds are issued at a premium is because the market

KENNETH BUCKFIRE, VOLUME 2

tends to prefer higher coupons rather than lower coupons, and they would rather pay a premium for those bonds, which effectively results in a lower yield to maturity than if they had simply set the coupon correctly in the first place. There's more bond market convention for this marketplace than you would normally expect to see in the corporate world.

The premium, itself, under -- for certain kinds of investors is amortized over the life of the bonds, and because it's deemed to be a loss as a deductible against other kinds of income, that makes this kind of bond more attractive to taxable investors, perhaps individuals, as opposed ato institutional investors such as pension funds who don't need the tax shield.

Q. And did you do any research about that issue last night?

A. I got a good night's sleep.

Q. Okay. Did you discuss it with anybody?

A. No.

Q. The other question that you were unable -- well, first of all, do you have an understanding about what impact that has upon investor preferences of the bonds -- in the municipal bond market?

KENNETH BUCKFIRE, VOLUME 2

A. I already testified to that. Investor preferences are for higher coupons.

Q. Meaning premium coupon bonds?

A. Over and above the market, that's right.

Q. The -- the second question I asked you that you were unable to answer last night because you were too fatigued, it had to do with how one would adjust from the U.S. muni utility A curve if that curve involved principally premium bonds, what adjustment you would make to do an apples-to-apples comparison to par DWSD bonds; do you recall that question?

A. I recall you asking it. You were referring to which page of my expert report?

Q. I'm referring to the U.S. muni -- I'm referring to the chart in your report --

A. Mm-hmm.

Q. -- where you compare the U.S. muni A curve -- I'm sorry, U.S. muni utility A curve, to your POA proposed curves.

A. Mm-hmm.

Q. And there was testimony yesterday about your comparison of the curves you proposed to that curve and to the BBB curve, the revenue BB -- BVAL curve, and so my question is if you would -- if you're going

KENNETH BUCKFIRE, VOLUME 2

to do a comparison of those curves if you know what adjustment one would have to make to the utility A curve to make it truly an apples-to-apples comparison to the DWSD par curve, par bonds?

A. Well, I'm not sure that question makes sense because these are yields, which is irrelevant whether it was bond was sold at a premium or not. These are the actual market prices that are provided by market participants to Bloomberg for the purpose of comparing this curve. They don't distinguish between premium bonds and discount bonds, it's simply the yield. The yield is irrelevant to the price, so I'm not sure I understand your question.

Q. So in your view, the content of the bonds -- whether the bonds involved in the curve that are used to construct the curve are principally premium bonds is irrelevant to the comparison?

A. This is a yield curve; it's got nothing to do with price.

Q. If we could go back in your report to the exhibit -- well, we spent some time yesterday, there are a couple of questions I neglected to ask you that I want to.

A. Mm-hmm.

Q. On the selected financial information page --

KENNETH BUCKFIRE, VOLUME 2

A. Sure.

Q. -- that were in the attachments to and then on the chart that is selected financial information. And I only have a few questions about this, but one of them is whether you evaluated as part of this analysis the total debt service coverage ratios?

A. Well, we didn't display that here. This only shows senior and second leads. You're asking me for the combined ratio?

Q. Yes.

A. No, we didn't look at it for this analysis.

Q. Okay. Is that relevant to evaluating the credit profile?

A. Well, all statistics are relevant; we just didn't calculate that for this purpose.

Q. Do you know what importance rating agencies -- well, we'll start with rating agencies attached to total service debt coverage service ratios.

A. No.

Q. And do you know what importance buy side municipal credit analysts attach to total debt service coverage ratios?

A. I'm sure they look at it.

Q. Do you know anything beyond that?

KENNETH BUCKFIRE, VOLUME 2

A. No.

Q. There's a reference here to decreasing leverage, and I would like to you understand -- explain to me what the basis is for your analysis that they will achieve decreasing leverage?

A. Well, this page is not a balance sheet page. This is a -- more of a financial revenues based page. In Exhibit L and M of the POA, we do have financial projections and balance sheet information on this department, which show that not only are we reducing the legacy liabilities that will be allocated to DWSD pursuant to the plan, which is a dramatic reduction in liabilities, but also that because the system will be using revenue financed capital going forward as opposed to the past, it will be borrowing relatively less than it has in the past, which will result in declining leverage over time.

Q. Okay. So that's an analysis that's not reflected on this page --

A. Not on this page; it's in the POA.

Q. In the middle of the page under legacy liabilities under pension, there's a DWSD contribution line; do you see that?

A. I do.

KENNETH BUCKFIRE, VOLUME 2

Q. And there is for most years the contribution starting in 2015 -- or after 2015 is $45.4 million, but in the first year, it's 65.4 in 2015; do you see that?

A. I do.

Q. And I understand that the 45.4 is based upon a Milliman analysis of UAAL and related expenses that they -- that are projected to be paid by the DWSD based on that. But there's an additional $20 million in the DWSD contribution in 2015.

A. Right.

Q. Can you tell me what that consists of?

A. You know, I have to go back and check. You know, we moved from between fiscal year to calendar year statistics when we've done these analyses, and I don't recall exactly where this 20 comes from; I'd have to go back and check the plan.

Q. Who would know?

A. Mr. Moore would know. Mr. Gaurav Malhotra would know.

Q. Actually, Mr. Malhotra did not know was my understanding, but do you have an understanding that the $20 million relates to bankruptcy related administrative expense?

A. I don't think that's the same $20 million.

Q. So do you have any understanding, as you sit here, of

KENNETH BUCKFIRE, VOLUME 2

what's included within the $20 million that's there?

A. No, I'd have to go back and check.

Q. And your best understanding is Mr. Moore would know that?

A. He should probably know that.

Q. Do you know whether the 20 million includes any of the fees for Miller Buckfire?

A. No. Yeah, I'd only be speculating on the 20 million right now; I'd have to go back and check my plan.

Q. Okay. Do you have any understanding that you can provide about what the 20 million consists of?

A. Well, it's -- because it's 2015, if they're using the fiscal year ended June 30, that would pick up part of the bankruptcy period, and it may be because some of the contributions during the bankruptcy were greater than the outgoing projected, I just don't remember, but it's an odd year because of the fact that the bankruptcy is projected to end halfway through fiscal 2015. And that may be part of it.

Q. All right. The -- let's go back to the rate curve chart, the yield curve comparison page and attachment 3. I would like to ask you some questions about the BBB revenue muni BVAL curve.

A. Right.

KENNETH BUCKFIRE, VOLUME 2

Q. And my question to you about that -- and are you looking for the chart that has the --

A. The raw numbers.

Q. I think it's 21.

A. Looking at these charts, it's hard to figure out the differences usually, I see some numbers here though. Exhibit 21, right, that's helpful.

Q. And so the -- my question is if you understand what bonds are included within the BBB revenue muni BVAL curve?

A. You mean which specific issues?

Q. What transactions? What kinds of transactions are included in it? Have you done any analysis of that?

A. Well, these are reported trans -- imported information by market participants. They're not going to tell you what specific bonds you're trading.

Q. Do they -- do you have any understanding about what the nature of those bonds is that's included in this curve?

A. No.

Q. Do you understand what it means that the curve is built using a nonparametric fit of market data?

A. My understanding of that is that a smooth linear regression analysis would not apply here because there

KENNETH BUCKFIRE, VOLUME 2

are not enough observable data points, and, therefore, they estimate the best fit they can based on the data they get.

Q. Okay. So it's not statistically derived; it's a best fit --

A. Right.

Q. -- approach?

A. Which is probably the reason why it goes up so much in the year 25. I mean these numbers don't make any sense when you get that far out, and that was part of the explanation. Not enough observable data points to fit a curve.

Q. Okay. So you told us yesterday that you didn't -- that when you were asked, you weren't told an answer. They didn't know why the B curve was at lower rates than the A curve in the out years. Is your testimony now that you were told something about that?

A. No, you were asking me what nonparametric fit means; know what that means.

Q. Okay. But you said -- the last part of your answer was -- you said it's probably the reason it goes up so much in the year 25, I mean these numbers don't make any sense when you get that far out, and that was part of the explanation, not observable data points to fit

KENNETH BUCKFIRE, VOLUME 2

a curve. Whose explanation?

A. Bloomberg's.

Q. Okay. So Bloomberg gave you an explanation of what happened in the out years with the BBB data -- with the BBB curve?

A. Well, they gave my team the explanation.

Q. Okay. So when did they give you that explanation?

A. Well, I asked my team why it went up so much when they gave me this chart, and that was the explanation they gave me.

Q. Okay. And you're referring to the -- which -- when you say go up, what do you mean?

A. Well, if you look at the utility A curves going up from year 25 to 30 and you get the BBB BVAL curves, more or less, stay flat--

Q. Right.

A. -- that's inconsistent with what should happen.

Q. I agree with that and -- and so what is it that you're saying goes up in the --

A. The yields.

Q. For who? For which curve?

A. The utility A curves.

Q. Okay. But the question was about -- we were discussing the BBB curve --

KENNETH BUCKFIRE, VOLUME 2

A. Mm-hmm.

Q. -- and so I'm trying to understand your answer that the lack of a statistical basis for the curve -- is why the curve goes up when the B curve doesn't go up; it's the A curve that goes up.

A. Well, but the -- it's the same -- same statistical problem would exist. If you have a smooth BBB curve out that far but you have an A curve going up, one would assume the BBB curve should go up by more, and the fact that they're inconsistent causes us to question whether at the far right end of the curve these curves can be relied upon. Fortunately, we didn't know to, but it does call into question what their methodology, which is why when we found out because my team asked, they're using a nonparametric analysis, we understand what they were doing.

You do understand that in laymen's terms, nonparametric means it's a guess.

Q. I understand that.

A. Okay.

Q. And you understand it, as well, I take it?

A. I do.

Q. You understand that Bloomberg has other BBB revenue muni curves?

KENNETH BUCKFIRE, VOLUME 2

A. That's my understanding.

Q. And in fact, in presentations to the Counties and otherwise, Miller Buckfire used a different BBB muni revenue curve, right?

A. We may have.

Q. All right. Oh, I'm sorry.

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 22
8:33 a.m.

BY MR. BALL:

Q. Mr. Buckfire, you've been shown what has been marked as Exhibit 22, and my first question to you about that is that a presentation that Miller Buckfire prepared on or about October 2nd, 2013?

A. Yes.

Q. And it was a presentation to counties in connection with negotiations over the GLWA; is that fair?

A. Yes.

Q. And at pages -- page 29 and 30, you present information about the indicative yield curves; do you see that?

A. I do.

Q. And did you use in that presentation the U.S. muni revenue BBB curve M635?

KENNETH BUCKFIRE, VOLUME 2

A. The designations changed between this report and the later one. I'm not sure which page you're referring to.

Q. All right, if you look at the bottom of page 29 --

A. Mm-hmm.

Q. -- do you see the reference to the indicative -- under the heading "Indicative Yield Curves"?

A. Yeah, I see that.

Q. Do you see the fourth curve down?

A. I do.

Q. And it's identified as U.S. Muni Revenue BBB curve M635?

A. I do.

Q. Do you see that? Do you know what U.S. Muni Revenue BBB curve M635 is?

A. It's a curve reference based on the page that they use in their service.

Q. Okay. And do you know what the difference is between that curve and the BS 1025 curve that you use in your chart in your report in the yield curve comparison chart?

A. This was done in October, this one was done in April. I believe they changed their index and page references in that period. It may not be the same index.

KENNETH BUCKFIRE, VOLUME 2

Q. Okay. So are you suggest -- do you know whether the curve that you're using here is the same as the BS 1025 curve?

A. No.

Q. And do you know whether it's different?

A. I don't know.

Q. Do you know how the U.S. Muni Revenue BBB M635 curve -- if I just call it the M635 curve, will you know what I'm talking about?

A. For this purpose, yes.

Q. Okay. For the M635 curve, do you know how it's constructed?

A. No.

Q. Okay.

A. Not specifically.

Q. And do you know why you were using it at the time of the presentation to the counties?

A. I'd have to go back and ask my team.

Q. Okay. Do you know why -- my understanding is it is a different curve than the BS 1025 curve. Do you know why you used the BS 1025 curve instead of the M635 curve in the analysis you presented and in the -- well, strike that.

Do you know whether when you first

KENNETH BUCKFIRE, VOLUME 2

constructed the yield curves for the plan whether you used the M635 curve or the BS 1025 curve?

A. No.

Q. Do you know when you began using the BS 1025 curve?

A. No.

Q. Do you know why you shifted from the M635 curve to the BS 1025 curve?

A. No.

Q. Okay. You do know that the curve, the M635 curve, involved higher yields than the BS 1025 curve?

A. I don't know that.

Q. You produced -- let's mark this one.

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 23
8:37 a.m.

BY MR. BALL:

Q. Mr. Buckfire, one of the documents you produced last night is a Bloomberg transcript, and this is the document I believe that you and I discussed a few minutes ago.

A. Yes.

Q. Okay, and it's been marked as Exhibit 23. Do you see that?

A. I do.

KENNETH BUCKFIRE, VOLUME 2

Q. And you had not reviewed this transcript before last night; is that fair?
A. Yes.
Q. Have you read it now?
A. I looked at it briefly this morning.
Q. Okay. Did -- what did Mr. Herman tell you about this transcript, if anything?
A. As I mentioned earlier, he did tell me he'd spoken to Bloomberg about their indexes. I believe he was referring to this conversation.
Q. All right. I'm -- when did you speak to Mr. Herman about this? I'm sorry, I've confused Mr. Herman and Mr. Doak. You spoke to Mr. Doak last night, not Mr. Herman?
A. Correct.
Q. Okay. And so -- and you said that you had spoken to Mr. Marken about the Bloomberg indexes. I don't believe you'd previously told me that you'd spoken to Mr. Herman about it. I may be incorrect but --
A. I may -- I confused which one of them told me different things, they're both working on this, so I might have been referring to Mr. Herman.
Q. All right. And do you know -- what do you recall Mr. Herman telling you, if anything, about why -- about

KENNETH BUCKFIRE, VOLUME 2

the content of this discussion before last night?
A. Only that he had spoken to Bloomberg about -- he had questions about their index.
Q. Okay, anything beyond that?
A. No.
Q. There's a discussion in this document about differences between the M635 curve and the BS 1025 curve. Do you know anything about that beyond what you read on the page?
A. No.
Q. Have you had any understanding from this document or otherwise why you shifted from the M635 curve to the BS 1025 curve?
A. I don't know.
Q. Okay. You do see that part of the discussion here on the second page is Mr. Herman -- Mr. Herman raising the issue that at 30 years, the 635 index trades near 7 percent, while the 30-year on the BVSC 1025 curve trades near 4.5 percent?
A. Yes.
Q. And you used the 1025 curve which trades at near 4.5 percent instead of the M635 curve that trades near 7 percent; is that right?
A. Correct.

KENNETH BUCKFIRE, VOLUME 2

Q. And did you make any attempt to understand which of those curves was more directly comparable to the bonds -- the DWSD bonds that you were evaluating?
A. No.
Q. Do you know this conversation that's reflected in this transcript, do you know when it occurred? There's no date on it. I've looked and cannot figure out a date.
A. I -- I honestly don't recall.
Q. Do you know when he told you he had talked to Bloomberg?
A. It must have been around the time I first looked at a version of this chart because the far right side is just so anomalous, I mean it just calls out for an explanation.
Q. Okay. And by "this chart," you're referring to the yield curve chart in your report?
A. Yes.
Q. And do you recall anything more about -- than you've told me about why you shifted from the M6235 curve to the BS 1025 curve? I just want to make sure there's nothing that you haven't told me about that.
A. That's correct.
Q. You discussed the anomaly about in the "out" years between the curve -- BBB curve you used and the A

KENNETH BUCKFIRE, VOLUME 2

curve that you used in this chart. Did you compare the yields on the BBB bonds to the yields that you show in the third chart in this section, the recent MMA curve yields for AAA GO bonds?
A. What do you mean by compared?
Q. Well, my principal point is did you note that the yield at 30 years on the BBB bond curve that you were using is, in fact, lower than the yield at 30 years on the AAA GO bonds?
A. We noticed that.
Q. And was that also an anomaly in your view?
A. No, market convention is they're revenue bonds, they're deemed to have a lower risk, and they, therefore, trade at lower yields than GO bonds.
Q. Than AAA GO bonds?
A. That's -- than GO bonds.
Q. Okay. My question is is it anomalous in your view that the BBB revenue bonds traded at a lower rate than the AAA -- the GO bonds, which you told me yesterday were deemed a low risk market standard?
Q. So you're asking me do I find it strange that the BBB bonds trade at lower yields at 30-year maturities than AAA bonds?
Q. Than the AAA GO bonds, yes.

KENNETH BUCKFIRE, VOLUME 2

A. **It's my understanding there are very few revenue BBB bonds and that there are, therefore, very few data points that far out that you can observe, which is why the far right end of this curve is very suspect in my opinion. And the AAA curves are what they are. So I'm not sure you can interpret much from that information.**
Q. Do you know whether the data points on the BBB curve that you used are thin at places other than the far right end of the curve?
A. **Well, if you look at this chart on Exhibit 21, you'll notice that there were gaps in the information they provided to us.**
In other words, they couldn't give us or provide data points for maturities, for example, 21, 22, 23, 24. They had one data point at year 25, and they had no other data points till year 30. So that's a thin observable set to use to create a curve, and that's on Exhibit 21.
Q. Okay. So any of the dates where there are gaps in -- okay.
Your -- so tell me where you're referring to in the BS 1020 -- are you looking at the BS 1025 column?

KENNETH BUCKFIRE, VOLUME 2

A. **No, I'm looking at the ones on the right, which they show the A curve, muni A curve and the GO BBBs; do you see that?**
Q. Yes.
A. **So that it just basically calls into question how many observable points you have. When you get over on the left-hand side, even though they are reporting yields, my banker told me that even they told him that there were relatively few data points that they were using to generate those yields.**
Q. All right. So my understanding of what you just went through as you were pointing out that there were no entries for certain periods for the AAA utility -- for the A utility curve --
A. **Yes.**
Q. -- and for this other curve that you didn't use, the M631 curve --
A. **Mm-hmm.**
Q. -- and -- but that lack of data point is not reflected, would you agree, in the columns for BS 1025?
A. **Well, the problem again, according to my banker, is when literally on these four curves on the right that are put on this schedule, there are no data points at**

KENNETH BUCKFIRE, VOLUME 2

all.
Q. So -- go ahead.
A. **So there are no data points. When you get over to these two other curves, 1025 and -- 1025, they have data points, but we were told -- or he was told that there are relatively few trades that are being reported at those long maturities that would reflect these yields.**
Q. All right. So the lack of trades at those maturities is not something reflected in this chart, correct? It's something that your banker told you?
A. **Correct. Which is what nonparametric fit means.**
Q. Right.
A. **There are not enough statistically relevant sets of trades to use to come up with a correct yield.**
Q. Okay, and --
A. **One trade that generates a yield spread of 436 is not terribly reliable.**
Q. My question -- okay, so there are a couple questions I want to ask you about that. Who's your banker that you're talking about?
A. **For this purpose, Mr. Herman and Mr. Marken.**
Q. Okay.
A. **They're working on this together.**

KENNETH BUCKFIRE, VOLUME 2

Q. So your staff members, Mr. Herman and Mr. Marken, do you know which of them told you this?
A. **No.**
Q. Okay. Do you know what their basis for their statements are?
A. **I asked them to look into it, and they did.**
Q. Okay. Do you know what they did to look into it?
A. **Well, they obviously spoke to Bloomberg. That was one of the things they did.**
Q. Okay. So by that are you referring to the exhibit that was marked as 23?
A. **Yes.**
Q. Anything else that you know they did?
A. **Not specifically.**
Q. Okay. And then in terms of where on this curve for BBB revenue muni -- where the data points are lacking, right, so that it's a -- strike that.
Do you know for which tenors they had a scarcity of data points? In other words, you've answered as if those scarcity is entirely at the outyear point, at the 30-year point, but do you see anything here that tells you where along the curve the scarcity of data is that you're talking about in this information?

A. No, it was simply they were able to determine from talking to Bloomberg.
Q. Okay. And so do you know anything about the content of their conversation with Bloomberg beyond what you've told me?
A. No.
Q. Do you know whether the M635 curve that you previously used suffers the same data paucity issues that the BS 1025 curves suffers?
A. Is that the curve you're referring to used on October 2nd?
Q. Yes.
A. I don't know.
Q. And do you know whether it's a nonparametric curve or not?
A. I don't know.
Q. It's not referenced in your description of it there, is it?
A. No, I was checking to see if we had, but the fact that we didn't reference it may just simply mean that when we want back and refined our thinking on this, we did further analysis and found out it was nonparametric.
Q. You just don't know one way or the other?
A. I don't know.

Q. Did you have any discussion with Mr. Marken or Mr. Herman or anyone else about the desirability of using the BS 1025 curves because it had lower yields than the M635 curve?
A. No.
Q. Okay. If you look at paragraph 12-E of your report. I just want to make sure there's not something else reflected here than we've talked about, and it -- paragraph 12-B references discussions with capital market participants. Are you referring to any other discussions with capital market participants besides those we've discussed so far?
A. No.
Q. And in 12-C, you reference the valuation of comparable situations such as recent issuances by the cities of Philadelphia and Pittsburgh; do you see that?
A. I do.
Q. And then going back to the back of your chart again, back to the rate curves section, you provide the second yield curve comparison chart there includes curves for Pittsburgh and Philadelphia; do you see that?
A. I do.
Q. Okay. Can you tell me why those situations were

comparable? Is it -- start with Philadelphia.
A. It was a revenue bond backed by water -- the Water and Sewer Department's revenues of a major urban city, a large city which had multiple customers, that made it relevant to Detroit which, obviously, is a large system with many customers. It was a recent issuance, which was a helpful fact, January was pretty close, and it was a large enough issuance to attract market interest.
Q. Okay. Are you aware of the coupon structure on the deal?
A. Not specifically, no.
Q. Do you know whether it was all premium bonds?
A. I don't.
Q. Do you know what the call protection was on the deal?
A. No.
Q. Do you know whether it was ten years?
A. I don't.
Q. Do you know what adjustments would be appropriate to do an apples-to-apples comparison to the Philadelphia curve and the curve for the DWSD bonds to reflect differences in call protection or premium versus par status?
A. Well, these are rates, not coupons, so I don't

understand your question.
Q. Okay. So the answer is you don't -- that's not something you would do?
A. Well, this is a rate analysis, not a coupon analysis. You're asking me a coupon question, I believe, which is not what this is reflecting.
Q. If the -- and so these -- this chart does not reflect yields?
A. This is a yield curve.
Q. All right.
A. You're asking me a coupon question.
Q. And do you know --
MR. CULLEN: Object --
BY MR. BALL:
Q. Right, and my question is --
MR. CULLEN: Can you let the witness finish, please?
MR. BALL: Sure.
A. You were asking me about premiums and call protection. Those are all functions of coupon and contract. This is yield to the buyer. All of those factors you just mentioned are assumed and part of the yield.
BY MR. BALL:
Q. So the answer is you would make no adjustment --

KENNETH BUCKFIRE, VOLUME 2

A. That's correct.
Q. -- based on those factors?
A. That's right.
Q. And if the deal had been priced with par coupons, yields would be higher, wouldn't they?
A. No, the yields are the yields.
Q. So your view is in the market that par coupon bonds do not require higher yields than premium coupon bonds?
A. There -- you're asking me to compare a yield to a coupon rate, they're not the same thing and never have been.
Q. All right, I'm asking you whether for premium bonds because of factors such as the tax advantages that we've discussed, whether the yields are lower than for par bonds because they do not have the same tax advantages that we discussed.
A. All of those factors would be subsumed in the yield to maturity --
Q. So you --
A. -- which is the basis for comparison of all fixed income securities. The question is premium, discount, call protection are all subsumed in what the market will pay as a yield to own that security.
Q. Right. So the answer is you would do no adjustment on

KENNETH BUCKFIRE, VOLUME 2

that basis to make the curves comparable, you believe no adjustment's necessary?
A. Insofar as I understand your question, that's correct.
Q. Okay. Do you know what the total par amount of the Philadelphia deal was?
A. I can't recall right now.
Q. It was, as my understanding, is 123 million. Do you know whether that's large or -- considered large or small as an issuance of the municipal bond market?
A. I believe it's considered medium sized.
Q. Okay. Does the size of the issuance make a difference in terms of the yield that one has to offer as an issuer in the municipal bond market?
A. Yes.
Q. And how does it -- how does it matter?
A. Larger issues will tend to trade with tighter spreads over the curve than smaller issues.
Q. So your view is, okay, that the higher issuances will trade at lower yields?
A. Relative to similarly situated issuers which issue smaller amounts of debt because they'll be more liquid.
Q. Any other factors you're aware of that affect any -- the relation -- I'm sorry.

KENNETH BUCKFIRE, VOLUME 2

Is there any other relationship you're aware of between the yield on bonds and the size of the issuance in the municipal bond market?
A. Larger issue -- larger issuances will generally trade at tighter spreads than smaller issuances because the market generally prefers issues which have greater liquidity than issuers that don't.
Q. Okay, anything other than that that you're aware of?
A. No.
Q. And I think we discussed yesterday that the Philadelphia Water and Sewer System, which issued these bonds, had not sought bankruptcy protection, nor had the City of Philadelphia; is that right?
A. That's correct.
Q. And there had been no default on or impairment of bonds by those entities, correct?
A. That's right.
Q. The Pittsburgh issuance that you referred to here, do you know whether the yields were -- I'm sorry, do you know whether a portion of the issuance was insured?
A. No.
Q. Okay. Do -- do you know what the coupon structure was on the deal?
A. No.

KENNETH BUCKFIRE, VOLUME 2

Q. Do you know whether it was all premium?
A. No.
Q. Do you know what the call protection was on the deal?
A. No.
Q. Do those factors matter to you in any way in your assessment of the comparison of those curves to the curves that you've proposed?
A. No.
Q. And for the same reasons you answered with respect to the City of Philadelphia?
A. Correct.
Q. And the total par amount on this deal was a little over 200 million; were you aware of that?
A. I think it was in that size range, yes.
Q. And did you take that into consideration in assessing the comparison of the City of Philadelphia -- the City of Pittsburgh issuance to the yield curves you proposed?
A. Yes.
Q. And in what way?
A. Well, the City of Detroit would be contemplating issuances in that range, if not larger, and therefore, the size of the issuance to go with the size of the underlying borrower made it relevant.

KENNETH BUCKFIRE, VOLUME 2

Q. Okay. Now what issuances by the City of Detroit are you referring to?

A. Well, specifically with regard to water and sewer as we testified to yesterday, the City is in the process of launching another revenue bond issue this summer, which is being managed by the Michigan Finance Authority. That will be around 150 million, I believe, and then as part of the exit financing from the bankruptcy, it is on the table that we would raise enough money to pay off the certain portion of our existing bonds in lieu of giving them new planned securities.

Q. Okay. So as I understand your answer, in your analysis, what was relevant was the creditworthiness of City issuances not of the current bonds that we're looking at but of future issuances; is that right?

A. I'm sorry, I don't understand that question.

Q. All right. The issuances that were relevant to you in your analysis --

A. Mm-hmm.

Q. -- in assessing what the creditworthiness and the rate would be are the issuances that the City is proposed -- proposing to undertake of the 150 million currently and potential future issuances

KENNETH BUCKFIRE, VOLUME 2

postbankruptcy; is that right?

A. Well, we looked at these curves for the purpose of understanding not just for purposes of the new planned securities we thought where the right rates would be, but also to make sure we understood if we were going out and raising new financing to replace existing debt with cash, what we might have to pay for that.

Q. Okay. So you looked at -- the comparison was to those two things, correct?

A. Among other things.

Q. What else?

A. The single A muni curve, the BBB curve, the MMA curve, we looked at everything.

Q. But in terms of comparing the size of the issuance --

A. Mm-hmm.

Q. -- what was relevant to you was the potential sizes of the issuance for the -- do you know what I'm talking about when I say the 150 million or the currently proposed DWSD financing?

A. Yes.

Q. Okay. So that was relevant and potential issuances at or post confirmation to buy out existing debt, correct?

A. Correct.

KENNETH BUCKFIRE, VOLUME 2

Q. Did you consider any other comparable situations besides Philadelphia and Pittsburgh?

A. Not specifically.

Q. All right. Any -- you discussed Jefferson County yesterday, but you decided it was not comparable; is that right?

A. Correct.

Q. And Guam you did not consider but you don't know why; is that right?

A. Well, it's small and it's an island. It's too small to be relevant to a major municipal water and sewer provider.

Q. Any other reason?

A. No.

Q. Mr. Buckfire, you've been involved on and off since sometime last year in negotiations with the counties over the creation of the new regional authority, correct?

A. Correct.

Q. And -- is it okay if I call that the GLWA just for sake of not having to go through the whole litany of descriptions?

A. Or you can call it the authority if it takes less time to say.

KENNETH BUCKFIRE, VOLUME 2

Q. Okay. And we discussed yesterday that -- that early versions of the plan included proposed new GLWA bonds, correct?

A. Yes.

Q. And you proposed the same rates for the GL -- interest rate -- in their interest rate reset chart for the GLWA bonds as for the new DWSD bonds, correct?

A. Correct.

Q. And those were the rates you thought were appropriate for the new GLWA bonds, correct?

A. Yes.

Q. But you'd known at least since the summer or fall of last year that the DWSD, if it remained part of the City, would not be able to attain the same creditworthiness as the proposed GLWA; correct?

A. That's not true.

Q. All right, and in fact, wasn't that one of the principal purposes for the creation of the GLWA that it would attain a -- be better able to attain higher creditworthiness than the DWSD if it remained part of the City?

A. My prior answer was it was not true.

Q. Okay.

A. My answer to your current question also is not true.

KENNETH BUCKFIRE, VOLUME 2

Q. Isn't that what you told the counties that the GLWA would be able to attain better creditworthiness than the DWSD if it remained part of the City?
A. It's certainly true that creating an authority which has been an objective of the political leadership of this region for decades would be the optimal way of main -- to gain the best credit rating. However, there are alternative ways to enhance the credit of DWSD if it was to remain part of the City, which we have chosen to do, so clearly if it remains part of the City, it will still have much higher credit than it had before.
It will not have the highest possible credit standard which it would achieve if it becomes an authority only because of the improvement of governance. That is the primary advantage of creating an authority, which has already been partially dealt with if it remains as a department because of the consequences of the root cause order, which caused the creation of the board of water commissioners. So it's not true that it's either/or. In fact, it is a spectrum of improved credit, and by remaining part of the City, the department will have a far improved credit profile, but it is true that the best case

KENNETH BUCKFIRE, VOLUME 2

would be to not only take that but add on top of it improved governance.
Q. Before the City filed the Chapter 9 proceeding -- well, strike that.
When you got involved with the -- with the City -- strike that.
In the summer of 2013, the issue of creating a new regional authority was already in play as a result of the root cause committee report; is that correct?
A. It was in play long before that.
Q. Okay. And when you got involved in working for the City, did you work hard to inform yourself about those issues related to the formation of a regional authority?
A. Yes.
Q. And did you attempt to learn the information that had been provided to the other actors involved like the DWSD or the Board of Water Commissioners about the impact of the formation of a GLWA?
A. I don't know what information you're referring to.
Q. Did you attempt to understand what their view was or what they had been told by market participants about the impact of the creation of a GLWA?

KENNETH BUCKFIRE, VOLUME 2

A. It was well understood by the people I spoke with that creating an authority, which would have governance controlled by a majority of the customers, would be the desired outcome.
MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 24
9:05 a.m.
BY MR. BALL:
Q. Mr. Buckfire, I'm showing you what's been marked as Exhibit 24, which is a July 10th -- a document dated July 10th, 2013, from Seibert, Brandford, Shank & Company, L.L.C., entitled Updated Pro Forma and Restructuring Analysis, Impact of New Regional Water and Sewer Authority on Future Bond Issuance for the Detroit Water & Sewerage Department, and my first question is have you seen this document before?
A. It looks familiar, but I've read literally dozens of documents related to this matter over the last two years, but -- and I've seen several presentations of this kind to the department. This may have been one of them.
Q. Okay. And do you know who Seibert, Brandford, Shank is?
A. They're a municipal bond underwriter and adviser.

KENNETH BUCKFIRE, VOLUME 2

Q. And were they advisors to the Board of Water Commissioners?
A. The board's been advised by numerous underwriters and financial advisors; they may well have been one.
Q. So the answer is they may have been, but you don't know?
A. Not specifically, no.
Q. There's a reference on the -- so these handwritten notes, I assume, are not yours? This is a document produced by Oakland County?
A. It's not my notes.
Q. Okay.
A. I don't take notes.
Q. Did you understand -- if you look at the page that is Bates stamped, last four digits, of 3704, there's a comparison there, and then on the next page --
MS. BALL: Can you wait?
BY MR. BALL:
Q. I'm sorry.
A. I'm sorry, I'm not with you.
Q. The Bates pages which are those OAK numbers.
A. I don't -- oh, I see, I'm sorry.
MS. BALL: Along the left-hand margin.
A. I got it, I got it.

BY MR. BALL:

Q. It's page 6 of the presentation if that helps.

A. Just what's the Bates so I can follow? 707?

Q. 704. Although, I'm going to look at 704 through 707.

A. Okay, I got it.

Q. So take a minute, just a minute to look at the 704 to the 707.

A. Yeah. Okay.

Q. All right, so you see that Seibert Brandford is doing a comparison of their projections for future debt issuance by -- for the water supply system and for the sewage disposal system and for -- in each case, they're doing a comparison of other projections for --

(Electronic phone announcement: Has joined the conference.)

BY MR. BALL:

Q. Assuming that DWSD maintains its current structure --

A. Mm-hmm.

Q. -- and then assuming that a new authority is put in place; do you see that?

A. I do.

Q. Okay. And do you see that the assumed rating that they've put in -- they have for the structure if the DWSD remains part of the City is a B?

A. That's their assumption, and I see that.

Q. All right, and do you see that the assumption if a new authority is put in place in November of 2013 is an A?

A. I do.

Q. And then improving after that?

A. Yes.

Q. All right. And did you take into account the advice that Seibert Brandford Shank was giving the Board of Water Commissioners in doing your analysis of the creditworthiness of the system's -- if DWSD remained part of the -- part of the City?

A. Well, this is of no relevance. This is apples-to-oranges, and you just told me the date of this was July 10 of 2013. So what relevance is that to this?

Q. And so the answer -- did you -- did you take it into account is my question.

A. No.

Q. And the reason you think it's apples to oranges is because of the date?

A. No, it doesn't reflect any of the actions the City is taking to improve the credit of DWSD. So it's irrelevant.

Q. The actions the City has taken to improve the credit

of the DWSD, when did you begin to construct the efforts to -- to do that?

A. The fall of 2013.

Q. Okay. And so that was a process that was already underway in the fall of 2013?

A. Actually, long before that, but we didn't work on our part of it until October.

Q. Okay. So in October of 2013, you were working on that part?

A. Right. Once we received the OHM report which laid out the capital improvement requirements of the system.

Q. Okay. So let's go back to your October 2nd presentation, which I believe is -- what exhibit number is that?

A. Well, it's either 22 or 23, I think it's 22. It's 22.

Q. 22. If I can ask you to go to page 27 on that presentation. I'm sorry.

MR. HACKNEY: Can I just jump in and ask like, when we're planning on a hand over to COPs here?

MR. BALL: I probably another 45 minutes.

MR. HACKNEY: Oh, man, I don't think that's going to work for us. He's got a flight so...

MR. SOTO: I mean is it something that we could shorten?

MR. HACKNEY: Or can we tack it on after we are done, because we want to get to our questions. Are you guys on, like, hour 8?

MR. BALL: I don't know if we're on hour 8 but -- do you know how much time we've actually been going all together?

COURT REPORTER: No, but you could ask the videographer. Hey, John.

MR. HACKNEY: An hour and three minutes.

MR. BALL: Well, I'm not talking about today, I'm talking about all told.

VIDEO TECHNICIAN: Total? Seven hours and five minutes.

MR. BALL: So I'm just -- just over, but I can work to -- to pace -- to --

(Counsel confer off the written record at 9:13 a.m.)

MR. HACKNEY: Well, guys, you can do whatever you want after we get done, but like we're definitely starting at 9:30. I mean that's just the deal, right? We've already given up time here so. I thought maybe you guys were going to do an hour and we would go and you were finish up after. So, sorry about this, Ken.

KENNETH BUCKFIRE, VOLUME 2

THE WITNESS: I'm here to serve.
MR. BALL: Thank you.
THE WITNESS: Under oath.
MR. HACKNEY: Don't you agree with me that COPs should get going at 9:30?
MR. CULLEN: He's not agreeing with you about anything.
BY MR. BALL:
Q. So if you could look at page 27 of that exhibit.
A. The.
MR. CULLEN: The one that's headed "Overview of Future Financing Savings"?
MR. BALL: Yes, please.
A. I see it.
BY MR. BALL:
Q. And so one of the things you noted there is uncertainty associated with the range of alternatives presented in the emergency manager's proposal for creditors dated June 14th, 2013, has led to several agencies to further lower DWSD's credit ratings; do you see that?
A. I do.
Q. And so that was one of the reasons that the credit ratings were lowered in June of 2013; correct?

KENNETH BUCKFIRE, VOLUME 2

A. That's right.
Q. Okay. And then the next point is increased independence from the City proposed and contemplated transaction would likely lead to higher credit quality and lower debt costs for DWSD's successor capital structure; do you see that?
A. I do.
Q. And that was accurate at the time?
A. That's correct.
Q. And it's accurate now?
A. It is.
Q. And I note that on the next page you present to the Counties reports from or rating -- information about ratings from three different rating agencies, including Fitch; is that right?
A. That's right.
Q. And you thought that was important to include here, correct?
A. They're data points; we included them.
Q. And in this report, you project savings both on new debt issuance and refinancing of existing debt based on an improved credit quality associated with the creation of a regional authority, correct?
A. Correct.

KENNETH BUCKFIRE, VOLUME 2

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 25
9:16 a.m.
BY MR. BALL:
Q. Mr. Buckfire, I'm asking you to look at what's been marked as Exhibit 25, which is a document dated October 18th, 2013, entitled City of Detroit DWSD Oakland County business issues memo, Conway/Miller Buckfire response; do you see that?
A. I do.
Q. And is this a document that Miller Buckfire helped prepare?
A. Yes.
Q. Okay. And if you would look with me and were you involved in its preparation?
A. I reviewed it but I didn't write it.
Q. And you reviewed and approved it?
A. Yes.
Q. Okay. If you would look at the second page of paragraph 4? And do you see the response to the question that's posed in paragraph 4 that Miller Buckfire and Conway MacKenzie gave?
A. I do.
Q. And it says we agree with the statement however, we

KENNETH BUCKFIRE, VOLUME 2

believe that if DWSD remained a City department, its ability to achieve savings associated with such refinancing would be low; do you see that?
A. I do.
Q. And that was true then?
A. I believe it was true then, yes.
Q. And it's true now, right?
A. I wouldn't stipulate to that.
Q. Okay. So you thought -- you thought then that its ability to achieve those savings would be low, correct?
A. In October of 2013, yes, but not today.
Q. To the extent -- the bullet following that says to the extent that DWSD remained part of the City, we believe that rating agencies would continue to rate it as a derivative credit of the City; do you see that?
A. I do.
Q. And that was true then, and it's true now, correct?
A. Probably true today.
Q. And this is October 2013, you were already at work on constructing what you called the improvements to the DWSD's financial situation, correct?
A. We were starting to think about that, that's right.
Q. Let me ask you to look at tab 23. I'm sorry, that's

KENNETH BUCKFIRE, VOLUME 2

not going to do you any good.

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 26
9:18 a.m.

BY MR. BALL:

Q. Mr. Buckfire, can you -- you've been provided a copy of what's been marked as Exhibit 26. This is actually one of the documents that we will produce -- was produced to us last night, have been produced previously so I take it this is one of the documents that you relied upon in preparing your report?

A. Yes.

Q. Okay. And this is a presentation by Barclays to Miller Buckfire from January 2014, correct?

A. Correct.

Q. And the context of the presentation is it's a discussion of the impact of a -- the creation of a new regional authority, correct?

A. Correct.

Q. And one of the things they told you at the bottom of page 1 is that postbankruptcy over time, DWSD could make a strong case for upgrades; do you see that?

A. I do.

Q. And that if you look at page 7, they give you a number

KENNETH BUCKFIRE, VOLUME 2

of -- they give you a list of things which should be done to achieve certain credit ratings; do you see that?

A. I do.

Q. And that because it's in the context of the GLWA transaction, one of the things they look at are transfers to the City, correct? Which would be the lease payment?

A. That's correct.

Q. And so about that, they say that to achieve our BBB rating, you should make the structure modest, less than 5 percent of revenues, stable formulated transfers supported by customers; do you see that?

A. I do.

Q. And in terms of -- and then they give you two other things. One is they say you need to stabilize financial metrics; do you see that?

A. I do.

Q. And the other thing they say is externalities that need to eliminate concerns over City of Detroit issues; do you see that?

A. I do.

Q. And so in order for a GLWA entity to achieve an AAA, you would need to do all three of those things,

KENNETH BUCKFIRE, VOLUME 2

correct?

A. Yeah, fortunately, our plan does address all of these concerns, which I previously testified was one of the things we were concerned when it became clear that the creation of the authority might be delayed until post emergence. We've done -- we've dealt with all these issues satisfactorily.

Q. In the context of an entity that's part of the GLWA; that's your testimony, right?

A. Yeah, the only -- only caveat would be that the governance of the department, even though it is governed by the Board of Water Commissioners, which is helpful, it's not perfect. Perfect would be a department controlled by a majority of the numbers. We did not achieve that yet.

Q. With the DWSD remaining part of the City --

A. Yeah.

Q. -- is it your testimony that you have eliminated concerns over City of Detroit issues?

A. Yes.

Q. Completely, you have eliminated?

A. Substantially eliminated.

Q. But not eliminated altogether?

A. I'm not sure you could ever achieve perfection.

KENNETH BUCKFIRE, VOLUME 2

Q. And so do you know -- well, strike that.

Do you know what stabilization of financial metrics they require -- that Bloomberg wanted -- not Bloomberg, that Barclays wanted you to achieve?

A. They wanted to see it going up rather than down.

Q. And if you would look with me at the top of page 9, do you see the statement that said generating stronger financial metrics is an essential step to achieving high ratings in reference to Moody's?

A. I do.

Q. Okay, and so did you undertake any analysis of why -- strike that.

I understand from your testimony yesterday that you haven't undertaken any analysis opining the -- the criteria employed by the rating agencies to evaluate these things; is that right?

A. I said we looked at it. I didn't say we used it, but if you look at my expert report where we talk about coverage ratios, you'll notice by inspection that the system is projected to consistently improve coverage ratings over the next ten years and, obviously, beyond 2023 the coverages will grow dramatically because of the elimination of the contribution to the pension plan.

KENNETH BUCKFIRE, VOLUME 2

So unfortunately, cutting off after ten years actually cheats the system of recognition of its vastly improved credit beyond year ten.

Q. So you're looking in the out years?

A. Well, that's what projections are.

Q. Right. And my question is have you looked at them or -- immediately postemergence?

A. Well, these are immediately postemergence.

Q. These are not yours, these are an analysis by Barclays. I'm talking about you. Have you undertaken an evaluation of those ratios upon post emergence?

A. It's on page 233 of my expert report.

Q. And the application of the criteria used by the credit rating agencies?

A. Some of my team members may have done it, I haven't seen it.

Q. One last thing about this is if you look on page 10, do you see that Barclays is again presenting Fitch data?

A. Yes.

Q. And Barclays is a market participant in your view?

A. They're a minor market participant.

Q. Do you recall that one of the issues in the GLWA negotiations was the $47 million lease payment that

KENNETH BUCKFIRE, VOLUME 2

you were attempting to negotiate?

A. And what's the source of that information?

Q. Thousands of documents that have been introduced in this case.

MR. CULLEN: Do we have -- could you state it again, please?

(The requested portion of the record was read by the reporter at 9:25 a.m. as follows:

"Question: Do you recall that one of the issues in the GLWA negotiations was the $47 million lease payment that you were attempting to negotiate? ")

Q. And I'll restrict that to the period before -- up until the mediation order in March.

A. Are we okay on that?

Q. The med -- it does -- in that order of the mediation in March the negotiations with the County and [produced a --

MR. CULLEN: I'm just not sure that we have produced that number in public, if you can -- if you can --

MR. BALL: It's ubiquitous.

A. Well, I think the counties were pretty public with it, but we never said it personal -- we never said it but

KENNETH BUCKFIRE, VOLUME 2

the public --

MS. BALL: The counties.

A. The counties produced it, but we never did.

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 27
9:26 a.m.

BY MR. BALL:

Q. Mr. Buckfire, there's a discussion here, an e-mail exchange with -- a variety of parties involved in those negotiations including Amanda Van Dusen; do you see that?

A. I do.

Q. And who's Amanda Van Dusen?

A. She is counsel -- she's with Miller Canfield and she has been outside counsel to the City with respect to this matter.

Q. Okay. And do you see -- you have to work up through the e-mails, so if you work your way from the back forward, do you see that one of the issues that Counties were raising is why their proposal that the $47 million lease payment be adjustable was not being accommodated?

A. Are you referring to some specific place?

Q. Yes, if you look at the next to the last page, under

KENNETH BUCKFIRE, VOLUME 2

6-B, do you see where the heading it says 6 -- 6B?

A. Mm-hmm.

Q. And it says the intent of the deleted language was to permit some flexibility --

A. Right.

Q. -- in structuring the stream of payments since this would yield the same present value while it's deleted, it would be very advantageous to have the lease payment below 47 million and raise them over time because of DWSD's present financial challenges, et cetera. Do you see that?

A. I do.

Q. And do you see on the page before that is the response from Ms. Van Dusen.

A. I'm sorry, I'm looking for the --

Q. Okay. So the page before that, you can see the beginning of e-mail?

A. Are you looking at 307 or 306?

Q. The e-mail begins at the bottom of 306.

A. Okay.

Q. It goes on to 307?

A. Okay, thank you. Right.

Q. All right, and do you see under the analysis of liabilities, someone else will have to address but it

KENNETH BUCKFIRE, VOLUME 2

ties into 6B and the certainty we need for other elements of the plan?

A. Yes.

Q. As you're aware, the City has been negotiating on many fronts simultaneously. The negotiations with other creditors require the City to count on 47 million per year; do you see that?

A. I do.

Q. Now, do you -- have the City made commitments that required cash flow in that amount?

A. It had.

Q. Okay. And ultimately there was no GLWA transaction, correct?

A. Correct.

Q. In at least in the time before the current version of the plan.

How did you fill the hole for the 47 million in required cash flow that's referenced there?

A. We decided instead to have the department provide catchup payments to recognize the fact that it had been underfunding its obligations under the plan for years, so in fact, instead of having this as a lease payment, we characterized part of it as just the catchup payments.

KENNETH BUCKFIRE, VOLUME 2

Q. All right. So are you referring to the payments for the UAAL that are contemplated under the plan?

A. I am.

Q. And when you say catchup payments, you say have been underpaying. Do you know whether the department had been paying the amounts calculated by the system and its actuaries as the amounts due from the department in those prior years?

A. They were paying what they were being allocated to pay by the City.

Q. All right, so they were paid what they were told -- they paid what they were told to pay, correct?

A. That's correct.

Q. And so when you say it's an underpayment, it wasn't an underpayment at the time; isn't that right?

A. It was an underpayment relative to the underfunding of the plan. A properly run pension plan would have been charging --

Q. Right.

A. -- higher costs.

Q. And your statement about it being a proper one, pension plan charging higher costs, what's that based on?

A. It was an improperly run pension plan which was not

KENNETH BUCKFIRE, VOLUME 2

charging the City of Detroit enough to fund its, obligations which is why it was so underfunded in the first place.

Q. And what is that based on? I'm understanding that that's the claim you're making, I'm asking what is that based on?

A. It's based on all the analysis done by the City's actuators including Milliman, Gabriel Roeder, the analysis done by E&Y, the analysis done by Conway, all presented in the June 14 proposal of creditors.

MR. HACKNEY: This is probably a good place to break.

MR. BALL: All right, let's break.

VIDEO TECHNICIAN: The time is 9:30 a.m. We are now off the record.

MR. CULLEN: We'll be back in about five minutes. We'll answer questions from whoever's sitting in that chair.

(Recess taken at 9:30 a.m.)

(Back on the record at 9:40 a.m.)

VIDEO TECHNICIAN: We're back on the record, the time is 9:40 a.m.

EXAMINATION

BY MR. SOTO:

KENNETH BUCKFIRE, VOLUME 2

Q. Mr. Buckfire, my name is Ed Soto, I'm with Weil, Gotshal & Manges, and I'm hearing representing FGIC. We're the monoline insurers in this matter. I will try to speak over this apparatus, and if there's any time that you don't understand a question that I'm asking you or you can't hear me or if there's anything you don't understand about the question, just go ahead and let me know, and I'll try to rephrase it and we'll try to make sure we're on the same ground.

If I don't understand something you're telling me, I'll be very quick to let me know and maybe we can work through that, as well. I know you've been deposed a number of times, and so I'll spare you all the things about depositions, you've been to plenty. If there's anything about going forward with this deposition right now that you think would hamper you from being able to give full and complete answers, please let me know, and we'll work with that, as well. Otherwise, we'll just go ahead and begin, okay?

A. Thank you.

Q. Okay. So with respect to the COPs transactions -- and I'll just refer to them as the COPs transactions, and you understand what I'm referring to in that sense?

A. I do.

Q. And I'll talk about the City the way everybody else has here today, and we'll assume then unless I say something else, we're talking about the City of Detroit, correct?

A. Yes.

Q. Okay. With respect to the COPs issues, you've been designated by the City as a 30(b)6 witness. Do you know what topics you've been designated to testify about?

A. It's a range of topics. I can't specifically -- I can't recall the list at this time.

Q. It's not -- I'm not -- this is not a guessing game. I'll go through them. I was just going to ask if you know, you can tell me them, but as I understand it, and you tell me if I'm wrong, you've been designated to address topic 10 which is the value and risks associated with the new B notes?

A. Yes.

Q. And topic 11, which is the assistance that the State of Michigan provided to the City to counteract the City's financial instability and economic decline?

A. Yes.

Q. And topic 45, which is the City's use of a 5 percent

discount rate in the plan of adjustment and fourth amended disclosure statement?

A. Yes.

Q. And topic 52, which is the City's effort to obtain exit financing?

A. Yes.

Q. Are you prepared today to testify on those topics?

A. Yes.

Q. Did you do anything to get yourself ready to testify on those topics?

A. Well, I reviewed the material cited in my expert report plus some additional documents that were actually produced last night.

Q. And I understand that you're also here testifying as an expert witness, as well as a fact witness, but what I am talking about in terms of these topics is your testimony as a fact witness on those topics. Did you do anything in particular to prepare yourself to testify on those topics as a fact witness?

A. No.

Q. And again, you'll see me going through a few pages because you've been testifying for over eight hours, and much what I was asking has already been asked. I'll try my best not to repeat it. If you do think

you've testified about something before that I'm asking, let me know that, and maybe we can again work around that, as well, or you can refresh my recollection.

A. Thank you.

Q. Plus we have all these machines that could refresh our recollection.

Can you describe for me Miller Buckfire's responsibilities as the City's investment banker as it relates to the COPs transactions?

A. Well, let's be precise. When you're talking about the COPs transactions, are you referring to the original transactions in 2005 and 2006 or the COPs transactions pursuant to constructing their treatment under the plan of adjustment?

Q. I am talking about all of them, but let's start with the original transactions --

A. Okay.

Q. -- with respect to 2005 and 2006 and work our way through, but yes that -- that is what I'm talking about.

A. Okay. So can we just break this down then --

Q. Certainly.

A. -- so I properly answer your question.

Q. Okay. So can you describe for me Miller Buckfire's responsibilities as the City's investment banker as it relates to the COPs transactions, as you put it, that transpired in 2005 and 2006?

A. Well, we were engaged by the City of Detroit as its banker in -- officially in January of 2013 as part of our many responsibilities, we undertook an analysis of the City's liabilities, in particular, its funded debt obligations in order to ascertain what their treatment might be under a potential plan of adjustment, the City's ability to repay those obligations and try to accomplish some initial view as to what their relative priorities might be.

Q. And in doing that, you reviewed those COP transactions --

A. We did.

Q. -- correct?

A. We did.

Q. And what was your assessment of those COP transactions at the time in connection with that review?

A. Well, our assessment as a financial matter was that the structure of those transactions would likely mean that the City's requirement to repay them in the event of a default or bankruptcy would render those

KENNETH BUCKFIRE, VOLUME 2

obligations a lower priority than the LT, UT and other obligations of the City.

Q. And if you could, explain for me what you mean by that, I would appreciate it.

A. Well, the COPs were not direct obligations of the City. They were obligations of the so-called service corporations which had been set up pursuant to the original transactions. The City was obligated to pay a stream of income, revenues to those service corporations and that was then used to repay the COPs, the certificates of participation, issued by those corporations to buyers. So they were indirect obligations to the City, and we believe those would make them of lesser priority than other obligations which were direct obligations of the City.

Q. I understand that. Is there anything else that -- any other conclusions you made regarding those transactions, the 2004 and 2005 transactions?

MR. CULLEN: I'd admonish the witness to restrict his answer to financial considerations as opposed to reflecting it in any legal discussions that he might have had with the City's counsel or been involving with the City concerning the viability of those transactions as a legal matter.

KENNETH BUCKFIRE, VOLUME 2

BY MR. SOTO:

Q. And let me be very clear. I'm asking you for your knowledge based upon your participation as an investment banker. If at any time something you're about to tell me is something that you were told by your lawyer, certainly, you can address that with your counsel and determine where you go from there, but what I really want is your knowledge, your -- you have been in this industry for quite sometime, and you have an excellent resume. I personally think you went to a great business school, and at the end of the day, I'm trying to figure out what you know, not what your lawyers know.

A. No, my conclusion was and still is that the relative obligations represented by the COPs were lesser priority than other obligations the City has incurred.

Q. And again, separate and apart from any conversations with your lawyers, did you make any other observations regarding those transactions that you can recall at this time?

A. I recall discussing with my colleagues that because the COPs issues were insured, it might be very difficult as a matter of negotiation financially to arrive at any kind of settlement with the COPs holders

KENNETH BUCKFIRE, VOLUME 2

as opposed to the insurance companies because of the existence of insurance.

Q. Were you familiar with deals like the COPs deal in your experience as -- as an investment banker?

A. We've seen many similar transactions in the corporate world. This is nothing new. It was the first time, I believe, a major municipality had tried it for which they won awards, but it was a commonly used technique in the corporate world.

Q. When you reviewed them and this is again not a member test if you don't remember, fine, let me know, but when you reviewed them incomes with your retention as an investment banker, were you aware that other municipalities had done similar COPs transactions?

A. Yes.

Q. Did you prepare any -- and when I say you, I need to be clear here, I'm asking you about you but I --

A. You mean my firm.

Q. Yeah.

A. I understand.

Q. Did you or Miller Buckfire prepare any analyses of the COPs transactions?

A. Only from a financial perspective.

Q. And from a financial perspective, can you recall

KENNETH BUCKFIRE, VOLUME 2

anything else about that analysis?

A. We looked at the obligations to understand their cash flow characteristics, the City's obligation to repay, both principal and interest, and then we looked at it again through the perspective of what we would refer to as recovery waterfall mechanics, which is where we try to eventually identify based on the City's available cash flow how it could apply that to its various creditors and their levels of priority.

Q. I'm -- only this question because I heard you make a distinction yesterday. Were you personally involved in the analysis done of the COPs transactions that you just referred to?

A. Not personally.

Q. Who in Miller Buckfire was?

A. That was have been overseen by Mr. Herman and Mr. Merken.

Q. And Mr. Herman's first name?

A. Kyle.

Q. Kyle, and the second fellow?

A. Sanjay.

Q. Sanjay?

A. S-a-n-j-a-y.

Q. Okay.

THE WITNESS: Am I slow enough now, court reporter?

COURT REPORTER: Yes.

BY MR. SOTO:

Q. You made a distinction between, and I understood it when you made it, between the 2005-2006 time period and today with respect to the COPs. Are you involved of any analyses in connection with the current treatment of the COPs transactions, in connection with the plan, for example?

A. Well, yes, we were obviously involved in determining appropriate treatment for the COPs pursuant to the plan.

Q. And what was your involvement in that?

A. My firm's involvement?

Q. I was going to ask you and then go to the firm.

A. Okay, well, I was the primary negotiator on behalf of the City all during the period of time we were actively trying to negotiate with the COPs holders and the insurance companies that provided bond insurance, and I want to be careful because I think it was under mediation.

MR. CULLEN: Yeah, but that fact is not --

THE WITNESS: Okay.

MR. CULLEN: -- secret.

A. All right, very actively involved in trying to arrive at a settlement with those parties pursuant to the plan. I was also very actively involved in determining since those negotiations did not result in a settlement, appropriate proposed treatment for those holders pursuant to the plan in terms of the relative allowed claim, and the pro rata amount of B notes they would receive.

BY MR. SOTO:

Q. And you understood that the creditors involved in the COPs transactions were -- were unsecured creditors?

A. I am.

Q. Okay. In devising the plan, well, let me go back to the question that you answered. You -- you gave me an answer of your participation. Was there any additional participation that you're aware of by Miller Buckfire, your firm?

A. Well, this has been a very important issue to the City. It's a large obligation, so other members of Miller Buckfire were involved at different points in time and the analysis of the settlement that we proposed. This is during the negotiation period, and later on in determining the nature and status of the B

notes and then obviously how that would be factored into the plan treatment.

Q. And those other people, were those the same people you had mentioned earlier?

A. Including Mr. Doak, my partner. His first name, James.

Q. So in devising the plan, did Miller Buckfire do any analysis of what the City's unsecured creditors would recover under the current proposed Chapter 9 plan of adjustment?

A. We did.

Q. Did you personally do anything in connection with that analysis?

A. Well, there were probably literally dozens of iterations, the calculations of the size of the unsecured claims pool, and then an analysis of how that claims pool would share in the value available, which is primarily the so-called the B notes. I've reviewed multiple different versions of that including the final version that went into the plan.

Q. And again, if you don't know from memory, we could find the document, how much are the unsecured creditors' involvement of the class 9 creditors, how much are they getting under the plan?

A. Well, I know it's a memory test. I do recall the allowed claim for the COPs, we allowed 40 percent of the principal note to go into the claims pool, and, therefore, when you calculate their recovery, you have to take into account it's only 40 percent that's being allowed pursuant to the claim --

Q. That's the beginning assumption --

A. That's our beginning assumption, right. So --

Q. Okay. Let me hand you a document so we can get these facts into -- let me hand you to our court reporter what we'll mark as Exhibit 1 to our deposition. And I believe it's a copy of the disclosure statements so you can take a look at it and get some facts.

MR. CULLEN: We're going to start over again on the numbers?

MR. SOTO: Well I don't want to do that if we haven't been doing it, so if we haven't been doing it --

MR. BALL: I think we've been marking them consecutively in this deposition.

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 28
9:57 a.m.

BY MR. SOTO:

KENNETH BUCKFIRE, VOLUME 2

Q. So I -- the questions that I'm going to ask are related to, you know, just what various classes are getting under the plan so we get that in the record, and I think that starts somewhere around page 33 of the disclosure statement.

A. Are you using the exhibit number or the page number of the document?

Q. The page -- well, actually, that's a good point. Just the page number for now. It's page 48 of the document.

MR. CULLEN: Counsel, do you have one or not?

MR. SOTO: We should.

MR. CULLEN: That would be handy.

(Electronic telephone announcement: Jim Phinney of Mintz Levin has left the conference)

MR. CULLEN: You may start, I'll catch up.

BY MR. SOTO:

Q. Thanks. So looking at this Exhibit 28, which is the disclosure statement --

A. Mm-hmm.

Q. -- I believe it's on page 49 of 197 of the Exhibit which happens to be page 34 of the-- of the document.

A. Yes, I'm with you.

KENNETH BUCKFIRE, VOLUME 2

Q. And I see that, I guess, class 7, the LTGOs, estimated percentage of recovery is 10 to 13 percent; do you see that?

A. I do.

Q. Do you know if that's going to change in any way based on your work?

A. Well, this is subject to the negotiation, and we haven't made it public yet.

Q. Okay. Well, I don't want anything that's subject to the court's orders on mediation or settlement, but -- so if you can't answer it, that's fine.

MR. HACKNEY: Can I interject real quick? When I asked about this, Tim --

MR. CULLEN: Yes.

MR. HACKNEY: When I asked Jeff Irwin if I could get the terms of the ultimate GO deal, he referred me to Ken's report, Exhibit A, which shows the recovery on the unsecured portion of the LT GO, so --

THE WITNESS: Okay.

MR. HACKNEY: -- I know you got to take my word on that but there's a -- there's a number in your expert report on that. It's kind of a gray zone; I acknowledge that --

KENNETH BUCKFIRE, VOLUME 2

THE WITNESS: I know, that's why I'm being careful; I don't know what --

MR. HACKNEY: At least that part of it's public, so --

THE WITNESS: Yeah.

MR. HACKNEY: -- I don't know if it's the full extent.

BY MR. SOTO:

Q. So then looking at class 8 on the same page, which is the unlimited tax general obligation bond claims, or what we refer to as the SEPG, can you tell me what the estimated percentage of recovery is on that?

A. 74 percent.

Q. Looking then at class -- I guess it's on page 51 of 197, 36 of the document, class 10, which is the PFRS pension claims, can you tell me what the estimated recovery is on those claims?

A. Without outside funding, 39 percent and with outside funding, 59 percent.

Q. Can you explain for the Court and me what the difference is there, what -- what outside funding.

A. One of the elements of recovery in this plan of adjustment is the provision of outside funding from a combination of the State of Michigan and foundations

KENNETH BUCKFIRE, VOLUME 2

to the Detroit Institute of Arts and that money is being conveyed directly to the pension funds pursuant to an overall compromise involving the unions, the pension funds, the DIA, that is, the Detroit Institute of Arts, and the City of Detroit.

Q. And that's what you're referring to?

A. As the outside funding, correct.

Q. Moving on to, I guess, class 11, which would be on page 38 of the document or page 53 of 197 of your Exhibit 28, it refers to class 11, the GRS pension claim. Can you tell me what the estimated recovery is for the class 11 GRS pension claims?

A. The estimated recovery without outside funding, is 48 percent. And with outside funding is 60 percent.

Q. And the outside funding that's being referred to there, is that what you just testified about a moment ago?

A. Correct.

Q. As it relates to that? And looking back then on I guess it's page 35 of the document, page 50 of 197 of the exhibit, with respect to class 9, the COPs claims; do you see that?

A. I do.

Q. Can you tell me what the estimated percentage of

KENNETH BUCKFIRE, VOLUME 2

recovery is for the class 9 COPs claims?
A. Zero to 10 percent.
Q. Now you mentioned a little bit ago that the plan contains various settlements in it, correct?
A. Correct.
Q. Okay. I'm not going to go into the substance of -- of all of them, and some of them you can't testify about, as you've said earlier, but let me ask did Miller Buckfire have a role on behalf of the City in any of those settlements?
A. We had a role in all of the settlements?
Q. In all of them?
A. Yes.
Q. Without going into the substance of it, what was Miller Buckfire's role in connection with the settlement process?
MR. CULLEN: You can describe what your role was.
THE WITNESS: In general?
MR. CULLEN: In general.
A. Okay, we provided advice to the emergency manager and the City of Detroit on the relative value of each claim that need to be settled, the manner in which the negotiations should be handled, constructing the

KENNETH BUCKFIRE, VOLUME 2

various offers to those creditors for settlement purposes, assisting the emergency manager in negotiations with creditors to arrive at acceptable transactions.
We did substantial analysis of all proposals provided to us by the different constituencies and insured along with other consultants to the City that the settlements in totality would allow the City to propose a feasible plan.
Q. Did Miller Buckfire have a role in developing the proposed treatment of each of the classes of unsecured claims that we just read about in the disclosure statement?
A. Yes.
Q. And what was Miller Buckfire's role in that?
A. It's what I just testified to.
Q. The same?
A. Yes.
Q. Did you have a personal role in that?
A. In several of the negotiations, yes.
Q. And also in proposing the treatment of each of the classes?
A. Yes.

KENNETH BUCKFIRE, VOLUME 2

Q. Was Miller Buckfire involved in the decision to provide a greater percentage of recoveries to classes 10 and 11 as compared to class 9?
MR. CULLEN: Objection, foundation, you can address that if it makes sense to you.
A. I was -- and my firm was involved actively in all analysis of all recoveries for all classes.
BY MR. SOTO:
Q. That included that comparison of 10, 11, and 9?
A. Correct.
Q. Do you recall the basis of the decision for the differentiation of those classes, 10, 11, and 9?
MR. CULLEN: I would caution the witness not to talk about lawyer/client --
THE WITNESS: Right.
MR. CULLEN: -- issues or mediation issues with respect to those.
MR. SOTO: And that can be a standing, you've been directed as such.
MR. CULLEN: I understand.
A. And I'm just thinking about how I can frame my answer; give me a minute.
BY MR. SOTO:
Q. Please.

KENNETH BUCKFIRE, VOLUME 2

A. All right, would you please repeat the question?
Q. Sure, and maybe I can make it clearer. What I'm trying to determine and see if you have facts on -- facts on is the process and the elements that went into distinguishing classes 10 and 11 as compared to class 9 and the recoveries that they were going to get?
A. I see. Well, as a purely financial or banking matter, it was our judgment that the status of the class 9 claims and the pension and so-called OPEB claims was basically the same, that is they were general unsecured claims of the City of lesser priority than the general obligation claims, certain other claims of the City. And so that was the starting point of our analysis and indeed was the basis for the City's original proposal in June of '13 where all these claims would be in the same pool and would share pro rata.
It also became clear to us that as part of our financial analysis that even though we believed that the claims were general unsecured claims, the fact that the COPs claims were indirect obligations of the City and not direct obligations to the City had to be given some consideration, and that is how we ended

KENNETH BUCKFIRE, VOLUME 2

up recommending to the emergency manager that only 40 percent of the COPs claims be allowed because we were uncertain about what their ultimate status would be because again, I'm -- I'm making a legal conclusion, but the claim of the COPs against the service corporations would result in the service corporations's claim being an asset of the COPs and that was sufficiently in dispute as to a financial matter as to what value would be, we felt 40 percent was the appropriate allowed claim.

Then the distinction we had to draw with the class 10 and 11 claims had to take into account from a financial matter, the proposed treatment of OPEB as a practical matter from the City's prospective the financial obligations due to its retirees were both pension and healthcare related and because we were proposing to substantially impair or eliminate our healthcare plans and in consideration for doing so move our retirees to new insurance programs of much lesser cost, that resulted in a very large claim, but therefore, as a practical matter, rather than throwing -- using the OPEB claim and the pension claims to be pari passu with respect to recovery. Part of the settlement discussion with the retiree --

KENNETH BUCKFIRE, VOLUME 2

I'm trying to be careful --

MR. CULLEN: Okay.

A. **-- from a financial prospective, we viewed those claims as being part of the same pool for purposes of arranging an overall recovery and therefore how that recovery would be applied would be up to the beneficiaries which is now reflected in the plan of adjustment.**

BY MR. SOTO:

Q. Let me break that down. That was a --

A. **Yeah.**

Q. -- pretty cool answer so --

A. **It's complicated.**

Q. So taking -- taking the first thing that you highlighted, you highlighted the distinction between direct and indirect claims and the class 9 claims you viewed as indirect and there were other direct claims. You said that led to you -- and again, if I'm saying something wrong, you correct me, you said that allowed to allowing only 40 percent of that claim.

So can you explain to me what analysis you did of what analysis you did of what those claimants you mentioned that they had claim -- it would result in claims against the surface corporations is I think

KENNETH BUCKFIRE, VOLUME 2

how you put it, how would the fact that those clients have claims against the service corporations differentiate in their mind?

A. **Well, the City was not the direct obligor of the COPs. That was the whole point of the transactions, it was an indirect obligor.**

Q. So you were taking into account the fact that the service corporations would still be there to be able pay those obligations?

A. **To the extent they had assets to do so, that's correct.**

Q. Okay. Did you take into account the fact that they would only have assets, that the --

(Electronic telephone statement: Chris Filburn, Paul Weiss, has left the conference.

A. **I'm sorry, could you --**

MR. CULLEN: He'll be missed.

BY MR. SOTO:

Q. Now I've lost it all, Chris. Let's start again.

Did you take into account the fact that the sources of revenue for the service corporations to pay the COPs holders was also going to be affected by the plan?

A. **Yes, I did.**

KENNETH BUCKFIRE, VOLUME 2

Q. So recognizing that if the service corporations had no money to pay the COPs holders, you still took that as a distinction in allowing only 40 percent?

A. **I did.**

Q. And were there any other factors that I missed in that exchange?

A. **No.**

Q. Then you went on to talk about the proposed treatment of OPEB, and I just want to make sure it's clear for the record or at least I understand it. So you took into account the fact that here were another group of unsecured creditors who were going to be impacted because you were affecting their pensions and their healthcare, correct?

A. **Correct.**

Q. Is there anything else you took into account?

A. **I'm not sure how I can answer this question. Can I just ask?**

Q. Sure, please.

(Counsel confers with the witness.)

MR. HACKNEY: What was the last question?

MR. SOTO: Anything else he took into account other than the fact that there's a pension and healthcare?

A. I can't answer that question.

BY MR. SOTO:

Q. And can you explain to the --

(Electronic telephone statement: Has joined the conference)

A. Well, because it wasn't strictly a financial judgement.

BY MR. SOTO:

Q. So it would involve an attorney-client privilege judgment?

A. Yes, that's correct.

MR. SOTO: And are you directing him not to answer that?

MR. CULLEN: Yes.

BY MR. SOTO:

Q.

Q. So you've been directed not to answer, but -- if I were you, I wouldn't, but at the same time, we'll reserve our rights to see if maybe we can find that out another way. Maybe the Court can intervene and help us.

MR. CULLEN: Page 41 is gone.

MR. SOTO: Are we giving you partial exhibits now?

You've answered these questions either yesterday or today.

BY MR. SOTO:

Q. Mr. Buckfire, are you familiar with the objections that the various COPs holders have raised in connection with the plan?

A. Not intimately, but I'm generally aware of some of their judgments.

Q. Okay, okay. I'll ask you something about your awareness outside of context and we'll see if we can take it from there, okay?

A. Sure.

Q. Do you understand that the objectors believe that the plan fails the best interests case?

A. I do.

Q. And yesterday, we said already, I was very impressed with your experience in this field, and so and I presume too much.

As ab investment banker as a banker who's worked in restructurings as long as you have, what is your understanding of the best interests test?

A. That the plan provides treatment for creditors which is better than they would otherwise receive in a liquidation scenario and that we've properly taken

into account all possibilities for the City to maximize credit recoveries.

Q. We can work with that. Did you understand --

A. I didn't go to law school I apologize.

Q. You did better than someone who went to law school. Do you understand that the objectors believe that the plan is not fair and equitable?

A. I do.

Q. Do you understand -- well, let's stop and ask the same question on that again, because of your experience in the field what is your understanding of the plan to be fair and equitable?

A. That it doesn't discriminate between creditors that have equal status.

Q. Do you understand that the objectors believe that the plan was not offered in good faith?

A. I've heard that.

Q. What is your understanding of that analysis of a plan good faith standing?

A. Well, I'll give you a banker's interpretation of that, that a plan that's offered in good faith does not unfairly discriminate against creditors for reasons other than a relative priority that, in fact, the plan is intended to provide everyone their maximum recovery

based on the relative priority to the extent possible.

Q. Do you understand that the objectors also have or believe that the plan is not feasible?

A. I do.

Q. And why does your understanding of the standing of feasibility apply to plans of adjustment?

A. The standard is normally meant to imply that the odds of a City or company going back into bankruptcy seeking protection within two to four years of emergence is high. We've always assumed from a banking perspective that a plan -- start again -- that a borrower upon emergence, should be able to access the capital markets in the ordinary course, will have sufficient liquidity available to it upon emergence to fund its operations, and satisfy its obligations on a postemergency basis for a reasonable period of time, which as I indicated in a corporate setting, is two to four years in this setting, we've taken a much longer time period than at least ten years.

Q. So just to give you some heads up, so I'm going through these now, these sort of objections of what your participation was and analyzing them and your participation, so I'll start with the first one, discussing the best interests issue first.

In the context of -- of the plan of adjustment that is at issue in this matter now, I understand it's going to be amended or at least we've been told it is, but as it exists that you can testify about, were you involved in analyzing how that plan met the best interests tests from an investment banker's standpoint?

A. **Yes.**

Q. And the "you" I was referring to there was Miller Buckfire, but I'm going to ask you again, you personally and Miller Buckfire, both?

A. **Yes.**

Q. Okay. What was your personal participation in that analysis?

A. **Well, I've reviewed proposed treatment of our creditors consistently since last June, I've been involved in discussions involving recommendations to the emergency manager for proposed settlements to make sure they were consistent with those provisions.**

Q. Would you agree that a municipality in a chapter 9 in connection with the best interests test should make reasonable efforts to repay creditors?

A. **Yes.**

Q. And in -- and I understand that you're wearing two

hats here, and I'm going to ask you an opinion question because you're an expert or being proffered as an expert, as well. What constitutes a reasonable effort to repay creditors in your opinion?

A. **In a municipal context?**

Q. In the context of this municipal bankruptcy.

A. **Okay.**

Q. Which is unique as you testified --

A. **Yes.**

Q. -- at length yesterday.

A. **Well, recognizing that it is a unique bankruptcy in many ways, we believe and advised the emergency manager and indeed the State of Michigan from the beginning of our engagement including, by the way, the mayor of the City of Detroit, I should have said that, too, that designing a plan that would take into account the City's best ability to repay its creditors had to start with the premise that the City was effectively service insolvent and that whatever was available to repay creditors from the cash flows of the City, that is, the revenues of the City, was really only available after taking into account the cost of the revitalization/rehabilitation of the City, itself, and that was the beginning point of our**

analysis which began last January which we were intimately involved in along with Ernst & Young and Conway MacKenzie.

So that leads you to first determine well how much do you really have available once you take into account that set of requirements to eliminate service insolvency, that leaves you with a projected stream of cash flow which is available for in this context fixed and unfixed debt obligations and from that, we then calculate what's available to satisfy our creditors pursuant to the best interests test.

Q. And so you determined what services this is my understanding of what you just said and tell me if I'm wrong, you determine what services the City has to give, ought to be giving, or isn't giving that it should be giving, or is giving too many, you look at the services that the City as a City; you start with that?

A. **Correct.**

Q. And then once you determine, you know, what those are, along with all these people that you mentioned earlier, the mayor and everyone else, then you see, well, what are the revenues that the City has to address those?

A. **Well, the revenue analysis on which our financial conclusions are based is obviously very critical to feasibility of the plan, itself. Once you understand how confident you can be in the revenues of the City on a projected very long basis then you have to apply those revenues necessary costs to providing essential services to the citizens of Detroit, and of course a central element of the plan was effectively a new program of the reinvestment to take into account the severe underinvestment by the City in those services for decades which had been a major factor, itself, in the decline of the City by encouraging businesses and citizens to leave.**

So by reestablishing adequate services to address the service insolvency issue, that had a certain cost associated with it.

A. **Once that cost is taken into account, then you have whatever you have left over from revenues and that is therefore available to satisfy our obligations to our creditors.**

Q. And I think you said it in a way that I understood, so you start by figuring out what the basic services should be in a plan that you think is going to work that's going to be meeting the tests we talked about,

KENNETH BUCKFIRE, VOLUME 2

and after you determine the cost of that, and you think the real revenues are, then you can decide well, what's left over for the creditors?

A. Correct. And of course, we also look at whether there are other sources of repayment. Certain noncore assets that might be monetizable, might not, all disclosed in our original June 2013 report.

MR. CULLEN: 2014.

THE WITNESS: No, June of '13.

MR. CULLEN: I'm sorry.

BY MR. SOTO:

Q. You mentioned the June 2013 report, and I have only one question left that wasn't asked yesterday in some way, and that is have you done an analysis of that report since then to update it?

A. Well, everything we've been doing has been based on the conclusions we laid out in that report in June of 2013. So it's been the roadmap and effectively the strategy for the rehabilitation of the City since it was first made public last year. We haven't done a further analysis because it has been superseded by the analysis provided in the plan of adjustment and the disclosure statement.

Q. So the plan of adjustment disclosure statement is a

KENNETH BUCKFIRE, VOLUME 2

progeny of the June 13th plan?

A. That's right.

Q. Is there anything that you now look back on in seeing that June '13 -- June 2013 plan that you think we were wrong?

A. The City was wrong?

Q. Well, you as an investment banker, I don't attribute all of that to the City.

A. I thought we would have more cooperation from the Counties in creating the authority than we did.

Q. All right, let's -- anything else?

A. No.

Q. Let's go on to the next one. So one of the other COPs holders' objections is that the plan is not fair and equitable and you -- you gave and you gave me your understanding of what you understood that to mean.

Q. Would you agree that the COPs holders' claims, the class 9 claims, are considered an impaired class?

A. From a financial perspective, I would deem them impaired.

Q. Other than what you've testified about today and yesterday, did you undertake an analysis to ensure that the fair and equitable standard was -- was being satisfied with respect to the treatment of the class 9

KENNETH BUCKFIRE, VOLUME 2

creditors?

A. Not independent of what's been disclosed in the disclosure statement and plan.

Q. So in specifics, what do you believe was done to ensure that the treatment of the class 9 creditors was -- was fair and equitable?

A. Well, leaving aside the legal issues, which I'm not competent to speak to, the allowed claim of 40 percent as being allowed to participate pro rata with all other similarly situated claims with respect to B note recovery, so I believe that satisfies the test.

Q. And anything else other than that?

A. No.

Q. Moving on to the objection regarding good faith and your understanding of it, let me hand you an exhibit. We'll put this in context.

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 29
10:27 a.m.

BY MR. SOTO:

Q. Okay, Mr. Buckfire, you've been handed what has been marked as Exhibit 29, and it is an e-mail from you, Kenneth Buckfire, dated Tuesday, July 30th, 2013, to Bennett Bruce -- or I guess that's Bruce Bennett and

KENNETH BUCKFIRE, VOLUME 2

David Heiman (ph.)?

A. That's right.

Q. And the subject is Christie's and the DIA. Could you take a few moments to take a look at that to refresh your recollection of that if you need to?

A. My recollection is refreshed.

Q. Okay. So I'm going to ask you some specific questions but in general. Do you remember this process?

A. Yes.

Q. What was this e-mail part of?

A. Can I ask a question to my counsel for a second?

Q. Sure, please.

(Counsel confers with witness .)

A. Just wanted to make sure. Well, very early on in our engagement with the City, I was made aware of the fact that the Detroit Institute of Arts was effectively not a separate institution but, in fact, was owned by the City, although, it was operated by the DIA Trustee Corporation, the building and collection was technically owned by the City of Detroit. We recognized early on that that would require it under certain scenarios to be valued as a potential noncore asset and dealt with appropriately if it was determined that the City would have to seek protection

KENNETH BUCKFIRE, VOLUME 2

under Chapter 9.

We, during the spring of 2013, had several meetings with representatives of DIA to alert them to this potential outcome and to explain to them that it might be necessary to monetize or sell the collection under certain scenarios. We then independently determined that in order to satisfy the requirements of the Bankruptcy Code because it would be deemed potentially a noncore asset that we would have to do a valuation of the assets to determine exactly what it might be, because even though Miller Buckfire is an investment bank, we are not experts in appraising art and have no expertise in that field.

There are, regrettably, only two institutions in the world that have the professional capacity to perform an appraisal of a encyclopedic art museum, and by that I mean a museum that has a collection covering a wide variety of genres, periods of history, and countries, and those two institutions are Sothebys and Christie's. We determined we could not approach Sothebys because, unfortunately, a director of Sothebys is also a trustee of the Detroit Institute of Arts, and we viewed that as a potential conflict.

KENNETH BUCKFIRE, VOLUME 2

So we had to approach Christie's, and I asked them whether they would be willing to provide an appraisal of, initially at least, the portion of the collection that had been paid for by tax revenues of the City of Detroit, and they agreed to do so pursuant to a normal appraisal contract, which they provided to me, I believe it was in June of 2013, which I then provided to the emergency manager.

And unfortunately, the fact of that was leaked to the press, and it was mischaracterized as Christie's coming in to sell the collection when, in fact, all they were asked to do was to appraise the collection for purposes of the potential reorganization of the City, and this has to do with that process.

A. Correct. I should mention they tried to return their fee several times but we refused to accept it.

Q. Let's -- let's look at page 4 of this e-mail that's Bates stamped page No. 979?

A. I see that, yes.

Q. And so... and I know you reviewed this and had some memory of it, but under the heading "Should We Be Worried," Christie's called Detroit Museum about its $2 billion collection by Jillian Steinhauer and then

KENNETH BUCKFIRE, VOLUME 2

under that, it's yesterday the City of Detroit filed for bankruptcy, do you see that paragraph? Below those two headings?

A. I do.

Q. Okay. If I'm reading this correctly, there's a statement here the office of the state appointed emergency manager, Kevyn Orr, says it did not initiate the appraisal, but spokesman Bill Nolan offered these words; do you see that?

A. I do.

Q. And he says, and I quote -- I am reading the quote that they have here, let's assume it's correct, we haven't proposed selling any asset but we haven't taken any asset off the table. We can't. We cannot negotiate in good faith with creditors by taking assets off the table, and all our creditors have asked about the worth of the DIA, and we've told them they're welcome to find out, end quote; do you see that?

A. I do.

Q. Do you know who Mr. Bill Nolan is?

A. Yes, he is the communications director for the emergency manager's office.

Q. And were you familiar, did you talk to him about this

KENNETH BUCKFIRE, VOLUME 2

at that time?

A. I did.

Q. Do you agree with the statement there?

A. I do.

Q. Did you did you communicate with anyone regarding this issue regarding Mr. Nolan's statement?

A. I'm not sure I understand.

Q. Well, there's a bunch of press releases he keeps talking about, so what I'm trying to find out is did you have any statement to the press or did you -- were you involved in preparing the statements for the press, not privileged I'm not looking for that, with respect to this issue?

A. Well, I never made a statement to the press about any of these issues. I -- I was obviously keeping Mr. Orr fully aware of all of our activities so it is true that his office did not initiate the appraisal, but we did and in turn whatever statements were made, but this by Mr. Nolan was made after he's chatted with me where we stood and what the purpose of this was, and I explained to him consistently that we had the obligation to identify the value of any asset that might be available pursuant to a plan.

Q. Let me hand you another.

KENNETH BUCKFIRE, VOLUME 2
MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 30
10:36 a.m.
BY MR. SOTO:
Q. So this is Exhibit 30, and what I've handed you as Exhibit 30 is what appears to be another e-mail from Kenneth Buckfire, date -- time dated Wednesday, October 23rd, 2013, to David Heiman, subject note from Gargaro.
MR. MONTGOMERY: Counsel, could you identify the document by Bates number if possible?
MR. NEAL: Absolutely. Possibly, it's POA 00040759.
MR. MONTGOMERY: Thank you.
BY MR. SOTO:
Q. Are you familiar with this e-mail?
A. I am.
Q. Who is Mr. Gargaro?
A. He was at the time, he may still be the chairman of the Board of Trustees of the Detroit Institute of Arts.
Q. And how do you know him?
A. I met him for the first time at a meeting in Detroit, I believe in May of 2013 when we first became aware of

KENNETH BUCKFIRE, VOLUME 2
this issue, so in this e-mail on the second page, which is page 760 in the Bates stamp, page 2 on the e-mail, in the first full paragraph on that page, Mr. Gargaro writes to you Ken, when you and I spoke last Friday, October 11th, you asked me to follow up with my key contacts in Wayne, Oakland, and Macomb Counties to measure reactions for the possibility of special additional millage, the proceeds of which could be used by the EM, which I assume means emergency manager --
A. Yes.
Q. -- in exchange for transferring the DIA to an authority or a similar vehicle to protect it from any future Detroit creditor exposure. Do you recall that --
A. Yeah.
Q. -- exchange?
A. I do.
Q. And did you respond to his inquiries regarding that exchange?
A. Not subsequent to these e-mails, no.
Q. So in October, Mr. Gargaro was communicating with you about taking an asset off the table, correct?
A. In exchange for adequate compensation to the City for

KENNETH BUCKFIRE, VOLUME 2
doing so, yes.
Q. And the adequate compensation was going to come in the form of an additional millage was that what he was proposing?
A. That was one of the possibilities yes.
Q. Were there other possibilities that he proposed?
A. No, but that I proposed.
Q. What were the other possibilities that you proposed?
A. That they raise enough money from their trustees and other community members to justify conveying the collection into an authority which is indeed the path they've taken and when you raised that back in October of 2013, had you done an analysis of what the value would have to be to justify that kind of an asset being taken off the table.
A. No, because the Christie's valuation wasn't available at that time.
Q. Was it being done at that time?
A. Yes.
Q. So you were awaiting the Christie's valuation?
A. Correct.
Q. Other than the Christie's valuation, were there any other factors that you took into account in determining what would be the proper value necessary

KENNETH BUCKFIRE, VOLUME 2
to transfer an asset like the DIA and its art the way you just described?
A. Well, it's an indirect value issue. There is a certain cost associated with operating a museum and its collection, which is currently is -- currently being funded by the existing special millage at the three Counties listed here, Wayne, Oakland, and Macomb, I believe, got passed in 2011 or '12. That cost would have to be borne by whatever entity took over the operation, if the counties deemed that whatever we had done would result in the cancellation of the millage, and otherwise, that cost would be directly have to be funded by the general fund of the City, which was not being budgeted for in our plan.
Q. Okay, so and correct me if I'm wrong in my assessment of what you -- so in addition to taking into account well, somebody's got to tell me what the value of this art is, you were looking to Christie's because you were not experts, you said that earlier, correct?
A. Correct.
Q. Additionally, you took into account he fact that hey, it costs money to run this thing, and there's a millage that's being used already, whoever takes it over is going to have to take over that cost?

KENNETH BUCKFIRE, VOLUME 2

A. **If the millage is not continued, correct.**
Q. Okay. And continuing the millage is a cost to the City, correct?
A. **No, the millage, actually, is being paid for the Tri-County area, Wayne, Oakland, and Macomb County. It's an indirect benefit to the City because the City is not picking up the cost of operating its museum; it's been paid for by the County residents.**
Q. So your concern was making sure whoever's taking this over understands that there's a cost?
A. **Correct.**
Q. It wasn't a concern that hey, the City's not making payment, because the City wasn't paying for it in the first place?
A. **And the City didn't have the capacity to pay it.**
Q. And it wasn't being paid for?
A. **It was being paid for by the special millage.**
Q. Any other factors besides those two that you were thinking of?
A. **No.**
Q. In connection with your analysis of this proposed transfer, taking off the table by -- I guess, here it's Jim Gargaro -- was there any other analysis that was being done by Miller Buckfire or you as part of

KENNETH BUCKFIRE, VOLUME 2

Miller Buckfire regarding the value of that asset to the City?
A. **Not in October. We had, obviously, conversations with Christie's about what other alternatives might be available to create value for the City from this collection, and I asked them to review those possibilities as part of their public report when their valuation was made public, which they did.**
Q. And as part of their report, they mentioned some other alternatives?
A. **They did.**
Q. Can you recall what those were?
A. **One of them was putting certain elements of the collection out on tour and getting, in effect, touring fees for that or leasing parts of the collection to other museums, we asked them to look at, you know, taking parts of the collection that were never on display and consider monetizing those. We tried to be as open-minded as possible about all sources of cash realization from the collection.**
Q. In connection with your retaining of Christie's, did you tell them to be as open-minded as they could be?
A. **I did.**
Q. Let me hand you another exhibit, and I know we've been

KENNETH BUCKFIRE, VOLUME 2

going over an hour, and you've been going over two hours. Let me know when you want to just take a break and --
A. **That's fine.**
Q. -- because I'll be quick to let you know --
A. **You have a plane to catch.**
Q. -- I'm not going to make that plane, I can tell you that already, but I don't want you to --
A. **We already have this exhibit.**
Q. Do we? Oh, good. Then I'll put it...
A. **It's Exhibit 13.**
Q. So let me ask you to look at Exhibit 13. Boy I'm glad you've been here both days. You're essential.
So I'm not going to ask you the questions you were asked with respect to the DWSD. Okay, we marked all those out, but do you recall this proposal?
A. **I do.**
Q. Let me ask you to turn then to page 83, all right and let me give you the you already have this one you -- page 83 is also Bates stamped page 0520, I think?
A. **Well, it's captioned Realization of Value of Assets.**
Q. Yes.
A. **And on the bottom is 15970.**
Q. Yeah you have a different one than I do, but that's

KENNETH BUCKFIRE, VOLUME 2

fine.
A. **Oh, okay.**
Q. So taking a look at that page 83, and that's the one captioned "Realization of Value," you do have a little 83 on corner there, don't you?
A. **I see it, yes.**
Q. Okay, good, I just wanted to make sure we're on the same page. The proposal that's presented here presents to the City's major creditors the potential for realization of value of the City's assets, correct?
A. **Yes.**
Q. Is there anything in that proposal as we sit here today that you disagree with?
MR. CULLEN: All of these pages?
MR. SOTO: Well, he testified about it at length yesterday, but I didn't hear that question asked. It's his June 14th, 2013, proposal that serves as the basis for everything else.
BY MR. SOTO:
Q. So if you -- I mean if you know of something that you can recall, I'm not -- I recognize no one's asking you to review the entire thing right now, but if there's something you know, hey, I've been working with this

thing for two years, I think -- I think we got this right, I think maybe that would have been different, I think that's the question.

A. **Well, we got the question of creating an authority wrong, and we thought we'd have more cooperation than we did, and that's very regrettable. It doesn't mean that there won't be an authority, but it will be different than the one we originally tried to create. Aside from that, in terms of realization of assets, I don't think we've missed anything, I was somewhat disappointed only because at the time we didn't realize how little value was available to us that there was nothing we could do with the Colman A. Young Airport, and in fact, it has negative value, which is unfortunate.**

The tunnel, likewise, because of how it was financed, has minimal value. We had originally hoped it would have more. Belle Isle Park, we obviously discussed that, was already a done deal before we got involved, so no, I don't think there was anything in here that we missed in terms of looking at all potential noncore assets.

I think the realizations that were available were disappointing for a variety of reasons.

Q. And so you undertook in this plan to at least lay out --

A. **Mm-hmm.**

Q. -- the steps you might try to take to maximize those assets, correct?

A. **And we pursued each one of them.**

Q. So you pursued the steps with respect to the Colman A. Young Airport?

A. **We did.**

Q. And that's what you just testified about, and you did the same with respect to the tunnel?

A. **Right.**

Q. And then Belle Isle Park, as well?

A. **Correct. We also -- everything else we looked at, we talked about those things, we talked about DIA, we've already, obviously, as part of the grand bargain, the City is effectively the recipient of hundreds of millions of dollars of value. In exchange, you're conveying the institute to an authority. The land issue, you know, obviously, the land, to some extent, has negative value, as well.**

That's why it's subject to $500 million budget for blight removal. Parking, that asset is on track to be offered to the market imminently. We

believe there is value in parking assets, and that process should commence any day, and Joe Louis Arena, there's -- it's minimal value so --

Q. So let me, in terms of turning your attention then to page 88 -- all right. On page 88, the proposal to the credit deals with City owned land, correct?

A. **Correct.**

Q. Reading from page 88, it says we conclude that the vast majority of this property has limited current commercial value?

A. **Correct.**

Q. Is that still your opinion today?

A. **It is.**

Q. What steps did you take to make that determination?

Q. We spent at the time this report was produced a lot of time with other consultants related to the City, in particular, Conway MacKenzie, which had more involvement with this issue than we did. We also spent time with certain individuals in the City of Detroit's executive office who were directly involved with some of the entities that controlled this land. There were, at the time, a number of places you could go to find City owned land. This is a more general statement than the legal reality of it.

I mean some of the land was held, for example, by the City itself. Some was controlled by Wayne County. Some was controlled by the State of Michigan. So there was no organized group that controlled all of it, and the people who had knowledge of the land, therefore, were spread out across all of these different government organizations.

So we spoke with all of them and also reviewed some of the many studies that have been done of the issue, particularly, the Detroit future cities plan, the Kresge Foundation funded that, and it was clear to us as a banking matter that given the very large territory of the City, 140 square miles, the serious service problems of the City and the fact that even of the land that was quote/unquote vacant, a lot of it was encumbered by blighted structures, it would have limited commercial value?

Q. Did -- was there a strategy put together to try to increase the commercial value, to increase that asset for the City?

A. **Well, that's been a subject of great discussion and a lot of effort by the City since we've been involved, but I have not been directly involved.**

Q. So Miller Buckfire didn't put together a plan to

KENNETH BUCKFIRE, VOLUME 2

monetize that property and sell it?

A. **Well, we looked at that issue of whether or not we could find some large enterprise that had an interest in basically buying all the land for the purposes of redevelopment, and we did, I think, last summer speak to a few people we thought might have an interest, and everyone said no, they couldn't afford it, didn't see the value, didn't think it would happen anytime soon, and had no interest.**

Q. Do you recall any of the names of the folks you spoke with?

A. **Yes, I spoke with Sam Zell, who is, obviously, well-known as a real estate investor. We spoke with the real estate people at Blackstone. Those are the only two I specifically recall at the moment.**

MR. CULLEN: This might be a good point to --

MR. SOTO: Sure, no, it's very convenient. And thank you, by the way.

MR. HACKNEY: Taking a break?

MR. CULLEN: Yeah.

VIDEO TECHNICIAN: The time is 10:53 a.m., we are now off the record.

(Recess taken at 10:53 a.m.)

KENNETH BUCKFIRE, VOLUME 2

(Back on the record at 11:04 a.m.)

VIDEO TECHNICIAN: We are back on the record. The time is 11:04 a.m.

BY MR. SOTO:

Q. So during the break, someone asked me to make sure I reminded you, which of course you've been reminded several times, that you are continuing under oath and no new oath had to be submitted because I was here to hear your last one, and I know you have been doing your best to adhere to that.

A. **So noted.**

Q. We're going to go through the DIA portion of this report just to make sure I understand it. So for -- if any of these questions -- I've tried to gray out the questions that I thought you were asked yesterday. If you've been asked these questions, tell me. I'm perfectly willing to go look at a transcript, but it might be easier to let's see what we know.

So in this June 14th presentation to the creditors, it also included the DIA, itself, as an asset, as well as the art of the DIA as an asset, correct?

A. **Correct.**

Q. In your previous testimony yesterday and maybe even

KENNETH BUCKFIRE, VOLUME 2

earlier because I had to read it, in connection with the eligibility trial, also, just to give you context, you testified -- and I'm quoting from that testimony, well, back in January, when we first began our engagement, we discovered we had not known this before that the City of Detroit actually does own the building and the art collection of the Detroit Institute of Arts, which is operated by the City on the City's behalf by the DIA Corp., which is the Founder's Society as a contractor to the City, we obviously were concerned about this and had to decide whether or not this might be a source of value for the City; do you recall that testimony?

A. **I do.**

Q. Was that -- that testimony was correct when you gave it, correct?

A. **Yes.**

Q. And is it still correct today?

A. **It is.**

Q. How did you come to learn about the DIA's ownership, you know, the way the DIA was set up and the way it was altered?

A. **When we first met with City officials, at that time, our primary contact was Jack Martin. He mentioned to**

KENNETH BUCKFIRE, VOLUME 2

us that as we were going through the list of possible assets that we'd have to look at, he said would you have to look at the Institute of Arts, too, and we asked him why, and he explained its relationship to the City.

We then looked at the publicly available financial statements of the DIA which are on their website and did indeed confirm that the DIA was operated on behalf of the City by the founder's Corp. trustee group, whatever it was so that is how we came to learn of this issue.

Q. Did you- dash was anybody assigned by you or anyone else at Miller Buckfire to learn out everything they could learn about the DIA?

A. **I assigned myself.**

Q. And then in connection with that assignment you ultimately retained Christie's as well, correct?

A. **Correct.**

Q. In your learning process as best you can recall, what did you learn about the DIA and its collection?

MR. CULLEN: Before the Christie's report came out or --

MR. SOTO: Well, that's a good point, well taken.

KENNETH BUCKFIRE, VOLUME 2

BY MR. SOTO:

Q. Chronologically, when you -- before Christie's, what did you learn about DIA?

A. Well, I learned from their public information the breadth the and Department of their collection which is public, I should mention I visited many times when I was growing up here, so I was familiar with the institution, any ways. So I didn't need a lot of learning about it.

We looked at the publicly available information, their website's quite up to indicate date and spans I have it does have financial statements and annual reports and we began to study what we could publicly available about this and it mentioned we did not initially contact the DIA, I believe it was not until April or May to let them know that as we were progressing in our planning we wanted them to understand that there was a risk that we would have to recommend among other alternatives taking steps to monetize the collection.

Q. Did you come to any generalistic understanding of the value of that asset pre-Christie's?

A. No.

Q. In connection with your learning curve on the DIA and

KENNETH BUCKFIRE, VOLUME 2

the art, itself, did you have any conversations with the trustees?

A. Only with Mr. Gargaro.

Q. Did you have any conversations with any of the managers of the DIA?

A. We had several meetings with officials of the -- using the general term trustees and management, I believe Mr. Graham Beal attended, perhaps, one or two meetings and the CFO of the museum attended one or two meetings, all during that period.

Q. And during that period, did any of those individuals, the manager or the CFO, Mr. Beal, did they give you any sense of what they thought the value of the DIA and its art collection was?

A. No.

Q. Now, I noticed in the e-mail that we looked at before, there was always this $2 billion memorandum in these press releases, did anyone ever give that number to you?

A. No.

Q. But you saw them in these press releases?

A. They weren't press releases, they were news articles.

Q. News articles?

A. I don't know where they got that.

KENNETH BUCKFIRE, VOLUME 2

Q. In connection with your analysis of the DIA as an asset, other than meeting with Mr. Gargaro and --

A. Mr. Beal.

Q. -- Mr. Beal and the CFO, can you recall if you had any other meetings with anyone else with respect to that?

A. Well, they were at every meeting joined by counsel. Mr. Alan Schwartz from the firm of Honigman Miller, and then I think later Richard Levin from Cravath (ph.) also attended, and of course I was at that meeting with Mr. Bruce Bennett of Jones Day.

Q. And were there any meetings where there was a State representative involved, a State of Michigan representative?

A. Not that I recall.

Q. Looking back, and I only ask you the questions that you didn't answer already that I can tell. I looked at your testimony again in the eligibility trial, and you made the following statement: It is in the interests of the trustees -- we're talking about the DIA's trustees -- that the operator to try to secure funding from whatever source they could to give the City in exchange for a protective covenant, that that would be a clever way of realizing short-term cash for the City which would not necessarily require the

KENNETH BUCKFIRE, VOLUME 2

arduous process of trying to make the art and selling it on a fire sale basis. Do you recall that testimony?

A. I do.

MR. CULLEN: Did you say "make" the art?

MR. SOTO: Did I say make? Probably I did. I meant "take."

MR. CULLEN: That would be really arduous.

MR. SOTO: I agree. For some of us even more so.

BY MR. SOTO:

Q. With that correction, do you recall making that statement?

A. I do.

Q. Okay. What was the context of that, what were you involved in analyzing when -- when you talked to the trustees about -- about that exchange?

A. Well, referring to trustees, I mean Mr. Gargaro.

Q. All right.

A. I never met with anybody about him with respect to this issue, aside from management of the itself and their counsel. No I met as I've said before, clearly trying to generate value from this asset which belonged to the City, it would be easier done with the

cooperation of the operators and the trustees than over their objections because they made it very clear to us that they would fight us to the ends of the earth if we touched the collection even though it belonged to the City.

Q. Let me -- let me give you an again this is related to the DIA there's all going to be under that subheading. This is an e-mail --

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 31
11:14 a.m.

A. This is a vacation. I don't have to talk about DWSD for a while. This is great.

BY MR. SOTO:

Q. Exhibit 31, and I will tell you the Bates number, it is POA 00041062. And it is an e-mail from -- from Kenneth Buckfire to Gene Gargaro, dated Monday, April 29, 2013, subject, DIA visit. Simple statement in it and very consistent with your personality here in this deposition, you say the DIA is an important cultural asset and the board should be proposing something dramatic, not just about refurbishing the parking garage. What did you mean by that?

A. That's the first time I've laughed in two days.

MR. HACKNEY: I was going to say we were aligned with you on that one, Mr. Buckfire.

A. I had a meeting with them, and they said well, what do you think we should do? I said well, you notice that the parking garage is dilapidated and condemned because nobody spent any money on it. Why don't you offer it as part of your proposal to spend the money to renovate it so people will come visit your museum, and they said oh, what a great idea, and I said no, but you got to do more than that.

Q. Okay. So this was your meeting with Mr. Gargaro where you were again discussing some alternatives with respect to the maximization of that asset?

A. Yeah, this was after our first meeting, actually, we had had a first discussion of the issues, and I had urged them to think about doing something that would justify conveying the collection into an authority.

Q. And at this point, you didn't have -- you still or -- you know what, let me ask you the question instead of answering it.

Did you have any idea in your head at this point around April 2013, April 29, 2013, of, you know, gee, what would be the right value that the City would need to get in order to be able to convey that asset?

A. No, we had no idea, just it would have to be a big number.

Q. When did the -- I know I have this somewhere in my papers, but do you have in your head when Christie's actually came out with its assessment?

A. I think it was right -- right around the -- well, I first learned of their range before it was published, sometime in November, and then the published report, I believe came out end of November, early December.

Q. Of 2013?

A. Yes.

Q. Okay. So -- and I think you might have already answered this, did you have anything in particular in mind when you used the word dramatic?

A. A big number.

Q. Okay. This is -- these have become sort of favorite phrases, I've been to just a few hearings on this matter, but I've heard these questions asked, so I'm going to ask you since I've heard other people ask them. Do you know if Miller Buckfire and you did anything to find out what the 100 most valuable pieces of art were in the DIA?

A. Me personally?

Q. Well, not just you personally, but you and/or Miller

Buckfire, did you guys undertake any other steps other than undertaking Christie's?

A. No, we're not experts in this field, we have no basis upon which to make that judgement.

Q. And I assume that the answer is still the same, but I'll ask again. Do you know if you or Miller Buckfire took any steps to try to figure out which of the pieces of art were valued at more than a million dollars, you know, which -- or which were considered -- let me strike that and start again.

Let's start it this way: Do you know if you or Miller Buckfire took any steps to find out what the 100 most valuable pieces of art were within the DIA collection?

A. No, aside from retaining Christie's.

Q. Do you know if you or anyone at Miller Buckfire took any steps to determine which of the pieces of art within the DIA had some restrictions on alienation or use or transfer?

A. No.

Q. And again, you would have been relying on Christie's for some of those things?

A. Correct.

Q. So as you sit here today, do you know if Christie's

KENNETH BUCKFIRE, VOLUME 2

did anything like that?

A. Well, we had directed them, this had been publicly disclosed, to review the portion of the collection paid for by Detroit City Tax revenues. That was the initial mandate they had, that required them to appraise, I think, several thousand individual objects, and we decided to defer review of the gifted items to a later stage if we ever got to that point.

Q. That's the distinction I've heard of where review the ones that are owned by the City, you can get the others later?

A. Paid for by the City.

Q. Paid for by the City?

A. Correct.

Q. Do you know if in the process of doing that that they even of that group, did they -- did they pick, you know, the 100 most valuable of that group, do you know?

A. Well, they appraised several thousand objects. I think if you go to their property, which is publicly available, they do put out an appraisal by object, so you can look at that and figure out that subset.

Q. I see.

A. You can figure out which of the hundred are most

KENNETH BUCKFIRE, VOLUME 2

valuable.

Q. If they have a value, you can figure that out?

A. Yeah, that's right.

Q. And so -- this is to make sure we get something in the record that we're going to be using in another deposition, and we won't be here long, but let me mark as the next exhibit -- and it's, by the way P-- I'm sure it's probably an exhibit here, it's POA 0000252.

MR. CULLEN: Oh, that one.

MR. SOTO: Got a good one.

BY MR. SOTO:

Q. It's entitled Christie's Appraisals, Inc. We'll mark it as the next exhibit.

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 32
11:21 a.m.

BY MR. SOTO:

Q. Another way of putting it was oh, that's my favorite.

A. You guys are guys are sick.

Q. You do this enough, you would be too.

COURT REPORTER: 32.

KENNETH BUCKFIRE, VOLUME 2

BY MR. SOTO:

Q. So Mr. Buckfire, I've handed you Exhibit 32, which has on the top of it Christie's, there's a link, and it has a date of 02 August 2013. Do you ever recall seeing a document like this before in connection with your retention of Christie's?

A. Yes.

Q. Is this the time of agreement that was ultimately executed to retain Christie's by the City?

A. The City -- well, this is not signed. The one that we signed with them, I believe, was an actual letter, which was much more specific as to the scope of services delivery of reports and the like. I believe this was originally an exhibit to that letter, and it may be superseded by it, but we never signed this.

Q. Let me hand you what will be our next exhibit, 33, and it is Bates No. POA00000249.

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 33
11:23 a.m.

BY MR. SOTO:

Q. And it's a letter dated -- take a moment to read it. It's a letter dated August 4th, 2013, to Kenneth A. Buckfire from Douglas M., as in Michael, Woodham?

KENNETH BUCKFIRE, VOLUME 2

A. Yes.

Q. Is this the letter you were just referring to?

A. I believe so.

Q. Okay, and so Exhibit 32 would have been attached as a part of an Exhibit 33?

A. That's my recollection. This is their standard identification and release agreement, but it's part of the actual letter, itself.

Q. And to get it in the record, this Exhibit 33 was the actual formal retention letter of Christie's on behalf of the City?

A. Well, you don't have the signed contract. I know we produced it, but I've seen this before. I'm not sure which -- what exactly it ended up that the emergency manager's office executed, but this is familiar to me.

Q. Well, that's helpful in its own right, so we should be looking for one that's signed somewhere in the --

A. And we did sign one, because I remember seeing it.

Q. And we'll look for it, okay. Other than what is laid out in that Exhibit 33 -- well, first of all, we're not sure that Exhibit 33 is the signed one. Can you tell me in your own terms first if you recall the scope of Christie's engagement?

A. Well, I had negotiated the scope with them, so this is

KENNETH BUCKFIRE, VOLUME 2

the scope we negotiated. The only thing I think we added to this.

Q. And by this, you're talking about Exhibit 33, correct?

A. **Yes, I'm not sure whether we added to -- a final version or I simply had an understanding with Doug about the date about which we had to have the report delivered to us.**

Q. Okay.

A. **I know we had many conversations about the fact that we recognized this would take a tremendous amount of work by them to do, but we had deadlined and we had to meet them.**

Q. So who is Douglas Woodham?

A. **He's the president of Christie's.**

Q. And the purpose of the ultimate agreement is you wanted to give them specific directions on what he was to do, correct?

A. **In terms of the number of objects and -- but you'll notice this also clearly says tell us what it's worth, and in a later discussion, I asked him to tell us how we might be able to monetize this collection if we chose to do so, what are the means available to us, that's not included in this. Which is why I don't think this is the final letter.**

KENNETH BUCKFIRE, VOLUME 2

Q. Because you remember that being in it?

A. **Well, I know we had that discussion, and I can't remember whether or not we actually bothered to put it in the letter or not, but I know the issue of deadline and the final report was something we specifically discussed, and that's why the final report does include a discussion of means of monetization.**

Q. Let me hand you an e-mail Bates stamped POA 00040952.

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 34
11:27 a.m.

BY MR. SOTO:

Q. This e-mail seems to be consistent with your prior testimony but I just want to --

A. **Thank God for that.**

Q. See if there's some additional factors that you're asking for. So it's an e-mail dated August 25th, 2013, and it's to A. Wittig from you. Who's A. Wittig?

A. **Allison Wittig was, as I recall, the senior curator managing this assignment for Christie's on a daily basis. In other words, she was responsible for coordinating the work of the curators and an appraisal specialist for Christie's on this engagement.**

KENNETH BUCKFIRE, VOLUME 2

Q. So in her e-mail to you --

A. **I believe she also had a relationship with DIA. Some of the curators at the museum were her friends which is how she got picked for this particular assignment.**

Q. She says she met with some people, and she says, quote, do you want us to include works on the appraisal that were purchased in part with donors' funds knowing that there may be restrictions on whether or not these can be sold? Answer, yes, appraise all works purchased with City funds, partially asked, but I assume is what you mean --

A. **Yes.**

Q. -- including partial purchases and identified as such.

A. **Correct. We wanted them to be as expansive as possible within the condition that it had to be purchased with City funds in whole or in part.**

Q. Do you know if in preparing the report they actually also indicated whether there were any such restrictions in their report, restrictions on alienation or anything like that?

A. **I don't recall that.**

Q. Did you realize when setting those parameters that, in effect, they would only be looking at a small percentage of the art at the -- at the DIA?

KENNETH BUCKFIRE, VOLUME 2

A. **We knew that.**

Q. Did they come back and tell you look, we're only looking at 4 percent of the art; is that really what you want?

A. **Well, they understood that we were looking at the portion of the collection that in our view we would have the, quote, greatest ability to sell because it had been purchased by the City and they weren't gifts, so that made sense to do it that way.**

Secondly, in anecdotal conversations with Christie's, they told us that much of the value of the overall museum was actually resident in that portion of the collection, so despite the fact that you had 50 to 60,000 items in the collection, most of them were of very de minimis value, and in fact, the collection on display, much of which had been purchased in whole or in part with City funds was, by far, the most valuable aspect of the collection, itself. In other words, there was very little on display that was not purchased by the City that was of great value.

Q. Did that turn out to be the facts as far as Christie's was concerned?

A. **Well, they only were asked to appraise the portion of the collection paid for in whole or in part by City**

funds. They never looked at --

Q. The rest?

A. -- the gifted items, so I don't know what they thought about those ultimately.

Q. But then again, going back to my question, do you recall if anybody from Christie's got back to you and said look, you realize we're only looking at a small percentage of 4 percent? Did the parameters you have set we're going to comply with, but it's really a small percentage?

A. Well, no.

MR. CULLEN: The number of objects?

BY MR. SOTO:

Q. Of the number of objects, yes.

A. Well, we knew that.

Q. You knew that?

A. Yeah.

Q. So they didn't need to tell you, you knew it when you --

A. (Witness nods.)

Q. Correct?

A. Correct. Well, the museum, itself, had told us that's where they got the information.

Q. Okay. So now most recently, another valuation of the

art was done by the City on behalf of the City, correct?

A. Correct.

Q. And it was done by an entity known as Artvest?

A. Correct.

Q. Were you or anyone else at Miller Buckfire involved in retaining Artvest to do the most recent analysis?

A. No.

Q. Did you speak at all with anyone at Artvest with respect to the analysis that they performed?

A. No.

Q. Have you analyzed or had a chance to review the analysis done by Artvest?

A. No. It's a nice museum. You should visit while you're in town.

Q. I have visited, and I can tell you it's more than a nice museum. I... we'll have a conversation some other... let's just say we don't have one like it.

A. I haven't visited it since I started --

Q. Off the record, we don't have one like it in Miami yet.

MR. CULLEN: Great art scene, though.

A. You should have made an offer when you had the chance.

BY MR. SOTO:

Q. Yeah, all right. So let's switch gears now, and we're going to go to the objection that relates to whether or not the settlement is fair and equitable and reasonable. So you are aware and I know you have parameters and can testify about it, but you are aware of a comprehensive settlement between the State of Michigan, the City of Detroit, and the City's pensioners that has been labeled The Grand Bargain, correct?

A. I am.

Q. All right, and you, in fact, did some work to assist in putting that Grand Bargain together, correct?

A. Correct.

Q. In fact, you did a lot of work in putting it together, correct?

A. That's correct, yeah.

Q. Okay. And does the Grand Bargain have as one of its elements the DIA settlement?

A. It does.

Q. Okay. And does it also have as another of its elements the State contribution agreement?

A. It does.

Q. So we've talked about the DIA, let's talk about the state contribution for a while.

What do you understand the terms of the State contribution agreement to be?

A. Well, from an economic perspective, the state has agreed to make a substantial contribution to the pension funds of nearly $200 million in exchange for the elimination of any litigation postbankruptcy on certain issues against the state by the retirees.

It also assumes that all of that money goes into the pension funds not available for anybody else because the State is getting certain consideration for providing that money, not just the elimination of litigation, but also maintaining an important cultural aspect to the southeastern Michigan region, which is the museum, itself.

Q. So as you understood it --

A. I should mention also it requires contributions by other parties, so it's not just they put the money in and nobody else does. There's a lot of other money coming into the new entity from not just the trustees but also a large group of foundations that have agreed to contribute to it.

Q. I'm going to ask you first if you were involved in any of the conversations, and then we'll determine whether or not you can discuss the substance of any of them.

Were you involved in conversations with the State in connection with the State contribution?

MR. CULLEN: You may answer.

A. Yes.

BY MR. SOTO:

Q. And were -- were all those conversations conversations that you understood to be part of the mediation process and covered by the judge's mediation order? And just to give you a context, the mediation order was entered in on August 13th of 2013, so you assumed that it was discussed before that and then came to an order?

A. Well there is one conversation prior to that order being entered where I updated a member of the governor's office as to our conversations with the DIA trustees, and I -- I think I actually shared with him the proposed term sheet by which a settlement, you know, money could be conveyed to an authority in exchange for the art being put into a different entity because I wanted to make them aware of this because clearly some of the board members were politically active. I assumed that they would be calling the governor to complain about how we're mistreating the DIA and daring to ask for money, so I wanted to do

make sure they were properly informed about the context in which we were having these discussions and make them aware of the fact that there was an alternative available which would require the payment of value in exchange for protecting the collection from sale risk but only if we got paid for it, and I explained to him how that could be done.

So that was effectively the first term sheet discussion we had had to make them aware of these issues. I did not ask the State for money at that point, but I did point out to them that at a minimum, maintaining the existing millage and possibly increasing it would be a great thing because that would be more value for the City and because any discussion of the millage is a political one, I wanted to do make sure they were aware of that element of our thinking, which is also something I had raised with Mr. Burke here.

Q. The person you were talking to at the State, do you recall his name?

A. It was Dennis Muchmore, chief of staff.

Q. Was anybody else involved in those conversations?

A. In the governor's office?

Q. Yeah, I guess.

A. Well, there are several members of the governor's staff that have been actively involved in all of these, but I can't remember other than Dennis who might have been on that call.

Q. Did you ever have a conversation with the governor about this?

MR. CULLEN: Prior to?

A. I think I mentioned him at one of our meetings. We were updating him on a range of issues that we had suggested this alternative to the trustees.

BY MR. SOTO:

Q. You mentioned it to him, to the governor?

A. In a meeting which covered many other topics prior to August 4th, I also recalled that I was asked why we had to do an appraisal, and I explained the reasons for that, and they accepted them.

Q. This may have been passed over. Wait a second here.

So let me hand you a document which we'll mark into evidence. It's Bates stamped No. POA -- sorry -- POA 00000293, and it is an e-mail from --

COURT REPORTER: One moment, let me --

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 35
11:39 a.m.

BY MR. SOTO:

Q. -- and it's an e-mail from you, Ken Buckfire, to Gene Gargaro copying a number of people. The e-mail from Gargaro to you suggests in a brief meeting today, I expressed our appreciation to Governor Snyder for his valued leadership during these challenging times and thanked him for recognizing how important the DIA is to the success of his revitalization strategy for Detroit going forward. Governor Snyder also appreciated the fact that our Honigman Miller legal counsel continues to work together with Jones Day lawyers from a historic perspective identify and solve legal issues and help formulate a long-term sustainability plan for Detroit and its great museum. Do you recall receiving this e-mail from him?

A. I do.

Q. And you respond thank you for your note. I have discussed this upcoming meeting with the governor when we met last Friday. When can we expect a proposal from the DIA?

So this is sort of dated May of 2013. Is that the meeting with the governor you were referring to earlier?

A. That was one of the meetings we had.

Page 157

KENNETH BUCKFIRE, VOLUME 2

Q. Okay. Was the governor -- in your conversations with him, did you express to the governor your duty to try to maximize the value of assets for the City in connection with an adjustment plan under chapter 9?

A. I did.

Q. And so he understood that you were trying to seek to maximize the value of this asset, too, the DIA asset, correct?

A. Correct.

Q. Did -- and you met with him a number of times, and that was, again, before the mediation.

A. That's right. I should note that the meeting -- I'm laughing about this because Mr. Gargaro met with the governor for the specific purpose of getting us to back off and leave his museum alone, and I had warned the governor in advance that would be his agenda.

Q. When you first addressed the issue of the potential transfer of the art to the authority, authority using your word, was there any conversation with the governor then about the pensions or anything like that?

A. Not in this context, no.

Q. Okay. So we've talked about the State contribution agreement and part of the Grand Bargain, and you

Page 158

KENNETH BUCKFIRE, VOLUME 2

testified at length about the -- I don't have it, I just skipped over, like, five pages of questions, but in general terms, what was your understanding of the DIA settlement that was going to be a part of the Grand Bargain? And I'm not asking you to disclose attorney-client privilege or mediation stuff.

A. Well, from a financial perspective, it incorporated the following elements, first, that the millage which funds a large part of the operating expenses of the DIA would be maintained by the three counties which originally had passed the legislation to impose it. That's, of course, of material benefit to the City, because it means we don't have to come up with 20 or $25 million a year to pay for operating expenses; that would be maintained.

Second, that a -- a collection of local foundations, the board of trustees, and the State would contribute over time a very material amount of capital to the plan, which would be consistent with the valuation range of the Christie's report, which from my perspective, was very important because until we actually had an appraisal and we had facts on which to assess any offer for the collection, we would not know whether the offer was fair to the City, and

Page 159

KENNETH BUCKFIRE, VOLUME 2

because the amount of money being offered was in the high end of the range of their report, I was quite comfortable, rather, that it was fair to the City.

The amounts of money being provided by the State by foundations and trustees was around $800 million, clearly, because those amounts can be regarded as gifts because we haven't sold the collection, the structure of it from a financial perspective was to provide those moneys to the pension funds directly, and what the State required was that those parties, namely, the pension funds and the retirees, dropped and -- or not proceed with any litigation against the State post emergence, which they viewed, that is, the State as a very material consideration in exchange for funding solving. Those are the principal economic elements.

Q. Okay. In connection with -- I appreciate your testimony now, and then some things have transpired since then, and for example, now there are additional analyses done by the City of the art at the DIA including art if he is and I know you testified that you have and read it do you know if anybody at Miller Buckfire is doing an analysis is undertaking an analysis of whether or not that new art that's

Page 160

KENNETH BUCKFIRE, VOLUME 2

appraisal or analysis whatever it is should affect, you know whether or not the value that's being or the the value of the Grand Bargain is recognizing the true value, maximizing the true value of the DIA and the art, I don't even think we've received a copy of it so the answer is no.

Q. Is that something you would want to do in connection with your assistance of the City as the investment banker in connection with all the work you've done to make sure this plan is the way --

A. Yes, it's simply because we just haven't had the time to get to it that we haven't reviewed it yet but we haven't even received a copy so...

Q. If you've testified about this, tell me and for some reason it's seemed similar in my head, but do you recall alternative -- alternative transactions that you evaluated and considered that were alternatives to the DIA settlement?

MR. CULLEN: I believe he did testify to some of those earlier.

BY MR. SOTO:

Q. That's what I'm wondering if he can --

A. Well, yes, we've reviewed with Christie's assistance other alternatives that have been proposed by others

KENNETH BUCKFIRE, VOLUME 2

including touring fees, lease of the collection, art loans, things of that sort, including outright sale and we concluded that, you know, there was unlikely to generate substantial value, an even in the case of an outright sale, that was Christie's view which they've publicly stated that it might take years to properly monetize a collection because there are unlike the corporate securities market where the or the municipal securities impact relatively fewer buyers of art at any given time and interest for fore to sell art and achieve the proper value is not a simple process. As you sit here today, do you understand that various creditors have objected that that the art is not held in a charitable trust and therefore is transferable, have you heard that.

A. I know there have been numerous objections to the so-called Grand Bargain, I'm not aware of every specific ones.

Q. What about that one, do you have a recollection of that?

A. Not specifically.

Q. Did you undertake or -- and this time I'm truly meaning you or anyone else at Miller Buckfire and I am segregating away your lawyers and all the lawyers that

KENNETH BUCKFIRE, VOLUME 2

work with you, but Miller Buckfire and you, did you guys undertake to determine, you know, the ownership of the art at the DIA and whether it was held in a way that it could be transferred or monetized?

A. No we limited ourselves to the source of funding that was used to acquire these objects whether it was a gift or purchased by the City.

Q. And that's not one of the factors you took into account in determining well, gee, this is a fair market?

A. No.

Q. So I think I gave you the disclosure statement already. Or you gave it?

A. I have it.

Q. And which one is that, Exhibit --

A. Twenty-eight.

Q. -- so in the disclosure statement if you'll turn to I used 157, but it's also page 172 of 197 of the exhibit?

A. Yes, I see it.

Q. This limited disclosure statement sort of the mid-page it says on it, April 9, 2014, do you see that paragraph?

A. I do.

KENNETH BUCKFIRE, VOLUME 2

Q. And I think you've answered this question before but you are familiar with the disclosure statement, correct?

A. I am.

Q. Could you take a moment or two just to review this page with me and ask you to read it.

So looking at it, are you familiar with the four indications of interest that are laid out there on page 157 that start with this catalyst acquisitions L.L.C. and the next one is art capital group L.L.C., the next one is Polly international auction company limited and the next one is one management Hong Kong limited?

A. All household names.

Q. I'm asking if you're familiar with those -- what was presented by those entities?

A. Well, I've never been given the statements of interest, the nonbinding proposals so I'm only familiar with what's been reported here in the TOA.

Q. So it was closed in the disclosure statement simply to let everybody know that it had happened?

A. That's correct.

Q. Did you follow up with any of these to determine anything more about the work that they had done or

KENNETH BUCKFIRE, VOLUME 2

their level of interest?

A. No, in order err Houlihan never contacted me or any of our bankers to give us any of the specifics about any of these proposals, to my knowledge.

Q. Would you have been interested enter an alternate proposals like the ones that are being laid out here?

A. Well, normally I would, but you know when you look at the way they were captioned as nonbinding indications of interest, I wouldn't put much value on such a proposal. That would call into question their ultimate willingness to close on a transaction and indeed their interest in the first place. And they were never provided to me either, so that tells me that there's something straining about this whole process.

Q. Did you reach out to Houlihan to say hey, guys, do you have anything more than this?

A. They've never contacted us.

Q. I know I got that part of it, I was asking you if you reached out to --

A. No, I haven't called.

Q. Did anyone else at Miller Buckfire call them to try to find out anything about the deals?

A. Not to my knowledge. But they're not deals; they're

KENNETH BUCKFIRE, VOLUME 2

nonbinding indications of interest.
Q. Okay.
A. That's a long way from being an offer.
Q. These nonbinding indications of interest, let me correct?
A. Correct.
Q. So no one at Miller Buckfire ever asked about them either?
A. They're nothing more than what they say they are which is maybe we'll buy it maybe for this price.
Q. But is it true for an investment banker that's trying to maximize an asset to not even call to try to find out, well, gee, what are you guys proposing? What is this?
A. Well, this is an effort undertaken by Hoolihan Lokey (ph.) which of course is a banker to certain creditors of the City of Detroit. We had assisted the emergency manager in negotiating the so-called Grand Bargain, which will generate demonstrable and concrete value for this collection which is a fact plan to take into account. These are nothing more than nonbinding indications of interest a long way from being a -- a value that one could depend on for purposes as serious as a plan of adjustment.

KENNETH BUCKFIRE, VOLUME 2

Q. So then let me -- I understand that's your view. Apart from these that are listed in this disclosure statement, were there other entities, I mean did this whet your appetite to think well, maybe there are other entities who would really be interested in the asset that we should contact to try to maximize the value of it. Recognize we're talking about these, did you try to contact anybody who might be involved in the art monetization world to try to see well, what do you guys think about the DIA art?
MR. CULLEN: Subsequent to the -- to receiving or being made aware of these expressions of interest.
MR. SOTO: Well, I actually was going to try to do it chronologically, so I --
MR. CULLEN: Oh, okay.
MR. SOTO: I was going to say at all and then the substance into it but first at all?
A. No.
Q. Yeah, I'm done with that although, I will be asking some additional questions.
So under the plan of adjustment switching gears now, the City is transferring the entire art collection and the building in exchange for

KENNETH BUCKFIRE, VOLUME 2

contributions from a group of foundations in -- in the DIA; is that correct?
A. In exchange for fully committed financing those from parties, that's correct.
Q. Looking at the plan as I reviewed it, and I know you're familiar with it more so than I am, the foundations are contributing $366 million over a -- over a period of time, correct?
A. Correct.
Q. Do you recall the period of time?
A. I'd have to go back and check it, I think it's a ten-year period. I know we've produced the consulting agreement.
Q. I'll tell you -- it's on page 158 or page 173, 197 and I handed them to you earlier.
A. It's a --
A. Which page are you talking about.
Q. Page 158 the DIA settlement we looked at it very quickly but it says in that first full paragraph last sentence?
A. I'm sorry, are you looking at the docket page or the plan page?
Q. Oh, I'm sorry the plan page?
A. Ah.

KENNETH BUCKFIRE, VOLUME 2

Q. The docket page is 197?
MR. CULLEN: 173 of 197.
BY MR. SOTO:
Q. Oh, I'm sorry, 173, so I think if we get to the page to the paragraph that says DIA settlement?
A. Yes.
Q. And that last settlement sentence of that first paragraph as of the date of filing of this disclosure statement the foundations had tentatively agreed to pledge at least 366 million in foundation funds payable or over a period of 20 years?
A. Right.
Q. In support of this agreement?
A. That's right.
Q. Do you know if that's changed at all in connection with the plan?
A. Not to my knowledge.
Q. So it's 360 million over 20 years?
A. Correct.
Q. And in addition to the foundations, the DIA Corp. is also committed to giving a hundred million over 20 years, correct?
A. Correct.
Q. And in determining whether or not you had maximized or

Page 169

KENNETH BUCKFIRE, VOLUME 2

you were maximizing the value of that asset in connection with this exchange, did you do calculations to determine well, gee, what is the value of somebody giving you 366 million over 20 years and somebody else giving you a hundred million over 20 years, what does that come out to in present terms, did you do that work?

A. No.

Q. Do you know if anybody at Miller Buckfire did?

A. No. Well, yes, I'm sorry, yes, no one has done the work.

Q. Okay. And can you -- can you tell me why -- wouldn't you want to know you're taking the art today, what are they giving me today?

A. Mm-hmm.

Q. Would you want to know that?

A. In certain circumstances I would, but one of the elements of the Christie's valuation which you haven't asked me yet is over what period of time they would anticipate monetizing the collection to realize those values if indeed we had directed them to do so so even though they gave us a valuation range which is in the POA, I don't believe they stipulated in this analysis or this report how long it would take and what they

Page 170

KENNETH BUCKFIRE, VOLUME 2

did tell us which I believe is in their original report, it would take several years to quote monetize the value of the art that they reflected in their range so the range in and of itself is not present value adjusted and for that reason we did not feel necessary to calculate the present value of the payment stream relative to the value of the art because the art rate, itself, was perhaps not done according to Black Sholes (ph.). It's a number but it's a number with a lot of judgement around when you would realize that. That also was a function of the wide nature of range gap. I mean it's a pretty wide range.

Q. So it's your understanding, and I want to to make sure what you said when Christie's gave these values, they weren't saying that's the value of that piece of art if you want to buy it today?

A. That's correct, they're saying when we go and properly find the art and find the right buyer there might be one buyer in the world for every piece, we believe this is the price we'll get for you.

Q. And do you know where in their report they -- they indicate that?

A. I'd have to go back and reread it, they certainly told

Page 171

KENNETH BUCKFIRE, VOLUME 2

me that.

Q. And who at Christie's were you talking about, the same lady, Alison --

A. No, Doug Woodham.

Q. Doug Woodham?

A. Yeah.

Q. If you were sitting here -- well you are sitting here today, since you are sitting here today and they're proffering you as an expert as well as you're an intelligent factual witness can I ask you what discount rate would you use if you were sitting there and someone well what do you think the present value is of this 360 -- well let's just add it together because it's round numbers 466 million over 20 years what do you think the present value of this is what discount rate would you use?

A. Well, when you look at the quality of the funding parties, I think it would be appropriate for example with the State of Michigan since they are a double A rated credit to use a very low discount rate equivalent to their credit rating, standing to come to a present value of their contribution. Like wise, all the foundations because they are large, and are well funded and have no, as I understand it, external debt,

Page 172

KENNETH BUCKFIRE, VOLUME 2

would also merit a very low discount rate to reflect the present value of their future contributions. I can't speak to the discount rate with respect to the individual members of the DIA board of trustees, but my understanding is they're all very wealthy local business people and other professionals who probably would merit an equally low discount rate on their contributions, that would lead me to conclude without saying I've done the work because I haven't except for the last 30 seconds that the discount rate I would use would be probably somewhere between 2 to 4 percent. And that would only reflect the fact that the contributions were coming in over four -- 20 years.

Q. And by that last statement, just to help me understand what you meant by that, if it was over a shorter amount of time you would change the discount rate?

A. I'd have had a much lower discount rate.

Q. And if it's longer --

A. You'd have to use a higher one.

Q. Thank you.

A. You're welcome.

Q. I'm going to switch gears if this is a good time for you to break, we can, switch gears to your expert reported I'm going to try like the first part not ask

KENNETH BUCKFIRE, VOLUME 2

questions that you've already been asked and just try to hone in on this.

MR. SOTO: There's supposed to be lunch. If lunch is served this would be a good time for a break. If not, we can go another half hour and begin the process, and not just sit around waiting for food. Okay, so this is the time to break, so let's...

VIDEO TECHNICIAN: The time is 12:04 p.m., we are off the record.

(Recess taken at 12:04 p.m.)

(Back on the record at 1:04 p.m.)

VIDEO TECHNICIAN: We are back on the record. The time is 1:04 p.m.

BY MR. SOTO:

Q. Mr. Buckfire, I'm still Ed Soto, and you're still under oath, and we will continue where we were before going into your expert report and I have just been informed that it is Exhibit No. 4, so it's probably in front of you under that pile towards the bottom. It looks like this?

A. I know. I have it.

Q. Okay. Now we discussed in general terms the best interest -- a little earlier and I want to circle back for a second. Parted of the test is determining

KENNETH BUCKFIRE, VOLUME 2

whether the proposed plan would be better alternative for creditors, than what they would have if the plant weren't -- weren't -- if the plan weren't passed. So part of that analysis that you have in your expert report, of whether or not the creditors would be better off that took into account some of the issues you took into account in the best issues test, correct?

A. Correct.

Q. So looking at your opinion which is opinion B, and it's on page 2, and it says: Plan treatment compared to treatment upon dismissal, the City's creditors would be treated better under the City's plan of adjustment than if the bankruptcy were dismissed, do you see that?

A. I do.

Q. And you addressed the basis of that further on in your opinion on page 5, correct?

A. Yes.

Q. Okay. So I'm going to be asking you questions that if you want to take a moment to look at it or if you feel you already eaves, we can go forward either way?

A. Just go ahead.

Q. So looking at page 5 where you are, what is the basis

KENNETH BUCKFIRE, VOLUME 2

then for your opinion that the City's creditors would be treated better in the City's plan in the bankruptcy case than if the bankruptcy case were dismissed?

A. Well, the most important factor is my judgment that the City on a delevered basis with the ability to make multi-year investments in rehabilitation and revitalization and improvements of the City's services will be able to maintain if not improve projected tax revenues as opposed to a situation in which it could not do so.

Q. So when you say as opposed to a situation where it would not do so, what are you contemplating or what are you thinking of?

A. If the petition was dismissed and it was not able to use tax revenues to make multi-year commitments to reinvestment programs, its ability to retain or attract new residents and retain or attract new businesses would be called in question.

Q. Okay. From the City's standpoint I understand that. Now I'm going to ask and maybe I misunderstood your answer correct me if I'm I don't think ton that so I'm going to ask the question from the standpoint of the creditors and since you know who I represent we represent FGIC so that would be one of the class 9

KENNETH BUCKFIRE, VOLUME 2

creditors so you can even aim at that if you are predisposed to or you can even ask it in general if you want to and we can get to that later but what I'm asking for is what analysis, what went into your thinking in your opinion that the City's creditors would in your view be better off particularly class 9 creditors if the plan of adjustment were approved as opposed to if it were dismissed?

A. Well, it's a complex question because you have to consider the alternative, which is that the City cannot undertake a rehabilitation program and maintain or improve its tax revenues. The alternative and likely true that in fact the City will begin to liquidate itself, by that I mean the residents and businesses will leave the tax revenues will decline but the expense of the stiff with cannot be made to decline as quickly, particularly if the petition is dismissed, there will be enormous return to try to sees or otherwise prevent the City from spending its money on anything other than creditor claims and because in the case of your clients there are substantial creditors who have perhaps a better claim against City tax revenues in your client, the likely recovery to your clients would likely be zero.

Page 177

KENNETH BUCKFIRE, VOLUME 2

Q. And so the substantial the creditors that you are referring to that have a more substantial claim than -- than my clients, who would be that?

A. Again we're talking about a dismissal scenario where you don't have the protection of Chapter 9, well obviously, the LTGOs, the UTGOs, one could argue even the pension and OPEB claim holders because they have executory contracts with the City. All those parties which have claims in the billions certainly swamp the claims of the COPs, and indeed, the question of the priority of the COPs claims because you're relying on the indirect credit of the City, I think would call into question whether in that scenario your clients would receive any value at you will.

Q. And so that's the basis of your opinion with respect to plans compared to treatment upon dismissal?

A. That's correct..

Q. Now, did you analysis the treatment under the plan and justification at a post it to the treatment upon dismissal which you just did here in this --

A. Mm-hmm.

Q. -- testimony when you came to this opinion?

A. Well, I'd also refer you to our June 2013 report where we showed that without intervention in this case

Page 178

KENNETH BUCKFIRE, VOLUME 2

intervention being the filing for bankruptcy protection, the percentage of City revenues being tasked to manage debt service obligations was growing to an unsustainable level. I believe the peak was 65 percent of total relevance including your clients' claims would absorb over 65 percent of all tax revenues, that's untenable, that's a liquidation scenario and the realty was that the City's experience prebankruptcy I think as a factual matter indicates that that scenario was having an enormously adverse consequence on the ability of the City to maintain itself, provide services, attract tax base and increase revenues.

Q. So now your testimony that you just gave, is it based on any analysis that was done by -- well, yourself, Miller Buckfire, or anyone else in connection with the City of what the recoveries for creditors would be outside of the Chapter 9? Did you do a full analysis saying this is what we anticipate would happen?

A. You mean a liquidation analyses?

Q. Yeah, an analysis of -- using your terms if the case were dismissed?

A. Cities don't liquidate, so we did not do that analysis.

Page 179

KENNETH BUCKFIRE, VOLUME 2

Q. And apart from a liquidation analysis did you do any analysis of well here's what we think would happen, here's the creditors we think would have a certain type of priority, here's the creditors we think would have a different type of priority here's how we think we testified yesterday the race to the courthouse might come out, did you do any analysis like that?

A. No.

Q. And why not?

A. We thought it was pretty obvious from the condition of the City prebankruptcy about how untenable the situation was and the fact that if you regard some level of City services as being the minimum requirement absorbing revenue there wouldn't be enough cash to pay our creditors, you can see that from the numbers.

Q. And breaking it down a little, did you consider even as to anyone particular group of creditors? Did you take any creditor type and sigh well here's a type of creditor that looking at this opinion might not do as badly in a dismissal scenario versus what they're getting in the bankruptcy.

A. Yes, we did that.

Q. And which creditor were you -- do you that for?

Page 180

KENNETH BUCKFIRE, VOLUME 2

A. Well, I've already testified to our work on a priority analysis, a so-called recovery analysis by creditor class and we came to a conclusion early on that the GO creditors might in fact have a better recovery in a liquidation scenario because they have the benefit of a tax pledge that might under southern scenarios give them a greater revenue from tax revenues albeit the claim, other than other GO creditors who had no specific revenue.

Q. Can you recall what the results were for any other class of creditors other than the GO? And you just mentioned the GO when you testified about that earlier.

A. Well, regrettably, I thought the recovery to COPs was likely to be zero in that scenario.

Q. And can you -- let me break that down a little. So the recovery to COPs you just said you thought might be zero. What factors went into that analysis?

A. Just my conclusion as to the status of their claims, relative to other claims against the City's revenues.

Q. So and by status, you mean priority and anything else?

A. Priority, lack of tax pledge, indirect nature of their claim against the City, the fact that they might not be classified as a general unsecured claim with other

claims that I would view as an economic matter you know our genuine secured claims with the comes forks the underfunded pension claim the healthcare claim they're all general unsecured claims as I understand that but it's certainly possible that you know some authority might take a different view that those claims require more dedication of revenues first ahead of the COPs.

Q. And so the analysis you did was to first of all prioritize the claims, secondly look within the priority and see well gee what is it they're claiming, what is their likelihood of having some kind of a security interest and things like you just mentioned and then you went through those factors and you applied them within each class. Is there a written report that does that?

A. No.

Q. And you did testify about this analysis yesterday, as well, circles incomes with the DWSD. Who would be the person within the City or -- whether it's Miller Buckfire who would be most knowledgeable about the specifics of that analysis, that recovery analysis?

A. Well, the development of the plan of reorganization, sorry plan of adjustment here was a collaborative

effort between ourselves, Ernst & Young, Conway MacKenzie. We took the lead in analyzing the claims' waterfall and the calculation of the series B notes and how that might be applied against those claims but the actual analysis of the City's plan was done by E & Y, and we contributed our analysis and our views on the balance sheet to their presentation which is now displayed in exhibits LA M of the POA.

Q. Okay, than analysis includes the analysis of the recoveries that you just testified about?

A. That's correct, which is also reflected in my expert report but in a different form.

Q. Okay, and if you can refer to your expert report, what are you referring to?

A. I think it's marked as attachment 1 which is actually a pro forma capitalization of the City it, it's not strictly by class but it does show from an equivalent gap presentation point of view what everyone's getting.

Q. And that would be titled that's the page for those of you who have it entitled City of Detroit pro forma capitalization July 2, 2014?

A. Correct.

Q. So looking at the debt obligations of the COPs that

are listed there, prepetition ballots, what is that a bill I don't know-four, a bill I don't know 473?

A. For the COPs?

Q. Yes.

A. Yes, but I believe this balance includes prepetition interest as well so the billion four seven at this three includes accrued but unpaid interest.

Q. And then under the column claim, reduction of claim, what does that represent?

A. That's just a deduction based on what the debt obligations receiving pursuant to the plan and then this is what they're not receiving so in case of the COPs, the 1.473 billion of claim they'd be receiving 162 million of the series B note and the change, the difference is $1,311,000,000.

Q. So it's being reduced by 89 percent?

A. That's right. Which is comparable with the other similar situated claims. The notes, loans payables, and other unsecured liabilities.

Q. Is there a backup for this that analyzes it any -- any further?

A. Well, this is a summary of information contained in the POA, so you have to go back to the POA and look class by class to determine what treatment is

proposed. Of course, in the POA itself, we would stipulate that the COPs recovers zero for legal reasons but not resulted to the pro rata claims analysis that we had done.

Q. And what we're talking about now is the pro rata claims analysis that we've already referred to, correct.

A. That's right.

Q. That separate and apart from any legal analysis --

A. That's right, and of course the COPs as I mentioned before, takes into account that we are only allowing 40 percent overall COPs claim, which is one of the reasons that it is so used reduced.

Q. So separate and apart from the plan of adjustment, because I've reviewed the plan of adjustment, are there any analyses other than those that are attached to the plan of adjustment, referred to in the plan of adjustment and attached as exhibits which you know there are many?

A. Mm-hmm.

Q. Other than those do you know of any analysis regarding the pro ratas on a recovery basis that you've just referred to?

A. No.

KENNETH BUCKFIRE, VOLUME 2

Q. And you know of no other cities -- strike that. You know of no other analyses that were done on behalf of the City that addressed that issue other than what we've spoken to today?

MR. CULLEN: Just for clarity of the record, can you define for us what you mean by that issue, I think it's gotten a little swampy on us.

Q. That's probably right we've talked about an analyses of the recoveries on a pro rata bays in the vent there's a dismissal of the action, correct?

A. Yes.

Q. And you've testified about what you know exists with respect to the analysis of that issue and we've just discussed that, correct?

A. That's right.

Q. And you pointed out that in your opinion, you have a summary --

A. Mm-hmm.

Q. -- which is Exhibit 1 and that it's a summary of the items that are referred to in the plan of adjustment and the attachments to the plan of adjustment; is that correct?

A. That's right.

Q. And my question was and I'm clarifying it now,

KENNETH BUCKFIRE, VOLUME 2

hopefully, do you know of any other analyses of that recovery, that type of recovery that we've just discussed other than what's attached to the -- to the plan of adjustment?

A. Mm-hmm.

Q. That you've referred to in your summary here?

A. Well, I know Miller Buckfire did not perform one. I do recall might have been late December, early January when the court initially denied the approval of the postpetition financing and we thought we might have to move to liquidate the City because we wouldn't have adequate liquidity I discussed running a downside scenario case with no rehabilitation with Conway and E & Y, but as it turned out we ultimately did get financing approved, so I don't know whether they started the analysis or not, but I never saw the results of it.

Q. And that was what you were referring to earlier when you said E & Y did some analysis for the Court but you don't know what it is?

A. Well, we talked about it, but I never saw the results, and they may have shelved it because it became clear we were going to get a smaller financing done but one that would allow the City to operate.

KENNETH BUCKFIRE, VOLUME 2

Q. And the person that you think we should speak with at E and Y if you have that name in your head who do you think that would be?

A. Mr. Mahattra. But he may have never have done it because, as I said, it was something we discussed and within a matter of week we decided we probably didn't have to worry about that.

Q. And to the best of your recollection, the OE analysis that exists regarding what recoveries each of the unsecured creditors would get if the case were dismissed is part of a plan of adjustment, otherwise it doesn't exist?

A. That's correct. Although just to be totally accurate, go back to our June 2013 proposal. We had assumed that all of our unsecured claims would be in the same pool. At that time, I believe we assumed the COPs would be treated period with all the unsecured claims that was the only instance that we changed our view but nobody like that plan so.

Q. So again adding to what you just said we can?

Q. You need to look at the June 23rd plan or the POA, correct?

A. Correct.

Q. Do you recall why no one liked that June 2013 plan

KENNETH BUCKFIRE, VOLUME 2

with were all of them together?

A. Oh, yes. They all believed they were more special than everybody else and, therefore, they should get more than everybody else.

MR. CULLEN: Jen, do you want to weight in here?

(Inaudible comment by Ms. Green.)

BY MR. SOTO:

Q. See, as I understand the analysis with respect to the COPs the potential recovery is zero to 10 percent maximum, correct?

A. Correct.

Q. And it's your opinion with respect to this second opinion that the creditors would be better under the City a plan of adjustment and if the City in the bankruptcy case were dismissed that the COPs would get -- potentially get zero if -- if the case were dismissed?

A. I think that's a very real possibility.

Q. And you testified about that earlier. Did you ever do an upside what they might get you know because you did a zero to 10 under the plan I'm wondering if there is no plan did you think well gee they could get zero but they could get Y, did you ever do that analysis to be

KENNETH BUCKFIRE, VOLUME 2

able to compare apples-to-apples?

A. Not directly, no. But clearly the COPs holders have the benefit of your insurance so the bondholders themselves will do perhaps better than the City is proposing.

Q. And those bond hold he recalls are the creditors, correct?

A. They are. Insured by your client.

Q. Who is also a creditor at some to some extent, correct?

A. Correct.

Q. Did you take that into account in your opinion that they -- let's just take the bondholders that the bondholders would do better?

A. I don't believe the bondholders will do better than this plan in any other scenario that we've presented.

Q. Were there any alternative scenarios other than a dismissal of the plan, were there any sort of alternative plans that you might have taken into account in determining whether or not they'd do better under this plan as opposed to the dismissal of this plan? In other words, to be clear on the question, you're proposing a scenario where you either have this

KENNETH BUCKFIRE, VOLUME 2

plan or you have a race to the courthouse, correct?

A. Correct.

Q. Were there any alternatives other than a race to the courthouse like maybe this plan or an alternate plan that you might have considered, for example, your June 13th plan?

A. Well, we obviously proposed the June 13th the plan first but no creditors wanted to consider it so it wasn't feasible.

Q. And -- and other than that, anything else? Any other plans that you might have considered?

A. Well, we obviously had many discussions with all of our creditors including your clients and with your institution pursuant to mediation so I don't know what -- where the line would be on what we considered to pursue.

MR. CULLEN: Anything that was discussed outside of mediation, you can discuss.

A. Oh.

MR. CULLEN: Anything that was generated outside of mediation or shared outside of mediation, you can discuss.

A. Well, the only thing that comes to mind, and again, there was no support for it by any creditor was our

KENNETH BUCKFIRE, VOLUME 2

original provision in the June 2013 presentation for some, quote, upside sharing that if the City did better than its projections, there might be additional value to our creditors that could be there for a higher recovery call it the equity of the City approach. But as I said, no creditor supported our original proposal so we dropped the idea.

BY MR. SOTO:

Q. Did the City support it?

A. That's why we presented it, yes.

Q. And the upside sharing, do you recall the specifics of how that would -- how that would work?

A. Well, it was complicated because we wanted to make sure that it was properly calculated, we wanted to make sure it was just a one off, one-year improvement over the baseline, there's actually a full description of it in the June 2013 proposal.

Q. Is that the one in the June 13 proposal that had a capped $2 billion note?

A. I'd have to go back and check, with we had several different ways of doing it do you have a page reference.

Q. No, I don't but...

(Counsel confer.)

KENNETH BUCKFIRE, VOLUME 2

A. I don't have the full proposal in front of me.

BY MR. SOTO:

Q. And you know what we ought to give you the full proposal and have it marked as an exhibit otherwise so why don't we mark this -- it was -- the summary was 13, the full one will become 36.

MARKED FOR IDENTIFICATION:
DEPOSITION EXHIBIT 36
1:32 p.m.

A. Yes, this is what I was referring to, the terms of the note on page 107 of the June 2013 proposal.

BY MR. SOTO:

Q. Which for those of you down there is Bates stamped No. POA 00110544. Thank you very much. In connection with any alternate plans did the City consider monetizing and selling any specific assets as an alternative to the current plan and a dismissal, any in between?

A. Well we discussed this earlier every asset that the City had that it could conceivably monetize was disclosed in the June 2013 plan that we did embark on a the City's behave a process of whether there was indeed realizable value from each of the assets so identified and pursued that aggressively on behalf of

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KENNETH BUCKFIRE, VOLUME 2

the creditors of the City, and that was part of and is part of the City's current POA.

Q. And that's your testimony regarding the Coleman Young Airport, the Belle Isle, the tunnel, and the real estate and the DIA?

A. And the parking garages.

Q. And the parking garages?

A. Correct.

Q. And did you take that into account in arriving at your opinion here regarding this opinion number B?

A. I did.

Q. And you can -- and when you did that, did you sort of run pro formas, you could say okay we can't get much for this airport but here's what we could get. We can't get much for this tunnel but here's what we can get, you can't get much for this parking garage, but here's what you can get, did you run a pro forma where you did a scenario where well, here's what we get for a sale, and here's what would be left for everybody under this plan, we just don't think it's any good, but that's an analysis, did you do anything like that?

A. I've already testified to this, when you've looked at each individual asset you just mentioned we looked at

KENNETH BUCKFIRE, VOLUME 2

it we an attempted to do a market check in each case and what market values would be realizable and came to the conclusion and decided from the Institute of Arts, which I'll specify is a special case in a unique bankruptcy, the only asset which has substantially value are the parking garages, and we were about to embark on a process of selling them.

Q. So that's what I'm asking so you did testify to that, but what I'm going to now is a little bit different. It's your opinions so when you give an opinion that says, as yours does, that look, you creditors would be treated better under the City's plan of adjustment than if the bankruptcy --

A. Mm-hmm.

Q. -- were dismissed, so sometimes when a bankruptcy's dismissed --

A. Mm-hmm.

Q. -- then there are alternate plans that people come up with. In that analysis, I've asked you if you prepared any alternate plans, and you don't me other than the June 2013 plan that you didn't recall any, but now I'm asking for okay you might never have done an alternate plan but did you do an analysis that that laid out some assets that said well, we could sell

KENNETH BUCKFIRE, VOLUME 2

these, we could monetize those, here's what we could get for the City, you know, in that analysis, did you do anything like that?

A. No.

Q. No. Do you know if anybody else did?

A. Not to my knowledge. So.

Q. So again other than the June 13th analysis, which is part-- can't say that thing right to save my life. Sorry, June 2013 analysis that is Exhibit 36 in its full length and Exhibit 13 in summary, and the plan of adjustment there was no other alternative plan that you considered in arriving at your opinion that the creditors would be better off under the plan than with the dismissal?

A. Correct.

Q. Okay. Because of the proffering you as an expert I'm asking you this question in your expertise and I know you're not a lawyer and if you don't have an answer forget it?

A. Find it in my heart to forgive you that.

Q. Can I tell you something, you're for given I don't know why my three of four sons didn't figure that out but my fourth one did.

So I'm looking at this from a pure

KENNETH BUCKFIRE, VOLUME 2

standpoint of as a -- as a reorganization specialist or I know that's one of your expertises, what -- when you considered the alternatives for an unsecured creditor what are some of the thoughts that go into your head and for example when you were analyzing the COPs you gave me some of them?

A. Mm-hmm.

Q. You mentioned them, correct me if I'm wrong, while they were unsecured, you mentioned that and they would at best be in a pot of unsecured that was under the June 2013 plan. You mentioned that there may not be as direct in their claims as some of the other unsecureds, did you think about well, gee, I wonder what their the strength of their litigation claims might be if -- if there was no payment?

A. No.

Q. Do you know if anybody else did?

A. Yes.

Q. And who did that?

A. Jones Day.

Q. Jones Day? Okay. Did you take their analysis into account in your opinion?

MR. CULLEN: It's is it reflected in the range.

KENNETH BUCKFIRE, VOLUME 2

A. **Yes.**

BY MR. SOTO:

Q. The answer is yes?

A. **Yes.**

Q. And would you agree that that -- when you say yes you mean it's reflected in the range that you put in your opinion?

A. **It reflected in the range provided in the plan of adjustment as a potential recovery for class value.**

Q. So from zero to 10 percent?

A. **Correct I'm at 10 percent, somebody else might be at zero.**

Q. Okay. Did you do the same analysis for the holders of pension claims what their ultimate litigation claims might be, in coming to the range that you came to for them?

A. **Well, there's a general unsecured claim. My analysis was almost driven by how that underfunding which result in the claim was calculated, that's why I made sure I understood a larger claim they had, not whether the claim, it satisfy, could be presented and be admitted as a perfected claim in the bankruptcy.**

Q. So if I'm understanding what he says, look, I understand they're an unsecured claim I looked at what

KENNETH BUCKFIRE, VOLUME 2

the larger claim might be because they're not getting what they claimed they're owed so that gap, what they're not getting that it would be a bigger amount but what I'm asking is a little different. I'm asking did you do any analysis of what their legal action might be outside of as an unsecured creditor outside of bankruptcy?

A. **I did not, no.**

Q. Do you know if anybody did?

A. **Yes.**

Q. Again, would it be Jones Day?

A. **It was.**

Q. Did you take Jones Day' analysis into account in the range of recovery that you ultimately recommended in the plan of adjustment with respect to the pensioners?

MR. CULLEN: I don't know the answer to that one.

A. **Okay. Yes. I did.**

Q. Would you agree that outside of the Chapter 9 plan of adjustment that the holders of pension claims would have the same remedy as the holders of other unsecured claims if they were coming to the City?

A. **That would be my understanding as a financial matter, yes.**

KENNETH BUCKFIRE, VOLUME 2

Q. But leaving aside the impact that would have on the City's ability to operate because it's clearly the pension rights are held by both active and -- active employees and retirees so depending on how the City had to manage its work force might have an impact on how they decide to treat those claims even as a factual matter they're the same they might have treated because they've got to maintain the safety and welfare of the City because there might be cooperation of employees so there might be a different?

Q. So there might be a desire to treat, you know, people who are continuing working differently?

A. **Correct.**

Q. All right. But from the standpoint of any other aspect, for example, the contractual nature of the claim or whatever claim they would have under their agreements, they would all be unsecured creditors approaching the City the same way?

A. **That's how I would view it, yes.**

Q. In coming to your -- and this may be a subset of what I've already asked and if it is, just let me know. In coming to your opinion on this item B, what resources of the City did you assume would you have to be monetized to satisfy creditor claims in the case of a

KENNETH BUCKFIRE, VOLUME 2

dismissal scenario?

A. **It was the same list of assets we've already discussed relative to the June 2013 proposal and the City's ongoing efforts to monetize those assets.**

Q. So that would include as we already discussed, Coleman Young Airport, that would include the tunnel, it would include Belle Isle, it would include the parking garages, it would include the DIA and the art, and it would include other real estate?

A. **The land.**

Q. The land?

A. **Correct.**

Q. Are there any other assets that you think that are included at this point?

A. **No.**

Q. I believe yesterday you testified about some of the experiences that Miller Buckfire has in representing distressed municipalities and your own, as well. In your prior experience either individually or as a -- as an officer of Miller Buckfire, are you aware of other scenarios where the distressed municipalities have sold off assets to satisfy the claims of creditors?

A. **I'm not.**

KENNETH BUCKFIRE, VOLUME 2

Q. Do you know if in its history the City of Detroit has -- has done that?
A. Yes.
Q. And what are you thinking of, at this point?
A. The tunnel.
Q. And that was a deal that was done before you got involved in this analysis here?
A. That's correct.
Q. You may have already testified about this and if you have, we'll step through it quickly. On page 5 of your opinion, in fact I know we've done this, you addressed the issue and working with my colleague down there as well of the ability to access capital markets which was part of your opinion A yesterday?
A. Yes.
Q. And in your testimony yesterday in terms of the access to capital markets, did you have any differing opinions in connection with the access to capital markets' analysis as it would have related to say for example class 9 COPs holders type creditors as opposed to DWSD?
A. You mean insofar as the COPs are an indirect claim as a general fund as opposed to a claim of a revenue based department?

KENNETH BUCKFIRE, VOLUME 2

Q. I actually don't see the distinction at all but that's why I'm asking your testimony yesterday about the access to capital markets doesn't -- when you analyze it in connection than it did when you analyze with it the DWSD, I'm not going to go through those questions again if you does you think there's a distinction we'll go through those questions again?
A. Only that the City -- ability of the City will be able to access the capital markets upon emergence and later but its capital -- their yield at which it will have to pay for capital will, I believe, be higher than what DWSD will have to pay because DWSD has the ability to access the revenue bond market, and the City will have to access a different marketplace. And I believe that's the only difference.
But their ability to attract capital will not be questioned.
Q. Okay. So Mr. Hackney may have some more questions on that issue later.
So now I'm going to ask you some questions that may seem familiar, but I'm going to ask them under the context of a plan rather -- rather than your opinion that we have sort of been going through in your expert opinion.

KENNETH BUCKFIRE, VOLUME 2

Under the plan, recovery on account of the new B notes represent a zero to 10 percent for -- for class 9 -- well, actually, for anybody who's under that same line for the B notes, correct?
A. Correct.
Q. And that's based on the City's own projections, correct?
A. Correct.
Q. And this includes the holders of the COPs claims, correct?
A. That's right.
Q. And I think we've discussed this already, other than what you've testified to up to now, if the recipients of the new B notes are only recovering zero to 10 percent, why wouldn't they be better off outside of the bankruptcy and where they would be treated equally with the other unsecured creditors?
A. Well, I'm not sure I understood. First of all, class 9 is only COPs claims, there are no other claims in class 9.
Q. Okay, I shouldn't say class 9.
A. And second of all, we're talking about the recovery to the class, not the trading value or value of the B note, which is what the City's going to issue to many

KENNETH BUCKFIRE, VOLUME 2

of its unsecured creditors pursuant to the plan.
Q. And explain to me if you can the distinction that you just made, the value of the B note versus the recovery.
A. Well, the value of the B note is what it represents as the recovery to the class 9 class plus other classes that are receiving as unsecured creditors their share of that note. The note, in effect, is the value being received in consideration of the claims.
Q. And you perceive that that note will be valued at a greater than zero to 10 percent recovery?
A. Well, the zero to 10 percent recovery is what percentage of the claim is represented by your allocation of the B note. It has nothing to do with the value of the B note.
Q. Right. So if you monetize the zero to 10 percent based on what percentage of the claim that it represents, do you believe the B note in its value is greater than what you would get if you didn't do the math?
A. I'm sorry?
Q. In other words, if you put a monetary number on zero to 10 percent of whatever the allowable claims are and you calculated that, is that somehow different than

KENNETH BUCKFIRE, VOLUME 2

the value of the B note, you're saying?
A. **The B note is the asset. The claim is the liability.**
Q. Right.
A. **It's their ratio.**
Q. Right, but the claim is a claim that is based on -- so you have a claim that's based on a certain sum. You take a percent of recovery, and you determine look, I think you're only looking at zero to 10 percent of that claim.
A. **Mm-hmm.**
Q. You can even adjust it further by saying I think that that claim is only allowable to a certain percent, so you come to a number, right?
A. **Mm-hmm.**
Q. That number, that's a value that someone might assess that's the value of your claim. Is it your testimony that the B notes are going to be worth something more than the value of that claim as we've just -- in its calculation?
A. **Okay. The claim that the class 9 has pursuant to the plan is potentially $1.473 billion. That's the claim. I've already testified that our plan presumes to only allow a certain portion of that, and therefore, when you work through all the calculations, the class 9**

KENNETH BUCKFIRE, VOLUME 2

holder would receive for 1.473 billion $162 million par amount of B notes; that's what they get.
Q. You've answered my question. Well, let's turn back to our expert report then. And that was 4. Would you also refer -- you offer an opinion that the discount rate used to estimate recoveries for classes 7, 9, 12, 13, and 14, is reasonable and appropriate. Are you correct?
A. **Yes.**
Q. Okay. What is that discount?
A. **The discount rate that we determined would be appropriate to estimate recoveries based on our inspection of the publicly -- public market for the municipal debt, both revenue and general obligation, and determined that a 5 percent discount rate, which is also roughly consistent with the cost of capital paid historically by the City of Detroit for many years, would be a good rate to use because it's in the range of reasonableness in the situation of this kind, which I will stipulate is unique and there are, therefore, no comparables to look at that would give us any guidance, but this rate, because it is actually generous to our creditors to the point of view of calculating cost of capital seems appropriate.**

KENNETH BUCKFIRE, VOLUME 2

Q. You say it's generous to creditors from the point of view of calculating the cost of capital. Why?
A. **Because it's not too low a rate. If they've got a lower coupon, the market might view that low coupon, no matter how creditworthy, as requiring that the note itself would create a discount to adjust to a proper market yield. So we've used 5 percent to use for purposes of plan calculation.**
Q. Is there any other reason why 5 percent was selected other than what you just testified about?
A. **Nope.**
Q. And what risks does that 5 percent discount rate represent again?
A. **Well, it represents in general time value of money risk. That's the most important factor. The cities are, by definition, long term and long duration borrowers. The longer you borrow, the higher the discount rate has to be. This does take that into account.**

Secondly, the City will be post emergence in a very stable financial condition, albeit, will have ten years in which to implement its rehabilitation program. There, obviously, will be a question in the market's mind about whether or not the

KENNETH BUCKFIRE, VOLUME 2

City will achieve the expected results of rehabilitation, and, therefore, the discount rate would be more reflective of what I would consider a weaker municipal credit than one that has already proven that is a healthy, growing city. Those kinds of cities can borrow at much lower interest rates than Detroit will probably be able to do for some time, but it will not be a distressed credit because by definition, we will have solved the solvency issues, we will have given the City adequate liquidity with which to implement its plan, and most importantly, there will be no requirement in the City's plan to go back to the capital markets for at least ten years for any purpose which is unusual. Most cities are in the market every year to either borrow to take care of debt retirement systems or to fund new projects. The City's plan does not require to do either. That actually reduces the risk that our creditors, particularly those that are receiving B notes, will face.
Q. In coming to the conclusion that the 5 percent discounted rate was accurate based on the analysis that you just testified about, did you speak with any economists regarding that conclusion, regarding your

KENNETH BUCKFIRE, VOLUME 2

analysis?

A. **Economists? About interest rates?**

Q. Or about your analysis on the 5 percent discount rate.

A. **No, no economists.**

Q. And what about besides the people that you already have within -- well, yeah, besides people you already have within Miller Buckfire, did you speak with any -- any other finance professionals to see if oh, yeah, we agree with you, that's probably the way we would go?

A. **Only in the -- with the general understanding of if you had to compare Detroit post emergence to other cities, how would you do it? I mean are these factors which I've just testified to relevant to coming up with the appropriate discount rate or not, and you know, many of the market participants we spoke with did highlight the fact that not having to go back to the markets for ten years, actually, in their view, was an improvement to the credit story, not a negative.**

Q. Other than the terms that you've just testified about including the ones you just mentioned just now, were there any other terms that you considered in your opinion that the 5 percent is an appropriate discount rate?

KENNETH BUCKFIRE, VOLUME 2

A. **No.**

Q. Did you take into account the terms of the new B notes other than, for example, this agreement that you wouldn't be seeking, you know, additional, I guess, additional bonds within ten years?

A. **I'm not sure I understand your question.**

Q. So the B notes you mentioned to me earlier are -- have terms to them, right?

A. **That's correct.**

Q. Okay. Is one of the terms that an agreement that it wouldn't seek additional financing for an additional ten years other than the initial financing? I think you just testified --

A. **That's not a term, that's simply an assumption that the plan is based on.**

Q. So that's an assumption you made, it's not a promise that anybody can hold the City to?

A. **There is no requirement in the pro forma balance sheet of the City for it to go out and borrow new money for the first ten years of the plan. There's no stipulation, there's no covenant prohibiting the City from doing so, but it is not required by any debt maturities that would come due within that period of time.**

KENNETH BUCKFIRE, VOLUME 2

Q. And you took -- but you took that as a factor in your analysis of why you thought 5 percent was the right discount rate?

A. **Yes.**

Q. Any other factors or terms that you took into account?

A. **Obviously, we took into account the pro forma balance sheet of the City, which is laid out in my expert report.**

Q. Anything else?

A. **We were -- obviously, I was focused on revenue stability as a risk factor. I think you can tell the City determined that it, in fact, has the ability to support growth and tax revenues. There is no risk than other cities may face. And that's why we felt that if we had to use a 5 percent discount rate, which is, as I testified to, higher than a single A rated municipality would have to pay, that wouldn't be an appropriate rate based on the risks of revenues that we see.**

Q. Based on your testimony just now, do you assume that in exiting the chapter proceedings that Detroit will be a single A rated municipality?

A. **No.**

Q. Why do you assume it won't be?

KENNETH BUCKFIRE, VOLUME 2

A. **I don't think they deserve it.**

Q. Say it again.

A. **I don't think Detroit will deserve a single A rating as a general obligation bond holder until it has proven that it can operate in a financially responsible way that the tax base is improving and that the general economic conditions of the area are also improving.**

VIDEO TECHNICIAN: Five minutes left.

MR. SOTO: Why don't we go ahead and switch it now?

VIDEO TECHNICIAN: The time is 1:59 p.m. We are now off the record.

(Recess taken at 1:59 p.m.)

(Back on the record at 2:11 p.m.)

VIDEO TECHNICIAN: We are back on the record, the time is 2:11 p.m.

BY MR. SOTO:

Q. Mr. Buckfire, thanks. As I mentioned off the record, I think we have maybe ten more minutes of questions, two areas that I -- well, one area that I don't understand, and I want to get through and then another question that just hit me as I was thinking about your testimony earlier, so is it part of your opinion that

KENNETH BUCKFIRE, VOLUME 2

the City will be able to access capital markets and you opine, and I quote, that the City's revitalization plan will also contribute to its ability to access capital markets going forward; do you recall that opinion?

A. **I do.**

Q. And what is the basis of that opinion there?

A. **Well, the City's ability to reinvest in public services, particularly, safety services, should contribute to making the city a safer and more desirable place in which to live. That should lead to the maintenance for improvement in tax revenues, particularly property and income tax revenues, therefore, the investment in the City should lead over time directly to an increase or stabilization of City revenues.**

Q. And that analysis that you just laid out for me as the basis for your opinion, did you do any deeper dive analysis in terms of the ability of the City to access markets other than what you've already -- in terms of the improvement in tax revenues antic property and income tax revenues?

A. **Well, that's all as laid out in page 9, paragraph 14, what I considered. When I -- when this refers to cash**

KENNETH BUCKFIRE, VOLUME 2

flow projections, I'm referring to the City's cash flow projections which include revenues which is the beginning of that and netting out expenses which include the reinvestment program, all those things are considered.

Q. Looking at the page 4 of your opinion where you say you believe that the City's revitalization plan will also contribute to its ability to access capital markets going forward, the revitalization efforts are assumed to attract new tax base in the city, in addition to the City's revitalization efforts are relatively flexible because of the timing because of the flexible nature of much of the revitalization efforts, the City has increased control of its financial future and has flexibility to meet its reduced debt service obligations going forward.

Do you see where I'm reading that?

A. **I do.**

Q. You still agree with those statements which are your opinion, correct?

A. **I do.**

Q. And it's that, as to that, was there any specific analysis you did? For example, you continued to use the word in this opinion flexible, flexible,

KENNETH BUCKFIRE, VOLUME 2

flexibility, it's in there about three times, what do you mean by that?

A. **By that, I mean and this was a statement that would lead to any other similarly situated large institution the more control you have over individual budget items the more ability you have to honor contractual commitments that you cannot change based on the short-term, I'm referring here to the fact that else's clear that any City, any corporation must allow for cyclicality because the world is an uncertain place. Cyclicality can cover in two forms, either it's cyclical or it can be long term secular. One could argue the risks facing the City going forward are cyclical because the City's ability to operate will necessarily be affected by National, State, and local economic decisions which might cause a short-term decline in tax revenues, which you don't have much money, what do you do when you're managing the City and you have certain projects and certain contractual obligations you have to maintain in order to promote long-term revitalization? The ability of the City to look at it's new budget and not be bound to honor automatic requirements, particularly under pension and healthcare contracts, is a big benefit to the plan**

KENNETH BUCKFIRE, VOLUME 2

going forward. It's a benefit to all our creditors postemergence, and it's a benefit for the City to obtain postfinancing.

Q. And if I understand you correctly, in that access, what you're saying as the City deals with issues right now, it has specific deadlines on which it has obligations, correct?

A. **Correct.**

Q. And under the plan of adjustment, there will also be specific deadlines under which it will have certain requirements, correct?

A. **Well, we'll have several contractual obligations post emergence. We'll have to honor, for example, series B notes, its obligations under the pension program, its obligation under the new healthcare programs, those are new contractual obligations the City has to make every effort to honor. At the same time, it has to manage its reinvestment program and revitalization program.**

So to be specific about it, again, this is just my opinion. If there was another recession, which perhaps in our lifetime there will be one, and it turned out the City's revenues declined by $50 million, but it's a short-term issue. The City

KENNETH BUCKFIRE, VOLUME 2

logically should look at its revitalization programs and decide which ones are so high priority it cannot defer or delay that money and which ones can be delayed for a year or six months or whatever it has to be, that's the kind of flexibility I'm talking about.

Q. Okay, I got it so you're not talking about flexibility that means somehow after the plan you don't have to live up to contracts you have to live up to contracts before the plan and after the plan, correct?

A. Correct.

Q. You're talking about well, if it sets forth a series of revitalization efforts, some would be prioritized earlier than others, that's the flexibility you're talking about?

A. That's correct.

Q. Now, in connection with revitalization, has any analysis been done that does prioritize proposed revitalization efforts?

A. You mean a downside scenario?

Q. No, I'm not even talking about a downside scenario, I'm talking about specific priorities set forth in the plan for certain revitalization efforts. Have they been prioritized in a way that you just testified, some that would be maybe we could, you know, delay

KENNETH BUCKFIRE, VOLUME 2

those.

A. Well, not specifically the emergency manager has said numerous times that restoration of public safety is the number one priority of the restructuring process, and I assume it will be the number one priority of the City going forward.

Q. So that's a revitalization effort that is pretty firm it's got to --

A. As part of our overall program, I would stipulate that it's collecting what the public actors have said here that should be the number one priority, whether it turns out to be is not my judgment call.

Q. And if it -- if it doesn't turn out to be does it impact the viability of the plan post emergence?

A. Yes, but we have built in strong institutional protections to make sure the City stays on the track that we have begun here, namely, the oversight commission that was established by legislation, I believe, the end of June.

Q. And Mr. Hackney is going to address some of those issues, so I'll move on from that. I took care of that. I -- just one sort of question that was left on my DIA plate. So when you had approached Christie's and told them you wanted them to do an analysis of

KENNETH BUCKFIRE, VOLUME 2

subset of art, so to speak, correct?

A. Correct.

Q. Who did you go to to determine what was the City owned art versus what was not the City owned art?

A. Well, first of all, the published catalogs of the collection often indicate source of the art, who will pay for it, so it's actually fairly easy even as a layperson to look at the catalogs because they always stipulate whether it's a gift or paid for by the City or paid for by donors.

Q. So did Christie's make that determination independently on its own or did --

A. No they actually asked the DIA itself it had to identify works that are paid for in whole or in part by the City.

Q. And the DIA was the same DIA that had called the govern nor and didn't want to have anything to do with this plan, correct?

A. They did cooperate in the end.

Q. Do you know if they were the ones who identified what they thought was City owned and not City owned?

A. I already testified that, I believe that Christie's asked them to identify it.

Q. And they did it?

KENNETH BUCKFIRE, VOLUME 2

A. And they did it.

MR. SOTO: Okay, I have no other questions at this time, and I appreciate your patience with me. Thank you.

THE WITNESS: You're welcome.

EXAMINATION

BY MR. HACKNEY:

Q. Mr. Buckfire, good afternoon, it's nice to see you again.

A. Nice to see you.

Q. I have to tell you at the outset I have a hell of an ear infection going on in my right ear, and I cannot hear out of it, and so I'm doing the best I can, but I'm struggling a little bit to hear. So if I ask you a question five times in a row, it may be not only because I didn't hear your answer, because I didn't even hear my own question. I actually learned before this deposition that Mr. Soto can't hear out of his right ear just as a matter of course, anyway, but he's used to it and I'm not so...

MR. SOTO: That's why I always put my special friends to my right.

BY MR. HACKNEY:

Q. So it means you and I can say whatever we want about

KENNETH BUCKFIRE, VOLUME 2

Soto here.

I want to go back to some testimony that you gave with Mr. Soto that was on the subject of advice that you rendered about the recoveries of classes 10, 11, and 12, vis-a-vis other general unsecured creditors like COPs holders; do you remember discussing that with him?

A. I do, but can you be more specific?

Q. Yeah, let me -- I'm going to ask you what I understood you to say so you should listen carefully to whether I get this right.

A. Okay.

Q. I heard you say that -- number one that you provided advice to the EM on what different recoveries could be amongst different classes; is that correct?

A. Yes.

Q. I --

(Electronic phone announcement: Has joined the conference.)

BY MR. HACKNEY:

Q. I also heard you say that in deciding what recoveries were appropriate for classes 10 and 11, which are the pension classes, that you considered the fact that many of the members of those classes were also members

KENNETH BUCKFIRE, VOLUME 2

of class 12, which is the OPEB class, and that you considered all three classes together in evaluating their total recovery; is that correct?

A. Yes.

Q. And that was advice that you gave to the EM that he accepted, correct?

A. I'm not sure whether he accepted it or not, but it was my financial observation that the people who held the pension claims were often the same people who held the healthcare claims, so they would value money coming from the City more or less in the same pot.

Q. Okay, so your testimony is that as one of the people that was playing an advisory role with respect to the POA, this was how you looked at the appropriate recoveries for classes 10, 11, and 12, correct?

A. That's one of way of looking at it, yes.

Q. And did you give the EM your advice on that subject?

A. I did.

Q. Do you -- do you know whether he accepted your advice?

A. I believe it was one of the factors he took into account in ultimately approving the plan.

Q. Did you undertake an effort to determine the amount of overlap between classes 10 and 12 on the one hand or classes 11 and 12 on the other hand?

KENNETH BUCKFIRE, VOLUME 2

A. That was not an analysis done by Miller Buckfire.

Q. Do you believe that one of the other professionals did that?

A. I know we looked at this issue many months ago. It's an obvious question to address particularly between actives and retirees, and if anybody did it it would have been Ernst & Young.

Q. You're saying if anyone did. I take it from your answer that you have never seen such an analysis, correct?

A. No, not on an individual basis, which is what I think you're getting to.

Q. Right. So you have never seen on -- an individual analysis of what individuals have claims in both classes 10 and 12 or 11 and 12, correct?

A. Correct, I've never seen it.

Q. Have you ever seen it on a broader basis like approximately 32 percent of class 10 members are also in class 12, have you seen that type of analysis?

A. No.

Q. Were you aware of this concept of looking at these three types of class in advance of the June 2013 proposal to creditors?

A. Yes.

KENNETH BUCKFIRE, VOLUME 2

Q. And you were obviously aware of it -- okay, strike that.

I wanted to ask you, I saw yesterday that you said that you have -- you have not authored any publications in the last ten years, you testified to that fact I think with counsel for the DWSD parties. I read that quickly today; is that correct?

A. To the best of my knowledge that's correct.

Q. I was a little surprised by that, you're a fairly well-known player in the field and I thought you haven't written any op. ed. pieces, Wall Street Journal, New York Times, TMA, any of those things where you've written an article for any of those?

A. That's correct.

Q. Well, you got to do more writing then, I think.

A. I try to keep a very low profile.

Q. Well, you're not doing a good job of that in this case. Now, I wanted to ask you about your testimony in -- as an expert in deposition or at trial in the last four years. Have you given any expert testimony in a deposition or at trial in the last four years other than in the Calpine, GGP, Dow Chemical, and City of Detroit cases?

A. Well, Calpine was 2008, so that's not the last four

years.
Q. That's even outside the four years?
A. **That's right.**
Q. Okay.
A. **I'd have to go back and refresh my recollection of where my testimony was proffered because many of the matters that we were involved with in the last four years ultimately were fully consensual, did not require my testimony or even my deposition.**
Q. Or even your deposition?
A. **So I have to go back and check, but I did proffer testimony in a number of cases as an expert from an evaluation perspective.**
Q. So you might have submitted an affidavit or something in support for a financing motion or something like that in cases other than GGP, Dow Chemical, and City of Detroit?
A. **Correct.**
Q. Is Dow Chemical within the last four years?
A. **Let me think now, it might have been 2009.**
Q. Was that a litigation or a bankruptcy?
A. **I was in front of Delaware Chancery Court.**
Q. Oh.
A. **That was when Rohm & Haas --**

Q. Oh, yeah.
A. **-- was -- you remember that one now?**
Q. Yeah, I do. I wasn't on that, but other guys were.
A. **Yes, I know.**
Q. Okay, so I did want to make sure that I got kind of a complete list of any depositions or trial testimony as an expert in the last four years, so going back to 2010.
A. **There certainly are other examples besides the ones we've already talked about, but I have to go back and find out because the ones where I'm just proffered I don't usually have them on the top of my mind.**
Q. Fair enough. Now, you understand that you've been retained by the City to provide expert testimony in this case?
A. **Yes.**
Q. And your opinions and the bases for your opinions are contained in the report that has been marked I think as Exhibit 4; is that correct?
A. **That's right.**
Q. And as you sit here today, I know that things can change and they may very well change, but as you sit here today you do not intend to offer any expert opinion testimony outside of the opinions disclosed in

your report; is that correct?
MR. CULLEN: Can you qualify, do you mean additional opinions?
MR. HACKNEY: Yeah, let's -- yeah, so I said any expert opinion testimony outside of the opinions disclosed in this report.
MR. CULLEN: And I said opinions because obviously the report is not -- his direct testimony will not be, I'm going to sit you down, Mr. Buckfire, and I'm going to have you read through this piece of paper. There will be additional detail, there will be other things in that, but we don't anticipate any new opinions.
BY MR. HACKNEY:
Q. Okay, so you don't anticipate any other top line opinion testimony other than in this report?
MR. CULLEN: Right.
BY MR. HACKNEY:
Q. Is that correct?
A. **Yes.**
Q. And you have disclosed the bases for your opinion testimony in the conclusions you've drawn in this report, correct?
A. **Correct.**

Q. And you've also disclosed in this report all of the data and facts that you considered in reaching your opinions, correct?
A. **Yes, when -- especially when you take into account attachment 1 and some of the modifications to that since yesterday. Remember there's a list of exhibits that I relied on?**
Q. Yeah, and you're talking about the e-mail that I got from Ms. Nelson that had an additional number of exhibits that should have been included in attachment one?
MR. CULLEN: Precisely.
A. **Yes.**
BY MR. HACKNEY:
Q. Just real quickly, I reviewed those quickly last night when I got them and from my vantage point they look like they all related to DWSD, the postpetition financing, and then maybe a little of the current exit financing. Did I miss any? I guess we'd have to look at them all but --
A. **No, I think that's right.**
Q. Okay. I take it the expert testimony services that you're rendering here today are covered by the retention agreement between Miller Buckfire and the

KENNETH BUCKFIRE, VOLUME 2

City?

A. Yes.

Q. And so the compensation you're being paid for these services is part of the larger compensation you're going to receive for your services in this case?

A. Well, our -- our fee is our fee, it covers all services provided at the request of the emergency manager.

Q. Okay. Are you able to attribute a portion of the fee to the work you're doing as an expert?

A. No, because everything I've done as an expert has been integral with our overall representation of the City since last January.

Q. Okay.

A. And I don't think you can separate out any of that work from the rendering of this expert report.

Q. The Miller Buckfire fee was the subject of some discussions, let me see if I can sum it up and we can move past it, but it could be as large as 28 million all in considering amounts that you've already been paid; is that right?

A. No. The -- the fee is $28 million, that's it. Whatever we've received up to date or to the end of the case will be applied against that, so the final

KENNETH BUCKFIRE, VOLUME 2

payment to us will be the difference between all payments received and $28 million.

Q. That's what I was trying to say, I may not have said it well, which is the most you can get is 28 million, correct?

A. Correct.

Q. The 28 million is not incremental to amounts you've already been paid?

A. Correct.

Q. Amounts you've already been paid will be deducted from the 28 million?

A. Correct.

Q. And whether you get the 28 million or not is contingent on whether there is a restructuring of the City's -- of the City's securities in part; is that correct?

A. It's contingent upon the confirmation of the City's plan of adjustment, which would assume restructuring of the City's liabilities.

Q. Better said. And if the City's petition is dismissed, do you know whether or not you will be paid your fee?

A. I assume I will not be paid my fee, our fee.

Q. Now, you talked with Mr. Soto about your opinion that creditors are doing better under the plan than they

KENNETH BUCKFIRE, VOLUME 2

would in a dismissal scenario; do you remember that testimony?

A. I do.

Q. One of the things that you talked about evaluating was the claims of COP holders; do you recall that testimony?

A. I do.

Q. Did you ever evaluate the recoveries that the service corporations would obtain in a dismissal scenario?

A. Well, I discussed it with your colleagues. I mean, to some extent it's a gray area for me because in understanding those claims I had to consult with Jones Day, so I'm not sure I did any independent evaluation aside from a financial one regarding the status of the service corporations.

Q. It would be my expectation that once you offer an opinion on this that most of the communications you had with Jones Day that go into that opinion become discoverable?

MR. CULLEN: That might be, you'll have to file a paper to get there, though.

MR. HACKNEY: Okay, so you're going to assert the privilege today?

MR. CULLEN: Absolutely.

KENNETH BUCKFIRE, VOLUME 2

BY MR. HACKNEY:

Q. Okay, so let's make sure that I have it right, which is you believe you considered whether the service corporations might have claims against the City?

A. No, I didn't consider that.

Q. You did not consider that?

A. No, I considered the fact that the service corporations relied upon a contract with the City by which the City would provide cash flow to the service corporations and the service corporations would utilize that cash flow as the -- the collateral against which to borrow. Which is how the COPs came into existence.

Q. Right.

A. So from my perspective I was only interested in the service corporations as where the unsecured claim that would be pari passu with other City unsecured claims would reside.

Q. Okay, so maybe I can speed this up then which is it's my understanding you did not evaluate what the service corporations' recovery would be in a dismissal scenario, correct?

A. That's correct.

Q. Now, you are aware that the service corporations'

KENNETH BUCKFIRE, VOLUME 2

claims against the City are pursuant to the service contracts, correct?
A. **I am.**
Q. And do you understand that those are direct claims against the City?
A. **I do.**
Q. Do you remember that there was conversation with Mr. Soto about the fact that there is $162 million in B notes, face value B notes going to the -- the class 9?
A. **I do.**
Q. Is that the total amount that's going into the reserve established for class 9 or is that the present value of the total face value? Because in my mind there is -- something's not adding up there and so I want to try and understand it.
A. **Well, when you say it's not adding up, what is it not adding up to?**
Q. So I thought that the way it worked was that a reserve was set up --
A. **Mm-hmm.**
Q. -- and that the reserve was on a nominal basis without present valuing 15 percent of the total amount of COPs in B notes, meaning approximately $210 million in B

KENNETH BUCKFIRE, VOLUME 2

notes -- and by the way, I could have this all wrong, 210 million in B notes go into the reserve in the event the COPs all try to litigate their rights and are all vindicated, they would actually get 15 cents in nominal face value B notes, that the 40 percent discounted face value is only applied to a settling COP holder who decided not to take the risk of litigation and said I would like what I can get today. That's my understanding, whether it's right or not is up to you to decide, but what I'm trying to understand is what is that $162 million figure from your attachment 1 or whatever that one is?
A. **That's our calculation of the share that the COPs would have, the total amount of B notes the City is going to issue pursuant to the plan, so again if you look at attachment 1, and albeit this is a summary of information contained in greater detail in the plan itself, the City is going to be issuing approximately $650 million of series B notes, present value.**
Q. 632 maybe?
A. **Well, you have -- yeah, because you have to deduct the exit financing from the billion 249, you got to deduct the UTGO bonds and the LTGO DSA series. That leaves you with, you know, 632, 650.**

KENNETH BUCKFIRE, VOLUME 2

Q. So is it your understanding that the reserve -- the total amount of reserve on a nominal basis is 162 million in B notes?
A. **I'd have to go back and check the math against that. That's my general recollection. But I have to go back and verify it.**
Q. Okay.
A. **I haven't looked at that in a while.**
Q. Let me turn it around on you a bit and say do you know whether -- take a look there at the pro forma obligation, are any of those other numbers standing out to you as ones that are present valued or represent nominal amounts? Like look at the OPEB UAAL, is the 450 million -- do you remember, isn't that 450 in face B notes?
A. **Yes.**
Q. Okay, does that lead you to believe that the other numbers you've represented on the pro forma are face value B notes?
A. **Hold on a second. I'm just -- you want to know whether these are present value numbers or nominal numbers --**
Q. Yeah.
A. **-- or par amount?**

KENNETH BUCKFIRE, VOLUME 2

Q. Yeah.
A. **Oh, okay. These are the par amounts of the notes being issued, okay? There's no present value calculation of these notes, we have not actually done a valuation of the notes from a market point of view yet.**
Q. Now, isn't it true that in coming to your opinion that creditors do better under the plan than they would do in a dismissal scenario you did not construct a forecast of the City's revenues and costs in a dismissal scenario, correct?
A. **Correct.**
Q. And no one else has either, correct?
A. **Correct.**
Q. Now, your opinion that creditors are doing better under the plan than they would in a dismissal scenario is based on in part on the assumption that the City would be unable and it would be impractical for the City to raise taxes without further eroding revenue; is that correct?
A. **That's right.**
Q. I quoted that from your report. Sound familiar?
A. **It does.**
Q. Has a ring to it. So let me separate unable and

KENNETH BUCKFIRE, VOLUME 2

impractical, okay, Mr. Buckfire? What is the basis for your assumption that the City would be unable to raise taxes in a dismissal scenario?

A. **Well, it's -- I'll take it as a fact because it was reported in our June 2013 report that the City was already at the state-allowed maximum property tax millage rates, and therefore, has no further ability to raise the rate for property tax point of view. I believe the income tax rate, itself, is already quite high relative to neighboring communities, so that gets to the question of both impracticability and inability.**

Q. And I'm holding impracticability to one side, I'm talking about inability now.

A. **Yes. There's also the inability, and this is again a fact, that prior to the bankruptcy -- and it's getting better slowly, the City proved -- how should I say this nicely, consistently unable to collect taxes due. Which is a failure of the City administration in executing its responsibilities to collect taxes that have been assessed. So even if you wanted to raise the rate, you can't make people pay you, and if they aren't going to pay you and you make no effort to collect it's sort of irrelevant what the rate is.**

KENNETH BUCKFIRE, VOLUME 2

Q. Now, with respect to the caps that are imposed on the City with respect to income taxes and property taxes, did you evaluate whether or not those caps are applicable to a party who gets a judgment against the City?

MR. CULLEN: Do you have a -- is that a legal question?

MR. BALL: It certainly is kind of a -- it's a mixed question of law and analysis that would go -- we're already talking about legal matters when we talk about caps, those are statutes, right, the cap?

MR. CULLEN: Do you have an understanding?

BY MR. HACKNEY:

Q. Yeah.

A. **I have a general understanding.**

Q. What is your general understanding?

A. **That it's under certain circumstances a creditor might seek a judgment requiring the City to raise taxes.**

Q. Okay.

A. **But whenever we -- I don't recall discussing this issue, I was quickly reminded that the City already has the highest property tax rates in the State of Michigan and that even if we wanted to raise taxes and**

KENNETH BUCKFIRE, VOLUME 2

could raise taxes, it would simply drive people out of the City more quickly, so you might end up in a situation that the higher you raise your rates the less revenue you collect.

Q. So if I understand your testimony, what you're saying is if a creditor got a judgment against the City, it might make it so that the City was able to impose taxes above the statutory caps but the heightened tax would not yield additional revenue because it is impractical to raise taxes in any event --

A. **Right.**

Q. -- is that correct?

A. **Correct, otherwise known a Pyrrhic victory.**

Q. A Pyrrhic victory or you can't get blood --

A. **Blood from a stone, another way of saying it.**

Q. It's got to be turnip, I'm sure. No one would ever think you could get blood out of a stone, I think it's water out of a rock.

MR. CULLEN: Proverbs are various.

BY MR. HACKNEY:

Q. Well, we should definitely get them all I think straight, but I take it you did not undertake an analysis of the amount of tax increase that could be imposed via a creditor judgment against the City to

KENNETH BUCKFIRE, VOLUME 2

determine whether it would yield additional revenue?

A. **Not directly, but we did ask the tax experts at E&Y to do an analysis of the City's revenues and take into account the sensitivity of revenues to tax rates.**

Q. So you asked Mr. Klein at E&Y?

A. **I did.**

Q. And you asked Mr. Klein to study the question of what would additional taxes yield in the way of revenue?

A. **Well, not that -- I asked him to identify what the sensitivity of the City's revenues would be to changes in tax rates because the change of tax rates relative to surrounding communities will have an influence on whether or not people want to live here or in Southfield, Michigan or any neighboring suburb.**

Q. So you asked him to study the impact a tax increase or a tax decrease would have on the tax base, correct?

A. **Correct, I did.**

Q. And what did he tell you?

A. **You know, I've reviewed his expert report and I've talked to him over months about these issues. His conclusion was that because the City already has very high tax rates, any further increase in rates would certainly lead to a decline of revenue but that a maintenance of rates was probably sustainable from a**

revenue point of view, but that a decline of rates would over time have the ability to improve overall collections, but it would take a long time to demonstrate that effect.

Q. And did you rely on Mr. Klein's opinion in reaching your own opinion?

A. Yes, because his opinion underpins the revenue projections and therefore the cash flow projections of the City's plan.

Q. And did Mr. Klein also opine that increasing taxes would not yield marginal revenue?

A. He certainly told me that, but again to be very specific we're talking about property tax revenues.

Q. Yes.

A. Okay.

Q. Understood. And did you rely on that information from Mr. Klein in reaching your conclusion about the fact that City's not going to generate additional revenue from raising taxes?

A. Yes.

Q. Did you take any steps to pressure test Mr. Klein's advice to you that raising taxes would not yield marginal revenue?

A. No, I haven't done mathematical economics in a really

long time and he is a very well-qualified econometrician and so I relied on him.

Q. So with respect to your conclusion that it would be impractical to raise taxes, have you told me everything that you've done with respect to reaching that conclusion?

A. Yes.

Q. Now, have you reviewed the testimony of Mr. Evanko, the City's senior assessor?

A. No.

Q. Have you ever spoken to that man?

A. I have not.

Q. Did you speak to anyone in the treasury department about your -- your findings with respect to the City's -- the impracticality of the City's raising taxes to generate marginal revenue?

A. Only in the context of could the state assist the City in collecting income taxes. All right. I had several conversations with former State Treasurer Dillon last year, because it had been a proposal by the City for many years to ask the state to do withholding of City income tax on people who were working in the City but not living in the City.

Q. Okay.

A. And I asked him specifically what the state could do to assist the City in terms of collecting more efficiently those kinds of income taxes.

Q. So other than the notion of collecting more efficiently the taxes you're already assessing or imposing, you did not discuss with the treasury department whether increasing taxes would yield marginal revenue, correct?

A. That's correct.

Q. Now -- and isn't it fair to say that you, yourself, did not do any forecasting of future revenues in a scenario where the petition was dismissed?

A. Correct, we relied on Ernst & Young.

Q. And I'll come back to that in just a second. Ernst & Young, they did not do a forecast for the situation where the petition is dismissed, correct?

A. That's correct.

Q. They did a forecast for the future ahead in the absence of the restructuring, correct?

A. They did a forecast assuming the restructuring was successful. Which forecast are you referring to?

Q. In the June 2000 --

A. Oh, I see.

Q. They did the so-called steady state forecast, right?

A. Yes, that was a just a roll forward of the City as they see it at that point.

Q. As they found it?

A. Yeah.

Q. And you have never seen from them a forecast of what would happen if the case were dismissed in the next couple months, correct?

A. No.

Q. Am I correct?

A. That's right.

Q. Now, is forecasting future revenues of a municipality something that falls within your area of expertise as an expert?

A. No.

Q. It's not something that you could do if you wanted to?

A. I could probably do it, but I'm not an expert. That's why we sought out Ernst & Young to provide that service because Mr. Klein is uniquely qualified to do it.

Q. Okay, and did you ever ask Mr. Klein to perform a forecast of the City's performance if the petition were dismissed?

A. No.

Q. Are you familiar with the Government Finance Officers

KENNETH BUCKFIRE, VOLUME 2

Association?
A. No.
Q. I take it it's fair to say that you did not consider any of their forecasting techniques to consider City revenues in the case the petition were dismissed?
A. No, once we brought on Ernst & Young to provide the service we relied upon them.
Q. Okay, and you have not employed any econometric models to determine the future revenues in the City in the event different types of taxes were increased, correct?
A. Correct.
Q. You did not conduct any time series analyses to determine future revenues of taxes were increased, correct?
A. Correct.
Q. You have not conducted linear multiple regression analysis to evaluate future revenues if taxes were increased, correct?
A. Correct.
Q. And nor has anyone else to the best of your knowledge, correct?
A. That's correct.
Q. Now, you also say that material increases in taxes

KENNETH BUCKFIRE, VOLUME 2

will likely increase delinquency rates and cause residents to leave the City; do you recall that opinion from your report?
A. I do.
Q. What do you mean by a material tax increase?
A. Materiality is always subject to judgment, but it's probably something greater than 10 percent.
Q. Okay.
A. That would be regarded as material particularly on the property tax side.
Q. Okay. Did you do any quantitative analysis to determine the impact of a less than 10 percent tax increase on City revenue?
A. No.
Q. Do you know what the City's current delinquency rates are for property taxes?
A. I don't.
Q. Do you know what they are for income taxes?
A. No.
Q. Have you ever studied either of those questions?
A. I did last year at the time the June 2013 report was being produced, but I haven't really looked at that issue since then.
Q. And let me just tell you that I know that it is

KENNETH BUCKFIRE, VOLUME 2

described in the report but were you the one that actually conducted the study to determine the answer or did you just -- are you just saying that you saw it in that report?
A. I say that in the report. The work was done by Conway MacKenzie and Ernst & Young.
Q. Okay, so you personally have not studied the question?
A. That's correct.
Q. And you have never done anything to pressure test Conway MacKenzie's findings, correct?
A. Correct.
Q. Now, have you ever quantified how much delinquency rates would increase in different scenarios where taxes are increased?
A. You're asking me whether I pressure tested this a different way.
Q. Well, the first -- when I was asking about that pressure testing I was saying you never checked to see what they found to be the delinquency rates, whether that was correct?
A. That's correct.
Q. Okay, but this is a different question which is, did you ever attempt to quantify how delinquency rates would go up if taxes went up?

KENNETH BUCKFIRE, VOLUME 2

A. No.
Q. Are you aware of any data showing that increasing taxes will increase delinquency rates in the City of Detroit?
A. Only by inspection of the City's historical record as tax rates went up, my understanding from City officers, including Jack Martin with whom I discussed this issue, was the delinquency rate went up, as well.
Q. Ah, so you're -- you're under the impression that there's historical evidence in the City of Detroit that shows a connection between increasing tax rates and increasing delinquency rates?
A. It was anecdotal at the time he told me that.
Q. So you were told that by Mr. Martin. Did you ever attempt to confirm that?
A. No.
Q. Do you know whether the incomes tax in the City has gone up or down over the last 15 years?
A. Are you talking about the rate or the revenues collected?
Q. The rate, sorry.
A. I don't.
Q. Do you know whether --
A. But I'm referring to property taxes.

Q. So let's not miss each other, so separately you don't know whether income taxes have gone down over the last 15 years, correct?

A. I don't.

Q. And you don't know whether there's a historical connection in Detroit between the income tax rate and the delinquency rate, correct?

A. That's correct.

Q. You've never studied that connection?

A. No.

Q. Now, you were saying that your conversation with Mr. Martin was limited to the subject of property tax rates, correct?

A. Correct.

Q. And that what he told you was that property tax rates had increased, and as they had increased, delinquencies had increased, correct?

A. Correct, it was all part of the blight issue because as they assess property taxes people would walk away from their houses and that would become blighted and that would be counted as a delinquent tax issue by the City.

Q. Have you attempted to the economic literature for scholarly articles connecting tax rates and

delinquency rates?

A. No.

Q. Have you reviewed data from any other cities with respect to their tax increases and their delinquency rate increases for either income or property taxes?

A. No.

Q. Do you know whether the relationship between increasing taxes of either property or income and the delinquency rates associated with income or property taxes is a linear relationship?

A. I don't.

Q. If property taxes are increased by 10 percent, which is right at the threshold of materiality as you identify it, what will the percentage increase in delinquencies be?

A. I don't know.

Q. Do you believe that increasing the casino tax will increase delinquencies in the City of Detroit?

A. I don't see what the correlation would be.

Q. I take it so that the answer is no?

A. No.

Q. And what about the utility users tax, if the utility users tax goes up will delinquencies go up?

A. I think it would have a minimal impact on that.

Q. I take it you have not studied the issue of whether increases in either the casino tax or the utility users tax would generate marginal revenue, correct?

A. That's correct.

Q. You also say that one of your assumptions is that an increase in taxes will cause people to leave; is that correct?

A. Yes.

Q. Have you conducted any analysis to determine how many people will leave under different scenarios where taxes are increased?

A. No.

Q. Do you know what the historical relationship between tax increases and population levels is in the City of Detroit?

A. Well, it's not a simple correlation, there are many other factors that have led to population loss. Certainly increasing tax rates has been a contributing factor to the population leaving the City but not the only factor.

Q. And what's your basis for that opinion?

A. Just my knowledge of the City and, you know, looking at the City's revenues, adjusted for population, knowledge of the City's local economy and conditions

here.

Q. Anything else?

A. No.

Q. There's obviously been a number of other things going on in this area in addition to whatever tax policy has been, correct?

A. Which is what I just testified to.

Q. Yeah, and I wanted to clear, so you've had significant deindustrialization, correct?

A. That has been a major factor of the deadline in population in the City.

Q. You have not conducted, however, any quantitative analysis assessing the relationship between tax rates and population levels over historical time periods in Detroit, correct?

A. Correct.

Q. Do you know if Detroit raised property taxes by 30 percent how many people would leave?

A. No.

Q. What is the City's current millage rate on residential homes; do you know?

A. Not off the top of my head.

Q. Do you know it approximately?

A. I'd just be guessing, I don't -- I don't recall.

Q. Okay, what about nonresidential properties? What's the millage rate on them?
A. I don't recall the rates.
Q. Do you know how the City's property taxes compare with the surrounding municipalities' property taxes?
A. It was all disclosed in the June 2013 report. We did do a selected summary of total taxes paid by community on that type, that was disclosed.
Q. Is that the extent of your knowledge on the subject?
A. Yes.
Q. And you didn't perform that data collection, correct, you're just -- you just saw it, right?
A. That's right.
Q. So do you know whether it's accurate or not?
A. I don't.
Q. Okay. You have not undertaken a comprehensive study of what surrounding municipalities levy when it comes to property taxes, correct?
A. Correct.
Q. Are you currently of the view that there is no surrounding municipality that has higher property taxes than the City of Detroit?
A. No.
Q. You're not of that view?

A. I don't know.
Q. Oh, there may be, there may not be, you don't know?
A. I don't know for a fact.
Q. Do you know how many cities in the metropolitan -- what does MSA stand for?
A. Metropolitan statistical area.
Q. There you go. In the MSA -- showoff -- have a population of more than 50,000?
A. Let's see, in this area, it would be Detroit, Southfield, probably Troy, probably Dearborn, those are the ones that I would assume would be in that category.
Q. Do you agree that blight remediation will have a positive impact on property values in Detroit?
A. Yes.
Q. And are you aware that property -- that certain blight remediation will take place even if the petition is dismissed?
A. Yes.
Q. And have you evaluated the extent to which that blight remediation will have a positive impact on property values in the City of Detroit?
A. No.
Q. Now, are you aware that the City recently reduced its

taxable value on assessed -- on properties in its jurisdiction by approximately $1 billion?
A. I am.
Q. And what do you know about that, just that it happened?
A. I know that it happened.
Q. And have you evaluated the extent to which that decrease has an impact on property owners' ability to withstand an increase in the rate?
A. Nope.
Q. Do you know the difference between taxable value and state equalized value?
A. No.
Q. Do you agree that the City's property tax enforcement mechanism has been ineffective in recent years?
A. Is that -- yes, I would agree with that statement.
Q. And what I mean by the enforcement mechanism is I mean the folks at the City who are responsible either for defending assessed values or for collecting property taxes; is that what you understand --
A. It has been very ineffective.
Q. Okay, now, have you studied the question to see the extent to which it is the broken enforcement mechanism that is driving delinquencies as opposed to the tax

rates?
A. I've already testified to this that certainly the City's inability to officially collect assessed taxes has been a problem in terms of overall revenues being generated by those taxes.
Q. And so the corollary of that is if you fix the enforcement mechanism you'll see delinquencies go down, correct?
A. Or you might see more foreclosures because people really refuse to pay the taxes and they walk away from their homes.
Q. And so do you understand, however, that the better you are enforcing your mechanism the more of a signal you're sending to the body politic that it needs to pay its taxes?
A. Yes.
Q. And so better enforcement can lead to decreased delinquencies, right?
A. I would hope so.
Q. But you did not study the extent to which improved enforcement would reduce delinquency rates, correct?
A. Correct.
Q. Have you studied the impact -- and by the way, have you reviewed the Plante Moran report?

KENNETH BUCKFIRE, VOLUME 2

A. Which one?
Q. The one they did on the assessor's office?
A. No.
Q. Have you studied the impact that improvements to the assessor's office will have on property tax collections?
A. I haven't studied it, no.
Q. Do you -- are you aware that some of those improvements have already taken place?
A. Yes.
Q. Okay, and do you know the extent to which they have all already taken place?
A. No.
Q. Have you studied the impacts that improvements to the treasurer's office will have on the collection of either income or property taxes?
A. No.
Q. And do you know the extent to which there have already been made improvements to the treasurer's office?
A. I know there were programmed improvements, yes.
Q. You know some have -- have been made to date?
A. They were supposed to have been made.
Q. And do you know the extent -- do you know the percentage of the improvements that have already been

KENNETH BUCKFIRE, VOLUME 2

made to the ones that are anticipated to be made to that office?
MR. CULLEN: Counsel, the percentage of initiatives, of dollars, of -- percentage of what?
BY MR. HACKNEY:
Q. Either way, just in terms of when it comes to treasury --
A. Mm-hmm.
Q. -- you know, how far are they along in their restructuring the department in terms of what's been done to date versus what's in the future?
A. No.
Q. Now, you -- you state that the City's tax burden is objectively very high; do you recall that in your report?
A. I do.
Q. What do you mean by objectively?
A. When you compare the taxes paid by a resident of Detroit relative to a resident of a surrounding community, especially when adjusted for per capita income, the City resident is paying a higher tax burden than a resident, for example, of Southfield or Dearborn.
Q. Now, did you take any steps to compare the total tax

KENNETH BUCKFIRE, VOLUME 2

burden, state, federal and city, of the average Detroiter and compare it to residents of other cities?
A. No.
Q. Do you know how Michigan income taxes compare to other states?
A. In general, they are higher than some and lower than others.
Q. Okay, but do you have a sense of where they fall on the 50 states?
A. They're toward the higher end.
Q. They're towards the higher end?
A. Yes.
Q. And what about sales tax?
A. Sales tax is also on the higher end.
Q. Have you -- even if you haven't conducted it, have you seen any analysis of the total tax burden on Detroiters as compared to the total tax burden imposed on citizens of other municipalities?
A. I recall looking at a study like that maybe two years ago, but I don't recall any more recent than that.
Q. Are you aware that the City of Atlanta increased property taxes by 36 percent in 2009?
A. No.
Q. Have you taken any effort to try and study either the

KENNETH BUCKFIRE, VOLUME 2

internet or published literature or anything to determine whether there are other municipalities out there that have made significant increases in a given year to a particular type of tax like property taxes?
A. No, with the exception of Chicago.
Q. All right, and the recent proposal?
A. Yes.
Q. I'm certainly paying attention to that one.
A. I bet you are.
Q. Actually, I live in Evanston but I think I'm covered by the same taxing authority.
I take it you haven't conducted any analysis of the impact that Atlanta's property tax increase had on its economy, correct?
A. That's correct.
Q. And are you aware that the City of Boston increased property taxes by 15 percent in 2009?
A. No.
Q. Haven't studied that either, correct?
A. That's right.
Q. Have you undertaken a review of the economic -- of the literature regarding the impact of increasing taxes on economic growth?
MR. CULLEN: I think you asked him that

KENNETH BUCKFIRE, VOLUME 2

one, but it doesn't matter much.

BY MR. HACKNEY:

Q. I hope I didn't, I try to not, but I apologize if I did.

A. I am generally familiar with the economic literature on the impact of taxes on GDP growth rates but not with respect to individual municipalities.

Q. Okay.

A. Okay.

Q. What is the sort of leading -- what are the three most important articles in the economic literature on tax increases and GDP?

A. I can't cite you the specific articles. There is a --

(Electronic phone announcement: Has left the conference.)

A. -- general recognition in the economics field that higher tax rates have the impact of retarding economic growth and lower tax rates have the impact of encouraging greater economic growth. There are obviously important limitations and caveats to that conclusion, but that's been a fairly fundamental tenet of macroeconomic theory for a long time.

BY MR. HACKNEY:

Q. Are you familiar with the Headlee Amendment?

KENNETH BUCKFIRE, VOLUME 2

A. I've heard it have.

Q. What's your understanding of the impact the Headlee Amendment has on a municipality's right to impose taxes?

A. It imposes a cap on its ability to raise taxes.

Q. And have you considered the impact of the Headlee Amendment on the City's recent decision to lower the taxable value of properties located in the City?

A. No.

Q. Have you taken any advice on the subject of the City of Detroit's legal ability to raise taxes notwithstanding any limitations imposed by state law?

A. No.

Q. And I take it you haven't conducted any surveys of the citizens of the City of Detroit to determine the impact a tax increase would have on their willingness to remain in the City, correct?

A. Correct.

Q. Have you ever heard of the Laffer Curve?

A. Yes.

Q. Is the Laffer Curve the point at which increasing tax rates will, all other things being equal, actually lead to a decrease in total revenues obtained from those taxes?

KENNETH BUCKFIRE, VOLUME 2

MR. CULLEN: For what size entity, are we talking municipalities here, sir?

BY MR. HACKNEY:

Q. Certainly qualify it as appropriate, I think the curve is a general concept that applies to anything, but if you need to qualify it, that's okay.

A. Well, I'm very familiar with this concept, it was first promulgated in the 1970s and it attracted a lot of attention at that time. It was I think in most economists' views -- again, I'm not a professional economist anymore, but it was something that was discredited in the '80s because it was applied on a national basis. It has turned out to have greater -- actually predictive value on a more local basis, particularly when comparing tax rates between states and countries in, for example, the European Union because you have an issue where people are more easily mobile between adjacent jurisdictions and they can choose to live in a lower tax region than a higher tax region they will on balance choose to do so, and that's the fundamental incite of the Laffer Curve, but it doesn't work on a national level.

Q. If I say the -- when I say you're on the wrong side of the Laffer Curve, what I mean is you're on the

KENNETH BUCKFIRE, VOLUME 2

descending side where if you were to decrease tax rates your tax revenue would go up. Do you understand that concept of being on the wrong side of the Laffer Curve?

A. I would call it the right side of the Laffer Curve, tax rates go up -- tax rates go down, revenues go up, that's a good thing.

Q. It's a happy place to be, I guess.

A. Why do you think it's the wrong place?

Q. Well, because it means your current tax policy is not Pareto optimal?

A. I will agree to that.

Q. I just am trying to get the terminology down. When I say the wrong side it means you're at a nonoptimal point from the standpoint of tax policy?

A. Correct.

Q. Is it your opinion that the City of Detroit is on the wrong side of the Laffer Curve?

MR. CULLEN: Your wrong, his right.

MR. HACKNEY: Yeah.

BY MR. HACKNEY:

Q. Is the City of Detroit on the side where its current tax policy would yield additional revenue were it to decrease tax rates?

Page 265

KENNETH BUCKFIRE, VOLUME 2

A. **Over a long period of time, and assuming that other conditions necessary for people to make the decision to live here, yes.**
Q. Do you feel you've conducted an academic and sufficiently sound study of that question to give that opinion, sir?
A. **No.**
Q. Okay.
A. **You said Pareto optimal, not me.**
Q. Well, that was because you knew what MSA meant. I take it you don't know the extent to which the City must decrease taxes to reach the point of the Laffer Curve at which revenues will no longer increase by a further decrease in the rate?
A. **Correct.**
Q. Now, are there any other cities of which you are aware that are on the so-called wrong side of the Laffer Curve?
A. **No.**
Q. You haven't studied that question, either, have you, sir?
A. **No.**
Q. All right, do you know what the total tax burden of Detroiters is today considering state, federal, and

Page 266

KENNETH BUCKFIRE, VOLUME 2

local tax burdens?
A. **It's approximately 600, $650 million.**
Q. I was looking as percentage, sorry, I didn't ask that -- let me ask that again. Do you know what the total tax burden of Detroiters is today considering their state, federal, and local taxes as a percentage of their income?
A. **Oh, I see. I don't.**
Q. Okay. Do you know if it's over 50 percent?
A. **No.**
Q. Have you studied the revenue forecasting techniques of the State of Michigan?
A. **No.**
Q. Now, one of your opinions is that there would be a race to the courthouse by creditors upon a dismissal, correct?
A. **I think it will be a race everywhere.**
Q. I want to focus on the race to the courthouse if we could.
A. **Okay.**
Q. That is one of your opinions, right?
A. **It is.**
Q. Why would there be a race?
A. **Every creditor would be as aggressive as possible ir**

Page 267

KENNETH BUCKFIRE, VOLUME 2

trying to protect whatever rights or claims it though it had against the City and to force the City to take action to deliver value to that particular creditor pursuant to the rights abided in their contract.
Q. And do you know -- why do people typically race to the courthouse, is that within your area of expertise?
A. **Yes.**
Q. And why do they?
A. **They want to get there first.**
Q. Why though?
A. **Because they believe by being first in line they can convince a judge to give them a claim or a right to an asset or revenue stream before another creditor gets there.**
Q. That's exactly right, right, isn't it the theory that they'll be able to take their judgment and be able to get a lien on the judgment debtor's property before other parties?
A. **So I have been advised by counsel over the years.**
Q. Okay, that's where the whole concept of the race comes from, correct?
A. **Correct.**
Q. But another one of your opinions is that creditors cannot get liens in City property, correct?

Page 268

KENNETH BUCKFIRE, VOLUME 2

A. **Correct.**
Q. Okay, so the typical mechanism that leads to the race doesn't apply in the case of a municipality, correct?
A. **It would be a race to other jurisdictions for satisfaction.**
Q. Okay.
A. **Including the courthouse.**
Q. Now, one of the things you have to do is you have to determine who the racers to the courthouse are, correct?
A. **Yes.**
Q. Now, did you take steps to determine who would be racing to the courthouse upon the dismissal of the bankruptcy case?
A. **Are you asking for a legal conclusion?**
Q. Well, this is going to your opinion where you're envisioning these creditors racing to the courthouse, so I'm trying to get at who you're envisioning racing?
A. **Well, I think the people who would be going to the courthouse first would be the UT and LT bondholders.**
Q. Okay.
A. **They presumably would be looking to enforce their tax liens and ask for court permission or rights to do that, because they do have the tax pledge. That would**

have a very damaging impact on the City because the City relies on the unpledged portion of those revenues to operate the City, so that would be the first thing I think would happen.

Secondly, it's not clear what the retirees or the pension funds would do. I mean, they do have claims that are very large. They have a constituency which includes active employees of the City. I'm sure they would use every means possible, including going to the mayor and to the state house and maybe even to the federal government asking for intervention on their behalf.

Q. So maybe we can simplify this a little bit, though, like do you agree that in order to race to the courthouse a creditor would first need a cause of action they could assert against the City?

A. I think in this circumstance they will assert all sorts of things in order to bring a third party in to intervene on their behalf, not just a court.

Q. Are you assuming in the race to the courthouse scenario that people -- that included in the racers to the courthouse will be people to whom the City is not in breach of its obligations?

A. Absolutely.

Q. Okay, so is that informing your opinion?

A. I think everybody will race to wherever they can to improve their position relative to all the other creditors.

Q. Even people who don't have a present claim against the City?

A. As we have seen already in this case.

Q. So do you consider that a reasonable assumption in reaching your opinions that people that don't have a claim against the City will race to the courthouse?

A. They will invent claims.

Q. I'm sorry?

A. They will invent claims.

Q. I take it the answer to I my question is yes?

A. Yes.

Q. Have you studied to the extent to which settlements that have been struck in the bankruptcy will still apply even if the petition is dismissed?

A. To my knowledge, the only settlement which might survive is the swap termination settlement.

Q. Do you know if any others will survive?

A. No.

Q. And are you still assuming that the swap counterparties would be racing to the courthouse?

A. Well, their agreement would be, I believe, enforceable and we would be able to satisfy that pursuant to its terms with new debt so they'd probably be the only ones that might not race.

Q. Okay, and you haven't undertaken an assessment of all the other settlements to determine whether or not that party would have a claim for breach upon dismissal of a petition, correct?

A. No.

Q. Am I correct that you have not done that?

A. I have not done that.

Q. Okay, now, let's also talk about the size of the claims of the people that would be doing the racing. Is your conclusion based on the assumption that the pension claims would number in the billions of dollars?

A. I do.

Q. And is your assumption that -- with respect to your best interests finding that the size of the OPEB claim would also be in the billions of dollars?

A. Yes.

Q. And have you undertaken a study whether or not those claims provide for acceleration?

A. No.

Q. Okay, so you don't know whether those claims accelerate as you sit here today, correct?

A. No, we have an ongoing cash obligation to fund whatever we're supposed to fund, and I believe that the pension funds and whoever ultimately controls the healthcare contracts will do everything they can to make sure the City performs on its annual obligations to fund, which is a different issue than the ultimate size of the claim.

Q. That's right, and whether or not the ultimate size of the claim is in the billions of dollars upon dismissal is something you don't know, correct?

A. Correct, but the cash flow requirements enforced on the City is obviously a very material.

Q. And I take it, though, that in order to determine whether the claims of the COPs would be swapped by the other creditors you would have to know whether or not their claims were accelerated, correct?

A. Eventually, yes.

Q. Have you ever considered the opposite possibility which is that the claims of the service corporations, and by extension the COPs, are actually the only accelerated claims that exist against the City upon a dismissal?

KENNETH BUCKFIRE, VOLUME 2

A. You're assuming we don't pay their interest when due or the contract revenues when due?
Q. You already have not done so, sir.
A. I know that.
Q. Yeah.
A. So upon dismissal you're assuming we would continue not paying those service contracts.
Q. I actually think it doesn't matter whether you do or not. I think the acceleration happened, but that's just my opinion.
A. I see. No, we never considered that.
Q. You have not considered that. And I take it you haven't considered whether the UTGO or LTGO are accelerated upon dismissal of the bankruptcy or have previously been accelerated?
A. No.
Q. As you sit here today, do you know what the amount of the pension trust claim against the City is? I mean in the dismissal scenario.
A. Well, if you terminate the plans, this is where I'm trying to -- there are two different scenarios on the pension side. One is which the plan continues but you don't fund it, in which case the unfunded benefit is, you know, a cost -- that is perhaps as little as 3

KENNETH BUCKFIRE, VOLUME 2

perhaps as much of $4 billion dollars of underfunding as opposed to a termination of the plan, which would actually have created larger underfunding, which is one of the reasons that the City has taken the position we don't terminate the plans we'd rather freeze them. So in the dismissal scenario, which is what you're referring to, and we assume that we're not terminating the plans, I assume we would continue to have the obligation to fund whenever we can afford to fund; otherwise, we would be in default under our payment obligations.
Q. Okay, and the amount of the claim that the pension system would have upon dismissal would be the amount of the outstanding annual amount for that year?
A. Which we haven't paid.
Q. Yes, which you have not paid, is that your --
A. That's my understanding.
Q. And similarly the OPEB claimants would have their right to receive payment for the healthcare that they were entitled to that year, correct?
A. Correct.
Q. Okay. What about with UTGO or LTGO, what would the size of their claim be against the City upon dismissal?

KENNETH BUCKFIRE, VOLUME 2

A. Well, they have, as I mentioned before, in theory the right to tax revenues because they have revenue pledges, correct? So they would have presumably the same status and they would move to enforce their rights to receive all those tax revenues and, I believe, ask for relief not to share those revenues with the City general fund.
Q. Did you evaluate whether the City is in breach of the CETs? Do you know what those are?
A. I do.
Q. The City Employment Terms?
A. Yes.
Q. Yeah, is the City in breach of the CETs?
A. I don't believe we are.
Q. And you know the City has struck a number of collective bargaining agreements recently?
A. Yes, which is why I don't believe we are in breach of the CETs because they have been replaced --
Q. Let's bring it up to the present. You're aware the City has struck collective bargaining agreements with all of its unions, correct?
A. Yes.
Q. Other than the one fire union?
A. Right, I am aware of that.

KENNETH BUCKFIRE, VOLUME 2

Q. To the best of your knowledge, is the City in compliance with all of these collective bargaining agreements that it just struck?
A. To my knowledge, yes.
Q. Okay, isn't it are your expectation that active employees would not be people that had claims against the City in the dismissal scenario?
A. So long as we honor the terms of their agreements.
Q. What conclusion did you reach regarding the total number of claims that would be asserted -- total dollar value of claims that would be asserted against the City in a dismissal scenario?
A. It would be the sum of all the funded debt obligations, which we've already discussed, which includes the COPs and the GO debt and the pension and OPEB claim holders, which presumably we could not satisfy on an ongoing basis.
Q. And I take it you've never sat down with a piece of paper and tried to work this out, right, in terms of what the total claim size would be, correct?
A. Correct, we've not done a dismissal analysis.
Q. Okay.
A. I testified to that previously.
Q. Yeah, and I -- fair enough. Is it your understanding

KENNETH BUCKFIRE, VOLUME 2

that the City would not be able to undertake the restructuring and reinvestment initiatives if the petition were dismissed?

A. It could only do so if it suspended payments to as many of its creditors as possible.

Q. And have you made an assumption about what the City would or would not do in the event the petition were dismissed?

A. Well, I've already testified that back in, this was December or January when the court initially declined to approve the postpetition financing, we gave consideration to how we would operate the City in the event that we lost access to our required cash. We began to think about that problem at that point. I asked Ernst & Young and Conway to start developing an emergency plan in the case that we lost access to that, which we ultimately never actually went ahead and did because it turned out we did get access to postpetition financing. It was only in that context we ever examined a worst-case scenario in which the City had to, you know, allocate its remaining capital to essential projects.

Q. And so I take -- so you have never personally evaluated the extent to which the City would undertake

KENNETH BUCKFIRE, VOLUME 2

the restructuring reinvestment initiatives in the dismissal scenario, correct?

A. Correct.

Q. Now, I think that you testified about this with respect to Mr. Soto, but I was catching up a little bit. Is it your understanding that in the dismissal scenario, creditor recoveries would be on a pari passu basis?

A. Not all creditors.

Q. Okay, which ones would be and which ones would not as -- in your assumption?

A. Well, the UT and LTGO bondholders would be, in my judgment, at a higher priority than other creditors because they have the benefit of a tax pledge. It's my view that the other creditors to the City should be thought of as general unsecured claim holders and therefore treated roughly the same.

Q. Okay, so the general unsecured claim holders would be recovering on a pari passu basis in the dismissal scenario, correct?

A. That would be my assumption, which is consistent with the June 2013 proposed treatment of those creditors.

Q. So your estimation of COPs holder recoveries in the dismissal scenario is that they would receive zero; is

KENNETH BUCKFIRE, VOLUME 2

that correct?

A. I didn't say that.

Q. I thought -- so what is your -- let me ask this then. What is your estimation of what COPs holders would recover in the dismissal scenario?

A. I think they're likely to recover zero, not because of their classification as a creditor, which is -- I want to be very clear about that, but just because the City will have little or no value to distribute because its remaining cash flow, right, will not be sufficient once you get through allocation to the GO bondholders and provide for essential City services to provide any discretionary cash flow available for future debt service, which would include sharing that cash flow with other general unsecured claim holders, because on the map that we use -- and this goes back to the June 2013 report, the COPs claims are a billion four, at the time we believed that we had perhaps as much as $10 billion of other claims. So on a best-case basis if the COPs share pro rata, they might get at best 15 cents of whatever we had available to the overall pool of general unsecured claim holders, that's the best they could do, but if we have nothing to give anybody, that is, no security that would trade in the market at

KENNETH BUCKFIRE, VOLUME 2

anything close to a fair value, yeah, they could get zero.

Q. But that analysis assumes that all the other general unsecured claims have accelerated, correct?

A. Yes.

Q. Now --

A. Or have a claim on the cash flow of the City, which further reduces the amount of value available to accelerate the claims.

Q. Okay. But you haven't actually done the analysis, though, to see who would get any surplus revenue that exists above operating expenditures and secured debt, correct?

A. You've already asked me this, we have not done a dismissal analysis.

Q. I'm sorry, I don't mean to go over and over, I just -- make sure I haven't asked it in a different way.

A. Anxious to get the answer which I can't give you.

MR. CULLEN: Some kind of turnip or dead horse or something.

A. Is there a metaphor we haven't turned up yet?

MR. CULLEN: It's blood out of a stone. Yeah, because you can't get blood out of a stone.

MR. HACKNEY: I can't -- I'm not going to

KENNETH BUCKFIRE, VOLUME 2

use them again. I shot the wad on all three of them, although shot the wad is a good one.

MR. CULLEN: Gray area.

MR. HACKNEY: I'm sorry, I agree. Let's move on, I'm sorry.

BY MR. HACKNEY:

Q. These ad valorem taxes for the UTGO, you're familiar with what those are?

A. In general, yes.

Q. Have you -- have you determined the extent to which in a dismissal scenario a UTGO holder would be paid in full?

A. No.

Q. So you don't know the answer to that question?

A. Only in the -- only with respect to the revenues that the City has been collecting relative to the millages that applied to these UTGOs which have been insufficient to cover the debt. You are aware that for years the City was supposed to be collecting this millage but did not do so, and therefore, the ultimate resolution of the UTGO claim had to take recognition of that fact, the revenues were not sufficient.

Q. But you haven't studied the question of whether in a dismissal scenario UTGO would get more than 74 cents

KENNETH BUCKFIRE, VOLUME 2

on the dollar, correct?

A. That's right.

Q. One of your assumptions is that in the race to the courthouse scenario, creditors are unable to compel the City to sell assets or to take a lien on public property; is that correct?

A. Yes.

Q. And you say that you understand this to be true, correct?

A. I do.

Q. Who told you that?

A. Jones Day.

Q. And did you do any analysis to test whether or not that advice was correct?

A. No.

Q. Now, you're aware that PA 436 requires the emergency manager to resolve the fiscal crisis facing the City of Detroit, correct?

A. Yes.

Q. Have you evaluated the extent to which asset sales might be required in a dismissal scenario by PA 436?

A. No.

Q. When you were talking about the flexibility of spending associated with the restructuring and

KENNETH BUCKFIRE, VOLUME 2

reinvestment initiatives, you ended up answering the question to Mr. Soto in the context of if there was a recession that caused impact X, you could study the restructuring and reinvestment initiatives and determine which could not be deferred and which could; do you remember that answer?

A. I do.

Q. Have you undertaken a study to determine which of the restructuring and reinvestment initiatives are flexible in that way?

A. Not a study, but I have an opinion.

Q. You have an opinion?

A. Yes.

Q. Is it an opinion based -- I mean, is it just a sense or is it a formal opinion or --

A. It's just my opinion.

Q. Just your opinion. What is your opinion?

A. That in that scenario the first thing I would advise whoever was responsible to defer blight spending but to maintain investment programs related to public safety at all costs.

Q. Okay, so in your view when you look at the restructuring or reinvestment initiatives you see public safety initiatives as being the ones that are

KENNETH BUCKFIRE, VOLUME 2

least flexible in terms of deferral and blight as being the most flexible?

A. On a very short-term basis.

Q. On a very short term --

A. If you had to defer spending on blight removal for six months and come back six months later, you can do that, the houses aren't going anywhere.

Q. Now, have you undertaken to determine the total amount of grant moneys the City has been awarded since the June creditor proposal of last year?

A. Not specifically, no.

Q. Are you aware that the City has been awarded hundreds of millions of dollars in grants since that time?

A. I am.

Q. And have you analyzed the extent to which the City could use those grant moneys to fund restructuring and reinvestment initiatives?

A. No. It does accelerate the program, however. Having more money allows them to take out more blight --

Q. And I'm saying in a dismissal scenario have you studied the extent to which the City could use the grant moneys to fund restructuring and reinvestment initiatives?

A. No.

KENNETH BUCKFIRE, VOLUME 2

Q. Is the City going to be service delivery solvent upon emergence from bankruptcy under the plan?
A. I would say they would approach that standard within the first year of emergence.
Q. So you believe within a year of emergence the City of Detroit will be providing the appropriate level of municipal services?
A. No, I said they will approach that level.
Q. Okay.
A. Okay? You have --
Q. Now, I'm not sure who's the lawyer.
A. Well, no, it's a very complicated question -- it's a complicated question --
Q. Okay.
A. -- because there are so many categories of service delivery the City has to fix.
Q. All right, let's take a step back.
A. All right.
Q. Let's break it down. One of your opinions is that the City is service delivery insolvent, correct?
A. It was service delivery insolvent upon the filing of the bankruptcy.
Q. Filing of the bankruptcy, okay. One of your opinions is that the City was service delivery insolvent at the

KENNETH BUCKFIRE, VOLUME 2

time it filed, correct?
A. Correct.
Q. Now let's ask about today, is the City service delivery insolvent today?
A. Yes.
Q. Okay. Do you believe the City will be service delivery insolvent as of the anticipated plan confirmation date of September 30?
A. You know, it's a complicated question to answer and I hesitate only because you have to look at it by service delivery segment, safety services being the most important, followed by public lighting, followed by transportation services. The City has made dramatic strides in all those areas to improve service delivery, I'd have to go back and check because I'm not totally up to speed on where they stand on those programs. My understanding is that by the time the City emerges they will have made very dramatic improvements to public safety programs, so on those -- programs they may well be service solvent, I don't have a similar opinion on DDOT, which is the Department of Transportation, and I do know that the program to relight the City is ongoing and is expected to be completed next year, so on that element they're

KENNETH BUCKFIRE, VOLUME 2

probably insolvent but in terms of overall safety they will probably be solvent by the time they emerge.
Q. That's a fair caveat. So what you're saying is there has been enormous work -- there has been an enormous amount of work done to date?
A. Yes.
Q. That work may have rendered certain areas of the City service delivery solvent, correct?
A. Correct.
Q. Included in those areas would be an area like public safety, correct?
A. Yes.
Q. Other areas may be on a path to service delivery solvency that ranges in time?
A. Correct, and you should -- you should probably ask Mr. Moore where the City stands on all these programs --
Q. Sure.
A. -- because Conway MacKenzie's been managing most of them.
Q. That's a good advice. We'll take you up on that, but with respect to you --
A. You can thank him for me.
Q. What's that?

KENNETH BUCKFIRE, VOLUME 2

A. You can thank him for me.
Q. I will. I will. He's always glad to see me. So do you have an opinion as you sit here today of what areas where the City is service delivery insolvent or close to it at least in your view? I know we can ask Mr. Moore but --
A. I'm not really not current on that.
Q. So you don't know?
A. It's July, I haven't looked at this issue in a number of months so I am not current.
Q. So you haven't studied the question?
A. That's correct.
Q. Now, have you evaluated the likelihood that the City might choose to sell its art collection in a dismissal scenario?
A. No.
Q. And have you -- I take it then you haven't evaluated the impact such a sale would have on creditor recoveries, correct?
A. We have not done a dismissal analysis.
Q. Okay. Have you considered the possibility that the grand bargain might happen even if the petition were dismissed?
A. Well, my understanding is that one of the principal

Page 289

KENNETH BUCKFIRE, VOLUME 2

elements of that grand bargain is that the pension retirees who have rights to sue the City would presumably then have those rights restored and they may well pursue those rights, in which case the state's funding would go away.

Q. Yeah, there's no question that the grand bargain as it's currently drafted, if the plan is blown up somehow, it goes away?

A. Correct.

Q. Have you evaluated the extent to which it might be reconstituted in a dismissal?

A. That's speculation and I've already testified we haven't done a dismissal analysis.

Q. Now, do you understand that two of the motivating concerns of the grand bargain were to safeguard the art from any future attempts to get at it by creditors and to lessen the misery of pensioners in connection with the cuts?

MR. CULLEN: Objection, foundation. Whose motivations?

BY MR. HACKNEY:

Q. Well, the people that are parties to the grand bargain?

A. Their motivations are their motivations. The City's

Page 290

KENNETH BUCKFIRE, VOLUME 2

motivation is to maximize the value of assets in a way that's consistent with the rehabilitation of the City, and the grand bargain does that.

Q. Okay, by infusing hundreds of millions of dollars into the City, correct?

A. Into the City for the City's -- benefit of the City's creditors, which in this case happen to be the retirees.

Q. But you understand that the two points I raised about protecting the art and helping the pensioners are -- are considered to be two of the motivating factors for the grand bargaining?

A. That's my understanding.

Q. And those would still apply in a dismissal scenario, correct?

A. That's speculation on my part.

Q. Okay, so it's not something you've evaluated?

A. No.

Q. And I take it you have not independently assessed the reliability of the City's forecast, correct?

A. Correct.

Q. Do you know -- do you understand that the City of Detroit has above-average unemployment when compared to the national employment rate?

Page 291

KENNETH BUCKFIRE, VOLUME 2

A. Yes.

Q. And as a result of that, isn't it true that the City does not have a problem with attrition in its active employee ranks?

A. I'm not sure there's a relationship between the unemployment rate and attrition. What are you referring to?

Q. Well, just that when unemployment is high it tends to make people want to hold on to a good job.

A. That's a general statement, I don't -- I do not know how that applies to the case of Detroit.

Q. You haven't studied problems that the City may have either retaining active employees or attracting new ones; is that correct?

A. Only anecdotally.

Q. Okay, you haven't conducted a systematic study?

A. No.

Q. And are you aware of anecdotal evidence that the City is having trouble retaining employees?

A. The City has had historically trouble retaining qualified employees, they've had no trouble retaining unqualified employees.

Q. And that's just the anecdotal evidence you were referring to earlier?

Page 292

KENNETH BUCKFIRE, VOLUME 2

A. And personal relationships with many of those same City employees.

Q. In a dismissal scenario will the City be able to borrow money on a secured basis?

A. I believe so.

Q. Okay. And would it be able to do so at reasonable rates?

A. I believe so.

Q. In a dismissal scenario?

A. Oh, I'm sorry, no.

Q. I gave you a favor there --

A. No.

Q. -- because otherwise I'm crossing you later and you were like what was I saying. So let's do it again. In a dismissal scenario can the City borrow on a secured basis?

A. Probably.

Q. Okay, and would it be able to do so at reasonable rates?

A. Probably not.

Q. Why not?

A. I would assume any lender would look at the overall situation of Detroit and given the tremendous uncertainties facing the ultimate resolution of its

crippling liabilities would view that its position as a lender might be at some point under attack by other creditors, that it might find itself in a subsequent Chapter 9, have to protect its rights to get repaid pursuant to its pledge, and therefore they would want to be paid for that risk. They would also probably require that the terms of the loan be very short.

Q. The postpetition facility, however, was not one that required plan confirmation, isn't that correct?

A. That's correct.

Q. And Barclays facility tolerates dismissal of the petition, correct?

A. That's right.

Q. And you actually felt that that was a very favorable rate, if I recall, correct?

A. That's true.

Q. Something on the order of 3-1/2 percent, correct?

A. It is 3-1/2 percent.

Q. But your testimony is that even though you were able to secure that loan on a secured basis during the midst of a at the time nonconsensual bankruptcy that if the petition were dismissed that there would be a material difference in the secured barring of the City?

A. Well, there were very different facts and circumstances surrounding that. I don't believe that in any way helps understand what the City would have to do to borrow money in a dismissal situation, which is what you're positing now.

Q. Yeah, you're right. By the way, the exit financing that you're currently working to line up, that's also going to be on secured basis, correct?

A. We have suggested to lenders that security is available but we've also encouraged them to propose unsecured financing facilities.

Q. I think we've talked about this before, but when you suggest things to the market they have a tendency to not want less than that, right?

A. Depends on the demand for the financing.

Q. Do you think that the exit facility might be unsecured?

A. Ask me in a week.

Q. Okay. I will. Have you assessed the abilities to save money by --

A. I know you will.

Q. I'm going to call you and ask you.

A. You have to call Tim first.

Q. Yeah, I'll get permission. Have you assessed the

abilities of the City to save money by privatizing DDOT?

A. That issue has been studied.

Q. Have you studied it?

A. No.

Q. Now, that's something that could be done in a dismissal context as well, correct?

A. In theory, yes.

Q. Okay, and I take it you have not tried to factor in the privatization of DDOT to what creditor recovery should be in a dismissal scenario because you did not do a dismissal analysis, correct?

A. Yes.

Q. And I take it you would give the same answer for any other asset whether it was parking or Belle Isle or the art collection, correct?

A. Correct.

Q. Now, isn't it true that the City's exploring whether it can enter into a public-private partnership in connection with DWSD?

MR. CULLEN: To the extent that that's public knowledge, it's the subject of mediation.

MR. HACKNEY: I think the RFP was -- public. I mean, I read articles about the fact that

emergency manager was soliciting requests for proposal.

MR. BALL: The RFP has been produced, it's produced in the case.

MR. CULLEN: The RFP for which?

MR. BALL: For the public-private partnership.

A. Yes.

BY MR. HACKNEY:

Q. Are you involved in that?

A. Yes.

Q. Okay. What is your expect -- so what is your expectation regarding the structure of a PPP? And what I mean is you remember how you had a conversation earlier about the fact that the regional authority might entail a sale lease-back with a $47 million annual revenue stream; do you remember that?

A. I do.

Q. Is there an analog in the PPP context where somehow the City gets revenue out of the PPP agreement?

MR. CULLEN: This was not in the RFP and this is part of the ongoing negotiations in the mediation.

BY MR. HACKNEY:

KENNETH BUCKFIRE, VOLUME 2

Q. I won't ask for any specifics because I can imagine that you're -- that's probably what you debate, I'm just trying to understand it structurally. Let me put it to you this way. Is the -- I could see a scenario where you engage in a public-private partnership simply to reduce the efficiency and cost of the system and --

A. Improve the efficiency, not reduce --

Q. Yeah, improve the efficiency, right. Improve the efficiency --

A. And lower the cost.

Q. -- lower the cost and then lower rates, I could see that being one reason for why you might do it. I can see a city like Detroit that's been through a difficult process with the counties where it was hoping to do a sale lease-back viewing a PPP as a means of obtaining a revenue stream, and I just want to know whether that is one of the goals of the PPP? All right. Let's do it this way guys.

A. I'm sorry, I don't know what I can say.

Q. That's okay. That is a theoretical possibility with a PPP, correct?

A. Yes, it is.

Q. Okay, and that theoretical possibility is one that you

KENNETH BUCKFIRE, VOLUME 2

could arguably pursue whether the plan is confirmed or the petition is dismissed, correct?

A. Yes.

Q. But like the other assets of the City, it's not one that you've studied to determine its impact on creditor recoveries correct?

A. In a dismissal scenario, that's correct.

Q. With respect to access to the capital markets, isn't it correct that you have found great enthusiasm for people desiring to lend to Detroit?

A. Yes.

Q. In fact, investors are tripping over themselves when it comes to lending to the City, correct?

A. I didn't say that.

Q. I know you didn't, other people have.

A. Who?

Q. Kevyn Orr.

A. I can only say what I've said, there's a lot of enthusiasm for reviewing and potentially providing financing for the City of Detroit.

Q. And you agree that Detroit has, if its plan is confirmed, undergone a massive deleveraging of its obligations, correct?

A. Yes.

KENNETH BUCKFIRE, VOLUME 2

Q. And it is that massive deleveraging that makes the credit so attractive to potential lenders, correct?

A. That's one factor. The other factor is the oversight commission and continued institutional oversight of the City now provided for by the state legislation.

Q. That's right, so you view it as kind of, look, there's a quantitative component, that's the massive deleveraging, right?

A. Right.

Q. There's a qualitative component which is we're not going to do this again, that's the oversight, correct?

A. And I would say that's an even more important credit factor than the deleveraging of the City.

Q. Now, your opinion is actually that you'll be able to obtain credit on reasonable terms, isn't that right?

A. Yes.

Q. What do you consider reasonable terms to be?

MR. CULLEN: You did go through --

BY MR. HACKNEY:

Q. You did go through -- it's longer than ten years and what was the interest rate again?

A. Less than 5 percent.

Q. Less than 5 percent. At what point would you still have access to credit on reasonable terms with a lower

KENNETH BUCKFIRE, VOLUME 2

percentage of deleveraging? So I think you postulate a 70 percent deleveraging in your expert report; is that correct?

A. That's right.

Q. Would the City still have access to credit on reasonable terms if it only delevered 60 percent?

A. Well, it's not the right basis of comparison, you have to look at the annual anticipated debt service and legacy costs that are required to be funded by the City over the next ten years, so the total amount of liability reduction is of less relevance than that calculation.

Q. Well, you understand that the deleveraging is being accomplished by substituting B notes in many instances for what used to be the claims of the creditors?

A. I do understand that.

Q. So there's a relationship in the sense that the B note is what comes out at the end, right?

A. Well, but it's in the totality how much total leverage the City will still have post emergence, which we've laid out in this -- you know, in my expert report, it's, you know, a billion two of total funded debt when you include the reorganization securities given to the GO bondholders and others and the exit

KENNETH BUCKFIRE, VOLUME 2

financing itself, and then you have of course the annual obligations under the pension settlement and the OPEB settlement so the annual cost of servicing pension, OPEB, and debt service is what's relevant to the credit markets, not so much the total present value reduction of liability.

Q. Fair enough. Let me ask it a different way. How much could you in -- how much could you increase the number of B notes and still have access to the credit markets on reasonable terms?

A. Well, it's a good question because in a theoretical way, you probably could issue more notes if you had a lower interest rate; in other words, it's all about debt service, so we wanted to make sure these notes would trade at par, that's the expectation. That means the interest rate has to be an appropriate rate relative to the risk, which we think we've set, and the way to make sure you've got that right is to look at the projections of the City and make sure the City maintains a minimum level of cash at all times thinking of that as the cushion. You never want to go below enough cash to pay for six to eight weeks of operating expense, so when we look at the capitalization of the City, we really are looking to

KENNETH BUCKFIRE, VOLUME 2

the long-term financial projections that have been produced by our colleagues at E&Y and Conway MacKenzie, and basically stipulated that in no situation could the City tolerate a balance sheet which would result in the City having less than 80 to a hundred million in cash over the next ten years on hand, and that is how we backed into how much debt capacity we had when you assume debt capacity also includes the City's obligations to fund pension and healthcare.

Q. Starting in 2023 on the pension side?

A. Starting in 2014 or '15 depending on the fiscal year because those obligations begin immediately upon emergence.

Q. For active employees?

A. Well, if -- we have an ongoing pension obligation under the pension settlement, right, we have an ongoing healthcare obligation to fund the move to Obama care, and we have active employees who are moving to a 401(k) plan.

Q. Do you mean the pension obligation that the -- that is being paid on the City's behalf by the grand bargain participants?

A. That's just one element of it.

KENNETH BUCKFIRE, VOLUME 2

Q. That's what you're referring to when you say immediately upon dismissal.

A. Right, but clearly the fixed obligations of the City include pension costs and contributions, healthcare costs and contributions, as well as debt service.

Q. So I'm not, you know, intimately conversant with the forecast in terms of having it down to the dollar and penny but what do the forecasts show in terms of whether the City could issue more B notes and still have the cushion that you discussed?

A. Well, we'd have to go back and look at exhibits L and M to the plan of adjustment which do have projections included in those, and I believe you'll find -- and I can't remember whether it's L or M, will show the minimum cash that the City will maintain assuming this balance sheet, and as I have testified before, we had originally stipulated that we should not create a balance sheet which on our current projections would ever result in the City having less than 80 to a hundred million in cash, and that's another way of saying we don't have the ability to increase the City's liabilities including issuing more B notes because that has to have an impact on our cash.

Q. So obviously now if the City's forecasts are unduly

KENNETH BUCKFIRE, VOLUME 2

conservative and the City will actually do better than Ernst & Young is currently forecasting, if that were correct -- and I understand that's an assumption you haven't made and probably don't agree with, but if that were correct that would imply an ability to carry additional B note debt, correct?

A. By definition, yes.

Q. Mathematically it's true. You were asked this yesterday, I couldn't see in the transcript whether it was limited, but have you reached a conclusion -- have you studied the question of what the City's rating will be upon emergence or do you have a formal opinion on that?

A. I do not.

Q. Have you studied the comparable debt levels of other municipalities to determine how a post emergence Detroit will compare to them?

A. Not yet.

Q. Okay, you haven't done like, for example, a funded debt to general fund revenue analysis or other types of comparable ratio analysis?

A. Not yet, no.

Q. With respect to the calculation of the size of the pension and OPEB claims, you relied on the 6.75

KENNETH BUCKFIRE, VOLUME 2

percent discount rate calculation; isn't that correct?

A. For purposes of the plan?

Q. Yes.

A. Yes.

Q. Well, let me put it this way. You took the numbers from the plan and those numbers are based on the 6.75 percent discount rate, correct?

MR. BALL: I'm going to object, that mischaracterizes the plan.

MR. CULLEN: I couldn't hear you.

MR. BALL: I'm going object, it mischaracterizes the plan.

A. There are two different rates -- we use different rates for PFRS and GRS, so which rate are you talking about?

Q. Let's do it this way. Let me see if I can speed it up. When you calculated the pension UAAL at 3.129 billion, for that you relied on the presentation in the plan?

A. Yes.

Q. Similarly for OPEB UAAL you calculated that to be 4.303 billion and you similarly relied on its presentation in the plan for that number, correct?

A. Yes.

KENNETH BUCKFIRE, VOLUME 2

Q. You haven't independently sought to assess the accuracy of either of those two numbers, correct?

A. Correct.

Q. Did I hear you say that you have sent out the solicitation letter for the exit financing?

A. Yes, it went out on Friday.

Q. It went out on Friday?

A. Yes.

Q. You were waiting on approval of the treasurer's office before that went out?

A. That was -- yes. First, we were waiting for the legislation to pass in Lansing establishing an oversight commission, and that was not done until June 20th I think it was, and then we wanted to make sure that the state treasurer's office agreed with the amount of borrowing the City was attempting to seek, and of course the holiday intervened with that so it didn't go out until last Friday.

Q. Got it. Okay. And you are following a similar process to the one you did on the postpetition financing which is to say that you send out a solicitation letter and then you get back first nonbinding indications of interest from potential lenders and you evaluate them and then go to the next

KENNETH BUCKFIRE, VOLUME 2

stage?

A. Yes.

Q. And the first round in response to the solicitation letter is where people give you, the investment banker, nonbinding indications of interest, correct?

A. That's right.

Q. And then it's your job to follow up on those and see who you can hammer into a firm commitment?

A. Correct.

Q. And if I asked you questions about who you're approaching --

MR. CULLEN: We've been through this.

MR. HACKNEY: Did you cover this yesterday?

MR. CULLEN: Yes.

MR. HACKNEY: So because the exit financing is an ongoing process you're asserting effectively a commercial sensitivity privilege to --

MR. CULLEN: Yes.

MR. HACKNEY: -- questions relating to his efforts in connection with the exit financing?

MR. CULLEN: Yes.

MR. HACKNEY: So I'll note for the record, Mr. Cullen, what I could see -- I certainly see the logic of it because it's ongoing, on the other hand we

KENNETH BUCKFIRE, VOLUME 2

are talking about an expert who has based his opinions on access in part on it, so we may have to have a conversation later about whether we revisit it with him once he's gotten it done so --

MR. CULLEN: Well, might make a lot of this moot.

MR. HACKNEY: That's probably true, maybe we'll stand in awe of it.

MR. CULLEN: The world will be different once it's done.

THE WITNESS: As I mentioned --

MR. HACKNEY: I'm just going to reserve on that so we can get past it.

MR. CULLEN: No, and -- and --

MR. BALL: As we have.

MR. CULLEN: And Robin didn't roll over and beg either so --

BY MR. HACKNEY:

Q. I'm sorry.

A. I mentioned in my testimony -- my testimony yesterday I did indicate that we'd already sent it out to 15 parties --

Q. Okay.

A. -- which we've been talking with for months and that

we've asked for preliminary indications on the 24th of July.

Q. Okay.

A. We do expect to send it out to more parties this week only because we sent it out on Friday and a lot of people have left for the weekend already, so we got them yesterday.

Q. And so do you think you're going to bring that thing in before August 14, which is when we start the plan trial?

A. That is our expectation.

Q. That's about 20 days after, that's about 21 days after you get your --

A. Correct.

Q. -- responses?

A. But when we say bring in, I think we will bring in a recommendation to the emergency manager and have negotiated to a commitment letter stage, we will not have recommended we close or execute any financing documents until confirmation --

Q. That's fine. I was just curious about, I mean, general experience within three weeks of getting indications of interest is that fast, slow, or reasonable?

A. In this situation I would say that's reasonable only because we've been talking to market participants for months, they're well aware of the plan, all of the financial documents are out there, there's not much to do from a diligence point of view, it's really a question of structure and rate and interest.

Q. On page 4 of your report you say that the revitalization efforts are assumed to attract a new tax base for the City; do you remember that?

A. I do.

Q. And that means assumed by you, correct?

A. I believe it's assumed by the emergency manager and all of his key advisors as well as leading public officials of the state and community leadership.

Q. Okay, you have not independently accessed the accuracy of that assumption, correct?

A. No.

Q. Am I correct?

A. It's an assumption.

Q. It is an assumption that you have not independently assessed, correct?

A. Correct.

Q. Oh, you know, earlier you were talking about being personally involved in mediating with the COPs

holders; do you remember that testimony?

A. Yes.

Q. And I know there's a mediation order that contains within it a requirement of confidentiality, but is the time frame that you're referring to on those mediations in the fourth quarter 2013?

A. Yes.

Q. Was it in connection with the swap settlement motion?

A. No. Separate from that. Judge Perris was the mediator, so I mean -- right?

Q. Yes. Were the COP insurers in those?

A. Yes. Yeah, it was absolutely. We spent weeks on it.

Q. You spent weeks negotiating with the COP insurers and the COP holders on plan treatment?

MR. CULLEN: We were in the same courthouse under the same egis, fumbling back and forth.

MR. HACKNEY: And in New York.

MR. CULLEN: And in New York.

MS. BALL: Negotiated settlement.

MR. HACKNEY: On plan treatment?

MS. BALL: A settlement.

A. Settlement.

BY MR. HACKNEY:

Q. Of the swap?

A. Not the swap, of the --

MS. BALL: The whole relationship.

A. -- the whole thing, the swaps, the COPs, everything. We wanted to do a grand bargain to the benefit of the COPs and insurer --

MR. CULLEN: He's --

BY MR. HACKNEY:

Q. I remember what you were talking about but that -- okay. Well, we're talking about the same thing in any event so I just want to make sure. Do you have any understanding of how the City valued its OPEB obligations under the plan, the $4.3 billion number?

A. It's been months since I've looked at that so the answer is no.

Q. Do you remember you talked about meeting with -- meeting Graham Beal early on in, if I remember, the first half of 2013?

A. Yes.

Q. In any of your meetings with Graham Beal did you suggest that he might be replaced?

A. No.

Q. Did you ever suggest that he should be fired?

A. No.

Q. Did you ever tell him that he might be fired if he

KENNETH BUCKFIRE, VOLUME 2

didn't go along with what the EM wanted to do?
A. No.
Q. With respect to Belle Isle, isn't it true that you never undertook a marketing process of Belle Isle as a real estate asset?
A. Correct.
Q. Okay, and do you know any of -- anyone else at the City who did?
A. No.
Q. Do you know if the City received any offers to develop Belle Isle?
A. Only from press reports.
Q. Yeah, I've read the same press reports. I actually read about a sizable offer that could have been a crackpot but it's also a very nice piece of property so I didn't -- I wanted to ask you whether you had an undertaken to investigate that?
A. No.
Q. Now, when we were talking about the land earlier, do you remember that part of the problem with the land in general is that because it's all spread out in a City that can't deliver services, among other things, you reached the conclusion that it wasn't very valuable; do you remember that testimony on the --

KENNETH BUCKFIRE, VOLUME 2

A. That was part of my conclusion. The other part is that much of the land was encumbered with blighted structures or was otherwise abandoned or not maintained.
Q. Or was held by different governmental entities?
A. Ownership was in dispute --
Q. Yeah.
A. -- so for many reasons there was no value.
Q. Okay, so that I understood. Now, Belle Isle is interesting because it suffers from none of those problems, right?
A. Correct.
Q. So it's a big, contiguous piece of land that the City definitely owns, correct?
A. Correct.
Q. And it's also beautiful, right?
A. It is.
Q. Okay. Do you have an estimation of the potential value of Belle Isle if you were to sell it?
A. No.
MR. HACKNEY: Mr. Buckfire, it's been nice to see you again. Thank you for your patience with me today, I'm going to -- I'm going to pass the mike back to the DWSD folks subject to some of the points we

KENNETH BUCKFIRE, VOLUME 2

made about, you know, the potential need to question further based on indication of different types of privileges and so forth, but thanks.
THE WITNESS: Thank you.
MR. BALL: Take a couple minutes break.
VIDEO TECHNICIAN: The time is 4:01 p.m. We are now off the record.
(Recess taken at 4:01 p.m.)
(Back on the record at 4:11 p.m.)
VIDEO TECHNICIAN: We are back on the record. The time is 4:11 p.m.

EXAMINATION

BY MR. BALL:
Q. Good afternoon, Mr. Buckfire.
A. Good afternoon.
Q. And I -- as we discussed a bit off the record, I have a few questions about Exhibit 8, which is the June 16th, 2014 amended and restated change order, just prompted because I'm concerned that a couple of the questions Mr. Hackney asked may have muddied the waters a little bit about how the $28 million fee works, and really it's just -- the questions are just about the fact that there are aspects of your compensation that are not credited towards the $28

KENNETH BUCKFIRE, VOLUME 2

million; is that right?
A. That's correct.
Q. And they are outlined in the fee schedule provisions on page 7 of Exhibit 8 and in particular include monthly fees paid before September 1, 2013; is that right?
A. That's right.
Q. And potentially monthly fees paid after -- on and after October 1, 2014, correct?
A. Correct.
Q. And are there other aspects of the fees that you're being paid that would be excluded from the 28 -- that would not be excluded from the 28 million?
A. No.
Q. So you can put that aside. Then I have questions about a number of the 30(b)6 topics that we haven't covered yet, I don't believe, and so the first set relates to --
A. Are you referring to an exhibit?
Q. Pardon me?
MR. CULLEN: Exhibit No. 2.
BY MR. BALL:
Q. It's Exhibit No. 2, it's --
A. Okay.

KENNETH BUCKFIRE, VOLUME 2

Q. -- just a list of issues so you have it, my questions are not -- it's just so that you know that that's one of the topics you've designated for?

A. Thank you.

Q. The first set of topics I'm going to ask about relate to -- principally to designation 1-A and the impaired and unimpaired status of various bonds under the plan, so under the fourth amended plan for the senior lien bonds certain CUSIPs are impaired and certain CUSIPs are not impaired. Can you explain to me the basis on which the decision was made to impair some CUSIPs but not others?

A. Yes, we went through a selection process that had a number of components. The first one was determining whether or not the bonds had an interest rate less than the yield curve that we were using, in which case we left them alone because they were already at a very favorable and fair rate to the City. Then we excluded bonds that by their terms were either callable immediately or expected to be callable, I believe, by the 26th month of emergence from the plan, and our view on that issue was that it would be unlikely be the City would need to or want to refinance bonds immediately after emergence from bankruptcy, that it

KENNETH BUCKFIRE, VOLUME 2

would take its time to do so, and therefore, it was likely that it would wait until sometime in 2016 to effectively start retiring bonds that were too high cost. So any bonds maturing or noncallable prior to -- I can't remember the date exactly, but it was sometime in 2016, we just excluded because there was no practical reason to impair them as part of the plan.

Q. So there were references in the plan to 26-month period, is that your recollection?

A. Yes, and I believe it's stipulated as of 26 months after emergence which is why I believe that's -- and again I want to caveat that's calendar '16, not fiscal '16.

Q. So whatever the reference -- I believe it's 26 months.

A. It is 26 months, but I just want to make sure I have the right year, which is always a bit of confusion.

Q. And were there other criteria besides that that you used in deciding which bonds to impair and which not to impair for senior lien bonds?

A. No, there was the question of rate of course, and we assumed that the base rate -- and again, I'm using the yield, was 5 percent, and then we adjusted that further by 35 basis points to allow for implied

KENNETH BUCKFIRE, VOLUME 2

issuance costs, and therefore, concluded that we would impair bonds that had a yield of 5.350 percent or greater and met the callability requirements I've just explained. And that left us with a total I believe of 2.2 billion in bonds to be impaired out of the 5.5 billion in bonds the system currently has outstanding.

Q. Okay, and are there any other criteria that you employed in deciding which -- which CUSIPs for senior lien bonds to impair or not to impair?

A. No.

Q. And what criteria -- and just to understand, the point you mentioned about the 35-basis point adjustment, was that done as part of what you -- the step you first discussed about the comparison of the interest rate to the yield curve? In other words, when you compared it to the yield curve, did you make the 35-basis points adjustment as part of that process or is that something separate you did?

A. They're related, I mean, they really are.

Q. And did you employ a different basis for deciding which junior lien bonds to impair and which ones not to impair?

A. Well, the criteria as to callability and call period were the same. I believe we used a slightly different

KENNETH BUCKFIRE, VOLUME 2

rate to reflect the fact that they were second lien and not first lien.

Q. So you had a separate yield curve for second lien bonds and you used --

A. Correct.

Q. -- that yield curve instead, but otherwise was the analysis the same?

A. Yes.

Q. And is there -- other than what you've told me, does the City have a justification for the decision to impair some senior lien bonds and leave junior lien bonds unimpaired?

A. It's a financial analysis to maintain the City's financial flexibility to borrow at an appropriate cost based on the improved credit of DWSD; in other words, we did not want to design a plan in which creditors received bonds it would trade to a premium, we felt that was inappropriate. Secondly, we wanted to make sure that the bond -- scratch that. We wanted to make sure that the DWSD bonds by their terms would not be a future impediment to the creation of a regional authority if such an authority were to be created post emergence from bankruptcy.

Q. And how does the distinction -- the decision you made about which senior lien bonds to impair and which junior lien bonds to leave unimpaired, how does that relate to the -- the preserving the viability of a potential GLWA?

A. Well, it's all about the existence of noncall bonds with coupons and yields greater than what we view as the appropriate yield, those bonds should be trading at; in other words, if you have a bond which has a 7 percent yield, a noncall for 20 years that -- the consent of that bondholder would be required to move his assets to a regional authority and presumably that bondholder would want to be paid for the privilege of doing so, that would be a direct cost of the transaction. The higher the transaction costs are the less likely creation of a regional authority could be deemed to be.

Q. Are there any other justifications for the City's proposal to impair some senior lien bonds while leaving some junior lien bonds unimpaired?

A. No.

Q. And you understand that there are also revolver loans that are junior to the first and senior-- there's revolver debt that's junior to both the junior and senior liens who are water and sewer bonds, correct?

A. You're referring for the state revolver fund loans?

Q. I am.

A. Yes, I'm aware of them.

Q. And that's been left unimpaired?

A. That's correct, the rate's only 2 percent.

Q. And is there a reason why the City has left the revolver -- the plan proposes to leave the revolver loans unimpaired while impairing senior debt?

A. It's 2 percent money.

Q. Any other reason?

A. No.

Q. Is the fact that the debt was -- is the role of the state in connection with the revolver loans, does that play any role in the decision or did it play any role in the decision to leave the revolver loans unimpaired?

A. It was my recommendation to the emergency manager to unimpair that facility because it represented the cheapest capital being borrowed by DWSD.

Q. So that was the only factor that you recommended -- but that was the basis for your recommendation?

A. Correct.

Q. Do you know whether that any other factors were taken into account by the emergency manager or anyone else

in making the decision about whether to leave the revolver loans unimpaired?

A. I don't know.

Q. All right, other than changes to interest rate and call protection features as set forth in the plan, will there be any differences between the terms and conditions governing the existing DWSD bonds and the new DWSD bonds?

A. Not that I can recall.

Q. Is there some proposal -- have you considered some proposal to alter additional terms besides the interest rate and the call protection?

A. No, I just haven't read the actual note agreements that are referred to by the new plan financings recently so I can't tell you that word for word those documents are exactly the same as the existing loans, but my understanding is that no changes have been made to the noneconomic terms, if that's what you're referring to.

Q. Other than restraining -- call protection I take it is not -- whether that's an economic term, I don't know.

A. It's an economic term.

Q. So apart from those are you aware of any changes to the -- to the terms of the bonds?

A. No.

Q. One of the categories that on which you have been designated as the City's 30(b)6 designee is category 1-F and it's the extent to which all of the representations, warranties, covenants, liens, rights, and remedies related to the DWSD bonds under the existing DWSD bond documents will be applicable to the new DWSD bonds and/or the new existing rate DWSD bonds and the extent to -- and to the extent any changes from the terms the current governing DWSD bond documents for the DWSD bonds are made the description and impact of such changes; is that a topic you're prepared to address?

A. Yes.

Q. And so is it your testimony that all of the existing representations, warranties, covenants, liens, rights, and remedies relating to the DWSD bonds under the existing DWSD bond documents will remain unchanged except for interest rate and call protection features?

A. Yes.

Q. How is the allowed amount calculated for the impaired water and sewer bonds?

A. Well, the department has been paying interest on all of the revenue bonds through the bankruptcy matter at

KENNETH BUCKFIRE, VOLUME 2

hand, therefore there are no accrued but unpaid interest claim that normally you would expect on a prepetition basis. If it turns out that a bondholder does not accept bond treatment where call protection is eliminated but the interest rate stays the same, so in other words in the case in which he accepts a bond where he has the same interest rate will simply make those interest payments in the ordinary course upon emergence, so there will be no accrued issue there, as well. With respect to bond claims that reject that offer and therefore receive the reset notes, I'm not sure we've actually resolved -- figured out what we would do with it, I would assume we would calculate the claim up to the emergent state and then that claim would be added to the bond principal amount.

Q. Okay, so for -- and that is one of the issues I wanted to address with you is how you're going to deal with accrued but unpaid interest because my understanding, like yours, is that interest is being paid currently, but there will be some stub of a month for which interest will not have been paid?

A. Right.

Q. And so my understanding of your answer is that for the new existing rate bonds that you will make payments in

KENNETH BUCKFIRE, VOLUME 2

the ordinary course and that the payment immediately after the plan will include all of the interest from before and after confirmation; is that right?

A. That's my understanding.

Q. All right, and that for bonds, the new DWSD bonds --

A. Mm-hmm.

Q. -- that accrued but unpaid interest will be added to the amount of principal?

A. That's one possibility. The other possibility is the City pays that accrued interest claim under the old rate up until the exit date and then moves to the new rate.

Q. And so do you -- is there -- do you understand how that's going to be dealt with?

A. I don't think we've actually made a decision on that yet.

Q. Okay, so I'm referring in particular to the topics on -- that are 1 G and H in the designation --

A. I see.

Q. -- and is there anyone more knowledgeable than you about the status of how payments will be made for accrued but unpaid interest on the new DWSD bonds?

A. On the new reset securities?

Q. Right, and so not new existing rate but new DWSD

KENNETH BUCKFIRE, VOLUME 2

bonds.

A. Right.

Q. I understand that's how they're referred to in the plan; is that your understanding?

A. Yes.

Q. Okay, so for the new DWSD bonds --

A. Right.

Q. -- which is not new existing rate bonds, how will -- is there anyone more knowledgeable than you about how the accrued but unpaid interest will be dealt with for those bonds?

A. No.

Q. And so the answer on behalf of the City is that hasn't been decided?

A. That's correct.

Q. Do you know when it will be decided?

A. It's on my list of things to do.

Q. One other question I have about the allowed calculation of the allowed amount of the claim -- first let me back up, you said yesterday in your testimony that the ability to call the bonds going forward was of value to the City; do you recall that?

A. I do.

Q. And the protection against the call was concomitantly

KENNETH BUCKFIRE, VOLUME 2

of value to bondholders, correct?

A. Correct.

Q. And have you done any valuation of the call protection rights that would be impaired under the plan for bondholders who receive new DWSD bonds?

A. Which bonds? There are two different series.

Q. Okay, so for not the existing rate bonds because my understanding is -- is -- I haven't asked about those yet. I'm asking about the new DWSD bonds, and I will get to the second set --

A. Right.

Q. -- but for the new DWSD bonds.

A. Well, the new DWSD bonds, which of course have the lower interest rates, would also have call protection embedded in their terms so that would give the bondholders confidence that in fact we will not -- the City will not in the near term further refinance those bonds if the market opportunity exists to do so, that is of course of value to those bondholders.

Q. So that's a value of the new bond?

A. Correct.

Q. I'm asking the question whether you have valued the call protections that have been impaired by the plan.

A. Indirectly we have, yes.

Q. Okay, and how have you done that?
A. Well, it is the inverse -- it's obviously the same value that would accrue to the ratepayers of the system if you refinance the bonds at the lower interest rates that we believe these bonds should bear, the current projection is around $300 million of value would be saved by the ratepayers through a reset of the interest rates. Now, that, of course, means that if those bonds were reinstated, the value of those bonds should include that $300 million to the benefit of the bondholders.
Q. Okay, and have you included that amount in -- or is that amount going to be included in the allowed amount of the claim?
A. No, it's not their claim, their claim is par.
Q. And so the allowed amount of the claim does not include any amount allocable to the value of the call protection being impaired by the -- by the plan; is that right?
A. That's correct.
Q. All right, and so the allowed amount includes only the par amount of the bond, and -- and to the extent you decide to include it for new DWSD bonds, it includes -- it would include accrued but unpaid interest,

correct?
A. Correct.
Q. And for new existing rate bonds, have the value -- the value of the call protection for those bonds?
A. Well, they don't have any call protection.
Q. All right, for the impaired call protection, for the -- for the bondholders who would be receiving new existing rate bonds have you valued the -- the call protection lost by those bondholders?
A. No.
Q. And those bonds are likewise being provided at par without -- with the -- whatever adjustment, if any, there's made to the -- for accrued but unpaid interest, correct?
A. Okay, let's be very clear.
Q. Let's leave aside -- leaving aside the issue of accrued but unpaid interest --
A. Okay.
Q. -- for those bonds the allowed amount will be the par amount of the bond?
A. Correct.
Q. And for bondholders who purchased premium bonds, with the associated yield, there will be no compensation under the plan for the impairment of the premium bond?

A. Correct.
Q. What policies or practices control how expenses of the DWSD are categorized as current operating or maintenance expenses?
A. Are you on 30(b)6 topics?
Q. I am, it's 1 L. So my question again is, what policies or practices control how expenses of the DWSD are categorized as current operating or maintenance expenses?
A. I'm prepared to testify to that.
Q. You are?
A. Yes.
Q. Okay, but my question is what policies -- I was asking the question --
A. Oh, I'm sorry. I thought --
Q. -- assuming you were prepared, I was not asking are you prepared to talk about it, I was assuming you are.
A. Yes.
Q. Of course I'm going to ask how you know, but the first question is what are the policies or practices that control how expenses of the DWSD are categorized as current operating or maintenance expenses?
A. Well, there are of course the rate-setting mechanisms that DWSD has employed for decades in terms of setting

the rates, and those rates were set after a calculation of the costs of running the system and how they get allocated to customers. The second thing, of course, that I believe governs what they do is their historical pass practices of how they allocate expenses.
Q. Okay, and again, I'm asking what those practices are that control how their expenses are categorized as current operating or maintenance expenses. With specificity can you tell me exactly what policies or practices govern how DWSD -- DWSD expenses are categorized as current operating or maintenance expenses?
A. Well, their practice has been, particularly with respect to pension and OPEB costs, to categorize those as operating expenses of the system and they are expensed currently and have been for many years.
Q. Okay. And your basis for saying that is?
A. Inspection of their financing documents, discussions with the management of DWSD, and my general understanding of how the rate second -- the rate-setting mechanisms deal with these expenses in general.
Q. Do you know with specificity what policies or

KENNETH BUCKFIRE, VOLUME 2

practices the DWSD has historically followed for the categorization of UAAL, and in particular, not just its categorization as an operating or maintenance expense but as a current operating or maintenance expense; do you know how they've booked it historically?

MS. BALL: I'm sorry. Did you understand that?

A. Well, they've -- they've taken the position that if it's an expense currently they pay it.

BY MR. BALL:

Q. Okay.

A. That's how they've done it for a long time.

Q. That's not exactly my question. I want to know as an accounting matter how they book it, do they book it as a current expense historically?

A. As an accounting matter I'd have to review their footnotes and see, I know from a cash flow perspective they've always treated it as a current expense and paid it currently.

Q. Okay, so they've paid it currently --

A. Yes.

Q. -- which is a different thing than booking it as a current expense; do you understand the difference?

KENNETH BUCKFIRE, VOLUME 2

A. I do understand that difference, but I'd have to go back and read the financing statements that they published to see how they've actually done that from an accounting point of view. As a practical matter I worry more about cash flow than accounting principles.

Q. And as a representative of bond insurers, I care to some extent about the accounting treatment of the expense as well. Do you know what the GASB rules are that govern how such expenses are booked?

A. No.

Q. Do you know what they were two years ago?

A. No.

Q. Do you know what the current GASB rules are?

A. No.

Q. Do you know -- who would know that?

A. Well, Sue McCormick would know and presumably --

Q. Ms. Bateson?

A. -- Ms. Bateson would know.

Q. They have not been designated, I thought perhaps we would have Ms. Bateson designated on this topic, she was not. Do you know why you're designated on this topic instead of her?

A. Presumably because the issues have been about the nature of OPEB and UAAL costs and where they get

KENNETH BUCKFIRE, VOLUME 2

allocated, whether they are above or, quote, below the line with respect to debt service.

Q. Whether they're above the water -- the debt service of the waterfall or not?

A. Right.

Q. And that's certainly an issue, but I would like to understand the accounting rules that govern it --

A. Yes.

Q. -- and that seems to be -- not to be an area that you're prepared to address today; is that fair?

A. I am not.

(Electronic phone announcement: Has left the conference.)

BY MR. BALL:

Q. Is it DWSD's policy to comply with GASB accounting rules; do you know?

A. Yes.

Q. And do you know and yes, it is?

A. They're expected to comply with municipal finance accounting rules --

Q. Okay.

A. -- otherwise they wouldn't be able to get audited statements.

Q. So that is a policy of the DWSD to follow GASB rules?

KENNETH BUCKFIRE, VOLUME 2

A. Yes.

Q. And so far as you know, has -- well, do you know how the 45.4 million in annual contributions the plan contemplates that DWSD will make to the GRS on account of UAAL -- UAAL be accounted for?

A. No.

Q. And so far as you know, has the City conducted any analysis of how the GASB rules require accounting for those amounts?

A. No.

Q. So the City has not, to your knowledge, undertaken any such analysis?

A. To my knowledge, that's correct.

Q. What regulatory approvals does the City need to move forward with the -- with the plan as it's been approved, if any? Other than the approval of the Bankruptcy Court, are there going to be regulatory approvals that the City needs?

A. I'm not aware of any.

Q. Are there any that you've been told the City may need?

A. No.

Q. In connection with the proposed issuance of new debt for the DWSD, how will DWSD meet the bond tests for issuance of the new secured debt?

KENNETH BUCKFIRE, VOLUME 2

A. You mean in terms of its compliance with existing covenant requirements?

Q. With the existing coverage covenants, yes.

A. I believe we'll be able to satisfy those tests.

Q. Okay, will DWSD take the position that the outstanding loans are in default when it calculates its compliance with those requirements?

A. No.

Q. That they're accelerated?

A. No.

Q. That they're unimpaired?

A. They'll be unimpaired.

Q. If the bonds were accelerated would they currently be due and payable?

A. That's my understanding of acceleration.

Q. Okay, could DWSD pay them?

A. We would have to raise financing to do so.

Q. Would it be able to issue new secured bonds under the existing indentures and ordinances if the bonds were accelerated?

A. Probably with the cooperation of the Bankruptcy Court, we could.

Q. Okay, except in a scenario where it's been approved by the Bankruptcy Court would you be able to do it?

KENNETH BUCKFIRE, VOLUME 2

A. Probably not.

Q. One of the topics for which you've been designated is 1 K, which is how the trustee's fees and expenses including fees of its counsel advisors and experts will be paid and the source of the payment?

A. Yes.

Q. What can you tell me about that topic?

A. My understanding is to the extent that the trustee's fees representing a secured party have been incurred the City will ultimately have to pay them, the department will have to pay them, not the City, indirectly.

Q. And do you -- can you tell me -- what can you tell me -- and so the source of the payment will be the department?

A. Yes.

Q. Give me a moment, and I may be done.

MR. BALL: I will pass the witness. Do you have questions?

MR. WEISBERG: I have a few.

MR. BALL: Thank you, Mr. Buckfire.

EXAMINATION

BY MR. WEISBERG:

Q. Mr. Buckfire, my name is Bob Weisberg, and I am

KENNETH BUCKFIRE, VOLUME 2

representing Oakland County, and I have a very few questions for you today, and I appreciate the fact that you've been here for two grueling days, and I'm not going to take much more of your time than I have to, but I do have a couple of questions.

I haven't been here for the entire two days of your deposition, but I was there for most of yesterday and for some of today. Is it fair to say that during the course of your testimony today, that you provided various questioners with any expert opinions that you intend to offer in this Chapter 9 case?

A. Yes.

Q. Okay. Are there any expert opinions that either do not appear in your report or that you have not testified to in the two days of your depositions you intend to offer as expert opinions in the Chapter 9 case?

A. No.

Q. Just as a quick follow-up to that, you are not offering an expert opinion with respect to the financial or operational viability of the DWSD; is that correct?

A. Only with respect to the ability of the department to

KENNETH BUCKFIRE, VOLUME 2

borrow more cheaply post emergence and to support the reduction of interest rates proposed by the plan.

Q. With the exception of that limited extent, you are not offering any further expert opinion on the viability of the DWSD; is that correct?

A. No.

Q. All right. In connection with the DWSD you are aware that in the plan and in the projections associated with the DWSD, there is a provision with respect to moneys associated with the capital improvement plan or a CIP?

A. Yes.

Q. Do you know what the genesis of that CIP is?

A. Yes.

Q. And what is the genesis of that CIP?

A. It was a multi-month study conducted by OHM, which is a consulting firm retained by the City on behalf of the DWSD back in -- I believe it was early July of last year. They did a thorough review of the system both on the water and sewer side, and they relied on engineers who had many years of familiar -- familiarity with the system, and they produced the capital improvement plan which was first delivered to DWSD and to the Counties, I believe on October 1st.

KENNETH BUCKFIRE, VOLUME 2

Q. And was that plan as articulated by OHM was that incorporated wholesale into projections for the DWSD under the plan of adjustment?

A. I believe so.

Q. All right. And who made the decision to incorporate that plan?

A. It was the decision made by Mr. Orr, the emergency manager following the recommendation from his advisors --

Q. Okay.

A. -- and consulting with DWSD, itself.

Q. So is it -- is your belief that someone at DWSD also advised Mr. Orr to utilize the OHM plan?

A. I didn't say that. I said that they were consulted and discussed it with them. My understanding is they raised no material objections in any way to the plan, itself, terms of how much it would cost and when it would cost to improve the system. So it is an analysis performed by OHM on behalf of the City which I reviewed, which others reviewed and we recommended to the emergency manager to be included.

Q. Do you know whether any studies were done to critique or evaluate the OHM plan beyond what it said on its face?

KENNETH BUCKFIRE, VOLUME 2

A. Well, I believe that Oakland County and other Counties retained its only consultants at our urging to review the OHM material. I never heard the results of that investigation.

Q. All right, but the City didn't retain any third-party consultant to evaluate the OHM plan; is that correct?

A. Not that I'm aware of.

Q. All right. And with respect to the, again, the incorporation of that plan as the CIP, if you will, in the projections for the DWSD, did someone affirmatively recommend to Kevyn Orr that that plan be incorporated, the OHM plan be incorporated, or did he make that decision on his own with, as you've suggested, some input or commentary from other parties?

A. I already answered that question.

MR. WEISBERG: What am I looking it?

BY MR. WEISBERG:

Q. I guess my question is this, and maybe I'm not being as articulate as I should be. I want to understand if someone affirmatively recommended to Mr. Orr that the OHM plan be incorporated, and if so, who was that person?

A. OHM was retained by the City to develop a CIP plan for

KENNETH BUCKFIRE, VOLUME 2

DWSD that could be relied upon for purposes of developing the long-term financial and operating forecasts of the City and DWSD. They did that and delivered their analysis on October the 1st. There was no basis that I'm aware of on which that report should have been rejected or not relied upon for purposes of financial projections by the City or by DWSD and, therefore, was included in the plan.

Q. I understand your point. My question is a little bit different, and what I'm getting at is are you aware of anybody within the City organization or within DWSD who recommended to Mr. Orr that that plan be the basis of the CIP in the projections in the plan?

A. Not in those terms, no.

Q. Okay. Would it have been Mr. Orr's decision unilaterally to incorporate the OHM plan?

MR. CULLEN: Objection, misstates his testimony.

BY MR. WEISBERG:

Q. It's a question. I'm suggesting you answer.

A. Mr. Orr, as the emergency manager, had ultimate executive authority for everything related to the plan of adjustment.

Q. And what persons, specifically by name, if you know,

KENNETH BUCKFIRE, VOLUME 2

advised Mr. Orr with respect to or provided him with commentary with respect to the incorporation of the OHM plan?

A. Well, it would have been individuals at Conway MacKenzie but probably Mr. Moore, myself, one of my colleagues, Kevin Haggard. I'm not sure anybody in AOI was really involved in this to any real extent.

Q. And you mentioned representatives of DWSD. Which people at DWSD would have provided him with recommendations or commentary?

A. Commentary would have been Ms. McCormick, Ms. Bateson, probably to a limited extent Mr. Wolfson.

Q. And I think you said that you don't know of anyone who affirmatively objected to the use of the OHM plan, correct?

A. Correct.

Q. All right. And would that include Ms. Bateson and Ms. McCormick?

A. Yes.

Q. Do you know whether either one of those persons, Bateson or McCormick, advocated the inclusion of the OHM plan?

A. No.

Q. All right. Do you know of any limitations with

Page 345

KENNETH BUCKFIRE, VOLUME 2

respect to the OHM plan by its express terms in terms of what it was an advocating needed to be done in connection with the system?

A. **The only caveat was and I testified to this yesterday, the system is not in complete compliance with the Clean Water Act. It operates under a hardship exception.**

My understanding of that in the very beginning of our engagement with the City has been that the costs of coming into compliance might be in the billions. So long as the hardship exemption is in place, the City does not have to budget for the capital required to come into compliance. That was not, therefore, looked at by OHM.

Q. Were there other limitations in connection with the OHM plan?

A. **Not that I'm aware of.**

Q. Was the OHM recommendations limited in any way by way of affordability?

A. **Not that I'm aware of.**

Q. Is it your belief that the -- that the DWSD must remain as a viable operating division, if you will, within the City in order for the plan to succeed?

A. **That's one alternative.**

Page 346

KENNETH BUCKFIRE, VOLUME 2

Q. What's another alternative?

A. **The creation of a regional authority.**

Q. Fair enough, fair enough. How does the payment of the -- the nine-year amortization, if you will, of moneys that the DWSD will contribute to payment of certain pension obligations how does that fit in with respect to the viability of the plan? Is it an essential element of the plan?

A. **Yes, it's part of our overall settlements with our creditors.**

Q. So the -- you're saying that the payment by the DWSD is part of the overall settlement with your creditors?

A. **Well, you can't separate the elements out, and that's not an essential element to the funding of the claims that we have with our creditors, and this is one source of where that money comes from, and there's actually a -- an analysis of that in my expert report if you'd care to look at it.**

Q. And where would that be?

A. **Actually, maybe it's Exhibit L or M, I think it's M. If you go to the plan document, itself, you'll see an analysis of the -- you'll see an analysis of the projected cost of making the pension contribution relative to historical levels and the impact on how**

Page 347

KENNETH BUCKFIRE, VOLUME 2

that's funded, so if you want to go back and look at it, you'll see it.

Q. So I think what you're referring to, correct me if I'm wrong, wait a minute here, would be -- is it the -- the selected financial information attached to your report?

A. **Yes, that's right.**

Q. All right. Can you turn to that --

A. **Yep.**

Q. -- on that subject?

A. **As I mentioned, this is based on information on the plan of adjustment.**

Q. I understand.

A. **Okay.**

Q. So what you're referring to, I think, correct me if I'm wrong, is that historically, at least through the year 2012, when you combined various legacy liabilities that the DWSD was -- was paying, they were paying at a rate somewhere in the 40 to $50 million range; is that correct?

A. **That's right.**

Q. And so your commentary is that when we look forward into the year 2015 out to the year 2023, that with, perhaps, the one exception of the year 2015, the

Page 348

KENNETH BUCKFIRE, VOLUME 2

numbers are in a somewhat similar range?

A. **That's right.**

Q. All right. Now, with respect to those gross numbers, I agree with you, those are the same. If you break those numbers down and we look at, for example, the DWSD contribution to pension only, those numbers do not match up at all, am I correct?

A. **No, they were undercontributing for decades.**

Q. All right. Let's talk about that for a minute. You said they were undercontributing for decades.

First of all, I think you testified earlier, I think it was today, that the DWSD was paying what it was directed to pay during those time periods; is that correct?

A. **That's right.**

Q. That's your belief. So when you say they were underpaying, who were -- who was deciding that they should pay less than they were obligated to pay in your estimation?

A. **The City.**

Q. Okay, the City was making that determination. And how was the City implementing that determination?

A. **My understanding is the City was setting their pension contribution rate for all of the GRS at the lowest**

possible level despite the fact that the underfunding of the plan was growing, not shrinking, and because of that low contribution rate, DWSD, even though it had the ability to fund at a higher level, because DWSD had the ability to charge through the ratepayers their appropriate expenses, was benefitting from the City's own financial difficulties in a perverse way.

Q. Was the contribution to the DWSD in these prior years addressing any underfunding, was that calculated by the City's actuaries?

A. I believe so.

Q. Do you know whether the City's actuaries were in agreement with the amounts that were being contributed by the City and or DWSD with respect to any underfunding?

A. My understanding was the minimum possible contribution is what they were contributing.

Q. All right, when you say minimum possible, minimum compared to what?

A. In pensions, whether they're corporate or public, you're supposed to maintain them at a reasonable level of funding so that you can meet your obligations as they come due.

In the corporate world, we normally assume

that a plan that's funded 80 percent or more is adequately funded. A plan under 80 percent clearly has issues because you're not contributing enough to make up for the benefit expenses of that plan.

In the case of the Detroit plans, it was clear after our initial analysis that they were grossly underfunded, which implies that the pension contribution rates were too low to provide adequate resources of the pension plans to meet future benefit costs.

Q. Just so I'm clear, you're not an actuary --

A. I am not.

Q. -- correct? And you're not providing an expert opinion as an actuary in this case, are you?

A. I'm not.

Q. And you're not providing any opinion in this case as to the adequacy or inadequacy of the funding of the plan; is that right?

A. Only to the extent that it's a fact that the plans were severely underfunded and we reported that fact in June of 2013.

Q. There are a lot of plans out there that are underfunded in the general commercial world; are there not?

A. No.

Q. There are certainly some?

A. There are always some.

Q. This isn't the only one.

A. This is not a commercial plan; it's a public plan.

Q. There may be public plans that are underfunded out there, as well?

A. There are many worse than this one. I'll be calling them next.

Q. Who determined the amount of these payments that will be made by the DWSD to the pension plan?

A. It was determined in a negotiation with the pension fund and trustees, the retirees' committee, supported by the City's own actuaries, consultants to the City, and experts at Jones Day.

Q. You say they were supported by actuaries to the City; what do you mean by that?

A. Well, the calculation of how much to contribute to get to a target level of funding is something that an actuary is typically employed to do.

Q. Okay. And my question isn't so much that as to whether the amount of payment gets you to where you want to get. My question is who determined that it would be paid over the period that it was -- that it's

being paid?

A. It was negotiated.

Q. All right. It wasn't something that was recommended by the City's actuaries; is that correct?

A. No.

Q. No, it was not?

A. It was not.

Q. In connection with this negotiation, was it also determined that the City would not be contributing to the -- the reduction of the underfunding through 2023?

MR. CULLEN: Objection, I think we're getting into the negotiations under the mediation privilege, now we're getting into the terms of the negotiation. He was able to tell you that this was a product of a negotiation. Now you're asking him to parse the negotiation, and that's beyond the pale.

MR. WEISBERG: Not agreeing with it, but we'll move on.

MR. CULLEN: Okay.

BY MR. WEISBERG:

Q. To what extent was -- were you or and/or Miller Buckfire involved in connection with the underlying assumptions that were used in order to calculate the UAAL in connection with the plan of adjustment?

KENNETH BUCKFIRE, VOLUME 2

MR. CULLEN: I would just note for counsel that you can answer -- ask the question, but on the derivation of the -- what's been called the 428 figure, Mr. Moore was designated as the 30(b)6 witness.

MR. WEISBERG: Okay, and I'm not suggesting that Mr. Buckfire wasn't so designated.

BY MR. WEISBERG:

Q. I'm just asking you if you were involved in that determination?

A. No.

Q. You are with Miller Buckfire?

A. Correct.

Q. And in paragraph 3 of your expert report -- and you can refer to that. You indicate that in the third -- third sentence starting with in addition, it says in addition to other obligations, the City will have addressed and brought greater certainty and predictability with respect to its pension benefit and OPEB obligations; do you see that?

A. I do.

Q. Okay, can you tell me what that means?

A. I answered this question yesterday.

Q. I'm sorry, I apologize. I might have missed

KENNETH BUCKFIRE, VOLUME 2

something. Could you give it to me again?

A. The City by action of the plan of adjustment is eliminating $7 billion worth of present value of liabilities, most of which was represented by unfunded pension and healthcare benefit costs. The burden of those costs upon the City have been that the requirement to fund them currently with substantial cash has often been outside of the City's control, as it's been driven by independent factors, healthcare plans, benefit costs, pension contribution levels.

By eliminating such a large amount of the present value and converting the balance of these remaining claims into a debt obligation stream represented by the contribution by DWSD for catchup and also by the series B notes, the City will have much greater control over it's discretionary costs and its ability to meet its remaining contractual obligations when due.

Q. Well, okay, I certainly agree with you with respect to through the years, the year 2023 that said you will have virtually no obligation to pay in connection with those costs, correct?

A. Correct, that was an objective of our plan.

Q. So that's certainly predictable. But what about with

KENNETH BUCKFIRE, VOLUME 2

respect to post-2023; is that as predictable?

A. Ten years, twenty years, anyone's guess.

Q. Okay. All right. It also indicates here that in that same paragraph, it says that the fact that such obligations are driven by actuarial analyses and assumptions, such obligations have traditionally served as a significant obstacle in the City's financial planning effort.

So I'm trying to connect up those two concepts. What -- what is the connection between the fact that these pension obligations are driven by actuarial analyses and the fact that they create an obstacle to the City's financial planning?

A. I already answered that question. Actuarial assumptions --

Q. Indulge me, it's been a long two days.

A. Actuarial assumptions and analysis ultimately do drive required pension contribution costs. There's a cash cost associated with being required by an actuary to make certain contributions. That is inherently unpredictable because it does change relative to market asset performance and benefit costs, themselves. It's not something directly within the City's control, and the larger the underfunding is,

KENNETH BUCKFIRE, VOLUME 2

the more of a projected burden that will be on the City because at some point, that gap has to be closed, and that makes it very difficult for a City to make long-term financial plans knowing that at some point in the next 10 or 20 years, it will have to satisfy its pension obligations whether or not it has the assets to do so.

Q. There's an actuarial component to what it's going to have to pay down the road; is there not?

A. There is when you estimate today what your contribution has to be to the pension fund but the actual benefit costs, themselves, is something you find out every year when people retire and register for their claimant payments. So we're talking about the funding problem -- the funding problem, not the benefit cost problem that drives this.

I also note your earlier point that the ten-year period of stability is crucial because we do assume and we have every right to do so that the City's ability to revitalize itself be successful and, therefore, will have the ability to be a healthy viable City beyond year ten, which means from a capital market's perspective, the expectation should be that it will have no difficulty raising capital

KENNETH BUCKFIRE, VOLUME 2

beyond year 10, particularly because much of the pension costs related to GRS would have been taken care of by the pension settlement, itself, in the first ten years.

And if you were to look at the projections in the plan for years 11 and later, you'll note that the contribution costs of pension drop off to a very de minimis amount because we have front-end loaded those costs for the first ten years, which is a unique position for any City to be in.

Q. Are you aware of the level of funding of the pension plan in 2023 based on current projections?

A. Well, there are two plans, PFRS and GRS; which one are you referring to?

Q. GRS.

A. I think the plan stipulates we have to get them to 70 or 75 percent.

Q. That -- that's your -- that's your assumption?

A. That's my recollection of what the numbers. I know we had an objective of that, but I can't remember whether it's PFRS or GRS, I apologize.

Q. Well, do you know -- what one was, do you know what the other one was supposed to be?

A. No, but that's -- that is a reasonably adequate level

KENNETH BUCKFIRE, VOLUME 2

of funding for a plan of this kind and the view of the actuaries and experts that were involved in this.

Q. At some point in your testimony over the last several days, I think you had some discussion about water rates. You're not a water rate expert, correct?

A. No.

Q. Do you believe that there's the ability of the DWSD to impose unlimited increases in water rates either legally or practically?

A. No.

Q. No, you do not believe that's their --

A. I do not believe they have the ability to do that.

Q. Okay. There's some limitation?

A. Both practically and legally.

Q. And so to the extent that there are not enough funds in DWSD to satisfy existing operational issues, it doesn't necessarily follow in your mind that that shortfall will be able to be made up by way of increased rates?

A. I didn't say that.

Q. Do you believe that? Can the shortfall be made up by increased rates no matter how big the shortfall is?

A. Well, there's a practical limit to that. I meant -- I don't understand your question.

KENNETH BUCKFIRE, VOLUME 2

Q. My question is if the DWSD has insufficient funds --

A. Mm-hmm.

Q. -- going forward to satisfy its operational needs, there's some limit as to how much of that shortfall can be made up by way of increased water and sewerage rates; is that your understanding?

A. Well, there's always a limit to how high you can price a service or a good.

Q. And no difference here notwithstanding the fact that everybody needs water?

A. There's always a limit.

Q. All right. You indicated that -- well, strike that.

In connection with the selected financial information in your report, wherein you identify what you believe to be factors that indicate that the DWSD going forward will be in a better financial position than it has been historically, is what's reflected on that exhibit the totality of the benefits that you believe will be bestowed upon DWSD from a financial perspective?

A. No.

Q. What other benefits do you believe will exist to the DWSD?

A. Well, we didn't show it on this chart, but I did

KENNETH BUCKFIRE, VOLUME 2

testify earlier to the ability of the system going forward to retain revenue financed capital to finance the CIP, and that is now part of the operating plan for DWSD that is not reflected on this chart. My recollection is that that is an average $40 million a year of revenue that can be retained for the purpose of CIP, which means the system will not have to borrow that amount, which means that the ratepayers will not have to cover the interest expense for amortization of borrowing that amount.

So even over this ten-year period, if recollection serves $600 million of capital financed through revenue, rather than borrowing costs, which translates into over time lower leverage and a higher quality system.

Q. So in terms of what is currently needed by the DWSD consistent with the projections in the plan, is there some cushion that's built into that projection? And if so, what amount of cushion is built in?

A. It's the revenue finance capital.

Q. That's the $600 million?

A. You can think of it that way, yes.

Q. All right. What other risks are there with respect to the DWSD performing consistent with the projections of

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the plan?
A. **Governance.**
Q. Okay, you indicated earlier the regulatory issues, correct? That's also a risk if -- if they lose the grandfathering in with respect to the environmental; is that correct?
A. **That's a risk that all water utilities face. DWSD is not going to meet that in that regard.**
Q. Is there a risk with respect to whether there is sufficient CIP built into the plan in order to maintain the system?
A. **Of course.**
Q. Okay. And have you -- have you or has anyone quantified what the amount of that risk is plus or minus with respect to what's built into the CIP currently?
A. **No, we believe the CIP as currently understood is adequate to maintain the system safety and stability.**
Q. And I -- again, I don't necessarily know that you were designated on this topic, but did you or Miller Buckfire have involvement in terms of the creation of the ten-year plan for the DWSD in terms of the projections?
A. **Yes.**

Q. Okay. And what was the level of your involvement in those projections?
A. **Well, we worked closely with Conway MacKenzie, OHM, and E & Y to develop the projections, proposals that were first actually delivered to the accountings on the October 2nd, which explained how we would deal with the legacy liabilities and to create a projection that would be the basis of discussion.**
Q. Now, as long as you brought up the negotiations with the Counties, what was your personal involvement in those negotiations? And by the way, I'm talking about prior to any court ordered mediation.
A. **I led the City's efforts to negotiate with the Counties' premediation.**
Q. And suffice it to say those negotiations did not result in any agreement with respect to a regional authority, correct?
A. **I don't know how to answer that.**
MR. CULLEN: Do you mean a consummated agreement, counsel?
MR. WEISBERG: Well, an agreement of any kind prior to -- prior to -- what does it say, prior to the court-ordered mediation.
MR. CULLEN: What I'm asking is the

ambiguity, and there might be a document that says agreement at the top of it, but it was never --
THE WITNESS: Okay.
MR. CULLEN: -- consummated.
MR. WEISBERG: Well, he can tell me that.
MR. CULLEN: Is that your -- is that your question or is you question was there are --
BY MR. WEISBERG:
Q. Obviously there wasn't a consummated agreement so what level of agreement was there, if any?
A. **I'm going to be very careful. We had fully negotiated an agreement with the participation of Wayne, Oakland, and Macomb counties. That at least one party indicated they were prepared to sign with the City. But we elected not to do so at that time.**
Q. So am I to take from that that there were two parties that did not agree to sign that agreement?
A. **I didn't say that. I said we had at least one party that was prepared to sign along with the City to create an authority.**
Q. Do you know whether there was more than one party that had the ability to sign?
A. **Yes.**
Q. Was there?

A. **There was.**
Q. And how many more were there?
MR. MONTGOMERY: Excuse me, you know, I'm objecting to this, but I don't know how you get into this without violating the mediation --
MR. CULLEN: I think --
MR. HACKNEY: It's premediation.
MR. BALL: Mediation for the DWSD does not start until March of this year.
MS. BALL: It's a very difficult line to draw between --
MR. MONTGOMERY: No, that's not true --
MS. BALL: -- it was the subject of other items that were in the mediation, although, the Counties were not yet in mediation.
BY MR. WEISBERG:
Q. You can draw the line wherever you want. We'll deal with whatever you draw the line on for purposes of today's discussion. So I'm not -- I'm not going to make you answer this question.
MR. CULLEN: I think we've given you what we're going to give you on the state of play on the eve of mediation.
BY MR. WEISBERG:

KENNETH BUCKFIRE, VOLUME 2

Q. All right. Let me ask you this question so I don't spend a lot more time wasting yours and mine.
A. Right.
Q. Is there anything about the negotiations that took place prior to the court ordered mediation among the City and the Counties with respect to a regional authority that you are prepared to discuss here today? If there's not, I won't ask anymore questions.
A. No.
Q. No --
A. I just can't discuss it.
Q. Okay. Fair enough, fair enough.
A couple more things and I will be done. With respect to the DWSD projections, have -- have you, anybody at Miller Buckfire, or anybody that you're aware of done any comparisons with respect to recent run rates of the DWSD compared to what you currently have in the plan?
A. What run rates are you referring to?
Q. The current performance. In other words, how is the current performance of the DWSD compared to what you have projected in the plan, positive, negative, neutral?
A. You know, it's a monthly determination. They have

KENNETH BUCKFIRE, VOLUME 2

made strong efforts, which actually have publicly reported to improve collections and turn off delinquent accounts. That has led to a reduction of the run rate from the point of view of revenues, but it has, I believe, set the system up for improved performance going forward.
So aside from the short-term noise around that particular policy change, I'm not sure that the run rate has changed at all relative to the plan.
Q. Okay. And we didn't talk about this earlier, but with respect to risks to DWSD performance, is it considered to be a risk by you if DWSD is not able to obtain financing at the -- the levels that you've described or based upon, you know, the quality of the debt instruments that you've described that you think are attainable?
A. When you speak of performance, are you speaking of its ability to satisfy its customers' requirements for water and sewer services?
Q. No, I'm talking about it's ability to borrow money --
A. Oh.
Q. -- at rates that you've described. If it can't borrow at the rates you've indicated, that's another risk to its performance going forward, correct?

KENNETH BUCKFIRE, VOLUME 2

A. No. I mean as long as they have access to capital, they might have to pay a little more than they should, but you know, they're looking at borrowing, I think, on average around $200 million a year. So presumably, $200 million a year if they're paying 6 percent, not 4 percent.
Q. Within the level of borrowings that are projected, you're saying, as they can do a higher rate if necessary without significant adverse consequences?
A. Correct, particularly because we're programming in a substantial amount of revenue financed capital, which is a very important cushion they have not previously had access to.
Q. Do you know whether the CIP as projected in the plan has any inflation adjustment to it?
A. I don't recall.
Q. All right. In your view -- and I appreciate you're not the -- the water expert, per se, but in your view, operationally, at least, in your view, do you believe that the OHM plan addresses current identified needs of the system?
A. I have no reason not to believe that.
Q. All right. And I think you said, correct me if I'm wrong, that you were unaware of the results of any

KENNETH BUCKFIRE, VOLUME 2

County consultant report that may have been done subsequent to the OHM plan?
A. Correct.
Q. All right. So to the extent that that -- that report exists, and if it differs from the OHM plan, you're not aware of that?
A. That's correct. It never provided it if one exists.
MR. WEISBERG: All right. Give me one second and I'll wrap it up.
MR. DAVIDSON: Good afternoon, Paul Davidson for U.S. Bank.

EXAMINATION

BY MR. DAVIDSON:
Q. Mr. Buckfire, are you aware that in May of this year, Citibank told Mr. Doak that the rating agencies would give the DWSD bonds a special default rating upon emergence from bankruptcy?
A. I am.
Q. And what rating is that that they would give?
A. D.
Q. And is -- do you have any knowledge about when that rating might be released?
A. Upon emergence, upon emergence.
Q. It will be given that rating upon emergence?

KENNETH BUCKFIRE, VOLUME 2

A. That's my understanding.
Q. And how long would it hold that rate?
A. Oh, probably not very long.
Q. Any idea of how not very long?
A. A few months.
Q. And what -- on what basis do you --
A. My experience with the agencies over many years is that they tend to follow the market, not lead. They don't buy bonds.
I have every expectation that the financing for this system will be well received and that the investors will not really be that concerned about the default rating or other ratings applied by these agencies. My experience is in other financings is that sophisticated investors pay little or no attention to the agency's ratings.
Q. And what is that -- can you tell us what that experience is based upon?
A. Many years of managing financings for clients emerging from bankruptcy.
MR. BALL: I, obviously, have a couple of questions because of that. Can I have the microphone?
MR. CULLEN: Is the other counsel done?
MR. BALL: Are you done?

KENNETH BUCKFIRE, VOLUME 2

MR. WEISBERG: Yes.
EXAMINATION (CONTINUED)
BY MR. BALL:
Q. I asked you yesterday, Mr. Buckfire, whether there had been communications with the rating agencies about the rates, right? And whether you or your staff had such -- such discussions; do you recall that?
A. I do.
Q. And is there a reason why you didn't tell me then about the communications you've just told Mr. Johnson -- Mr. Davidson about?
A. He was referring to a conversation with Citibank, not between Miller Buckfire and the rating agencies.
Q. All right, so are you aware of any -- so the distinction you're drawing is Citibank was acting on behalf of the DWSD when it had those communications, correct?
A. No.
Q. It was behalf of the State of Michigan; is that the --
A. No.
Q. -- answer? On whose behalf was it acting?
A. Its own.
Q. On its own, so Citibank has been retained as the underwriter on the $150 million bond issuance; isn't

KENNETH BUCKFIRE, VOLUME 2

that correct?
A. I believe that occurred after April.
Q. Okay. So this communication was in May?
A. Yes.
Q. All right. And so are you saying at the time Citibank had these communications it was not acting -- it had not been retained as the underwriter at that point?
A. They might have been designated as the underwriter, but whether they were retained or not legally, I don't know.
Q. All right, so you're not sure one way or the other whether they have been designated as the underwriter at the time you had those communications?
A. I don't recall the date.
Q. So you're aware, in any event, that Citibank, the entity that was hired to be the underwriter on the new issuance of the $150 million in debt had communications with the rating agencies about the likely ratings of the DWSD bonds upon emergence, correct?
You're aware of those communications you just described?
A. I remember hearing about it.
Q. Okay. And so have you had -- are there any other

KENNETH BUCKFIRE, VOLUME 2

communications with rating agencies or municipal ratings analysts that you haven't told me about that you're aware of in which they discuss the rating that will be applicable to or the creditworthiness of the DWSD bonds upon emergence?
A. No.
Q. And the reason you didn't tell me yesterday about these is you believed that wasn't responsive to the questions I asked?
A. It's not relevant. We didn't have the communication Citibank did. They told us what they said what the agency said, it's hearsay.
Q. All right, you're an expert, right?
A. Yes, I am.
Q. And you've relied on a lot of things here that are hearsay, correct?
A. I wouldn't characterize -- I wouldn't characterize that as hearsay. That -- that is hearsay.
Q. Okay. So the -- you don't believe anything else you've relied upon in your report is hearsay?
A. You're parsing words.
MR. CULLEN: Counsel, you asked him a direct question; he gave you a direct answer.
BY MR. BALL:

KENNETH BUCKFIRE, VOLUME 2

Q. So Mr. Buckfire, are you aware of any other evidence or information that's inconsistent with the conclusions you've drawn about the creditworthiness of the bonds that you haven't told me about?

MR. CULLEN: Objection, foundation, form. The premise of your question -- that's a "Have you stopped beating your wife" question. Ask him a direct question.

BY MR. BALL:

Q. Apart from what you've told me about so far, if anything, are you aware of any information about -- that is inconsistent with the opinions you've drawn about the creditworthiness of the DWSD bonds?

MR. CULLEN: Object to foundation and form of that one, too, but answer if you can make any sense of it.

A. I don't understand the question.

BY MR. BALL:

Q. Excluding anything you've told me so far, whether you've told me anything or not about that you believe is inconsistent with the conclusions you've drawn about the creditworthiness of the DWSD bonds, are you aware of any other information that is inconsistent with your opinions about the creditworthiness of the

KENNETH BUCKFIRE, VOLUME 2

DWSD bonds upon emergence?

MR. CULLEN: That's a completely unanswerable question. Anything you think is inconsistent?

MR. BALL: Anything he thinks is inconsistent.

A. I don't even understand your question, I'm sorry.

BY MR. BALL:

Q. So you are not aware of any -- well, strike that.

Are you aware of any other information about communications by rating agencies or credit -- municipal credit analysts concerning the creditworthiness of the DWSD bonds upon emergence from bankruptcy?

A. No.

MR. BALL: Anybody else? That's it. Thank you, Mr. Buckfire.

THE WITNESS: Thank you.

VIDEO TECHNICIAN: This concludes today's deposition. The time is 5:27 p.m., we are now off the record deposition concluded.

(The deposition was concluded at 5:27 p.m. Signature of the witness was not requested by counsel for the respective parties hereto.)

KENNETH BUCKFIRE, VOLUME 2

CERTIFICATE OF NOTARY

STATE OF MICHIGAN)
) SS
COUNTY OF MONROE)

I, LEISA PASTOR, certify that this deposition was taken before me on the date hereinbefore set forth; that the foregoing questions and answers were recorded by me stenographically and reduced to computer transcription; that this is a true, full and correct transcript of my stenographic notes so taken; and that I am not related to, nor of counsel to, either party nor interested in the event of this cause.

LEISA PASTOR, CSR-3500, CRR,
Notary Public,
Monroe County, Michigan
My Commission expires: 9/7/20

Exhibit 8

July 8, 2014 K. Buckfire Expert Witness Report

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re	:	Chapter 9
CITY OF DETROIT, MICHIGAN,	:	Case No. 13-53846
Debtor.	:	Hon. Steven W. Rhodes

EXPERT REPORT OF KENNETH BUCKFIRE
IN SUPPORT OF CITY OF DETROIT'S PLAN OF ADJUSTMENT

Pursuant to F.R.Civ.P. 26(a)(2)(B), made applicable to this proceeding by Bank. R. 7026, debtor the City of Detroit submits this report with respect to the expected expert testimony of Kenneth Buckfire.

Introduction

Kenneth Buckfire is President, Managing Director and Co-Founder of the firm Miller Buckfire & Co. ("Miller Buckfire"). It is the City's intention to call Mr. Buckfire to testify about the City's access to the capital markets (including potential exit financing) and creditor recoveries under the City's proposed plan of adjustment, including recoveries relating to the Detroit Water & Sewerage Department ("DWSD"), a comparison of plan recoveries versus the alternative of dismissal of the case, and the discount rate utilized by the plan of adjustment with respect to Classes 7, 9, 12, 13 and 14.

I. <u>Opinions</u>

Mr. Buckfire will offer the following opinions:

A. ***Access to the Capital Markets.*** The City will likely obtain access to the capital markets, including exit financing, in the near future on reasonable terms.

B. ***Plan Treatment Compared To Treatment Upon Dismissal.*** The City's creditors will be treated better under the City's plan of adjustment than if the bankruptcy case were dismissed.

C. ***DSWD Existence Of An Efficient Market.*** An efficient market exists for debt similar to the debt at issue with respect to the impaired issues of Class 1A of the plan of adjustment.

D. ***DWSD Market Rate Interest.*** The City's proposed interest rates set forth in Exhibit I.A.168 for impaired issues of Class 1A of the plan of adjustment provides holders with payments of a present value equal to the allowed amount of their claims.

E. ***Appropriate Plan Discount Rate***. The discount rate used to estimate recoveries for Classes 7, 9, 12, 13 and 14 is reasonable and appropriate.

II. Basis and Reasons for Opinions

A. *Access to the Capital Markets*

1. Mr. Buckfire believes that the City will be able to obtain exit financing and continued access to the capital markets in the near term on reasonable terms. He basis this belief on (a) the preliminary discussions with potential underwriters of the City's exit financing process, (b) the anticipated quantitative and qualitative characteristics of the City on a post-emergence basis, which in Mr. Buckfire's view, will make the City a much more attractive credit to potential lenders than before the bankruptcy, and (c) the City's ability to incur, and the favorable market response to, the City's post-petition financing.

2. The City, through its advisors, has recently commenced a process for soliciting exit financing. As of the date of this report, this process is still underway. Based on the information available to date, Mr. Buckfire believes that the exit financing process is likely to be successful and that the City will have continued access to the capital markets.

3. Upon consummation of the City's plan of adjustment, the City will have addressed and eliminated significant liabilities. This, in turn, will facilitate the City's ability to access the capital markets. In addition to other obligations, the City will have addressed and brought greater certainty and predictability with respect to its pension benefit and OPEB obligations. Because of the significance

of these obligations, and the fact that such obligations are driven by actuarial analyses and assumptions, such obligations have traditionally served as a significant obstacle in the City's financial planning efforts. The elimination and treatment of the City's significant prepetition liabilities will in Mr. Buckfire's opinion improve the City's attractiveness as a borrower on a post-emergence basis.

4. Mr. Buckfire believes that the City's revitalization plan will also contribute to its ability to access the capital markets going forward. The revitalization efforts are assumed to attract a new tax base for the City. In addition, the City's revitalization efforts are relatively flexible with respect to timing. Because of the flexible nature of much of the revitalization efforts, the City has increased control of its financial future and has flexibility to meet its reduced debt service obligations going forward. This differs markedly from the City's ability to manage its mandatory fixed legal obligations and other debt service prior to bankruptcy and serves as another significant consideration in Mr. Buckfire's analysis.

5. The City and the State of Michigan have also taken steps to remedy governance concerns. Due to recent state legislation, there will be State oversight of the City upon emergence that will make sure that the City will be able to meet its debt obligations on a post-emergence basis. All of these factors, in Mr.

Buckfire's view, suggest that the City will be able to access the capital markets on reasonable terms in the near future.

6. Mr. Buckfire also believes that the City's ability to access the capital markets, including with respect to exit financing, is further confirmed by the market's response to the City's post-petition financing facility. The City's post-petition financing facility was fully syndicated without any need for "market-flex." Further, Mr. Buckfire believes that the significant number of traditional municipal market institutional investors that participated in the City's exit financing further confirms that the investing community is and will be available to the City on a post-emergence basis.

B. Plan Treatment Compared To Treatment Upon Dismissal

7. The City's creditors will in Mr. Buckfire's view be treated better under the City's plan of adjustment than if the bankruptcy case were dismissed. It has already been determined that the City does not have sufficient funds to satisfy its obligations and that the City is service delivery insolvent. Nor, in Mr. Buckfire's opinion, will the City be able to access the capital markets in a dismissal scenario in order to timely meet creditor obligations. Given the lack of ability to meet creditor obligations, in a dismissal scenario, the City's various creditors will undoubtedly each seek to exercise their legal rights against the City, thereby creating a "race to the courthouse." Mr. Buckfire understands that, in this

scenario, creditors are unable to compel the City to sell assets or to take a lien on public property. Mr. Buckfire also understands that the City is at or near statutory maximums with respect to many of its taxes, the tax rate for Detroiters is objectively very high as compared to the region and similar cities, and attempts to materially increase taxes will likely increase delinquency rates and cause residents to leave the City. Accordingly, it is Mr. Buckfire's opinion that creditor recoveries upon dismissal will be *de minimis*.

8. Mr. Buckfire also believes that confirmation of the plan of adjustment offers several advantages over dismissal of the case. In his view, creditor distributions under the plan of adjustment benefit from the compromises reached by the City during the chapter 9 case, including significantly the "Grand Bargain" that infuses hundreds of millions of dollars into the City from state contributions, charitable foundations and the Detroit Institute of Arts. If the plan of adjustment were not confirmed and the City's case were dismissed, hundreds of millions of dollars would be unavailable to creditors. In addition, Mr. Buckfire believes that the order brought by and the protections of the Bankruptcy Code eliminate the chaos and inefficiency associated with a creditor "race to the courthouse."

9. Based on the above, and the assumptions set forth below, Mr. Buckfire believes that creditors will do better under the proposed plan of adjustment—with the accompanying settlements and compromises—than in a

dismissal scenario that does not benefit from such compromises or the bankruptcy stay. His opinion extends to all of the City's creditors, including DWSD-creditors, which rely on ratepayers to fund the DWSD system in amounts sufficient to meet capital expenditure requirements and bond obligations. If the City's bankruptcy case is dismissed, in Mr. Buckfire's opinion the DWSD and its creditors will not be insulated from the City's financial chaos and ruin.

C. *DWSD Existence Of An Efficient Market*

10. Mr. Buckfire believes that an efficient market exists for debt similar to the debt at issue with respect to the impaired issues of Class 1A of the plan of adjustment. To determine whether an efficient market existed, Mr. Buckfire examined the size and depth of the markets for debt similar to the debt at issue, the size and nature of the municipal debt markets as a whole, general economic factors, feedback from municipal underwriters, and his experience and expertise in the field. As part of his evaluation, Mr. Buckfire also examined trading and issuance levels of similar indebtedness, the availability of willing sellers and purchasers of such debt, and the existence of recent similar issuances.

D. DWSD Market Rate Interest

11. Mr. Buckfire believes that the proposed interest rates set forth in Exhibit I.A.168 of the plan of adjustment for impaired issues of Class 1A of the plan of adjustment provide holders with payments of a present value equal to the

allowed amount of their claims. The plan in his opinion will provide such holders with payments of a present value equal to the allowed amount of the claims because the rates set forth in Exhibit I.A.168 of the plan of adjustment are market interest rates for the applicable debt.

12. To arrive at a market interest rate, Mr. Buckfire (a) considered the nature of the debt at issue, including the nature, priority, type and revenue securing such debt, the degree of the open and well-developed market for municipal debt of this nature, and the principal amount of the debt, (b) reviewed DWSD's pro forma projections, restructured obligations and relevant prospective credit metrics, including leverage, coverage, the size of DWSD and the economic strength of the underlying communities, (c) evaluated comparable situations, such as recent issuances by the cities of Philadelphia and Pittsburgh, (d) reviewed available relevant published market indices and composite yield curves, specifically including the Bloomberg service's revenue-backed yield curve of municipal issuers and the revenue-backed yield curve for utility issuers with various investment grade ratings and (e) had discussions with capital market participants.

13. Based on his experience and expertise in the capital markets, Mr. Buckfire and his team constructed a yield curve for the senior and subordinated indebtedness that, in his opinion, reflects a market yield curve for the applicable

debt. Once established, Mr. Buckfire applied the yield curve to the applicable debt maturities to arrive at market interest rates.

E. Appropriate Plan Discount Rate

14. Based on Mr. Buckfire's experience and expertise, the 5% discount rate used to estimate recoveries for Classes 7, 9, 12, 13 and 14 is reasonable and appropriate under the circumstances. In determining the appropriateness of the discount rate, Mr. Buckfire considered the City's projections, including cash flow projections, the anticipated credit-worthiness of the City upon emergence, and the terms of the New B Notes. He compared these factors against rates that would be applicable to other issuers in the market. Based on these considerations, he concluded that the 5% discount rate utilized for Classes 7, 9, 12, 13 and 14 is reasonable and appropriate under the circumstances.

2. Assumptions

15. Mr. Buckfire has made certain significant assumptions with respect to one or more of the opinions rendered herein. Unless otherwise indicated, Mr. Buckfire's opinions are rendered as of the date hereof, and he has assumed that market conditions (including general economic conditions and conditions in the municipal debt markets) will not materially change prior to the confirmation of the City's plan of adjustment or the relevant event which is the subject of the particular opinion.

A. *Access to the Capital Markets.*

16. In addition to those general assumptions set forth above, in rendering his opinions with respect to the City's access to the capital markets, including access to exit financing, Mr. Buckfire has made the following two significant assumptions: (a) the City's plan of adjustment is confirmed, all conditions precedent to its effectiveness are satisfied, and the plan has or will upon the closing of an exit facility become effective, and (b) there is no material change in the City's projections prior to the incurrence of such financing.

B. *Plan Treatment Compared To Treatment Upon Dismissal.*

17. In addition to those general assumptions set forth above, in rendering his opinions regarding creditor recoveries upon dismissal, Mr. Buckfire has assumed (a) the City's projections, and all material assumptions underlying such projections, are materially correct in relevant respects, (b) the City is service delivery insolvent, (c) reinvestment initiatives are necessary to provide adequate levels of municipal services, (d) the absence of any reinvestment in the City will further deplete the City's tax base, (e) in a dismissal scenario, the City would be unable and it would be impractical for the City to raise taxes without further eroding revenue, and (f) in a dismissal scenario there is no requirement to sell City assets to satisfy creditor claims, whether such assets are characterized as core or non-core.

C. *DSWD Existence Of An Efficient Market.*

18. In rendering his opinions regarding the existence of an efficient market for the DWSD-related debt, Mr. Buckfire's material assumptions are only those general assumptions set forth above.

D. *DWSD Market Rate Interest.*

19. In addition to those general assumptions set forth above, Mr. Buckfire has assumed that the City's projections with respect to the DWSD system, and all material assumptions underlying such projections, are materially correct in relevant respects.

E. *Appropriate Plan Discount Rate*.

20. In addition to those general assumptions set forth above, Mr. Buckfire has assumed that the City's projections, and all material assumptions underlying such projections, are materially correct in relevant respects.

III. Exhibits

21. Attached as Exhibit A is a detail of the materials Mr. Buckfire considered in reaching his opinion and summary materials. Mr. Buckfire also considered discussions he had with his team, City employees and elected officials, as well as the City's third-party consultants and contractors. Mr. Buckfire also had available to him the expertise of, among others, Messrs. Malhotra and Moore.

IV. Qualifications

22. Mr. Buckfire's curriculum vitae is appended as Exhibit B.

V. Prior Expert Testimony

23. Mr. Buckfire has previously testified as an expert in this case with regard to the City's swap settlement and post-petition financing. Mr. Buckfire has previously testified as an expert in other cases, including Calpine Corporation, General Growth Properties and Dow Chemical.

VI. Compensation

24. Mr. Buckfire is not being separately compensated by the City for this Expert Report or his opinions expressed herein. Miller Buckfire receives at this time a $300,000 monthly advisory fee. Miller Buckfire will receive a $28 million restructuring fee, less a credit for certain amounts previously paid to Miller Buckfire, upon a recapitalization or restructuring of the City's debt securities and/or other indebtedness, obligations or liabilities, including a plan of adjustment.

Dated: July 8, 2014

Respectfully submitted,

Kenneth Buckfire

Exhibit A

Materials Considered:

- Financial Stability Agreement between the State of Michigan and the City of Detroit (April 2012), available at POA00213650-POA00213708
- Memorandum of Understanding regarding the City of Detroit Reform Program (November 2012), available at POA00232576-POA00232590
- Emergency Manager's Financial and Operating Plan (May 2013), available at POA00649726-POA00649769
- Emergency Manager's Financial and Operating Plan slidedeck (June 2013), available at POA00231448-POA00231468
- City of Detroit's Proposal for Creditors (June 2013), available at POA00215882-POA00216015
- Quarterly Report of the Emergency Manager for the Period April 2013 - June 2013 (July 2013), available at POA00111033- POA00111044
- Emergency Manager's Report (September 2013), available at POA00165156-POA00165283
- Quarterly Report of the Emergency Manager for the Period September 2013 - November 2013 (December 2013), available at POA00297491- POA00297543
- Quarterly Report of the Emergency Manager for the Period October 2013 - December (January 2014), available at POA00109594- POA00109608
- Quarterly Report of the Emergency Manager for the Period December 2013 - February 2014 (March 2014), available at POA00296194- POA00296251
- Fourth Amended Disclosure Statement With Respect to Fourth Amended Plan for the Adjustment of Debts of the City of Detroit (with exhibits) (May 2014), available at (Docket No. 4391)
- Fourth Amended Chapter 9 Plan for the Adjustment of Debts of the City of Detroit (with exhibits) (May 2014), available at (Docket No. 4392)
- Quarterly Report of the Emergency Manager for the Period January 2014 - March 2014 (April 2014), available at POA00700417-POA00700433
- Transcript Syndication of $120,000,000 City of Detroit Financial Recovery Bonds (June 2014), available at POA00706616- POA00706688
- Draft 2013 Comprehensive Annual Financial Report (June 2014), available at POA00531266- POA00531512
- 10-Year Plan of Adjustment Restructuring and Reinvestment Initiatives Bridge (June 2014), available at POA00706448- POA00706448
- 40-Year Plan of Adjustment Financial Projections (July 2014), available at POA 00706603- POA706611
- 10-Year Plan of Adjustment Restructuring and Reinvestment Initiatives (June 2014), available at POA 00706449- POA00706518
- 10-Year Plan of Adjustment Financial Projections (July 2014), available at POA 00706519- POA706600
- 40-Year Plan of Adjustment Financial Projections Bridge (July 2014), available at POA00706601- POA00706602
- EMMA Statistical Data (July 2014), available at POA00706615
- Bloomberg Curve Indices (July 2014), available at POA00706612

- Bloomberg Issuance Data (July 2014), available at POA00706613
- Bloomberg MMA Curve (July 2014), available at POA00706614
- DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement, available at POA00673708- POA00674003
- DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement, available at POA00666470- POA00666795
- City of Detroit CAFR for the Fiscal Year Ended 6/30/2008, available at Dataroom Index No. 8.1.2.6
- City of Detroit CAFR for the Fiscal Year Ended 6/30/2009, available at Dataroom Index No. 8.1.2.6
- City of Detroit CAFR for the Fiscal Year Ended 6/30/2010, available at POA00663851- POA664087
- City of Detroit CAFR for the Fiscal Year Ended 6/30/2011, available at POA00664088- POA00664323
- City of Detroit CAFR for the Fiscal Year Ended 6/30/2012, available at POA00664324- POA00664568
- City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2010, available at POA00245432- POA00245467
- City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2011, available at POA00245468- POA00245503
- City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2012, available at POA00245504- POA00245541
- City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2010, available at POA00245620- POA00245655
- City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2011, available at POA00245656- POA00245692
- City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2012, available at POA00245693- POA00245728

Summary Materials:

- City of Detroit - Pro Forma Capitalization Table (Attachment 1)
- DWSD Financial and Ratings Information (Attachment 2)
- Rate Curve Charts (Attachment 3)

Attachment 1

City of Detroit - Pro Forma Capitalization

$ Millions
July 2, 2014

	Pre-Petition Balance	Reduction of Claim $	Reduction of Claim %	Cash Distributions for Claim	Pro Forma Obligation[1]
Debt Obligations					
COPS Swap	$290 [2]	($205)	71%	($85)	-
COPS	1,473	(1,311)	89%	-	162 [3]
UTGO (2010-A DSA)[4]	100	-	-	-	100
UTGO (Non DSA)	388	(100)	26%	-	288 [5]
LTGO (2010 & 2012-C DSA)[4]	379	-	-	-	379
LTGO (Non DSA)	164	(109)	66%	(55)	-
Notes/Loans Payable	34	(30)	89%	-	4 [3]
Other Unsecured Liabilities	150	(134)	89%	-	17 [3]
Exit Financing	-	-	-	-	300
Total Debt Obligations	**$2,978**	**($1,889)**	**63%**	**($140)**	**$1,249**
Retiree Obligations					
Pension UAAL	$3,129	($1,682)	54%	-	$1,447 [6]
OPEB UAAL	4,303	(3,833)	89%	(20)	450 [3]
Total Retiree Obligations	**$7,432**	**($5,515)**	**74%**	**($20)**	**$1,897**
Total Obligations	**$10,410**	**($7,404)**	**71%**	**($160)**	**$3,146**

Type of Obligation	Pre-Petition Balance	% of Total Obligations	Pro Forma Obligations	% of Total Obligations	% Reduction / (Increase)
UTGO (DSA & Non DSA)	$488	5%	$388	12%	20%
LTGO (DSA, Non DSA & New B Note)	543	5%	1,011	32%	(86%)
Retiree UAAL	7,432	71%	1,447	46%	81%
Other	1,947	19%	300	10%	85%
Total	**$10,410**	**100%**	**$3,146**	**100%**	**70%**

Source: City of Detroit Plan of Adjustment - 40 year projections draft of June 30, 2014. Assumes chapter 9 exit on October 31, 2014.

(1) Funded obligation amounts represent face value of obligations.

(2) Claim amount as of settlement date April 15, 2014.

(3) $632 million pro forma B Note obligation is comprised of COPs ($162 million), Notes/Loans Payable ($4 million), Other Unsecured Liabilities ($17 million) and OPEB ($450 million).

(4) Secured by Distributable State Aid.

(5) Post emergence debt secured by Distributable State Aid.

(6) Pro forma pension UAAL of $1,447 million per Milliman letters for GRS ($847 million) dated April 25, 2014 and PFRS ($553 million) dated April 23, 2014.

Attachment 2

Expert Report Reference Materials

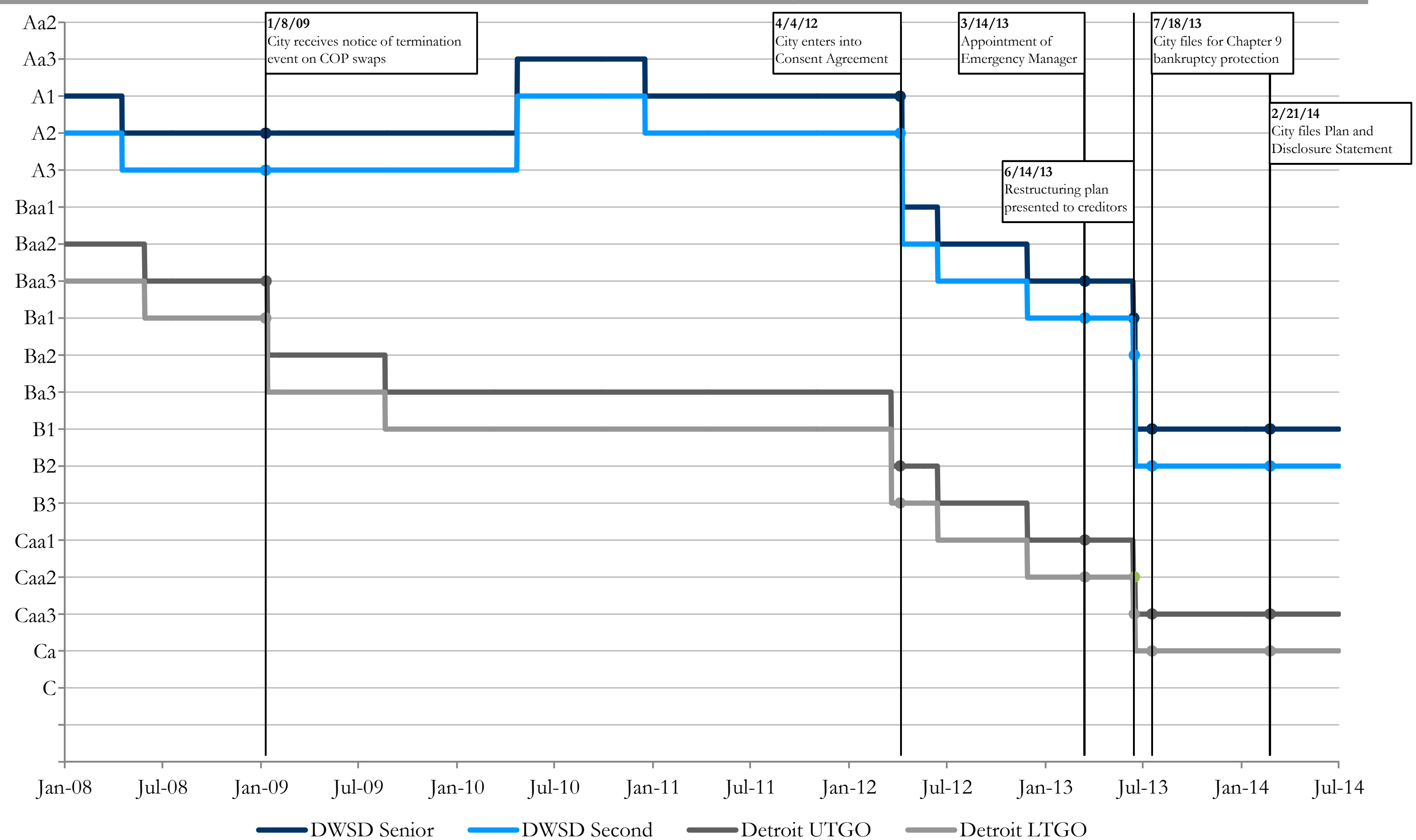
July 1, 2014

Historical Moody's Ratings

Moody's downgrades of DWSD debt have resulted from concerns over the solvency of the City of Detroit

- Commentary has not addressed the credit fundamentals of DWSD
- DWSD has maintained Moody's investment grade ratings with a significantly weaker credit profile

Historical Moody's Credit Ratings, 2008-Present

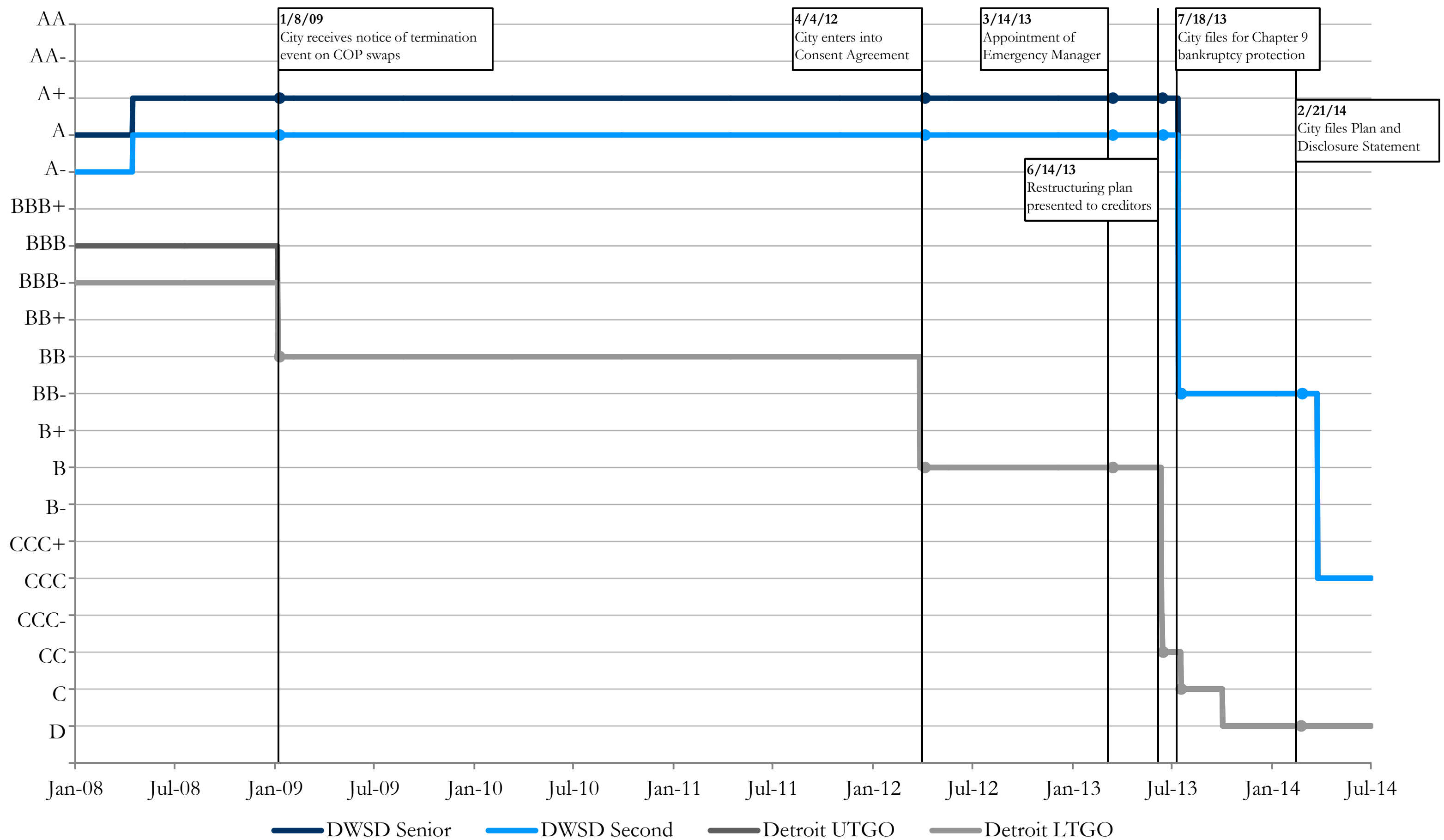


HISTORICAL S&P RATINGS

S&P downgrades of DWSD debt have resulted from the restructuring process of the City of Detroit

- Commentary has not addressed the credit fundamentals of DWSD
- DWSD has maintained S&P investment grade ratings with a significantly weaker credit profile

Historical Standard & Poor's Credit Ratings, 2008-Present



SELECTED FINANCIAL INFORMATION[1] ($MM)

Post-restructuring, DWSD will have a dramatically improved credit profile

- Debt service coverage ratios are forecasted to improve
- Legacy liabilities will be dramatically decreased and ongoing contributions reduced
- DWSD forecasts suggest the system will achieve rate stability while decreasing leverage

	Historical[1]					Projected[2]								
	2008	2009	2010	2011	2012	2015	2016	2017	2018	2019	2020	2021	2022	2023
Coverage[y]														
Water Senior Lien	1.86x	1.25x	1.33x	1.49x	1.67x	1.63x	1.78x	1.73x	1.77x	1.82x	1.99x	2.03x	2.04x	2.05x
Water Second Lien	1.35x	0.89x	0.94x	1.07x	1.27x	1.27x	1.37x	1.35x	1.39x	1.43x	1.50x	1.54x	1.56x	1.59x
Sewer Senior Lien	1.92x	1.75x	1.49x	1.70x	2.32x	2.06x	2.12x	1.98x	1.97x	2.03x	2.09x	2.18x	2.35x	2.21x
Sewer Second Lien	1.35x	1.23x	1.00x	1.11x	1.48x	1.38x	1.45x	1.46x	1.46x	1.52x	1.58x	1.64x	1.67x	1.68x
Legacy Liabilities														
Pension														
DWSD Contribution[x]	13.4	11.6	11.4	19.7	10.9	65.4	45.4	45.4	45.4	45.4	45.4	45.4	45.4	45.4
GRS UAAL	42.7	(31.6)	276.7	481.5	639.9	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
OPEB														
DWSD Contribution	18.0	15.6	16.4	19.1	19.9	3.6	2.1	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Total OPEB UAAL	4,825.6	4,825.2	4,976.8	4,982.4	5,727.2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
COPs/Swaps														
DWSD Contribution	9.2	9.8	10.3	11.1	11.7	4.5	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8
Total DWSD Contribution	$40.7	$37.0	$38.1	$50.0	$42.4	$73.5	$48.3	$48.3	$48.3	$48.3	$48.3	$48.3	$48.3	$48.3
Rate Increases														
Water														
Retail	6.9%	6.3%	5.2%	9.4%	9.0%	4.0%	6.0%	7.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
Wholesale	5.1%	8.9%	6.4%	5.5%	8.9%	4.0%	6.0%	7.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
Sewer														
Retail	1.8%	14.8%	16.1%	10.2%	8.9%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
Wholesale	2.5%	0.0%	8.2%	3.7%	11.8%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%

(1) Source: City of Detroit CAFRs, DWSD audited financial statements and DWSD bond offering Official Statements.
(2) Source: Fourth Amended Disclosure Statement.
(y) Based on current debt service. Coverage may improve under POA terms.
(x) DWSD GRS contributions are projected to decrease materially post-2023, and may cease in their entirety depending on DWSD GRS funding levels.

Citations for Miller Buckfire DWSD Slide Deck dated July 1, 2014
Slide 3 (Historical Information Only)

- **Water Senior Lien Coverage**
  - 2008:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 47
  - 2009:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 47
  - 2010:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 47
  - 2011:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 47
  - 2012:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 50

- **Water Second Lien Coverage**
  - 2008:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 47
  - 2009:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 47
  - 2010:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 47
  - 2011:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 47
  - 2012:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 50

- **Sewer Senior Lien Coverage**
  - 2008:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 55
  - 2009:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 55

- 2010:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 55
- 2011:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 55
- 2012:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 60

- **Sewer Second Lien Coverage**
    - 2008:
        - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 55
    - 2009:
        - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 55
    - 2010:
        - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 55
    - 2011:
        - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 55
    - 2012:
        - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 60

- **DWSD GRS Pension Contribution**
    - 2008:
        - City of Detroit CAFR for the Fiscal Year Ended 6/30/2008, page 116
    - 2009:
        - City of Detroit CAFR for the Fiscal Year Ended 6/30/2009, page 108
    - 2010:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2010, page 25 and
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2010 page 26
    - 2011:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2011, page 24 and
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2011 page 26
    - 2012:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2012, page 26 and

        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2012 page 25

- **GRS UAAL**
    - 2008:
        - City of Detroit CAFR for the Fiscal Year Ended 6/30/2008, page 117
    - 2009:
        - City of Detroit CAFR for the Fiscal Year Ended 6/30/2009, page 109
    - 2010:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2010, page 26 or
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2010 page 27
    - 2011:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2011, page 25 or
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2011 page 26
    - 2012:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2012, page 27 or
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2012 page 26

- **DWSD OPEB Contribution**
    - 2008:
        - City of Detroit CAFR for the Fiscal Year Ended 6/30/2008, page 120
    - 2009:
        - City of Detroit CAFR for the Fiscal Year Ended 6/30/2009, page 112
    - 2010:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2010, page 29 and
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2010 page 30
    - 2011:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2011, page 28 and
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2011 page 30
    - 2012:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2012, page 30 and
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2012 page 29

- **<u>OPEB UAAL</u>**
    - <u>2008</u>:
        - City of Detroit CAFR for the Fiscal Year Ended 6/30/2008, page 120
    - <u>2009</u>:
        - City of Detroit CAFR for the Fiscal Year Ended 6/30/2009, pages 112 & 113
    - <u>2010</u>:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2010, page 30 or
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2010 pages 30 & 31
    - <u>2011</u>:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2011, page 29 or
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2011 pages 30 & 31
    - <u>2012</u>:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2012, pages 30 & 31 or
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2012 page 30

- **<u>DWSD COPs / Swaps Contribution</u>**
    - <u>2008</u>:
        - City of Detroit CAFR for the Fiscal Year Ended 6/30/2007, page 109
    - <u>2009</u>:
        - City of Detroit CAFR for the Fiscal Year Ended 6/30/2008, page 109
    - <u>2010</u>:
        - City of Detroit CAFR for the Fiscal Year Ended 6/30/2009, page 101
    - <u>2011</u>:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2010, page 18 and
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2010 page 18
    - <u>2012</u>:
        - City of Detroit Sewage Disposal Fund Basic Financial Statements for the year ended 6/30/2011, page 18 and
        - City of Detroit Water Fund Basic Financial Statements for the year ended 6/30/2011 page 18

- **<u>Water Retail Rate Increases</u>**
    - <u>2008</u>:
        - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 45

- <u>2009</u>:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 45
- <u>2010</u>:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 45
- <u>2011</u>:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 45
- <u>2012</u>:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 45

- <u>**Water Wholesale Rate Increases**</u>
  - <u>2008</u>:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 45
  - 2009:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 45
  - 2010:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 45
  - 2011:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 45
  - 2012:
    - DWSD Water Supply System Series 2011-C Senior Lien Bond Official Statement page 45

- <u>**Sewer Retail Rate Increases**</u>
  - 2008:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 52
  - 2009:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 52
  - 2010:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 52
  - 2011:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 52
  - 2012:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 52

- **<u>Sewer Wholesale Rate Increases</u>**
  - 2008:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 52
  - 2009:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 52
  - 2010:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 52
  - 2011:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 52
  - 2012:
    - DWSD Sewage Disposal System, Series 2012-A Senior Lien Bond Official Statement page 52

Attachment 3

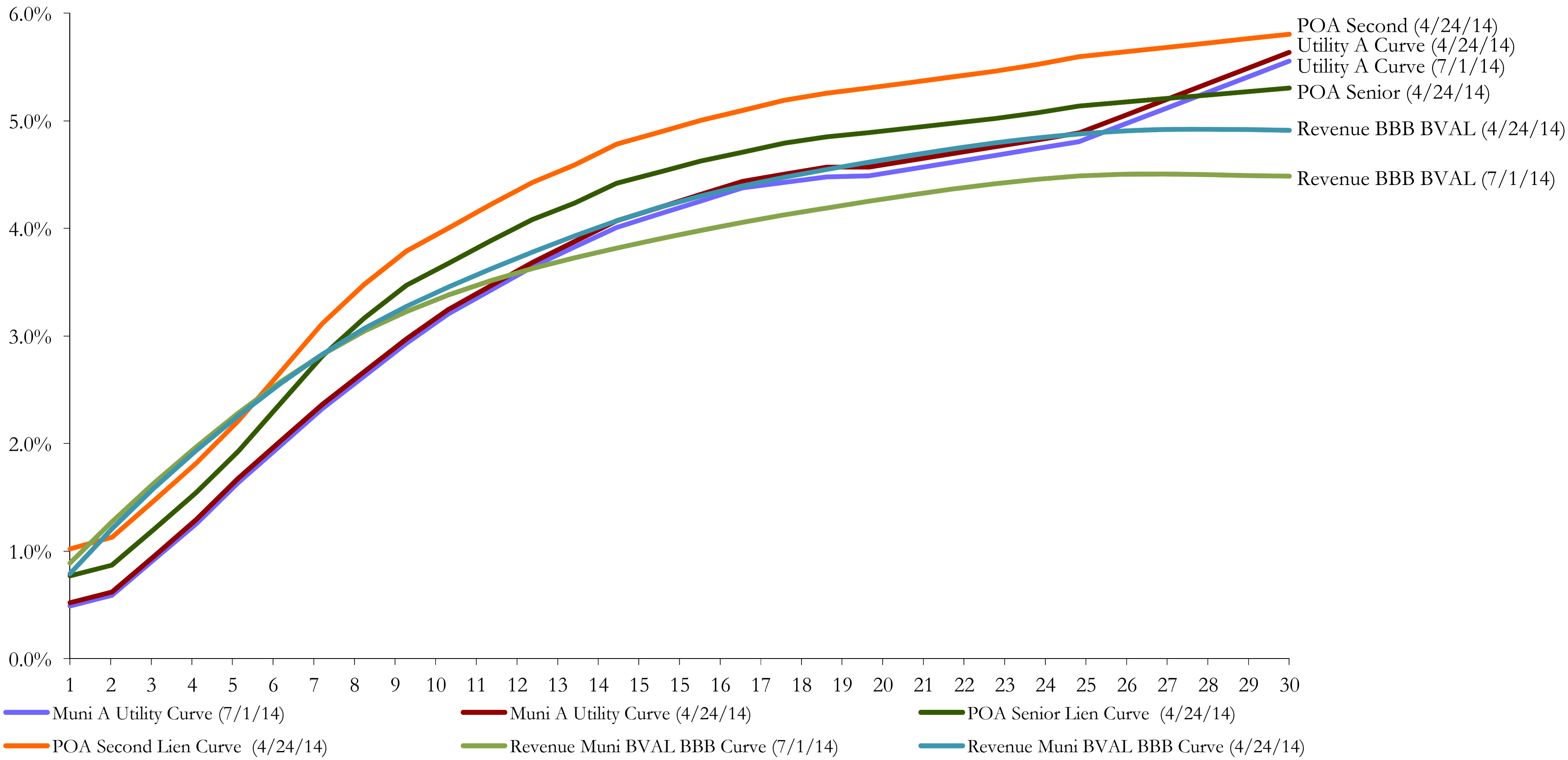
Expert Report Reference Materials

July 1, 2014

Yield Curve Comparisons

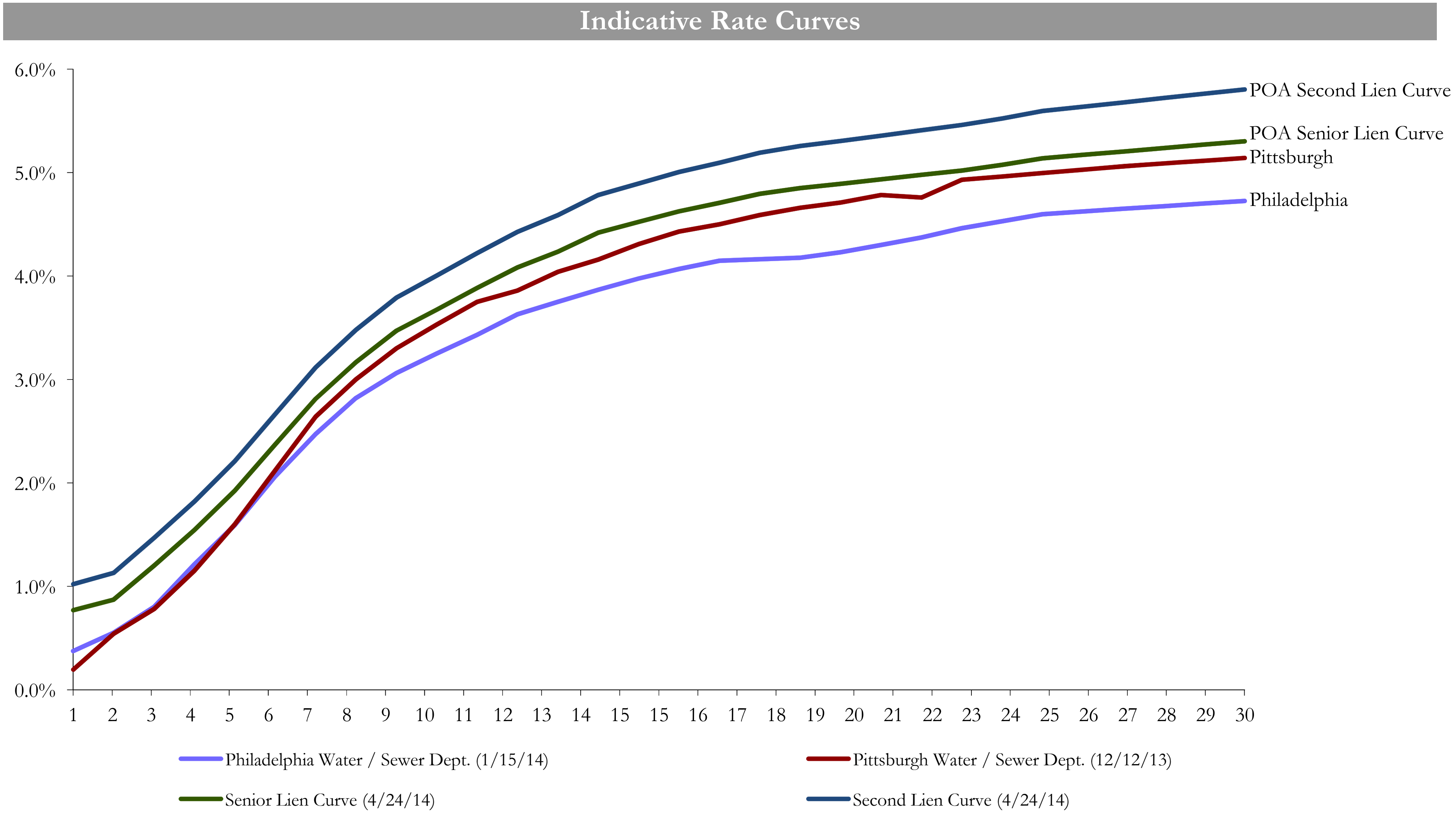
- **BBB Revenue Muni BVAL Curve** - The curve represents the yield curve for tax-exempt revenue securities issued for the rating level. The yield curve is built using non-parametric fit of market data obtained from the Municipal Securities Rulemaking Board, new issues calendars, and other proprietary contributed prices.
- **US Muni Utility A Curve** - The curve is populated with US municipal bonds backed by utility revenues with an average rating of A by Moody's and S&P. The option-free yield curve is built using option-adjusted spread (OAS) model. The yield curve is comprised from contributed pricing from the Municipal Securities Rulemaking Board.

Muni Yield Curve Comparison



Source: Bloomberg.

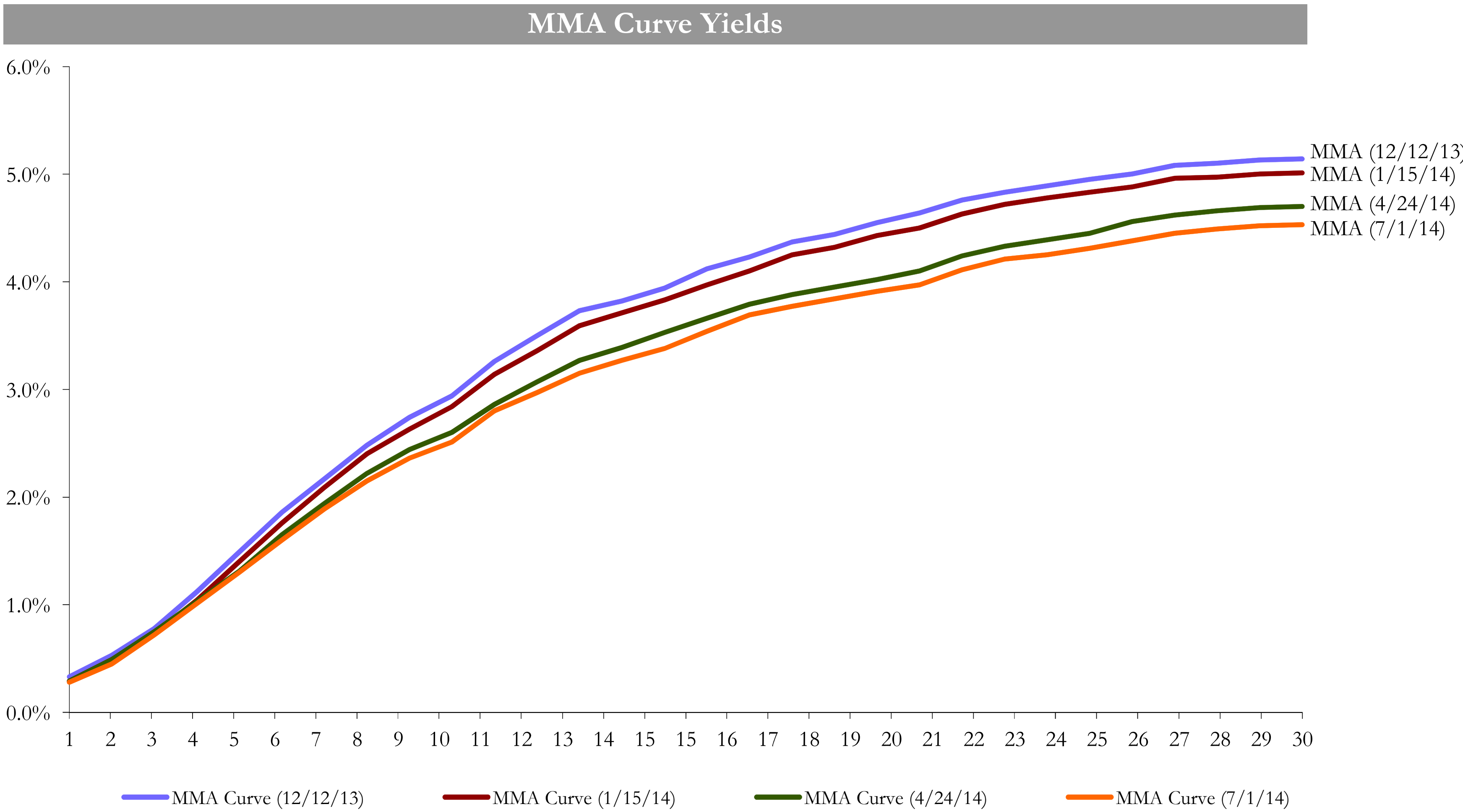
YIELD CURVE COMPARISONS (CONT'D)



Source: Bloomberg.

Recent MMA Curve Yields

- **MMA Yield Curve** – Represents a survey of leading investment firms regarding benchmark AAA GO levels. The data represents a "par coupon" structure and a 10-year par call. The inputs from each firm are monitored and statistically scrubbed to remove outliers and ensure historical consistency. Data is collected through the MMA website, www.mma-research.com.



Source: Bloomberg.

Exhibit B

Kenneth A. Buckfire

Educational and Professional Background

Education

B.A., University of Michigan - 1980

M.B.A., Columbia University - 1987

Employment

Miller Buckfire & Co., LLC
Co-Founder, President and Managing Director (July 2002 – present)

Dresdner Kleinwort Wasserstein (formerly Wasserstein Perella & Co.)
Managing Director (1996 – 2002)

Lehman Brothers
Senior Vice President (1991 – 1996)

Kidder Peabody & Co.
Vice President (1990)

Dillon Read & Co.
Associate (1987 – 1989)

Bridge Capital Partners
Associate (1984)

MONY
Senior Investment Analyst (1980 – 1983)

Governance

Director: Neurophage Pharmaceuticals
Director (Prior): ARK Information Services, Bulldog Communications, Great Bay Power Corp., Van Camp Seafood Corp. and Webfacts
Trustee: New York Philharmonic
Trustee (Prior): Orpheus Chamber Orchestra and Browning School

Selected Transaction Experience

Allegheny International
Amoco Corporation
Cajun Electric
Calpine Corporation
CenterPoint Energy
City of Detroit
City of Stockton, CA
Cleveland-Cliffs
CMS Energy
Dow Chemical
EUA Power Corporation
Excel Maritime
Explorer Pipeline
First Reserve Corporation
Foamex
General Growth Properties
Horizon Natural Resources
Imperial Sugar
McDermott International
Mirant Corporation (Creditors' Committee)
Niagara Mohawk Power
Northwest Power Enterprises
Plantation Pipe Line
Reading & Bates
Rowan Companies
Santa Fe International
Sedco
Southland Royalty Co.
TECO Energy
Texas New Mexico Power Company
Texas Refining
Tosco Corporation
U.S. Generating Florida
Williams Companies

Selected Expert Witness Experience

Calpine Corporation
The City of Detroit
General Growth Properties
Dow Chemical (Re: Rohm & Haas litigation)

Exhibit 9

July 15, 2014 G. Malhotra Deposition Transcript (excerpted)

UNITED STATES BANKRUPTCY COURT

FOR THE EASTERN DISTRICT OF MICHIGAN

\- - -

In Re:) Chapter 9

City of Detroit, Michigan,)

Debtor.) Hon. Steven Rhodes

____

The videotaped deposition of GAURAV MALHOTRA

Taken at 51 Louisiana Avenue, N.E.

Washington, D.C.

Commencing at 9:09 a.m.

Tuesday, July 15, 2014

Before: Gail L. Inghram Verbano

Registered Diplomate Reporter,

Certified Realtime Reporter,

Certified Shorthand Reporter-CA (No. 8635)

MALHOTRA

Q. But, overall, you would have to make changes to the baseline scenario to create a scenario where you had the bankruptcy petition dismissed; is that fair?

A. I don't know. I would have to look at this. It would be easier to have the baseline in front of me. I would have to look at it to say whether we would have to change the entire baseline or not.

Q. There have been times where you received reports of cash collections from the City that were not properly categorized; correct?

A. Yes.

Q. And there have been times where you received questionable reports regarding accounts payable from the City; correct?

A. When you say "questionable," it's -- I'm just -- they were not -- they were not fully complete.

Q. And Ernst & Young still -- you haven't audited the City's financial data; correct?

A. That is correct.

Q. Would it be possible to audit the City's financial data?

MALHOTRA

A. You should ask KPMG that.

Q. Are they responsible for auditing the City's financial data?

A. They are.

Q. You don't dispute that the City could continue to cut costs if the bankruptcy petition were dismissed; correct?

A. Could you ask me that again, please.

Q. There are cost-cutting measures the City could take if the bankruptcy petition were dismissed; correct?

A. Like what?

Q. Well, it could reduce headcount. That's one; correct?

A. Unlikely. The City is already at a low point in terms of the amount of headcount it already has.

Q. Well, here's some things that could happen. You could privatize some of the City services if the bankruptcy petition were dismissed; correct?

A. I don't know about that. Again, I mean, I don't know if the City can cut more costs now.

Q. You haven't been asked to do any

MALHOTRA

analysis of the costs and revenues to the City if the bankruptcy petition is dismissed; correct?

A. We do not -- we do not have a scenario of what happens if the City's bankruptcy proceedings are dismissed; that is correct.

Q. Have you been party to any conversations with the City where there have been discussions about what might happen if the bankruptcy petition is dismissed?

A. Not directly, no.

Q. Do you know if there's any contingency planning by the City about what might happen if the bankruptcy petition is dismissed?

A. No.

Q. Has the City already begun restructuring efforts that fall within that restructuring and reinvestment plan that your forecast is based on?

A. Some of the initiatives that are a part of the restructuring and reinvestment budget have been started already.

Q. What would those include?

A. You would have to talk to Conway MacKenzie about that, because there's a detailed risk of the items that are already -- or John

MALHOTRA

Hill, actually, of the items that are already underway.

Q. And would the costs and revenues from those activities be incorporated in both your baseline and your restructuring scenario or not?

A. No. It's a part of the restructuring scenario. We are operating as one scenario now that includes the restructuring and reinvestment initiatives; so, yes, those costs and -- would be a part of the restructuring and reinvestment budget as laid out in the plan.

Q. Okay. But I'm wondering, did you update the baseline scenario or not really?

A. I would have to go back and check, if any of the items would be reflective -- what change in the baseline. We are much more focused on the overall restructuring scenario.

Q. Okay. So sitting here today, you don't know whether or not you've incorporated costs from restructuring activities that have already started in the baseline scenario?

A. I would have to go back and look at that.

Q. Okay. Is that apparent on the face of

MALHOTRA

the 10-year and 40-year forecasts? Or do you have to go back to the Excel spreadsheets or some other source to figure that out? Or is it something that Conway MacKenzie would have to tell you?

A. I'm just thinking. I think the -- it would be in the overall restructuring and reinvestment scenario, because the timing of some of the expenses had changed. So my guess is that it would be reflective in the update, to the best of our ability.

Q. And -- but would it be in the update of the baseline scenario?

A. I don't think it would be in the baseline cells, but we are -- like I said, we are looking at this as one restructuring scenario. It continues to be the focus.

Q. But your assumption in your forecast is that there would be no restructuring or reinvestment outside of chapter -- if the plan were not confirmed; is that fair?

A. Can you please repeat that.

Q. Is one of the assumptions of your forecast that there would be no restructuring or reinvestment if the plan were not confirmed?

CHARLES MOORE, CPA

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE EASTERN DISTRICT OF MICHIGAN

In re: Chapter 9

CITY OF DETROIT, MICHIGAN Case No. 13-53846

Debtor. Hon. Steven W. Rhodes

____/

The Videotaped Deposition of CHARLES MOORE, CPA

Taken at 1114 Washington Boulevard,

Detroit, Michigan,

Commencing at 9:01 a.m.,

Wednesday, July 23, 2014,

Before Quentina Rochelle Snowden, CSR-5519.

Exhibit 10

July 23, 2014 C. Moore Deposition Transcript (excerpted)

CHARLES MOORE, CPA

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE EASTERN DISTRICT OF MICHIGAN

In re: Chapter 9

CITY OF DETROIT, MICHIGAN Case No. 13-53846

Debtor. Hon. Steven W. Rhodes

____/

The Videotaped Deposition of CHARLES MOORE, CPA

Taken at 1114 Washington Boulevard,

Detroit, Michigan,

Commencing at 9:01 a.m.,

Wednesday, July 23, 2014,

Before Quentina Rochelle Snowden, CSR-5519.

CHARLES MOORE, CPA

Department?

MR. SOTO: I'm talking about for the Fire Department. Thank you.

THE WITNESS: The --

BY MR. SOTO:

Q And I'm actually -- let me be more specific. For the Fire Department in connection with the plan of adjustment.

A All of the documents that I would have relied on are in Exhibit 4. There are many that relate to the Fire Department.

Q And that would involve any spending required analysis?

A Yes.

Q And any cost reduction analysis?

A Yes.

Q Did it also involve any revenue generation analysis?

A Yes.

Q Did you perform any forecasts in connection with the work you did on the City's plan of adjustment?

A How do you define "Forecast"?

Q Forecasts in connection with forecast of proposed expenditures. We've already discussed some forecasts in your opinion one with respect to

CHARLES MOORE, CPA

savings that might be expected and revenue that might be expected with respect to blight removal. That's what I'm referring to as forecasts.

A Okay. I'll use the term, "Financial projections".

Q That's fine with me.

A Yes. We -- we certainly did in that the entire Exhibit 5 -- well really Exhibits 5, 6, 7 and 8 to my expert report are all of those projections.

Q Now, let me step away from the expert report for a second only to -- as I'm here representing a number of other counsel who have asked me to ask questions as well.

In connection with the plan of adjustment, did you -- did you work on any financial projections?

A The financial projections that are included in the plan of adjustment -- and when we say "Plan of adjustment", just to be clear, I'm referring to the fourth amended plan of adjustment filed around May 5th.

Q I agree with that. I know there's one coming, but we can only work with the ones we have.

A Yes. The financial projections that are included in the plan, I'll just list off the ones that I'm familiar with, there is a 40-year financial projection, there's a 10-year financial projection. There are the restructuring and reinvestment initiatives. There are the water and sewerage projections. Those are the ones that I can think of offhand.

As it relates to the first two, the 40-year and the 10-year, those are documents that Ernst and Young was the author of, however, Conway MacKenzie provided inputs to both of those documents. The third one, the restructuring and reinvestment initiatives, Conway MacKenzie was the author of that document. The water and sewerage projections Conway MacKenzie was the author of that set of projections.

Q In connection with preparing those projections, did you perform any financial projections or analysis that assumed that that the City's Chapter 9 case was dismissed?

A No.

Q Why not?

A If you look at the work that we're doing, the work that this -- the work that Conway MacKenzie is focused on is, how should the departments be

CHARLES MOORE, CPA

operating and what is necessary to get them to that point, regardless of in or out of Chapter 9. So while I have been involved in the Chapter 9 process, the focus of our work is without regard to Chapter 9.

Q So if the plan -- and let me see if -- I think I understood what you just said, but let me make sure, and you tell me if I'm wrong here. If the plan of adjustment in this matter were dismissed, is it your position that those reinvestment expenses, those reinvestment initiatives, the ones that are set forth in the plan of adjustment, as well as the ones that you opine on in your expert report, could go forward?

MR. HAMILTON: Object to form. You can answer.

THE WITNESS: They -- they should still go forward.

BY MR. SOTO:

Q Forgive me, I'm just taking some time to get rid of some questions here that I think you've already answered.

A No problem. Take your time. As many as you want to get rid of that's fine with me.

CHARLES MOORE, CPA

Q Me too. Okay. Regarding the work that you performed in connection with your engagement with the City -- I've already heard you testify about the numbers. Did you have any interfacing with anyone at Miller Buckfire?

A Yes.

Q And who would that be?

A Ken Buckfire, Jim Doak, Kyle Herman, Kevin Haggard, Sanjay Marken, Vlad -- and I can't recall Vlad's last name.

Q But it's not the Impaler. It's --

A Correct. At least it did not seem to be. I think those were the primary individuals from Miller Buckfire that I can think of, offhand.

Q And what was the nature of your interaction with them?

A I interacted with Miller Buckfire on a number of different items. I interacted and Conway MacKenzie interacted quite a bit with Miller Buckfire as it relates to the Water and Sewerage Department. The ten-year business plan that we developed, and options being considered for DWSD. I interacted with Miller Buckfire on the quality of life financing, or the post-petition financing. I've

Exhibit 11

July 25, 2014 S. Spencer Expert Witness Report

HOULIHAN LOKEY

City of Detroit

Expert Witness Report

July 2014

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Table of Contents

Table of Contents

Roles, Qualifications and Requested Opinions

Introduction

Introduction

- I have been retained by Weil, Gotshal & Manges LLP ("Weil") as an expert in financial restructuring, valuation and the sale of assets from distressed or bankrupt entities on behalf of Financial Guaranty Insurance Company ("FGIC") in connection with FGIC's interest in the City of Detroit's ("Detroit" or the "City") Fourth Amended Plan for the Adjustment of Debts (the "Plan")
- I am a Managing Director and partner at Houlihan Lokey ("Houlihan"), a private global investment bank specializing in financial restructuring, corporate finance and financial advisory services. I am a member of the firm's financial restructuring group and have led the firm's Municipal Restructuring group since January 2011. I also authored a case study ("Restructuring the Troubled Municipality," http://www.hl.com/email/pdf/muni_case_study_ch_jun2011.pdf) presenting a comprehensive framework for a successful restructuring of a distressed municipality. The case study is considered an important work in the field of municipal restructuring and has been presented to thousands of legal and financial professionals across the country
- Houlihan Lokey receives at this time a fee of $125,000 per month. In addition, Houlihan Lokey is entitled to receive: (i) upon the consummation of a commutation transaction, a commutation fee equal to 0.20% of the par amount of any commuted exposure under the FGIC insurance policies and (ii) upon the consummation of a restructuring transaction, a restructuring fee equal to 0.10% of the par amount of any of FGIC's guaranteed obligations that are restructured

Qualifications – Corporate Restructuring

- I have approximately 20 years of relevant financial advisory expertise. For the last 13 years I have been employed at Houlihan. During my tenure at Houlihan, I have advised dozens of companies in all manner of restructuring transactions. I have particular expertise advising on out-of-court restructuring transactions involving consensual impairment of one or more creditor constituencies. Previous distressed consensual recapitalization transactions I have led include United Site Services, Inc., Network Communications Inc., Aquilex Services Corp. and Hutchinson Technology, Inc. I also advise companies executing bankruptcy-related reorganizations and/or distressed sale transactions. Notable Chapter 11 company advisory engagements I have led include the Aventine Renewable Energy Holdings, Inc., Genmar Holdings, Inc. and Polaroid Corp. transactions. In addition to my company advisory work, I have also advised creditors in executing restructuring transactions such as the recent successful reorganization of Hawker Beechcraft Corp., where I advised an ad hoc group of creditors with a majority ownership stake in Hawker Beechcraft's $1.7 billion senior secured credit facility

Introduction (cont.)

Qualifications – Municipal Restructuring

- In a municipal restructuring advisory context, outside of Detroit, I am currently involved in advising creditors in another Chapter 9 insolvency proceeding, the restructuring of a multi-billion dollar municipal infrastructure asset and the potential restructuring of municipal debt obligations for a U.S. territory. Beyond my current active municipal restructuring engagements, I have consulted and am presently consulting with municipalities and municipal creditors in numerous cities across the country

Significant Relevant Transaction History

- Aventine
- Puerto Rico
- San Bernardino
- Indiana Toll Road
- Applied Extrusion
- Aquilex
- TruckPro
- Hawker Beechcraft
- Network Communications Inc.
- Hutchinson Technologies
- USEC
- North American Membership Group
- Premier Card Inc.
- Genmar
- Polaroid
- Quebecor
- White Energy
- Star Tribune
- Corporacion Durango
- Ziff Davis
- Golden County
- Quality Electric
- Parsons Electric
- AT&T Canada
- Foamex
- Haynes Special Metals
- Syratech
- Lindstrom Metric
- American Commercial Lines
- Tiro
- Applied Extrusion
- Missota Paper
- Distribution Dynamics
- Weirton Steel
- Wam Net
- Teleglobe/Bell Canada
- Allegheny Energy
- Flag Telecom
- McLeodUSA
- BioFuel Energy
- Pioneer Chemicals
- Orchids Paper
- Minnesota Corn Processors
- CMS Hartzel
- Patrick Industries
- Northstar Computer Forms
- United Site Services

Introduction (cont.)

Recent Cases in Which I Provided an Expert Opinion

- Creative Memories
- Genmar
- Polaroid

Requested Opinions

In connection with my testimony, I have been asked to opine on the following questions:

1. What are the economic and non-economic disparities in recoveries between Class 9 claimants, on the one hand, and Classes 10 and 11 claimants, on the other?
2. To what extent does the City have assets that could be monetized – either within or outside of Chapter 9 – for the benefit of creditors?
3. Does the DIA Settlement maximize the value of the City's art collection?
4. What recovery could Class 9 claimants expect to receive if the Chapter 9 case were dismissed and Class 9 claimants pursued their claims outside of bankruptcy?
5. If the City is successful in its adversary proceeding to invalidate its obligations under the Service Contracts, and the Class 9 claimants then succeed in disgorging the proceeds of the COPs transactions from the Retirement Systems, will the City be able to fund contributions to the GRS and PFRS at the levels provided for in the Plan, and make the other payments required by the Plan?

Introduction (cont.)

Summary of Conclusions

1. What are the economic and non-economic disparities in recoveries between Class 9 claimants, on the one hand, and Classes 10 and 11 claimants, on the other?

- On its face, the Plan provides a 59% recovery to Class 10 (PFRS pension) claimants, a 60% recovery to Class 11 (GRS pension) claimants and a 10% recovery to Class 9 (COP) claimants – essentially an economic disparity of 50 percentage points between COP and pension creditors
- Factoring in an appropriate New B Notes discount rate to reflect the riskiness of COP Plan consideration, this recovery disparity between COP and pension creditors rises to 54 percentage points
- Factoring in contingent value recovery opportunities for the pension creditors, this disparity rises to 94 percentage points
- Factoring in the City's most recent actuarial estimates (prior to the revised estimates presented in the Plan), this disparity rises to 494 percentage points between COP and PFRS claimant recoveries and 127 percentage points between COP and GRS claimant recoveries
- There are additional qualitative factors such as the diverse sources of recovery benefiting pension claimants that add to the disparate economic treatment of pension claimants relative to COP claimants under the Plan

2. To what extent does the City have assets that could be monetized – either within or outside of Chapter 9 – for the benefit of creditors?

- Conservative estimates of potential value realization for the City's major assets including the DIA, DWSD, City-owned land, the Coleman A. Young International Airport, the Detroit Windsor Tunnel, the Joe Louis Arena and the City parking structures suggest these City-owned assets could collectively generate multiple billions of dollars of incremental distributable value for the benefit of the City and its creditors
- Outside of bankruptcy, both distressed and non-distressed cities (including Detroit historically) routinely monetize assets as a means of dealing with temporary or more profound financial concerns or constraints
- Detroit could have monetized these assets either as part of its Plan or, like many other cities, outside of a Plan process

Introduction (cont.)

Summary of Conclusions (cont.)

3. Does the DIA Settlement maximize the value of the City's art collection?

- The "Grand Bargain" fails to maximize the value of the City's art collection
  - The actual value of the Grand Bargain is far less than the headline value the City has sought actively to promote
  - The actual value of the Grand Bargain is far less than the market value of the DIA's collection assets
  - The City has failed to explore a more comprehensive range of DIA transactional alternatives
  - The Grand Bargain burdens Detroiters with a large opportunity cost:
    - Because the DIA market value vastly exceeds both the Grand Bargain value and other measures of the DIA's value to the City, it imposes a significant opportunity cost on the City and its creditors
    - Instead of being allowed to monetize collection assets or explore other DIA transactional opportunities, the Grand Bargain accomplishes a form of regional expropriation of the DIA (for the benefit of public and private interests outside the City), thereby denying the City an opportunity to use DIA proceeds to catalyze recovery and settle claims
  - The Grand Bargain fails to resolve fundamental problems with the municipal ownership / funding structure that have plagued the DIA throughout its history and may impose future economic costs on the City

Introduction (cont.)

Summary of Conclusions (cont.)

4. What recovery could Class 9 claimants expect to receive if the Chapter 9 case were dismissed and Class 9 claimants pursued their claims outside of bankruptcy?

- If the Chapter 9 case were dismissed and Class 9 claimants pursued their claims outside of bankruptcy I believe they would recover significantly more than what has been proposed under the Plan
  - Dismissal of the Plan would prevent the City from cramming down the Class 9 claimants and instead pave the way for a pari passu (or at least more equitable) treatment of all unsecured claims as and when they come due
  - Dismissal of the Plan would force the City to conduct a more comprehensive assessment of its ability to pay, incorporating its legacy balance sheet assets instead of using Chapter 9 to significantly impair only financial creditors
  - Dismissal would also force the City to implement a more comprehensive and effective operational restructuring, thereby generating additional sources of cash flow
  - Both the real world experience and the theoretical modeling for creditors in a similar circumstance support dismissal of the Chapter 9 proceeding as the value maximizing outcome compared to a cram-down Plan that caps Class 9 claims at de minimis recovery levels, thereby precluding COP claimants from participating in the City's economic recovery

5. If the City is successful in its adversary proceeding to invalidate its obligations under the Service Contracts, and the Class 9 claimants then succeed in disgorging the proceeds of the COPs transactions from the Retirement Systems, will the City be able to fund contributions to the GRS and PFRS at the levels provided for in the Plan, and make the other payments required by the Plan?

- Using the City's own projections, if the net proceeds of the 2005 COPs transaction are disgorged and all of the City's other assumptions remain constant, the City will be unable to adequately fund its required amortization payments beginning in 2024 and will run out of cash by 2029

Introduction (cont.)

Respectfully submitted,

Stephen Spencer
Managing Director
Houlihan Lokey

July 25, 2014

Unfair Discrimination Analysis

Unfair Discrimination Defined

- For the purpose of this analysis, I have analyzed the Plan based on the criteria set forth in two alternative standards: (i) the "Aztec" test and (ii) the "Markell" rebuttable presumption test[1]

"Aztec" Test

- **Definition**: According to the Debtor, the Aztec standard is a four-factor test that is a "comprehensive framework for evaluating all of the questions that may bear on the question of unfair discrimination"
- **Criteria**: The Aztec test considers:
  1. Whether the discrimination is supported by a reasonable basis;
  2. Whether the debtor can confirm and consummate a plan without the discrimination;
  3. Whether the discrimination is proposed in good faith; and
  4. The treatment of the classes discriminated against

"Markell" Rebuttable Presumption Standard

- **Definition**: According to the Debtor, under the Markell test, a rebuttable presumption of unfair discrimination arises if three criteria are satisfied
- **Criteria**: A rebuttable presumption that a plan is unfairly discriminatory will arise when there is:
  1. A dissenting class;
  2. Another class of the same priority; and
  3. A difference in the plan's treatment of the two classes that results in either (a) a materially lower percentage recovery for the dissenting class (measured in terms of the net present value of all payments), or (b) regardless of percentage recovery, an allocation under the plan of materially greater risk to the dissenting class in connection with its proposed distribution
- The presumption may only be rebutted by showing (i) outside of bankruptcy, the dissenting class would similarly receive less than the class receiving greater recovery; (ii) the preferred class infused new value into the restructuring, which offset its gain; or (iii) allocation of risk was consistent with the risk assumed by the parties pre-petition

Unfair Discrimination – Summary of Findings

- The Plan generates disparate recoveries for the reasons summarized in the following matrix and elaborated upon on the following pages of this report

The Plan generates excessively disparate recovery outcomes favoring pensioners

Factual Basis	■ The Plan provides more than a 50 percentage point recovery differential between Class 10 and 11 creditors (i.e., pension claimants) and Class 9 claimants[2] ■ The Debtor substantially underestimates recoveries to Classes 10 and 11 through: 1. Use of alternative actuarial assumptions to inflate pension plan funding deficiencies thereby lowering estimated recovery thresholds; and 2. Not accounting for contingent value recovery mechanisms ■ The Debtor overstates the estimated recoveries for recipients of the New B Notes by selecting (and using) a below market discount rate
Discriminatory Implications	■ **Plan qualifies as discriminatory under factor 4 of the Aztec test and factor 3(a) of the Markell standard**

The Plan directs superior sources of recovery to pensioners

Factual Basis	■ The third party monetary contributions being directed to pension claimants are from a diversity of parties which collectively constitute a source of payment that exhibits a superior credit and liquidity profile compared to the post-restructuring credit and liquidity profile of the City ■ The $632 million of New B Notes consideration is effectively structurally subordinate based on the Debtor's classification under the Plan, subjecting it to inherently greater risk of recovery from City cash flows
Discriminatory Implications	■ **Plan qualifies as discriminatory under factor 4 of the Aztec test and factor 3(b) of the Markell standard**

Unfair Discrimination – Summary of Findings (cont.)

The defined benefit replacement plan is comparatively generous

Factual Basis	■ Under the Plan, City employees ("actives") will receive contributions to a 401(k)-style replacement plan that are comparatively generous relative to similar private and government sector plans including a plan for the benefit of Michigan's teachers ■ The comparative generosity of the City's new defined contribution plan provides an effective counter-balance to potential motivational challenges in the City's workforce stemming from greater impairment of pensions under a potential alternative Plan of Adjustment proposal ■ Pension benefits have been impaired to a greater degree in other cases where active employees are vital to continued operations ■ The per-employee cost of enhanced pension recoveries is approximately $100,000
Discriminatory Implications	■ **Plan qualifies as discriminatory under factor 1 and factor 2 of the Aztec test**

The Debtor contends financial creditors' greater underwriting resources are cause for disparate treatment

Factual Basis	■ To support the lower recovery percentages being offered to financial creditors, the Debtor contends financial creditors are sophisticated investors with more abundant resources to assess risk than pensioners, and are therefore deserving of lower recoveries because of a failure to use these resources to their comparative advantage ■ In the financial creditors' defense, it is notable that unlike corporate debt underwriting, the municipal debt underwriting process takes place at a distance, with complete reliance on City-produced financial data and <u>no</u> direct access to diligence City government operations ■ Immediately prior to and during the bankruptcy proceeding, the Debtor disclosed previously unknown facts and data describing the severity of City government dysfunction and lack of primary data integrity which could not possibly have been known under the municipal debt underwriting model ■ The Debtor also used specific assumptions, such as a lower pension discount rate, to materially advantage the recovery outcome of pensioners, which could not have been foreseen on a pre-petition basis
Discriminatory Implications	■ **Plan qualifies as discriminatory under factor 1 of the Aztec test**

"Markell" Rebuttable Presumption Standard

- The presumption of unfair discrimination may only be rebutted by showing that:
  i. Outside of bankruptcy, the dissenting class would similarly receive less than the class receiving greater recovery;
  ii. The preferred class infused new value into the restructuring, which offset its gain; or
  iii. Allocation of risk was consistent with the risk assumed by the parties pre-petition

Rebuttal Criteria	Key Considerations	Criteria Satisfied?
Outside of bankruptcy, dissenting class would similarly receive less than class receiving greater recovery	■ In the event that the City's bankruptcy case is dismissed, unsecured creditors would be able to assert their claims on a pari passu basis and would receive distributions based on their pro rata allocation of the total unsecured claims pool ■ A dismissal would allow unsecured claims to preserve the option value of their claims and participate in the City's future economic recovery, rather than cap recovery prospects for unsecured claims and crystallize losses ● Treatment of unsecured claims outside of bankruptcy is discussed further in the "Best Interests" section of this report	NO
Preferred class infused new value into the restructuring which offset its gain	■ The preferred classes (i.e., the PFRS and GRS pension claimants) have not provided incremental value or funding beyond that which was already available to the Debtor	NO
Allocation of risk was consistent with risk assumed by parties pre-petition	■ The City itself has acknowledged that all unsecured claims are pari passu ● In the City's June 2013 Proposal for Creditors (the "June 2013 Proposal"), the City contemplated a pro rata distribution of consideration to all unsecured claims[3] ● Judge Rhodes similarly acknowledged that pensions cannot be treated differently from other unsecured claims in his December 2013 eligibility ruling[4]	NO

Presumption of unfair discrimination has not been rebutted

Unfair Discrimination Analysis

Measuring the Extent of Disparate Treatment

Primary Discrimination Mechanisms

The Plan generates excessively disparate recovery outcomes favoring pensioners

- The Plan provides an outcome to pension claimants that, in comparison to COP claimants, is even greater than the 50 percentage point recovery differential quantified in the Plan documentation. The Debtor uses two primary mechanisms to generate this disparate outcome

I. Inflating the PFRS & GRS Claims

- Increasing PFRS and GRS estimated claim amounts materially above the most recent actuarially assessed values allows the City to show a smaller percentage recovery against a larger claim amount
- The net effect is to show the PFRS and GRS pension claimants getting only a 60% recovery on their claims when under the prior actuarial values, they would each be receiving over 100% recovery on their prior actuarial claims

II. Not Accounting for Contingent Value Recovery Mechanisms

- Unlike other unsecured creditors, pension claimants also receive the benefit of recovery mechanisms in the form of (i) restoration payments in the event that pension investments exceed performance expectations and funding levels subsequently exceed targeted amounts and (ii) DWSD contingent value rights in the event that a qualifying DWSD transaction is consummated
- These recovery mechanisms allow for PFRS and GRS pension claimants to potentially recover in excess of 100% of their claim amounts, even when measured against the inflated claim amounts shown in the City's Plan

Shifting Consideration to PFRS & GRS Pension Claims

- Total estimated creditor recoveries have increased significantly from approximately $1.4 billion in distributable value in the June 2013 Proposal (see Appendix A for further detail) to $2.8 billion in the Plan[1,2]
- While the June 2013 Proposal contemplated pari passu treatment between COPs and the PFRS and GRS pension claimants, the current Plan contemplates a highly skewed distribution to the PFRS and GRS pension claimants using the City's calculations

Recovery Summary – Unsecured Creditors ($ in millions)

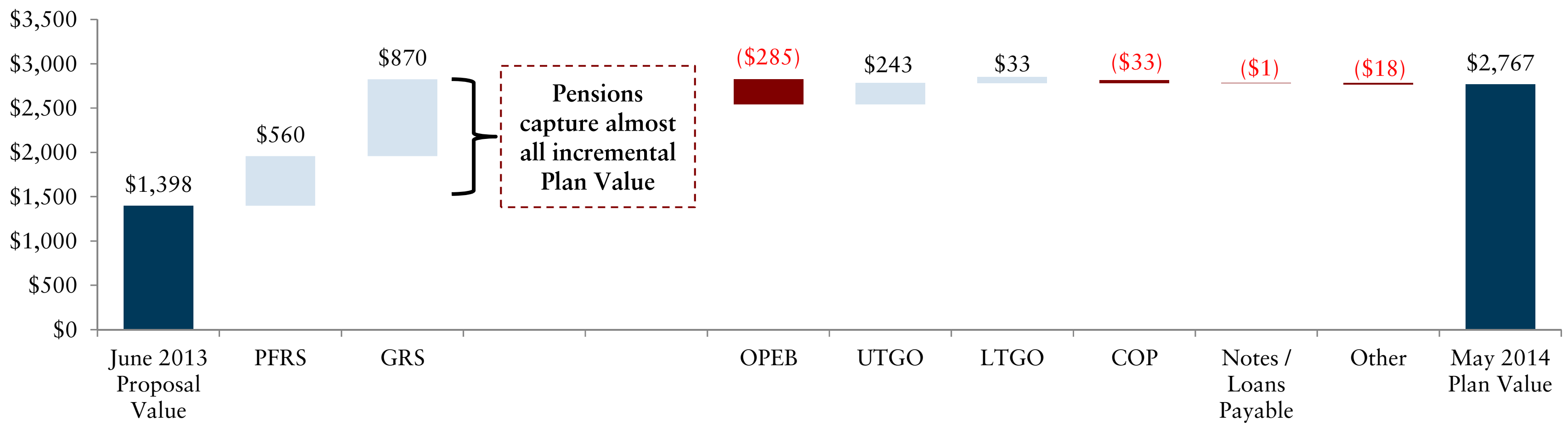
	June 2013 Proposal [1]			Plan of Adjustment [2]			
	Claim Amount	Estimated Recoveries ($)	Estimated Recoveries (%)	Claim Amount	Estimated Recoveries ($)	Estimated Recoveries (%)	Recovery % Inc. / Dec.
PFRS Pension	$1,437	$175	12%	$1,250	$735	59%	319%
GRS Pension	2,037	249	12%	1,879	1,118	60%	350%
OPEB	5,718	698	12%	4,303	413	10%	-41%
Total Retiree Creditors	**$9,192**	**$1,122**	**12%**	**$7,432**	**$2,267**	**30%**	**102%**
UTGO Claims	**$369**	**$45**	**12%**	**$388**	**$288**	**74%**	**540%**
LTGO Claims	**$161**	**$20**	**12%**	**$164**	**$52**	**32%**	**167%**
COP	1,429	174	12%	1,473	141	10%	-19%
Notes / Loans Payable	34	4	12%	34	3	10%	-21%
Other Unsecured Items	265	32	12%	150	14	10%	-55%
Other Unsecured Creditors	**$1,727**	**$211**	**12%**	**$1,657**	**$159**	**10%**	**-25%**

Note: $1.4 billion creditor recoveries under June 2013 Proposal assumes a 5% discount rate and full repayment of the $2.0 billion principal amount. Note that per the terms of the Limited Recourse Participation Notes as described in the June 2013 Proposal, the City is not obligated to repay the principal amount. Plan recoveries for recipients of the New B Notes reflect (i) a 5% discount rate consistent with the rate used by the City to calculate New B Notes recoveries in its Plan and (ii) COP claims asserted at 100% of principal value

Pensions Profit Disproportionately

- Another way of illustrating the extent to which the pensions profited from bankruptcy negotiation is to show how much of the incremental Plan recovery value was captured by the PFRS and GRS pension claimants
- From the June 2013 Proposal to the Plan, the City's estimated Plan value distribution increased approximately $1.4 billion – almost all of which is captured by the pensions

Distribution of Increase in Estimated Plan Recoveries ($ in millions)

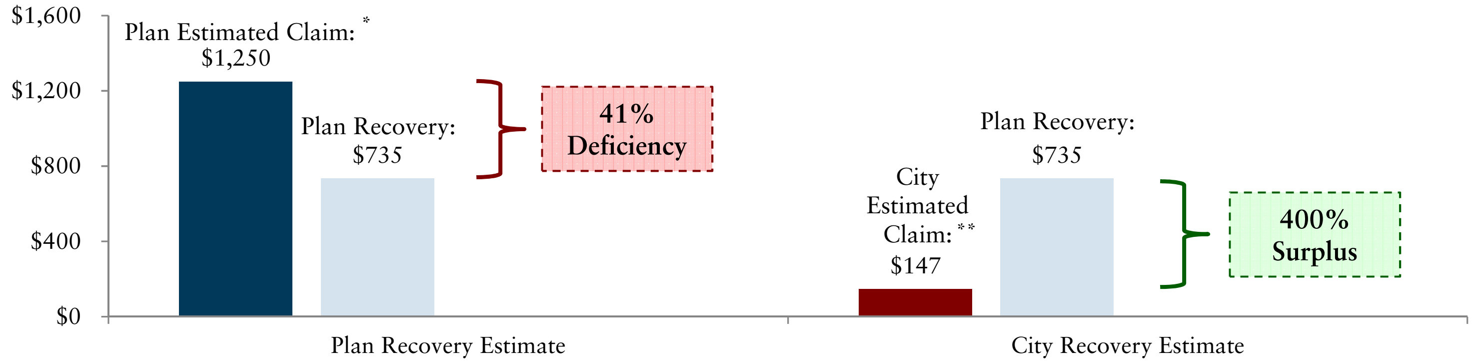


Note: $1.4 billion creditor recoveries under June 2013 Proposal assumes a 5% discount rate and full repayment of the $2.0 billion principal amount. Note that per the terms of the Limited Recourse Participation Notes as described in the June 2013 Proposal, the City is not obligated to repay the principal amount. Plan recoveries for recipients of the New B Notes reflect (i) a 5% discount rate consistent with the rate used by the City to calculate New B Notes recoveries in its Plan and (ii) COP claims asserted at 100% of principal value

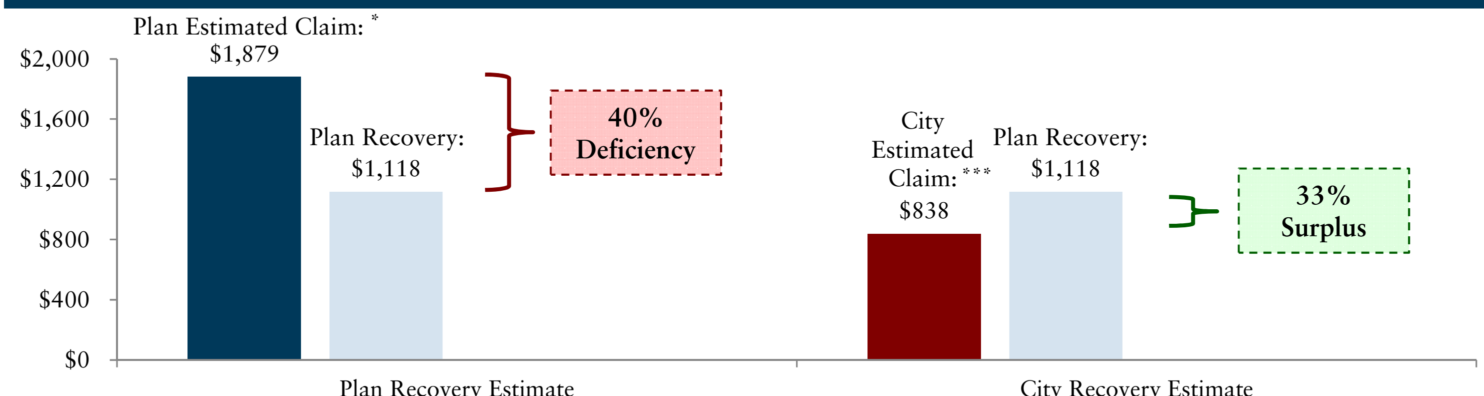
Inflating PFRS & GRS Claims

- Under the Plan, the size of the estimated PFRS and GRS pension claims were increased by 750% and 125%, respectively, from the last actuarial valuation estimates[3,4]
- The increase in claims size has the effect of distorting recovery percentages – because the claim sizes have been increased so dramatically, the PFRS and GRS plans appear to be receiving less than full (or par) recovery
- If the respective PFRS and GRS Plan recovery values were applied to the most recent actuarial claims, the Plan recoveries would generate greater than par recoveries for both pension plans

Divergent PFRS Recovery Estimates ($ in millions)[3]



Divergent GRS Recovery Estimates ($ in millions)[4]



* *Reflects a 6.75% assumed investment rate of return per the Plan*
** *Reflects an 8.00% assumed investment rate of return per the 2012 PFRS actuarial valuation*
*** *Reflects a 7.90% assumed investment rate of return per the 2012 GRS actuarial valuation*

Lower Discount Rate Unsubstantiated

- A major factor inflating the PFRS and GRS pension claims is the City's use of a lower 6.75% discount factor in calculating the claim
- The Plan's lower discount rate is both materially lower than discount rates used by many other cities (as well as the state of Michigan), and also somewhat arbitrary
  - The City states that the decrease in discount rate was a negotiated result but provides little further support for the specific rate chosen
  - Additional support is critical because a modest increase (closer to the average of other cities) would materially reduce the PFRS and GRS pension claim amounts, thereby increasing recovery estimates
  - Moreover, because the chosen rate is materially lower than the average rate for comparable plans (as well as the City's previous discount rate assumptions of 8.0% and 7.9% for the PFRS and GRS plans, respectively), the change to a lower rate is not something other unsecured creditors could have reasonably expected on a pre-petition basis

Selected Public Pension Plans – Public Safety[5]

Pension Plan	Plan Discount Rate	Differential
Detroit PFRS	**6.75%**	**-**
DC Police & Fire	7.00%	0.25%
Houston Firefighters	8.50%	1.75%
Nevada Police Officer and Firefighter	8.00%	1.25%
New Jersey Police & Fire	8.25%	1.50%
NY State & Local Police & Fire	8.00%	1.25%
Ohio Police & Fire	8.25%	1.50%
South Carolina Police	8.00%	1.25%
Average for Sample Set	**8.00%**	**1.25%**

Selected Public Pension Plans – General[5]

Pension Plan	Plan Discount Rate	Differential
Detroit GRS	**6.75%**	**-**
City of Austin ERS	7.75%	1.00%
Denver Employees	8.00%	1.25%
LA County ERS	7.75%	1.00%
Minneapolis ERF	6.00%	-0.75%
New York City ERS	8.00%	1.25%
Phoenix ERS	8.00%	1.25%
San Francisco City & County	7.75%	1.00%
Average for Sample Set	**7.61%**	**0.86%**
Michigan SERS	**8.00%**	**1.25%**

Note: *Sample police, fire and general employee pension discount rates for various police, fire and general employee pension plans taken from most recent Public Plans Database maintained by the Center for Retirement Research at Boston College. Mean discount rate for entire 126 plan data set (which includes public safety, general employee and other pension plans) is 7.94%*

Lower Discount Rate Unsubstantiated (cont.)

- Further to the point of reasonable market discount rate expectations, the comments of various market analysts on an earlier iteration of the Plan (when the assumed pension discount rate was 7%) are illustrative:

> *"Detroit's pension is actually well-funded, so what's all the fuss?"*

> *"Orr and others say the city's pension system represents $3.5 billion of that debt and the message since the July bankruptcy filing has been that the system is a big part of the problem. But the city's two pensions are actually a combined 91 percent funded (80 percent funded plans are considered financially healthy), according to Morningstar's combined 2011 valuation of the public employee pension and police / fire pension."*

> *"Orr's assumptions for the plan's unfunded liability uses a lower, more conservative market rate to value the assets and liabilities. That choice results in the plans having fewer assets and more liabilities when compared with the actuarial valuation given by the pension system."*

Liz Farmer,
GOVERNING Magazine[6]

> *"Using the market rate is not exactly standard practice. While using it is the correct method to identify a liability in a point in time…it does magnify fluctuations in the bond market. It presents a very drastically different point of view on the fundamental fiscal health of plans based on the actuarial method."*

Rachel Barkley,
Morningstar Municipal Credit Analyst[6]

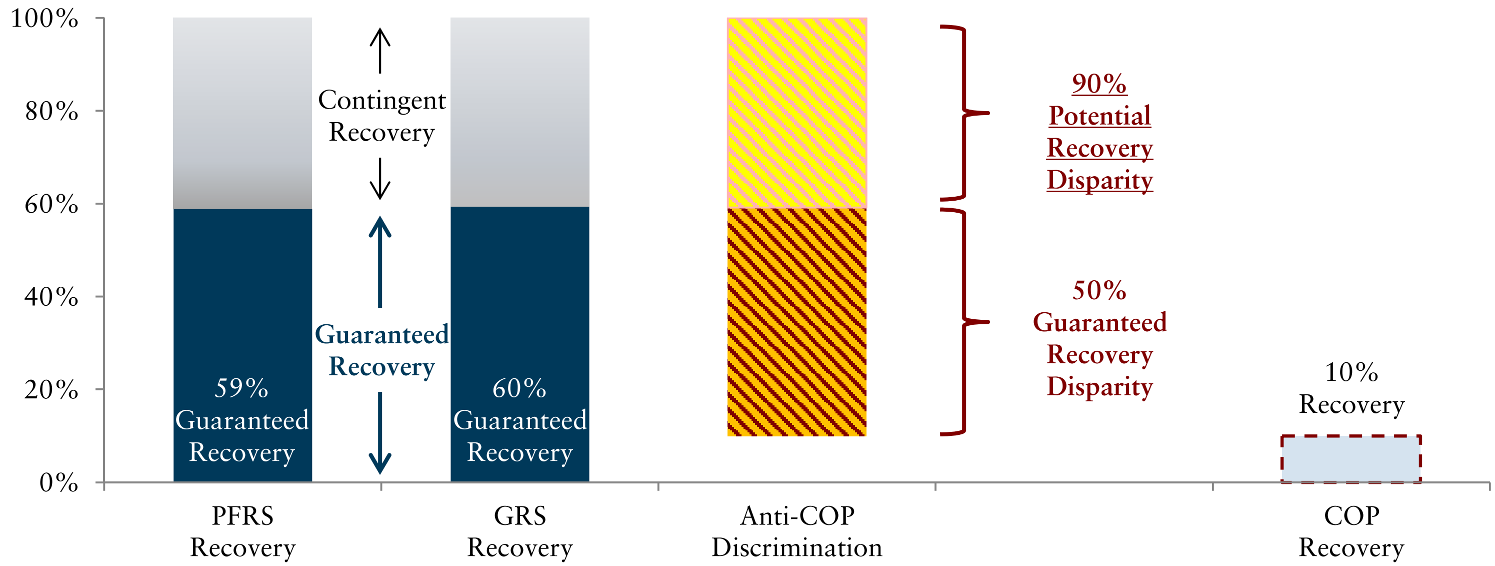
Detroit PFRS & GRS Liabilities – 2011 Actuarial Valuation vs. Plan Assumption ($ in millions)

	2011 Actuarial Valuation[6]			Emergency Manager Assumptions[6]		
	Fiscal Year 2011			Fiscal Year 2013		
	PFRS	GRS	Aggregate	PFRS	GRS	Aggregate
Investment Return Assumption	8.00%	7.90%	-	7.00%	7.00%	-
Amortization Period	30 Years	30 Years	-	15 Years	18 Years	-
Unfunded Liability	$3.9	$639.9	$643.8	$1,437.0	$2,037.0	$3,474.0
Funded Ratio	99.9%	82.8%	91.4%	67.0%	50.5%	59.0%

Disparate Treatment of COP Claims

- The City's Plan estimates COP holders will recover 10% of the value of their claim while PFRS and GRS pension claims are estimated to recover 59% and 60%, respectively[2]
- While the discrepancy in estimated recoveries in the Plan is already large, the full extent of disparate treatment in favor of the PFRS and GRS pension plans could be even greater as various contingent value recovery mechanisms create an opportunity for full PFRS and GRS recovery over time[7]
- The primary contingent value recovery mechanisms are: (i) restoration payments in the event that pension investments exceed performance expectations and funding levels subsequently exceed targeted amounts and (ii) DWSD contingent value rights in the event that a qualifying DWSD transaction is consummated

Pension & COP Recovery Disparity[2,7]



Pensions capture City upside

Note: *Recoveries for COP claims reflect (i) a 5% discount rate consistent with the rate used by the City to calculate New B Notes recoveries in its Plan and (ii) COP claims asserted at 100% of principal value*

Actual Value of New B Notes Recoveries

The City overstates the estimated recoveries for recipients of New B Notes

- The $632 million New B Notes are subject to inherently greater risk of recovery from City cash flows, substantially diminishing the actual value to be received by recipients of the New B Notes

The New B Notes Are Mispriced

- The interest rate of the New B Notes fails to reflect the risk inherent in the security
- Consequently the true value of the New B Notes is substantially less than what the City purports it to be
- The City itself acknowledges such a risk in its disclosure statement, stipulating that because of potentially limited market interest in the New B Notes, "potential purchasers may demand discounts to the par amount of obligations before a potential purchaser would be willing to purchase City debt of any kind"[8]

Value of New B Notes Consideration is Overstated

- Because COP claimants' (and other unsecured financial creditors') recoveries are predicated entirely on the New B Notes, actual recoveries are considerably less than recoveries stated by the City in its Plan
- To align actual recoveries with stated recoveries for New B Notes recipients, the City would need to either:
  1. Increase the interest rate to reflect the appropriate discount rate (i.e., the expected yield of the New B Notes upon issuance); or
  2. Increase the initial principal amount to reflect the fact that the currently contemplated coupon, maturity and security will cause the New B Notes to trade at a significant discount to par

Additional Features Considered to Price Note Accurately

- To determine an appropriate discount rate and thus value the New B Notes consideration, I considered the following factors:
  1. The credit rating of post-emergence Detroit, per established municipal credit analysis guidelines and criteria used by Moody's and S&P;
  2. The yield for an index of comparably rated securities; and
  3. An assessment of the City's projected debt service coverage over the 30-year term of the New B Notes

Pricing of New B Notes

- Despite the fact that the 5% discount rate the City uses to value the New B Notes reflects a level of risk comparable to that of financially strong, high credit quality municipalities, the City's expert witness conceded in his deposition that upon emergence, Detroit should have a credit profile that is worse than that of an "A"-rated municipality[9]

> *"I don't think Detroit will deserve a single "A" rating as a general obligation bond holder* [sic] *until it has proven that it can operate in a financially responsible way, that the tax base is improving and that the general economic conditions of the area are also improving."*
>
> **Kenneth Buckfire – July 16, 2014**[9]

- As a critical determinant in the underwriting and subsequent investor pricing of debt securities, credit ratings are broadly accepted by the municipal bond market as a comprehensive assessment of the relative credit quality of an issuer
- I conducted an analysis of Detroit's post-emergence credit quality using general frameworks established by Moody's and S&P to evaluate U.S. municipal general obligation issuers, which are summarized on the following pages
- My analysis corroborates Mr. Buckfire's testimony that the credit rating of the New B Notes would fall near the high yield / investment grade cut-off
  - As such, in determining an appropriate discount rate, I examined yields of general obligation securities rated one notch above high yield or below
  - Additionally, it is important to consider that since the City has categorized the New B Notes to be no stronger than general obligations, the capital markets may actually deem them to be weaker obligations

Moody's Credit Rating Considerations

Moody's Rating Methodology[10]			
Factors	**Subfactors**	**Description**	**Weight**
Economy/Tax Base (30%)	■ Tax base size ("full value")	■ Market value of taxable property accessible to municipality	10%
	■ Full value per capita	■ Tax base size divided by total population	10%
	■ Wealth	■ Median family income as a % of U.S. median	10%
Finances (30%)	■ Fund balance	■ Available fund balance as a % of operating revenues	10%
	■ Fund balance (5-year trend)	■ Available fund balance in most recent year minus available fund balance 5 years earlier, as a % of most recent year's operating revenue	5%
	■ Cash balance (% of revenue)	■ Operating funds net cash as a % of operating revenues	10%
	■ Cash balance (5-year trend)	■ Cash balance in most recent year minus cash balance 5 years earlier, as a % of most recent year's operating revenue	5%
Management (20%)	■ Institutional framework	■ Legal ability, per constitutionally and legislatively conferred powers, to match revenues with expenditures	10%
	■ Operating history	■ 5 year average of operating revenues divided by operating expenditures	10%
Debt/Pensions (20%)	■ Debt to full value	■ Net direct debt as a % of full value	5%
	■ Debt to revenues	■ Net direct debt as a % of operating revenues	5%
	■ Moody's-adjusted net pension liability (3-year average) to full value	■ 3 year average of adjusted net pension liability as a % of full value	5%
	■ Moody's-adjusted net pension liability (3-year average) to revenue	■ 3 year average of adjusted net pension liability as a % of operating revenues	5%

S&P Credit Rating Considerations

S&P Rating Methodology[11]			
Factors	**Subfactors**	**Description**	**Weight**
Economy (30%)	■ Total market value per capita	■ Total market value of taxable property accessible divided by total population	15%
	■ Projected per capita effective buying income ("EBI") as a % of US projected per capita EBI	■ EBI divided by total population	15%
Financial Measures (30%)	■ Liquidity	■ Function of government available cash, as a % of both debt service funds and total expenditures	10%
	■ Budgetary performance	■ Function of total government funds net result and general fund net result as a % of expenditures	10%
	■ Budgetary flexibility	■ Available fund balance as a % of expenditures	10%
Management (20%)	■ Based on S&P's Financial Management Assessment ("FMA") score	■ FMA score composed of seven measurements of performance ranging from long-term financial and capital planning to investment and debt management policies	20%
Debt & Contingent Liabilities (10%)	■ Net direct debt as a % of revenue	■ Total debt as a % of total government revenues	5%
	■ Total debt service as a % of expenditures	■ Total government debt service funds as a % of revenues	5%
Institutional Framework (10%)	■ Predictability of revenues and expenditures	■ Ability to effectively forecast revenues and expenditures	2.5%
	■ Revenue and expenditure balance	■ Ability to finance services provided (revenue raising capability)	2.5%
	■ Transparency and accountability	■ Provision of timely and relevant financial information and frequent and timely audits	2.5%
	■ System support	■ The extent to which local governments receive extraordinary support from the state government	2.5%

Implied City Credit Rating

- Using the Moody's and S&P credit rating frameworks, the post-emergence Detroit could be rated one notch below investment grade

Illustrative Moody's Rating Scorecard

Factors	Initial Evaluation	Weight	Score
Economy/Tax Base		30%	
Tax base size (full value)	$7.3 billion	10%	Aa
Full value per capita	$10,426	10%	Ba
Wealth (median family income)	44%	10%	Ba
Finances		30%	
Fund balance / revenue	-19%	10%	≤B
Fund balance (5-year trend)	-2%%	5%	Baa
Cash balance / revenue	7%	10%	A
Cash balance (5-year trend)	-7%	5%	Baa
Management		20%	
Institutional framework	"Very Poor"	10%	≤B
Operating history	0.9x	10%	Ba
Debt/Pensions		20%	
Debt / full value	23%	5%	≤B
Debt / revenue	1.4x	5%	A
Adjusted net pension liability (3-year average) / full value	"Moderate"	5%	A
Adjusted net pension liability (3-year average) / revenue	"Moderate"	5%	A
Implied Credit Rating		100%	Baa3

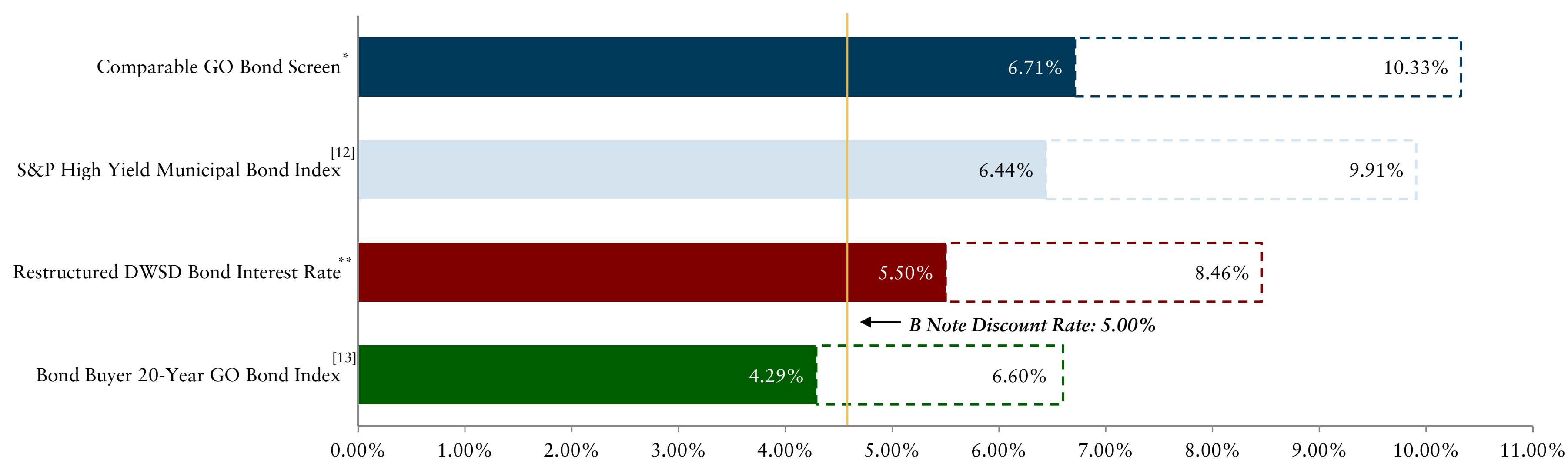
Illustrative S&P Rating Scorecard

Factors	Initial Evaluation	Weight	Score
Economy		30%	
Total market value per capita	$10,426	15%	B
Projected effective buying income	53%	15%	B
Financial Measures		30%	
Liquidity	5%, 46%	10%	B
Budgetary performance	-26%, -30%	10%	B
Budgetary flexibility	5%	10%	B
Management		20%	
S&P's Financial Management Assessment	"Very Weak"	20%	B
Debt & Contingent Liabilities		10%	
Net direct debt / revenue	140%	5%	B
Total debt service / expenditures	10%	5%	B
Institutional Framework		10%	
Revenue and expenditure predictability	"Weak"	2.5%	BBB+
Revenue and expenditure balance	"Adequate"	2.5%	A+
Transparency and accountability	"Strong"	2.5%	AA
System support	"Strong"	2.5%	AA
Implied Credit Rating		100%	BB

New B Notes Yield Comparison

- The City's assumed discount rate of 5% implies that the credit risk of the New B Notes is similar to that of investment grade, secured municipal bonds
- Additionally, because the interest payments on the New B Notes are taxable, the New B Notes' 5% discount rate should be compared to tax equivalent yields, further highlighting the New B Notes' understated risk
- Given the note's narrow debt service coverage, unsecured and non-tax exempt status, I would expect the market to demand a coupon of at least 9%

New B Notes Yield Comparison



Note: Dotted lines reflect the tax equivalent yield assuming a 35% tax rate. The conversion formula is: Tax Equivalent Yield = Tax Free Yield / [1 – Assumed Tax Rate]
* *Yields as of July 25, 2014. See following page for further detail*
** *Reflects high range of DWSD bond interest rates*

Selected Municipalities Ratings Comparison

- Although a comparable assessment of municipalities and individual municipal security credit yields is not commonplace in the municipal capital markets, I nonetheless examined yields of securities in other municipalities hovering at or below the investment grade threshold[14]
- A review of a Bloomberg screen of relevant municipal debt obligations further supports the assertion that the New B Notes consideration is mispriced and would trade at a potentially substantial discount to reflect the appropriate risk
- Additionally, based on the fact that the New B Notes will be unsecured obligations of the City, I believe they are at least as risky as general obligation bonds and likely even more risky based on the Debtor's treatment and classification of general obligation debt versus general unsecured liabilities under the Plan

Bloomberg Screen: High Yield General Obligation Bond Ratings Comparison

Total Bonds Evaluated: 40	Coupon	Yield	Adjusted Yield*
High	8.0%	9.1%	14.0%
Median	5.8%	7.7%	11.9%
Mean	5.8%	6.7%	10.3%
Low	3.8%	3.5%	5.4%

Note: Bloomberg screen as of July 25, 2014. Criteria consists of (i) general obligation debt; (ii) credit rating of one notch above high yield or below; (iii) maturities between 20 and 30 years; and (iv) total deal issuance size greater than $10 million

** Reflects tax equivalent yield assuming a 35% tax rate*

Debt Service Coverage Considerations

- A debt service coverage ratio is a metric used to examine an entity's ability to service its debt with cash flows from operations
  - Typically, the metric is calculated as net operating income divided by total debt service
- The City's projected debt service coverage indicates significant credit risk with respect to the City's ability to service its proposed UTGO, LTGO and New B Notes
- Similar to comparable issuer / security analysis, debt service coverage ratios have also not typically been used to evaluate and price risk associated with general obligation-type bonds
  - Historically, this has been due to an issuer's pledge, either unlimited or limited, to increase tax rates to the extent necessary to meet its debt obligations
  - The City has not provided a general obligation pledge with the proposed New B Notes[15]
  - It is expected that the New B Notes will be serviced solely by the City's forecasted General Fund cash flow available for debt service
- Because the Plan effectively elevates pensions (in priority of recovery) over both general obligation bondholders and other unsecured financial creditors alike, I have calculated cash flow available for debt service as General Fund operating revenues less the City's operating expenditures and other reinvestment and restructuring related expenditures which the City has deemed necessary
  - An abstract of the comprehensive ratio analysis in Appendix C reveals the City's projected debt service coverage ratio is very thin through the next 10 years with several years in which the ratio is below 1.0x

City of Detroit – Illustrative Debt Service Coverage Ratio ($ in millions)[16]

	Fiscal Year Ended June 30										*10 Year Totals*		
($ in millions)	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	'14 - '23	'24 - '33	'34 - '43
Operating cash flow available for debt service *	$129.0	$25.1	$99.8	$143.6	$158.7	$148.3	$139.1	$138.8	$152.8	$170.7	$1,305.9	$1,717.2	$1,419.5
Total debt service	($36.1)	($166.2)	($124.2)	($124.2)	($123.2)	($149.7)	($161.7)	($158.5)	($142.9)	($137.1)	($1,323.7)	($1,012.3)	($517.8)
Debt service coverage ratio	3.6x	0.2x	0.8x	1.2x	1.3x	1.0x	0.9x	0.9x	1.1x	1.2x	1.0x	1.7x	2.7x

* *Excludes impact of financing proceeds, working capital, contributions to income stabilization fund and swap interest set-aside*

New B Notes Value Assessment

- A final element of risk with respect to the New B Notes is the back-end weighted nature of the repayment obligations with no principal amortization due in the first 10 years
- Reflecting all of the risk factors identified, I have selected a 9% tax equivalent discount rate to value the New B Notes
- While a higher rate (and lower corresponding New B Notes value) can be empirically justified, I have chosen to be conservative in valuing the New B Notes consideration at $353 million

Implied Value of New B Notes

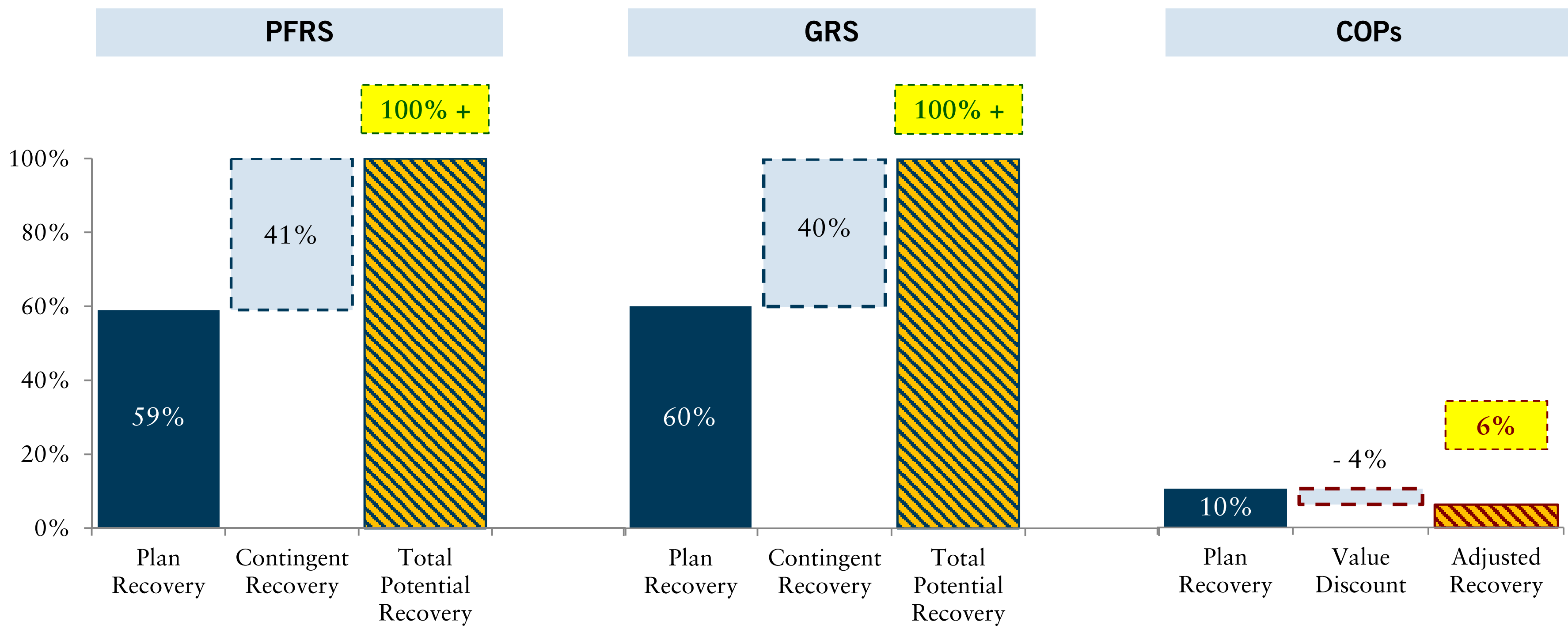
	Applicable Discount Rate / Yield	Tax Equivalent Rate*	Implied Value of Note	Implied Class 9 Recovery
City's Discount Rate	5.00%	5.00%	$564.8 million	9.8%
S&P High Yield Municipal Bond Index Yield	6.44%	9.91%	$321.6 million	5.6%
Selected General Obligation Bond Average Yield	6.71%	10.33%	$308.4 million	5.4%
Selected Discount Rate	5.85%	9.00%	$353.1 million	6.1%

* *Assumes a 35% tax rate*

COP Recoveries vs. Pension Recoveries

- The total disparity in recovery percentages of Class 9 claimants and Classes 10 and 11 claimants is even greater than presented in the City's Plan after accounting for (i) appropriate pricing of the New B Notes using a higher discount rate and (ii) additional recoveries for pension claims from contingent value recovery mechanisms
  - While PFRS and GRS claims are projected to receive 59% and 60% recoveries, respectively, under the City's projections, contingent recoveries could allow pension claimants to recover in excess of 100% of their stated claim amounts
  - Conversely, while COPs claims are projected to receive a 10% recovery under the City's Plan, applying a more appropriate discount rate to price the New B Notes would lower recoveries for COPs claims to 6%

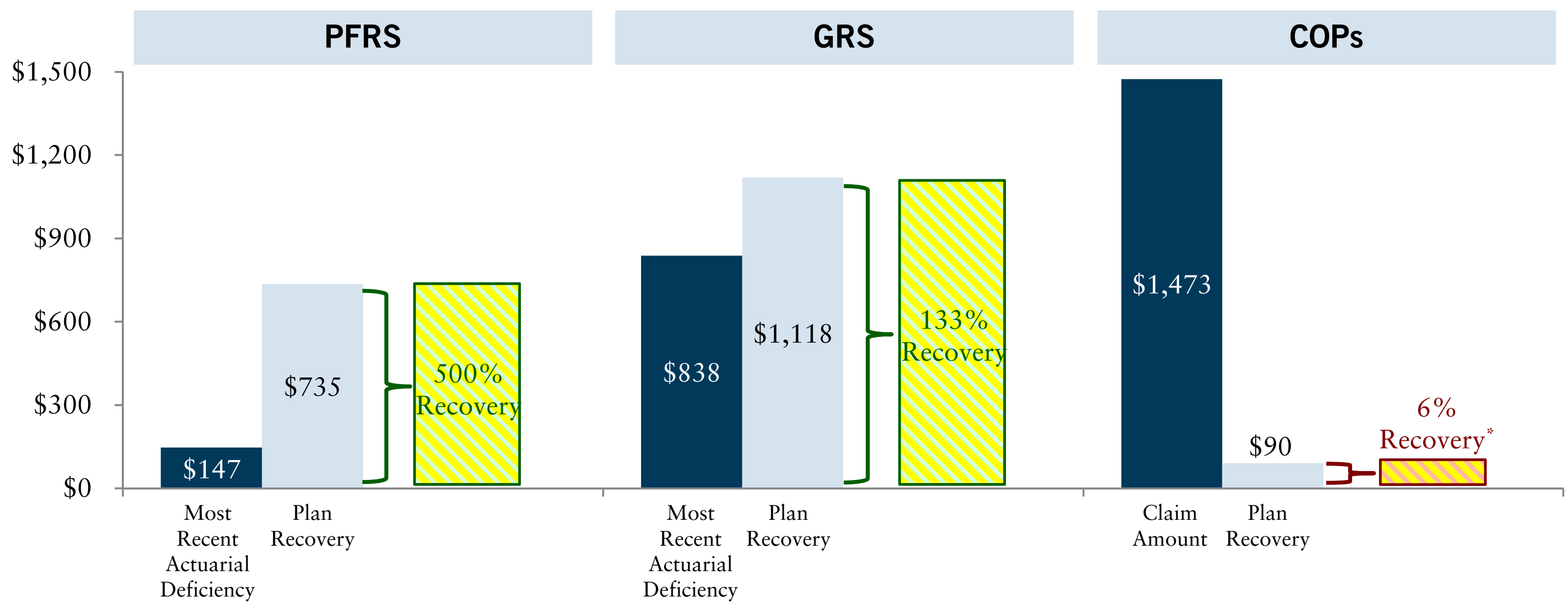
Adjusted Pension & COP Recoveries



COP Recoveries vs. Pension Recoveries (cont.)

- If the City's prior actuarial assumptions are used to calculate pension recoveries, the recovery differential between pension and COPs is even more skewed
- As indicated previously, under the City's most recent actuarial calculation, the pensions would be receiving well in excess of 100% recoveries on their calculated deficiency amounts
- In comparison to COP recoveries, this produces more than a 100% recovery differential

Pension Recoveries as % of Most Recent Actuarial Deficiencies ($ in millions)



* COP recoveries reflect (i) a 9% discount rate to value the New B Notes Consideration and (ii) COP claims asserted at 100% of principal value

Unfair Discrimination Analysis

Comparing Recovery Source Qualities

Quality of Cash Flow Recovery

The Plan directs superior sources of recovery to pensioners

- Apart from the quantitative risk factors assessed on the preceding pages, there are two primary qualitative risk factors that render the New B Notes consideration inferior to the consideration being offered to both pension claims

  i. **Diversity of recovery sources** – As illustrated, pension recoveries are being provided by many more sources of recovery than just the City's debt service capacity

  - For example, pension claims will receive distributions (on an immediate as well as continuing basis) from Foundation, DIA and State proceeds, each of which have been acknowledged by the Debtor's expert as having a superior credit quality relative to the New B Notes

> *"It would be appropriate…with the State of Michigan, since they are a double A rated credit, to use a very low discount rate…Likewise, all the foundations, because they are large, and are well funded and have no…external debt, would also merit a very low discount rate…The individual members of the DIA board of trustees…are all very wealthy local business people and other professionals who probably would merit an equally low discount rate on their contributions..."*
>
> **Kenneth Buckfire – July 16, 2014**[1]

  ii. **Contingent Value Participation** – The ability for pension claimants to receive incremental (up to par) recovery tied to future City financial performance is a major qualitative advantage over COP and other general unsecured claims, which remain static no matter how robust the City's financial recovery might be

Summary of Cash Flow Recovery Quality – Pension vs. New B Notes[2]

Claim	Source of Recovery					Restoration Payments	DWSD Contingent Value Rights	Timing of Payment
	New B Notes	State Settlement	Foundation Proceeds	DIA Contribution	Cash Payment			
PFRS & GRS	■ No	■ Yes	■ Yes	■ Yes	■ Yes	■ Yes	■ Yes	■ Begins immediately
COPs	■ Yes	■ No	■ No	■ No	■ No	■ No	■ No	■ Over 30 years

Unfair Discrimination Analysis

Assessment of Defined Benefit Replacement Plan

Generous Defined Benefit Replacement Plan

The defined benefit replacement plan is comparatively generous

- Under the Plan, City employees will receive contributions to a replacement 401(k)-style plan that are comparatively generous relative to similar private and government sector plans (including the plan for the benefit of Michigan's teachers), which provides an effective counter-balance to potential motivational challenges that may arise among the City's workforce if pension claims were further impaired
- A high level comparison to other municipal defined contribution plans indicates that the employer contribution contemplated by the City's new defined contribution pension plans that will supplement the frozen defined benefit plans exceeds the sample average (by a substantial margin in the case of the PFRS employer contribution)

Average State Defined Contribution Plan[1]

Plan Name	Type of Plan	Plan Year	Employee Contribution	Employer Contribution*	Positive Variance to Average
Alaska PERS - DC	Defined Contribution	2009	8.0%	5.0%	
Alaska TRS - DC	Defined Contribution	2009	8.0%	7.0%	
Colorado PERA - PERAChoice	Defined Contribution	2009	8.0%	10.2%	
Florida RS - FRS Investment Fund	Defined Contribution	2009	NA	9.0%	
Indiana PERF - Annuity Savings Account	Combination	2009	3.0%	0.0%	
Indiana TRF - Annuity Savings Account	Combination	2009	3.0%	0.0%	
Michigan Public Schools - DC	Combination	2010	3.0%	0.0%	
Michigan SERS - DC	Defined Contribution	2009	NA	7.0%	
Montana PERS - DCRP	Defined Contribution	2009	6.9%	4.2%	
North Dakota - DCRP	Defined Contribution	2009	4.0%	4.1%	
Ohio PERS - Combined Plan	Combination	2009	10.0%	7.0%	
Ohio STRS - Combined Plan	Combination	2009	10.0%	13.0%	
Oregon PERS - IAP	Combination	2009	6.0%	0.0%	
South Carolina - Optional Retirement Program	Defined Contribution	2009	6.5%	5.0%	
Washington SERS 3 - DC	Combination	2009	5.0%-15.0%	0.0%	
Washington TRS 3 - DC	Combination	2009	5.0%-15.0%	0.0%	
Washington PERS 3 - DC	Combination	2009	5.0%-15.0%	0.0%	
West Virginia TRS - DC	Defined Contribution	2009	4.5%	7.5%	
Average Employer Contribution				**4.4%**	
City of Detroit - PFRS Active	Defined Contribution	2015	6.0%-8.0%	12.3%	+7.9%
City of Detroit - GRS Active	Defined Contribution	2015	4.0%	5.8%	+1.4%

Note: Reflects most recent Public Plans Database maintained by the Center for Retirement Research at Boston College

** Includes maximum employer matching of employee contribution*

Municipal vs. Corporate Pension Impairments

- In cases where certain unsecured creditors receive a materially higher recovery than other general unsecured claims, these advantaged creditors typically have the ability to assert strong negotiating leverage over the debtor (relative to other unsecured claims) and as such, may be able to command a higher recovery
- Impairment of trade, pension and other union related claims in the corporate context occurs frequently, despite these claimants having the ability to assert significantly greater leverage than public unions (specifically non-active retirees) in the form of business interruption and threats to strike

Case Study: A Comparison & Contrast To Airline Bankruptcies

- Airline bankruptcies are a prime example of situations where such creditors (primarily labor unions and specifically, pilots) have the ability to halt all business operations with a single strike. Yet despite this leverage, pension plans have still been terminated and benefits have still been impaired with resulting claims being treated pari passu with other general unsecured claims
  - In the 2005 case of United Airlines, the company's pension plans with nearly 124,000 vested participants and total claims of $7.4 billion were terminated[2]
  - Similarly, the cases of U.S. Airways in 2003 and Delta Air Lines in 2006 resulted in the termination of pension plans with total claim amounts of $2.8 billion and $1.6 billion, respectively[2]
- In reality, only active employees have the ability to assert leverage through business interruption and threats of strike. In the case of Detroit's active employees, such actions are not permitted under state law[3]
  - Furthermore, active employees comprise a relatively small percentage of the total number of pension claimants (approximately 28%) under the PFRS and GRS plans[4]
- Even if leverage meriting such a significant disparity in recovery existed for active employees, it makes little sense for such leverage to enhance the recovery of non-active pensioners whose negotiating leverage characteristics do not possess the same attributes
  - For the City to justify enhanced retiree recoveries by suggesting that active employees are "concerned about the extent of impairment of benefits for retired City employees, as active employees will become retirees at some point" is disingenuous and is comparable to suggesting that "critical vendors" receiving special treatment in a Chapter 11 context would be concerned about harsh treatment of other "non-critical" vendors because they too may be considered "non-critical" one day

Municipal vs. Corporate Pension Impairments (cont.)

- It is not uncommon for local and even national municipalities to restructure and ultimately impair pension claims despite the perceived risk that such an action may result in loss of cooperation and motivation by the municipality's active employees
  - Municipalities such as Central Falls have used bankruptcy or other statutory powers to modify pension and post-employment benefits to achieve necessary cost savings[5]
- Detroit itself has implemented similar changes on a pre-petition basis for active employees through the implementation of City Employment Terms (or "CET").[6] I am not aware of any evidence to suggest that further modification of active employees' (or retired employees') pensions and benefits would suddenly result in a scenario where all active employees (including those without vested pension benefits) would refuse to cooperate and effectively stop working to provide essential services
  - What makes the likelihood of this scenario even more remote is the fact that Michigan law explicitly prohibits public employees from striking or even engaging in conduct that resembles a strike (i.e., absence from work or a failure to perform "in whole or in part from the full, faithful and proper performance of his or her duties…")[3]
- Beyond what I have observed in municipal bankruptcies, pensions benefits are impaired (and in many instances terminated) quite regularly in the corporate context where the threat of strikes and risks to employee cooperation and motivation is arguably greater than in the municipal context, especially with heavily unionized companies
  - From 1975 to 2011, approximately 4,300 PBGC-trusteed plans with aggregate claim amounts in excess of $45 billion were terminated[7]
- These corporate cases exhibit the same (and in some cases more) risk of employee defection, yet in each and every case the courts and / or the PBGC still provided for the termination of the plan
  - When compared to these corporate cases, Detroit's proposed modifications (especially when considering the generous replacement plan, lack of significant accrued benefit impairment and the presence of available contingent recovery mechanisms) are a far cry from an all-out termination, which suggest that additional cuts are unlikely to result in an across the board loss of employee motivation and cooperation

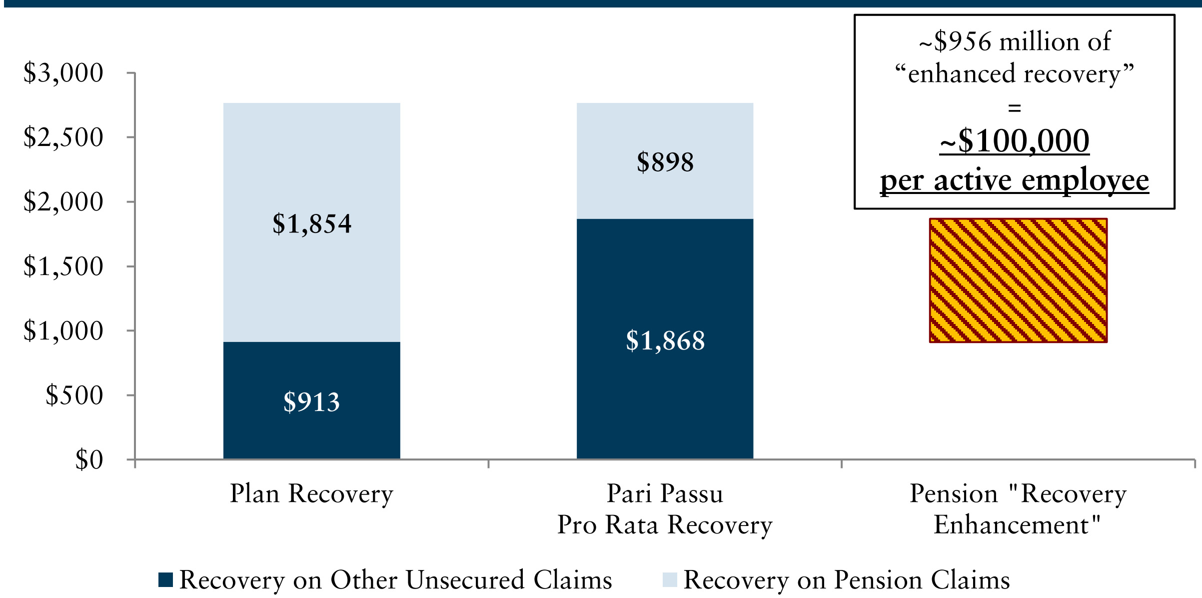
PBGC Terminations & Claims (1975-2011)[7]

Number of Plans Terminated	Total Claims	Vested Participants	Average Claim
4,292	$45,671,473,593	1,952,166	$23,395

Per Employee Cost of "Enhanced" Pension Recoveries

- In the City's reply to Plan objections, it states that "by providing a relatively enhanced recovery to holders of Pension Claims, the City is helping to ensure the success of some of its most vital relationships going forward" and that "if the City is to recover from its decades-long downward spiral and to function properly, it must have a workforce that is incentivized and motivated to provide the services that the City needs to function and attract residential and commercial growth"[8]
- Using the City's own recovery estimates under the Plan, I have calculated the level of "enhanced recovery" the City is providing to its Classes 10 and 11 claimants, at the expense of the recoveries of other unsecured claimants
- This $956 million enhanced recovery that the City is providing to the Classes 10 and 11 claimants reflects the implied cost that is effectively borne by other unsecured creditors to "ensure the success of some of [the City's] most vital relationships going forward"[8]
  - Put another way, this enhanced recovery represents a cost of approximately $100,000 per each of the City's 9,591 active employees[9]

"Enhanced" Pension Recoveries Under City's Plan of Adjustment ($ in millions)



Note: Recoveries from New B Notes reflect a 5% discount rate consistent with the rate used by the City in its Plan

Unfair Discrimination Analysis

Lack of Transparency to Financial Creditors

City Justification For Disparate Financial Creditor Treatment

The Debtor contends financial creditors' greater underwriting resources are cause for disparate treatment

- Unlike corporate debt underwriting, the municipal debt underwriting process takes place at a distance, with complete reliance on City-produced financial data and no direct access to diligence City government operations
- Immediately prior to and during the bankruptcy proceeding, the Debtor disclosed previously unknown facts and data describing the severity of City government dysfunction and lack of primary data integrity which could not possibly have been known under the municipal debt underwriting model

Operational Deficiencies Revealed in Bankruptcy	
DDOT[1]	■ High employee absenteeism for bus operations (35% in January 2013) results in poor service and higher costs
Information Technology Services[2]	■ Lack of cross-coordination of 150 contractual employees distributed across 13 departments impedes ability to monitor utilization and eliminate redundancies ■ Poor employee attitude towards maintaining complete records hinders performance evaluation
Grant Management[2]	■ Employees routinely ignore City reporting deadlines and submit inaccurate information
Planning and Development Department[3]	■ Low employee morale results in lack of employee focus on broader welfare of City ■ Certain core services employ twice as many people as necessary to perform functions
Detroit Police Department[4,5]	■ Frequent turnover (five different police chiefs in five years) results in EM acknowledgment of extremely low efficiency (1 hour response time), effectiveness and employee morale
Detroit Fire Department[4,5]	■ Staffing and equipment constraints result in as many as 12 of 52 facilities largely inoperational on any given day ■ Extremely slow response time (7 minutes) relative to other cities
Emergency Medical Services[5]	■ Frequently only one-third of City's ambulances in service at any given time ■ Extremely slow response time (15 minutes) relative to other cities
Assessor's Office[5]	■ Lacks of state-required Level IV Assessor and no available candidates due to inadequate compensation ■ Approximately 15,000 parcels per employee versus state recommendation of 4,000 parcels per employee
Payroll System[5]	■ Extremely high cost to process payroll ($62 per paycheck) relative to comparable entities ($15 per paycheck) ■ Process is highly manual and prone to human error, including erroneous payments to individuals
Budgeting, Accounting & Financial Reporting Systems[5]	■ Approximately 70% of journal entries are booked manually ■ Outdated financial reporting system is no longer supported by its manufacturer

Unfair Discrimination Analysis

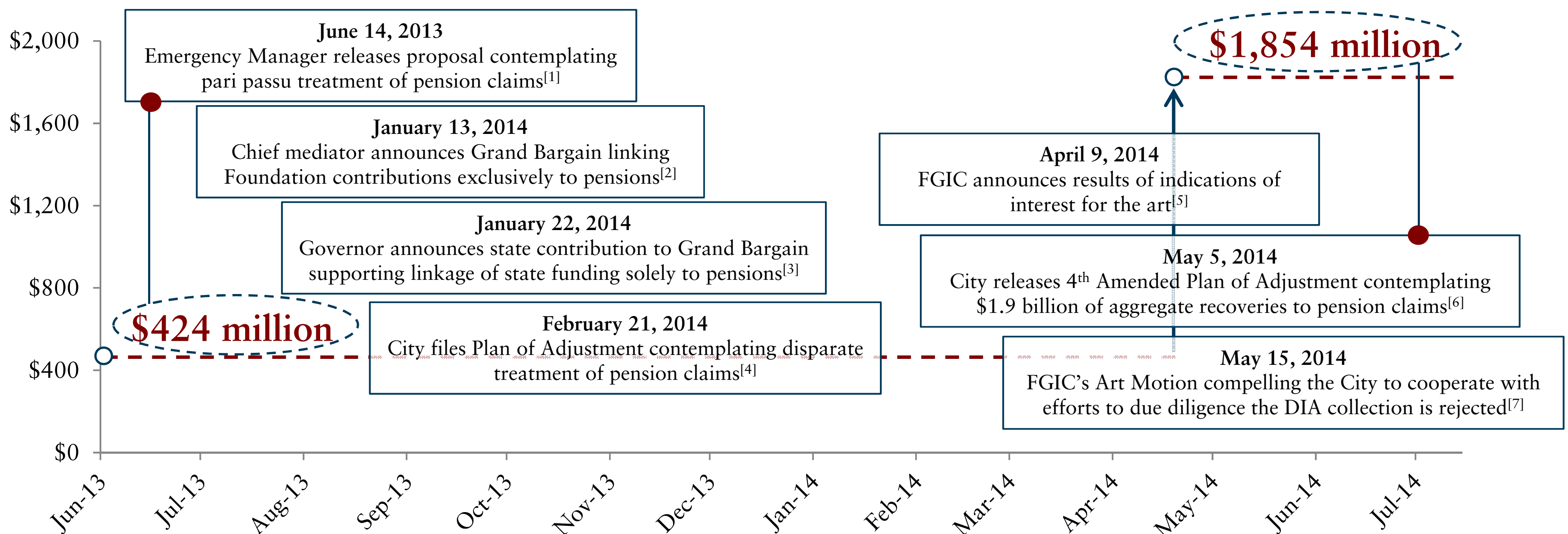
Additional Financial Creditor Disadvantage

Public Statements Advocating Disparate Treatment

The City's actions put financial creditors at a disadvantage

- The public advocacy of the City for a plan which directs state and private funding exclusively to pensions resulted in a significantly disparate recovery outcome
- An examination of the case history reveals that significant statements and actions favoring pensions over financial creditors preceded substantial improvements in pension recoveries at the expense of financial creditors
  - It is reasonable to assume that these statements enhanced the negotiating leverage of pension representatives and were a key causal variable driving the disparate impairment of financial creditors
- A long history of restructuring plan confirmations in bitterly contentious insolvency proceedings supports the position that a more equitable and balanced Plan negotiation approach can yield a more equitable plan that is nonetheless confirmable

Value of Pension Recoveries at Key Intervals



Best Interests Analysis

Best Interests Test Defined

- For the purpose of this analysis, I have analyzed the Plan to determine if it satisfies the best interests test, as it must, for the Plan to be confirmable
- In conducting my analysis, I have measured best interests compliance against the standard as it has been defined in three cases[1]

In re Pierce Cnty. Hous. Auth.

- Definition: According to the Debtor, the best interests of creditors test has been described as a "floor requiring a reasonable effort at payment of creditors by the municipal debtor"

Lorber v. Vista Irr. Dist.

- Definition: According to the Debtor, creditors receive "all they can reasonably expect in the circumstances"

In re Sanitary & Improvement Dist., No. 7

- Definition: According to the Debtor, the best interest of creditors "simply requires the Court to make a determination of whether or not the plan as proposed is better than the [alternative to chapter 9, dismissal of the case]"

Best Interest Compliance – Summary of Findings

- The Plan fails to satisfy the best interests test for the reasons summarized in this section and elaborated upon in the remaining sections of this report

Dismissal Would Force a More Thoughtful Examination of Detroit's Ability to Pay

Factual Basis	■ Outside of bankruptcy, both distressed and non-distressed cities routinely monetize assets as a means of dealing with temporary or more profound financial concerns or constraints ■ The City's Plan embraces a sentiment that the City's assets should be "[maintained] for a better day" by seeking to effect a cram-down of financial creditors in lieu of a more thoughtful monetization of City assets (both core and non-core) to yield higher creditor recoveries[2] ■ Dismissal of the Plan would force the City to conduct a more comprehensive assessment of its ability to pay, incorporating its legacy balance sheet assets instead of using Chapter 9 to significantly impair only financial creditors ■ Dismissal would also force the City to implement a more comprehensive and effective operational restructuring, thereby generating additional sources of cash flow[3]
Best Interests Implications	■ **The Plan fails the Pierce Cnty. Hous. Auth., Lorber V. Vista Irr. Dist. and Sanitary & Improvement District standards: the Debtor did not make a reasonable effort to repay creditors, creditors could reasonably expect to receive more and the Debtor has failed to show it is better than the alternatives**

Best Interest Compliance – Summary of Findings (cont.)

The Plan Does Not Realize Full (or Realistic) Value for the DIA

Factual Basis	■ The "Grand Bargain" settlement, as a central feature of the Plan, is flawed in many ways: 1. The actual value of the Grand Bargain is far less than the headline value the City has sought actively to promote 2. The actual value of the Grand Bargain is far less than the market value of the DIA's collection assets 3. The City has failed to explore a more comprehensive range of DIA transactional alternatives 4. The Grand Bargain burdens Detroiters with a large opportunity cost: • Because the DIA market value vastly exceeds both the Grand Bargain value and other measures of the DIA's value to the City, it imposes a significant opportunity cost on the City and its creditors • Instead of being allowed to monetize collection assets or explore other DIA transactional opportunities, the Grand Bargain accomplishes a form of regional expropriation of the DIA (for the benefit of public and private interests outside the City), thereby denying the City an opportunity to use DIA proceeds to catalyze recovery and settle claims 4. The Grand Bargain fails to resolve fundamental problems with the municipal ownership / funding structure that have plagued the DIA throughout its history and may impose future economic costs on the City
Best Interests Implications	■ **The Plan fails both the Pierce Cnty. Hous. Auth. and Lorber v. Vista Irr. Dist. standards: the Debtor did not make a reasonable effort to repay creditors and creditors could reasonably expect to receive more**

Dismissal Will Not Pose an Existential Threat

Factual Basis	■ Post dismissal, the City would continue to direct available cash to maintenance of critical services ■ Continued deferral of pension and financial creditor obligations would generate ample operating surplus ■ The City's pre- and post-petition conduct, as well as other real-world examples, illustrate that any period of potential post-dismissal disruption can and would be managed without significant detriment to the City ■ The lack of any catastrophic events in the wake of a Chapter 9 dismissal ensures COPs and other creditors will preserve a claim to the same base level financial recovery in the event the Plan is dismissed ■ The City of Harrisburg, PA offers a case study of a city implementing a more effective financial and operational restructuring after its Chapter 9 petition was rejected
Best Interests Implications	■ **The Plan fails the Sanitary & Improvement District standard: the Debtor has failed to show it is better than the alternatives**

Best Interest Compliance – Summary of Findings (cont.)

Dismissal Will Not Further Deplete the City's Tax Base

Factual Basis	■ Detroit's decades-long decline has been well documented and most recent signs suggest the decline has abated to the point where it may have finally reached an inflection point ■ The City is benefiting from a nascent urban infill phenomenon and, more substantively, from the sustained and concerted reinvestment initiatives of the City's private employers ■ The City's private employers are likely to continue advancing their privately-led revitalization initiative both as a defensive measure to protect the value of their large legacy investments and also as an opportunistic investment strategy, whether the bankruptcy is dismissed or not ■ In the event of a dismissal, resolution of the City's financial difficulties could still be achieved quickly by modifying elements of the existing Plan to reflect fair and equitable treatment of financial creditors
Best Interests Implications	■ **The Plan fails the Sanitary & Improvement District standard: the Debtor has failed to show it is better than the alternatives**

Dismissal Would Allow for a Continuation of COP Option Value

Factual Basis	■ The effect of the City's Plan will be to forever cap the recovery prospects of the COP creditors at 6% of the value of their claim and eliminate the possibility that they might participate in the City's future economic recovery ■ Certain real-world examples prove it would be more economically advantageous for COP holders to forgo current payment in the interest of preserving the par amount of their claim ■ This concept is further supported by economic theory embedded in widely used and commonly accepted risk pricing models such as Black-Scholes ■ Both the real world experience and the theoretical modeling for creditors in a similar circumstance support dismissal of the Chapter 9 proceeding as the value maximizing outcome compared to a cram-down Plan that caps Class 9 claims at de minimis recovery levels, thereby precluding COP claimants from participating in the City's economic recovery
Best Interests Implications	■ **The Plan fails the Sanitary & Improvement District standard: the Debtor has failed to show it is better than the alternatives**

Best Interest Compliance – Summary of Findings (cont.)

Dismissal Will Re-Level the Negotiation Playing Field

Factual Basis	■ Subsequent to the City's Chapter 9 filing there have been two significant developments dramatically affecting the negotiating leverage of the COPs 1. The court's eligibility ruling resolved the federalist versus state's rights question pertaining to the status of pensions that existed before the decision – more specifically, the court's ruling decided that pensions are subject to impairment under Chapter 9 like any other contractual obligation 2. Despite the court's ruling, the City nevertheless provided preferential Plan treatment to the pensions ■ Dismissal of the Chapter 9 case would allow COPs to re-engage in negotiation with the City and pension advisors to achieve a more equitable settlement outcome aided by the court's ruling on the unsecured status of the pensions – which would be reinforced by Plan dismissal ■ There are numerous examples of such negotiations yielding efficient and equitable settlement resolutions
Best Interests Implications	■ **The Plan fails the Sanitary & Improvement District standard: the Debtor has failed to show it is better than the alternatives**

Best Interests Analysis

Examination of Ability to Pay

A More Thoughtful Examination of Ability to Pay

Dismissal Would Force a More Thoughtful Examination of Detroit's Ability to Pay

- Outside of bankruptcy, both distressed and non-distressed cities routinely monetize assets as a means of dealing with temporary or more profound financial concerns or constraints
- Because the City's Plan seeks to cram-down financial creditors in lieu of a more comprehensive monetization of City assets, which could yield higher creditor recoveries, a dismissal of the Plan would force the City to conduct a more honest assessment of its ability to pay, incorporating its legacy balance sheet assets instead of using Chapter 9 to significantly impair only financial creditors

Municipalities Have Begun to Focus on Balance Sheet Assets to Support Their Finances

- Historically one of the key tenets underlying the generally strong credit quality in the municipal debt market was the presumption that issuers would use all available resources to repay their financial obligations
- While the commitment clearly extended to the requirement that municipalities raise taxes, in recent years municipalities across the credit spectrum have also focused on balance sheet assets (either implicitly or explicitly) to generate liquidity, finance investments, support credit quality, and in certain distressed circumstances to repay creditors
- Given the increasing use of balance sheet monetization strategies such as public-private partnerships, there is no doubt that if the City's bankruptcy proceeding were dismissed it would be forced to conduct a more thoughtful examination of the wealth of assets on its balance sheet as a source of enhancing creditor recoveries

Several Factors Should Lead to a More Expansive Asset Monetization Process

- Outside of bankruptcy, it is a certainty that creditors would point to at least four key factors supporting efforts leading to more expansive municipal asset monetizations:

1. Reliance on Michigan state law;
2. The City's recent pre- and post-petition conduct;
3. Recent municipal market precedent; and
4. The significant value of the City's major assets

Recent Municipal Market Precedent

- It is important to recognize that exploring municipal asset monetizations as a means of dealing with financial distress isn't unique
- In assessing the adequacy of Detroit's asset monetization efforts, I examined recent significant asset monetizations for municipal and other government entities across the credit spectrum

Muni Asset Monetization Research – Summary Conclusions

1. There are numerous examples where both core and non-core assets have been monetized (particularly among stressed or distressed municipalities)

2. Monetization strategies include both P3s and outright sales

3. P3 transaction volumes (wherein municipalities cede a majority of an asset's value under a long-term lease and concession agreement, but maintain asset ownership) have increased

- o "The increasingly complex nature of our national challenges, along with recent shifts in economic and social forces, are creating incentives for government and business to collaborate more frequently and in new ways that go well beyond traditional infrastructure investments"[1]

  – Deloitte University Press

4. Detail on use of proceeds is often difficult to ascertain, but the popularity of these transactions among distressed municipalities suggests a trend toward reliance on municipal balance sheet assets outside of bankruptcy to bolster municipal liquidity – and implicitly municipal debt service capacity

Significant Recent Municipal Monetizations Transactions*

Municipality	Asset	Transaction Type	Deal Size**
Harrisburg, PA[2]	Incinerator	Sale	$130 million
	Parking	P3	$270 million
	City artwork	Sale	$4 million
Allentown, PA[3]	Water / wastewater system	P3	$211 million
Indianapolis, IN[4,5]	Water / wastewater system	Sale	$425 million
	Parking	P3	$20 million
Chicago, IL[6]	Parking	P3	$1.2 billion
New York City, NY[7]	Office buildings	Sale	$250 million
California[8]	Office buildings	Sale-leaseback	$2.3 billion
Arizona[9]	Publically-owned buildings	Sale-leaseback	$1.0 billion
Hercules, CA[10]	Municipal utility	Sale	$10 million

* Further detail is provided in Appendix D

** Excludes any future revenue sharing consideration

Reliance on Michigan State Law

- Michigan's EM legislation provides significant and very specific power to explore and effect monetizations of municipal assets
- Specifically, these powers are set forth in Public Act 436, which provide for the following:

Public Act 436: City Asset Monetization Powers[11]
The EM may *"sell, lease, convey, assign, or otherwise use or transfer the assets, liabilities, functions, or responsibilities of the local government, provided the use or transfer of assets, liabilities, functions, or responsibilities for this purpose does not endanger the health, safety, or welfare of residents of the local government or unconstitutionally impair a bond, note, security, or uncontested legal obligation of the local government."*

- As indicated by the excerpts below from a FGIC internal report, these powers were explicitly referenced and relied upon by FGIC in making its decision to insure the issuance of the City's COP obligations

FGIC Asset-Related Underwriting Considerations[12]
• *"We believe the likelihood of Detroit filing for bankruptcy is remote. Michigan has statutes in place that are designed to provide safeguards in case a local government is running into a fiscal crisis. An appointed EFM has significant powers to manage the city's finances. Several cities that were in fiscal distress in recent years have utilized an EFM to restore their finances without requiring a bankruptcy avenue."* • *"The emergency financial manager has broad and sweeping powers, including the power to sell or otherwise use the assets of the local government unit to meet past or current obligations so long it does not endanger the public health, safety or welfare of the residents and subject to any charter or other restrictions."*

- The EM asset monetization powers are also consistent with the more traditional creditor protections established and commonly accepted in U.S. bankruptcy law that preclude debtors (both individual and corporate) from shielding assets in an effort to defraud creditors
- Because municipal asset monetizations are often politically unpopular, there is a moral hazard whereby cities may be tempted to seek Federal Court protection / sanction to implement an asset protection scheme to the detriment of creditors
- The Michigan EM legislation is tailor made to avoid such an aggressive interpretation of the Best Interests provisions in Chapter 9 and would allow for the City to conduct a more open, honest and effective asset monetization initiative as an integral component of reaching a comprehensive creditor settlement agreement

Overview of Detroit Asset Sales

- The City has historically sold assets to fund its annual budget and repay creditors. Furthermore, the Emergency Manager has repeatedly maintained that all of Detroit's assets remain "on the table" as part of the City's restructuring process
  - Despite past precedent and the Emergency Manager's continued verbal indications, the City's restructuring plan fails to capture the value of Detroit's numerous legacy assets in almost any meaningful way

Timeline of City Actions & Commentary on Asset Monetizations

1. October 2005 – Detroit's Fiscal Analysis Director releases report analyzing the potential securitization of the Detroit-Windsor Tunnel[13]
2. April 2006 – City approves sale of City-owned parking garage to the Greektown Casino for $32 million. Proceeds from the sale will be used to repay bond debt[14]
3. April 2007 – Detroit's Fiscal Analysis Director issues recommendations on proposed sale of approximately $31 million of City-owned property[15]
4. September 2010 – McKinsey releases report assessing potential P3 transactions for Detroit's numerous legacy assets. The report identifies DWSD, the Detroit-Windsor Tunnel, Coleman A. Young Municipal Airport, the DIA and Belle Isle as assets for "immediate [P3] consideration"[16]
5. September 2012 – Detroit's Fiscal Analysis Director issues memo in favor of proposed Belle Isle lease with state of Michigan[17]
6. March 2013 – Newly appointed Emergency Manager Kevyn Orr states that "everything is on the table" in response to a question regarding potential asset sales[18]
7. June 2013 – The Emergency Manager releases his Proposal for Creditors identifying "generat[ing] value from City assets where it is appropriate to do so" as a key objective of Detroit's financial restructuring
   - The Proposal lists DWSD, the DIA, City-owned land, the City's parking operations, the Detroit-Windsor Tunnel and Joe Louis Arena, among other assets, as potentially saleable assets[19]
8. November 2013 – Michigan Emergency Loan Board approves 30-year Belle Isle lease with City which will allow City to avoid approximately $5 million of annual operating costs[20]
9. March 2014 – City discloses that it has retained DESMAN Associates to assess potential sale-lease transaction or other monetization of Detroit's parking assets[21]

Potential City Asset Monetization Opportunities

- The table below highlights some of the assets owned by the City of Detroit that could potentially be monetized to fund operations or repay creditors

Asset	Description
Detroit Institute of Arts	■ The Detroit Institute of Arts is one of the largest municipally-owned museums in the country, with a 66,000-piece art collection valued at several billion dollars
City-Owned Land	■ The City owns approximately 22 square miles of land and other real estate assets obtained with City funds or through the tax lien foreclosure process ■ These assets consist of thousands of discrete real estate parcel holdings with a dated "last transaction" aggregate property value assessment in excess of $1 billion, per the City's disclosures
Detroit Water and Sewerage Department	■ The Detroit Water and Sewerage Department serves more than 40% of the state of Michigan's population over a service area of approximately 1,000 square miles. It is the third largest provider of water and wastewater treatment services in the U.S. ■ The system generates positive free cash flow and does not receive property tax subsidies from the City
Coleman A. Young Airport	■ Coleman A. Young International Airport is a 263-acre general aviation airport located within and operated by the City ■ Approximately 225 corporate and private flights originate from or terminate at the airport daily
Detroit-Windsor Tunnel	■ The Detroit-Windsor Tunnel is an automotive tunnel connecting Detroit and Windsor, Ontario. Approximately 2 million vehicles pass through the tunnel annually ■ The City owns the U.S. portion while the portion located in Canada is owned by the city of Windsor
Parking Operations	■ The City's Municipal Parking Department ("MPD") manages nine parking garages containing a total of 8,688 spaces, and two public parking lots together containing 1,240 spaces • The City owns certain of these parking facilities; others are owned by the Detroit Building Authority ■ MPD also operates 3,404 on-street metered parking spaces; tickets are collected through a private vendor
Joe Louis Arena	■ Joe Louis Arena is an indoor arena located in downtown Detroit, Michigan and is the home to the Detroit Red Wings of the National Hockey League. Completed in 1979, the 20,058 seat arena is Detroit's largest indoor venue and regularly hosts professional sports, college hockey, concerts, ice shows, circuses and other entertainment

Significant Value of City's Major Assets

- The City could generate significantly more value from certain asset categories than contemplated under the current Plan
- Under the Plan, the City raises only $455 million of value for the DIA assets, which is the sum total of City balance sheet related creditor recoveries*
- Conservative estimates of potential value realization for the other major City asset categories suggest these City-owned assets could collectively generate multiple billions of incremental distributable value for the benefit of the City and its creditors

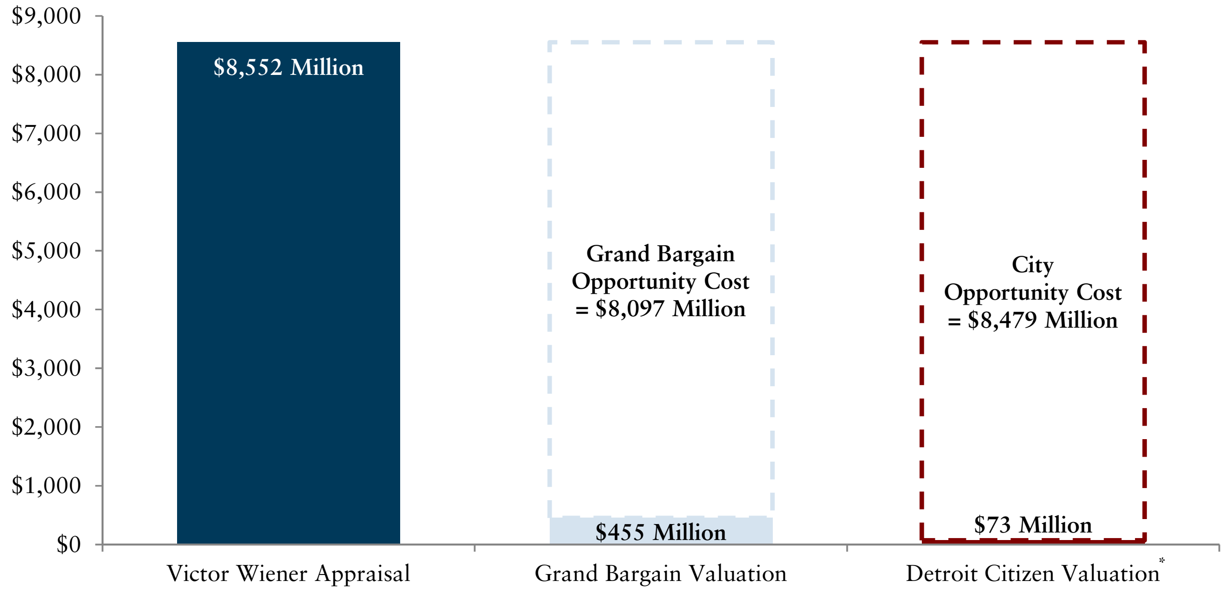
Incremental Plan Value Potential			
Asset	**Value Realization Under Plan**	**Potential Value Realization**	**Potential Incremental Value**
DIA	■ $455 million*	■ Victor Wiener's appraisal indicates a value of **$8.6 billion** may be realized by pursuing full monetization of the DIA collection [22]	**$8.1 billion**
DWSD	■ Pending / TBD	■ City advisor Miller Buckfire maintains substantial value exists in DWSD beyond value of existing debt and CIP / capex requirements ■ Process run in highly politicized environment may have compromised value realization ■ Value potential remains substantial but is unknown	**?**
Land	■ None	■ Substantial opportunity exists to realize land and real estate value ■ Requires resolution of current City / county operational impediments and implementation of a strategic plan ■ Source of unknown but potentially significant intermediate and longer term value realization	**?**
Other	■ None	■ Significant value may be realized from the numerous City-owned legacy assets that the Plan fails to utilize, including (i) Coleman A. Young International Airport, (ii) the Detroit-Windsor Tunnel, (iii) Joe Louis Arena and (iv) the City parking structures, among others	**?**
Total			**$8.1 billion +**

* *Reflects net present value of the Grand Bargain proceeds assuming a 6.75% discount (see Appendix E for further detail)*

Incremental Art Value

- On a present value basis, the distributable value the City expects to realize from the art under the proposed Plan is approximately $455 million
- The DIA's $8.6 billion in value indicated by Victor Wiener's appraisal suggests that $8.1 billion in incremental value could be realized through a full monetization of the art[22]
- While the City contends that litigation might encumber the sale of certain assets, and litigation costs would deduct from incremental distributable proceeds:
  - I find it unlikely these costs would come close to mitigating the incremental value the City might realize from its assets
  - I note that the estimated City professional fees for the entire Chapter 9 proceeding are projected to be in excess of $100 million[23]

Illustrative Grand Bargain Opportunity Cost ($ in millions)



* *See following section for explanation of calculation*

Incremental DWSD Value

- The amount of DWSD system value in excess of the approximately $5.5 billion in DWSD debt and the projected system CIP / capex requirements is effectively City equity available for use by the City to provide incremental recoveries to creditors
- From public disclosure, the process run by City advisors was highly politicized and appeared to be flawed in certain critical respects:

Preliminary DWSD System Value Realization Impediments[24]

1. Highly publicized concerns over magnitude of DWSD capex requirements
2. Highly publicized concerns over system operational and cost controls
3. An apparent one-off negotiating strategy with a potential regional authority that failed to maximize competitive tension by soliciting indications of interest from other parties too late in the process

- At this point the value maximizing strategy would appear to be bolstering DWSD management, addressing operational and cost control concerns and substantiating system capex needs
- Dismissal of the Plan will actually provide needed and helpful incentive to address these impediments to value realization in the near term and allow the City to realize full and fair value for the system under a more organized process conducted in the intermediate timeframe
- Compared to the present DWSD-related creditor distributions under the Plan, which have been significantly compromised for the reasons indicated, there is a reasonable creditor expectation that DWSD value realization on Plan dismissal will be greatly enhanced
- The DWSD is a marquee regional infrastructure asset that would command highly competitive valuation interest from a growing universe of would-be acquirers as an alternative to a regional sewer water authority

Additional Land Value Details

- While the City ascribes minimal value to its land holdings, the intermediate and long-term value realization prospects for these assets are significant, notwithstanding the rehabilitation costs and discontinuous (i.e. patchwork) nature of City-owned land
- The City owns approximately 22 square miles of land and other real estate assets obtained with City funds or through the tax lien foreclosure process. These assets consist of thousands of discrete real estate parcel holdings with a dated "last transaction" aggregate property value assessment in excess of $1 billion, per the City's disclosures
  - According to City records, the last sale value of real estate assets that the City owns as a result of foreclosing on various properties is approximately $720 million.[25] Furthermore, the City is able to foreclose on additional properties with total aggregate assessed and taxable values of approximately $510 million and $390 million, respectively[26]
- Unfortunately, City property values have plummeted and these estimates likely overestimate City property values by a wide margin, particularly factoring in blight remediation costs
- However, because Detroit remains an important regional hub for manufacturing, logistics, technology and other industries, the City's rehabilitation will drive longer term value appreciation for the City's vast land holdings
- Recent home sales suggest a prospective resurgence in property values that could further increase value realization, substantiating the possibility that significant long-term value may be potentially realized in connection with the City's real estate holdings
  - In May 2014, a Detroit home sold at auction for $135,000, marking the first time that a winning bid exceeded the $100,000 threshold[27]. An additional 30 homes have been sold for approximately $2 million[28]
  - Also in May, Mayor Duggan announced that auctions have been expanded to include more neighborhoods in order to meet high demand. More than 6,000 people have registered for the auction since the City began the effort[28]
    - The administration plans to sell an additional 300 homes by the end of 2014[29]
- By remedying structural impediments and implementing a coordinated property value realization strategy, City-owned real estate is a source of material value recovery

City-Owned Real Estate ($ in millions)

		Last Sale Amount
City-Owned Properties Obtained Through Foreclosure		$720.6
	Current Taxable Value	Current Assessment
Properties City Can Foreclose On	$389.9	$512.2
	Value Esimate (Low)	Value Esimate (High)
Total City-Owned Real Estate	**$1,110.5**	**$1,232.8**

Note: Property values presented above do not reflect any potential tax payments owed to Wayne County and may represent a significant overstatement of market value for reasons indicated herein

Best Interests Analysis

Does the Plan Realize Full Value For DIA Proceeds?

Is the Grand Bargain Value Maximizing?

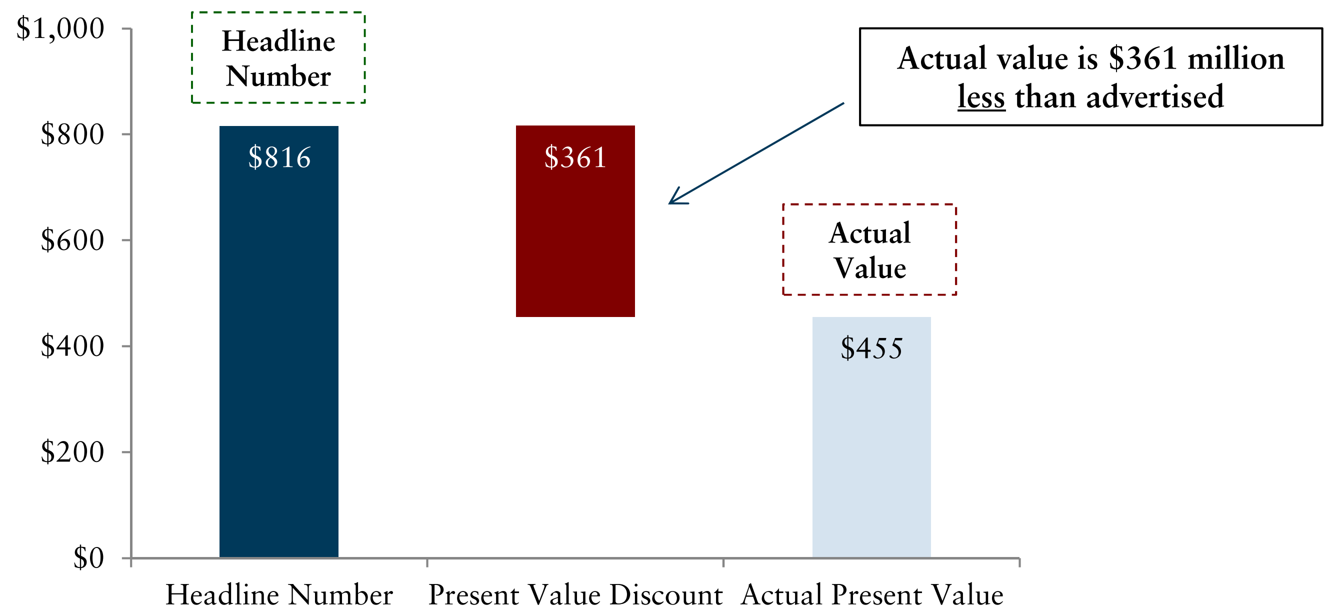
- Under the Plan, the City-owned art collection is the one asset that is being monetized for the benefit of certain creditors
- A crucial question is whether the monetization transaction (dubbed the "Grand Bargain") maximizes the value of the art
- In attempting to answer this question, my analysis falls into four primary categories:

I.	**The value of the proposed "Grand Bargain" transaction**
II.	**The actual value of the museum**
III.	**The viability and impact of the transaction on the City**
IV.	**Other issues and considerations**

Value of the Grand Bargain

- The City has aggressively promoted the Grand Bargain transaction as providing $816 million dollars in proceeds for the benefit of Detroit's creditors
- Further examination reveals that proceeds of two components of the transaction – the $366 million Foundation contribution and the $100 million DIA contribution – are distributed over 20 years, whereas the $350 million State settlement component has already been discounted under the Plan to $195 million, using a 6.75% discount rate
  - When applying that same 6.75% discount rate to the Foundation contribution and DIA contribution, the aggregate present value discount to the City's "headline" number of $816 million is $361 million (a 44% reduction)
- Consequently, for purposes of determining whether the Grand Bargain maximizes value for the City's art, the applicable Grand Bargain value threshold is actually $455 million, as illustrated below

Actual Present Value of Grand Bargain Proceeds ($ in millions)



Actual Museum Value

- As a municipally owned and funded museum (a unique ownership and funding structure among major U.S. museums), the DIA's value and claim on public resources have been a contentious issue throughout the museum's history
- To assess the actual value of the museum, I have completed the following:

1. • A solicitation of third party indications of interest in acquiring, lending against or otherwise purchasing some beneficial interest in all or a portion of the DIA's collection assets
2. • A review of the Christie's appraisal for a portion of the DIA collection assets
3. • A review of the DIA's most recent survey information and other DIA produced data potentially relevant to the broader economic value of the museum and its assets
4. • A review of the Grand Bargain proposal and relevant legislation
5. • A literature review of various museum valuation methodologies

Actual Museum Value – Houlihan Lokey Solicitation Process

- In an effort to determine the value that interested parties might place on the DIA collection, I conducted a solicitation of potentially interested parties
- The process was conducted in manner consistent with other similar processes I have run in numerous other professional engagements[1]

Key Process Observations

Range of Competitive Interest

- Outreach process confirmed interest from a broad range of parties
- Interested parties fell into four primary categories: (i) alternative asset investors; (ii) private collectors; (iii) art intermediaries; and (iv) museums and museum authorities

Level of Competitive Interest

- High degree of competitive interest
- Number of parties willing to advance formal indications of interest ("IOIs") would greatly exceed the four indications received if there were constructive process engagement by the City and the DIA
- Interested parties declining to advance formal IOIs expressed confusion / concern over City's "flip-flop" on potential third party transactional proposals
  - Interested parties cited City's initial apparent receptivity to third party proposals and later hostility

Transaction Options

- Broad range of potential transactions available (e.g., art loan, limited deaccessioning, expansive deaccessioning, strategic partnership)

Summary Process Related Value Conclusion

- $1.75 billion average valuation of bids received represents minimum value expectation
- Total value realization for DIA collection in open auction process would be much higher
- Range of transactional opportunities suggest museum could be preserved as vital cultural asset while generating more than $1 billion dollars in incremental value for the City and its creditors

Actual Museum Value – Alternative Valuation Perspectives

Tri-County Millage Support – Implied Museum Valuation

- Another perspective on DIA valuation is the Tri-County millage support for the DIA, which can be viewed as a Willingness to Pay (or "WTP") valuation of the museum as a whole
  - In effect, the millage support can be viewed as the value the citizens of Detroit ascribe to keeping the museum
- The WTP and closely related Contingent Value ("CV") valuation methodologies have broad support in the academic, legal, financial and government communities as preferred valuation approaches for cultural institutions such as the DIA (see Appendix F for additional detail)[2]
- Because the Tri-County millage support for the DIA is scheduled to terminate in 2023, I have used an expected value approach assigning a 50% probability to perpetual millage support at the current $23 million per year level
- Because City residents comprise 18% of the Tri-County population, the implied DIA valuation within the City of Detroit is $73 million

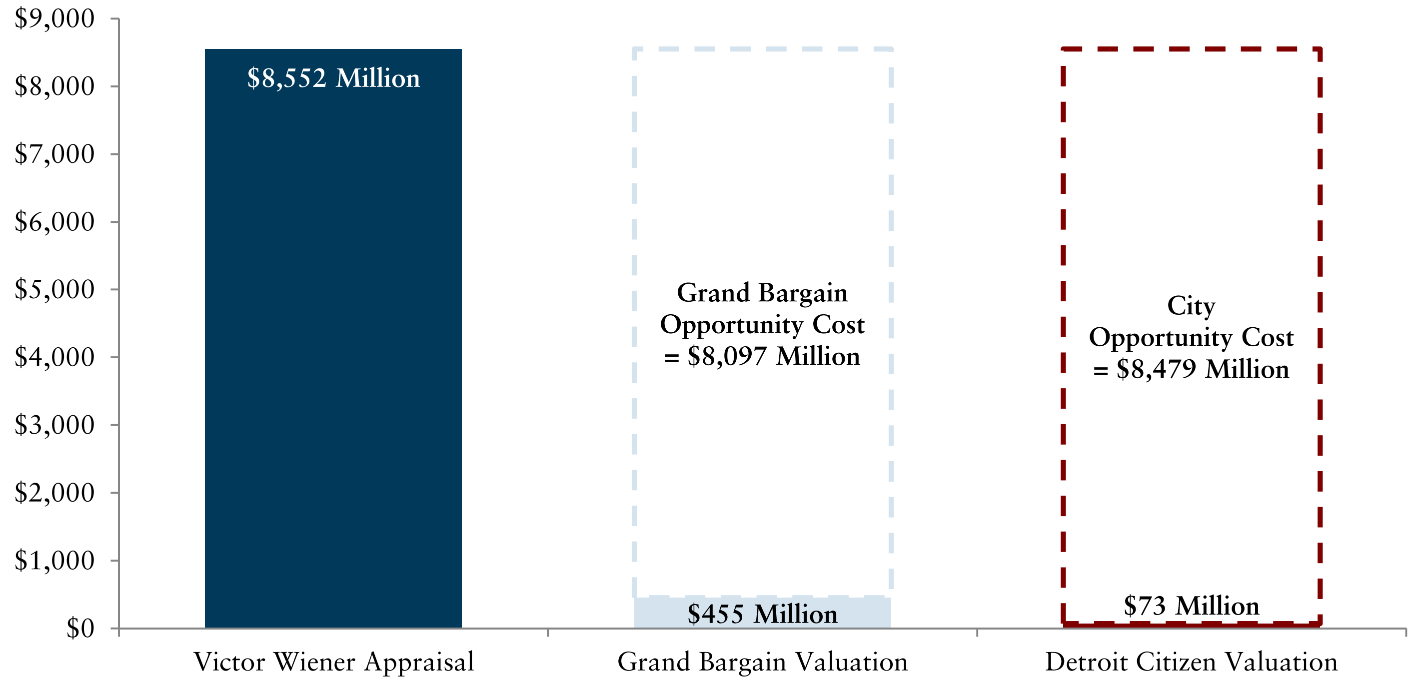
Tri-County Resident Valuation of DIA

	2014	2015	2016	2017	2018	2019	2020	2021	2022
Annual Millage Cash Flow	$23.0	$23.0	$23.0	$23.0	$23.0	$23.0	$23.0	$23.0	$23.0
Discount Factor	1.00	0.95	0.91	0.86	0.82	0.78	0.75	0.71	0.68
Present Value	**$23.0**	**$21.9**	**$20.9**	**$19.9**	**$18.9**	**$18.0**	**$17.2**	**$16.3**	**$15.6**
NPV of Millage Cash Flow	**$171.7**								
<u>Terminal Value Calculation</u>									
Discount Rate	5%								
Expected Probability of Renewal	50%								
Terminal Value	**$230.0**								
Total NPV and Terminal Value	**$401.7**								
Detroit Residents in Tri-County	18%								
Detroit Resident Valuation of DIA	**$72.9**								

Grand Bargain Opportunity Cost - Collective

- Compared to other indications of value for the DIA, the Grand Bargain imposes a large opportunity cost on the City and its creditors
- Both the Grand Bargain and the citizens of Detroit place a value on the DIA collection that is over $8 billion dollars less than Victor Wiener's appraisal for the DIA collection
- To put that opportunity cost in perspective, the value differential represents more than 8 times the City's entire reinvestment budget for the next 10 years

Measuring Opportunity Cost – Collective ($ in millions)



Grand Bargain Opportunity Cost - Individual

- Just as the Grand Bargain can be measured on a collective basis, it can also be disaggregated and measured as an imposition of cost against individual pensioners or residents
- As illustrated, because these constituencies would be compelled to accept the Grand Bargain in lieu of a fair market value realization, an individual market cost can be calculated
- The data below reveal that by rejecting market value realization for the City's art assets:
  - The cost to each Detroit pensioner is $249,712
  - The cost to every man, woman and child in the City is $11,543

Measuring Opportunity Cost – Individual		
Constituency	**Opportunity Cost per Person**	
Per Pension Claimant*[3]	Grand Bargain Valuation	$14,032
	Victor Wiener Appraisal	$263,743
	Pension Claimant Opportunity Cost	**$249,712**
Per City Resident**	Grand Bargain Valuation	$649
	Victor Wiener Appraisal	$12,192
	Detroit Resident Opportunity Cost	**$11,543**

* *Reflects all 32,427 individuals entitled to benefits under the PFRS or GRS pension plans*

** *Reflects 2012 Detroit population of 701,475*

Valuation Disconnect – Explanatory Variables

- One possible reason for the comparatively large differential between the market value of the City's art collection, and the value of either the Grand Bargain or the value ascribed by Detroit residents, is the comparatively low DIA user rate among Detroiters
- As illustrated, when the annual per capita millage costs are compared to similar metrics for art museums, several observations are immediately apparent
  1. The implied willingness-to-pay ("WTP") for the museum among Detroit residents is far less than similar WTP measures for residents in other cities, suggesting it is not the essential or core cultural asset the City contends
  2. There is an observable positive correlation between WTP and museum user rates

Contingent Valuation Summary Comparison

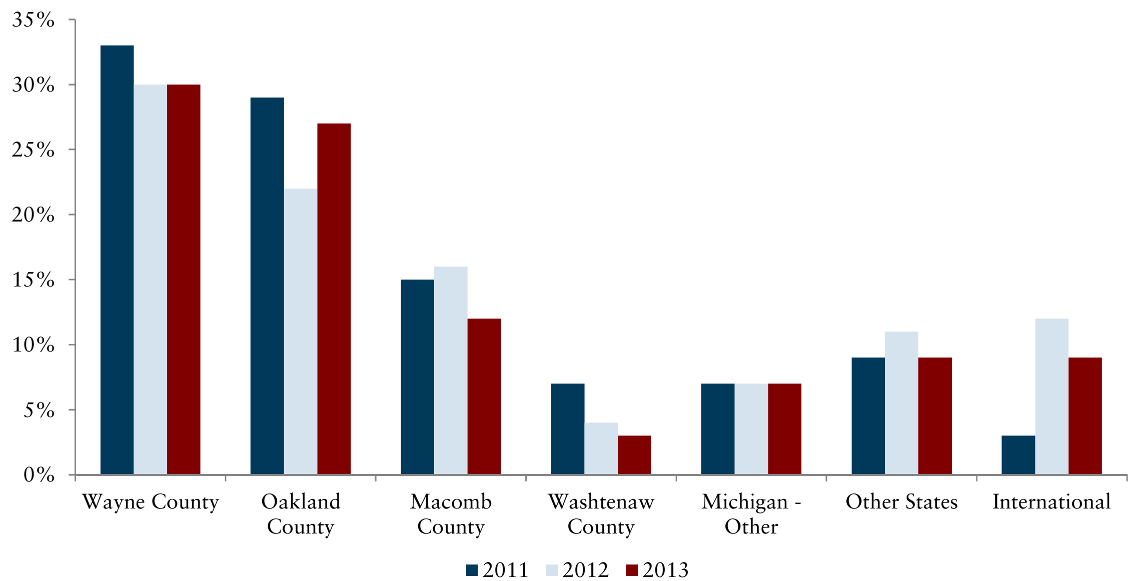
Subject Museum(s) / Catchment Area	Average WTP	Average User Rate	Description
Detroit Institute of Arts (Detroit Tri-County Area)	$6.05	11%	Millage per annum approved by Detroit Tri-County area
Bolton's Museum Services (Bolton, U.K.)[4]	$36.06*	40%**	Economic valuation of Bolton's three museums commissioned by Bolton Metropolitan Borough Council and conducted by Jura Consultants in 2005 Valuation estimated total annual value of museums to users and non-users to be approximately £4.5 million in aggregate
National Sculpture Museum (Valladolid, Spain)[5]	$49.18*	78%	Economic valuation based on the general Valladolid public's willingness-to pay to preserve and maintain the museum
Quebec Museums (Quebec, Canada)[6]	$7.33*	23%***	Assessment of value of museums to Quebec residents Valuation based on willingness-to-pay to support Quebec-area museums for residents 18 years of age and over
Napoli Musei Aperti (Naples, Italy)[7]	$11.94*	57%	Assessment of value of a collection of local cultural, historic and artistic monuments to the general Naples public
General Art Patronage in the State of Kentucky[8]	$19.30****	48%	Assessment of value of the arts to average Kentucky household Estimated mean willingness-to-pay to avoid 50% decline in arts performances to be $24.31 among Kentucky householders

Note: Comparison of per capita millage to other WTP and CV results is not, strictly speaking, methodologically appropriate but is nonetheless directionally appropriate and accurate
* *Figure adjusted to USD*
** *Reflects approximately 83,000 users among total catchment area adult population of 208,000*
*** *Assumes percentage of Quebec visitors for all Quebec museums is equal to the percentage of Quebec visitors for the Musée de la civilisation*
**** *Reflects $24.31 mean WTP, grossed up to reflect 100% decline in performance and divided by average Kentucky household size of 2.5*

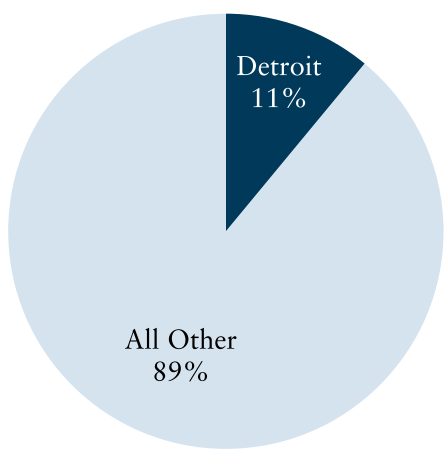
Valuation Disconnect – Explanatory Variables (cont.)

- The vast majority of visitors to the DIA are from the greater Detroit Tri-County area rather than the City itself
- Although Detroit residents are not separately segmented in the specific illustration provided in the 2013 DIA Visitor Engagement Survey Report (as they are part of the Wayne County), the Detroit resident visitor percentage of 11% is set forth separately in the following text commentary:
  - "The percentage of Detroit residents (11%) among the overall museum audience is consistent with previous Spring periods"
- One troubling concern is that the Grand Bargain imposes a substantial opportunity cost on Detroiters and confers a benefit on a disproportionately suburban user constituency
- The cost-benefit asymmetry is striking and raises a legitimate question as to whether the Grand Bargain is a type of cultural expropriation at the expense of Detroiters

DIA – Percentage of Visitors by Area – 2011 to 2013[9]



DIA – Percentage of Visitors from Detroit[9]



Deaccessioning – Challenging the Taboo

- Deaccessioning, or the permanent removal and sale of a work of art from a museum's collection, has recently come under increasing scrutiny as museums have generated significant controversy by considering the sale of collection items to fund operating costs rather than the acquisition of other works of art
- Professional associations such as the Association of Art Museum Directors (AAMD) and the American Alliance of Museums (AAM) expressly forbid this practice (which includes the payment of creditors) in their code of ethics and threaten violators with sanctions that include the suspension of art loans, shared exhibits and other collaborations with other museums, penalties that could force ostracized museums to cancel shows and lose substantial patronage[10,11]
  - Because of the significant clout that these associations hold in the art community, most museums adhere to these "suggested" guidelines in their collections management policies rather than risk alienation
- These deaccessioning policies have at times inspired controversy and been criticized as being overly inflexible even in extenuating circumstances, such as situations where a museum would otherwise be forced to close entirely (as was the case of the Delaware Art Museum and, to a lesser extent, the National Academy Museum)
- Other institutions have argued that the proceeds, though not directly used to acquire art, are going to equally worthwhile causes which have been determined by board members to be in the best interest of the institution in question
  - For example, following the AAMD's censure of the Maier Museum of Art at Randolph College, the college responded that the Maier is not a member of the AAMD and is thus not subject to its jurisdiction. Furthermore, its board members have a fiduciary obligation to preserve Randolph College as an educational institution[12]

Deaccessioning Policies of Select Professional Museum Associations

"The disposal of collections through sale, trade or research activities is solely for the advancement of the museum's mission. Proceeds from the sale of nonliving collections are to be used consistent with the established standards of the museum's discipline, but in no event shall they be used for anything other than acquisition or direct care of collections."

American Alliance of Museums
Ethics, Standards and Best Practices

"In accordance with the AAMD's policy on deaccessioning and disposal, the director must not dispose of accessioned works of art in order to provide funds for purposes other than acquisitions of works of art for the collection."

Association of Art Museum Directors
Professional Practices in Art Museums

Summary of Select Art Monetizations

- Despite the AAMD's generally oppositional stance against deaccessioning, I have found recent situations where deaccessionings or deaccessioning like transactions have occurred or are in the process of occurring
  - These situations are summarized below. Additional detail on each transaction is provided in Appendix G

Institution	Deaccessioned Works	Proceeds	Use of Proceeds	Outcome / Reaction
Delaware Art Museum	▪ "Isabella and the Pot of Basil" (William Holman Hunt) and 3 additional works to be disclosed (pending)	▪ $30 million (expected)	▪ Repay $19.8 million bond issuance ▪ Replenish museum endowment	▪ "Isabella" sold for $4.9 million ▪ AAMD issued immediate sanctions while AAM voted unanimously to remove accreditation
Maier Museum of Art at Randolph College	▪ "Men of the Docks" (George Bellows) and "Trovador" (Rufino Tamayo) ▪ 2 additional works (pending)	▪ $33 million (with incremental $3-$5 million if additional pending works are sold)	▪ Fund school endowment ▪ Support operating budget	▪ AAMD censure following initial 2008 sale of "Trovador" ▪ AAMD sanction following 2014 sale of "Men of the Docks"
Fisk University	▪ 101 piece collection donated to the University by Georgia O'Keeffe	▪ $30 million in exchange for a 50% ownership stake	▪ Fund school endowment ▪ Support operating budget	▪ Deal finalized in 2011 by Tennessee Supreme Court after a legal battle with the O'Keeffe estate
Field Museum	▪ 31 piece 19th century Western art collection by George Catlin	▪ $17 million	▪ Fund future acquisitions ▪ Support staff salaries	▪ Collection sold to private party in 2004 Sotheby's auction
Rose Art Museum at Brandeis University	▪ Entire 7,000 piece Rose Art Museum collection	▪ Collection valued at $350 million	▪ Fund school endowment ▪ Support operating budget	▪ Group of museum donors/overseers filed lawsuit in 2009 to prevent a sale ▪ Brandeis settled the case in 2011
National Academy Museum	▪ "Scene on the Magdalene" (Frederic Edwin Church) and "Mt. Mansfield" (Sanford Robinson Gifford)	▪ $13.5 million	▪ Renovation and painting conservation to allow more collection pieces to be exhibited ▪ Fund contingency reserve	▪ AAMD sanction (lifted after twenty months following overhaul of academy's governance structure and fundraising procedures) ▪ Five year probation to expire in 2015
Thomas Jefferson University	▪ "The Gross Clinic" (Thomas Eakins)	▪ $68 million	▪ Fund school endowment ▪ Support operating budget	▪ Sold to two Philadelphia museums after the University provided local institutions the opportunity to match the National Gallery of Art's offer
Fresno Metropolitan Museum	▪ Sale of entire collection	▪ Undisclosed but artwork value estimated at $3 to $6 million	▪ Repay creditors	▪ All assets liquidated following steep operational and financial difficulties
Louvre	▪ Art loan of 200-300 pieces over 10-year period to new museum in Abu Dhabi	▪ $247 million for art loan (with additional $1 billion for branding rights, exhibitions, management advice and other considerations)	▪ N/A	▪ Deal has drawn criticism from art and academic communities, but not formal censure/sanctions from AAMD or other associations

Other Relevant Observations – Undercurrent of Deaccessioning Support

- Although the campaign to support the Grand Bargain has been effective, important views from a range of sources have legitimized calls for a more thoughtful and balanced approach

Arguments For Deaccessioning

Argument	Rationale	Public Commentary
Substantial Monetization Value	■ Detroit's artwork could be readily monetized to provide meaningful cash flow for the benefit of the City's reinvestment initiatives, retirees and financial creditors	■ *"The Detroit Institute of Arts (DIA) is the second largest municipally owned museum in the United States and contains an encyclopedic art collection worth over one billion dollars."* – Irvin Corley, 2003-2004 Budget Analysis, City of Detroit
Non-Core Asset	■ Art is not essential to the City's critical functions, particularly in comparison to assets used to provide services such as pensions, police, water, transportation or healthcare. Proceeds from the deaccessioning would be used in part to fund these essential services	■ *"Let's get real: What sort of message would it send to current and future residents—not to mention current and future bondholders—if Detroit refuses to put everything on the table? You can't eat the DIA's "Still Life With Fruit, Vegetables, and Dead Game," no matter how well-rendered…"* – Nick Gillespie, *The Daily Beast*[13] ■ *"From a fiduciary point of view, [the Emergency Manager] has to give fair notice that these are assets of the city. It's about what's good for the citizens and the public...I'm letting Kevyn do his job as a practical matter."* – Rick Snyder, Michigan Governor[14]
Increased Public Viewership Elsewhere	■ If the art were sold to a public museum with greater viewership, such as the Getty Museum or the Metropolitan Museum of Art, it would be exposed to and enjoyed by a larger audience, thereby increasing its cultural value	■ *"Great artworks shouldn't be held hostage by a relatively unpopular museum in a declining region. The cause of art would be better served if they were sold to institutions in growing cities where museum attendance is more substantial and the visual arts are more appreciated than they've ever been in Detroit."* – Virginia Postrel, *Bloomberg*[15]
Limited Deaccessioning or Alternative Monetization	■ The City could potentially deaccession artwork comprising substantial economic value while still retaining a substantial and culturally relevant collection. Additionally, the City could monetize artwork without directly selling any artwork	■ *"We would like to highlight five potential alternatives [to a sale]: (1) the use of art as collateral for a loan; (2) leasing the art to a partnership museum; (3) creation of a "masterpiece trust"; (4) sale and permanent loan or gift to DIA; and (5) a traveling exhibition."* – Christie's, Letter to the Emergency Manager[16] ■ *"Instead of liquidating this great cultural asset, the DIA and its supporters should advocate for a subset of works in the collection being sent on a five- or 10-year tour of major museums around the world…The long-term value of the collection, both in financial and cultural terms, would probably rise."* – Michael Bennett, Law Professor, Northeastern University[17]

Does the Plan Realize Full Value For DIA Proceeds?

Other Relevant Observations – Undercurrent of Deaccessioning Support (cont.)

- Even the Emergency Manager originally maintained that all assets, including the artwork of the DIA, were "on the table" as part of a comprehensive restructuring dialogue and that he had a fiduciary responsibility to explore all value realization scenarios in order to develop a solution that made sense for all of the City's stakeholders
  - In the context of higher value alternatives, the Emergency Manager's comment on fiduciary responsibility appears inconsistent with the City's Plan

Timeline of City Commentary on Sale of DIA Assets

May 2013 — 1 — 2 — 3 — 4 — 5 — 6 — 7 — 8 — 9 — March 2014

1. <u>May 24, 2013</u> – EM spokesman Bill Nowling tells Detroit Free Press that DIA could face exposure to creditors in event of Chapter 9 filing, acknowledging that creditors can "really force the issue" and that art "is an asset of the City to a certain degree [and]…we've got a responsibility to rationalize all the assets of the City"[18]
2. <u>June 2013</u> – Christie's officials visit DIA at request of the EM's office. Nowling states that there was not a formal contract at that time between the City and the auction house[19]
3. <u>August 5, 2013</u> – Christie's formal engagement to appraise portion of DIA collection is announced. In a statement, Orr says that the City "must know the current value of all its assets, including the City-owned collection at the DIA" and that Christie's will advise the City on "non-sale alternatives" for realizing value from the collection (i.e., long-term loans or other sharing agreements with other art institutions)[20]
4. <u>August 29, 2013</u> – Orr states in deposition that although there are no specific plans to liquidate art "or any other asset in particular," deaccessioning remains a possibility, maintaining that "what I have said when I first took this job, and continue to say, [is that] all options are on the table"[21]
5. <u>October 3, 2013</u> – Speaking at the Detroit Economic Club luncheon, Orr reiterates his "fiduciary obligation to account for all the assets of Detroit" as well as his obligation to act unilaterally to "come up with a solution that makes sense both for the City and for the creditors" if other parties are unable to do so on their own[22]
   - In his remarks, Orr stresses need for balanced resolution, imploring that desire to preserve institution be weighed against needs of retirees who are struggling to afford basic necessities like food and housing
   - Orr also discloses that approximately 35,000 pieces of collection are owned "free and clear" by the City with "no bequest or limitation on them." Most of that art, Orr said, was purchased in 1920s and '30s with tax dollars[23]
6. <u>December 18, 2013</u> – Christie's limited appraisal valuing only 4% of total DIA collection is publically distributed
7. <u>January 13, 2014</u> – Detroit's chief mediator announces a DIA settlement involving $330 million in commitments from consortium of Foundations[24]
8. <u>February 21, 2014</u> – City files first Plan of Adjustment which contemplates DIA assets remaining in the City in perpetuity in exchange for $[816] million of nominal consideration
9. <u>March 25, 2014</u> – Orr, acknowledging that title to art is owned by the City "period, full stop," concedes that issue of DIA deaccessioning—"a yard sale of DIA art"—would stand front and center if the Grand Bargain were to fail[25]

Other Relevant Observations – Museum Valuation Methodologies

- Supporters of the DIA have made the argument that preservation of the museum's collection is an essential or critically important part of the City's long-term recovery prospects
- In an effort to assess the legitimacy of these claims, I conducted a review of various efforts to assess the value of culture and cultural institutions
- More specifically, my review focused on finding and analyzing specific instances where a municipal art museum was valued – ideally for the purpose of guiding public policy decision making with respect to future investment in and administration of the museum
- My research revealed a number of highly relevant observations:

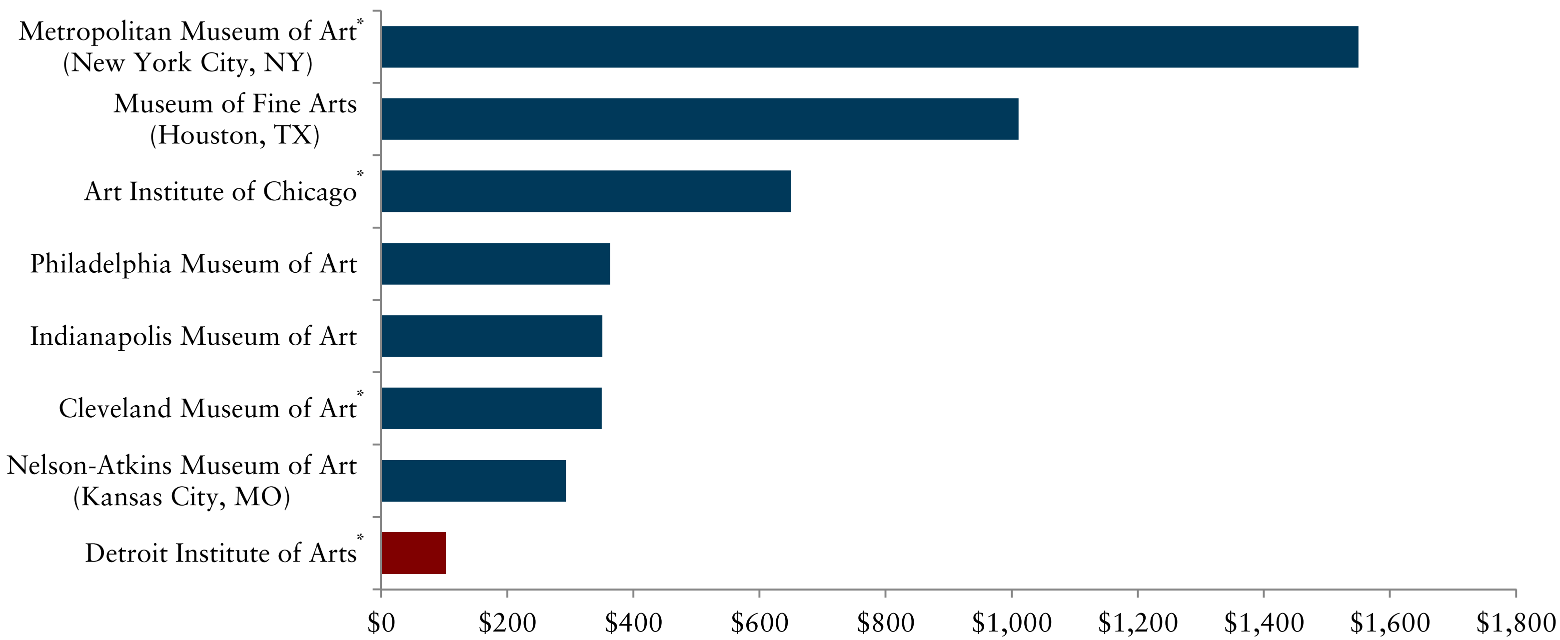
Museum Valuation Observations[2,26]

1. The conundrum of proving value in a way that can be understood by public policy decision makers is not unique to the DIA
2. A number of art institutions have used various valuation methodologies to value art museums in cities around the world
3. The resulting valuations are being used to guide municipal investment decisions in the institutions
4. Contingent valuation approaches (such as the WTP valuation previously developed in this report) are emerging as the prevailing or "right" methodological approach to valuing a museum such as the DIA (see Appendix F for additional detail)
5. Economic impact analyses tend to be more appropriate for events (such as the Detroit Auto Show) rather than museums which typically fail to bring a large influx of non-resident visitors to a community
    - The analysis is particularly inappropriate for the DIA, which attracts a small non-resident visitor population and lacks surrounding attractions where a multiplier spending effect can occur (see Appendix F)

The Grand Bargain Doesn't Fix the Problem

- Jeffrey Abt's authoritative history of the DIA, *Museum on the Verge*, offers an extended treatise on how public funding of the DIA's operating expenditures has undercut the DIA's efforts to raise a sizeable private endowment fund – a critical stabilizing factor for more financially successful art museums[27]
- Unfortunately, the Grand Bargain continues an uncertain public funding status for the DIA, with the Tri-County millage for DIA operating support lapsing in 8 years, no assurance of any public financial support beyond its expiration, and the DIA compelled to commit $100 million of Grand Bargain contributions (money it could have used to supplement deficit endowment fund)
- While the Grand Bargain would transfer ownership of DIA assets from the City to public trust, legally precluding the City from monetizing the assets, it fails to solve the public funding problem and may subject the City to a potentially sizable future public funding burden

Comparison of DIA Endowment to Other Major Art Museums ($ in millions)[28,29]



* *Reflects endowment for operations*

Best Interests Analysis

Dismissal Will Not Pose an Existential Threat

Will COP and other Creditors Receive Any Recovery if the Plan is Dismissed?

Dismissal Will Not Pose an Existential Threat

- The Debtor's professionals depict a bleak scenario of universally suboptimal outcomes if the Chapter 9 case is dismissed. The depiction is wrong
- The Debtor would essentially continue functioning as it has during the bankruptcy proceeding with no imminent threat of fiscal or civic collapse

Continued Deferral of Financial Creditor Obligations Would Generate Ample Operating Surplus

- Post dismissal, the City would continue to direct available cash to maintenance of critical services

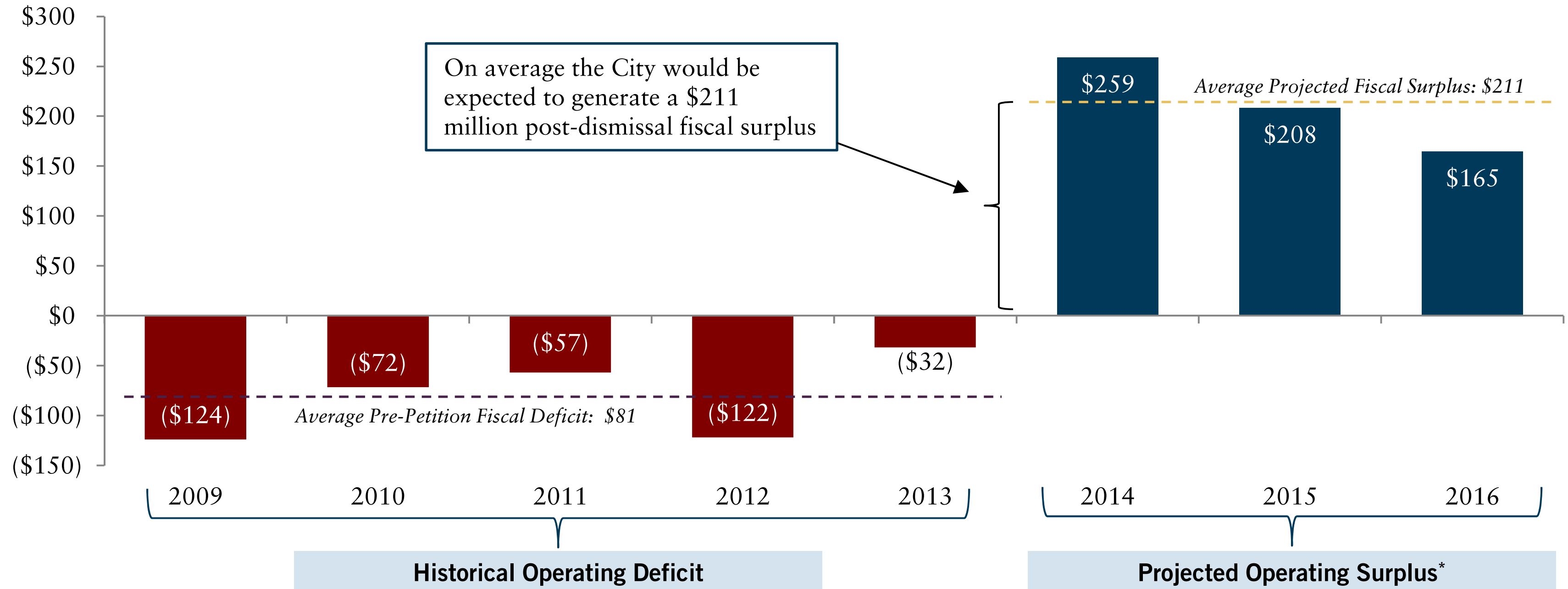
Dismissal Can and Would Be Managed Without Significant Lasting Detriment to the City

- The City's pre- and post-petition conduct, as well as other real world examples, illustrate that any period of potential post-dismissal disruption can and would be managed without significant detriment to the City
- The lack of any catastrophic events in the wake of a Chapter 9 dismissal ensures COPs and other creditors will preserve a claim to the same base level financial recovery in the event the Plan is dismissed
- The City of Harrisburg, PA offers a case study of a city implementing a more effective financial and operational restructuring after its Chapter 9 petition was rejected

Post-Dismissal Cash Flow Considerations

- The experience of the City before and during the bankruptcy demonstrates that a Chapter 9 dismissal would have limited, if any, impact on municipal service delivery
- In the wake of a dismissal of the Chapter 9 case, the City would simply continue avoiding contributions to the pension funds and payments to its financial creditors, a cash management strategy which the City effected in the period preceding its Chapter 9 bankruptcy and continued without any major disruptive impact on a post-petition basis
- By the City's own calculations (and experience), this cash management strategy would provide more than enough liquidity to continue paying City employees and vendors to ensure that municipal services would continue uninterrupted
- As illustrated using the City's own forecast, on a post-dismissal basis, the City will be able to generate average excess cash flow (after paying for all critical services) of over $200 million per year through 2016 – ample time to negotiate a more equitable financial restructuring among key affected creditors

Illustrative Post-Dismissal Excess Cash Flow ($ in millions)[1]

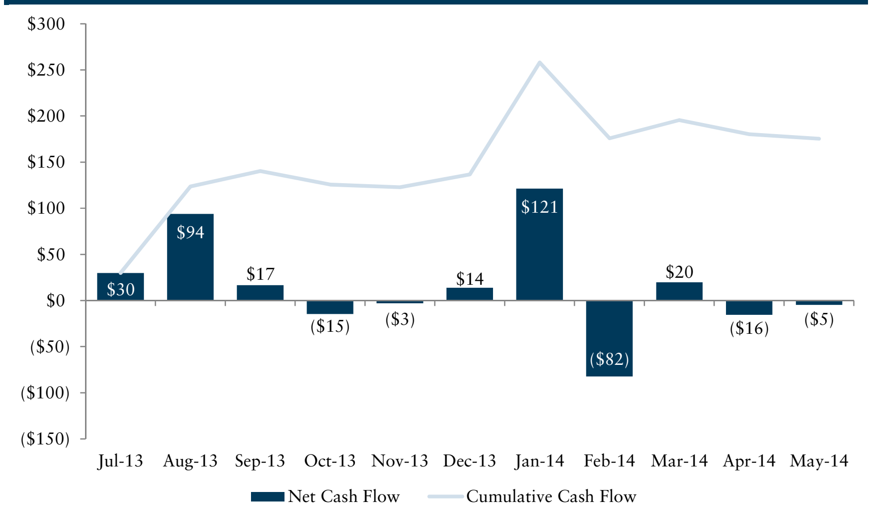


• *Projected operating surplus calculated as net operating surplus less retiree health benefit expenditures. Excludes impact of pension and legacy debt obligations*

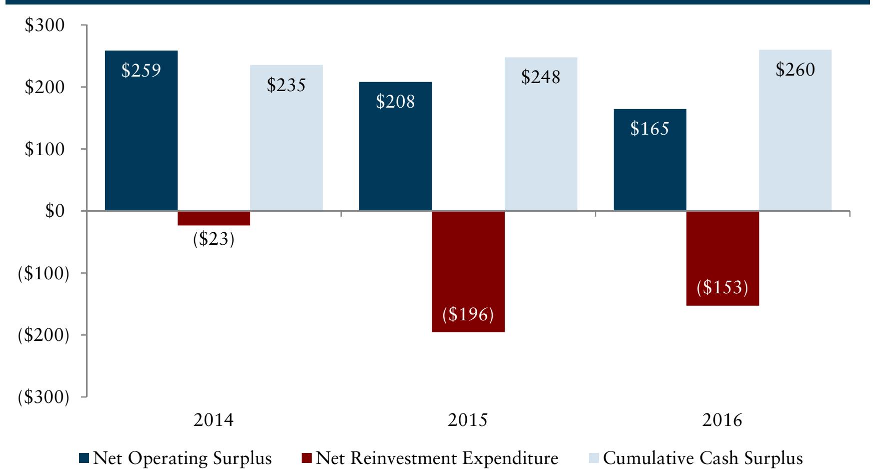
Sufficient Cash Flow to Implement Revitalization Expenditures

- The City has consistently outperformed its cash flow projections during the bankruptcy and would enter into a post-dismissal period having amassed a $235 million General Fund surplus through the 2014 fiscal year[1]
- Given the magnitude of the cash flow benefit from avoiding payment of the City's legacy benefit and financial obligation payments, the City should produce sufficient excess cash flow to pay a material portion of the City revitalization expenditures
- Clearly, with the settlement status of the City's benefit and financial obligations unresolved, the City will need to maintain a higher than average cash balance to finance a continuation of higher than average administrative expense burden; but even factoring in these costs, the City's own projections suggest it should have sufficient cash generation to execute a significant portion of its contemplated revitalization expenditures
- It will be up to the City to determine how to prioritize these expenditures. I assume the City will dedicate available resources to projects with the most immediate and favorable cash flow impact

Cash Flow Generated in Chapter 9[2]



Excess Operating Cash Flow vs. Net Reinvestment Spend[1]



Municipal Service Delivery Will Not Be Negatively Impacted

- In addition to ensuring that the City will be able to provide all municipal services on a post-dismissal basis, the City will continue to benefit from (i) the fiscal and operational reforms executed on a pre-petition basis, (ii) certain additional reforms executed post-petition and (iii) avoidance of certain costs borne as a result of the petition

City Will Benefit From Implementation of Reforms

Maintain Beneficial CBA Terms[3]

- All of the labor costs, work-rule and other City employment terms effected on a pre-petition (and pre-Emergency Manager) basis will continue to bolster the City's cash flow and operational efficiency

Bankruptcy Related Reforms[4]

- The dismissal of the Chapter 9 need not unwind positive financial and operational reforms negotiated and implemented during the bankruptcy – particularly to the extent that they have been shown to produce positive results and may boost the claim recoveries of the labor constituency who would be the most likely objectors

Continuation of Transactional Solutions

- Dismissal of the Chapter 9 case shouldn't impact the City's ability to effect contemplated monetization transactions such as the DWSD transaction, privatization of parking and land sales
- While continued uncertainty over the City's financial status as a transactional counterparty may dampen some buyer / investor enthusiasm, the prospect of more constructive engagement with major creditors in such a process (which is the bankruptcy norm) versus the uncertainty of the appeals process and other potential COP-related litigation may actually enhance prospects for transaction implementation

Implementation of Further Reforms

- Dismissal of the Chapter 9 case would provide added impetus for the City to accomplish further structural reform of City government (such as consolidation of various City government divisions) that are commonplace in other operational restructurings and may enhance City municipal service delivery
- Dismissal might also cause the City to undertake a more serious effort to regionalize certain municipal services such as the Detroit Department of Transportation in an effort to make certain areas of service delivery more effective

Additional Operational Improvements Possible

- One of the criticisms of the City's conduct during bankruptcy is that it has failed to implement badly needed structural and operational reforms to improve the efficiency of city government
- As an example, the City will emerge with the exact same number of government offices it had when it entered bankruptcy – bucking a trend toward consolidation and regionalization of government evident elsewhere in Michigan and around the country

List of City Government Offices and Departments

Pre-petition		Post-petition
Administrative Hearings	Recreation	Same
Finance/Budget	Vital Records	
Fire	Auditor General	
General Services	Board of Zoning Appeals	
Human Resources	City Clerk	
Labor Relations	City Council	
Human Rights	Election Commission	
Human Services	Ombudsperson	
Law	Non-Departmental	
Mayor's Office	Airport	
Planning & Development	Buildings and Safety	
Police	Transportation	
Public Lighting	Municipal Parking	
Public Works	Blight	

City Approach vs. Consolidation / Regionalization Trends

"Bay City, Michigan…merged both police and fire departments from top to bottom, cross-training police officers in police and some firefighter duties; 10 firefighters were laid off. The merger is expected to save the city $1.8 million by 2017. Three other major cities in Michigan -- Grand Rapids, Kentwood and Wyoming -- are considering the formation of a metropolitan public safety agency that would consolidate police and fire operations, cutting costs by $17 million per year."

Tod Newcombe,
Senior Editor, *GOVERNING Magazine*[5]

"If you think that things aren't moving that quickly in the arena of sharing of services among governments, consider this: More than half of county officials across the country either are participating in or delivering shared services or are in active discussions to do so."

John M. Kamensky
Senior Fellow, IBM Center for the Business of Government[6]

City of Harrisburg – Case Study

- The relatively recent dismissal of Harrisburg, Pennsylvania's Chapter 9 petition offers a convenient case study for how such a dismissal is likely to have little to no impact on the provision of municipal services

Background & Overview of Bankruptcy Dismissal

- In 2003, Harrisburg approved a plan to retrofit the city's waste-to-energy incinerator for $120 million. At the time, the city still owed in excess of $100 million on the facility[7]
  - By 2012, total debt on the facility had increased to more than $300 million as ongoing construction issues and budget overruns necessitated further borrowing
- The state of Pennsylvania designated Harrisburg as financially distressed in October 2010 under the Pennsylvania Municipalities Financial Recovery Act (or "Act 47"), thus making the city eligible to receive state aid and paving the way for a potential Chapter 9 filing[8]
  - The city's Act 47 coordinator submitted a detailed fiscal recovery plan which was rejected by Harrisburg's City Council, which claimed the plan was too generous to financial creditors at the expense of residents. Instead, the City Council favored a Chapter 9 filing[8]
  - In response, the Pennsylvania General Assembly passed Act 26 in June 2011 which provided that no distressed Pennsylvania city could file a petition under U.S. bankruptcy law[8]
- In October 2011, the City Council voted to file for Chapter 9 protection. Both the Mayor and the state of Pennsylvania opposed the filing[8]
- Harrisburg's bankruptcy petition was dismissed in November 2011 on the grounds that the City Council, without the authorization of the Mayor or the state, was not authorized to file the city for Chapter 9. Instead, the city was placed into receivership[8]

City of Harrisburg – Case Study (cont.)

Financial & Operational Impact of Dismissal

- In lieu of a Chapter 9 plan of adjustment, a City receiver filed a recovery plan in accordance with Act 47 which was confirmed in March 2012[9]
- Despite its bankruptcy petition dismissal, Harrisburg was largely able to avoid any meaningful deterioration of municipal service delivery through restructuring initiatives that streamlined operations and redirected expenditures to focus on core services
  - For example, post dismissal, the city was budgeted to increase its police contingent by 16 officers in 2013 and 2014, respectively, and is currently training 13 new firefighters after a renegotiation of its fire contract that is expected to save Harrisburg at least $1 million annually[10]
- To fund core services, the city has implemented a series of cost cutting initiatives, including hiring restrictions, benefit and wage reduction and freezes, consolidation of employee duties, reorganization of departments and personnel and deferral of capital investments[10]
  - From January 2010 to December 2012, the city reduced its personnel count by 23%[10]
- Harrisburg also implemented several revenue enhancements including (i) an increase in the city's real estate tax rate by 0.8 mills, (ii) an increase in the parking tax rate from 15% to 20% and (iii) an increase in the earned income tax rate from 1% to 2%[10]
- The city's General Fund has reported five consecutive budget deficits from 2009 to 2013, though estimates for 2014 suggest that the city's restructuring initiatives are beginning to improve Harrisburg's financial health, despite the dismissal of the city's Chapter 9 petition[12]

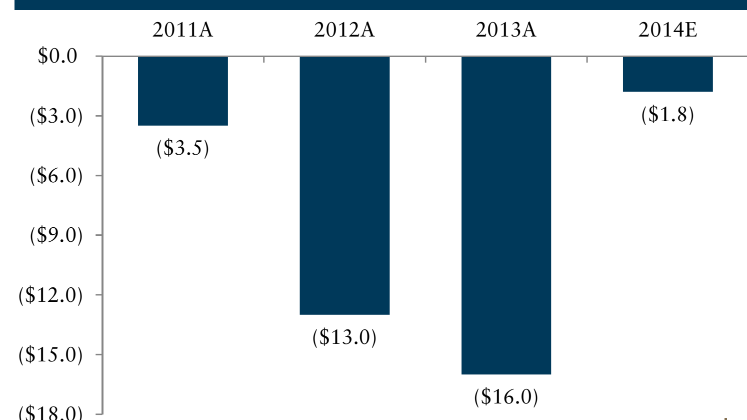
Municipal Services Delivery[10,11]

Service Delivered	2011	2012
Abandoned Properties Razed	11	18
Street Debris Removed	785 tons	779 tons
Potholes Repaired	250	128
Sinkholes Repaired	11	13
Sewers Cleaned	438	451
Residential Waste Collected	28,922 tons	27,607 tons

Revenue Enhancements[10]

Revenue Item	Expected Annual Revenue Impact	Effective Date
Real Estate Tax	$1.1 million	Jan. 1, 2012
Parking Tax	$800,000	Jan. 1, 2012
Earned Income Tax	$6.8 million	Jan. 1, 2013

Annual Reported Budget Deficit[12]



Best Interests Analysis

Dismissal Will Not Further Deplete the City's Tax Base

Impact of Dismissal on City's Tax Base

Dismissal Will Not Further Deplete the City's Tax Base

- A dismissal of the City's Chapter 9 proceeding is not likely to have any immediate impact on the City's tax base as these items are more dependent upon general economic trends, the impact of the City's restructuring initiatives and direct legislation than whether or not the Chapter 9 case is dismissed

> *"Although unpopular, governments with sufficient autonomy may raise taxes or cut services without seeing mass outmigration from the jurisdiction relative to the demand volume reduction faced by a company."*
>
> ***S&P Local Governments General Obligation Ratings: Methodology and Assumptions***[1]

- The following matrix delineates the City's major sources of revenue and assesses the likely impact of a dismissal on each

Revenue Source	Key Considerations	Impact
Resident Income Tax	■ Driven primarily by the number of employed residents and the average taxable income of such residents, neither of which would be directly affected by a dismissal of the case ■ City has already increased its initial projections to reflect an improved employment outlook	**Neutral**
Non-Resident Income Tax	■ Driven primarily by the number of Detroit employed non-residents and the average taxable income of such residents, neither of which would be directly affected by a dismissal of the case	**Neutral**
Residential and Commercial Property Tax	■ Driven primarily by assessed property values (which the City sets), tax millage rates (which the City controls) and collection rates (which the City plans to improve with its reinvestment initiatives) ■ Blight remediation and general real estate trends will be primary drivers of assessed and market values of real estate. Case dismissal unlikely to have any direct impact ■ As illustrated, the City will have sufficient financial resources to undertake some portion of the contemplated blight remediation, offering a modest benefit	**Neutral**
Wagering (Casino) Tax	■ No impact from case dismissal. Wagering tax is driven by casino performance which is based primarily on competition from other nearby casinos and general economic trends	**Neutral**
Sales and Charges for Services	■ Driven primarily by non-discretionary fees and charges received for City services with no direct link to a case dismissal	**Neutral**

Impact of Dismissal on Private Investment

- A dismissal of Detroit's Chapter 9 case is unlikely to significantly impact the volume of reinvestment in the City by private sector investors, who have already committed substantial amounts of capital to Detroit and will likely continue to do so in order to preserve the value of their legacy investments
- A recent resurgence in downtown Detroit's real-estate market, led by investor Dan Gilbert, has resulted in an influx of investment capital into the City by private investors who are positioning themselves to benefit from the City's eventual recovery and the resulting rebound in property values and rent[2]
  - Since 2010, Quicken Loans has moved approximately 3,800 employees downtown and created another 6,500 jobs in Detroit. Other investors have funded hundreds of millions of dollars of commercial and residential development projects in downtown[3]
- Additionally, the region's resurgent automotive industry and the expansion of its medical community and nascent technology industry continue to fuel the City's revitalization
  - Detroit Medical Center is the City's largest employer, employing approximately 11,500 employees, while non-profits Henry Ford Health System and St. John Providence Health System employ 8,800 and 3,500 people, respectively

Top 10 Largest Private Sector Employers in Detroit[4]

2013 Rank	Employer	FTEs Working in Detroit (2012)	FTEs Working in Detroit (2013)	Percent Change (2012 to 2013)
1.	Detroit Medical Center	12,398	11,497	- 7%
2.	Quicken Loans Inc.	5,984	9,192	+ 54%
3.	Chrysler Group LLC	4,042	5,426	+ 34%
4.	Blue Cross Blue Shield of Michigan / Blue Cross Network	5,172	5,415	+ 5%
5.	General Motors Co.	3,947	4,327	+ 10%
6.	DTE Energy Co.	3,630	3,700	+ 2%
7.	MGM Grand Detroit LLC	2,598	2,551	- 2%
8.	MotorCity Casino Hotel	2,124	1,973	- 7%
9.	Compuware Corp.	1,918	1,912	0%
10.	Detroit Diesel Corp.	1,685	1,685	0%

Concluding Thoughts

- Dismissal will not impact the fundamental reasons that continue to make Detroit an important regional hub

> *"The belief in Detroit's imminent revival has spread far beyond Dan Gilbert and the skyscrapers of downtown. Out in the neighborhoods, there is a legion of mini-Gilberts, longtime Detroiters and recent transplants alike, who have united around a conviction that the city has fallen as far as it can go – that the time to buy in is at hand."*
>
> ***New York Times* Excerpt – July 11, 2014**[2]

- Dismissal of Chapter 9 will not impede the City's ability to effect a better financial and operational restructuring – as evidenced by the then-Connecticut attorney general's explanation of Bridgeport, Connecticut's failed chapter 9 filing and the plight of other distressed cities:

> *"The solutions offered by Chapter 9 – a restructuring of debt obligation – may help smaller cities or towns that face short term, totally unanticipated financial calamities, such as natural disaster or an unexpected exorbitant judgment from a lawsuit. However, the bankruptcy process provides no solution to a major city facing long term, endemic problems involving erosion of its tax base, loss of manufacturing jobs, and a decaying infrastructure, all which require, in addition to substantial cash, significant structural changes and long term programs that are well beyond the scope of Chapter 9."*
>
> **Richard Blumenthal – 1991**[5]

- Dismissal of Chapter 9 need not sacrifice the progress and negotiations that have occurred to date. As City spokesperson Bill Nowling acknowledged before the City entered into its Chapter 9 proceeding:

> *"[The June 2013 Proposal] represents the thinking of some of the best bankruptcy minds out there on how we can reach a consensual restructuring so we don't have to go to court because we don't think that's in anyone's best interest."*
>
> **Bill Nowling – June 7, 2013**[6]

Best Interests Analysis

Impact of Dismissal on COP Option Value

Continuation of COP Option Value

Dismissal Would Allow for a Continuation of COP Option Value

- The effect of the City's Plan will be to forever cap the recovery prospects of the COP creditors at 6% of the value of their claim and eliminate the possibility that they might participate in the City's future economic recovery
- Moreover, by preserving the par value of their claim, and the possibility of pari passu treatment with pensions and other creditors if the Plan is dismissed, the City could lose the vast majority of its recovery value (nearly $2 billion) before COPs would be negatively impacted compared to the current Plan
- As highlighted in the following quote, pari passu treatment is what was promised to COP holders in the 2005 Offering Circular:

> *"If the City were to fail to pay any COPs service payment when due, the contract administrator could file a lawsuit against the City to enforce that contractual obligation, a right that is available to all parties entering into valid enforceable contracts with the City. The City would be required to pay any resulting judgment against it, the same as any other. If the City were to fail to provide for payment of any such judgment, a court can compel the City to raise the payment through the levy of taxes…without limit as to rate or amount. This is the same remedy that the retirement systems would have against the City if it failed to make its required annual payment to fund UAAL under the traditional funding mechanism"*
>
> ***2005 COPs Offering Circular*** [1]

Economically Advantageous for COP Holders to Preserve The Par Amount of Their Claims

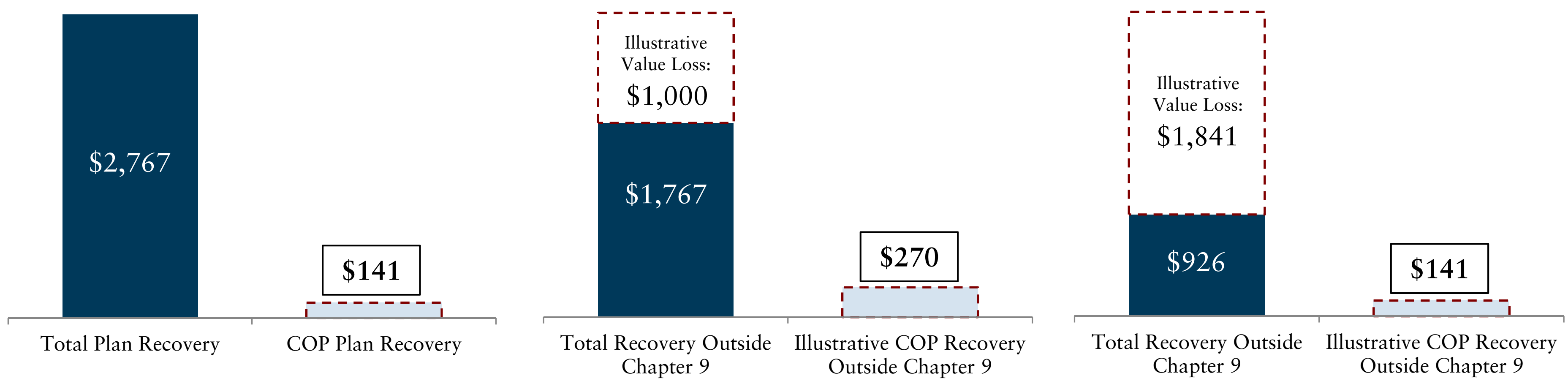
- Certain real-world examples prove it would be more economically advantageous for COP holders to forgo current payment in the interest of preserving the par amount of their claim
- This concept is further supported by economic theory embedded in widely used and commonly accepted risk pricing models such as Black-Scholes
- Both the real world experience and the theoretical modeling for creditors in a similar circumstance support dismissal of the Chapter 9 proceeding as the value maximizing outcome compared to a cram-down Plan that caps Class 9 claims at de minimis recovery levels, thereby precluding COP claimants from participating in the City's economic recovery

Impact of Dismissal on COP Recoveries

- The Plan's disparate treatment of unsecured creditors results in significant impairment of recoveries for COP claimants relative to impairment that may result outside of a Chapter 9 proceeding
- In the event of a dismissal, unsecured claimholders would participate in recoveries based on their pro rata allocation of the unsecured claims pool
  - Assuming that the City loses as much as $1 billion of unsecured creditor recovery value in the event of a dismissal, COP claimants would still receive significantly better treatment by being allowed to participate on a pari passu basis in unsecured creditor recoveries outside of bankruptcy versus treatment contemplated in the Plan
  - In fact, the City can lose in excess of $1.8 billion of recovery value in a dismissal and still provide COP claims (if asserted on a pari passu basis) with superior recoveries relative to their contemplated Plan treatment

Illustrative COP Recovery Under Plan of Adjustment & Outside of Chapter 9 ($ in millions)

Plan Recoveries | **Pari Passu Recoveries Outside Chapter 9**

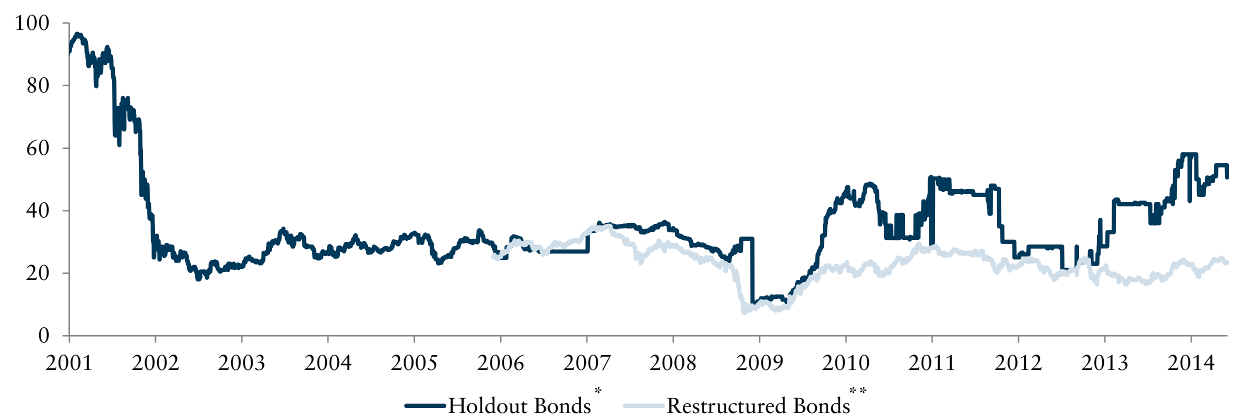


Note: Plan recoveries reflect value of New B Notes based on a 5% discount rate consistent with the Plan

Real World Examples of Government Payment Default - Argentina

- Argentina defaulted on approximately $82 billion of sovereign debt in 2001, the largest such default in history, following a severe economic depression and a sustained period of political instability
  - Restructurings have occurred in 2005 and 2010, with consideration given to bondholders in the form of a mixture of par, discount and index-linked bonds[2]
- In 2005, after failed attempts to achieve a consensual restructuring, Argentina unilaterally offered creditors a bond exchange worth approximately 30 cents on the dollar on a net present value basis
  - 76% of the debt was exchanged under the 2005 restructuring and brought out of default, with the remaining group of creditors refusing to tender their bonds, including hedge funds opting to instead litigate towards a more favorable outcome[2]
- In 2010, to address the remaining defaulted bonds and re-engage the credit markets, Argentina initiated a second bond exchange
  - 68% of the remaining $18.4 billion in bonds were exchanged, leaving approximately 9% of the original defaulted bonds as "holdouts"[2]
- Since then, Argentina has remained current on its obligations to the restructured bonds while choosing to ignore the holdout bonds. Although creditors have won judgments relating to treatment of the holdout bonds, the bonds remain unpaid and continue to be contested in U.S. courts[2]
- As illustrated, by preserving the par amount of their claim, Argentina's holdout bondholders have achieved a better economic outcome than bondholders consenting to impairment

Trading Performance of Argentine Sovereign Bonds



Source: *Bloomberg data as of June 2, 2014*

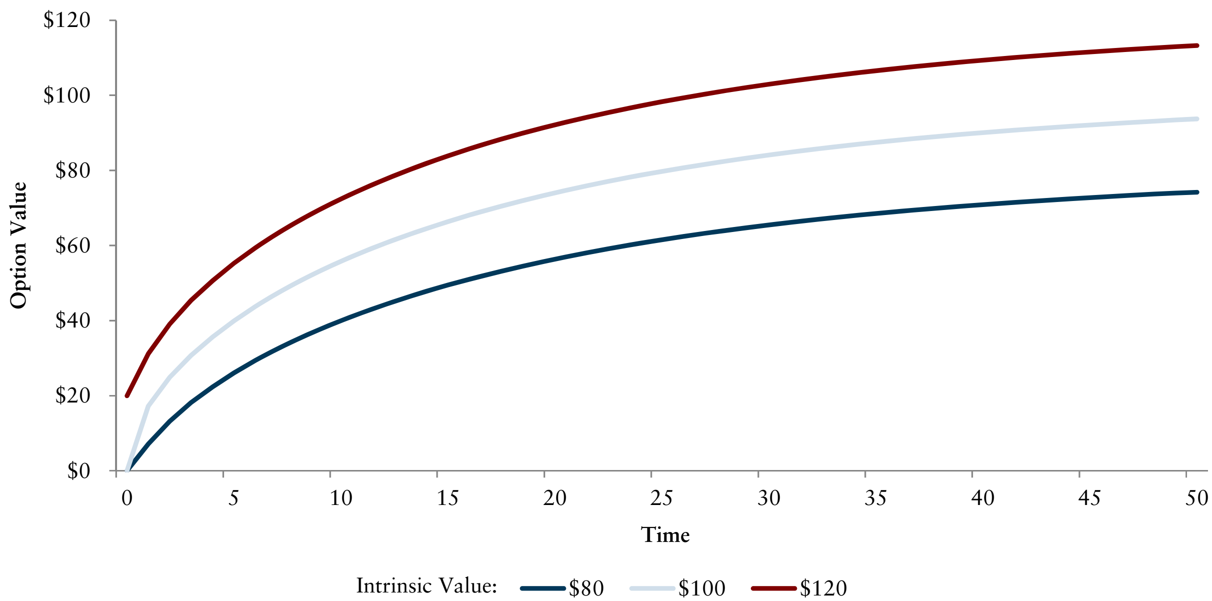
* *8.375% senior unsecured bonds due December 2003*

** *8.28% senior unsecured bonds due December 2033. Par amount reduced by 70% per the estimated creditor recovery in the 2005 bond exchange*

Time Value of Options

- The case of Argentina is a dramatic real-world illustration of basic mathematical relationships captured in the Black-Scholes options pricing model
  - Under the Black-Scholes model, a key independent variable affecting the value of an option is time
  - As illustrated below, the value of an option is positively correlated with an increase in the time an option can be held for
- In the case of Detroit, bondholders willing to forgo principal and interest for an extended period while maintaining the par amount of their claim can be expected to realize a better economic outcome than bondholders accepting material impairment on their claim
- By denying the opportunity for Detroit's bondholders to participate in the City's future recovery (even if such a recovery never materializes), the City is effecting greater impairment of bondholder claims than it might otherwise offer

Relationship Between Option Value and Time



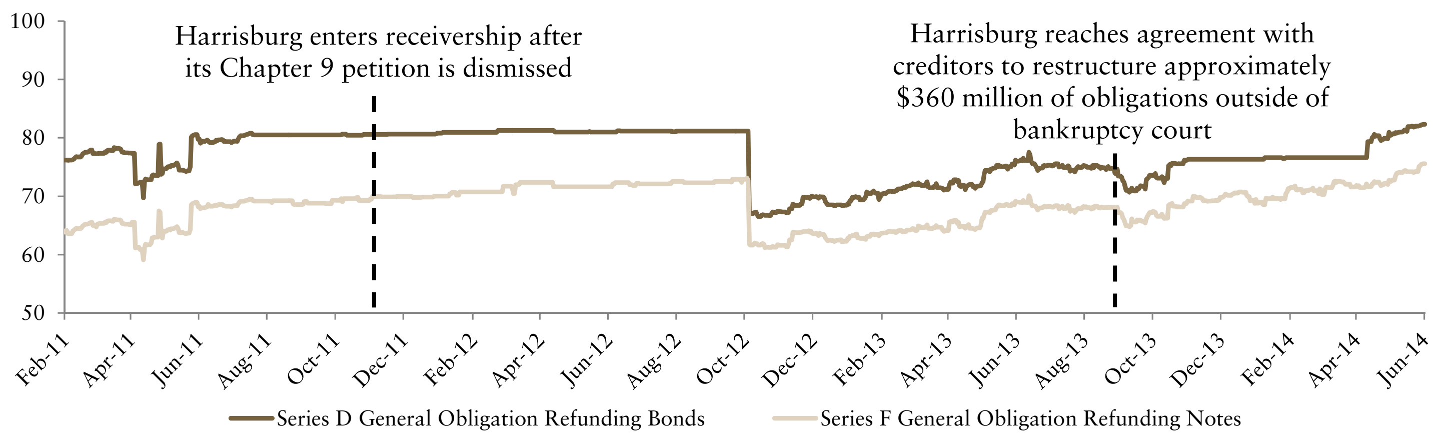
Black-Scholes Assumptions	
Strike Price	$100
Volatility	40%
Risk-Free Rate*	3.25%

* *Risk-free rate reflects 30-year U.S. Treasury rate as of July 22, 2014*

Summary of Harrisburg Receivership

- The case of Harrisburg offers another real world example of the benefits to bondholders of providing debt service relief in the interests of preserving the par value of a claim and participating in a municipal (or sovereign) economic recovery
- Harrisburg owed creditors approximately $350 million of outstanding obligations, including approximately $150 million of debt issued in connection with a trash incinerator facility overhaul and expansion project that significantly underperformed
  - In March 2012, the city defaulted on $5.3 million of payments for its general bond obligations. The city had previously defaulted on its revenue bond obligations relating to the incinerator project in 2009[3]
- As part of a comprehensive restructuring agreement announced in August 2013, the city (i) sold its incinerator, (ii) leased its parking facilities and (iii) issued new debt[4,5]
- Had holders of Harrisburg's Series D and Series F general obligation bonds accepted material par impairment of their securities in the wake of the City's default, they would have failed to take part in the operational restructuring of the City that has contributed to the City's stronger financial performance
- In March 2014, the City resumed partial payment on the general obligation debt (with Ambac paying the residual debt service)

Historical Pricing of Harrisburg General Obligation Bonds



Source: Bloomberg data as of June 7, 2014

Additional Real World Examples of Government Payment Default - Greece

- In 2010, Greek sovereign debt was downgraded to junk bond status following rapidly deteriorating economic conditions and a widening deficit. Bond yields rose from a spread of 300 bps to nearly 900 bps over benchmark German bonds, effectively eliminating Greece's access to the bond markets[6]
  - In response, Greece requested assistance from the International Monetary Fund ("IMF") and other European governments and received approximately $150 billion in rescue financing to be paid out over three years, contingent on the implementation of fiscal adjustment measures, including a restructuring of Greek's bonds[6]
- In June 2011, Greece began discussions on potential bond exchange processes following statements by the German government urging initiation of the restructuring process and receipt of proposals from the Institute of International Finance ("IIF"), a coalition representing various banks and institutional investors[6]
  - In conjunction with nearly $100 billion in additional financing offered by the European Union and IMF, the IIF expressed willingness to participate in a voluntary debt exchange program in which creditors would have the option to choose between various different exchange terms[6]
    - The exchange proposal implied creditor losses of approximately 12 cents on the dollar
    - The 2011 financing offer ultimately failed as a result of a worsening recession and increased belief that a greater debt reduction would be necessary
- Following the Euro Summit in October 2011, eurozone leaders invited "Greece, private investors and all parties concerned to develop a voluntary bond exchange with a nominal discount of 50 percent on notional Greek debt held by private investors," pledging themselves to contribute up to approximately $40 billion, setting the stage for a new round of negotiations[6]
- In February 2012, Greece and its creditors agreed to a restructuring whereby the new bonds, consisting primarily of discount bonds and short term notes, would offer a recovery of approximately 47% of the par amount of bonds tendered[6]
  - Actual recoveries, as calculated based on trading prices of the new securities, were approximately 35%[6]
  - Approximately $260 billion, equating to 97% of the eligible debt, participated in the exchange, resulting in the elimination of approximately $140 billion in face value of debt[6]
  - Although Greece was able to achieve a high participation threshold, induced through a combination of political pressure, economic incentives and threat of non-payment, the remaining holdout bonds have thus far been paid in full[6]

Best Interests Analysis

Dismissal of Chapter 9 Will Re-Level Playing Field

Re-leveling the Negotiation Playing Field

Dismissal Will Re-Level the Negotiation Playing Field

- Subsequent to the City's Chapter 9 filing there have been two significant developments dramatically affecting the negotiating leverage of the COPs:

Court's Ruling on Pension Status

- The court's eligibility ruling resolved the question pertaining to the status of pensions that existed before the decision – more specifically, the court's ruling decided that pensions are subject to impairment under Chapter 9 like any other contractual obligation
- Despite the court's ruling, the City nevertheless provided preferential Plan treatment to the pensions

- Dismissal of the Chapter 9 case would allow COPs to re-engage in negotiation with the City and pension advisors to achieve a more equitable settlement outcome aided by the court's ruling on the unsecured status of the pensions – which would be reinforced by Plan dismissal
- There are numerous examples of such negotiations yielding efficient and equitable settlement resolutions

Impact of Dismissal on Pension Reform

- The history of non-bankruptcy municipal pension reform gives rise to a reasonable expectation on the part of the City's financial creditors, particularly its COP claimants, that a more equitable plan of adjustment and a superior financial recovery might be achieved if the Chapter 9 case is dismissed
- As demonstrated by the cases below in which COLA benefits of state pension plans were reduced or eliminated, pension reform can be implemented outside of a Chapter 9 context
- In the majority of cases, COLA reductions were upheld by the courts, with the primary rationale for allowing the cut being that COLA benefits are not a contractual right and can be modified as necessary
  - For example, in Minnesota, the judge ruled that the COLA was not a protected core benefit and that the COLA modification was necessary to prevent the long-term fiscal deterioration of the pension plan
  - Similarly, in Colorado, the judge found that the plaintiffs could have no reasonable expectation of a specific COLA amount for life given that the General Assembly has changed the COLA formula numerous times over the past 40 years

Responses to COLA Cuts (2010-2014)[1]

State	COLA Cut Upheld	Rationale	Court	Year
Colorado	Yes*	COLA not a contractual right	State District	2011
Florida	Yes	COLA not protected under applicable state law	State Supreme	2013
Maine	Yes	COLA not a contractual right	U.S. District	2013
Minnesota	Yes	COLA not a contractual right	State District	2011
Montana	Yes	Complaint dismissed***	State District	2013
New Jersey	N/A	Complaint dismissed for lack of jurisdiction	U.S. District	2012
	Yes*	Complaint dismissed****	State Superior	2012
New Mexico	Yes	COLA not a contractual right	State Supreme	2013
Rhode Island	Yes**	N/A	Mediation	2014
South Dakota	Yes	COLA not a contractual right	State Circuit	2012
Washington	No*	Illegal impairment of contract	State Superior	2011

* *Case is currently on appeal*
** *Mediation rejected*
*** *The court refused to issue a preliminary injunction, finding it was not clear that plaintiffs would be successful in proving that the COLA was protected as a contractual right*
**** *No written opinion*

Feasibility Analysis

Is the Plan Even Feasible If COP Proceeds Are Disgorged from Pension Trusts?

The Plan is Subject to Excessive Feasibility Risk

- If the City is successful in invalidating the COP transaction, the COP bondholders and insurers would bring various causes of legal action that could ultimately result in the disgorgement of the original COP proceeds from the City's pension trusts
- Because the Plan contemplates only modest pension impairment and requires the City to maintain significant ongoing pension funding obligations, the disgorgement could render the City insolvent from a future cash flow perspective
- The substantial risk that the City could become cash flow insolvent in the event of a disgorgement significantly threatens the feasibility of the Plan according to the definition provided by the City's expert witness in her report on feasibility

> *"Is it likely that the City of Detroit, after the confirmation of the Plan of Adjustment, will be able to sustainably provide basic municipal services to the citizens of Detroit and to meet the obligations contemplated in the Plan without the significant probability of a default?"*
>
> *Definition of Feasibility*
> **Expert Report of Martha Kopacz Regarding the Feasibility of the City's Plan**

- As summarized on the following pages, the City, according to its own projections, would run out of cash in 2029 in a disgorgement scenario

Analysis of Disgorgement Scenario

- The significant decline in funding status, coupled with the requirement that the City maintain mandated ongoing pension funding obligations, would place considerable negative pressure on the City's cash flows and create substantial risk that the City runs out of cash, notwithstanding significant liquidity benefit that may be realized from an indefinite deferral of all projected blight and capital investment expenditures
  - The City's own projections show a projected deficit of $62 million in 2028 which increases to $166 million in the following year, driven by the increased funding needs of the City's pension trusts in a disgorgement scenario
  - The City runs out of cash in 2029 and maintains a significant liquidity shortfall (projected to be as great as $1.7 billion) through the end of the projection period
- The City's 40-year Plan projections under a disgorgement scenario are shown on the following pages. The projections are based on the City's 40-year Plan with the following additional assumptions:
  - The GRS and PFRS pension plans' projected unfunded actuarial accrued liabilities as of June 30, 2023 have been increased to reflect the disgorgement of the COP proceeds, assumed to take place on December 31, 2015
    - In the event that proceeds from the COP transaction are disgorged from the pension trusts on that date, the GRS and PFRS pension plans' projected UAALs on June 30, 2023 would increase from $695 million to $1.9 billion and $681 million to $1.7 billion, respectively, assuming a 6.75% investment rate of return (see Appendix H for further detail)
  - COP claims have been eliminated and no longer receive any consideration under the Plan
  - The City continues to defer as much of its restructuring expenses as possible to provide liquidity relief. However, reinvestment deferrals have been capped at the cumulative total of "Capital investments" and "Blight" expenditures (i.e., the City cannot defer more expenses than the total expenses it was projecting to incur up until that point in time)

Analysis of Disgorgement Scenario (cont.)

- The exhibits below and on the following page show the City's projected cash flows in the event that COP proceeds are disgorged from the City's pension trusts. In such a scenario, the City becomes cash flow negative in 2028 and runs out of cash the following year in 2029

City of Detroit 40-Year Projections (2014-2033) – Illustrative Disgorgement Scenario ($ in millions)

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033
Revenues	$1,111.3	$1,345.6	$1,135.6	$1,075.9	$1,084.4	$1,080.8	$1,095.5	$1,097.1	$1,099.6	$1,112.0	$1,127.8	$1,140.3	$1,155.9	$1,177.6	$1,199.0	$1,215.5	$1,237.4	$1,258.4	$1,281.3	$1,304.9
Expenditures																				
Total operating expenses	(817.0)	(773.9)	(781.0)	(761.1)	(776.2)	(787.2)	(798.4)	(810.7)	(828.0)	(840.7)	(856.4)	(875.0)	(894.1)	(913.7)	(933.6)	(954.1)	(975.1)	(996.5)	(1,018.4)	(1,040.9)
Restructuring:																				
Additional operating expenditures	(8.0)	(64.6)	(45.3)	(39.9)	(35.6)	(33.0)	(33.0)	(33.3)	(32.5)	(32.1)	(32.8)	(33.4)	(34.1)	(34.8)	(35.5)	(36.2)	(36.9)	(37.7)	(38.4)	(39.2)
Working capital	(39.8)	15.0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Secured debt service	(81.3)	(97.2)	(39.4)	(39.4)	(39.4)	(39.4)	(39.5)	(39.5)	(39.5)	(39.6)	(39.6)	(39.7)	(39.7)	(39.7)	(39.8)	(39.8)	(39.8)	(39.9)	(40.0)	(33.0)
Excess UTGO to pension (Income stabilization)	-	(2.5)	(2.3)	(2.3)	(2.2)	(2.1)	(2.1)	(2.0)	(1.3)	(1.1)	(0.9)	(0.5)	(0.3)	(0.3)	(0.3)	-	-	-	-	-
QOL / exit financing principal/interest payments	(0.7)	(13.4)	(18.0)	(18.0)	(18.0)	(46.6)	(59.1)	(56.6)	(54.0)	(51.4)	(48.9)	(46.3)	(15.1)	-	-	-	-	-	-	-
Reorganization (Capital investments)	(20.6)	(118.9)	(106.4)	(65.6)	(50.2)	(43.6)	(51.9)	(46.0)	(40.4)	(38.6)	(65.4)	(38.8)	(39.6)	(40.3)	(41.1)	(41.9)	(42.7)	(43.5)	(44.3)	(45.1)
Restructuring professional fees	(82.2)	(47.8)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Blight (excludes heavy commercial)	(2.0)	(100.0)	(46.0)	(40.0)	(43.0)	(48.0)	(52.0)	(45.0)	(25.0)	(19.0)	-	-	-	-	-	-	-	-	-	-
PLD decommission	-	(2.5)	(5.0)	(15.0)	(10.0)	(10.0)	(10.0)	(12.5)	(10.0)	-	-	-	-	-	-	-	-	-	-	-
Contingency	-	(13.5)	(11.4)	(10.8)	(10.8)	(10.8)	(11.0)	(11.0)	(11.0)	(11.1)	(11.3)	(11.4)	(11.6)	(11.8)	(12.0)	(12.2)	(12.4)	(12.6)	(12.8)	(13.0)
Reinvestment deferrals	-	0.1	6.5	3.5	(10.1)	24.0	24.9	22.1	(8.2)	(31.7)	300.2	262.6	251.8	227.2	154.5	41.9	42.7	43.5	44.3	45.1
Total expenditures	(1,051.7)	(1,219.0)	(1,048.1)	(988.5)	(995.6)	(996.8)	(1,032.1)	(1,034.4)	(1,049.9)	(1,065.3)	(755.0)	(782.6)	(782.7)	(813.3)	(907.8)	(1,042.3)	(1,064.2)	(1,086.6)	(1,109.6)	(1,126.1)
Net operating cash flow	59.6	126.6	87.4	87.4	88.8	84.0	63.4	62.7	49.7	46.7	372.8	357.7	373.2	364.2	291.2	173.2	173.2	171.8	171.7	178.8
Additional Sources																				
Reimbursements from non-GF depts.	-	0.6	0.5	0.5	0.5	0.5	0.4	0.4	0.3	0.3	1.2	1.2	1.1	1.1	1.1	1.1	1.0	1.0	1.0	1.0
Pension reimbursements from Library	-	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	7.9	7.8	7.6	7.4	7.2	7.1	6.9	6.7	6.5	6.3
Revenue stream from DWSD	-	68.3	48.3	48.3	48.3	48.3	48.3	48.3	48.3	48.3	2.9	2.9	6.6	6.4	6.3	6.1	6.0	5.8	5.7	5.6
Hypothetical art proceeds	-	218.1	23.3	23.3	23.3	23.3	23.3	23.3	23.3	23.3	23.3	23.3	23.3	23.3	23.3	23.3	23.3	23.3	23.3	46.6
Fed monies for blight/GRS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Sources	**59.6**	**416.0**	**162.0**	**162.0**	**163.4**	**158.6**	**137.9**	**137.2**	**124.2**	**121.1**	**408.2**	**392.8**	**411.8**	**402.5**	**329.1**	**210.7**	**210.4**	**208.6**	**208.2**	**238.2**
Uses																				
Hypothetical retiree payments																				
OPEB payments - current retirees	(20.0)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
PFRS payments	-	(114.3)	(18.3)	(18.3)	(18.3)	(18.3)	(18.3)	(18.3)	(18.3)	(18.3)	(172.5)	(168.6)	(164.8)	(160.9)	(157.1)	(153.2)	(149.4)	(145.5)	(141.7)	(137.8)
GRS payments	-	(188.2)	(76.9)	(76.9)	(76.8)	(76.6)	(56.5)	(56.5)	(55.2)	(54.9)	(191.8)	(187.6)	(183.3)	(179.0)	(174.7)	(170.4)	(166.1)	(161.9)	(157.6)	(153.3)
Subtotal: hypothetical retiree distributions	(20.0)	(302.5)	(95.2)	(95.2)	(95.1)	(94.9)	(74.8)	(74.8)	(73.5)	(73.2)	(364.3)	(356.2)	(348.1)	(339.9)	(331.8)	(323.7)	(315.5)	(307.4)	(299.3)	(291.2)
Hypothetical notes																				
Note A1	-	(45.8)	(41.5)	(41.5)	(40.5)	(38.4)	(37.8)	(37.1)	(24.1)	(20.8)	(16.7)	(9.5)	(4.9)	(4.9)	(4.9)	-	-	-	-	-
Note A2	-	(55.0)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Note B	-	(12.6)	(25.3)	(25.3)	(25.3)	(25.3)	(25.3)	(25.3)	(25.3)	(25.3)	(25.3)	(25.3)	(56.9)	(55.6)	(54.4)	(53.1)	(51.8)	(50.6)	(49.3)	(48.0)
Subtotal: hypothetical notes	-	(113.4)	(66.8)	(66.8)	(65.8)	(63.7)	(63.0)	(62.4)	(49.4)	(46.1)	(42.0)	(34.7)	(61.8)	(60.5)	(59.2)	(53.1)	(51.8)	(50.6)	(49.3)	(48.0)
Total Uses	**(20.0)**	**(416.0)**	**(162.0)**	**(162.0)**	**(160.9)**	**(158.6)**	**(137.9)**	**(137.2)**	**(122.9)**	**(119.3)**	**(406.3)**	**(390.9)**	**(409.8)**	**(400.4)**	**(391.0)**	**(376.8)**	**(367.4)**	**(358.0)**	**(348.6)**	**(339.2)**
Surplus / (deficit)	**39.6**	**-**	**-**	**-**	**2.5**	**-**	**-**	**-**	**1.2**	**1.8**	**1.9**	**1.9**	**2.0**	**2.0**	**(61.9)**	**(166.0)**	**(156.9)**	**(149.4)**	**(140.4)**	**(101.0)**
Cash	**75.6**	**75.6**	**75.6**	**75.6**	**78.2**	**78.2**	**78.2**	**78.2**	**79.4**	**81.2**	**83.1**	**85.0**	**87.0**	**89.0**	**27.1**	**(139.0)**	**(295.9)**	**(445.3)**	**(585.7)**	**(686.7)**

Analysis of Disgorgement Scenario (cont.)

City of Detroit 40-Year Projections (2034-2053) – Illustrative Disgorgement Scenario ($ in millions)

	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053
Revenues	$1,328.5	$1,352.6	$1,368.7	$1,392.2	$1,417.9	$1,444.1	$1,470.9	$1,499.3	$1,527.3	$1,555.9	$1,585.4	$1,615.6	$1,646.5	$1,678.0	$1,710.2	$1,743.1	$1,776.8	$1,813.3	$1,848.5	$1,884.5
Expenditures																				
Total operating expenses	(1,065.3)	(1,090.3)	(1,115.9)	(1,142.1)	(1,169.0)	(1,196.6)	(1,224.9)	(1,253.8)	(1,283.6)	(1,314.0)	(1,345.3)	(1,377.3)	(1,410.1)	(1,443.8)	(1,478.4)	(1,513.8)	(1,550.1)	(1,587.4)	(1,625.7)	(1,664.9)
Restructuring:																				
Additional operating expenditures	(40.0)	(40.8)	(41.6)	(42.4)	(43.3)	(44.1)	(45.0)	(45.9)	(46.8)	(47.8)	(48.7)	(49.7)	(50.7)	(51.7)	(52.7)	(53.8)	(54.9)	(56.0)	(57.1)	(58.2)
Working capital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Secured debt service	(29.5)	(29.5)	(8.1)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Excess UTGO to pension (Income stabilization)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
QOL / exit financing principal/interest payments	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Reorganization (Capital investments)	(46.0)	(46.9)	(47.8)	(48.7)	(49.6)	(50.5)	(51.5)	(52.5)	(53.5)	(54.5)	(55.5)	(56.6)	(57.7)	(58.8)	(59.9)	(61.0)	(62.2)	(63.4)	(64.6)	(65.8)
Restructuring professional fees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Blight (excludes heavy commercial)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
PLD decommission	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Contingency	(13.3)	(13.5)	(13.7)	(13.9)	(14.2)	(14.4)	(14.7)	(15.0)	(15.3)	(15.6)	(15.9)	(16.2)	(16.5)	(16.8)	(17.1)	(17.4)	(17.8)	(18.1)	(18.5)	(18.8)
Reinvestment deferrals	46.0	46.9	47.8	48.7	49.6	50.5	51.5	52.5	53.5	54.5	55.5	56.6	57.7	58.8	59.9	61.0	62.2	63.4	64.6	65.8
Total expenditures	(1,148.0)	(1,174.1)	(1,179.3)	(1,198.4)	(1,226.5)	(1,255.2)	(1,284.6)	(1,314.7)	(1,345.7)	(1,377.3)	(1,409.8)	(1,443.1)	(1,477.3)	(1,512.3)	(1,548.2)	(1,585.0)	(1,622.8)	(1,661.5)	(1,701.2)	(1,742.0)
Net operating cash flow	180.5	178.5	189.5	193.8	191.4	189.0	186.4	184.6	181.7	178.6	175.6	172.5	169.2	165.7	162.0	158.1	154.0	151.7	147.3	142.5
Additional Sources																				
Reimbursements from non-GF depts.	0.9	0.9	0.9	0.9	0.8	0.8	0.8	0.7	0.7	0.7	0.7	0.6	0.6	0.6	0.6	0.5	0.5	0.5	0.5	0.4
Pension reimbursements from Library	6.2	6.0	5.8	5.6	5.5	5.3	5.1	4.9	4.8	4.6	4.4	4.2	4.0	3.9	3.7	3.5	3.3	3.2	3.0	2.8
Revenue stream from DWSD	5.4	6.1	5.8	5.6	5.4	5.2	5.0	4.7	4.5	4.3	4.1	3.9	-	-	-	-	-	-	-	-
Hypothetical art proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Fed monies for blight/GRS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Sources	**193.0**	**191.5**	**202.0**	**205.9**	**203.1**	**200.2**	**197.2**	**195.0**	**191.7**	**188.2**	**184.8**	**181.2**	**173.8**	**170.1**	**166.2**	**162.2**	**157.9**	**155.4**	**150.7**	**145.8**
Uses																				
Hypothetical retiree payments																				
OPEB payments - current retirees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
PFRS payments	(134.0)	(130.1)	(126.3)	(122.5)	(118.6)	(114.8)	(110.9)	(107.1)	(103.2)	(99.4)	(95.5)	(91.7)	(87.8)	(84.0)	(80.1)	(76.3)	(72.4)	(68.6)	(64.7)	(60.9)
GRS payments	(149.0)	(144.7)	(140.5)	(136.2)	(131.9)	(127.6)	(123.3)	(119.1)	(114.8)	(110.5)	(106.2)	(101.9)	(97.7)	(93.4)	(89.1)	(84.8)	(80.5)	(76.3)	(72.0)	(67.7)
Subtotal: hypothetical retiree distributions	(283.0)	(274.9)	(266.8)	(258.6)	(250.5)	(242.4)	(234.2)	(226.1)	(218.0)	(209.9)	(201.7)	(193.6)	(185.5)	(177.3)	(169.2)	(161.1)	(153.0)	(144.8)	(136.7)	(128.6)
Hypothetical notes																				
Note A1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Note A2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Note B	(46.8)	(52.5)	(50.6)	(48.7)	(46.8)	(44.9)	(43.0)	(41.1)	(39.2)	(37.3)	(35.4)	(33.5)	-	-	-	-	-	-	-	-
Subtotal: hypothetical notes	(46.8)	(52.5)	(50.6)	(48.7)	(46.8)	(44.9)	(43.0)	(41.1)	(39.2)	(37.3)	(35.4)	(33.5)	-	-	-	-	-	-	-	-
Total Uses	**(329.8)**	**(327.4)**	**(317.3)**	**(307.3)**	**(297.3)**	**(287.2)**	**(277.2)**	**(267.2)**	**(257.2)**	**(247.1)**	**(237.1)**	**(227.1)**	**(185.5)**	**(177.3)**	**(169.2)**	**(161.1)**	**(153.0)**	**(144.8)**	**(136.7)**	**(128.6)**
Surplus / (deficit)	**(136.8)**	**(135.8)**	**(115.3)**	**(101.4)**	**(94.2)**	**(87.0)**	**(80.0)**	**(72.2)**	**(65.5)**	**(59.0)**	**(52.4)**	**(45.9)**	**(11.7)**	**(7.2)**	**(3.0)**	**1.1**	**4.9**	**10.6**	**14.0**	**17.2**
Cash	**(823.5)**	**(959.3)**	**(1,074.6)**	**(1,176.1)**	**(1,270.2)**	**(1,357.2)**	**(1,437.2)**	**(1,509.4)**	**(1,574.9)**	**(1,633.9)**	**(1,686.3)**	**(1,732.2)**	**(1,743.8)**	**(1,751.0)**	**(1,754.0)**	**(1,752.9)**	**(1,748.0)**	**(1,737.5)**	**(1,723.5)**	**(1,706.3)**

Appendix

Appendix

A. Illustrative June 2013 Proposal Limited Recourse Notes NPV Calculation

June 2013 Proposal Limited Recourse Participation Notes NPV Analysis

- As set forth below, I estimate the net present value of the Limited Recourse Participation Notes proposed in the City's June 2013 Proposal to be approximately $1.4 billion, assuming a 5% discount rate commensurate with the discount rate used by the City to calculate the present value of the New B Notes under the Plan
  - Consistent with the terms set forth in the City's June 2013 Proposal, my calculation reflects (i) an Initial Participation Year that is the second full fiscal year following the Effective Date, (ii) a Final Participation Year that is the fiscal year beginning on the 20th anniversary of the first day of the Initial Participation Year and (iii) a Maturity Date that is the first September 30 following the Final Participation Year
    - For purposes of this calculation, the Initial Participation Year is assumed to be FY 2017, the Final Participation Year is assumed to be FY 2037 and the Maturity Date is assumed to be September 30, 2037
  - My analysis further assumes that the Limited Recourse Participation Notes amortize in equal annual payments from September 30, 2016 through September 30, 2037 (i.e., the Maturity Date)
    - Note that under the terms of the Limited Recourse Participation Notes as set forth in the City's June 2013 Proposal, the City may not repay the full (or any) principal amount of the $2.0 billion issuance if it fails to meet certain criteria

Illustrative June 2013 Proposal Limited Recourse Participation Notes Net Present Value ($ in millions)

Key Terms	
Initial Principal Amount	$2,000
Interest Rate	1.5%
Assumed Initial Participation Year	FY 2017
Assumed Final Participation Year	FY 2037
Illustrative Discount Rate	5.0%

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037
Beginning Balance	$2,000	$2,000	$1,909	$1,818	$1,727	$1,636	$1,545	$1,455	$1,364	$1,273	$1,182	$1,091	$1,000	$909	$818	$727	$636	$545	$455	$364	$273	$182	$91
Less: Paydown	0	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)	(91)
Ending Balance	$2,000	$1,909	$1,818	$1,727	$1,636	$1,545	$1,455	$1,364	$1,273	$1,182	$1,091	$1,000	$909	$818	$727	$636	$545	$455	$364	$273	$182	$91	$0
Interest Payment	$30	$30	$29	$27	$26	$25	$23	$22	$20	$19	$18	$16	$15	$14	$12	$11	$10	$8	$7	$5	$4	$3	$1
Principal Payment	0	91	91	91	91	91	91	91	91	91	91	91	91	91	91	91	91	91	91	91	91	91	91
Total Payment	$30	$121	$120	$118	$117	$115	$114	$113	$111	$110	$109	$107	$106	$105	$103	$102	$100	$99	$98	$96	$95	$94	$92
Discount Period	1.0	2.0	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0	13.0	14.0	15.0	16.0	17.0	18.0	19.0	20.0	21.0	22.0	23.0
Discount Factor	0.95	0.91	0.86	0.82	0.78	0.75	0.71	0.68	0.64	0.61	0.58	0.56	0.53	0.51	0.48	0.46	0.44	0.42	0.40	0.38	0.36	0.34	0.33
Present Value	$29	$110	$103	$97	$92	$86	$81	$76	$72	$68	$64	$60	$56	$53	$50	$47	$44	$41	$39	$36	$34	$32	$30

NPV of Note	$1,398

Appendix

B. New B Notes NPV Calculation

Value of New B Notes (5% Discount Rate)

- As set forth below, I estimate the net present value of the New B Notes to be approximately $565 million when valued using a 5% discount rate, consistent with the discount rate used by the City to value the New B Notes under the Plan

New B Notes NPV Calculation ($ in million)

Key Terms	
Face Value	$632
Interest (Years 1-20)	4.0%
Interest (Years 21-30	6.0%
Amortization Period	20
Discount Rate	5.0%

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Beginning Balance	$632	$632	$632	$632	$632	$632	$632	$632	$632	$632	$632	$600	$569	$537	$506
Less: Paydown	0	0	0	0	0	0	0	0	0	0	(32)	(32)	(32)	(32)	(32)
Ending Balance	$632	$632	$632	$632	$632	$632	$632	$632	$632	$632	$600	$569	$537	$506	$474
Interest Payment	25	25	25	25	25	25	25	25	25	25	25	24	23	21	20
Principal Payment	0	0	0	0	0	0	0	0	0	0	32	32	32	32	32
Total Payment	**$25**	**$25**	**$25**	**$25**	**$25**	**$25**	**$25**	**$25**	**$25**	**$25**	**$57**	**$56**	**$54**	**$53**	**$52**
Discount Period	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Discount Factor	0.95	0.91	0.86	0.82	0.78	0.75	0.71	0.68	0.64	0.61	0.58	0.56	0.53	0.51	0.48
Present Value	**$24**	**$23**	**$22**	**$21**	**$20**	**$19**	**$18**	**$17**	**$16**	**$16**	**$33**	**$31**	**$29**	**$27**	**$25**

	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044
Beginning Balance	$474	$442	$411	$379	$348	$316	$284	$253	$221	$190	$158	$126	$95	$63	$32
Less: Paydown	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)
Ending Balance	$442	$411	$379	$348	$316	$284	$253	$221	$190	$158	$126	$95	$63	$32	$0
Interest Payment	19	18	16	15	14	19	17	15	13	11	9	8	6	4	2
Principal Payment	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32
Total Payment	**$51**	**$49**	**$48**	**$47**	**$46**	**$51**	**$49**	**$47**	**$45**	**$43**	**$41**	**$39**	**$37**	**$35**	**$33**
Discount Period	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Discount Factor	0.46	0.44	0.42	0.40	0.38	0.36	0.34	0.33	0.31	0.30	0.28	0.27	0.26	0.24	0.23
Present Value	**$23**	**$22**	**$20**	**$19**	**$17**	**$18**	**$17**	**$15**	**$14**	**$13**	**$12**	**$10**	**$10**	**$9**	**$8**

NPV of New B Note:	$565

Value of New B Notes (9% Discount Rate)

- As set forth below, I estimate the net present value of the New B Notes to be approximately $353 million when valued using a 9% discount rate

New B Notes NPV Calculation ($ in million)

Key Terms	
Face Value	$632
Interest (Years 1-20)	4.0%
Interest (Years 21-30	6.0%
Amortization Period	20
Discount Rate	9.0%

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029
Beginning Balance	$632	$632	$632	$632	$632	$632	$632	$632	$632	$632	$632	$600	$569	$537	$506
Less: Paydown	0	0	0	0	0	0	0	0	0	0	(32)	(32)	(32)	(32)	(32)
Ending Balance	$632	$632	$632	$632	$632	$632	$632	$632	$632	$632	$600	$569	$537	$506	$474
Interest Payment	25	25	25	25	25	25	25	25	25	25	25	24	23	21	20
Principal Payment	0	0	0	0	0	0	0	0	0	0	32	32	32	32	32
Total Payment	**$25**	**$25**	**$25**	**$25**	**$25**	**$25**	**$25**	**$25**	**$25**	**$25**	**$57**	**$56**	**$54**	**$53**	**$52**
Discount Period	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Discount Factor	0.92	0.84	0.77	0.71	0.65	0.60	0.55	0.50	0.46	0.42	0.39	0.36	0.33	0.30	0.27
Present Value	**$23**	**$21**	**$20**	**$18**	**$16**	**$15**	**$14**	**$13**	**$12**	**$11**	**$22**	**$20**	**$18**	**$16**	**$14**

	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044
Beginning Balance	$474	$442	$411	$379	$348	$316	$284	$253	$221	$190	$158	$126	$95	$63	$32
Less: Paydown	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)	(32)
Ending Balance	$442	$411	$379	$348	$316	$284	$253	$221	$190	$158	$126	$95	$63	$32	$0
Interest Payment	19	18	16	15	14	19	17	15	13	11	9	8	6	4	2
Principal Payment	32	32	32	32	32	32	32	32	32	32	32	32	32	32	32
Total Payment	**$51**	**$49**	**$48**	**$47**	**$46**	**$51**	**$49**	**$47**	**$45**	**$43**	**$41**	**$39**	**$37**	**$35**	**$33**
Discount Period	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
Discount Factor	0.25	0.23	0.21	0.19	0.18	0.16	0.15	0.14	0.13	0.12	0.11	0.10	0.09	0.08	0.08
Present Value	**$13**	**$11**	**$10**	**$9**	**$8**	**$8**	**$7**	**$6**	**$6**	**$5**	**$4**	**$4**	**$3**	**$3**	**$3**

NPV of New B Note:	$353

Appendix

C. Debt Service Coverage Ratio Calculation

Debt Service Coverage Ratio

City of Detroit – Illustrative Debt Service Coverage Ratio[1]

	Fiscal Year Ended June 30										10 Year Totals		
($ in millions)	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	'14 - '23	'24 - '33	'34 - '43
Revenue													
Municipal income tax	$247.9	$256.2	$262.3	$268.3	$274.0	$279.9	$286.0	$292.2	$298.5	$304.9	$2,770.2	$3,510.0	$4,590.6
State revenue sharing	191.2	196.6	198.7	200.3	202.0	203.8	205.6	199.1	200.8	202.5	2,000.5	2,121.0	2,307.1
Wagering taxes	169.9	168.2	169.0	169.9	171.6	173.3	175.0	176.8	178.6	180.3	1,732.6	1,905.6	2,105.0
Property taxes	114.9	102.6	100.8	102.4	102.6	103.9	106.8	109.7	113.3	117.0	1,074.0	1,369.6	1,640.0
Utility users' tax	20.1	24.5	24.9	25.5	26.0	26.4	26.8	27.2	27.6	28.0	257.2	304.3	353.2
Sales and charges for services	131.5	118.0	115.8	113.6	111.4	109.2	107.0	104.4	103.3	104.0	1,118.0	1,161.2	1,415.5
Other revenue	79.8	86.6	78.7	67.3	66.0	66.3	66.6	66.9	67.2	67.5	712.8	753.5	918.5
General Fund reimbursements	29.8	42.9	41.7	21.4	21.4	21.4	21.4	21.4	21.4	21.4	264.1	238.8	291.1
Transfers in for UTGO	66.5	62.6	57.7	57.6	56.5	54.1	53.4	52.7	37.7	33.9	532.8	147.6	22.1
Department revenue initiatives	7.2	88.0	45.1	49.7	52.9	42.5	46.9	46.8	51.3	52.5	482.9	586.2	714.6
Total operating revenue	**$1,058.8**	**$1,146.2**	**$1,094.8**	**$1,075.9**	**$1,084.5**	**$1,080.9**	**$1,095.4**	**$1,097.2**	**$1,099.7**	**$1,112.1**	**$10,945.1**	**$12,097.9**	**$14,357.6**
Expenditures													
Salaries - Public Safety	($245.2)	($263.3)	($276.7)	($277.5)	($284.4)	($291.5)	($297.4)	($303.3)	($309.4)	($315.6)	($2,864.3)	($3,524.5)	($4,356.5)
Salaries - Non-Public Safety	(85.7)	(86.9)	(88.1)	(86.1)	(88.0)	(90.2)	(92.0)	(93.8)	(95.4)	(97.3)	(903.8)	(1,087.2)	(1,343.9)
Health benefits - active	(173.0)	(67.1)	(52.4)	(55.9)	(60.0)	(63.6)	(66.1)	(68.7)	(71.5)	(74.3)	(752.6)	(928.2)	(1,373.9)
OPEB payments - future retirees	(3.0)	(3.1)	(3.1)	(3.1)	(3.2)	(3.2)	(3.3)	(3.3)	(3.4)	(3.4)	(32.2)	(37.0)	(43.2)
Active pension plan	(18.8)	(33.3)	(34.1)	(34.9)	(35.8)	(36.7)	(37.4)	(38.2)	(38.9)	(39.7)	(347.9)	(443.6)	(547.8)
Other operating expenses	(291.3)	(320.1)	(326.5)	(303.5)	(304.8)	(302.0)	(302.2)	(303.3)	(309.4)	(310.3)	(3,073.2)	(3,437.4)	(4,190.1)
Additional operating expenditures	(8.0)	(64.6)	(45.3)	(39.9)	(35.6)	(33.0)	(33.0)	(33.3)	(32.5)	(32.1)	(357.5)	(359.1)	(437.7)
Reorganization (Capital investments)	(20.6)	(118.9)	(106.4)	(65.6)	(50.2)	(43.6)	(51.9)	(46.0)	(40.4)	(38.6)	(582.2)	(442.7)	(501.4)
Blight (Excludes heavy commercial)	(2.0)	(100.0)	(46.0)	(40.0)	(43.0)	(48.0)	(52.0)	(45.0)	(25.0)	(19.0)	(420.0)	0.0	0.0
PLD decommission	0.0	(2.5)	(5.0)	(15.0)	(10.0)	(10.0)	(10.0)	(12.5)	(10.0)	0.0	(75.0)	0.0	0.0
Contingency	0.0	(13.5)	(11.4)	(10.8)	(10.8)	(10.8)	(11.0)	(11.0)	(11.0)	(11.1)	(101.3)	(121.0)	(143.6)
Restructuring professional fees	(82.2)	(47.8)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	(130.0)	0.0	0.0
Total operating expenditures	**($929.8)**	**($1,121.1)**	**($995.0)**	**($932.3)**	**($925.8)**	**($932.6)**	**($956.3)**	**($958.4)**	**($946.9)**	**($941.4)**	**($9,640.0)**	**($10,380.7)**	**($12,951.8)**
Operating cash flow available for debt service	$129.0	$25.1	$99.8	$143.6	$158.7	$148.3	$139.1	$138.8	$152.8	$170.7	$1,305.9	$1,717.2	$1,405.8
Debt service													
Secured debt	($35.4)	($39.4)	($39.4)	($39.4)	($39.4)	($39.4)	($39.5)	($39.5)	($39.5)	($39.6)	($390.5)	($391.0)	($67.2)
Quality of life / Exit financing	(0.7)	(13.4)	(18.0)	(18.0)	(18.0)	(46.6)	(59.1)	(56.6)	(54.0)	(51.4)	(335.8)	(110.3)	0.0
Note A1 (UTGO)	0.0	(45.8)	(41.5)	(41.5)	(40.5)	(38.4)	(37.8)	(37.1)	(24.1)	(20.8)	(327.5)	(40.8)	0.0
Note A2 (LTGO)	0.0	(55.0)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	(55.0)	0.0	0.0
Note B	0.0	(12.6)	(25.3)	(25.3)	(25.3)	(25.3)	(25.3)	(25.3)	(25.3)	(25.3)	(214.9)	(470.2)	(450.6)
Total debt service	($36.1)	($166.2)	($124.2)	($124.2)	($123.2)	($149.7)	($161.7)	($158.5)	($142.9)	($137.1)	($1,323.7)	($902.0)	($517.8)
Debt service coverage ratio	3.6x	0.2x	0.8x	1.2x	1.3x	1.0x	0.9x	0.9x	1.1x	1.2x	1.0x	1.9x	2.7x

Appendix

D. Recent General Trend Toward Municipal Asset Monetization

Select Municipal Asset Monetizations

Municipality	Description
Harrisburg, PA	■ In 2013, Harrisburg sold its incinerator to the Lancaster County Solid Waste Management Authority for $130 million and leased its parking facilities to a private operator in a 40-year deal valued at approximately $270 million ● The asset sales were part of a comprehensive restructuring plan proposed to rid the city of $360 million of debt owed to creditors. The city entered receivership in 2011 after its bankruptcy petition was dismissed ■ Additionally, the city auctioned off approximately 8,000 artifacts collected by a former mayor as part of a planned museum that did not reach fruition. Harrisburg retained approximately $2.7 million of the estimated $3.9 million of proceeds generated
Hercules, CA	■ In 2014, Hercules sold its municipal utility to Pacific Gas & Electric for $9.5 million ■ The city's cumulative operating loss on the utility from fiscal years 2003 through 2010 was approximately $3.8 million
New York City, NY	■ In 2013, New York City sold two landmarked office buildings for approximately $250 million ● The former Emigrant Industrial Savings Bank was sold to the Chetrit Group for $89 million and will be converted to high-end residential units with public retail space on the ground floor. Approximately 30% of the building is currently empty or being used as storage space ● 364 Broadway, which is currently used by the New York City Criminal Court, was sold to the Peebles Corporation for $160 million and will be converted to condominiums and a boutique hotel
Allentown, PA	■ In 2013, Allentown entered into a 50-year lease of its water and sewer systems to the Lehigh County Authority for $211 million ■ Proceeds from the transaction will be used to fund the city's pension obligations
Nassau County, NY	■ In 2011, Nassau County sold its rights to collect rent for 30 years on 18 leases of county-owned commercial properties for a one-time payment of $37 million
Newark, NJ	■ In 2010, Newark sold 16 publically-owned buildings (including the Newark Symphony Hall and the city's police and fire headquarters) to the Essex County Improvement Authority for $74 million ● The sale generated $40 million for the City's 2010 budget deficit of $80 million ■ The city leased back the buildings for approximately $125 million over the next 20 years
California	■ In 2010, the state of California entered into a $2.3 billion sale leaseback agreement under which it sold 24 state office buildings to a consortium of investors ● The sale generated $1.2 billion for the state general fund and $1.1 billion to pay off bonds on the buildings

Select Municipal Asset Monetizations (cont.)

Municipality	Description
Indianapolis, IN	■ In 2010, Indianapolis sold its water and wastewater systems to Citizens Energy Group for $425 million of consideration ● Citizens Energy Group will make substantial capital investments in the systems over 20 years to improve reliability and bring the systems to compliance with federal mandated standards ■ Also in 2010, Indianapolis leased its parking meters to a private operator for an upfront payment of $20 million and revenue sharing rights over the 50-year term of the lease ● Under the agreement, the city receives 20% of revenue up to $8.4 million annually and 55% of any revenue beyond that. The city's share of revenues is expected to range from $300 million to $600 million ■ Proceeds from both deals will fund various infrastructure improvement projects, including repairing the city's streets and sidewalks
Arizona	■ In 2009, the state of Arizona entered into a sale leaseback agreement for 14 publically owned buildings (including the state capitol building) for approximately $735 million of consideration ● Proceeds were used to plug the state's $3 billion budge shortfall and fund general government operations ■ Additionally, in 2010, the state entered into another sale leaseback for additional properties (including the Arizona Supreme Court building) for approximately $300 million. Proceeds will fund aid for Arizona's public schools
Chicago, IL	■ In 2008, Chicago entered into a 75-year, $1.2 billion lease agreement with a consortium led by Morgan Stanley for 36,000 parking spaces ● $400 million of proceeds will fund a long-term reserve, $325 million will fund the city's budget through 2010, $325 million will be used to stabilize the budget and $100 million will fund programs for low-income residents ■ Under the lease, the city will continue to collect parking fines and set rules and rates for its parking meters while handing over operations to the lessee, who will keep any revenues generated
West New York, NJ	■ In 2008, West New York entered into a sale leaseback agreement of its public works garage to the Hudson County Improvement Authority for $8 million

Appendix

E. Grand Bargain NPV Analysis

Grand Bargain NPV Analysis

- As set forth below, I estimate the net present value of the DIA Settlement component of the Grand Bargain to be $455 million, assuming a 6.75% discount rate (commensurate with the discount rate used by the City to calculate the present value of the State Settlement proceeds) and equal annual payments throughout the 20 year payment term
- Accordingly, the actual value obtained by the City with respect to the art is not only far below the value the City would be able to realize through an Alternative Transaction, but substantially lower than the nominal amount touted by the City as well

Illustrative DIA Settlement Net Present Value ($ in millions)

	Nominal Amount	Years
Foundation Contribution	$366.0	20
DIA Contribution	100.0	20
State Contribution	350.0	20
Aggregate Contribution	**$816.0**	**20**

Illustrative Discount Rate	6.75%

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Foundation Contribution	$18.3	$18.3	$18.3	$18.3	$18.3	$18.3	$18.3	$18.3	$18.3	$18.3
DIA Contribution	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
State Contribution	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5
Aggregate Contribution	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**
Discount Period	0.5	1.5	2.5	3.5	4.5	5.5	6.5	7.5	8.5	9.5
Discount Factor	0.97	0.91	0.85	0.80	0.75	0.70	0.65	0.61	0.57	0.54
Present Value	**$39.5**	**$37.0**	**$34.7**	**$32.5**	**$30.4**	**$28.5**	**$26.7**	**$25.0**	**$23.4**	**$21.9**

	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034
Foundation Contribution	$18.3	$18.3	$18.3	$18.3	$18.3	$18.3	$18.3	$18.3	$18.3	$18.3
DIA Contribution	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
State Contribution	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5	17.5
Aggregate Contribution	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**	**$40.8**
Discount Period	10.5	11.5	12.5	13.5	14.5	15.5	16.5	17.5	18.5	19.5
Discount Factor	0.50	0.47	0.44	0.41	0.39	0.36	0.34	0.32	0.30	0.28
Present Value	**$20.5**	**$19.2**	**$18.0**	**$16.9**	**$15.8**	**$14.8**	**$13.9**	**$13.0**	**$12.2**	**$11.4**

NPV - Foundation Contribution	204.3
NPV - DIA Contribution	55.8
NPV - State Contribution	195.3
NPV - Aggregate Contribution	**$455.4**

Appendix

F. Contingent Valuation Methodology

Museum Valuation Methodologies – A Brief History

- Beginning in the 1980s, something resembling a more rigorous and consistent approach to valuing cultural institutions (including museums) began to emerge[1]
- Both in the U.S. and abroad, changes in the government's funding of the arts in the 1980s and a more recent climate of increased budgetary austerity forced the development and application of valuation models for cultural institutions such as art museums
- As an example, in 2010, the U.K. Department of Culture, Media and Sport (DCMS) began developing and refining cultural valuation methodologies for use in the context of government cultural funding and economic decisions[2]
- The DCMS work builds on and complements cultural valuation techniques and recommendations advocated by the U.K. Treasury in its "Green Book" on policy appraisal and valuation released in 2003[2]
- The basis of the U.K.'s approach to valuing cultural institutions, which appears to be winning favor in certain other European countries, can be distilled from a December 2010 report to the DCMS as follows:
  - There has been a recognition, both within the central government and in parts of the publically funded cultural sector, of the need to more clearly articulate the value of culture using methods which fit in with central government's decision-making
  - Economic uses of value are grounded in individual utility and preference satisfaction as expressed in what people are willing to pay for a good or service
  - This understanding of value as the reflection of individual preferences is at the root of the U.K. government's conception of value for use in decision-making

Museum Valuation Methodologies – Analysis of Specific Methodologies

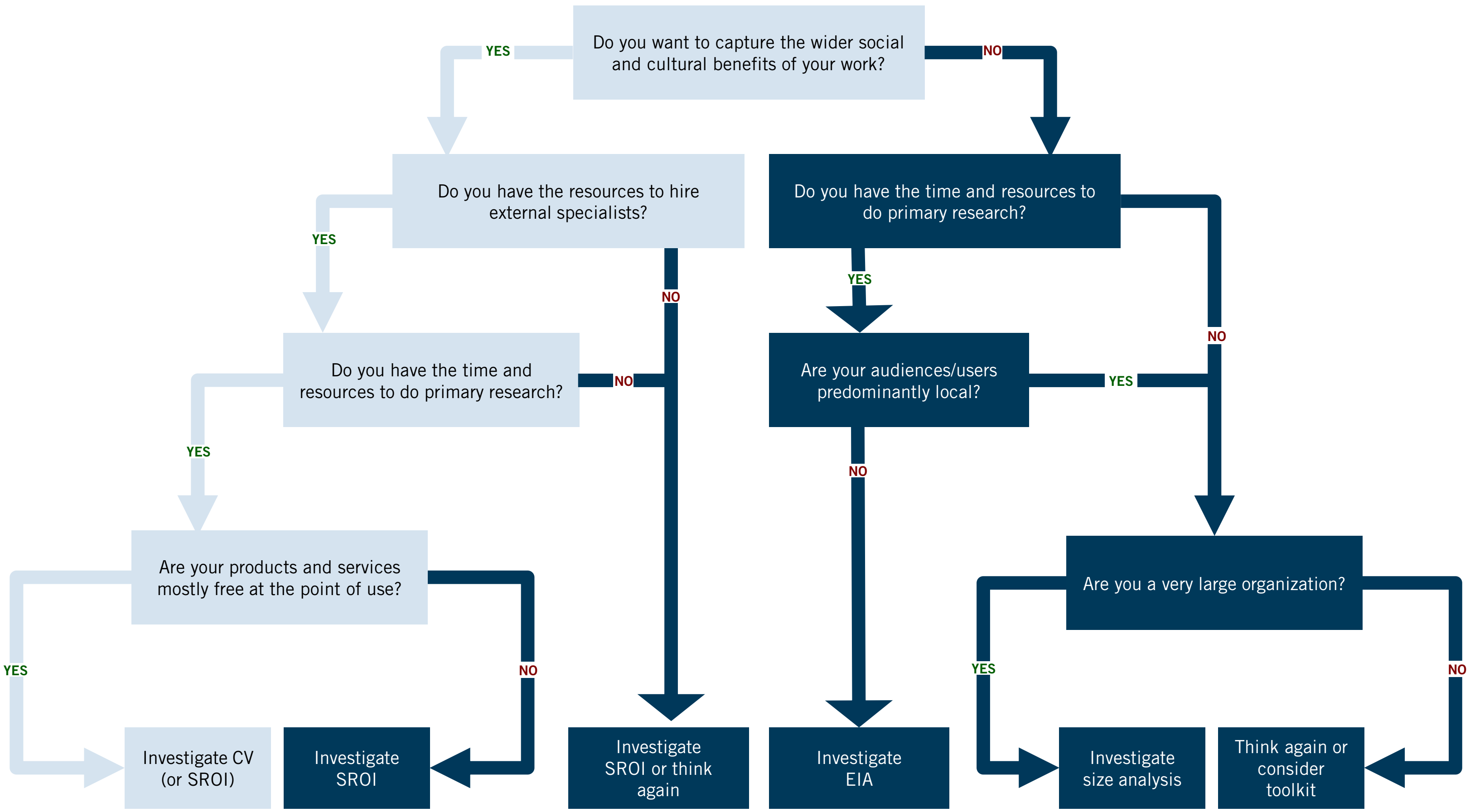
- From a preliminary review of the relevant literature, there appears to be a consensus emerging around four primary valuation methodologies as the most useful and applicable tools for valuation of cultural institutions
- According to a 2012 report produced by BOP Consulting[2], these methodologies and their applicability can be summarized as follows:

Valuation Methodology	Description	Primary Application
Economic Impact Analysis (EIA)	■ Assesses collateral economic impact of institution via: ● "Direct" spending on supplies; ● "Indirect" spending of visitors on restaurants, lodging and retail; and ● "Multiplied" effects of this spending on local economy	■ Broadly used analysis but best applied to festivals, events or shows such as the Detroit Auto Show which bring a large influx of visitors for a finite period of time
Economic Footprint Analysis (Size Analysis)	■ Compares the size of an organization's activities relative to the national economy as a whole, as determined primarily by two standard measures: ● <u>Employment</u>: The number of people who work for that organization ● <u>Gross Value Added (GVA)</u>: Value generated for the national economy as a whole by the organization's activities	■ Analysis uses relatively standardized methodology but is better suited to large organizations such as National Public Radio
Contingent Valuation (Stated Preference Model)	■ Estimates the extent to which consumers benefit from a product or service, over and above the price they pay for it. This approach tries to estimate three types of value: ● <u>Use Value</u>: Value derived from direct use of a product or service ● <u>Option Value</u>: Value derived from service being available for use at some point in the future ● <u>Existence Value</u>: Value derived from service's existence, even if not actually used	■ Allows for a valuation of "non-monetary" goods (i.e., things or activities that do not have a conventional market price, such as visiting a free museum)
Social Return on Investment (SROI)	■ Measures the value of an organization's activities based on their effects on the organization's stakeholders and audiences, including social, cultural and environmental costs and benefits	■ Often used within the volunteer and community service sectors, where focus on social benefits is primary aim of many charities' activities

Museum Valuation Methodologies – Decision Tree

- In addition to describing and suggesting the applicability of the four primary valuation methodologies, BOP Consulting report offers a useful decision tree further suggesting contingent valuation as most appropriate for use by an art museum such as the DIA

Valuation Methodology Decision Tree[2]



Museum Valuation Methodologies – Applicability of Contingent Valuation

- Beyond the BOP Consulting report, I conducted a broader review to corroborate the appropriateness of contingent valuation as a (or perhaps "the") preferred valuation approach for the DIA

Additional Support for Contingent Value Methodology

- Contingent valuation appears to enjoy broad support as a preferred valuation technique for cultural institutions from within the academic and consultancy communities
- There are specific examples of the use of contingent valuation in real-world museum valuation projects such as the valuation of several museums in Bolton, U.K. and the Museo Patio Herreriano de Arte Contemporaneo Espanol in Valladolid, Spain
- Contingent valuation was formally recognized and used by the U.S. Supreme Court as a legitimate valuation methodology for estimating compensation to be paid by Shell in the wake of the Exxon Valdez oil spill in 1989[3]
- Contingent valuation appears to have broad support in the U.K. and other EU countries (whose public ownership and funding of museums is comparatively widespread) as a preferred valuation technique for a range of government entities and cultural institutions
  - In the U.K., contingent valuation is the recommended valuation technique for cultural institutions and is used by numerous government departments to assess funding support for these institutions, including the Departments of Communities and Local Government, Environment, Food, Rural Affairs, Business, Innovation and Skills and Transport. Contingent valuation is also a recommended valuation technique by the UK Department of Treasury
- The widespread acceptance and use of contingent valuation has provided templates to follow in constructing a preliminary contingent valuation assessment of the DIA
- The ability to construct and compare a preliminary contingent valuation of the DIA to contingent valuations of other art museums provides helpful additional valuation insight

Museum Valuation Methodologies – Using Contingent Valuation to Value the DIA

- The exhibit below summarizes the basic approach and methodology used in a classic contingent valuation model

Contingent Valuation Process Summary

1) Users and non-users are asked (via a formal survey) to state what they would be willing to pay to access a good or service, or conversely what they would be willing to accept as compensation for the cessation of a service

2) Large sample sizes are required to provide average willingness-to-pay factors that are then grossed up based on the actual number of users to provide the user value of the good or service

3) Through the survey process, non-users are also asked to indicate a value that they place on a service or good which they have never consumed

4) Again a large sample size is required to generate a representative non-user average which is then grossed up against the population of the museum catchment area

5) The grossed up aggregate values for both the user and non-user bases are then summed to provide a total value for the museum

Museum Valuation Methodologies – Using Contingent Valuation to Value the DIA (cont.)

- Because the DIA has so far failed to either conduct (or produce) a contingent valuation assessment, I looked to the Tri-County millage as a proxy for total aggregate user and non-user DIA museum value
- I then divided this number by the number of residents in the Tri-County area to derive an average catchment area contingent value
  - Note that before performing this analysis, I found basic methodological support from other contingent valuation analyses that used populations of the cities, boroughs or counties surrounding the cultural institutions being evaluated as the natural geographic catchment area
- Having computed the average DIA catchment area contingent value, I then compared this value to identically derived values in comparable contingent valuation analyses
  - For illustrative purposes, the contingent valuation analyses for the catchment areas of the DIA as well as museums in Bolton, U.K. are compared below[4]

Illustrative DIA Contingent Valuation Analysis	
$23,000,000	Millage Per Annum
÷ 3,800,000	Detroit Tri-County Population
$6 per Resident	**DIA Catchment Area Contingent Value**

Illustrative Bolton Museums Contingent Valuation Analysis*	
$7,481,000	Local Resident Population's Willingness to Pay For Museum Services
÷ 208,000	Bolton Adult Population (Age 15+ Years)
$36 per Resident	**Bolton Catchment Area Contingent Value**

* *Figures adjusted to USD*

Appendix

G. Recent Significant Art Deaccessionings & Monetizations

Delaware Art Museum

"Isabella and the Pot of Basil"
- William Holman Hunt

- In March 2014, the Board of Trustees of the Delaware Art Museum in Wilmington announced the deaccessioning of select works of art to repay the institution's $19.8 million bond debt and renew its endowment fund[1]
  - The debt was issued in 2003 as part of a $24.8 million bond financing to fund the expansion and renovation of the museum's Kentmere Parkway building, which was completed in 2005
  - Repayment of the remaining $19.8 million balance was accelerated to October 2014 after the museum defaulted on performance covenants, prompting the trustees to pursue a deaccessioning[2]
- The trustees expect to raise $30 million through the sale of up to four works of art, including "Isabella and the Pot of Basil," an iconic pre-Raphaelite painting purchased by the museum in 1947
  - The museum has not released the names of the other works to be deaccessioned, citing a need to preserve the market for private sales. However, the museum has stated that it will not sell any works acquired through gift or bequest—representing approximately 90 percent of the museum's 12,500-piece collection[1]
- Prior to 2014, the museum had taken several steps to defray costs and pursue alternatives to a deaccessioning, including drastically cutting staffing levels, reducing funding for exhibitions and pursuing fundraising and refinancing strategies (i.e., short-term, high-interest bank loan)
  - The trustees also sought the guidance of the Association of Art Museum Directors and the American Alliance of Museums but were unable to develop a viable solution
  - The museum has stated that given that the only alternative to deaccessioning is to close the museum, the Board of Trustees' fiduciary duty supersedes the museum's policy against deaccessioning[2]
- The AAMD issued a response that it "firmly believes that there are viable alternatives to this course of action and that deaccessioning works from the collection is not necessary to sustain the Museum's operations" and that, should the museum carry out the deaccessioning, "AAMD will have no recourse but to consider taking the strongest possible response to this action, including the censure and, if necessary, the sanctioning of the Museum"[3]
- "Isabella" was sold at auction in June 2014. The buyer paid $4.9 million for the work, approximately $4.6 million of which will be recouped by the museum[4]
  - Following the sale, the AAM voted unanimously to remove the Delaware Art Museum's accreditation, while the AAMD advised its members to stop loaning works to the museum[5]

Maier Museum of Art at Randolph College

"Men of the Docks"
- George Bellows

"Trovador"
- Rufino Tamayo

- In October 2007, the Maier Museum of Art at Randolph College announced the deaccessioning of four paintings from its 3,500-piece collection to raise funds for the school's endowment and bolster its operating budget. The deaccessioning was expected to generate at least $32 million of proceeds[6]
  - Following the announcement, the AAMD contacted the college to offer potential assistance in investigating possible alternatives to address the school's budgetary concerns[7]
  - Additionally, 19 plaintiffs including former museum staff, students, alumni and college and museum donors filed a complaint in Lynchburg circuit court asking for a halt to the planned sale. The suit was dropped in 2008[8]
- In May 2008, the college sold Rufino Tamayo's "Trovador" for $7.2 million at Christie's Latin American Evening Sale
  - The AAMD responded by censuring Randolph College to signal its objection to the sale and discourage future deaccessionings[7]
- In February 2014, the Maier sold George Bellows' 1912 "Men of the Docks" to the National Gallery of Art in London for $25.5 million. The painting had originally been purchased for $2,500 in 1920 by the museum directly from Bellows with proceeds raised by students
  - As part of the sale, Randolph College would enter into a partnership with the National Gallery of Art in which curators would lecture at Randolph and loans of the Bellows back to the Maier would be possible
  - The AAMD, of which the Maier is not a member, responded by imposing sanctions on the museum which "will include instructions to…members to suspend any loans of works of art to and any collaboration on exhibitions and programs with the Maier"[9]
- The museum has additionally earmarked Edward Hicks' "A Peaceable Kingdom" and Ernest Hennings' "Through the Arroyo" for sale[8]

Fisk University (Stieglitz Collection)

"Radiator Building – Night, New York"

- Georgia O'Keeffe

- In 2005, Fisk University, a small historically black college in Tennessee, took its Alfred Stieglitz Collection of Modern American and European Art off display and began exploring a potential sale, citing a significant operating deficit and an inability to afford the $131,000 in annual display costs[10]
  - The 101 piece collection consists of artwork donated to the University by Georgia O'Keeffe, including four significant paintings by the artist herself, in addition to works by Picasso, Renoir, Cezanne and Rivera. The University stated in 2009 that the collection was valued at $75 million, half of the University's total assets[11]
  - Prior to finalizing the sale of its artwork in 2012, the University had pursued other budget reduction actions including mortgaging several buildings and eliminating its entire athletics program
- The proposed sale was challenged by the Georgia O'Keeffe Museum in 2007, which, in representation of O'Keeffe's estate, asserted that the sale was in violation of the terms of the artist's bequest, which stated that the collection be kept intact, on display and never sold[11]
  - The Georgia O'Keeffe Museum further attempted to reclaim the entire collection, arguing that the artworks be turned over to the estate. However, in 2009, a Tennessee court ruled that the Georgia O'Keeffe Museum had no legal claim to the art[11]
  - The Tennessee attorney general also attempted to prevent a transaction, stating that the art should remain for the state's viewership
- In 2009, Fisk University proposed a deal in which it would sell a 50% stake in the collection to the Crystal Bridges Museum for $30 million. In exchange for the money, Crystal Bridges will display the collection two out of every four years and will have the right of first refusal should the remainder of Fisk University's ownership stake ever be available for sale
  - The University argued that such a transaction would generally satisfy the terms of the bequest by keeping the collection together as well as allow the University to afford the display costs
  - In April 2012, the legal battle ended with the Tennessee Supreme Court's approval of the sale to Crystal Bridges[10]

Field Museum

"Wah-ro-née-sah, The Surrounder, Chief of the Tribe"
- George Catlin

- In December 2004, the Field Museum sold a collection of 19th century Western art for $17.4 million to an anonymous buyer. The collection consisted of 31 George Catlin paintings, representing the bulk of the Field's Catlin collection[12]
  - Proceeds from the sale were used to bolster the Field's acquisition budget for the museum's scientific collections, as well as provide funding for staff salaries[13]
- Although the sale generated controversy among the museum trustees, patrons and the broader art community, museum management stated that the paintings, while significant works, did not fit in with the Field's core focus on anthropological artifacts
  - The Field had first begun reviewing its collection for non-core items for potential deaccessioning opportunities in 1998, with the Catlin paintings the only items that had any significant commercial value[14]
  - In December 2011, the Field sold its remaining 4 Catlin paintings through a Sotheby's auction for $4.6 million
- In 2012, the Field announced that it would consider selling additional work, partially to address ongoing financial difficulties resulting from a 2008 bond issuance

Brandeis University (Rose Art Museum)

"Saturday Disaster"

- Andy Warhol

- In January 2009, the Board of Trustees of Brandeis University announced its decision to authorize the sale of the entire 7,000 piece collection of the University-owned Rose Art Museum in order to shore up a shrinking endowment and fund the University's operations[15]
  - The museum, founded in 1963, houses one of the most important collections of postwar art in the region, including seminal works by Robert Rauschenberg, Jasper Johns, Andy Warhol and Roy Lichtenstein. The collection was valued by Christie's in 2007 to be worth between $350 million and $400 million dollars[16]
  - Then Brandeis-President Jehuda Reinharz stated that "Choosing between and among important and valued university assets is terrible, but our priority in the face of hard choices will always be the university's core teaching and research mission"
    - The University further noted that if they were unable to sell the art, they would be forced to reduce faculty size by 30 percent
- In addition to immediate backlash to the decision from the general public, Massachusetts government, the Museum's leadership, and others, four of the museum's most prominent donors filed a lawsuit in July 2009 to prevent the sale of the museum[17]
  - The case was settled in June 2011 with the University stating that it had no further intention or plan to sell any artwork, and that the museum would remain a university museum open to the public. However, the University did not rule out potential alternative monetization strategies[17]
  - As a result of the settlement, the state's attorney general dropped its investigation into the propriety of the University's actions

National Academy Museum

"Scene on the Magdalene"
- Frederic Edwin Church

"Mt. Mansfield"
- Sanford Robinson Gifford

- In December 2008, the National Academy sold two Hudson River School paintings for approximately $13.5 million. The proceeds were used to bolster the academy's operating deficit (estimated in 2008 to be around $1 million on a $4 million annual budget) and begin renovations to allow the academy to place more of its 7,000-piece collection on exhibit[18]
  - The pieces, by prominent American artists Frederic Edwin Church and Sanford Robinson Gifford, were sold to an undisclosed private foundation with the stipulation that they be displayed publicly
  - The sale was approved by a 181-1 vote of the academy's members, which had previously voted against selling the institution's six-story mansion on Fifth Avenue and relocating[19]
- The AAMD responded by sanctioning the academy, urging its members to cut off all loans to the academy and forgo any collaborations
  - Prior to the sanctions, the academy had recently withdrawn its membership from the AAMD, citing that it does not function as a traditional museum and does not buy works of art but rather only acquires them through donations from its members
  - Due to the sanctions, the academy could only arrange minor shows and had to cancel a major planned exhibition as a result of other museums withdrawing their promised works[20]
- The sanctions were lifted twenty months later in October 2010 by a unanimous vote of the AAMD's board after the academy changed its governance structure to include outsiders on its board and developed a long-term financial and strategic plan that expanded the fundraising capabilities of the institution
  - The academy is currently on a 5-year probation period set to expire in 2015 during which time its conduct is being closely monitored by the AAMD but loans and other forms of collaboration between the academy and AAMD members may resume[21]

Thomas Jefferson University

"The Gross Clinic"
- Thomas Eakins

- In November 2006, Thomas Jefferson University's board voted to sell Thomas Eakins' "The Gross Clinic" for $68 million in order to fund the development of a new campus[22]
- The painting was originally purchased in 1878 by the school's alumni and was named by one art critic as the finest 19th century American painting
- The university cited its core purpose of educating students as justification in selling the artwork, noting that the money would be more useful for operational purposes[22]
- Although the National Gallery of Art and Crystal Bridges Museum were the original joint winning bidders, the university offered local museums an opportunity to match the price and retain the painting in Philadelphia
  - Following support from upset alumni and city residents, the Philadelphia Museum of Art and Pennsylvania Academy of the Fine Arts indicated that they would be able to jointly raise the necessary asking price, thereby matching the $68 million bid[23]
- In April 2007, shortly after the sale of "The Gross Clinic," the university sold a second Thomas Eakins painting to the Crystal Bridges Museum[24]
  - The purchase price was not disclosed, although the figure was estimated to be around $20 million
  - The decision to sell, while formally opposed by the school's alumni association, was supported by the school's faculty and staff

Fresno Metropolitan Museum of Art and Science

Fresno Metropolitan Museum of Art and Science
Credit: Craig Kohlruss (Fresno Bee)

- In January 2010, the Fresno Metropolitan Museum dissolved as a result of deteriorating financial performance and a default on $15 million of municipal debt incurred to finance an $28 million, 3-year building renovation project in 2005 [25]
- Following its close, the museum auctioned off its artwork and other assets, valued initially at approximately $3 million to $6 million, in order to repay creditors $4 million of debt still owed after foreclosure of the building[26]
  - Sotheby's conducted the majority of auction sales, raising approximately $2 million
  - Total recoveries for unsecured creditors were approximately 80 cents on the dollar[25]
- Prior to its decision to close, the museum considered filing for Chapter 11 bankruptcy, but after calculating potential costs and delays, instead chose to pursue a liquidation to benefit creditors[25]

Louvre (Louvre Abu Dhabi)

"Pyramid du Louvre"

- In March 2007, the French and Abu Dhabi governments entered into a 30-year, $1.3 billion branding, training and art exhibition agreement under which a new museum to be constructed in the Saadiyat Island Cultural District would bear the Louvre name and contain pieces loaned from the Louvre in Paris, among other considerations[27]
  - The agreement, approved by the French Parliament in October 2007, is comprised of:
    - $525 million paid to be associated with the Louvre name for 30 years;
    - $247 million for loans from the Louvre over a 10-year period (expected to be approximately 200 to 300 pieces);
    - $253.5 million for special exhibitions (4 exhibitions per year for 15 years);
    - $214.5 million for management advice for 20 years; and
    - $32.5 million as a donation from the city of Abu Dhabi to the Louvre to refurbish a wing for the display of international art
- The approximately 300-piece list of works to be loaned from France's museums is currently being compiled and will likely include a broad range of various disciplines, cultures and time periods
- The museum is expected to open in December 2015 as part of a planned cultural district which will also include a branch of New York's Guggenheim and a national museum
  - In May 2009, the Louvre Abu Dhabi opened its first exhibition to the public containing the institution's first 19 acquisitions[28]
  - A second exhibition opened in April 2013 featuring approximately 130 works acquired for the museum's permanent collection, including a previously unseen Picasso[29]

Appendix

H. Calculation of Pension UAAL in Disgorgement Scenario

Pension Disgorgement UAAL Calculation

- In the event that proceeds from the COP transaction are disgorged from the pension trusts on December 30, 2015, the GRS and PFRS pension plans' projected UAALs on June 30, 2023 would increase from $695 million to $1.9 billion and $681 million to $1.7 billion, respectively, assuming a 6.75% investment rate of return

GRS

Assumptions	
Net Transaction Proceeds	$739.8
Disgorgement Date	12/31/2015
End Date	6/30/2023
Assumed Investment Rate of Return	6.75%

	12/31/2015	12/31/2016	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021	12/31/2022	6/30/2023
Incremental Funding Deficit	$739.8	$789.7	$843.0	$899.9	$960.7	$1,025.5	$1,094.8	$1,168.7	$1,207.5

City Projected UAAL @ 2023	$695.0
Incremental UAAL Due to Disgorgement	1,207.5
Adjusted UAAL @ 2023	**$1,902.5**

PFRS

Assumptions	
Net Transaction Proceeds	$630.8
Disgorgement Date	12/31/2015
End Date	6/30/2023
Assumed Investment Rate of Return	6.75%

	12/31/2015	12/31/2016	12/31/2017	12/31/2018	12/31/2019	12/31/2020	12/31/2021	12/31/2022	6/30/2023
Incremental Funding Deficit	$630.8	$673.4	$718.9	$767.4	$819.2	$874.5	$933.5	$996.5	$1,029.6

City Projected UAAL @ 2023	$681.0
Incremental UAAL Due to Disgorgement	1,029.6
Adjusted UAAL @ 2023	**$1,710.6**

Appendix

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Exhibit 12

July 14, 2014 R. Cline Deposition Transcript (excerpted)

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

In Re:) Chapter 9
CITY of DETROIT, MICHIGAN,) Case No. 13-53846
Debtor.) Hon. Steven Rhodes

The Videotaped Deposition of ROBERT CLINE,
Taken at Jones Day
51 Louisiana Avenue, NW
Washington, DC
Commencing at 9:05 a.m.
Monday July 14, 2014,
Before Marjorie Peters, RMR, CRR

R. CLINE

A. I do not.

Q. Do you have any understanding of what activities the City will or will not perform in the restructuring scenario?

A. I do not know the specifics of any alternatives.

Q. Would raising the income tax rate be a reasonable policy for the City of Detroit?

A. I can't comment on the policy options for Detroit. We were not asked to evaluate those as part of our analysis.

Q. And so, you're offering no opinion that raising the income tax rate or property tax rates or utility tax rates or wagering tax rates or any of the other rates would be inappropriate or unreasonable, correct?

A. We were not asked to evaluate any tax policy alternatives for the City of Detroit.

Q. So, you're not offering any opinion saying that raising tax rates would be unreasonable, correct?

A. I'm not commenting on policy options for the City of Detroit.

Q. So, you're not offering -- I'm just trying to get an idea of what opinions you're offering. So, you're

R. CLINE

not offering an opinion that raising tax rates would be unreasonable, correct?

A. I'm not commenting on any tax policy options available to the City of Detroit.

Q. You know that question -- there could be a yes or no answer to that question, right?

A. My perspective is that we were asked to do revenue forecasts of the major revenue sources under current law. We were not asked nor did I volunteer information on alternatives available to the City of Detroit.

Q. Okay. So, you haven't done any work that will allow you to testify that raising tax rates would be unreasonable or inappropriate, correct?

A. I have not.

Q. And you haven't done any work that says that increasing tax revenues through increased collections would be --

(Telephone interruption.)

MR. STEWART: Just hit one. Thanks.

BY MR. SMITH:

Q. -- inappropriate or not feasible, correct?

A. He we have not evaluated tax policy opportunities -- alternatives for Detroit.

R. CLINE

Q. And you haven't done any work that would allow you to testify that Detroit couldn't just add new taxes, correct?

A. We have not.

Q. And you haven't done any work that would allow you to testify that Detroit couldn't generate significant additional revenue by either adding new taxes or increasing tax rates?

MR. STEWART: Objection.

MR. SMITH: Correct?

THE WITNESS: We were not asked to look at policy options for the City of Detroit.

BY MR. SMITH:

Q. And so, you haven't done any work that would allow you to testify that Detroit can't generate significant increased revenue through either increasing tax rates, increasing collections, or adding new taxes, correct?

MR. STEWART: Objection.

THE WITNESS: I think there may have been a double negative in there. Could you repeat the question?

BY MR. SMITH:

Q. You haven't done any work that will allow you

R. CLINE

to testify that Detroit can't significantly increase revenues by increasing tax rates or increasing tax collections or by adding new taxes, correct?

MR. STEWART: Objection.

THE WITNESS: We have done no analysis -- excuse me.

MR. STEWART: Go ahead.

THE WITNESS: We have done no analysis on tax policy options in Detroit.

BY MR. SMITH:

Q. So, the answer is correct, correct?

A. I am still having --

MR. STEWART: Reread the question.

THE WITNESS: Please, reread the question, I think the double negative is still there.

(The record was read back by the reporter.)

THE WITNESS: I believe the correct answer to that question is, as I mentioned, we have looked at the collection rate of the property tax. We calculated an effective collection rate, and we did use that in our forecast.

We did not -- were not asked to and did not provide forecasts under alternative policy options, whether it's a tax rate change or adoption of a new

R. CLINE

tax, or change, in the base of an existing tax.

BY MR. SMITH:

Q. So, you -- Ernst & Young concluded that the City could increase property tax revenues by increasing collections, correct?

A. In our forecast of the property tax revenues, we did vary the collection rate over time.

Q. And you increased the collection rate; is that correct, or do you not know?

A. From what I remember, we may have brought the collection rate down, in the intermediate run, and then brought it back up in the longer run.

Q. Okay. But you haven't -- you haven't done any work that would allow you to testify that Detroit can't significantly increase revenues by increasing tax rates, correct?

MR. STEWART: Objection.

THE WITNESS: All of our revenue estimates are based upon current law rates.

BY MR. SMITH:

Q. So, the answer to my question is correct? You haven't done the work?

MR. STEWART: Objection.

THE WITNESS: Could you repeat the

R. CLINE

question, please.

(The record was read back by the reporter.)

THE WITNESS: We accepted the current law tax rates as what was available to Detroit. To the extent that Detroit is at the maximum, and I believe it may be the case for all of those tax rates, it would imply that under current law, that option is not available.

BY MR. SMITH:

Q. But current law can change, correct?

A. Correct.

Q. And you would agree with me that if current law changes, Detroit can increase tax revenue significantly by increasing tax rates, correct?

MR. STEWART: Objection.

THE WITNESS: It is true that an increased rate, with no offsetting decrease in the base, could increase revenue, but if you were going to forecast the increase of a tax rate in Detroit, you would also have to forecast the potential decrease in the tax base with mobile people and investment.

BY MR. SMITH:

Q. And so, sitting here today, you haven't done the work that would allow you to testify that increasing

R. CLINE

tax rates wouldn't result in significant additional revenue for the City of Detroit, correct?

MR. STEWART: Objection.

THE WITNESS: As I believe I've answered several times, we did not evaluate alternative policies. We is accepted current law as the foundation for our forecast.

BY MR. SMITH:

Q. Okay. So the answer is correct, you didn't do that work, correct?

A. Would you rephrase the question.

Q. You didn't do any work that would allow you to testify that by increasing tax rates, Detroit would not increase substantially its tax revenues?

MR. STEWART: Objection.

THE WITNESS: We did not run alternatives with our model at different tax rates.

BY MR. SMITH:

Q. That's something that you could have done, right? That's technically feasible for you to do, correct?

A. We were not asked to do that analysis.

Q. Okay. But is it technically feasible for you to do an analysis like that?

R. CLINE

A. We would have to do additional work compared to what we have done to this point, because as I mentioned, it's not just changing the rate, it's also understanding the behavioral response of the base in response to the change in the rate. We are not set up to do that in our current runs.

Q. And you also haven't done the work that would allow you to testify that Detroit couldn't significantly increase revenues by adding new taxes, correct?

A. We have not analyzed the addition of new revenue sources for Detroit.

Q. Okay. The -- one potential new revenue source would be imposing the commuter tax, correct? That's a reasonable --

A. I don't know if it's legally available to Detroit as an option.

Q. Okay. But imposing a commuter tax is something that the City could either do by itself or in conjunction with the State, correct?

A. I don't know the answer to that.

Q. Okay. So, you haven't investigated whether Detroit could add a commuter tax, correct?

A. I have not.

Q. All right. Another potential -- that you know

R. CLINE

that there's cities, though, that have commuter taxes, right?

A. There are selected cities that tax non-residents who are working in the city, as Detroit does. Some at differential rates, some at the same rate.

Q. Okay. And they do that through a variety of mechanisms, correct?

A. I believe they look basically like income taxes.

Q. And sometimes they're parking lot-type -- you know, charges for fees for parking or other services that might disproportionately fall on non-residents?

MR. STEWART: Objection.

THE WITNESS: I'm not familiar with the details of those taxes.

BY MR. SMITH:

Q. All right. You know that some cities have a city-only sales tax, correct?

A. City-only sales tax. I believe that is the case.

Q. And you haven't investigated whether Detroit could increase revenues by adding a city-only sales tax, correct?

A. As I answered earlier, we did not analyze any

R. CLINE

revenue options for the City of Detroit.

Q. Okay. You only did the work that you were asked by the lawyers for the City to do, correct?

MR. STEWART: Objection.

THE WITNESS: We were given an assignment by Ernst & Young to provide a revenue estimate of the major tax sources for the City of Detroit over the next 10 years. Then it was expanded to an additional 30-year perspective. That is the job that we were asked to do, and that is what we did and is reported on in the expert report.

BY MR. SMITH:

Q. Who asked you to do that job?

A. That was a -- we were retained by the Ernst & Young team working in Detroit.

Q. Okay. So, it wasn't Mr. Malhotra that gave you the scope of the work that you were to perform in this case?

A. I believe our initial discussions of the scope of the work did come from him.

Q. Would it be fair to say that you haven't done any analysis of the full range of potential revenue sources available to the City?

MR. STEWART: Objection.

Exhibit 13

July 24, 2014 C. Sallee Deposition Transcript (excerpted)

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

In re)
) Chapter 9
CITY OF DETROIT, MICHIGAN,) Case No. 13-53846
Debtor.) Hon. Steven W. Rhodes

The videotaped deposition of CAROLINE SALLEE, called for examination pursuant to the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before GINA M. LUORDO, a notary public within and for the County of Cook and State of Illinois, at 77 West Wacker Drive, Suite 3500, Chicago, Illinois, on the 24th day of July, 2014, at the hour of 9:04 a.m.

Reported by: Gina M. Luordo, CSR, RPR, CRR
License No.: 084-004143

inaccurate to say I don't know the formula because there isn't a formula.

Q. Let me re-ask my question then.

Would it be fair to say you don't know the methodology used in setting the EVIP portion of the state revenue sharing?

A. I personally don't know why legislators decide to allocate a certain amount of money to Detroit. There is a -- there are three components to EVIP. There's supposed to be -- they're supposed to meet certain things in order to get the revenue, but what the legislature decides year to year to allocate is their discretion, so...

Q. Basically the amount of revenue sharing, would you agree, is a discretionary political decision by the legislature?

A. For EVIP, it is the discretion of the legislature.

Q. And it's a political decision. The amount of money that the legislature decides to give to cities is decided by people who are elected and make a political decision about how much money to give, correct?

A. People who are elected make that decision.

Q. And the decision about how much money the

City gets in state revenue sharing is a decision that's made in the political process, correct?

A. I wouldn't say that because there are two components.

Q. The EVIP portion of the state revenue sharing is generated by political process, correct?

A. In that the legislature and the legislature is part of the political process, yes.

Q. And the EVIP portion is the largest portion of the state revenue sharing, correct?

A. For the City of Detroit?

Q. Yes, for the City of Detroit.

A. That's correct.

Q. In your view, what are the biggest sources of untapped revenue for the City of Detroit?

A. I don't have an opinion on that.

Q. Do you have an opinion about how the City of Detroit could increase property tax revenues?

A. I do not.

Q. The City of Detroit has never asked you or anyone else at Ernst & Young to use your expertise to increase property tax revenues for them, correct?

A. Correct. We don't do specific tax policy recommendations.

Q. Okay. So you're offering no opinion about whether the City can increase tax revenues, correct?

A. I'm not offering an opinion about whether they can increase tax revenues.

Q. And you're not offering an opinion about whether the City can pay the creditors more money in the bankruptcy, correct?

A. I'm not offering an opinion on that.

Q. And you're not offering an opinion about how much revenue the City would have if the bankruptcy case is dismissed, correct?

A. That's correct.

Q. I mean -- and in fact, Ernst & Young's policy would prohibit you from offering opinions about how much -- whether the City can generate more tax revenue or increase tax rates or do other things like that, correct?

A. So Ernst & Young would not want us to make specific recommendations on tax policy the City of Detroit should pursue. We just do the analysis.

Q. And why doesn't Ernst & Young allow its staff to make recommendations about tax policy like that?

A. So the bulk of our business is providing auditing services, accounting services. We do, obviously, tax advisory. We prepare tax statements. Our business is not to consult in the policy realm in this way. And so I didn't make those decisions, but that's what I follow.

Q. Okay. So Ernst & Young is not in the business of offering tax policy advice to municipalities, correct?

A. So the work that I do, I do not provide specific policy recommendations. I don't know if other parts of EY offer, but I know as a whole, we don't make, say, specific tax policy recommendations.

Q. In the past, have you made tax policy recommendations to government in your other jobs?

A. In my other job, I would do the analysis around a policy change, and so I would provide my opinion sometimes about the change.

Q. I mean, you know that other cities have increased taxes to address fiscal distress to raise revenue, correct?

A. Some cities have done that, yes.

Q. And you're aware that cities have cut services in order to address fiscal distress and improve their fiscal situation?

A. Some cities have done that, yes.
Q. And you know that cities have added new fees for services in order to raise revenue to address fiscal distress, correct?
A. I don't know anything specifically.
Q. Do you know that other cities have imposed new taxes to raise revenue for -- to address fiscal distress?
A. That could be possible. I don't know of any specific instance.
Q. Do you know generally that there are a number of cities in the country now because of the recession we've had that are experiencing fiscal distress?
A. Yes, I'm aware of cities experiencing fiscal distress.
Q. In fact, you've worked for at least one other city that's experiencing fiscal distress in the state of Michigan, right?
A. That's right.
Q. And you know in the state of Michigan, there are multiple cities that are under the supervision of emergency managers because of fiscal distress, correct?
A. Correct.

Exhibit 14

July 22, 2014 K. Orr Deposition Transcript (excerpted)

KEVYN ORR, VOLUME 2

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE EASTERN DISTRICT OF MICHIGAN

In Re:) Chapter 9

CITY of DETROIT, MICHIGAN,) Case No. 13-53846

Debtor.) Hon. Steven Rhodes

VOLUME 2

The Videotaped Deposition of KEVYN ORR,
in his personal capacity and as Rule 30(b)(6) witness,
Taken at 2 Woodward Avenue,
Detroit, Michigan,
Commencing at 9:10 a.m.,
Tuesday, July 22, 2014,
Before Leisa M. Pastor, CSR-3500, RPR, CRR.

in the mediation.

MR. HACKNEY: Right, because he lacks foundation to speak to what the foundations thought. If I asked him what he understood them to have thought, you'll take the position that it would be based on what they told him?

MR. SHUMAKER: Correct, it all would have been derived from the mediation discussions.

MR. HACKNEY: Okay, and so I'll just note for the record, Mr. Shumaker, that this is the position that Ms. Kofsky (ph.), a cop, took in a prior deposition, and I understand the basis for it. I will let you know that I don't necessarily agree with it based on comments that Judge Rhodes made about how state of mind might work in the mediation context, but it doesn't matter because I feel like we're not going to work that out today anyway.

MR. SHUMAKER: Understood.

BY MR. HACKNEY:

Q. And I just want to understand you all's position on it. So just a couple big ones, if I ask you did you ever ask the foundations to contribute money with no strings attached you'll decline to ask answer that question, correct?

A. I think I have to.

Q. If I ask you did the foundations ever offer to contribute money without insisting on transfer of the art institute, you'll decline to answer that question, correct?

A. I think I have to.

Q. And if I ask you hey, who is it that imposed the condition on the Grand Bargain that the art institute would be transferred, was it you, or was it them, or was it Judge Rosen, you'll decline to answer those questions, correct?

A. I believe so.

Q. Mr. Orr, has the Grand Bargain -- which you know what I'm talking about, right?

A. Yes, the money we talked about before, the 366 million from the foundations, a $350 million value settlement from the State, and $100 million from the DIA benefactors as funneled through the Founders' Society.

Q. Correct, in exchange for the art -- in connection with the art being -- the DIA being conveyed into a public trust, correct?

A. Contributions targeted towards the two pension funds with the condition that not one piece of art be sold or de-assessed as a result of this process.

KEVYN ORR, VOLUME 2

Q. And the purpose of the transfer to a public trust is to ensure that the art is never sold to satisfy the claims of the City's creditors, correct?
A. Yes, now and forever, yes.
Q. Not only current creditors but future ones, as well?
A. Correct.
Q. So has the Grand Bargain, Mr. Orr, helped the COPs holders to achieve a higher recovery?
A. I don't think so.
Q. Mr. Orr, what are the principal terms of the LTGO settlement?
A. The LTGO settlement centers around a dedicated millage that's to extend for the next approximately 13 years, and the terms of a settlement that roughly 26 percent -- oh, the LTGO, I'm sorry --
Q. Yeah.
A. Okay, I'm sorry, I'm going -- I thought you were just talking about -- I'm doing it temporally --
Q. That's okay.
A. I'm sorry.
Q. I'm hopping around.
A. Okay.
Q. Let's start over.
A. Let's start over.

KEVYN ORR, VOLUME 2

Q. So let's set the stage. The LTGO settlement has been announced in the press, and there's some information that's kind of available about it, but I actually literally don't know --

A. Right.

Q. -- what the terms are, and there's been some suggestion that it's the continued subject of negotiations, so I want to give you a fair setup.

A. Yeah, that's -- that's why I was -- I can talk about UTGO...

MR. SHUMAKER: You can discuss what's made public.

A. Okay. The mediators issued a statement on the LTGOs, we did not, my office did not, recognizing that there was a settlement which, in part, dealt with a class of creditors, I think 170-some-odd-million dollars of claims, which would get an allowed claim in a certain amount. The -- I know from e-mails that I received as late as last night that some of the final details are still under discussion so I'm a little -- that was done in the mediation, so I don't want to run afoul of the mediation order as far as if you have a press release, I'll be happy to discuss about what's in the release but I don't know if I can discuss any more

KEVYN ORR, VOLUME 2

than that.

BY MR. HACKNEY:

Q. It's frankly been kind of confused on this, but I'll tell you what I know. First, it's my understanding that you do not have a final agreement with the LTGO; is that correct?

A. I think that is correct.

Q. What you have is what is loosely described as an agreement in principal on some but not all of the terms, correct?

A. I think that's fair.

Q. Now, the -- but the one thing I'm able to see, I'll tell you, in the expert reports is that Mr. Buckfire says that the $164 million of the unsecured portion of LTGO is getting $55 million in value of some form, okay? I'll represent to you you can see that in the exhibit. I'll also represent to you that somehow in Mr. Malhotra's work there is some implication that that is paid in 2015 under the forecasts, okay? I'm less sure on that one, okay?

A. Right.

Q. What I will tell you is that 55 million on 164 million of unsecured LTGO works out to a 34-cent recovery on that, okay? So -- and I'm -- this is going on and on,