

CHARLES CUNNINGHAM

TESTIMONY FOR HOUSE OVERSIGHT COMMITTEE

NOV.14, 2011

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, THANK YOU FOR GIVING THE DELPHI SALARIED RETIREES AN OPPORTUNITY TO TELL OUR STORY HERE TODAY.

MY NAME IS CHUCK CUNNINGHAM AND I AM A DELPHI RETIREE WHO WORKED 27 YEARS FOR GENERAL MOTORS AND THREE YEARS AT DELPHI. I NOW SERVE AS DSRA LEGAL LIASON CO-ORDINATING ACTIVITIES BETWEEN THE DELPHI SALARIED RETIREE ASSOCIATION AND OUR ATTORNEYS.

IN 2009 THE OBAMA ADMINISTRATION DECIDED TO BAIL OUT GENERAL MOTORS THROUGH AN EXPEDITED BANKRUPTCY.

WE ARE NOT HERE TODAY TO DISCUSS THE WISDOM OR MERITS OF THAT DECISION, BUT WE ARE HERE TO TALK ABOUT THE CONSEQUENCES OF THOSE ACTIONS THAT WERE DEVASTATING TO ONE GROUP OF PEOPLE- THE DELPHI SALARIED RETIREES.

IN ORDER TO ASSURE A SUCCESSFUL EMERGENCE FROM BANKRUPTCY FOR GENERAL MOTORS, THE TREASURY AND AUTO TASK FORCE HAD TO ALSO DEAL WITH BANKRUPTCY ISSUES OF DELPHI, WHICH HAD PREVIOUSLY BEEN SPUN-OFF FROM GENERAL MOTORS. DELPHI WAS THEIR LARGEST PARTS SUPPLIER AND ITS VIABILITY WOULD HAVE A TREMENDOUS EFFECT ON GM.

ONE OF THE ISSUES OF IMPORTANCE TO POTENTIAL PURCHASERS OF DELPHI WAS DELPHI'S PENSION LIABILITIES. THE AUTO TASK FORCE LOOKED AT VARIOUS OPTIONS INCLUDING RETURNING THESE PENSIONS TO GM BUT CHOSE NOT TO DO THIS SO THAT THOSE PENSION LIABILITIES WOULD NOT THEN BE ON GM'S BALANCE SHEET. INSTEAD THE DECISION WAS MADE TO TURN ALL DELPHI PENSIONS OVER TO THE PBGC BUT WITH ONE CAVEAT. THE NEW GM WOULD TOP OFF ONLY DELPHI UAW PENSIONS AND MAKE THEM WHOLE. THE AUTO TASK FORCE CALLED THIS A COMMERCIAL DECISION TO ENSURE THE UAW'S COOPERATION IN THE RESTRUCTURING. MORE THAN A MONTH LATER THE ANNOUNCEMENT WAS MADE THAT THE PENSIONS OF THE DELPHI CWA/IUE AND THE STEELWORKERS WOULD ALSO BE TOPPED UP. LEAVING ONLY THE SALARY EMPLOYEES AND A FEW SMALL UNIONS WITHOUT TOP-UPS. WHY WAS THIS DONE? NOT FOR CONTRACTUAL REASONS, AS WE HAVE HEARD MANY TIMES. NORMAL BANKRUPTCY RULES WOULD HAVE NEGATED THOSE CONTRACTS AND , ADDITIONALLY, THE NEW GM WOULD HAVE NO EMPLOYEES REPRESENTED BY THE CWA/IUE OR STEELWORKERS, AS FRITZ HENDERSON, CEO OF GM, AT THAT TIME, TESTIFIED IN BANKRUPTCY COURT. WE BELIEVE THE REASON IS SIMPLE. POLITICALLY CONNECTED UNIONS WHO WERE PARTICULARLY WELL REPRESENTED IN THE SWING STATE OF OHIO LOBBIED THE TREASURY AND ADMINISTRATION TO INCLUDE TOP-UPS FOR THEIR RETIREES.

GM LITERALLY CALLED THESE TOP-UPS GRATUITOUS.
A PURE CASE OF DISCRIMINATION AGAINST SALARY EMPLOYEES WHO HAD CHOSEN NOT TO JOIN A UNION.
WHERE WAS THE PBGC DURING ALL OF THIS? THE PBGC, DIRECTED BY THE TREASURY, WAS COMPLICIT IN ALL OF THIS. THEY DID NOT OBJECT TO IMPERMISSABLE FOLLOW-UP PLANS WHICH WERE DISGUISED AS TOP-OFFS, SOMETHING THEY HAD ALWAYS FOUGHT PREVIOUSLY. THEY SURRENDERED THEIR VALUABLE LIENS ON DELPHI OVERSEAS ASSETS THAT WERE IN PLACE TO PROTECT THE SALARIED PLAN, FOR PENNIES ON THE DOLLAR AND THEY TERMINATED A SALARIED PENSION PLAN THAT WAS WELL FUNDED WITHOUT ADJUDICATION.
AS YOU ARE AWARE, WE HAVE BEEN ENGAGED IN A COSTLY LEGAL BATTLE WITH THE ADMINISTRATION AND THE PBGC FOR OVER 2 YEARS. WE HAVE FINALLY PROCEEDED TO THE DISCOVERY PHASE WITH THE PBGC BUT, DESPITE JUDICIAL FINDINGS AND AN ORDER TO COMPEL BY A FEDERAL JUDGE, THE PBGC REFUSES TO PROVIDE US THE INFORMATION AS IT HAS BEEN INSTRUCTED. DOING EVERYTHING POSSIBLE TO KEEP US FROM SHOWING PROOF POSITIVE THAT WHAT WAS DONE TO THE DELPHI SALARIED RETIREES WAS UNJUST.
DURING A RECENT FEDERAL COURT HEARING IN MICHIGAN A JUSTICE DEPARTMENT ATTORNEY TOLD THE JUDGE THAT THIS WAS ONLY ABOUT MONEY!.THE IRONY IS THAT THIS ISSUE CAN BE RESOLVED WITHOUT THE CONGRESS APPROPRIATING

**MORE MONEY OR THE PBGC COMMITTING MORE THAN IT HAS
ALREADY AFFIRMED.**

**AND, YES, IT IS ABOUT THE MONEY! THE MONEY EARNED BY
SALARIED WORKERS WHO WORKED ALONG SIDE UNION
WORKERS WHOSE PENSIONS WERE TOPPED UP USING
GOVERNMENT FUNDS- BUT IT IS MORE THAN THAT. THIS IS
TRULY ABOUT JUSTICE, FAIRNESS AND THE LAW.**

THANK YOU.