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A Labor Union's Power: Blocking Takeover Bids

Steel-Company Buyers Learn They Must Get USW on Their Side

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Page A1

PITTSBURGH -- As Brazilian steel giant CSN maneuvered last year to merge with Wheeling-Pittsburgh Corp., the two companies paid little heed to opposition from the United Steelworkers union.

That was a mistake.

The USW wanted what it considered a more union-friendly bidder than CSN, and found one in Chicago upstart Esmark Inc. Executives of Esmark promised that if they got hold of Wheeling-Pitt, there would be no union layoffs there. The union threw its weight behind Esmark, which then mounted a fierce proxy fight to oust the Wheeling-Pitt board. In November, it won handily.

"We turned the entire board over in one day -- little old Steelworkers and little old Esmark," says Ron Bloom, the steel union's point man in the battle.

At a time when organized labor at times seems a feeble anachronism, the USW is exercising plenty of power, by playing for keeps with the capitalists. Its strategy, rather than simply to pound the table for higher pay or threaten strikes, is to block takeovers, take sides in bidding wars and fight for board seats.

The union also muscled its way to the negotiating table in bankruptcies, billing itself as a "creditor" whose claims are workers' lost wages and benefits. In its most sophisticated tactic, it cuts deals with private-equity players and other financiers. "If you're not in the game, you're really going to get really screwed," says Leo Gerard, president of the 850,000-member union, which represents workers in chemicals, paper, aluminum and several other industries in addition to steel.

Many labor chiefs remain hostile to Wall Street types sailing in to buy struggling companies. "We see them simply as a group of wealthy people that control a group of other wealthy people's money, and buy low, throw a lot of people out of work, and sell high," says Buzz Hargrove, president of the Canadian Auto Workers union.

Another reason other unions haven't adopted the USW strategy, some say, is that their industries didn't face the kind of crippling damage that pushed the steel union to try a new approach. But the USW's tactics may become more common as unions recognize they must deal with the Wall Street crowd, which as a result of investments now indirectly controls thousands of union jobs.

From his office in USW's Pittsburgh office tower, Mr. Bloom straddles the worlds of New York private money, corporate executive suites and Midwest union halls. In the Wheeling-Pitt case he dealt with entrepreneurs who run Esmark as well as with Franklin Mutual Advisers LLC, a big mutual-fund firm that owns 70% of Esmark's shares. In return for Esmark's no-layoff promise, the union agreed not to oppose its wish to import steel slabs to Wheeling-Pitt mills if Esmark manages to acquire the company, as it hopes to do this summer. The union customarily opposes such imports.

Both inside and outside the USW, Mr. Bloom is known as a financially savvy negotiator - a 52-year-old with a tendency (like his boss) to spout profanities. Mr. Bloom attended Harvard Business School, where he gravitated to populist business cases and was keenly interested in employee buyouts. After 10 years at investment banks, among them Lazard, he became special assistant to the USW president in 1996.

Some USW members think Messrs. Bloom and Gerard are too cozy with the moneymen. Lee Siskie, a 64-year-old retiree who worked at an Ohio mill now operated by Republic Engineered Products Inc., says a 2002 deal between the USW and financiers kept the mill open, but his benefits were slashed during the bankruptcy proceedings. Mr. Siskie figures the union "should be working with people that know more about the steel business than the investment business," not people who "want to make a quick hit and get the hell out."

Mr. Bloom says that dealing with financial buyers of steel assets, people like New York's Wilbur Ross, "is just business." Indeed, he says, in contrast to traditional steel executives, who sometimes want unions "in their place," talking to private-equity types is refreshing: "They don't take cultural offense to anything. They just deal with power."

USW leaders first began to change their approach in the 1980s, when American steel was decimated by foreign competition, overcapacity and high costs. The many resulting bankruptcies cost tens of thousands of jobs. Instead of confronting management with traditional demands, the steel union decided its best hope for preserving jobs and benefits was to back good companies that could make money. It began trying to pick winners and losers, often diving into restructuring battles.

The reason the USW can sway such battles traces largely to contract provisions called successorship clauses. In the case of most unions, such clauses merely require the acquirer of a plant covered by a collective-bargaining agreement to adhere to it.

USW agreements often go further: Many state that a successor company and the union must agree on a new labor contract before a plant is sold. This provision, which the

Steelworkers negotiated in most of their steel-industry contracts beginning in the mid-1980s, effectively gives the union an approval right on the sale of a steel plant.

For the USW, a watershed event came in 2001. Mr. Ross was poking around LTV Steel during its second trip to bankruptcy court, with its mills closed. Mr. Ross recalls telling the union there was value in LTV, but it would need wholesale restructuring, including a labor overhaul.

He discovered that Messrs. Bloom and Gerard were open to radical change. The union was willing to embrace a leaner operating structure, altered work rules and new rules on incentive bonuses if it got what it wanted from a new owner of LTV.

Mr. Ross agreed that if he acquired LTV and it became profitable as part of his International Steel Group, a portion of the profit would go into a trust for retired steelworkers' benefits. The USW has worked with a number of companies to set up such trusts, designed to restore part of the retiree benefits that bankruptcies sometimes wipe out.

The USW says it agreed with Mr. Ross that if he reopened the mills, they could operate with 30% fewer union jobs; it says management ranks were reduced by at least twice as much. Mr. Ross then obtained control of LTV and reopened the operations, and the work force ratified a new labor agreement.

"It was a pretty radical change in the way steel was made. Without those [changes], I would never have bought LTV," Mr. Ross says. Referring to the USW's Messrs. Bloom and Gerard, Mr. Ross says, "These guys are very straight shooters."

Also in 2001, Bethlehem Steel filed for bankruptcy reorganization -- again drawing Mr. Ross's attention. Mr. Bloom began negotiations with him a second time. "So now we say to Wilbur, 'OK, we'll support you. We'll shield you from all other bidders . . . so you can get it real cheap.'" In return, he asked that "real money" be put into the retiree-benefit trust. He says he told Mr. Ross: "You get to put LTV and Bethlehem together -- you've now just created by the stroke of a pen the largest steel company in America."

Mr. Ross acquired several more steel companies, eventually selling them for \$4.5 billion (and a \$300 million personal profit) to Mittal Steel Co., the giant London company founded by Indian-born billionaire Lakshmi Mittal. Remaining USW members benefited and so did retirees, as hundreds of millions of dollars poured into the benefits trust. Meanwhile, the American steel industry caught another break, as the global commodities boom has improved its fortunes in recent years.

The USW has sometimes given up its right to approve the sale of a steel company in exchange for benefits for its membership. The union struck such a deal with aluminum company Ormet Corp. last year after a rocky negotiation with a private-equity firm that controls Ormet. The deal brought the union members supplemental unemployment

benefits and left the private-equity group, MatlinPatterson Global Advisors LLC, free to sell Ormet when it chooses to.

"Private-equity guys buy companies and sell them five to seven years later, and they need exit" strategies, says Mr. Bloom. "We get that."

Of the USW's dozens of negotiations in recent years, few show its power better than the struggle over Wheeling-Pittsburgh.

That company was long considered a weak player and candidate for a merger. In 2005, its board retained an investment bank and weighed possible partners, Esmark among them. It selected Brazil's CSN -- formally Companhia Siderurgica Nacional SA -- striking a partnership deal that left Wheeling-Pitt management in place. A former director of Wheeling-Pitt, Clark Ogle, says, "We felt it was prudent to have a partner. CSN seemed to be the most logical end."

The union didn't agree. Mr. Bloom says there was nothing "inherently wrong" with CSN, a strong, low-cost producer. But as he and Mr. Gerard analyzed the planned deal, they concluded that too much of its benefit would flow to CSN and not enough to American workers.

Mr. Bloom was rebuffed when he took his objections to Wheeling-Pitt management. In the middle of last year, the USW played its trump card. It invoked a successorship clause it had earlier negotiated with Wheeling-Pitt, an especially potent clause that covered the entire company and would be triggered in the event of any change of control. The union announced it would oppose Wheeling-Pitt's merger plan with CSN.

"What we're best at is stopping things," says Mr. Bloom.

The USW informed Wheeling-Pitt that it was throwing its support behind Esmark, a company Wheeling-Pitt had rebuffed.

Esmark was founded in 2003 by James and Craig Bouchard, brothers whose parents both worked in the industry. The brothers built Esmark by acquiring 10 steel-distribution businesses. They named it after a former Chicago consumer-products conglomerate they admired, with the approval of the executive who had built that business.

A merger with Wheeling-Pitt would create a company that combined steelmaking with distribution. "We liked the vision," says Mr. Bloom, who adds that Esmark had a reputation for good labor relations.

The USW leaders also were familiar with Esmark's financial backers -- principally Franklin Mutual Advisers -- because Franklin had backed Mr. Ross's steel deals. Franklin was prepared to finance a merger of Esmark and Wheeling-Pitt by putting up as much as \$200 million. Michael Embler, chief investment officer at Franklin's Mutual Series

Funds, says, "Instead of us versus them, the Steelworkers think, 'How do we make this industry competitive?'"

The USW and the Bouchards bargained over terms of the union's support for an Esmark run at Wheeling-Pitt. The Esmark executives agreed not to lay off union members but pressed, in return, for the right to import steel slabs from Ukraine. To Esmark and its financial backers, this was a way to keep the mill running full tilt and thus more productively. The sides eventually struck that deal.

Although the union was able to block CSN, an alternative deal for Wheeling-Pitt could be mounted only by a steel company such as Esmark with the money and energy to try to wrest control. In July 2006, Esmark decided to wage a proxy battle to oust the Wheeling-Pitt board that had rejected it. Lobbying shareholders, Esmark CEO James Bouchard told a wire-service interviewer that support for the existing Wheeling-Pitt board "is a vote to keep the failed management team in place and guarantees continued conflict with the USW." Mr. Ogle, the former Wheeling-Pitt board member, says Wheeling-Pitt's operations were improving and there was a "breath of fresh air and hope" at the company.

In the November shareholder vote, the Esmark side won about 69% backing for its slate of directors. That included the support of a retiree-benefits trust that held 15% of Wheeling-Pitt shares. The USW says that while it didn't control those votes, it had made its views widely known.

The Bouchards at Esmark then replaced Wheeling-Pitt's board with their own slate, including two USW representatives. This laid the groundwork for a proposed merger between Esmark and Wheeling-Pitt this summer.

Esmark was well aware that when the USW is opposed to a steel company's actions, it can make its views known through moves that get the attention of institutional investors, such as vitriolic news releases or hints of future strikes. "It is suicide to try to buy a steel company without the union support," says Mr. Bouchard.

It's a lesson CSN learned too late. "We didn't get in on the side of the union at the start, so they became our enemies," says a CSN executive, Luiz Ernesto Migliora, who was not involved in CSN's Wheeling-Pitt bid. He says the Brazilian company remains interested in buying American steel assets, but next time, "I would never try anything without going to the union first."

The union may soon play matchmaker again. Mittal intends to sell a big mill in Sparrows Point, Md., that could fetch \$2 billion. At least five bidders are expected, among them both CSN and Esmark. Once again, the union says it has veto power over the sale because of a successorship clause in its labor contract.

"Is it fair to say that we open the game oriented toward Esmark? Yes, of course it is," says the USW's Mr. Bloom. But, he adds, "the door is not shut. It can't be shut. We have an obligation to these members."