



A Capital Idea

When unions assert rights as shareholders and worker-owners, the winner is our economy

■ *Damon Silvers*

On October 1, 1991, three hundred women working at the Work Wear Corporation's uniform making factories in Laurel and Richton, Mississippi, were told that their company was bankrupt. Work Wear had been the victim of a leveraged buyout created by the stock brokers at Paine Webber, and now Paine Webber planned to liquidate the company. It looked like Work Wear, its employees, and their communities were going to become more victims of Wall Street run amok in the 1980s.

But today, both plants are running at close to capacity, providing jobs to 300 workers and two small communities. The workers in Laurel and Richton saved their jobs and their company by moving swiftly to take on the fight when the company filed for bankruptcy. Workers marched on Paine Webber's Jackson, Miss. offices filed a grievance over the plant closing, and made plans for more drastic action.

In the meantime, the worker's union, the Amalgamated Clothing and Textile Workers Union, used its position as a creditor in the bankruptcy proceedings to force the sale of the Mississippi plants to a company that was committed to maintaining production union workers in Laurel and Richton. Because Work Wear owed money

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to ACTWU-affiliated health and welfare plans, the union had the ability in court to insure the survival of the Mississippi plants as profitable companies and at the same time, protect the interests of Work Wear's creditors.

On November 11, one month after the crisis began, the jobs at Work Wear were saved and the company was sold to local management.

The victory at Work Wear plants is a striking example of how unions' financial power can make worker's lives better. Unions can intervene and show power in bankruptcy courts, in corporate board rooms, and at the deal-making tables. Unions never have to be shut out of the forums where the futures of our companies are decided. We just have to know how to use the tools we already possess.

WORKERS AS SHAREHOLDERS

In addition to the bankruptcy courts, unions can use pension plans and ESOPs to be involved in corporate control questions. Pension plans and ESOPs present different challenges to unions thinking about worker's ownership stake in American business. Pension funds invest broadly. A typical pension fund will own stocks, corporate bonds, government bonds, bank deposits, and real estate investments. Together, workers' pension funds contain over \$2.5 trillion dollars and control almost 30% of all the American stock. Key actors in the American economy such as Exxon, IBM, Procter & Gamble, and Boeing are substantially owned by American workers' pension monies.

Pension funds as owners of companies have the right to help determine the course of the company's strategy. The key is for worker pension fund trustees to have a clear understanding of labor's view of those factors that contribute to shareholder value. As stockholders, our pension funds have the right to attend annual meetings, question the company's officers and directors, make proposals at annual meetings, nominate directors, review and copy shareholder lists, and seek remedies in court and from the Securities and Exchange Commission if our rights to information and voice in corporate governance are denied.

Most union shareholders try to follow two basic principles: management accountability and long-term shareholder value. ACTWU has engaged companies on issues as diverse as asbestos contamination, mergers and acquisitions, and buying goods made by forced labor in China. But always, this kind of shareholder activity organizes shareholders as a constituency, a very diffuse

LRR FOCUS: "I Never Lost Hope that We Would Come Out Ahead"

Clothing manufacturer HartMarx announced in March 1992 that they intended to close its Fairwood Wells men's tailored jackets plant in Miami as of May 1, 1992. Rather than accept the corporation's unilateral decision, ACTWU, working with the Beacon Council (a private, non-profit development corporation), immediately jumped into action to save the plant and 240 ACTWU members' jobs by seeking another company to purchase Fairwood Wells.

ACTWU worked on several fronts to achieve a breakthrough in saving the plant. Fashion 500, a clothing manufacturer in Philadelphia looking to expand and whose employees were represented by ACTWU, showed interest. Working with ACTWU and the Beacon Council, the company made a bid for the plant in early May, and signed a tentative agreement within a month. The skills and determination of the workers were crucial elements in the union's efforts to save their jobs.

The workers were also directly involved in saving the plant. They formed the Committee to Save Our Jobs and set up lines of communication to provide accurate information of what was going on; they sent representatives to the Beacon Council and to public officials; and they cooked for each other at the union hall, held mass meetings, and generally kept the workers' spirits high.

The following reflections are by three ACTWU members who worked at Fairwood Wells and were involved with the Committee. The interviews were conducted by Monica Russo and Isaac Betancourt of ACTWU's Florida District office in Miami.

—M.R.

I'm Carmelina Castro and I arrived by parachute in 1966 and landed in this plant. I have been here ever since.

This plant has been sold so many times over the years that we feel like cattle going to market. After a certain point, it is useless to worry about it because there is a hierarchy that we cannot communicate with—and that is when the buyer and the seller are in their negotiations. But we had to keep our hope alive by staying together and by continuing to work towards the goal of saving our jobs. I never lost hope that we would come out ahead.

But not without a lot of determination. We worked hard to find a buyer for the plant. We should be proud because one of the main selling points of this factory was US—the workers. Because we are experienced, we are dedicated, and we put out quality work.



Fairwood Wells workers, originally from Haiti.

My name is Maria Consuelo Garcia—before I go on, let me tell you that I'm from Colombia. When I found out the plant was closing, I was on leave from my job working on a union organizing campaign in Tampa. . . . I couldn't believe it, but I felt that we needed to do something, that we had to struggle and see what we could accomplish. It was a very emotional thing for me.

When I first started working at Fairwood Wells, I didn't know what the union was. But now I understand that we, the workers are the union. We have to struggle for ourselves, for our dignity, and to be able to defend our rights.

The future at Fairwood Wells, when we return to work, is to maintain our unity. I would like things to be different, to make changes because there are always improvements that can be made. When communication breaks down it causes confusion, so I would like to see us continue our dialogue as a way of securing our future in a positive and constructive way.

I am Leonor Rodriguez and I have worked at Fairwood Wells since I arrived from Cuba 15 years ago. I have very good coworkers. Some of us are like family and we are very happy at work.

We have found courage to save not only our jobs, but also a part of an industry that will be a source of jobs for others in the future. The Committee to Save Our Jobs has only been together for a couple of weeks, but I feel we have accomplished a great deal in that relatively short time. The most important accomplishment was our coming together as a committee. We have to struggle or there will be no progress.

constituency that is slow to be roused, but has definite interests which management crosses at its own peril. The key to rousing stockholders is to choose to fight on issues that other shareholders will understand and that are consistent with our view of shareholder value.

Workers as shareholders have an interest in seeing that their companies are run to promote long-term growth and profitability. Reinvestment in plant equipment, research and development leads to profitable companies and stable, well-paying jobs. Companies that recklessly endanger the environment, participate in exploitative labor practices around the world, and discriminate against women or people of color hurt workers and their communities. These practices ultimately affect the shareholders as reckless behaviors or hostile work cultures lead to costly fines, legal entanglements, and alienation of workers.

Unions never have to be shut out of the forums where the futures of our companies are decided. We just have to know how to use the tools we already possess.

Last year, ACTWU proposed a resolution to J.C. Penney, a company heavily involved in retailing to all segments of the American public, that it strengthen its affirmative action policies, communicate with its suppliers about these policies, and disclose information about the success of those policies to shareholders. J.C. Penney management decided to support this resolution and it received 83% of the vote.

ACTWU took this approach overseas recently. We were troubled by the way Marks and Spencer, Britain's largest retail company, was managing its North American assets, including Brooks Brothers, an ACTWU employer. The strengths of these companies, like the sales force at Brooks Brothers, were being ill-treated, and Marks & Spencer, which had invested close to \$1 billion in North American, was not making any money. ACTWU, working in conjunction with British public pension funds, asked M&S to investigate why the North American business was being mismanaged. We made clear to management that we would solicit proxies independently for their annual meeting in London and attempt to pass a resolution on the subject if they did not act. As a result, we obtained a commitment from Marks & Spencer to rethink their North American operations. At this date, the problems are not

entirely resolved, but we felt we moved the company significantly and established a relationship where they would listen to our concerns as shareholders.

WORKERS AS OWNERS

ESOPs, the other major way in which workers own corporate America, are very different. During the 1980s, ESOPs became a fast growing area of union activity. Unions who once saw worker ownership as an attack on the whole idea of unions now routinely consider capital strategies using worker ownership as a means of increasing workers' power in the American corporation.

This is remarkable considering that worker ownership in America today is still largely driven by forces unremittingly hostile to unions. Most contemporary proponents of worker ownership, in their heart of hearts, would still like to see ESOPs replace unions. Of the 10,000 ESOPs in existence today, there are probably less than 100 that we would consider fair and democratic. But in the process of creating these 100 "good" ESOPs, unions have learned the ground rules of the buyout game through ESOPs and today are making deals happen that keep union plants from closing and union members working.

Unions need to think programmatically about ESOPs. We need to track our ESOP record and publicize our success stories. We



ACTWU employs economic development initiatives, in addition to pension, bankruptcy, and ESOP actions, to save jobs and build a healthy economy. In photo above, Latino workers celebrate their economic development victory at Fairwood Wells in Miami.

need to contrast our own brand of worker ownership, our own style of democratic ESOPs to the shabby, top-down ESOPs forced on workers by management. We need to think through strategies for reforming corrupt ESOPs and making paper ownership real. We need a range of tactics, from basic shop floor agitation to powerful lawsuits, to help worker-owners make their rights real.

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Two years ago, ACTWU led a buyout of an auto vinyl company in Toledo, Ohio that was going to be closed because we would not take concessions from the old management. Using a 70% ESOP, teaming up with incumbent management and our own investment bankers, we bought this company. The company immediately began to make big savings on worker-initiated waste recycling efforts. Other auto vinyl companies have been going under, but ours is very profitable and growing—and is now the dominant company in its market niche. Our members have more than recovered their concession with bonuses—and have real voices in their company.

Worker ownership has given unions necessary standing in the battles for corporate control that decide the fate of our companies. Our ESOP-based ownership bids are the ticket that gets us into the rooms where deals are cut. ACTWU's experience of stopping bad deals from happening in our industry has taught us that often the best way to stop a bad deal is to make a good deal happen. As a bidder or co-partner in a bid, we can change or stop potentially destructive changes of ownership and control. We get some say over who the new owner is and on what terms. The Airline Pilots and Machinists have clearly demonstrated the power of the runner-up bid in the years since deregulation and the takeover articles destabilized the airline industry.

Being in the trenches fighting wave after wave of the corporate restructuring of our companies, unions have had little time to contemplate other ways in which workers can defend their interests within ESOPs. During the 1980s, many companies were sold by management to captive ESOPs as part of leveraged



MERRY FARNIUM

Workers recently purchased John Roberts clothing manufacturer in Maine, re-naming it "ACT II." Morris Catorette has worked at the plant for 25 years.

buyouts. These ESOPs were set-up so that workers had no voting rights or rights to information. Management and investment bankers made a lot of money and loaded a lot of company debt on to the ESOPs. As these companies fail to perform according to the stellar projections of their investment bankers, the stock crashes and the workers lose their equity, their jobs, their pensions.

Many workers sense a profound injustice in these arrangement. Most Americans believe that ownership means control, and feel that if it doesn't, they are being taken advantage of. This is particularly the case where ESOPs control a large percentage of a company, or have replaced workers' retirement benefits. More fundamental to worker self-interest, ESOPs and other employee stock plans often fail to deliver the value promised. These injustices seem particularly glaring when contrasted with the rights and benefits of union-initiated ESOPs.

Of course, workers have not remained passive in the face of ESOP injustices. Within the last several years, ACTWU has assisted organized and unorganized workers with their efforts to reform management-dominated ESOPs and assert authentic ownership rights. (See LRR Focus: "The Fight to End ESOP Rip-Off.")

LRR FOCUS: The Fight to End the ESOP Rip-Off at Cone Mills

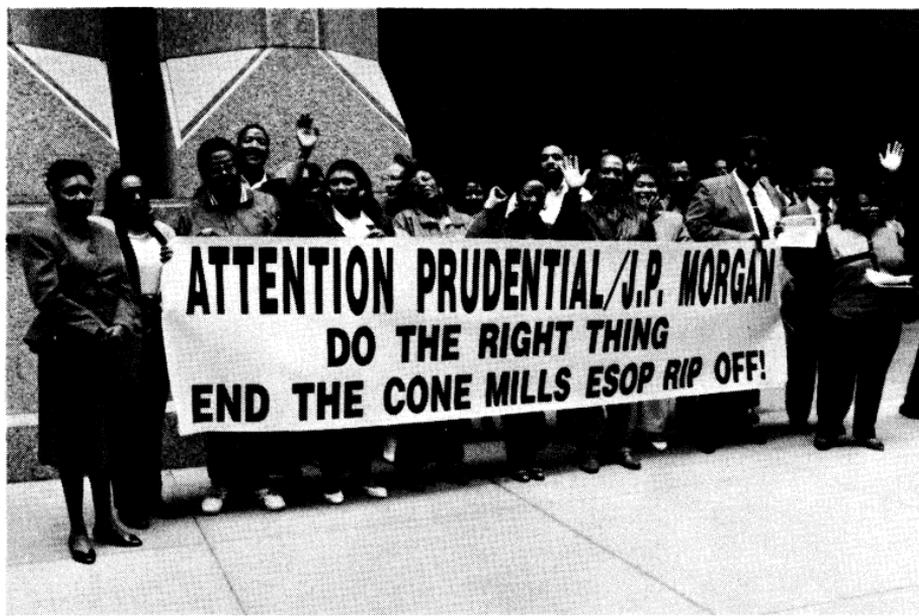
If you own a pair of Levi's jeans, chances are you are wearing denim made by members of the Amalgamated Clothing and Textile Workers Union. ACTWU represents 2,400 employees of Cone Mills, the world's largest producer of denim. For 90 years, Cone was a typical conservative Southern textile manufacturer, but all of that changed when the company became the target of a hostile takeover.

In the fall of 1983, Western Pacific Industries launched a hostile bid for Cone Mills. The company fought back and eventually won the battle, going private in a \$465 million leveraged buyout. As part of this transaction Cone terminated its pension plans, recovering \$69 million in excess assets. Cone used this money to pay down the enormous LBO-related debt and created a ESOP with the workers as minority owners.

By 1989, workers at Cone had figured out that the only way they would get any benefit from their ESOP is if they retired or quit. The company had already taken away the profit-sharing component of the ESOP and recently disclosed that the stock owned by management had gone up over 500% while the ESOP stock's value remained the same. Cone employees felt cheated by this and decided to undertake a campaign to reform their ESOP.

During the first year of the campaign, the union held meetings to discuss the ESOP. Different leaflets were distributed each month providing information about the stock plan. ESOPs are complicated; it was only by breaking down information about Cone's ESOP into distinct pieces that the Union was able to educate everyone about the plan's shortcomings and management's broken promises. By repeating our messages often we were able to make our interpretation of the plan, and management's role in it, stick.

Within a very short period we began a series of activities to involve Cone employees on the issue. Over 2,000 workers signed a mass grievance against the company for violating its ESOP promises. Hundreds of these workers attended grievance meetings. They also wrote letters to the company's directors as well as its bankers demanding changes to the plan. They leafletted employees at the company's nonunion plants and held a number of demonstrations in front of Cone's corporate headquarters. ACTWU built a great deal of worker and community support during this period and drew more people into the union.



After two years of fighting management, the Cone employees finally claimed victory in June 1992. In April, the company had announced that its intentions to sell stock to the public for the first time since 1984; management clearly needed to resolve the ESOP quagmire. Cone workers took on a variety of activities to press the issue, including traveling from North Carolina to New York City to confront the company's stock underwriters Prudential Securities and J.P. Morgan, and holding a one day unfair labor practice strike.

By this point Cone management had no doubt about the staying power of this issue among the company's employees. The company made major concessions including discounted prices on stock for workers; a "going public" bonus dividend; and an agreement to negotiate the transfer of a portion of each employees' ESOP account into the new stock plan where employees could gain access to their own money if they decided to do so.

The Cone Mills campaign represents a rare instance in which workers, even though they were minority owners, were able to force management to alter the stock ownership structure of a company. As Margo Harris, a Cone worker, told J.P. Morgan executives, "You took away our pension money and used it to make yourselves rich—and now we want our fair share."

The keys to this success were the persistence of the workers, the educational effort undertaken by the Union, and the on-going program of activities that involved many people.

In one ESOP fight, ACTWU assisted nonunion workers in bringing an ERISA law suit against the Simmons Mattress Company that seeks to put tens of millions of dollars back in the company's ESOP. Former Secretary of the Treasury William Simon is one of the defendants. The Simmons Company was another 1980s style LBO where a management investor group made a profit of over \$140 million by selling the company to its workers through an ESOP. The value of the worker's stock dropped from \$4.10 to 50 cents a share within a year of the sale. "They took a great company and ruined it with debt," says former Simmons worker and plaintiff Al Mundt.

Ownership scams like these have become part of the daily gut anger that workers feel toward their managers. But often workers feel hopeless in the face of the smoke screens of corporate finance that management throws up around the workings of their ESOP. Unions can help workers cut through the camouflage and make sense of what is happening to them. Unions need to be there for workers in ESOPs, whether they are organized or not.

Through ESOPs, shareholder activism, and other capital strategies, workers and their unions can make companies more responsive to our interests as ESOP participants and pension plan beneficiaries. We can use this influence to hold management accountable to our vision of long-term shareholder value, a vision of responsible companies investing for the long-term health of their business and by doing so, contributing to the development of a more prosperous and less exploitative society for all of us. ■