

**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
	:	
	:	

	:	
CITY OF DETROIT, MICHIGAN,	:	Chapter 9
	:	
Plaintiff,	:	Adversary No. 1404112
	:	
vs.	:	Hon. Steven W. Rhodes
	:	
DETROIT GENERAL RETIREMENT SYSTEM SERVICE CORPORATION, <i>et al.</i>	:	
	:	
Defendants.	:	

**DEFENDANTS DETROIT GENERAL RETIREMENT SYSTEM
SERVICE CORPORATION AND DETROIT POLICE AND
FIRE RETIREMENT SYSTEM SERVICE CORPORATION'S
ANSWER AND AFFIRMATIVE AND OTHER DEFENSES**

Defendants, Detroit General Retirement System Service Corporation ("Retirement Service Corporation") and Detroit Police And Fire Retirement System Service Corporation ("Police and Fire Service Corporation") (hereinafter together "Defendants" or "Service Corporations") provide the

following Answer and Affirmative and Other Defenses to the Complaint for Declaratory and Injunctive Relief (Docket No. 1) ("Complaint") filed by Plaintiff, City of Detroit, Michigan (the "City"):

PARTIES

1. The Service Corporations admit that the City is a Michigan municipal corporation, located in Wayne County. The remaining allegations of Paragraph 1 state conclusions of law to which no response is required. Should a response be required, however, the Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegation and, therefore, deny the allegations.

2. Defendants admit only that Retirement Service Corporation is a non-profit Michigan corporation created by the City. As to the remaining allegations of Paragraph 2, the Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegation and, therefore, deny the allegations.

3. Defendants admit only that Police and Fire Service Corporation is a non-profit Michigan corporation created by the City. As to the remaining allegations of Paragraph 3, the Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegation and, therefore, deny the allegations.

4. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 4 and, therefore, deny the allegations.

5. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 5 and, therefore, deny the allegations.

VENUE AND JURISDICTION

6. The Service Corporations deny that this is a core proceeding pursuant to 28 USC § 157(b)(2). The remaining allegations of Paragraph 6 state conclusions of law to which no response is required. Should a response be required, however, the Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegation and, therefore, deny the allegations.

BACKGROUND

7. The Service Corporations admit the first three sentences of Paragraph 7. The remaining allegations of Paragraph 6 state conclusions of law to which no response is required. Should a response be required, however, the Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegation and, therefore, deny the allegations.

8. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 8 and, therefore, deny the allegations.

9. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 9 and, therefore, deny the allegations.

10. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 10 and, therefore, deny the allegations.

Structure of the COPs

11. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 11 and, therefore, deny the allegations.

Service Corporations

12. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12 and, therefore, deny the allegations.

13. The Service Corporations admit that the board of each Service Corporation was to consist of five *ex officio* directors, all of whom were to be members of the City government –the City's Finance Director, Budget

Director, and Corporation Counsel, plus two members of the City Council. The Service Corporations further admit that Exhibit B to the Complaint is a copy of a City of Detroit Ordinance that is referenced in Paragraph 13, the interpretation of which is a conclusion of law to which no response is required. Should a response be required, however, the Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegation and, therefore, deny the allegations. The Service Corporations admit only that Exhibit C to the Complaint is a copy of the GRS Service Contract 2005 between the Detroit General Retirement System Service Corporation and the City of Detroit, dated May 25, 2005 (the "GRS Service Contract 2005"). For the remaining allegations in Paragraph 13, the Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegation and, therefore, deny the allegations.

14. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 14 and, therefore, deny the allegations.

The Service Contracts

15. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 15 and, therefore, deny the allegations.

16. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 16 and, therefore, deny the allegations.

17. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 17 and, therefore, deny the allegations.

Funding Trusts

18. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 18 and, therefore, deny the allegations.

19. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 19 and, therefore, deny the allegations.

20. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 20 and, therefore, deny the allegations.

Issuance of the COPs

21. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 21 and, therefore, deny the allegations.

22. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 22 and, therefore, deny the allegations.

23. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 23 and, therefore, deny the allegations.

24. The Service Corporations admit that the 2005 Trust Agreement has Sean K. Werdlow's name as executioner on behalf of both Service Corporations. The Service Corporations also admit that Mr. Werdlow was, at that time, the Finance Director of the City. The Service Corporations further admit that Mr. Werdlow is no longer employed with the City. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 24 and, therefore, deny the remaining allegations.

25. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 25 and, therefore, deny the allegations.

2006 COPs Transaction

26. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 26 and, therefore, deny the allegations.

27. The Service Corporations admit that Exhibits H and Exhibits I to the Complaint claim to be, respectively, a GRS Service Contract 2006, dated June 7, 2006 and Trust Agreement, dated June 12, 2006. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 27 and, therefore, deny the remaining allegations.

28. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 28 and, therefore, deny the allegations.

29. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 29 and, therefore, deny the allegations.

Effect Of The COPs Transaction Upon The city Of Detroit

30. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 30 and, therefore, deny the allegations.

31. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 31 and, therefore, deny the allegations.

32. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 32 and, therefore, deny the allegations.

Detroit's Bankruptcy

33. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 33 and, therefore, deny the allegations.

34. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 34 and, therefore, deny the allegations.

35. The Service Corporations admit that the City filed a petition for bankruptcy under Chapter 9 on or about July 18, 2013 and that the City has suspended payment on the COPs. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 35 and, therefore, deny the allegations.

COUNT I – DECLARATORY JUDGMENT

36. In response to Paragraph 36, the Service Corporations incorporate by reference the responses to Paragraphs 1 through 35 as if set forth herein.

37. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 37 and, therefore, deny the allegations.

38. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 38 and, therefore, deny the allegations.

39. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 39 and, therefore, deny the allegations.

40. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 40 and, therefore, deny the allegations.

41. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 41 and, therefore, deny the allegations.

42. The Service Corporations deny the allegations of Paragraph 42 for the reason that they are untrue.

43. The Service Corporations admit that the City seeks a declaratory judgment. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 43 and, therefore, deny the allegations.

COUNT II – DECLARATORY JUDGMENT

44. In response to Paragraph 44, the Service Corporations incorporate by reference the responses to Paragraphs 1 through 43 as if set forth herein.

45. The Service Corporations admit that the City filed a petition for bankruptcy under Chapter 9 on or about July 18, 2013, and that this Court issued an order, dated December 5, 2013. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 45 and, therefore, deny the remaining allegations.

46. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 46 and, therefore, deny the allegations.

47. The Service Corporations admit that counsel for the Trustee and the Contract Administrator have entered their appearance in the Chapter 9 proceeding. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 47 and, therefore, deny the remaining allegations.

48. The Service Corporations deny that an actual case or controversy exists between it and the City. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 48 and, therefore, deny the allegations.

49. The Service Corporations admit that the City seeks certain declaratory relief. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of Paragraph 49 and, therefore, deny the allegations.

COUNT II – INJUNCTIVE RELIEF

50. In response to Paragraph 50, the Service Corporations incorporate by reference the responses to Paragraphs 1 through 49 as if set forth herein.

51. The Service Corporations lack knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 51 and, therefore, deny the allegations.

PRAYER FOR RELIEF

The Service Corporations deny that the Plaintiff, the City of Detroit is entitled to any of the relief requested in paragraphs A – B of Plaintiff's Prayer for Relief.

AFFIRMATIVE DEFENSES

Without assuming any burden of proof or production to which they are not otherwise subject under the law, the Service Corporation Defendants assert the following affirmative defenses:

First Affirmative Defense

Plaintiff's claims are barred as the action is not a core proceeding pursuant to 28 USC § 157(b)(2) and this Court lacks jurisdiction.

Second Affirmative Defense

Plaintiff's claims are barred, in whole or in part, as it has failed to state an actual case or controversy against the Service Corporations.

RESERVATION OF RIGHTS

Defendant Service Corporations reserve the right to amend this Answer and to add, supplement or modify the above stated Affirmative Defenses based on legal theories that come to light through further clarification of the Complaint, through discovery, or through further legal analysis of the City's Complaint.

WHEREFORE, Defendant Service Corporations request that this Court dismiss Plaintiff's Complaint with prejudice and award Defendants expenses and attorney fees in having to defend this lawsuit.

Dated: July 17, 2014

Respectfully submitted,

BUTZEL LONG,
a professional corporation

By: /s/ Thomas B. Radom

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Corporation and Detroit Police and Fire
Retirement System Service Corporation

CERTIFICATE OF SERVICE

I hereby certify that on **July 17, 2014**, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: **All registered ECF participants in this matter.**

BUTZEL LONG,
a professional corporation

By: /s/ Thomas B. Radom

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