

AFFIDAVIT

STATE OF Michigan

COUNTY OF Wayne

Mary Diane Bukowski being duly sworn according to law, deposes and attests under penalty of perjury to the following:

I, Mary Diane Bukowski, of the City of Detroit, State of Michigan, being first duly sworn on oath, state that:

1. I am over 18 years of age and competent enough to testify of my own knowledge of the facts stated herein.
2. All the facts stated by me herein are true, correct and complete to the best of my knowledge and understanding.
3. This affidavit is being provided as an addendum to my eligibility objection, Docket #440, filed August 19, 2013, in the bankruptcy case of the City of Detroit, Michigan Case No 13-53846, currently pending in front of the Honorable U.S. Bankruptcy Judge Steven W. Rhodes. I have also attached documents pertinent to my contentions.

I hereby attest to my personal and professional knowledge of matters related to what Detroit Emergency Manager Kevyn Orr, as well as the Detroit Free Press in its story of Sept. 15, 2013, "How Detroit Went Broke," have stated is a key factor in Detroit's debt crisis, namely the \$1.44 billion Pension Obligation Certificates loan from UBS AG and Siebert, Brandford & Shank, to the City of Detroit, floated in 2005 and renegotiated in 2006. The Detroit Free Press article says it amounts to \$2.8 billion over 20 years, and represents one-fifth of the city's debt. I believe from my direct observation and knowledge that this entire debt is the product of "unclean hands" and must be disallowed as a factor in considering the city's eligibility for bankruptcy.

I retired from the City of Detroit after 25 years in 1999. Subsequently, I became an investigative reporter whose stories were published for 10 years in the weekly Michigan Citizen. I personally covered and photographed the City Council hearings during which that debt was debated and eventually approved. I have continued to research and report on that matter during my current position as editor of the on-line newspaper, The Voice of Detroit.

Sentence #6 of my original objection cites civil matters still pending regarding the constitutionality of Public Act 436. The lawsuit filed by the Detroit pension funds has in fact since been remanded by U.S. District Judge Paul Borman to the 30th District Court of the State of Michigan and is therefore still extant, pending further events. The pension funds cite several aspects of PA 436 in their lawsuit and subsequent filings in this court which require the Emergency Manager to abide by the provisions of the State Constitution Art. 9, Sec. 24, protecting public pensions. Attorneys Jerome Goldberg (representing David Sole) and Michael Karwoski (representing himself as a retiree) have also cited these aspects in their eligibility objections.

While not acknowledging that PA 436 is constitutional, I wish to cite another portion of PA 436, since it is the act under which this Honorable Court has recognized Mr. Orr as the representative of the City of Detroit. That section is "141.1556: Criminal conduct contributing to receivership status. Sec. 16. An emergency manager shall, on his or her own or upon the advice of the local inspector if a local inspector has been retained, make a determination as to whether possible criminal conduct contributed to the financial situation resulting in the local government's receivership status. If the emergency manager determines that there is reason to believe that criminal conduct has occurred, the manager shall refer the matter to the attorney general and the local prosecuting attorney for investigation."

EM Kevyn Orr himself stated in his June 14 Proposal to Creditors, "The City has identified certain issues related to the validity and/or enforceability of the COPS that may warrant further investigation. COPS (or Certificates of Participation) is another term for Pension Obligation Certificates (POC's). However, despite my direct questions to Mr. Orr during press conferences on March 14, 2013, when he was installed, and June 14, 2013, during his first meeting with Creditors, regarding whether he intended to investigate the issuance of the POC's, he has refused, or at the very least failed, to do so.

On Jan. 31, 2005, I was present to report on a City Council session during which Mayor Kwame Kilpatrick's Chief Financial Officer Sean Werdlow and his Deputy Mayor Anthony Adams strongly recommended that the Council pass the POC debt. It was highly controversial, and opposed at first by Council members Maryann Mahaffey, Sharon McPhail, Joann Watson, and Barbara Rose-Collins. Council President Ken Cockrel, Jr. went so far as to force recalcitrant Council members to the table by sending police to their homes to ensure a quorum, as testified to at the meeting.

Numerous representatives of the pension boards as well as union officials, retirees and city workers spoke against what they said was an extremely

risky proposition, citing the vicissitudes of Wall Street dealings.

CFO Sean Werdlow introduced Stephen Murphy of Standard and Poor's and Joe O'Keefe of Fitch Ratings to the Council, saying "It took a lot to get them here." Indeed, it appeared extremely strange that Wall Street ratings agency representatives would come to the City Council themselves to advocate for bank loans, since they allegedly "impartially" rate debt. I photographed Werdlow, Murphy, O'Keefe, and Adams at the table as they advocated for the debt and my stories on that session and others were published in the Michigan Citizen.

The POC debt was eventually passed unanimously by the City Council after threats of lay-offs by Mayor Kilpatrick and bond downgrades by the ratings agencies. It was a disaster. The stock market tanked in 2008. The City defaulted on a \$400 million POC debt payment in 2009 and subsequently agreed to allow taxes rendered by the city's casinos to be given to the U.S. Bank of North America as collateral on the debt. That agreement is the subject of the Forbearance Agreement before this court which would terminate swaps related to the debt.

My contention, however, goes beyond that Forbearance Agreement to the entire POC debt itself. In November of 2005, Sean Werdlow became a Managing Director at Siebert, Brandford and Shank, a position which he retains to this day. In 2006, the POC debt was re-negotiated by the same parties, UBS and Siebert, Brandford and Shank, according to documents I pulled from those released to David Sole under the Freedom of Information Act. Siebert, Brandford and Shank continues to issue much of the city's debt according to those same documents. This is direct evidence of "unclean hands." Mr. Werdlow's hiring by Siebert, Brandford and Shank was clearly a quid pro quo. The role of Stephen Murphy and Joe O'Keefe in advocating for that debt as representatives of Wall Street ratings agencies is similarly questionable.

I believe Mr. Orr as well has "unclean hands" in this matter since he has acknowledged both the primacy of the POC debt in the City's crisis, and "questions relating to the validity or enforcability of the debt." In addition to responses to my questions, he has acknowledged during his deposition, which I pulled from the city's website, that he is aware of various indictments and civil matters brought against UBS and its swaps partner Bank of America over the past several years, during questioning by attorney Jerome Goldberg. Yet he has done nothing as he is obligated to do under PA 436, the state law which this Court has acknowledged gives him authority to represent the City of Detroit, "to make a determination as to whether possible criminal conduct contributed to the financial situation resulting in the local government's receivership status."

I therefore believe the entire \$2.8 billion in Pension Obligation Certificates debt, along with all related swaps, hedges and penalties, must be removed from consideration in this bankruptcy case, and a criminal investigation must be launched involving all parties involved, before any eligibility for bankruptcy can be determined.

(Printed Name of Affiant) Mary Diane Bukowski

(Signature of Affiant)

(Address of Affiant) 9000 E. Jefferson #10-9, Detroit, Michigan 48214

NOTARY CERTIFICATION

SWORN to and subscribed before me, this the ____ day of _____,
20____.

NOTARY PUBLIC

My Commission Expires:
