Grand Theft Auto: How Stevie the Rat bankrupted GM

Contributed by Greg Palast
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Editor's note: As brilliant as Palast is in this column, and as despicable as the looting of the U.S. is by the financial elite aided by the White House, a bigger discussion should come next: what should automobile workers be doing in a post peak oil world? Palast doesn't believe in peak oil, last we heard, because he smells oil corporations' greed in jacking up prices and constricting supply. Well, regardless of peak oil and corporate rip-offs, we still need to imagine a thorough restructuring of society to return to a healthy balance with nature. Auto workers being able to afford the American Dream is ecocide and unsustainable. -- Jan Lundberg

Screw the autoworkers.

They may be crying about General Motors' bankruptcy today. But dumping 40,000 of the last 60,000 union jobs into a mass grave won't spoil Jamie Dimon's day.

Dimon is the CEO of JP Morgan Chase bank. While GM workers are losing their retirement health benefits, their jobs, their life savings; while shareholders are getting zilch and many creditors getting hosed, a few privileged GM lenders - led by Morgan and Citibank - expect to get back 100% of their loans to GM, a stunning $6 billion.

The way these banks are getting their $6 billion bonanza is stone cold illegal.

I smell a rat.

Stevie the Rat, to be precise. Steven Rattner, Barack Obama's 'Car Czar' - the man who essentially ordered GM into bankruptcy this morning.

When a company goes bankrupt, everyone takes a hit: fair or not, workers lose some contract wages, stockholders get wiped out and creditors get fragments of what's left. That's the law. What workers don't lose are their pensions (including old-age health funds) already taken from their wages and held in their name.

But not this time. Stevie the Rat has a different plan for GM: grab the pension funds to pay off Morgan and Citi.

Here's the scheme: Rattner is demanding the bankruptcy court simply wipe away the money GM owes workers for their retirement health insurance. Cash in the insurance fund would be replace by GM stock. The percentage may be 17% of GM's stock - or 25%. Whatever, 17% or 25% is worth, well ... just try paying for your dialysis with 50 shares of bankrupt auto stock.

Yet Citibank and Morgan, says Rattner, should get their whole enchilada - $6 billion right now and in cash - from a company that can't pay for auto parts or worker eye exams.

Preventive Detention for Pensions

So what's wrong with seizing workers' pension fund money in a bankruptcy? The answer, Mr. Obama, Mr. Law Professor, is that it's illegal.

In 1974, after a series of scandalous take-downs of pension and retirement funds during the Nixon era, Congress passed the Employee Retirement Income Security Act. ERISA says you can't seize workers' pension funds (whether monthly payments or health insurance) any more than you can seize their private bank accounts. And that's because they are the same thing: workers give up wages in return for retirement benefits.

The law is darn explicit that grabbing pension money is a no-no. Company executives must hold these retirement funds as "fiduciaries." Here's the law, Professor Obama, as described on the government's own web site under the heading, "Health Plans and Benefits."

"The primary responsibility of fiduciaries is to run the plan solely in the interest of participants and beneficiaries and for the exclusive purpose of providing benefits."

Every business in America that runs short of cash would love to dip into retirement kitties, but it's not their money any more than a banker can seize your account when the bank's a little short. A plan's assets are for the plan's members only, not for Mr. Dimon nor Mr. Rubin.

Yet, in effect, the Obama Administration is demanding that money for an elderly auto worker's spleen should be siphoned off to feed the TARP babies. Workers go without lung transplants so Dimon and Rubin can pimp out their ride. This is another "Guantanamo" moment for the Obama Administration - channeling Nixon to endorse the preventive detention of retiree health insurance.

Filching GM's pension assets doesn't become legal because the cash due the fund is replaced with GM stock. Congress saw through that switch-a-roo by requiring that companies, as fiduciaries, must

> "...act prudently and must diversify the plan's investments in order to minimize the risk of large losses."

By "diversify" for safety, the law does not mean put 100% of worker funds into a single busted company's stock.

This is dangerous business: The Rattner plan opens the floodgate to every politically-connected or down-on-their-luck company seeking to drain health care retirement funds.

House of Rubin

Pensions are wiped away and two connected banks don't even get a haircut? How come Citi and Morgan aren't asked, like workers and other creditors, to take stock in GM?

As Butch said to Sundance, who ARE these guys? You remember Morgan and Citi. These are the corporate Welfare Queens who've already sucked up over a third of a trillion dollars in aid from the US Treasury and Federal Reserve. Not coincidentally, Citi, the big winner, has paid over $100 million to Robert Rubin, the former US Treasury Secretary. Rubin was Obama's point-man in winning banks' endorsement and campaign donations (by far, his largest source of his corporate funding).

With GM's last dying dimes about to fall into one pocket, and the Obama Treasury in his other pocket, Morgan's Jamie Dimon is correct in saying that the last twelve months will prove to be the bank's "finest year ever."

Which leaves us to ask the question: is the forced bankruptcy of GM, the elimination of tens of thousands of jobs, just a collection action for favored financiers?

And it's been a good year for Señor Rattner. While the Obama Administration made a big deal out of Rattner's youth spent working for the Steelworkers Union, they tried to sweep under the chassis that Rattner was one of the privileged, select group of investors in Cerberus Capital, the owners of Chrysler. "Owning" is a loose term. Cerberus "owned" Chrysler the way a cannibal "hosts" you for dinner. Cerberus paid nothing for Chrysler - indeed, they were paid billions by Germany's Daimler Corporation to haul it away. Cerberus kept the cash, then dumped Chrysler's bankrupt corpse on the US taxpayer.

("Cerberus," by the way, named itself after the Roman's mythical three-headed dog guarding the gates Hell. Subtle these guys are not.)

While Stevie the Rat sold his interest in the Dog from Hell when he became Car Czar, he never relinquished his post at the shop of vultures called Quadrangle Hedge Fund. Rattner's personal net worth stands at roughly half a billion dollars. This is Obama's working class hero.

If you ran a business and played fast and loose with your workers' funds, you could land in prison. Stevie the Rat's plan is nothing less than Grand Theft Auto Pension.

It doesn't make it any less of a crime if the President drives the getaway car.

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Economist and journalist Greg Palast, a former trade union contract negotiator, is author of the New York Times bestsellers The Best Democracy Money Can Buy and Armed Madhouse. He is a GM bondholder and card-carrying member of United Automobile Workers Local 1981.

Palast's latest reports for BBC Television and Democracy Now! are collected on the newly released DVD, Palast Investigates: from 8-Mile to the Amazon - on the trail of the financial marauders. Watch the trailer here.