

Addendum to Written Testimony from Bruce Gump, Vice-Chairman,
Delphi Salaried Retiree Association to the House Oversight and
Government Reform Sub-Committee on Regulatory Affairs, Stimulus
Oversight and Government Spending. Hearing was June 22, 2011. This
Addendum Offered June 29, 2011

Chairman Jordan, Ranking Member Kucinich and members of the Committee, I offer this addition to the written testimony offered at the hearing held last Wednesday, June 22, 2011 because so much of the information offered by other witnesses was incomplete or obfuscatinal in nature.

It is obvious that Mr. Bloom confuses the idea of something being legal with that same thing being fair. Human history is replete with laws that were patently unfair and singled out various groups for different treatment. Our position is that the treatment certain worker groups received in this administration-orchestrated bailout of GM and Delphi was political in nature, and that certain favored groups were able to receive something of value from our government that other less or non-favored groups were not. In fact, this is both illegal and unfair, and is at least the partial basis of the litigation against the PBGC and Treasury, including Mr. Bloom, that is currently in process in the Eastern District of Michigan. Over and over Mr. Bloom stated that the treatment all the groups received was “fair.” But in reality he knows very well that it was not anything approaching the definition of being fair, whether or not it was legal.

Mr. Bloom also tried to deflect responsibility by stating that it was the company’s choice to treat the various worker groups differently, characterizing the administration’s involvement as just a simple investor without any real control over the company. However, there is no denying that the money GM was using was supplied through the TARP, and as such it had to have certain requirements and restrictions on its usage. Mr. Bloom apparently wants the committee to believe on the one hand that they simply gave \$50 Billion to a bankrupt company with no input, influence or guidance on how it should be used. While I do not believe that is completely accurate, if it was then the incompetence in the handling of taxpayer provided funds would be truly amazing! However, and at the same time, he has us understand that the Treasury had the authority as majority shareholders to approve any expense large enough to cross a threshold – I have heard that was set at \$100 Million – and he also explained that the Treasury did in fact disapprove of at least one version of a plan to reorganize. I know Congressman Jordan tried to gain access to what Mr. Bloom saw, but I am not sure that was agreed to. My point in this is that the Treasury cannot deflect responsibility or involvement in the decisions made affecting the

thousands of retirees who received varying treatments with the use of the TARP funds provided to GM.

There was also testimony offered, and comments made from the committee that there were contractual obligations that resulted in other non-UAW unions receiving “top up” payments from GM in order to make their pensions whole. My understanding is that is an inaccurate statement also. Both Old GM and New GM included in filings with the bankruptcy court that they were NOT obligated to those contracts due to their own bankruptcy, and they were allowed to exit Chapter 11 bankruptcy protection without being held to those previous obligations. Furthermore, GM claimed in their filings with the SEC that those payments are gratuitous in nature, not obligatory. The point is that this is contestable and rather than the Treasury protecting their money invested in GM, they instead led, coerced, forced, or encouraged GM to top up the pensions of two of the more favored worker groups, but did not do so for the Salaried Retirees. Mr. Bloom is well aware of the lack of contractual obligations, but I believe he is using them to obfuscate the real facts.

Mr. Snowbarger also deflected a question from Congressman Johnson regarding why the PBGC is “fighting so hard to -- against releasing the records of the PBGC decision-making process that led up to that determination?” Mr. Snowbarger stated clearly “We've released them to this committee, as well as to the I.G. -- special I.G. for the (inaudible), as well as the GAO, as well as (inaudible) information act request from various Delphi salaried employees.” And then added “And in the court case as well.” Again, the real facts were distorted as the “fight” is over records of the decisions made after mid-April. Mr. Snowbarger's response to his question was, well, disingenuous at best. Please allow me to try to clear this up a bit as it is somewhat confusing. The issue is about access to the Administrative Record, to which we as plaintiffs have rights to up to the point when the decision was made to terminate the pension plan:

- The PBGC did make a determination to terminate the Delphi Pension Plans in mid-April of 2009,
- HOWEVER they were approached by the Delphi Creditors and asked to NOT terminate the plans unless they decided to foreclose - a plan to which the PBGC agreed.
- The PBGC says they chose to "forebear" on their decision, but we say they made a new decision to NOT terminate the plans.
- That is important because they know we have rights to the administrative record up to the point when the decision was made, and all the big decisions about who would get what were made after that mid-April decision point.
- A final decision to terminate the plan was not made until July of 2009 based on new information – a notice from Delphi’s creditors that they intended to foreclose.
- So the records we seek are from after mid-April and the PBGC and Mr. Snowbarger are working diligently to prevent us from being able to have access to those records.

- Mr. Snowbarger's answer that they had given us the documents related to the administrative record and FOIA requests related to the records from prior to April 2009 - they have supplied very heavily redacted copies of e-mails etc. We have been seeking the administrative record for April to August since we filed suit and Mr. Snowbarger is very well aware of that.
- The magistrate judge did determine that we had rights to those records concerning at least one of our 4 counts against the PBGC in our litigation.
- We have had to file a motion to compel - meaning the court would force them to give us what we have asked for, and they have filed for protective orders (meaning we would be prevented from pursuing certain people or documents as a part of the Discovery phase)
- Mr. Snowbarger is well aware of this fight going on in the 6th Circuit (Eastern District of Michigan, Judge Arthur Tarnow) and so his answer that they are NOT fighting us for access to the records was completely false.

The big question in all this is this: When the United States Government “invests” in a private industry can they pick winners and losers based on political power? That is exactly what has happened in this case, and it must not be allowed to stand as a precedent! The damage to the relationship between the people and their government would be too horrendous to be allowed.

Thank you for the opportunity to present additional perspective on the hearing and its contents. I have offered this testimony in the belief that it is accurate and correct in every way.

Bruce Gump
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