ADVISOR PERSPECTIVES

How Top Execs Game Retirement Plans

By Michael Edesess
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Corporate executives and employee-benefits consultants have engineered a cascade of arcane methods to deprive ordinary retirees of benefits they thought they were promised, in order to fatten corporate profits and the benefit packages of top executives. That is the harsh message of *Wall Street Journal* reporter Ellen E. Schultz's meticulously-researched book, *Retirement Heist*.

I will in due course tell you more about this book, but first I have a confession to make.

Several years ago, after a brief failed endeavor trying to help a small company in Spain with its artificial intelligence research, I decided the only thing to do next was to seclude myself in a remote location and write a book. I found a small town in a small country. I lived in a little apartment in that town and wrote for three or four hours each day for five months, using as my office the top of a turret in a distant corner of an ornate, sprawling estate with Gothic architecture that had been turned into a tourist attraction.

About a year later I saw my accountant about taxes. He said, "So, you spent five months last year living in a foreign country writing a book."

I said yes, wondering what relevance that had.

He said, "So you were working in that foreign country."

I said yes, if you call that working.

Then he said, "Did you record your expenses?"

I said heck no. Then he said, "Well then, we'll have to use the per diem."

It turned out that I could deduct my expenses at the government's per diem rate listed for the nearest city. The haven I had settled upon was Portugal, and the nearest city turned out to be Lisbon, where the per diem rate must have been for visiting dignitaries of the top rank, because it was easily four times what I spent every day while living in the nearby town of Sintra – and that includes all the wine I drank.

Thanking my astute accountant, I did a "happy dance" (as Ellen Schultz would put it) to revel in the tax relief windfall he had found for me.

I did not think about the millions of people who do not have so expert an accountant, who did not spend five months in a small town in a small country drinking wine and writing, and who pay more in taxes to make up for what I didn't. In fact, if one of those people had shown up at my door complaining of how much more he would have to pay because of me (about a penny, when you come down to it), I would have thought he was a nutcase and avoided him like the plague.

The heist

Why do I mention this? Because I have a habit (a bad one or an admirable one, depending on your point of view) of trying to put myself in other people's shoes before castigating them. Even when the footwear belongs, as in this case, to people of whom one reviewer of Schultz's book said, "How such corporate executives and their retirement heist allies sleep well at night is a puzzle to anybody with a conscience and a sense of fair play."

Every detail of the story in Schultz's book is analogous to my little Sintra sabbatical, just millions of times bigger. Employee-benefits consultants present corporate executives with innovative, just-barely-legal ways to pull money – and tax deductions – out of benefit plans designed for a company's retirees. This can include such dodges as freezing the benefits, converting retirement plans to cash balance plans, merging a company with an overfunded plan with a company with an underfunded one, taking out insurance on the employees with the corporation as beneficiary, and a host of other financial engineering gimmicks. Orwellian slogans like "this change is to improve the competitiveness of our benefits program," accompanied by Orwellian statistics, are presented to the retirees – and to legislators, courts and regulators – to make it sound like the plan is being improved. If any retirees discover the truth and complain to higher-ups about it, the company avoids any accountability like the plague.

The end result is a loss to the corporation's retirees, and to taxpayers, but a gain in the corporation's profits and a bonus for the executives and their consultants.

Schultz intersperses highly technical passages about the mechanics of how executives and consultants manage to raid or reduce pensions, with pathos-heavy stories about the individuals who suffer from these plots, and for whom it may require a years-long battle to get so much as an explanation, much less what is due to them. Many of the individuals featured are loyal retirees now approaching their death beds, with precious little time or wherewithal to fight back.

When employers adopted new cash-balance plans, for example, retiree benefits often declined as a result, though brochures the company handed out to employees said, "The changes being made are good for both you and the company." At the same time, it was next-to-impossible for employees to find out how the new plans actually worked.

For instance, Schultz relates the story of one engineer, Steven Langlie, who “couldn’t figure out how the cash-balance plan his employer changed to in 1989 worked,” Schultz writes.

> “[Langlie] relentlessly pestered his employer, Onan Corp., a unit of Cummins Engine in Minneapolis, for answers. When they refused to spill the beans, the increasingly apoplectic Langlie wrote to local lawmakers, complained to the Minnesota Department of Human Rights and the IRS, and traveled to Washington, D.C., to deliver a petition signed by 460 fellow workers to the Department of Labor. …As Langlie’s pension complaints escalated, he was transferred, denied training, and demoted, despite favorable job-performance reviews. The company also refused to upgrade his computer from a primitive IBM 286 – the industry equivalent of an Etch A Sketch, which couldn’t run engineering software or communicate with the company’s servers. Finally, the human resources department told Langlie’s supervisor that it would “help retire him” and eliminated his job. After Langlie’s thirty-seven years with the company, his pension, which would have been $1,100 a month under the old pension plan, was just $424 a month.”

This is only one of many exasperating examples in Schultz’s book – and far from the worst. Unfortunately, the details in Schultz’s book are so technical that they can become deadening. It’s almost impossible to follow all of the ins and outs of the financial engineering and legal end-runs. And the anecdotes about the retirees who are harmed are appalling, but they too can have a numbing effect – we’ve heard so much of this before, in other contexts. Schultz is too close to this – she needs somebody like a Michael Lewis to co-author it with her, someone who doesn’t feel compelled to explain every detail or belabor every personal catastrophe, but rather can focus on the overarching narrative.

That said, from these minutiae the overall message of the book emerges inescapably: Ordinary retirees are being swindled out of retirement benefits that any reasonable person would have said they were promised, while corporate executives, at the same time, are being awarded benefits wholly out of proportion to what a mere mortal’s services are worth.

How can this happen?

Schultz does not explore in depth what circumstances in the broader economy, society, or body politic are allowing this heist to be carried out. After all, retirement plans are supposed to be managed under the “sole benefit” standard, which says that the plans are to be managed for the sole and exclusive benefit of the employees, their families and dependents. Is the explanation simply that the retirees of any particular corporation have no power (especially the non-union ones), and therefore can be run over roughshod? Is it that courts of late have tended to side with corporations, perhaps because corporations can afford better lawyers? (Those lawyers’ fees, by the way, can often be paid out of the retirement plans.) Is it that rhetorical and statistical lies are so commonplace these days that no one is supposed to believe anything anymore? Or is it just that financial engineering has gotten so complex that ordinary people have little choice but to sit on the sidelines and assume, or hope, it is being done in their interest?

In many ways, it is only an extension of other phenomena we've been seeing, especially in the financial crisis. Financial industry companies treat customers as sources of revenue to be inveigled into paying as much as possible, through shrewd half-truths, complicated language and methods, and bold false promises accompanied by exculpating fine print. The only difference is that the victims are retired employees instead of customers.

The whining of corporations about their supposedly underfunded pension plans is a result of their apparent lack of bubble wisdom – or perhaps simply of moral hazard. Pension plans were collectively overfunded in 2000 and were again fully funded in 2007, according to Schultz, but many companies contrived in one way or another to withdraw the overfunding, ostensibly oblivious to the possibility of a downturn. As Schultz says, companies claiming they need to get funding relief by reducing or eliminating benefits "fail to acknowledge that most of their current woes are self-inflicted. They took on too much risk but failed to fund when the party inevitably wound down. They withdrew too much money – and in many cases paid their executives too much compensation – instead of contributing to the pension plans for retirees. Their pleas for funding relief are little different from the banks asking for bailouts after their own risky lending practices and financial shenanigans brought the economy to its knees."

Are we only haggling about the price?

When we hear or read stories like this – unless we are the very people involved – we imagine a coterie of demonic figures coldheartedly calculating ways to impoverish millions so that they themselves can become rich. But we all know some of these supposedly demonic figures, and they do not fit the description. One of the most delightful characters I have known is an employee-benefits consultant, who – though of generally high moral and ethical character – would probably amiably offer one of the engineered solutions referred to by Schultz to a corporate client, because that is his job.

To return for a moment to my opening anecdote: We are all potentially – or actually – participants in such heists, major or minor. Every time we lower our taxes based on a fine point of the Internal Revenue code brought to our attention by an alert accountant, we are taking money from another taxpayer who doesn't know about the loophole.

There is a well known joke sometimes attributed to George Bernard Shaw and sometimes to Winston Churchill. The following is the Churchill version:

At a dinner party Churchill says to his dinner companion, "Madam, would you sleep with me for five million pounds?"

The woman responds, "My goodness, Mr. Churchill. I suppose I would."

Churchill replies, "Would you sleep with me for five pounds?"

She answers, "Mr. Churchill, what kind of woman do you think I am?"

Churchill answers, "Madam, we've already established that. Now we are haggling about the price."

What I did when I gleefully took my tax deduction was no different from what corporate executives and benefits consultants do when they find legal loopholes allowing them to shore up corporate profits, their fees and their compensation packages, by gerrymandering tax deductions and corporate earnings through monkeying with the retirement plans. True, I wasn't in a position to lobby Congress for legislation to give me my loophole, but otherwise the only difference was in the scale.

Then what do we do about the abuses?

Given how easily – and how innocently – any of us can become the perpetrator of evil deeds like the ones Ellen Schultz reveals, especially when it is our job, what can be done about the unfair torrential flow of money from the masses of the middle class to the minuscule upper echelons?

Perhaps it is fair, in the sense that the shift in production away from legions of manual and semiskilled laborers in the most highly-developed countries to the use of mechanization and globalized labor has reduced the value to the economy of the middle classes and raised the value of the managerial class. This is a possibility. It would explain – and in a certain sense justify – the relative reduction in the flow of compensation to the middle class.

But if it is only because the managerial class has better access to the tools of obfuscation, artfully crafted deceitful propaganda, and procedural bullying, then it does not accord with our ideals of fairness. If that is the case then we must remedy the injustice. Mere legislation and regulation will not do it by itself, because we've seen how high-paid lawyers, consultants and managers can find ways around the letter of the law – and they do not feel bound to adhere to the spirit of the law.

As it has been in the remedying of past injustices, such as racial discrimination, the principal tool that is needed is shame. That is why the Occupy Wall Street phenomenon – even if its understanding of events and underlying causes is hazy and its goals are unclear – is lauded by many who believe a change in corporate practices is necessary. In the past, public shame for a shameful practice, like racial discrimination, blatant industrial pollution, and sales of cancer-causing tobacco products, has gone hand-in-hand with legislation against the practice – but the legislation alone is not enough.

Shaming those who heist pensions is more difficult, because it is harder to distinguish the bad practices from the good. All financial engineering may wind up being shamed, though some of it is benign and some is useful. Occupy Wall Street, if it is to be the vehicle, will need expert advice.

Michael Edesess is an accomplished mathematician and economist with experience in the investment, energy, environment and sustainable development fields. He is a Visiting Fellow at the Hong Kong Advanced Institute for Cross-Disciplinary Studies, as well as a partner and chief investment officer of Denver-based Fair Advisors. In 2007, he authored a book about the investment services industry titled The Big Investment Lie, published by Berrett-Koehler.

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Start studying 9 - Retirement Plans. Learn vocabulary, terms and more with flashcards, games and other study tools.Â 9 - Retirement Plans. STUDY. Flashcards.Â A plan is considered to be top heavy if more than 60% of plan assets are attributable to "key employees" as of the last day of the prior plan year. At the age of 45, an individual withdraws $50,000 from his Qualified Profit-Sharing Plan and then deposits this amount into a personal savings account. This action would result in. Income tax and a 10% penalty assessed upon funds withdrawn from the Qualified Plan. The IRS says that withdrawals of funds from a profit sharing plan may be subject to a 10% tax penalty in addition to income taxes if they are made before the age of 59 1/2. Corporate executives and employee-benefits consultants have engineered a cascade of arcane methods to deprive ordinary retirees of benefits they thought they were promised, in order to fatten corporate profits and the benefit packages of top executives. That is the harsh message of Wall Street Journal reporter Ellen E. Schultz's meticulously-researched book, Retirement Heist. Fingerprint. Publication fingerprints text. 100. Retirement Business & Economics. 50. Profit Business & Economics. Planning for retirement starts with thinking about your retirement goals and how long you have to meet them. Then you need to look at the types of retirement accounts that can help you raise the money to fund your future. As you save that money, you have to invest it to enable it to grow.Â You should break up your retirement plan into multiple components. Letâ€™s say a parent wants to retire in two years, pay for a childâ€™s education at age 18, and move to Florida. From the perspective of forming a retirement plan, the investment strategy would be broken up into three periods: two years until retirement (contributions are still made into the plan), saving and paying for college, and living in Florida (regular withdrawals to cover living expenses). General game related discussion is allowed, but game-specific help requests (how to defeat a certain boss or level, what loadout is best for my character, etc) and basic questions (is a game co-op, does this game have controller support, etc) aren't. Those questions would be more appropriate for the game's subreddit if it exists.Â They are talking about privately owned jets and yachts in reference to the huge disparity in salary and bonuses given to the top execs at various companies these days. 2.) People aren't generally against successful companies paying top dollar to the top execs. With so many types of retirement plans out there, finding the right one for you might be confusing. Use our guide to understand which retirement plan is best for you.Â Your retirement plan dictates how much you can contribute annually, how it's taxed, how withdrawals work, what you can invest in, and how much you pay in fees. To help you decide which retirement plans work best for you, consider the following options: 401(k). 403(b).