Statement
by

KIM TOWNSEND
Chief Steward of Local 138,
United Automobile, Aerospace & Agricultural Implement Workers of America (UAW)

Before the
COMMERCIAL and ADMINISTRATIVE LAW SUBCOMMITTEE
Of the
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE on the JUDICIARY

On the subject of

AMERICAN WORKERS IN CRISIS: DOES THE CHAPTER 11 BUSINESS BANKRUPTCY LAW TREAT EMPLOYEES AND RETIREES FAIRLY?

September 6, 2007

722 S. Montgomery Street
Hasting, Michigan 49058
(269) 948-9061

Good morning, Chairwoman Sanchez and Members of the subcommittee. My name is Kim Townsend. I am chief steward and a member of the bargaining committee of Local 138, United Automobile, Aerospace & Agricultural Implement Workers of America (UAW). Local 138 represents 175 hourly workers at Hastings Manufacturing in Hasting, Michigan, which is located about 30 miles south of Grand Rapids. Hastings makes piston rings that are supplied as original equipment to Harley-Davidson, General Motors, Ford and Chrysler, as well as to the aftermarket, especially outside the United States.

Hastings Manufacturing was founded by a local family in 1915 and has been in continuous operation since then. I have worked there for 20 years. For the last 14 years, my job has been to operate a machine that makes oil rings.

In 2004, the company came under financial pressure from the banks, who took over day-to-day management of the plant around June of that year. On September 14, 2005, the company filed for protection under Chapter 11. On December 5, it was sold at an asset sale auction overseen by the bankruptcy court. I was president of Local 138 from May 2004 to June 2007, before and during the bankruptcy proceedings and the asset sale.

The Anderson Group, a private equity firm, was the successful bidder in the asset sale auction. It has operated the company under the name Hastings

Manufacturing, LLC since December 14, 2005. We make the same products, in the same building, with the same equipment, for the same customers as we did before the asset sale.

Before the bankruptcy, Hastings employed about 375 people, about 250 of whom were in the UAW bargaining unit. There were about 300 Hastings retirees.

The contract was up in February 2004 and the union negotiated a new one with the company at that time. That was the first of four contracts the union negotiated and had ratified between February 2004 and the asset sale in December 2005.

We were doing all we could to help the company out of its financial situation. Management said they needed a million dollars in concessions, and we gave them a million dollars in concessions. We gave up the raises we'd just negotiated in February, agreeing to take no increases in 2005, 2006, or 2007. We agreed to pay part of the cost of health care and that if your spouse was eligible for health care at their place of employment that they had to go on that plan; we also agreed to the birthday rule for dependents. We gave up one holiday. And we gave up the attendance incentive program under which you could earn five paid days off a year if you had perfect attendance. But it still wasn't enough to save the company.

Shortly after the company filed for bankruptcy, the union found itself having to try to bargain a new contract with each of the potential buyers. There were three bidders, including The Anderson Group. We had never met any of these people before. The union had absolutely no clout going into the negotiations. There was very limited good faith, back and forth bargaining. The buyer dictated the terms.

Not surprisingly, with no clout, we couldn't negotiate much. If we didn't accept their terms, the plant's doors would close and no one wanted that. The Anderson Group agreed to maintain seniority and to keep accrued vacation for the higher seniority workers who were hired by the new owners. We had to agree to pay most of our health care costs. For example, it now costs us $300 a week to get family coverage.

We also had to agree to cut our sickness and accident benefits in half, from 26 weeks to 13 weeks, and to reduce the amount of time you were covered by health care while out on sick and accident from six months to 30 days. We had to agree to continue the two-tier wage system, with a top rate of $13.49 an hour. Finally, we gave up having department stewards and had to lower the number of bargaining committee members from five to three. We now have only two hours a month during which we can do union business on company time.

Of course, it was much worse for the retirees. The new owners wanted no part of the so-called “legacy costs.” Due to the bankruptcy, our retirees lost a lot of their pensions and all of their health care coverage.

The PBGC took over the pension plan, but the PBGC only guarantees the base pension and not contractual supplements. The way our contract had been negotiated a long time ago, the amount of the monthly base pension was calculated using a multiplier of the top hourly wage rate - - $14 - - times the number of pension credit years you had when you retired. But there was a supplement of $750 a month until you were 62 if you retired with 20 years or more seniority. But because the PBGC doesn’t guarantee contractual supplements, retirees under the age of 62 lost as much as $500 a month - - more than half their pension for some people.

On top of that financial loss, the retirees had to start paying for the entire cost of health insurance for themselves, their spouses, and their dependents - - or go without health care coverage. When their health care was terminated in November 2005, every retiree who had coverage under the company’s health care plan got a check for $150. I don’t need to tell you, that didn’t go far.

It was a really a financial disaster for these folks who had given their entire work lives to Hastings. And it was hard for all of us because so many of the retirees were the parents, or the aunts or uncles, or the in-laws of the active workers.

And now, to make matters even worse, the PBGC is saying that some of the retirees were overpaid and they may have to pay money back to the PBGC.

In closing, I would just like to emphasize that the current bankruptcy law seems unfair. The asset sale allowed the new owners to purchase the company “free and clear,” with no obligations. The net effect of the bankruptcy proceedings is that the business didn’t change at all - - the new owners just got rid of the union contract and the obligations to the company’s retirees.

The Hastings retirees don’t exist for the owners of Hastings LLC; they severed all ties. The new owners started making money right off the bat because the bankruptcy law allowed them to do away with the legacy costs of retirees. But it is these same retirees and workers who helped build this now-profitable company.

And, with the way the asset sale works, the union is really powerless to negotiate anything of benefit for retirees or for active workers. I think the law needs to be changed so that workers and retirees have some bargaining clout when we are negotiating in bankruptcy. And it needs to be changed to provide greater protection for wages, pension and health care benefits.

Thank you for inviting me to testify before you today.