

**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. Thomas J. Tucker
Debtor	:	

**DEBTOR’S REPLY TO RESPONSE TO OBJECTION TO CLAIM NUMBER 779  
FILED BY SHERRELL ANN PEYTON**

The Debtor, the City of Detroit (the “City”), by and through its undersigned counsel, for its reply (the “Reply”) to the response of Sherrell Ann Peyton dated April 24, 2015<sup>1</sup> (the “Response”) [Dkt. No. 9745], and in further support of the City’s Thirteenth Omnibus Objection to Certain No Basis Claims (“Thirteenth Omnibus Objection”) [Dkt. No. 9568] to claim number 779 (the “Claim”), respectfully states as follows:

**BACKGROUND**

1. On July 18, 2013 (the “Petition Date”), the City filed this bankruptcy case.
2. On November 21, 2013, this Court entered 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* (the “Bar Date Order”) [Dkt. No. 1782].
3. 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 [Dkt. No. 5872] (the “Claims

<sup>1</sup> The Response apparently was filed by Sherrell Ann Peyton’s mother, Mary Jean Peyton, as agent for Sherrell Ann Peyton. Because it is unclear whether Sherrell Ann Peyton or Mary Jean Peyton filed the Claim in question, the



Procedures Order”), allowing the City to file an omnibus objection with respect to claims that do not identify a valid basis for any liability of the City or which were filed without supporting documentation (Claim Procedures Order at 2.).

4. On February 4, 2014, Ms. Peyton filed the Claim as a secured claim in the amount of \$80,000.

5. On March 30, 2015, the City filed its Thirteenth Omnibus Objection [Dkt. No. 568]. As to the claims objected to in the Thirteenth Omnibus Objection, the City determined that there was no basis for liability on the part of the City as stated in the respective proofs of claim.

6. In her Claim, Ms. Peyton stated that the basis for his claim is “Tax auction not valid after July 25, 2013.” Ms. Peyton’s proof of Claim No. 779 is attached as **Exhibit 1**.

7. The City filed the Thirteenth Omnibus Objection and objected to Ms. Peyton’s Claim because there is no basis for any liability to Ms. Peyton. Upon review of Ms. Peyton’s Claim, it appears to have been filed regarding the claimant’s mortgage. Individual mortgage agreements between the claimant and her lender, to which the City is not a party, are not the subject of this bankruptcy claims administration process.

8. Attached to Ms. Peyton’s Claim is an assignment of mortgage and what appears to be a mortgage billing statement.

9. Ms. Peyton does not allege that the City owes her any money.

10. On or about March 30, 2015, Ms. Peyton was served notice of the Thirteenth Omnibus Objection. *See* Notice at Dkt. 9568.

11. On April 24, 2015, Ms. Peyton filed a Response with this Court alleging that her Claim should not be expunged. The Response also apparently objects to the statement made by the City that the Claim is related to the claimant’s mortgage, stating that the “mortgage statement

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City will refer to the claimant/respondent as “Ms. Peyton.”

has no validity; the mortgage had nothing to do with the bankruptcy.” The Response does not provide any basis or documentation in support of the Claim, nor does it state any reason for liability to Ms. Peyton on the part of the City.

12. Because Ms. Peyton does not provide an appropriate basis for liability by the City, the Claim should be expunged.

### **ARGUMENT**

13. Section 502(a) of the Bankruptcy Code provides that a claim is deemed allowed unless a party in interest objects. 11 U.S.C. § 502(a).<sup>2</sup> Bankruptcy Rule 3007(d) and the Claims Procedure Order allow the City to object to multiple claims in an omnibus objection if the objections are based on the grounds that the claims should be disallowed and expunged because there is no basis for liability on the part of the City or there is no documentation submitted with the proof of claim supporting the claims.

14. Only proofs of claim that comply with Bankruptcy Rule 3001 are presumed to be valid in the amount filed.

15. In order to meet the requirements of Rule 3001(f), a properly-filed proof of claim must contain the following: (1) the creditor’s name and address; (2) the basis for the claims; (3) the date the debt was incurred; (4) the amount of the claim; (5) classification of the claim; and (6) supporting documents. *In re Hughes*, 313 B.R. 205, 209 (Bankr. E.D. Mich. 2004) (McIvor, J.) (*citing In re Dow Corning Corp.*, 250 B.R. 298, 321 (Bankr. E.D. Mich. 2000)).

16. Pursuant to Section 101 of the Bankruptcy Code, a creditor holds claim against a debtor only to the extent that it has a “right to payment” for the asserted liability. *See* 11 U.S.C. §§ 101(5), 101(10). There is no right to payment to the extent that the asserted liability is not

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<sup>2</sup> Section 502 of the Bankruptcy Code is applicable to this Chapter 9 case through Section 901 of the Bankruptcy Code. *See* 11 U.S.C. § 901.

due and owing by the debtor.

17. Ms. Peyton's Claim does not contain a proper basis for liability against the City nor does it attach any supporting documentation. Therefore, the Claim should be expunged due to its failure to meet the requirements of Federal Rule of Bankruptcy Procedure 3001.

18. Ms. Peyton's Claim appears to regard the payment of Ms. Peyton's mortgage. Individual mortgage agreements between the claimant and his lender, to which the City is not a party, are not the subject of this bankruptcy claims administration process. Ms. Peyton has provided no basis for liability on the part of the City.

WHEREFORE, the City respectfully requests that this Court enter an order disallowing and expunging the Claim, and granting the City such other and further relief as this Court may deem just and proper.

Dated: May 1, 2015

FOLEY & LARDNER LLP

By: /s/ John A. Simon

John A. Simon (P61866)

Jeffrey S. Kopp (P59485)

Tamar N. Dolcourt (P73425)

Leah R. Imbrogno (P79384)

500 Woodward Ave., Ste. 2700

Detroit, MI 48226

313.234.7100

jsimon@foley.com

jkopp@foley.com

tdolcourt@foley.com

limbrogno@foley.com

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

**CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2015, I caused the *City of Detroit's Reply to Response to Objection to Claim Number 779 Filed By Sherrell Ann Peyton* to be electronically filed with the Clerk of the Court using the ECF system, which sent notification of such filing to all ECF participants in this bankruptcy case. I hereby certify that a copy was also served via Federal Express to the following party:

Sherrell Ann Peyton  
Mary Jean Peyton  
10109 Curtis St.  
Detroit, MI 48221

Dated: May 1, 2015

FOLEY & LARDNER LLP

By: /s/ John A. Simon  
John A. Simon (P61866)  
Jeffrey S. Kopp (P59485)  
Tamar N. Dolcourt (P73425)  
Leah R. Imbrogno (P79384)  
500 Woodward Ave., Ste. 2700  
Detroit, MI 48226  
313.234.7100  
jsimon@foley.com  
jkopp@foley.com  
tdolcourt@foley.com  
limbrogno@foley.com

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

# **EXHIBIT 1**

<b>UNITED STATES BANKRUPTCY COURT</b> <b>EASTERN DISTRICT of MICHIGAN</b>		<b>CHAPTER 9</b> <b>PROOF OF CLAIM</b>
Name of Debtor: <b>City of Detroit, Michigan</b>		Case Number: <b>13-53846</b>
NOTE: Do not use this form to make a claim for an administrative expense that arises after the bankruptcy filing.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <b>SHERRELL ANN: PEYTON</b>		<div style="font-size: 2em; font-weight: bold; margin-bottom: 10px;">FILED</div> <div style="font-size: 0.8em; margin-bottom: 10px;">2014 FEB 11 AM 10:35</div> <div style="font-size: 0.8em; margin-bottom: 10px;">COURT CLERK</div> <div style="font-size: 0.8em; margin-bottom: 10px;">U.S. BANKRUPTCY COURT</div> <div style="font-size: 0.8em; margin-bottom: 10px;">EASTERN DISTRICT OF MICHIGAN - DETROIT</div> <div style="font-size: 0.8em; margin-bottom: 10px;">Court Claim Number: _____</div> <div style="font-size: 0.8em; margin-bottom: 10px;">(If known)</div> <div style="font-size: 0.8em; margin-bottom: 10px;">Filed on: _____</div> <div style="font-size: 0.8em; margin-bottom: 10px;"> <input type="checkbox"/> Check this box if this claim amends a previously filed claim.         </div> <div style="font-size: 0.8em; margin-bottom: 10px;"> <input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to this claim. Attach copy of statement giving particulars.         </div>
Name and address where notices should be sent: <b>SHERRELL ANN: PEYTON</b> <b>10109 CURTIS STREET</b> <b>DETROIT 48221 MICHIGAN</b>		
Telephone number: _____ email: _____		
Name and address where payment should be sent (if different from above): <b>KURTZMAN CARSON CONSULTANTS</b>		
Telephone number: _____ email: _____		
<b>1. Amount of Claim as of Date Case Filed:</b> \$ <u>80,000</u>		
If all or part of the claim is secured, complete item 4. If all or part of the claim is entitled to priority, complete item 5. <input type="checkbox"/> Check this box if the claim includes interest or other charges in addition to the principal amount of the claim. Attach a statement that itemizes interest or charges.		
<b>2. Basis for Claim:</b> <u>TAX AUCTION NOT VALID AFTER JULY 25, 2013</u> (See instruction #2)		
<b>3. Last four digits of any number by which creditor identifies debtor:</b> <u>3846</u>	<b>3a. Debtor may have scheduled account as:</b> _____ (See instruction #3a) <u>13-53846</u>	
<b>4. Secured Claim (See instruction #4)</b> Check the appropriate box if the claim is secured by a lien on property or a right of setoff, attach required redacted documents, and provide the requested information.		
Amount of arrearage and other charges, as of the time case was filed, included in secured claim, if any: \$ _____		
Basis for perfection: _____		
Nature of property or right of setoff: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: _____		
Value of Property: \$ <u>80,000</u>		
Amount of Secured Claim: \$ _____		
Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed or <input type="checkbox"/> Variable		
Amount Unsecured: \$ _____		
<b>5. Amount of Claim Entitled to Priority as an Administrative Expense under 11 U.S.C. §§ 503(b)(9) and 507(a)(2).</b> \$ _____		
<b>5b. Amount of Claim Otherwise Entitled to Priority. Specify Applicable Section of 11 U.S.C. § _____.</b> \$ _____		
<b>6. Credits.</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim. (See instruction #6)		
<b>7. Documents:</b> Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, security agreements, or, in the case of a claim based on an open-end or revolving consumer credit agreement, a statement providing the information required by FRBP 3001(c)(3)(A). If the claim is secured, box 4 has been completed, and redacted copies of documents providing evidence of perfection of a security interest are attached. (See instruction #7, and the definition of "redacted".) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
<b>8. Signature:</b> (See instruction # 8) Check the appropriate box.		
<input type="checkbox"/> I am the creditor. <input checked="" type="checkbox"/> I am the creditor's authorized agent. <input type="checkbox"/> I am the trustee, or the debtor, or their authorized agent. <input type="checkbox"/> I am a guarantor, surety, indorser, or other codebtor. (See Bankruptcy Rule 3005.) (See Bankruptcy Rule 3004.)		
I declare under penalty of perjury that the information provided in this claim is true and correct to the best of my knowledge, information, and reasonable belief.		
Print Name: <u>[Mary-Jean: Peyton &amp; L. bey]</u>		
Title: _____		
Company: _____		
Address and telephone number (if different from notice address above): <u>10109 CURTIS STREET [48221]</u> <u>1-702-290-8696</u>		
Telephone number: _____ email: _____		
<div style="display: flex; justify-content: space-between;"> <span>13-53846-tjt Doc 9780-1 Filed 05/01/15 Entered 05/01/15 14:38:14 Page 2 of 4</span> </div>		

RECORDATION REQUESTED BY:

American Pension Services, Inc # 5798

WHEN RECORDED MAIL TO:

American Pension Services, Inc # 5798  
1192 E. Draper Pkwy, Suite 155  
Draper, Utah 84020

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

**ASSIGNMENT of MORTGAGE**

FOR VALUE RECEIVED, the receipt and sufficiency of which are hereby acknowledged, JPMORGAN CHASE BANK, N.A., hereby grants, assigns and transfers to American Pension Services, Inc # 5798 all beneficial interest under that certain Mortgage for \$81,600.00 dated December 27, 2000, and executed by SHERRELL A. PEYTON, A SINGLE WOMAN, Grantors, to CHASE MANHATTAN MORTGAGE CORPORATION and recorded as Instrument No. 201098319, in Book 33344, Page 368, on March 13, 2001, of Official Records in the County Recorder's office of Wayne, State of Michigan, as described in said Mortgage and more commonly known as 18983 Kentucky, Detroit, MI 48221.

**LEGAL DESCRIPTION:** SEE ATTACHED LEGAL DESCRIPTION AS EXHIBIT "A"

JPMORGAN BANK, N.A., sells to Assignee all of Assignor's right, title and interest in the Mortgage Loan, Deed of Trust/Mortgage and Note in "As Is" condition, with all faults, without any recourse to Assignor whatsoever and without any warranty expressed or implied, character or nature. JPMORGAN BANK, N.A., further makes no representations or warranties regarding the Mortgage loan, Note or Deed of Trust/Mortgage. Assignee confirms that it has taken such steps as it deems appropriate with respect to conducting due diligence with respect to the status and quality of the Mortgage Loan, Note and Deed of Trust/Mortgage.

TOGETHER with the note or notes therein described or referred to, the money due and to become due thereon with interest, and all rights accrued or to accrue under said Mortgage.

Dated: May 19, 2009

JPMorgan Chase Bank, N.A.,

  
Launi Solomon, Representative of JPMorgan Chase Bank, N.A.

Instrument prepared by: Launi Solomon  
1820 E. Sky Harbor Cir. S Flr 2, Phx, AZ 85034.

STATE OF ARIZONA  
COUNTY OF MARICOPA

On 5/19/09, before me, the undersigned Notary Public in and for said County and State, personally appeared, Launi Solomon, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by the signature(s) on the instrument the person(s), or entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
Notary Public in and for said County and State



WORD ACF/BANK ONE ASSIGNMENTS/OHIO/PHX5-PEYTON



## Monthly Billing Statement



1192 E Draper Pkwy, Ste 155

Draper, UT 84020

800-405-1733

For Customer Service call Monday - Friday 9 AM to 5 PM

Sherrell Peyton  
10109 Curtis Rd  
Detroit, MI 48221

Statement Date: 1/16/2014

Loan Number: 9998-1660

Interest Rate: 9.75%

Principal Balance: \$79,034.97  
(Not A Payoff Amount)

### Payment Summary

Next Payment Due: 05/01/2012

P & I Payment: \$700.00

Escrow Payment: \$0.00

**IF PAID 15 DAYS AFTER DUE DATE, INCLUDE \$35.00 Late Fee.**

We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report. If you have been discharged through bankruptcy, or are currently in bankruptcy, this is not an attempt to collect a debt.

### Transaction Activity

Transaction	Date	Amount	Principal	Interest	Escrow	Late Fee
PAYMENT	03/26/2012	\$700.00	\$57.37	\$642.63	\$0.00	\$0.00

### Payment Coupon

Sherrell Peyton  
10109 Curtis Rd  
Detroit, MI 48221

Loan Number: 1660  
Payment Due: 05/01/2012  
P & I Payment: \$700.00  
Escrow Payment: \$0.00  
Total Payment: \$700.00

**IF PAID 15 DAYS AFTER DUE DATE, INCLUDE \$35.00 LATE FEE.**

Make checks payable to: American Pension Services

Mail to: 1192 East Draper Parkway Suite 155  
Draper, UT 84020

If your account is on Automatic Debit this statement is for informational purposes only.