Bankruptcy judge approves sale of Sears to former CEO Edward Lampert for $5.2 billion

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New York federal bankruptcy judge Robert Drain has agreed to sell Sears Holding Corporation's remaining assets to current Sears Chairman and notorious asset stripper, Edward Lampert, for $5.2 billion.

The deal to sell Sears to Lampert's hedge fund, ESL investments, was made on Thursday, January 7. The offer includes an $885 million cash payment. ESL will also assume $1.3 billion worth of liabilities, which include customers' warranties and $621 million in "senior debt." The billionaire grifter Lampert sold his plan to Judge Drain as an opportunity to "save jobs."

Not all of the details of the sale have been released. Prior to approving the sale, the Pension Benefit Guaranty Corporation (PBGC) had objected to Lampert's offer. The PBGC is the US government agency that insures roughly 37 million workers' pensions. In a statement filed in court before the sale, the PBGC stated that it could be liable for the pension plans of up to 90,000 Kmart and Sears employees, which have been underfunded by $1.4 billion.

The PBGC was created to "protect" the pension benefits of Americans in private-sector plans. The agency is not taxpayer-funded; instead it derives funding from insurance premiums and, in Sears' case, it negotiated deals in which the PBGC would receive royalty payments from sales generated from Kenmore appliance and DieHard battery brands. These two former Sears exclusive brands have already been split off by Lampert from Sears.

Lampert, who roomed with current US Treasury Secretary Steven Mnuchin while they were both at Yale, acquired Kmart through his hedge fund, ESL Investments, in 2003. Following the acquisition of Kmart, Lampert purchased Sears, and formed Sears Holding Corp. in 2005. By the time Sears filed for bankruptcy in October 2018, Lampert personally owned a 31 percent stake in Sears and his hedge fund owned another 18 percent stake.

Under Lampert's 13-year vampiric reign, Sears Holding Corp. has tumbled from $53 billion in operating revenue in 2006 to less than $17 billion in 2017. Over 4,000 stores have been closed, and approximately 200,000 have been left jobless as Lampert has sold off Kmart and Sears' most valuable brands and real estate, siphoning stolen assets for his benefit.

As the "retail apocalypse" has left millions of workers without jobs or a reliable pension, Lampert has enriched himself fabulously. He owns multimillion-dollar homes in Florida, Connecticut, and Colorado, in addition to a 288-foot-long $130 million yacht, named "The Fountainhead" after the Ayn Rand novel.

One example of financial chicanery that Lampert has engaged in while "leading" Sears involved loading up the retailer with debt, then charging interest payments. In order to keep the retailer operating as Lampert stripped away its value, Lampert and his connected hedge funds lent the company millions of dollars. Lampert, through ESL and a related hedge fund called JPP, own approximately $2.66 billion in Sears debt. By having Judge Drain approve the sale of Sears to ESL, Lampert will still be able to collect interest payments on this debt, which is estimated to be between $200 to $225 million per year.

While Lampert stands to gain more from the sale compared to any of Sears' remaining creditors, (Lampert is the largest creditor), Lampert's lawyers positioned their offer to Judge Drain as an opportunity to save up to "50,000 jobs" and keep up to 450 stores open. If the sale had not been approved, Sears could have been forced to liquidate altogether.

Even before the sale was complete, the 50,000 jobs

figure has already been walked back to 45,000. Whatever number is touted by Lampert or ESL of jobs that will allegedly be saved is a lie. As part of the sale, ESL investments will continue to close stores, with many industry analysts projecting that at the most, 250 stores will remain operating after the first post-bankruptcy cuts, with other analysts suggesting only 200 stores would remain open.

However, even if all of the 425 stores were to remain open, the math to reach 45,000 jobs still does not add up. Sears headquarters, located in Hoffman Estates, Illinois, once employed between 3,000 and 4,000 people. *Forbes* reports now that less than 1,000 work at the complex. Even if another 4,000 employees were scattered throughout the country in various warehouses, IT departments or off-site logistic operations, that would still leave about 40,000 employees in 450 stores, or nearly 90 employees per store.

While Sears stores are often physically larger than other big box retailers, such as Walmart or Shopko, anyone who has worked in or visited a Sears recently can attest that it would be a stretch to assume that even 50 employees work at each store, much less 75 or even 90.

Despite Lampert's lies and his years of deliberate enrichment of himself above all other concerns, Judge Drain justified his decision to hand what remains of the company back to ESL, writing that "the execution risk for this transaction, when one considers the alternative...is reasonable to take."

There is nothing reasonable about what has been allowed to transpire for the last 13 years. Sears employees, similar to autoworkers, Amazon employees, or teachers, have been left at the mercy of parasitic financial robber barons. Their fate and ability to survive is decided in faraway courtrooms by "impartial" judges serving capitalist interests. However, as courageous workers in Matamoros and in Detroit have shown by taking the first steps in forming rank-and-file committees to coordinate a fight back, the working class is going to make itself heard.