The Detroit bankruptcy and the Jones Day law firm

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The reactionary political content of the decision to throw Detroit into bankruptcy, which is aimed at inaugurating a general assault on the wages, benefits, and working conditions of public sector workers throughout the country, is perhaps best seen in the selection of Kevyn Orr of the Jones Day law firm as the city’s emergency manager.

In addition to being a black Democrat, Orr’s history with Jones Day and his direct role in the Obama administration’s forced restructuring of the auto industry played a major role in his selection as the city’s financial dictator.

Jones Day, which has been hired to oversee Detroit’s bankruptcy, is an international law firm representing some of the most rapacious elements in big business and finance throughout the world. The firm has played a direct role in attacking some of the most important struggles waged by the American working class over the past few years. It is precisely this resume that makes Orr’s history with the firm so attractive for business.

During last year’s strike by 26,000 public school teachers in Chicago, Jones Day filed the motion on behalf of the Chicago Board of Education seeking a restraining order against the Chicago Teachers Union (CTU) and asking that the strike be declared illegal. The day after the filing, the CTU shut down the strike, granting Chicago’s Democratic Mayor Rahm Emanuel all his major demands.

The betrayal of the 26,000 Chicago public school teachers dealt a major blow to the struggle to defend public education against the assault being spearheaded by the Obama administration under the guise of reform. Since the strike’s betrayal, thousands of Chicago teachers and support staff have lost their jobs as the Emanuel administration moves ahead with plans to close 50 of the city’s public schools—the largest school closures in US history.

Jones Day was also lead legal counsel for Hostess Brands in their bankruptcy last year. Under the guidance of the law firm, Hostess liquidated the company in the face of oppositional strikes by the company’s bakers, eliminating some 15,000 jobs and closing dozens of bakeries and distribution centers.

According to Jones Day’s web site, the firm also advised telecommunications giant Verizon in its contract negotiations throughout the 2000s during which time tens of thousands of jobs were eliminated at the company. Most recently, the firm represented Verizon during its 2011 contract negotiations, which ended in a two-week strike by 45,000 workers against the company’s attempt to wrench $1 billion in concessions by attacking employee health care, pensions, and job security.

The law firm boasts of its role in helping Verizon “prepare for a possible strike, including preparing to respond to work stoppages, work slowdowns, violence, sabotage, and other union conduct.” However, there was little need for the preparation work, since the Communications Workers of America and the International Brotherhood of Electrical Workers abruptly ended the strike without a contract. The betrayal of the strike allowed Verizon to push through a concessions contract, which accepted most of the company’s major demands.

Most recently, Jones Day has lent its services to Peabody Energy—the largest coal company in the world—as the energy giant defended itself against a lawsuit filed on behalf of Patriot Coal as part of its recent bankruptcy. Patriot was created by Peabody as a spin-off of the parent company’s union operation east of the Mississippi in 2007.

The creation of Patriot was a conscious business move on the part of Peabody to offload its union health care and pension liabilities from its books. While Patriot received about 13 percent of Peabody's coal reserves, it was burdened with $617 million, or about 40 percent, of Peabody's legacy liabilities, as well as a raft of below-market coal contracts. As a result, Patriot reported $1.2 billion in assets and $1.1 billion in liabilities in its first quarterly filing after the spin-off.

In 2008, Patriot greatly exacerbated its financial difficulties when it acquired Magnum Coal—a similar union spin-off undertaken by Arch Coal in 2006. Arch is the second-largest producer of coal in the US behind Peabody.

Patriot fulfilled the mission it was created to accomplish when it declared bankruptcy under the weight of the protracted economic crisis in July 2012. The company's restructuring plan was approved in bankruptcy court in May, granting Patriot the right to tear up its collective bargaining agreements with the United Mine Workers, change work rules, and otherwise reduce union wages and benefits to the level of nonunion miners.

The ruling also gives Patriot permission to cease contributing to its retiree pension and health care plans, affecting some 21,000 retirees and their dependents. More than 90 percent of these retirees never worked a day for Patriot.

The health care obligations are to be transferred to a Voluntary Employee Beneficiary Association (VEBA) with the only guaranteed funding being a one-time $15 million contribution by Patriot, while current retiree health care costs average nearly $7 million a month. The VEBA is modeled after the similar plan instituted at GM during its restructuring, with the United Auto Workers' counterparts in the UMW bureaucracy receiving a 35 percent stake in the reorganized Patriot.

The lawsuit filed by Patriot against Peabody involved the retention by Peabody of retiree health care obligations for some 3,100 retirees. This agreement was the only means by which Patriot would have been considered solvent at birth, allowing Peabody to distribute shares of the new company to its stockholders tax free. The lawsuit was quashed in the bankruptcy ruling, giving Peabody the green light to attack these obligations.

This brief review shows that Detroit workers are not alone in their struggle. In particular, the workers of Detroit find natural allies in the coal miners of Appalachia. Like Detroit, states such as West Virginia have long been dominated by the Democratic Party, which has overseen the descent of their working populations into the nation's deepest and most oppressive conditions of poverty—the one urban, the other rural.

Workers in Appalachia and Detroit have also suffered under the bitter experience of the betrayals of the trade unions, which have been transformed into outright appendages of the state and have thoroughly integrated themselves into the structure of corporate management. Under the impact of globalization, this process is the logical outcome of the nationalist and reformist outlooks long adopted by the UAW and UMW.

The identity of social conditions faced by black and white workers in Detroit and Appalachia provides a powerful refutation of the insistence by civil rights leaders and pseudo-left groups like the International Socialist Organization that race, and not class, is the primary division in American society. This outlook only serves to disorient and divide the working class along racial lines, preventing a unified struggle against a common enemy.

What is above all required for the defense of workers in Detroit against the financial parasites, who are seeking to bleed them dry, is a political break with the Democratic Party and the building of new organizations of struggle independent of the trade union apparatus. This will be accomplished through a unification of the entire working class in a struggle to reorganize society along socialist lines.