

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

<p>In re: City of Detroit, Michigan, Debtor.</p>	<p>Bankruptcy Case No. 13-53846 Judge Thomas J. Tucker Chapter 9</p>
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**CITY OF DETROIT’S STATUS REPORT ON BANKRUPTCY CASE**

On December 7, 2023, the Court entered its *Order Requiring the City to File a Further Status Report by June 3, 2024* (“Order,” Doc. No. 13855). The Order provided that the City of Detroit (“City”) must file a further status report by June 3, 2024, updating the November 30, 2023, status report (“Previous Status Report,” Doc. No. 13837), and “discussing whether this Chapter 9 bankruptcy case then should be closed, and if not, why not, and if not, when the City contends that the case will be ready to be closed.” Order. The City files this Report in accordance with the Order, respectfully stating as follows.

**I. INTRODUCTION**

The bankruptcy case may be closed when case administration is complete, subject to the retained jurisdiction of the Court over the case for as long as necessary for the successful implementation of the Plan. 11 U.S.C. § 945. Although the City continues to make progress in this case, aided by rulings by this Court, critical matters remain pending before case administration can be considered complete. This Report summarizes those known and reasonably foreseeable matters.



**First**, the City still must distribute New B Notes<sup>1</sup> to the Holders of Allowed Class 14 Other Unsecured Claims. On May 20, 2022, the Court entered an order approving the first and final distribution to Holders of Allowed Class 14 Other Unsecured Claims (“Distribution Order”) [Doc. No. 13570]. The City is prepared to make this distribution following final resolution of matters filed by Richard Wershe, Jr. which are described in greater detail below.

**Second**, the matter of the attempt by the Police and Fire Retirement System (“PFRS”) to drastically shorten the amortization term for the City’s unfunded actuarial accrued liability (“UAAL”) remains pending on appeal. In November of 2021, the PFRS adopted a 20-year amortization period in violation of the 30-year period required under the City’s Plan of Adjustment. By November 2023, two years later, this Court had ruled that the PFRS’s actions contravened the City’s Plan and had denied the PFRS’s motion to reconsider. The PFRS has appealed, which appeal remains pending.

Thus, the City asks this Court not to close this bankruptcy case at this time. The City instead asks that the Court require that the City file a status report in six months so that the Court can evaluate the status of the case at that time.

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<sup>1</sup> Terms that are capitalized but not defined in this Report have the meanings ascribed to them in the City’s *Eighth Amended Plan for the Adjustment of Debts of the City of Detroit* (“Plan of Adjustment”), as filed as Docket Number 8045 and confirmed with minor modifications by this Court’s order filed at Docket Number 8272.

The City provides the below update on the status of the bankruptcy case in accordance with the Order. The City is available and willing to address any questions the Court may have regarding this Report or the continuing administration of this case.

## **II. BACKGROUND**

### **A. The Distribution Process**

1. On September 17, 2019, the City filed the *City of Detroit's Motion to Implement Distributions of B Notes to Holders of Allowed Class 14 Claims Under the City's Confirmed Plan of Adjustment* [Doc. No. 13126] ("Brokerage Motion") to establish procedures for the *pro rata* distribution of New B Notes to Holders of Allowed Class 14 Claims.

2. The Court approved the Brokerage Motion, entering its *Order Granting the City of Detroit's Motion to Implement Distributions of B Notes to Holders of Allowed Class 14 Claims Under the City's Confirmed Plan of Adjustment* [Doc. No. 13173] ("Brokerage Order"). The Brokerage Order approved certain forms and required Claimholders to return these forms properly filled out in order to participate in Distributions on claims against the City. Brokerage Order, ¶¶ 2, 6.

3. On November 24, 2021, the City filed its *Motion to Establish Procedures for Distribution of New B Notes to Holders of Allowed Class 14 Claims Under the City's Plan of Adjustment* [Doc. No. 13476] ("Procedures Motion"). The

Procedures Motion was filed to establish procedures if a distribution to a Claimholder failed. On December 22, 2021, this Court entered an order granting the Procedures Motion. [Doc. No. 13488.]

4. On March 16, 2022, the City filed its *Motion for an Order (A) Approving First and Final Distribution of New B Notes to Holders of Allowed Class 14 Claims Under the City's Plan of Adjustment and (B) Granting Other Related Relief* [Doc. No. 13521] ("Distribution Motion"). The Distribution Motion provided "interested parties the opportunity to review the planned Distribution and to timely raise any concerns they may have or be permanently and forever barred, estopped, and enjoined from raising any objection to the proposed first and final Distribution or asserting any Class 14 Claim against the City or any of its property." Distribution Motion, p. 3. The Distribution Motion included, as Exhibit 6-B, a list of all Holders of Allowed Class 14 Claims whom the City believed were entitled to receive a distribution under the Plan.

5. The City received informal objections to the Distribution Motion, which resulted in a few Claims being added to Exhibit 6-B. A revised Exhibit 6-B, reflecting these changes, was attached to the City's certification to the Court that no timely formal objections were received to the Distribution Motion and that all informal objections had been resolved. [Doc. No. 13568.]

6. The Court approved the Distribution Motion by entering the Distribution Order. In the Distribution Order, the Court found that the revised Exhibit 6-B contains a complete and exhaustive list of Allowed Class 14 Claims and that only claims on the revised Exhibit 6-B will receive Distributions under Class 14 of the Plan. Distribution Order, ¶ 2. The Distribution Order further states that “no other alleged Holder of a Class 14 Claim will be entitled to a Distribution under the Plan, and each such other alleged Holder of a Class 14 Claim will be permanently estopped, barred, and enjoined from seeking a Distribution or any other relief from the City or any of its property.” *Id.*, ¶ 8.

7. Since then, the City has entered into additional stipulations, each approved by order of this Court, with each effecting minor adjustments to the planned distribution. [Doc. Nos. 13621, 13622, 13650, 13654.]

8. The City has also responded, and continues to respond, to questions from Holders who have asserted that the brokerage account initially indicated on their Brokerage Account Form had closed due to inactivity.

9. The City is prepared to make its first and final distribution to Holders of Allowed Class 14 Claims upon full and final resolution of the Wershe Cases and Wershe Filings (defined below).

## **B. Outstanding Motions and Issues**

### **1. Motion to Enforce Against Richard Wershe and Richard Wershe's Motion to File a Late Claim**

10. On July 20, 2021, almost three years ago and more than seven years after the bar date, Richard Wershe Jr. filed case number 4:21-cv-11686-FKB-KGA (“City Wershe Case”) against the City in the District Court for the Eastern District of Michigan (“District Court”), seeking monetary damages on account of events he alleged occurred a decade or more before the City filed for bankruptcy. Wershe also filed case number 4:22-cv-12596-FKB-KGA against the United States (“US Wershe Case,” and with the City Wershe Case, the “Wershe Cases”) in the District Court.

11. On January 4, 2022, the City filed its *Motion for the Entry of an Order Enforcing the Bar Date Order and Confirmation Order Against Richard Wershe Jr.* [Doc. No. 13491] (“Wershe Motion to Enforce”).

12. On May 9, 2022, Wershe filed *Richard Wershe, Jr's Motion for Entry of Notice of Claim After Bar Date* [Doc. No. 13560] (“Motion to File Late Claim,” and with the Wershe Motion to Enforce, the “Wershe Filings”), seeking leave to file a \$100 million unsecured claim against the City over eight years after the bar date.

13. The City and Mr. Wershe filed additional related papers as directed by the Court. [Doc. Nos. 13572, 13643, 13655.]

14. On September 18, 2023, the District Court dismissed both Wershe Cases. Mr. Wershe promptly appealed (the “Wershe Appeal”).

15. Shortly thereafter, this Court entered an order permitting the City and Wershe to file briefs discussing what effect dismissal of the Wershe Cases should have on the Wershe Filings. [Doc. No. 13742.] The City and Wershe filed the permitted briefs. [Doc. Nos. 13756, 13791.]

16. On April 19, 2024, the Court issued two opinions and two orders. In the first opinion, the Court found that the District Court's dismissal of the Wershe Cases conclusively determined that Mr. Wershe had no claim against the City. [Doc. No. 13900.] Collateral estoppel thus prevented Mr. Wershe from filing a claim in the City's bankruptcy case, mandating denial of the Motion to File Late Claim. *Id.* The Court's order was consistent with that opinion. [Doc. No. 13901.]

17. In the second opinion, the Court noted that the Wershe Motion to Enforce was partly, but not entirely, mooted by the District Court's actions. [Doc. No. 13902.] The Court found that it would be more practical to wait for the Sixth Circuit to determine the merits of the Wershe Appeal than to require Mr. Wershe to dismiss it. *Id.* The Court thus denied the Wershe Motion to Enforce as well. The Court's order was consistent with that opinion. [Doc. No. 13903.]

18. In both opinions, the Court noted if the Wershe Appeal should be successful in whole or part, then the parties may resume litigation as to whether Mr. Wershe should be permitted to file a claim. If, however, the Sixth Circuit affirms the District Court in the Wershe Appeal, then the matter is conclusively resolved.

19. Thus, the City awaits the Sixth Circuit’s determination, after which it hopes it will be able to commence distributions on the Class 14 Claims.

## **2. Motion to Enforce Against the PFRS**

20. In November 2021, the PFRS officially adopted a drastic acceleration of the amortization of the unfunded actuarial accrued liability (“UAAL”) of the PFRS Component II (legacy) plan. This action violated the Plan of Adjustment and threatened the City’s full and successful implementation of the Plan of Adjustment.

21. The City filed a motion with this Court to enforce the Plan of Adjustment against the PFRS [“UAAL Motion,” Doc. No. 13602]. A response and a reply were filed [Doc. Nos. 13634, 13663] along with additional related filings [Doc. Nos. 13677, 13678, 13681.] A hearing was held on March 15, 2023.

22. On June 26, 2023, the Court granted the City’s UAAL Motion. [Doc. Nos. 13704-06.] The PFRS moved this Court for reconsideration on July 10, 2023. [Doc. No. 13707.] The Court ordered the City to file a response, which the City did. [Doc. Nos. 13709, 13715.] The PFRS moved for leave to reply. [Doc. No. 13723.]

23. On November 22, 2023, the Court entered an order granting the PFRS’s motion for leave to reply and denying its motion for reconsideration, along with an opinion explaining its reasoning. [Doc. No. 13831, 13832.]

24. The PFRS filed a notice of appeal. [Doc. Nos. 13838, 13840, 13842, 13845, 13846, 13849, 13851, 13853.] On March 11, 2024, the PFRS filed its



appellant brief. On May 6, 2024, the City filed an appellee brief. On May 20, 2024, the PFRS filed a reply brief. The appeal remains pending in the District Court.

### **3. Motion to Enforce Against Chancellor**

25. On April 8, 2023, the City filed its *City of Detroit's Motion for the Entry of an Order Enforcing the Bar Date Order and Confirmation Order Against Darell Chancellor* ["Chancellor Motion to Enforce," Doc. No. 13691]. The City asserted that lawsuits filed by Chancellor violated the Plan of Adjustment and Bar Date Order.

26. The Court held a hearing and entered an order granting the Chancellor Motion to Enforce on October 4, 2023. [Doc. No. 13751.]

27. Chancellor filed an amended notice of appeal of this order. [Doc. No. 13777.] Chancellor filed an appellant brief on January 18, 2024. The City filed an appellee brief on February 14, 2024. No reply brief was timely filed.

28. The appeal remains pending in the District Court.

### **C. Matters Resolved Since Last Report**

#### **1. Motion to Enforce Against Cadoura, Nixon, and Craighead**

29. In August and October 2023, the City filed three separate motions to enforce. [Doc. Nos. 13713, 13722, and 13803]. Each of these motions has been withdrawn without prejudice or otherwise resolved pursuant to an order of this Court. [Doc. Nos. 13882, 13886, and 13890].

## 2. Resolution of the Cain Claim.

30. As of the filing of the Previous Status Report, only one claim remained to be liquidated, claim number 799 of Daryl Cain (“Cain Claim”). The Cain Claim was in the process of being liquidated in the District Court.

31. Since that time, the City and Darryl Cain stipulated to a resolution of his claim. [Doc. No. 13887.] The parties agreed that the Cain Claim would be allowed as a \$25,000 Class 15 Claim. *Id.*

32. The Court approved this stipulation. [Doc. No. 13888.]

### III. THIS CASE HAS NOT BEEN “FULLY ADMINISTERED”

33. In the City’s confirmed Plan of Adjustment, the Court retained jurisdiction to “[e]nter a final decree closing the Chapter 9 Case pursuant to section 945(b) of the Bankruptcy Code[.]” Plan, Art. VII.P (Doc. No. 8045, p. 78 of 82; Doc. No 8272, p. 211 of 225).

34. Section 945(b) states that “Except as provided in subsection (a) of this section, the court shall close the case when administration of the case has been completed.” 11 U.S.C. § 945(b). Subsection (a) states that a bankruptcy court may retain jurisdiction for whatever time is necessary for successful plan implementation. 11 U.S.C. § 945(a).

35. The Bankruptcy Code does not explain when administration of a chapter 9 case is complete and, to the City’s knowledge, only one reported decision

has addressed the question. *In re Lake Lotawana Cmty. Improvement Dist.*, Case No. 10-44629-can9; 2017 WL 1968282 (Bankr. W.D. Mo. May 11, 2017).

36. The *Lake Lotawana Community Improvement District* court noted that neither the Bankruptcy Code nor the Bankruptcy Rules offer guidance as to when a chapter 9 case has been administered. *Id.* at \*2. The court then observed

Returning to § 945(b) then, cannons of statutory construction require that when Congress does not define a term, courts must give it its ordinary meaning. *Taniguchi v. Kan Pac. Saipan, Ltd.*, 566 U.S. 560, 566 (2012). Black's Law Dictionary defines "administration" as the "judicial action in which a court undertakes the management and distribution of property." Black's Law Dictionary 49 (9th ed. 2009).

*Id.* at \*3.

37. Thus, the court determined that a case is administered when there is no longer anything for the court to manage in the case. *Id.*

38. In this case, there are several matters that must be addressed prior to the closing the case. New B Notes must be distributed to Class 14 Claim Holders in accordance with the Distribution Order, which distribution likely must wait until the Wershe Appeal regarding the Wershe Filings is resolved in the Sixth Circuit. The PFRS appeal must also be resolved. These issues prevent the City's bankruptcy case from being closed at this time.

#### IV. CONCLUSION

39. For the reasons described above, the City respectfully asks that the Court not close this bankruptcy case at this time. Instead, the City requests that the Court require the City to file another status report in six months so that the City and this Court can reevaluate the status of the case then. The City is available and willing to address any questions the Court may have regarding this Report or the continuing administration of this case.

Dated: June 3, 2024

MILLER, CANFIELD, PADDOCK AND  
STONE, P.L.C.

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**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

In re:

City of Detroit, Michigan,  
Debtor.

Bankruptcy Case No. 13-53846

Judge Thomas J. Tucker

Chapter 9

**CERTIFICATE OF SERVICE**

I hereby certify that on June 3, 2024, I electronically filed the *City of Detroit's Status Report on Bankruptcy Case* with the Clerk of the Court via the Court's ECF electronic filing system which will serve notice to all ECF participants.

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Dated: June 3, 2024