



Written by [Thomas R. Eddlem](#) on June 9, 2009

Chrysler Bankruptcy & Political “Fiat”

Nothing else matters to the Oval Office politicians trying to run roughshod over bankruptcy laws: not property rights of secured lenders, and not the states’ rights this bankruptcy would violate. Nor does it matter that the loss of billions of dollars in secured debt would not only undermine the very concept of secured debt but could end up destroying countless more jobs than the Chrysler-Fiat deal would supposedly save.

At issue are three pension funds owned by the State of Indiana that purchased “secured” debt from Chrysler in July 2008. According to the [Associated Press](#), “As part of Chrysler’s restructuring plan, the company’s secured debtholders will receive \$2 billion, or about 29 cents on the dollar, for their combined \$6.9 billion in debt. The Indiana funds bought their \$42.5 million in debt in July 2008 for 43 cents on the dollar.”



“Secured debt” is basically collateralized debt; if a borrower defaults, the secured debt holder gets something tangible he or she can sell to make up for their losses. For example, an individual’s automobile loan is generally a secured debt. If the purchaser doesn’t make his payments, the creditor can repossess the car. The Indiana pension funds made essentially the same agreement with Chrysler back in July 2008, and they don’t want to be cheated. [Business Week explains](#): “The Indiana funds are claiming that as secured creditors they are not being treated fairly in the bankruptcy proceedings, which were engineered to fast-track Chrysler through the Chapter 11 process. Specifically, they argue that the United Auto Workers, who were owed billions in future health-care payments by Chrysler, are being given preferred treatment even though the union’s debt with Chrysler is unsecured and should have lower priority. The UAW’s health-care trust fund will own 55% of Chrysler once the proposed reorganization is completed.”

Constitutionalists are cheering the stay by the U.S. Supreme Court, however brief that stay may be. “Kudos to the Supreme Court for refusing to be steamrolled by the Obama administration’s politically-organized bankruptcies of Chrysler and General Motors,” said [John Berlau of the Competitive Enterprise Institute](#). “Regardless of the final outcome of this case, the bankruptcy plans put together by the executive branch are on a collision course with the U.S. Constitution.” Ironically, the Obama administration is trying to cheat pensions of government workers (in this case, retired employees of the State of Indiana), who have preferred “secured” debt, and reward the private United Auto Workers and their unsecured debt through the bankruptcy. But don’t for a minute think that Obama is seeking to reward the private sector pension funds or punish the government workers. It’s still all about saving political face, and being able to claim to “save jobs.”



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Right now, Obama looks like the world's worst investor. It was [he who first urged President George W. Bush to begin the auto bailout](#) in November 2008 as a means for General Motors and Chrysler to avoid bankruptcy. Every other sound financial thinker already knew that bankruptcy was inevitable. Now, U.S. taxpayers are already [on the hook for \\$110 billion in auto bailout funds](#), and both General Motors and Chrysler are in Chapter 11 anyway. President Obama plans to shovel additional billions into Chrysler (Fiat, the "partner," is not expected to invest any funds) over the next few years. And there's no real plan — and certainly no guarantee — that these companies can become profitable again. Had they simply been allowed to go bankrupt, they might have been liquidated. They certainly would have been liquidated sooner, and with less debt. And the companies that emerged with Chrysler's assets from liquidation would likely have had lower overhead and a better chance of survival and creating jobs.

But Barack Obama followed the Soviet example and decided that "government knows best" when it comes to industry. The result is not just bankruptcy but \$110 billion bled from the U.S. Treasury in bailout funds. The Chrysler jobs that have been "saved," if they are eventually saved, won't support the tax rolls; the tax rolls already support the "jobs."

The Indiana lawsuit reveals not only that the bleeding of the American economy will continue, but also that the Obama administration is creating other financial losses that won't be measurable in terms of tidy dollar sums as is the case with the bailout funds. The flouting of the Indiana "secured" debtors in this case - if approved by the Supreme Court - could send a shockwave through the financial markets about the new insecurity of "secured" debts. The Obama administration is killing the idea of secured debt, which has often been a lifeline for troubled but often ultimately sound companies. The "secured" aspect of the debt is what lured investors — like the Indiana pension funds — to make the investment in Chrysler in the first place.

Henceforth, few investors will take the chance to invest in troubled companies, even if those companies proffer "secured" loans. And troubled companies, many of which would otherwise survive and even thrive, will be forced into bankruptcies. It's impossible to measure how many jobs would be lost should the Supreme Court approve the Obama plan for Chrysler, but it could be in the millions.



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