UAW Monitor conflict of interest exposed: Jenner & Block and Crowell & Moring are longstanding lawyers for General Motors and auto corporations

Will Lehman
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Below, we are publishing a section of rank-and-file UAW presidential candidate Will Lehman's complaint to the Department of Labor filed March 29. Lehman filed the complaint after the law firms comprising the court-appointed monitor denied his protest documenting massive disenfranchisement of rank-and-file UAW members in the first round of the UAW national officers election.

Lehman's complaint to the Department of Labor provides a detailed overview of the UAW monitor's conflict of interest, which Lehman said is a ground to re-run the election in its own right.

In the introduction to his Labor Department complaint, Lehman wrote:

> *The response to my protest by the monitor's office was also tainted by gross conflicts of interest. The monitor's office presiding over the election in a supposedly "neutral" capacity consisted of two major law firms—Crowell & Moring and Jenner & Block—that frequently represent auto companies that employ UAW workers. Both law firms have longstanding revolving-door relationships with General Motors. It is a scandal that the denial of my internal union protest arrived on the letterhead of management's attorneys who have been paid millions in our dues money. These conflicts of interest constitute an independent ground to re-run the election.*

In a March 19 decision denying Lehman's protest of the elections, the UAW monitor law firms had claimed "it is not clear that turnout was 'low'" and dismissed evidence gathered by rank-and-file workers as "unsubstantiated."

What follows is a section of Lehman's Department of Labor complaint exposing the monitor's role as longtime attorneys for the auto bosses. It calls for the election they oversaw to be thrown out as illegitimate and for a new election with actual notice provided to all active and retired members.

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The monitor's response to my protest is entitled to no credit or deference whatsoever, in light of outrageous conflicts of interest on the part of the monitor's office—namely the law firms of Crowell & Moring and Jenner & Block. These firms are partisans of the auto corporations with which they have close ties, and their interests are adverse to those of rank-and-file union members working for those corporations like me.

A. Jenner & Block: Longtime lawyers for General Motors

Jenner & Block has longstanding ties to General Motors, and the firm's financial and legal relationship with GM goes back many years.

It is worth recalling that in 1937, during the sit-down strike against GM in Flint, Michigan, the judge who issued an injunction against the strikers (Edward S. Black) was removed from the case after it was revealed that he owned 3,000 shares in GM. Here, the conflict of interest is even worse: my internal union protest against rampant voter suppression in the election was denied by a law firm which consists of lawyers that represent GM.

In 2014, the *New York Times* wrote that "Jenner & Block has done high-profile securities work for GM" as well as "product liability cases." GM spokesman Greg Martin was quoted as saying that the attorneys have "reputations for adhering to the highest standards." The *Times* continued, "Both firms have done extensive work for GM. The carmaker has used Jenner for more than a decade, and its work includes advising GM on its post-bankruptcy initial public stock offering and negotiating a $5 billion line of credit for the company in 2012. The firm's website says it has represented GM in 'product liability cases involving vehicle incompatibility/aggressivity; crashworthiness; air bags; rollover/roof crush and seatbelts."

The relationship between GM and Jenner & Block is so close that in 2006 it hired the head of corporate practice at Jenner & Block, Robert Osborne, as its general counsel. According to the *Wall Street Journal*, while working for Jenner & Block Osborne helped GM spin off auto corporations, leading to massive job losses and wage cuts. In a June 8, 2006 article headlined "General Motors Taps Jenner & Block Lawyer as new General Counsel," the *Journal* wrote that Osborne "represented GM in the disposition of Hughes Electronics, the spinoffs of Electronic Data Systems, Hughes Defense and Delphi, and the sale of National Car Rental. He also has represented GM in public offerings of stock and debt securities."

In other words, the firm responsible for "monitoring" the election is actually responsible for the decades-long attack on the rights and living standards of rank-and-file autoworkers and retirees. This is a direct conflict of interest. Such a firm clearly has an interest in helping GM suppress our wages, lower labor costs and attack our rights in the upcoming contract as well.

Most notoriously, Jenner & Block helped conduct the investigation that absolved GM's executives of criminal responsibility after the company covered up ignition defaults that led to the deaths of many people, including several children. Anton Valukas, then chair of Jenner & Block,

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testified before Congress in defense of GM.

One of the Jenner & Block attorneys tasked with helping oversee the UAW election—Reid Schar—was a leading figure in the GM ignition scandal.

According to Schar's Jenner & Block profile, he "served as one of the team leaders conducting an investigation and producing an internal report to the board of directors for GM regarding recalls stemming from faulty ignition switches. The firm team coordinated GM's response to several federal agencies and Congress. Reid represented GM in a related investigation by the US Attorney's Office for the Southern District of New York, culminating in the resolution of the matter through a deferred prosecution agreement."

The head of the Center for Auto Safety, Clarence Ditlow, issued a statement at the time attacking the investigation and Jenner & Block's role as GM's lobbyist:

"GM killed over a 100 [sic] people by knowingly putting a defective ignition switch into over one million vehicles. Yet no one from GM went to jail or was even charged with criminal homicide. This shows a weakness in the law not a weakness in the facts. GM killed innocent consumers. GM has paid millions of dollars to its lobbyists to keep criminal penalties out of the Vehicle Safety Act since 1966. Today thanks to its lobbyists, GM officials walk off scot free while its customers are six feet under."

Jenner & Block's conduct of the election and their contemptuous attitude to the rights of rank-and-file workers like me is in alignment with the interests of their client, General Motors, particularly as the expiration date of the current contract approaches for 48,000 UAW members at GM this year.

B. Crowell & Moring: A strikebreaking firm representing GM, Dana, CAT, Bosch and other corporations

Crowell & Moring has equally deep ties to auto corporations negotiating contracts impacting hundreds of thousands of rank-and-file members in 2023. Its clients include Caterpillar, General Motors, Mazda, Bosch, Dana Inc., BMW, Daimler, Bridgestone, and other companies.

Like Jenner & Block, there is a revolving door between the top attorneys at the firm and GM. In 2019, Crowell & Moring appointed Lawrence J. Lines to its Orange County, California office. Lines was "most recently litigation counsel for General Motors," where he served for 35 years, according to a Crowell & Moring press release dated June 18, 2019.

The firm's website has a section titled "Labor Management Relations and Labor Disputes" which explains that the firm "regularly represents employers in collective bargaining negotiations and grievance arbitration matters, and advises clients in developing and implementing strategies to prevent (or, if necessary, minimize the business impact of) strikes, lockouts or other work stoppages. We have successfully handled hundreds of union election proceedings involving employers across the country."

Crowell & Moring's website states they "successfully represented Caterpillar before the US Department of Commerce," and that the firm "has extensive experience in negotiating with and litigating against the most sophisticated labor unions in the country, including the International Brotherhood of Teamsters, American Postal Workers Union, Service Employees International Union, International Longshoremen's Union, the Auto Workers [sic], the Machinists, the Steelworkers, International Brotherhood of Electrical Workers, United Food and Commercial Workers, and numerous other labor organizations." In 2013 it represented General Motors in a $3 billion lawsuit.

The firm holds regular training events for how to oppose strikes, including one held in October 2022 as the UAW election's first round was taking place. It was called, "A conversation about responses to the surge in union organizing," which advertised giving corporate attendees "an opportunity to share experiences and exchange best practices on responses to the current wave of union organizing, including an increased willingness to engage in economic strikes."

The firm's search engine also yields an article discussing how the firm helps companies identify the "earliest stages of potential union organization campaigns" and helps them "through the actual campaigns, elections, and potential challenges." It appears the firm attempted to scrub this article from its website but failed to remove it from search results.

According to LexisNexis, Crowell & Moring currently represents GM in a number of pending or recent cases across the country, including *Vita v. Gen. Motors LLC*, 2023 US Dist. LEXIS.32445 (2d. Cir), *In re GMC Air Conditioning Mktg. & Sales Prac. Litig*., 2023 US Dist. LEXIS 30692 (6th Cir.), *Tucker v. Gen. Motors LLC*, 58 F.4th 392 (8th Cir. 2023), *Estate of Pilgrim v. Gen. Motors LLC*, 2022 US Dist. LEXIS 219673 (E.D. Mich 2022). Earlier this month, attorneys from the firm appeared before David Lawson, the same judge in the Eastern District of Michigan that heard my lawsuit in November 2022, to represent General Motors!

These company lawyers had no business denying my protest. Not only do these conflicts of interest violate the election rules themselves, which strictly prohibit the employers from interfering with internal union business, it taints the monitor's response to my protest as well as the entire election.

The law firms overseeing the election had an improper motive to deny my protest and rubber-stamp the entrenched leadership's suppression of the vote, so as to ensure the victory of candidates likely to reach favorable agreements with the clients of these law firms—namely the auto companies. Meanwhile, if the monitor's office had agreed with my protest and agreed to re-run the election with meaningful notice to the membership, that would have created more favorable conditions for the interests of the rank-and-file to be expressed in the election, which would have been bad for their clients.

There is the old adage of the "fox guarding the henhouse." Here, the hens are also being required to pay the foxes hundreds of dollars an hour for legal services! This is a scenario that belongs in Alice in Wonderland or Kafka. Millions of dollars of UAW workers' dues money have been paid to date to these law firms for their services in overruling the objections of rank-and-file workers like me to the violation of our democratic rights.

These corporate law firms acted throughout the election first and foremost as advocates for their corporate clients, not in the interests of the democratic integrity of an internal union election. They hardly even hide it—it shines through every sentence of their response to my protest, which drips with contempt and indifference for the rights of rank-and-file members like me to participate in a meaningful democratic election.

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