Saving 30,000 Jobs

How the Teamsters Beat Goldman Sachs

By ANDREW COCKBURN

Among the causes of the ongoing financial meltdown, many experts cite the Commodity Futures Modernization Act, smuggled through Congress late on a December evening in 2000. The law exempted Credit Default Swaps (CDS) which are essentially bets on the value of securities from all regulation, including state gambling laws. This allowed Wall Street to conclude that any risk could be hedged with a bet. The result, of course, was disaster, with economic consequences that we will be feeling for a very long time.

"When I wrote part of that legislation with these hands on my little keyboard," a former financial industry lobbyist who helped craft the law recently told me, "I didn't realize that this was going to make people lose their jobs, pension funds their reserves, universities their endowments. But that's what happened"

There are now shelves full of books describing the disaster caused by the enabling of Wall Street as a wide open casino. Butt amidst the wreckage and plaintive cries for "reform," Wall Street is full tilt in the business of destroying companies and throwing thousands of men and women out of work in order to turn a quick profit on a CDS trade.

In recent weeks the 30,000 employees of YRC Worldwide, one of the nation's largest trucking companies, discovered that they had unwittingly been drafted as chips in the casino. The company, built up through a series of misguidedly overpriced takeovers in the years of the credit bubble, had hit a financial wall thanks to the fall off of business in the recession. Unless investors holding the company's bonds could be persuaded to swap their debt for equity, the company would go bankrupt and its employees thrown out of work.

In a sane world the bondholders would have had little trouble in seeing the wisdom of the plan and signing on. But the world we live in does things differently. We have, for example, the practice known as "basis packaging" in which a company such as YRCW, while attempting to restructure its debt, discovers that some of the bondholders have simultaneously bet, through the use of credit default swaps, on the company going bankrupt. As bondholders, they can sabotage any rescue operation by refusing to cooperate and thus collect on their winning bets even as the truck drivers begin collecting unemployment.

This was exactly what was happening in the case of YRCW. According to Michael Greenberger, the University of Maryland law professor who headed Trading and Markets at the Commodity Futures Trading Commission in the Clinton Administration, this was a case of "Goldman (Sachs) et al seemingly forcing the country's biggest truck company into bankruptcy in order to get pay-offs under CDS, with 50,000 jobs at stake.

Hedge fund entrepreneur David Einhorn, who denounced the malign practice at an investors' conference earlier this year, claims that "basis packaging" has already been a major contributor to the bankruptcy of companies such as Abitibi-Bowater, General Growth Properties, Six Flags and even General Motors. Deriding calls for regulation of the CDS business, he declared that "trying to make safer CDS is like trying to make safer asbestos. How many real businesses have to fail before policy makers decide to simply ban them?"

Waiting for policy-makers to do the right thing will take a while. Credible reports indicate that Rahm Emanuel is counting on Wall Street cash to get the Democrats through the 2010 election. But fortunately the YRCW workers had the backing of their union, the Teamsters.

With strategic input from Greenberger, the Teamsters were able to identify whom they were up against. "We picked up intelligence that Goldman (Sachs) was making markets (in CDS) and then we got some direct evidence," Teamster spokesman Ian Gold tells me. But Goldman was not alone. "All of Wall Street" was trying to bring the company down.

In response, the union made it clear that they were prepared to name names. "We would make it our mission to hold people accountable," says Gold. Following advice from Greenberger on strategy, Teamster President James Hoffa wrote to relevant Senators, Congressmen, State Attorneys General and regulators detailing how "Certain financial firms, have been or are marketing and/or underwriting a strategy where bonds in YRCW would be bought by investors with the intent of voting against the exchange, thereby triggering a bankruptcy that would pay the investors and possible other financial firms huge profits from the high CDS payments which would be triggered by a YRCW bankruptcy or liquidation. The profit from the YRCW CDSs would far outweigh losses from the failed YRCW bonds."

Widely reviled as "the vampire squid" of the financial world, Goldman proved unwilling to be charged with throwing 30,000 truckers out of work. The bank not only caved, but offered its help. "As well it should have," notes Greenberger. In a sudden turnabout, the company began cooperating in an effort to recruit bondholders who would do the right thing and vote for the restructuring. Even so, time was running out. YRCW was forced to postpone the crucial vote on the structuring no less than six times. By December 30, Brigade Capital, a $5 billion New York hedge fund, was the last major holdout. Only when the Teamsters prepared to picket Brigade's Park Avenue offices did the fund fold.

Just this once, a powerful union stopped the casino operators in their tracks. Meanwhile, too many other workers are left simply to fulfill their role as chips on the tables.