Britain: Bankruptcy and administration affect thousands of retail workers

Robert Stevens
9 January 2009

A number of large British retail firms have gone into administration, causing tens of thousands of job losses. Over the past year more than 3,000 UK firms went into administration—some 1,006 companies in the third quarter alone.

In the last weeks there have been a number of high profile casualties of which the retail chain store Woolworths, with some 800-plus stores nationwide, is the most notable. But it has been followed by the furniture retailer MFI, music chain Zavvi, furniture and home accessories store The Pier, menswear retailer The Officers Club, tea and coffee merchant Whittards of Chelsea, children’s clothing retailer Adams, fashion retailer USC and women’s clothing retailer Viyella. In total, some 40,000 jobs have been lost or are at risk.

The case of USC has brought to light a new dimension to the rash of bankruptcies. Sir Tom Hunter, one of the richest men in Britain with a £1.05 billion fortune, bought USC for £45 million in 2004 via his investment firm, West Coast Capital.

When USC went into administration, nearly 1,500 employees at 58 shops across the UK were affected. It was then announced that a buyer had been found for USC—the very same Sir Tom Hunter. Under the deal, arranged with the administrator PKF, Hunter has bought back 43 of his 58 stores through another of his companies, Dundonald Holdings, in a so-called “pre-packaged” administration agreement.

The remaining 15 stores, at which 300 part and full-time workers job are threatened, are now being run by the administrator. The *Guardian* commented that USC “decided to jettison these [15 stores] because of weak trading and onerous leases”. USC has stated that they were “haemorrhaging money”.

Bryan Jackson, a corporate recovery partner with PKF said, “In the short term, we will trade [the 15 stores in administration] as USC as best we can. Our intention, frankly, is to wind them down.”

Jackson continued, “The impact of the credit crunch is continuing to spread into the wider economy beyond the property and financial sectors. As has been well publicised, retail operators are facing extremely challenging times.”

Jim McMahon, a founding partner of West Coast Capital said, “Ultimately we had to ask ourselves, what’s better—the loss of 15 stores or all 58? The answer was unequivocal.”

Both The Officers Club and Whittards have also entered into pre-packaged administration deals, as has another clothing firm, Envy.

In the case of the Officers Club, PricewaterhouseCoopers presided over the deal in which a new company, headed by Officers Club chief executive David Charlton, bought the firm. Under its terms about 32 of its 150 stores are to close.

The Whittards pre-packaged deal was controlled by Ernst & Young. Under the terms of that agreement Whittards sold its 130 stores to Epic, a private equity firm. It is expected that a number of Whittards stores will close as part of the agreement. Whittards also has 30 overseas outlets and has been looking for a buyer for these since the beginning of December.

The impact on workers rights

Pre-pack administration is now a common phenomenon, whereby businesses are able to go into bankruptcy only to then immediately repurchase the most profitable and valuable parts of their operations. The remaining parts which are deemed unprofitable are left to go to the wall.

Speaking about the importance of what is becoming a preferred option for big business, Bryan Jackson said, “The pre-pack’ is now a fairly common method. It is a way of preserving the good wing of the business and keeps the valuable part of the business going.

“If you actually put the whole business up for sale, the process takes weeks and the value of the business could have gone by the end of it.

“Everyone knows you have gone into administration and you have to have closing down sales to keep everything going. This way, you can preserve some of the value.”

The number of pre-packed administrations is set to increase over the next period. Insolvency experts Begbies Traynor predicted last week that as many as 15 retail chains will collapse by mid-January. Deloitte and PwC are among several accountancy firms believed to be preparing a number of such initiatives.

Much of the press coverage of the pre-packaged administrations has concentrated on the plight of the landlords of the stores that are rented by the retail chains. USC called in the administrators after receiving a quarterly rent bill that that fell due on December 26. Under pre-packaged agreements, creditors including landlords and suppliers do not generally receive the full value of the amount owed by the company that has gone into administration.

The *Daily Telegraph* commented, "The pre-pack is likely to provoke anger among USC's suppliers or landlords, some of whom could face unpaid bills following the administration."

"Until yesterday those landlords—a group which will almost certainly include those managing our ever-diminishing pensions—had a legally binding agreement with USC. Today they have empty shops and no recourse to the new company set up by Sir Tom to buy USC out of administration. As for suppliers, they will have to negotiate a deal with the new company or turn to their insurer for payment."

The *Financial Times* commented, "In a 'pre-pack', a deal is done to sell a business on the brink of insolvency with the consent of secured creditors. Administrators are appointed to affect the deal and the business emerges almost immediately from administration. Unsecured creditors, such as Revenue and Customs and suppliers, have no say in the process and risk recovering nothing."

Such sympathetic coverage has not been extended to the many thousands of workers who potentially face the loss of their jobs and contract rights. Some could even face seeing their pensions wiped out overnight.

The plight of the tens of thousands of Woolworths' staff is a case in point. The company was unable to find a buyer and its entire workforce has been left facing redundancy, under conditions whereby it is unclear they will receive the money they are entitled to. With the firm in administration, it appears likely that they will only have recourse to the government's statutory minimum redundancy package.

On December 3, 120 Woolworths' employees at the St Helier store on the island of Jersey in the English Chanel launched a petition after being told they would not get redundancy payments because the UK statutory redundancy scheme does not operate in the Channel Islands. Woolworths' employee Anne Marie Le Bloas told the BBC that the workers were only told five minutes after the shop ceased trading that they would not be receiving a redundancy package.

Woolworths' employees on the nearby island of Guernsey were also informed that they would not be receiving a redundancy payment. The administrator, Deloitte, said, "When it was explained to the staff from both Jersey and Guernsey that they wouldn't be receiving any redundancy payments, they were clearly frustrated, but most of that was directed to their governments."

The right of workers to their pension payments is also threatened by the increasing number of firms going bankrupt and into administration. The pensions of workers formally employed at Woolworths have been placed in the hands of the Pension Protection Fund (PPF). The PPF is an insurance fund set up by the government in 2005 to meet the pension bill of insolvent companies. It collects a levy of just £675 million a year to fund its operations.

It is clear that the limited funds of the PPF will soon be exhausted due to the number of firms going into bankruptcy and the massive scale of pension fund deficits. Since it was established the PPF has been forced to rescue more than 66 pension schemes.

According to one analyst Woolworths has a pension deficit of £250 million. Such a deficit will require the PPF to inject at least £100 million into the Woolworths' pension fund. Under the PPF, those employees who have not reached normal pension age, i.e. the vast majority, are only entitled to 90 percent compensation.

As a result of the PPF rescue John Ralfe, an independent consultant, estimates that Woolworths' workers will face a cut in their pensions of 20 percent.

In the past year pension schemes run by the UK's largest 100 companies have seen £65 billion of their asset values wiped out. According to Deloitte this is the equivalent to 17 percent, or five years' worth of current pension contributions.

The trade unions are seeking to ensure that there is no organised opposition amongst workers. In response to the original announcement that Woolworths was to go into administration, the shop workers union USDAW issued a statement calling for an orderly winding down of the company.

The National Officer of the union, John Gorle, called on workers to "comply with instructions" from Woolworths.

The only action the union has taken has been to urge the government to allocate people to speak to staff at job centres once they have been made redundant.

Gorle stated, "We have also called on the Government to ensure that its rapid response teams at the local Job Centres will be ready to help staff to find new employment as quickly as possible."

"Worried members should contact their USDAW reps or the local union office and comply with instructions from their store managers."

The trade union bureaucracy have made clear that under conditions of mounting economic crisis, that they intend to deepen their co-operation with big business and pass the burden onto the backs of ordinary workers.