Bankruptcy judge approves sale of GM assets

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A judge in New York City late Sunday approved the sale of General Motors assets to a new company, 61 percent owned by the US government, opening the way for the auto company to emerge from bankruptcy. GM filed for bankruptcy protection June 1, the largest such industrial failure in US history, following a similar move by Chrysler April 30.

The ruling, by Judge Robert E. Gerber of the US Bankruptcy Court, is less a legal decision than a ruthless business measure taken as part of the restructuring of the auto industry in the interests of Wall Street and the corporate elite. The Obama administration, with the full complicity of the United Auto Workers (UAW), is presiding over and driving this process at the expense of tens of thousands of auto workers, their families and entire communities.

The bankruptcy plan has already meant the destruction of 21,000 additional jobs at GM, the closure of a dozen or more of its plants and the elimination of 2,600 GM dealerships.

Gerber's approval of the asset sale, following three days of hearings and in the face of hundreds of objections, means that the deal between GM and the US Treasury may be consummated as early as Thursday, one day before the deadline set by the government. The Obama administration had made clear that it did not intend to provide another penny to the auto maker after July 10.

In addition to the US government, the Canadian government will own 12 percent of the new firm, with the UAW, through a retiree health-care trust, controlling 17.5 percent, and other unsecured creditors getting another 10 percent. The Obama administration has committed some $50 billion to the restructuring. Administration officials have repeatedly explained they intend to take no part in the day-to-day management of the company and would like to sell the government's stake in the new GM at some point in 2010.

Under the sale plan, the auto maker's profitable assets—including the Buick, Cadillac, Chevrolet and GMC brands—would be sold off to the new GM, "while assets and liabilities deemed to be a drag on the automaker would be left behind in bankruptcy." (*Washington Post*)

In rejecting the claims of product-liability claimants and others, Gerber declared, "Bankruptcy courts have the power to authorize sales of assets at a time when there still is value to preserve—to prevent the death of the patient on the operating table."

Lawyers representing the claimants had argued that the new company should be responsible for lawsuits arising from accidents involving GM cars before the company entered bankruptcy. GM management only recently accepted, under pressure from a number of state attorneys general, the principle that the new company should be required to take claims from *future* victims.

The GM bankruptcy process has been a stark demonstration of whose interests prevail within the US political and judicial system.

Gerber ruled in late June against General Motors' retired salaried workers who wanted to see the creation of a special committee to represent their benefit issues. As part of the restructuring plan, GM will continue paying the 122,000 retirees' health care and life insurance benefits for the moment, but the benefits are expected to be slashed and retirees will be forced to pay a far larger share of their costs.

GM attorney Harvey Miller argued that the company had always had the right to alter the salaried retirees' benefits and the creation of a committee "would simply add more costs."

Gerber also ruled against a request from an unofficial committee of individuals with asbestos-related claims to appoint a "tort czar," according to the Associated Press, "that would oversee all future claims against the old GM, not just those related to asbestos." While secured lenders—all major Wall Street banks and financial institutions—will be paid the $6 billion they are owed, unsecured creditors, like the asbestos victims, will see little, if anything.

On July 1, hundreds of retirees from GM plants whose bargaining agent was the International Union of Electrical Workers-Communications Workers of America (IUE-CWA) picketed the courthouse in lower Manhattan where the hearings were taking place to protest the likely eventual elimination of their health care and insurance benefits.

Lawyers for 50,000 retired IUE-CWA, United Steel Workers and International Union of Operating Engineers members asserted in court that GM was attempting to evade its legal responsibilities to these workers by pursuing bankruptcy under Section 363 of the Bankruptcy Code, which provides almost no benefit protection, as opposed to Section 1114.

The IUE-CWA claimed that a deal was worked out more than a year ago, ratified by its members, creating a GM-funded Voluntary Benefit Employee Association (VEBA). On January 9, 2009, a company lawyer informed the IUE-CWA that the auto maker would not live up to the deal.

In court IUE-CWA lawyer Tom Kennedy pointed to remarks made by a top member of Obama's Auto Task Force, Harry Wilson, under cross-examination July 1. "We told GM to cut two-thirds, Wilson said; we told them to figure out how to do it. On June 4, Treasury rejected a 62 percent cut. The additional 5 percent taken out to meet the task force's 67 percent target represents $400 million in the [non-UAW] retirees' benefit programs, Kennedy said." (*Youngstown Business Journal*)

In a bitter press release, the IUE-CWA accused Obama's Treasury Department of treating the retirees as "road kill."

GM attorney Miller explained cynically that while the "new GM" needed the UAW to function, it didn't need the other unions, whose members worked in plants that were no longer operating. Under questioning, GM CEO Fritz Henderson testified that he "expected" the non-UAW retiree health care benefits would be dropped by the new company. In response, Kennedy pointed to an email Henderson had sent the Obama task force's Steven Rattner lobbying to keep GM executive retirement benefits.

Gerber rejected the IUE-CWA objections along with all the others.

The *Washington Post* noted, "Throughout the court proceedings, the government and GM were repeatedly questioned about why they chose to assume certain assets and liabilities while rejecting others.

"In response, government and GM officials said the only measure was whether or not the assets and liabilities would support the commercial viability of the new GM."

Underlining the political character of his decision, Gerber rejected the claim that the US government had been overbearing in negotiations to restructure the car maker. "The US Treasury, in making hard decisions about where to spend its money and make New GM as viable as possible, made business decisions that it was entitled to make," he wrote.

Elsewhere in his decision, Gerber declared, "The only alternative to an immediate sale [of GM assets to the new company] is liquidation—a disastrous result for GM's creditors, its employees, the suppliers who depend on GM for their existence, and the communities in which GM operates."

The decline of General Motors has already been an unmitigated disaster for auto workers, suppliers, dealerships and entire communities. The continued private ownership of the automobile industry, or government control on behalf of corporate interests, only holds more of the same in store.

The UAW apparatus, which hopes to prosper by operating the VEBA retiree health-care trust, merely reported on its web site—with obvious pleasure—that the Bankruptcy Court had "issued its ruling approving the proposed restructuring, and the UAW Retiree Health Settlement Agreement."

The media campaign to convince auto workers that the judge's decision will save GM and their jobs began as soon as the ruling was issued. The *Detroit News* lost no time in claiming, "The sale will preserve hundreds of thousands of GM jobs in North America, and around the world, and bolster a reeling network of auto industry suppliers."

It will do no such thing. The sale will trigger a new round of plant closures and demands for concessions. With global auto sales plummeting, profitability can only be restored at GM and its rivals by impoverishing workers to insure the investments and profits of corporate executives and financiers.