

The extortionate operations of NML Capital

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11 December 2012

Last month, a New York court issued a judgment demanding that Argentina settle debts totalling \$1.33 billion, with the sum to be paid into an escrow account by December 15 this year.

The plaintiff was the hedge fund NML Capital, owned by the American billionaire Paul Singer. He had refused to accept the terms of the debt restructuring by Argentina following the country's sovereign default in December 2001. Under the debt restructuring plan, 93 percent of creditors were required to forfeit 70 percent of their investments. Singer's company sued for full payment on its holdings.

On November 27, Fitch Ratings warned that a payment default by Argentina was likely because the court ruling could have a snowball effect, leading other investors to demand full payment on bonds totalling an estimated \$11 billion. The agency downgraded the long-term creditworthiness of the country by five levels, from "B" to "CC," and its short-term credit rating from "B" to "C".

On November 28, an appeals court in New York issued a temporary restraining order on the judgment due to its far-reaching international consequences. Further legal negotiations are due to start on February 17, 2013.

The legal battles led to a near 15 percent plunge in the value of Argentine government bonds in November, with the premiums for credit default swaps quadrupling, exceeded worldwide only by Greek government bonds.

The dispute between the Argentine government and NML Capital sheds light on the criminal methods employed by international finance capital in times of

crisis. It also shows the class character of the judiciary, which is quite prepared to hang the mantle of respectability on such dubious practices.

NML Capital is a subsidiary of the New York hedge fund Elliott Associates, which has specialized in speculation related to the threat of state bankruptcy. The modus operandi is very simple. If a state gets into financial difficulties, its bonds fall in value. Most investors, fearing a default, sell their holdings and drive down the price even further. When the bonds have sunk almost to junk status, Elliott Associates intervenes, buying up assets and then employing an army of lawyers specializing in international bankruptcy law to claim the full face value of the securities.

This strategy was first used by the hedge fund in 1995 in Panama. It bought assets nominally worth \$28.8 million at a price of \$17.5 million, began legal proceedings, and at the end of the process pocketed \$58 million, including interest.

A year later, the strategy was repeated in Peru. It purchased bank loans with a face value of \$20.7 million for \$11.7 million. After four years of litigation, Elliot Associates pocketed \$55.7 million.

The next victim was the Democratic Republic of Congo, which, according to the human development index of the United Nations, is the poorest country in the world. Here the hedge fund's subsidiary, Kensington International Inc., bought bonds nominally worth \$32.6 million for less than ten percent of their face value and sued for repayment of \$100 million. British courts have so far awarded almost \$40 million of this total.

Elliott Associates and its various subsidiaries are not

the only firms that profit from such deals. According to the World Bank, 26 different hedge funds have rewarded their investors with around a billion dollars using the same strategy. An additional \$1.3 billion in debt repayment is said to be outstanding.

Official political circles have sought to distance themselves from these hedge funds. Former British Prime Minister Gordon Brown called them “morally abhorrent”, and the International Monetary Fund and World Bank, together with the international financial media, often refer to them as “vulture funds” and “cutthroats”.

Yet nothing has been done to curtail their activities. The reason is that hedge funds like Elliot Associates function within the prescribed laws of the system and basically do nothing other than what capitalism asks of them: make profits.



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