

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

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

**DEBTOR'S SEVENTH OMNIBUS OBJECTION TO CERTAIN CLAIMS**

**(Wrongly Classified Claims)**

**THIS OBJECTION SEEKS TO RECLASSIFY CERTAIN FILED PROOFS OF CLAIM AS GENERAL UNSECURED CLAIMS OR OTHER SUCH UNSECURED CLAIMS AS PROVIDED FOR THE CITY'S SIXTH AMENDED PLAN FOR THE ADJUSTMENT OF DEBTS OF THE CITY OF DETROIT. CLAIMANTS RECEIVING THIS OBJECTION SHOULD CAREFULLY REVIEW THIS OBJECTION AND LOCATE THEIR NAMES AND CLAIMS ON THE EXHIBIT ATTACHED TO THIS OBJECTION.**

The Debtor, the City of Detroit (the "City"), by and through its undersigned counsel, for its objection to claims (the "Objection") and its request for an order reclassifying certain wrongly classified claims as general unsecured claims or other such unsecured claims as provided for in the City's Sixth Amended Plan for the Adjustment of Debts of the City of Detroit (the "Plan"), substantially in the form attached hereto as Exhibit 1, respectfully states as follows:



## **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this Objection 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.

## **BACKGROUND FACTS**

2. On July 18, 2013 (the “Petition Date”), the City filed a petition for relief in this Court, thereby commencing the largest chapter 9 bankruptcy case in history.

3. Information regarding the City’s economic challenges and the events leading up to the filing of this case can be found in the *Declaration of Kevyn D. Orr in Support of City of Detroit, Michigan's Statement of Qualifications Pursuant to Section 109(c) of the Bankruptcy Code* filed on July 18, 2013 (Docket No. 11).

4. On December 5, 2013, this Court held that the City was eligible for relief under chapter 9 of the Bankruptcy Code. *See Order for Relief Under Chapter 9 of the Bankruptcy Code* (Docket No. 1946).

5. On November 21, 2013, this Court issued its *Order, Pursuant to Sections 105, 501, and 503 of the Bankruptcy Code and Bankruptcy Rules 2002 and 3003(c), Establishing Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof* (Docket No. 1782) (the “Bar Date Order”) establishing deadlines to file certain proofs of claim in this case. The Bar Date Order set the deadline to file proofs of claim as February 21, 2014 at 4:00 p.m., Eastern Time (the “Bar Date”).

6. On July 9, 2014, this Court entered its *Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 3007 Approving Claim Objection Procedures* (Docket No. 5872) (the “Claims Procedures Order”), allowing the City to file an omnibus objection with respect to wrongly classified claims.

### **RELIEF REQUESTED**

7. The City files this Objection pursuant to the Bar Date Order, Sections 502(b) and 503(b)(9), of the Bankruptcy Code<sup>1</sup>, Rule 3007(c) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and the Claims Procedures Order, seeking entry of an order reclassifying the claims set forth in Exhibit 2 annexed hereto as general unsecured claims or other such unsecured claims as provided for in the Plan (the “Wrongly Classified Claims”). These Wrongly Classified Claims were filed as Section 503(b)(9) claims but do not meet the requirements of that section of the Bankruptcy Code.

8. Other than seeking reclassification of the Wrongly Classified Claims as general unsecured claims or other such unsecured claims as provided for in the Plan, this Objection does not address the substance of the Wrongly Classified Claims. Accordingly, the Objection does not constitute any admission or determination as to any fact concerning any of the Wrongly Classified Claims, other than the City’s position that such claims do not meet the requirements for 503(b)(9) treatment. The City reserves all of its rights to object, on any basis, to any of the Wrongly Classified Claims, beyond those bases set forth in this Objection.

### **BASIS FOR RELIEF REQUESTED**

9. Section 503(b)(9) allows creditors to file claims for goods which were (a) received by the debtor in the 20 days prior to the bankruptcy filing, and (b) sold to the debtor in the ordinary course of the debtor’s business. 11 U.S.C. § 503(b)(9). Claims which meet the requirements of § 503(b)(9) are entitled to the same priority as administrative expenses, rather than that of general unsecured claims.

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<sup>1</sup> Sections 502 and 503 of the Bankruptcy Code are made applicable to Chapter 9 proceedings through Section 901(a) of the Bankruptcy Code.

10. As such, under the plain language of § 503(b)(9), only claims for goods received by the City in the 20 days prior to the Petition Date, and which were sold to the City in the ordinary course of its business are proper 503(b)(9) claims.

11. The City has reviewed the Wrongly Classified Claims and confirmed that each Wrongly Classified Claim fails to meet the requirements of Section 503(b)(9). Specifically, based upon the stated basis for each such filed Wrongly Classified Claim, none of the Wrongly Classified Claims are for goods received by the City in the 20 days prior to the Petition Date, and which were sold to the City in the ordinary course of its business. Exhibit 2 lists the stated basis of each of the Wrongly Classified Claims and the Declaration of John Naglick, a Finance Director with the City of Detroit (the “Declaration”) confirms that they were not for shipments of goods received by the City in the 20 days prior to the Petition Date which were sold to the City in the ordinary course of its business. *See Declaration of John Naglick*, attached hereto as Exhibit 3.

12. The Claims Procedures Order and Bankruptcy Rule 3007(c) allows the City to file this Objection as an omnibus objection. Specifically, Bankruptcy Rule 3007(c) authorizes the Court to allow for omnibus objections beyond those circumstances itemized in Bankruptcy Rule 3007(d) and the Claims Procedures Order expressly permits the City to file an omnibus objection with respect to claims which are wrongly classified. (Claims Procedures Order at 2.)

13. This Court has the authority to enter an order approving this Objection. Moreover, the streamlined process afforded by an omnibus objection (in lieu of individual objections to each Wrongly Classified Claim), as well as the proper classification of such claims will result in material costs savings that will inure to the benefit of the City. Furthermore, the relief sought ensures that an important goal of the Bankruptcy Code is met: equal treatment of

similarly situated creditors. Only creditors who have valid 503(b)(9) claims are entitled to the treatment afforded to those claims. The Wrongly Classified Claims do not meet the requirements of 503(b)(9) and should not receive such treatment. Accordingly, the City believes that the relief sought by this Objection is in the best interests of the City and its creditors.

14. Based upon the foregoing, the City seeks entry of an order, substantially in the form annexed hereto as Exhibit 1, reclassifying the Wrongly Classified Claims as general unsecured claims or other such unsecured claims as provided for in the Plan. Accordingly, pursuant to section 502(b) of the Bankruptcy Code and Bankruptcy Rule 3007(c), the Court should grant the relief requested.

#### **SEPARATE CONTESTED MATTERS**

15. To the extent that a response is filed regarding any claim listed in this Objection and the City is unable to resolve the response, each one of such claims, and the objection by the City to each one of such claims asserted, shall constitute a separate contested matter as contemplated by Bankruptcy Rule 9014. Any order entered by the Court regarding an objection asserted in this Objection shall be deemed a separate order with respect to each claim.

#### **RESERVATION OF RIGHTS**

16. The City files this Objection without prejudice to or waiver of its rights pursuant to section 904 of the Bankruptcy Code, and nothing herein is intended to, shall constitute or shall be deemed to constitute the City's consent, pursuant to section 904 of the Bankruptcy Code, to this Court's interference with (a) any of the political or governmental powers of the City, (b) any of the property or revenues of the City or (c) the City's use or enjoyment of any income-producing property.

### **NOTICE**

17. The City has provided notice of this Objection to each of the claimants identified in Exhibit 2 at each address set forth in Exhibit 2, and all other parties who have requested notice pursuant to Bankruptcy Rule 2002. Each address reflects the address set forth by each of the claimants on its respective proof of claim. In light of the nature of the relief requested, the City respectfully submits that no other or further notice of the relief requested in this Objection need be given.

### **NO PRIOR REQUEST**

18. No previous request for the relief requested herein has been made to this or any other court.

WHEREFORE, the City respectfully requests that this Court enter an order, substantially in the form annexed hereto as Exhibit 1, granting the relief requested herein and granting the City such other and further relief as this Court may deem just and proper.

Dated: August 29, 2014

FOLEY & LARDNER LLP

By: /s/ Tamar N. Dolcourt  
John A. Simon (P61866)  
Tamar N. Dolcourt (P73425)  
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Detroit, MI 48226  
313.234.7100  
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*Counsel for the Debtor, City of Detroit,  
Michigan*

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

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

**NOTICE OF DEBTOR’S SEVENTH OMNIBUS OBJECTION TO CERTAIN CLAIMS  
(Wrongly Classified Claims)**

<p><b>PLEASE CAREFULLY REVIEW THIS OBJECTION AND THE ATTACHMENTS HERETO TO DETERMINE WHETHER THIS OBJECTION AFFECTS YOUR CLAIM(S).</b></p>
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PLEASE TAKE NOTICE THAT the Debtor, the City of Detroit, (the “City”), by and through its undersigned counsel, has filed an objection to certain wrongly classified claims (the “Seventh Omnibus Objection”) and for an order disallowing and expunging such claims.

**YOUR CLAIM MAY BE REDUCED, MODIFIED OR ELIMINATED.**  
**PURSUANT TO FED. R. BANKR. P 3007(e)(1) AND PRIOR ORDERS OF THIS**  
**COURT, YOU SHOULD REVIEW EXHIBIT 2 OF THE SEVENTH OMNIBUS**  
**OBJECTION TO FIND YOUR NAME AND CLAIM. YOU SHOULD READ THESE**  
**PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU**  
**HAVE ONE.**

If you do not want the court to eliminate or change your claim, or grant the relief request in the Seventh Omnibus Objection, then on or before **September 24, 2014**, you or your lawyer must:

1. File with the court, at the address below, a written response to the objection. Unless a written response is filed and served by the date specified, the court may decide that you do not oppose the objection to your claim.

Clerk of the Court  
United States Bankruptcy Court  
211 W. Fort Street, Suite 2100  
Detroit, MI 48226

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

2. A copy of your response must also be mailed to counsel for the City:

John A. Simon  
Tamar N. Dolcourt  
Foley & Lardner LLP  
500 Woodward Ave., Ste. 2700  
Detroit, MI 48226

3. You must also attend the hearing on the objection scheduled to be held on **October 1, 2014** at 10:00 a.m. in Courtroom 716, Theodore Levin Courthouse, 231 W. Lafayette, Detroit, MI 48226 unless your attendance is excused by mutual agreement between yourself and the objector's attorney.

**If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim, in which event the hearing will be canceled and the objection sustained.**

Date: August 29, 2014

FOLEY & LARDNER LLP

By: /s/ Tamar N. Dolcourt  
John A. Simon (P61866)



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*Counsel for the Debtor, City of Detroit,  
Michigan*

**EXHIBIT 1: PROPOSED ORDER**

**IN THE UNITED STATES BANKRUPTCY COURT  
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	:	Hon. Steven W. Rhodes
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**ORDER GRANTING DEBTOR'S  
SEVENTH OMNIBUS OBJECTION TO CERTAIN CLAIMS  
(Wrongly Classified Claims)**

Upon the seventh omnibus objection to claims, dated August 29, 2014 (the "Objection"),<sup>2</sup> of the Debtor, City of Detroit, Michigan, (the "City"), seeking entry of an order reclassifying certain wrongly classified claims as general unsecured claims or other such unsecured claims as provided for in the Plan; and it appearing that this Court has jurisdiction over the Objection pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Objection in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that the relief requested in the Objection is in the best interests of the City, and its creditors; and due and proper notice of the Objection having been given as provided in the Objection; and it appearing that no other or further notice of the Objection need be given; and a hearing on the Objection having been held before the Court; and any objections to the Objection having been overruled or withdrawn; and the Court finding that the legal and factual bases set forth in the Objection and at the hearing establish just cause for the

relief granted; and after due deliberation and good and sufficient cause appearing therefore; it is hereby

ORDERED, DECREED AND ADJUDGED that:

1. The Objection is granted as set forth herein.
2. All of the proofs of claim listed on Exhibit 2 annexed hereto are reclassified as general unsecured claims or other such unsecured claims as provided for in the Plan.
3. None of the proofs of claims listed on Exhibit 2 are entitled to the treatment provided for in Section 503(b)(9) of the Bankruptcy Code.
4. The City's claims agent is hereby authorized to update the claims register to reflect the relief granted in this Order.
5. The City is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Objection.
6. Nothing contained in the Objection or this Order constitutes any admission or determination as to any fact concerning any of the Wrongly Classified Claims by the City. The City reserves all of its rights to object to any of the Wrongly Classified Claims on any basis.
7. Each claim and the objections by the City to each claim as addressed in the Objection and set forth in Exhibit 2 constitutes a separate contested matter as contemplated by Bankruptcy Rule 9014. This Order shall be deemed a separate order with respect to each claim. Any stay of this Order shall apply only to the contested matter that involves such creditor and shall not act to stay the applicability or finality of this Order with respect to the other contested matters covered hereby, and further provided that the City shall have the right to submit a separate order with respect to contested matters or claims.

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Objection.

8. Notice of the Objection as provided therein is good and sufficient notice of such objection, and the requirements of Bankruptcy Rule 3007(a) and the local rules of the Court are satisfied by such notice.

**EXHIBIT 2: WRONGLY CLASSIFIED CLAIMS TO BE RECLASSIFIED**

### WRONGLY CLASSIFIED CLAIMS

Claim No.	Creditor Name and Address	Stated Basis of Claim as Listed on Proof of Claim
229	John Samani MD PC Attn: Accounts Payable 937 N. Opdyke Road Auburn Hills, MI 48326	"Medical care giver"
230	John Samani MD PC Attn: Accounts Payable 937 N Opdyke Road Auburn Hills, MI 48326	"Medical care giver"
236	Renee Jones 23838 Shakespeare Ave Eastpointe, MI 48021	"Permanent nerve damage"
289	Dynamic Rehabilitation Centers Inc. Attn: Accounts Payable 20755 Greenfield 800 Southfield, MI 48075	"Unpaid physical therapy bills"
475	Tommy Bankston 9946 Longacre Detroit, MI 48227	"Pension 100% no cut"
499	Marcus Morgan 19243 Shadwoods Roseville, MI 48066	"Accident, August 18, 2012"
508	Terry Richardson 6771 Archdale St. Detroit, MI 48228-3570	"As a contingent/ unliquidated unsecured"
522	Juanita Joe 5056 Lannoo St. Detroit, MI 48236-2157	"Basement flooded from street sewer back up"
538	Property Owner Wilma M. Greer 2140 Bryanston Crescent 40 Detroit, MI 48207-3818	"City property taxes"
767	Property Owner Wendy Nolen 11341 Portlance Detroit, MI 48205	"Real estate"
771	Tonnia Tooles 17208 Asbury Park Detroit, MI 48235-3501	"Contingent/unliquidated unsecured"
790	Frank Okolo P.O. Box 1106	"Issued a check that was not honored"

	Garden City, MI 48136-1106	
937	Amalgamated Transit Union Local 26 AFL-CIO Jeffrey Freund, Bredhoff & Kaiser, PLLC 805 15 <sup>th</sup> St. NW, Suite 1000 Washington, DC 20005	"Pending grievances (omnibus claim)"
940	Aaron Scott Jeffrey Freund, Bredhoff & Kaiser, PLLC 805 15 <sup>th</sup> St. NW, Suite 1000 Washington, DC 20005	"Pending grievances (long-term disability)"
944	Mitchell Clifton Jeffrey Freund, Bredhoff & Kaiser, PLLC 805 15 <sup>th</sup> St. NW, Suite 1000 Washington, DC 20005	"Pending grievances (long-term disability)"
1019	Patina Pomilee 20228 Lochmoor Harper Woods, MI 48225	"Financial loss"
1071	Vanita Gray Law Office of Marc J. Shefman 17000 W. 10 Mile, Suite 150 Southfield, MI 48075	"Auto accident on 12/12/12. Ms. Gray was a passenger on a City of Detroit buss that was involved in an auto accident and suffered injury in accident"
1085	Nedra Yvonne Adarandus 17606 Kentucky Detroit, MI 48221	"Lost wages/compensation"
1265	Kimberlee Davis 18828 Wakenden Redford, MI 48240	"Annuity"
1266	Kimberlee Davis 18828 Wakenden Redford, MI 48240	"Pension"
1267	Kimberlee Davis 18828 Wakenden Redford, MI 48240	"10% pay cut"
1268	Kimberlee Davis 18828 Wakenden Redford, MI 48240	"longevity"
2172	Alphonso L. Ynclan 13261 Jobin Southgate, MI 48195	"Pension"
2412	Kumar Family Trust/Rajendra Kumar, M.D. & Kusum Kumar, D.D.S. 4117 Woodhaven St. Houston, TX 77025-5718	"Municipal bonds"
2510	Masharn Johnson 17887 Hull Detroit, MI 48203	None stated



2581	Alim Rashid 14628 Ohio Detroit, MI 48238	“Longevity check”
3149	Dionne L. Williams 3106 Coolidge Hwy Apt 202 Royal Oak, MI 48073	“Lost wages/compensation”
3156	William G. Johnson Adler Stilman, PLLC 30300 Northwestern Highway, Third Floor Farmington Hills, MI 48334	“Workers’ compensation benefits”
3200	Detroit Medical Center Reginald Mahone 7706 Hendrie Detroit, MI 48213	“Taking out money for insurance before hand”
3496	Hector J. Salgado-Galicia 1581 Brickell Ave., Apt 70G Miami, FL 33129	“Municipal bond – general obligation – series 2005-A92) insured, AMBAC”

**EXHIBIT 3: DECLARATION OF JOHN NAGLICK REGARDING WRONGLY  
CLASSIFIED CLAIMS**

**IN THE UNITED STATES BANKRUPTCY COURT  
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	:	Case No. 13-53846
CITY OF DETROIT, MICHIGAN,	:	
	:	Hon. Steven W. Rhodes
DEBTOR	:	
-----	X	

**DECLARATION OF JOHN NAGLICK IN SUPPORT OF DEBTOR'S SEVENTH  
OMNIBUS OBJECTION TO CERTAIN CLAIMS**

**(WRONGLY CLASSIFIED CLAIMS)**

I, John Naglick, pursuant to 28 U.S.C. § 1746, hereby declare under penalty of perjury that the following is true and correct to the best of my knowledge, information and belief:

1. I am a the Finance Director with the City of Detroit. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein.

2. The City's ongoing claims reconciliation process involves the collective effort of a team of employees assembled from people specifically familiar with the operations and liabilities of the City. This team works together and in conjunction with City's counsel, Jones Day, Foley & Lardner LLP, the City's Financial Advisor Ernst & Young LLP, and the City's claims agent, Kurtzman Carson Consultants LLC, to review proofs of claim filed against the City (each, a "Claim" and collectively, the "Claims"). In preparation of the Seventh Omnibus Objection to Certain Claims (Wrongly Classified Claims) (the "Seventh Omnibus Objection"), I reviewed the Claims at issue, as described on Exhibit 2 of the Seventh Omnibus Objection. I

have also personally reviewed the Seventh Omnibus Objection and the exhibits attached thereto. Accordingly, I am familiar with the information contained therein.

**Claims Objection**

3. The Claims reflected in Exhibit 2 of the Seventh Omnibus Objection were filed as claims under 11 U.S.C. § 503(b)(9). However, upon review of the Claims, they do not meet the criteria of that section because, as set forth in greater detail in Exhibit 2, they do not pertain to goods delivered to the City in the 20 days before the bankruptcy filing which were sold to the City in the ordinary course of its business.

4. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Dated: August 27, 2014

By:  \_\_\_\_\_  
John Naglick