

Live Bait & Ammo #75

The only animal that will eat a possum is a human. So it comes as no surprise how many UAW-Delphi members are taking the SAP despite the fact it appears to be hanging upside down from a limb that's about to crack.

The Special Attrition Program [SAP] is a Delphi Pension and Delphi is bankrupt. There is no written assurance in the SAP that GM will guarantee the Delphi Pension if it fails after October 18, 2007.

Please, don't take my word for it. Read it yourself. Then ask your Benefit Rep and call the International. I did weeks ago. To date I have not received an answer to the question: What happens if Miller keeps the pension funded until after October 18, 2007 and then kicks out the crutches?

Many members are under the impression that if they "check the box" they will get a GM pension. But it doesn't say that. Note paragraph (f) on page 6 of the UAW-GM-Delphi SAP states: "For example, such employees checking the box who have 100% of his/her credited service in the Delphi Plan will receive 100% of their pension benefit from the Delphi Plan."

All that "check the box" will get you is health care and life insurance from GM.

The last paragraph above the line that members are expected to sign on Form A states: "Nothing in this agreement is intended to modify the Special Attrition Program or waive Delphi's right to amend, modify, suspend or terminate its pension...."

The paragraph below "check the box" states: "...the options available to me are determined solely by the written provisions....."

In other words verbal assurances, handshakes, and winks don't constitute a tinker's damn in any legal opinion. Get it in writing is the maxim.

The SAP does not stipulate that GM will guarantee the pension if Delphi decides to terminate the pension after the expiration of the Benefit Guarantee, October 18, 2007.

“The Chapter 11 filing by Delphi does not by itself trigger any guarantee of the benefit guarantees. In addition, the benefit guarantees expire on October 18, 2007, if not previously triggered by Delphi's failure to pay the specific benefits.” [page 52 of GM's 2006 annual report]

Furthermore, GM's annual report specifies that: "Each Benefit Guarantee Agreement contains separate benefit guarantees relating to pension, post-retirement health care and life insurance benefits. These limited benefit guarantees each have separate triggering events that initiate potential GM liability." [page 52 of GM's 2006 annual report]

Separate does not mean equal. For example, the SAP does trigger the Benefit Guarantee, but only “to indemnify GM” for costs associated to health care “as if all conditions for the triggering of GM's claim shall have occurred...” [see paragraph (b) page 5 of the UAW-GM-Delphi SAP: italics added]

It appears that the SAP insures GM but does not likewise insure retirees. “The presumed triggering of GM's claim against Delphi Corporation described above is only for the purposes of this Agreement and does not trigger any contractual claims against either Delphi or GM beyond their respective obligations under this Agreement.” [see paragraph (b) page 5 of the UAW-GM-Delphi SAP: italics added]

In a speech to the Detroit Economic Club on April 3, 2006 Miller stated: “We want to restore our underfunded plan out of future profits, but we will need time. This means we must find a way to stretch out our required pension plan payments. And it is essential that the restructured Delphi be a robust enterprise, indeed. Failure to achieve our goals could hurt our retirees and further burden our nation's pension safety net system.”

But that was also Miller's stated goal at Bethlehem Steel. “I had two objectives,” Miller said. “One was to put the plants in safe hands. The other was to do the best I could for the retirees. The second, I didn't achieve. I was disappointed for the

retirees. But there was no way to generate the millions needed to take on the \$7 billion in legacy costs. That dog won't hunt." [page 459, Making Steel by Mark Reutter]

An email sent to fellow UAW member, William Hanline, and inscribed by aka Steve Miller (no doubt an alias of the alien CEO in charge of fraud and deception at Delphi doubling as the impostor's posterior so to speak, but nonetheless his spokesperson) stated, "We are struggling to protect your accumulated pension benefits, but no absolute guarantees can be given. Only future profitability of the enterprise can assure the payments will be made. And we are digging our way out of a deep hole." The depravity is indeed deep.

I base my observations strictly on what I read. I urge affected UAW members to do the same. Bear in mind that only what is written, not what is promised or alluded to verbally, is legal. If it looks like a possum and smells like a rat, I wouldn't eat it because a redneck in a union hat said it tasted like chicken.

In response to my critique of the SAP, I expect the jumpship leadership will spew a barrage of derogatory adjectives to disparage me. We need facts not character assassination.

Delphi's pension plan is currently "underfunded" but Miller proposes to prop it up with "future profits" which in turn depend on wage cuts, a structural fortification roughly equivalent to a levee made of toothpicks. The scam is based on a short con called, "Take the money and run, I have you covered." Only later does the mark discover the bag he is holding is empty. All con men rely on the mark's eagerness to benefit from someone else's loss which in this case is new hires and the luckless ones too young to retire and too old to retrain.

Here's how we beat the house at its own game: SOLIDARITY,
We must demand that any contract we ratify triggers the Benefit Guarantee for all past, present, and future retirees.

We must demand equal pay for new hires. We cannot reasonably demand justice for one set of workers and inequality for another. Two tier will break the union and any chance for a comprehensive collective bargaining agreement that will endure.

If GM can stipulate the SAP indemnifies GM than UAW members can likewise demand that any Agreement with GM-Delphi indemnifies workers.

Never forget that we negotiated and ratified the 1999 and the 2003 national agreements with GM and Delphi as one bargaining unit. Delphi-UAW members cannot justifiably be treated as a separate entity now that we are under attack.

Never forget that we were not informed that our GM pension credits were transferred to Delphi in 1999 until after the contract was ratified. Delphi-UAW members deserve the credited service we earned with GM.

Never forget that we didn't transfer out of GM, we were contracted out like indentured servants. Delphi-UAW members deserve to be contracted in, not subjected to precarious "flowback" rights. We aren't refugees.

The fact is the SAP resolves nothing. We still need to fight to hold GM accountable for offloading our pensions to a company that GM set up to fail. We still need to fight to secure our future and the future of the union. Our legacy is being held for ransom. We are expected to sell out the next generation of autoworkers for an underfunded SAP. Let's stop bullshitting ourselves. If concessions saved jobs and bolstered the economy, we'd have full employment and a budget surplus. Fight back now or live the rest of your life in regret.

The only way to strengthen our hand in negotiations is to stand in solidarity and strike where it hurts. Whether you are choosing to retire or choosing to ride this bull into the dirt, prepare for a strike now by working to rule. Our knowledge is our own. We don't owe it to Delphi to train workers who will replace us in the event of a strike.

If and when Judge Drain revokes the contract, our only protection is concerted activity. The contract protects the company from strikes through the "no strike clause" and from other collective actions through the grievance procedure. If and when Judge Drain revokes the contract, grievances will be settled on the shopfloor through concerted activity and direct action. As one soldier of solidarity, Dan Lamb, said, "The crisis at Delphi will not be settled in the courts, it will be settled in the streets of America."

Strategic strikes, rolling strikes, smart strikes, short and fast as left jabs will break down the defense and put GM on the ropes. We have a right to expect support from all UAW members but especially GM-UAW members. We didn't walk down this dead end alley alone, and we aren't going down alone.

sos, shotwell