

James Frost - Testimony for Finance Committee Field Hearing

Chairman Moore, and distinguished members of the committee, Thank you for the invitation to testify at today's hearing. I am representing 20,000 current and future salaried employees and 70,000 union and salaried retirees across this great country.

As a salaried retiree who worked for Delphi and its predecessor General Motors for 31 years, the events of the past 18 months have been devastating to me, my family, my community

and many other Delphi retirees. It has forced large numbers of us into an unsustainable economic situation, at a time in our lives when recovery is difficult or impossible.

What is even more disturbing, is that as we dig into the details of how this all happened, we see the hand of the Federal Government deciding the fate of our pensions for the benefit of others. The uniqueness of the GM bankruptcy and the Treasury's role in the termination of Delphi's Salaried Pension Plan, coupled with the loss of all health and life insurance, is the reason Delphi salaried retirees are urging members of Congress to take a close look at this blatant disregard for the law.

Intervention in the fate of Delphi pensions by the US Treasury, GM, and the presidentially appointed Auto Task Force, ventured well outside of bankruptcy and labor law to the great detriment of Delphi retirees. Public and non-public documents clearly show that the Salaried Delphi pension plans were terminated by the PBGC upon the urging of members of the Auto Task Force working to expedite the GM bankruptcy. Time was of the essence and they could not take a chance that the matter would languish in a contested court termination proceeding. In sworn depositions, key members of the Auto Task Force freely admitted that the route taken to terminate the Delphi pension plans was crafted to avoid due process afforded to holders of vested benefits under sections 1113 and 1114 of the bankruptcy code.

Now that our pension plan has been terminated, many retirees have seen pension reductions in excess of 40% less than what they had earned. In my case, I lost in excess of 30% of my already modest pension. With the added cost of replacing lost health and life insurance, my net disposable income has been cut to about half of what it was 18 just months ago.

While The PBGC has given various (and sometimes contradictory) reasons for rapidly terminating Delphi's salaried pension plan, the most often stated reason is inability to pay benefits due to severe underfunding. The PBGC has stated they consider the plan to be funded at or just below 50% of outstanding liabilities, however actuarial experts disagree with that assessment.

An independent actuarial report by Watson Wyatt, furnished to the PBGC just 4 weeks before they acted to terminate the Delphi pensions, showed plan funding at close to 86% of its liabilities, based on generally accepted accounting methods proscribed by ERISA. A second actuary confirmed the accuracy of the Watson Wyatt estimates and further observed that the funding status of the Delphi salaried plan was at or above that of the largest 100 viable pension plans. In other words, there was no funding crisis as the PBGC claimed as their reason for swift termination.

Since time is extremely limited in today's hearing, I can't walk you through the volumes of testimony and evidence that verifies abuses of bankruptcy and labor laws that allowed the PBGC and US Treasury to get away with this "government taking" of our pension, but I would like to briefly paraphrase the testimony of Harry Wilson and Matthew Feldman of the Auto Task Force as they discussed how they crafted and executed the termination and subsequent disparate treatment of the various Delphi pension plans:

When questioned about the disparate treatment of different groups, Mr. Wilson admitted that certain groups of retirees were more politically sensitive than others leading to the decision of whether or not they would be

compensated by payments from GM and funded by the US Treasury. The salaried retirees and non UAW represented hourly retirees were obviously not considered "politically worthy". UAW President Ron Gettelfinger decried this as morally wrong and asked the Federal Government to make it right.

When asked about the termination of the Delphi pension plans, Matthew Feldman confirmed that one of his primary tasks was to resolve the Delphi pension plan disposition so that GM could exit bankruptcy rapidly. He made it no secret that he never considered any other scenario than termination of the salaried plan and moving the hourly plan intact to GM. When that scenario failed, plan B was to terminate all plans but then have GM (using US Treasury funds) make up the loss for UAW represented retirees in a separate payment. This was a clever "work around" the prohibition against successor plans established after a pension plan has been terminated & trustee to the PBGC.

In closing, I'd like to leave you with the following thoughts:

- There is irrefutable evidence that the Delphi salaried pension plan was a viable plan that was terminated by political appointees for the benefit of General Motors and the Treasury.
- In the process, evidence shows that significant violations of constitutional and statutory law occurred as the Federal government picked winners and losers
- These violations of the law have imposed serious economic and personal harm upon innocent Americans whose only sin was being in the wrong group at the wrong time.
- In the words of Edmund Burke: "All that is required for evil to prevail is for good men to do nothing." That is why I continue to fight this injustice and ask you to join me in this fight.