

## **(W)HENRY FROM (W)HOVILLE – (It’s Time for a Full Fledged Rant!)**

**Stephen L. Bakke – May 5, 2010**

*I think we have seen the results of Rep. (W)henry Waxman (D-California) having been taken aside and told about the “facts of life” in the real world of corporate finance and financial reporting. Perhaps he will quietly “slink” back to his rightful spot in “(W)hoville.” But I doubt it! Now, ya’ gotta’ admit he must have played a part in the Dr. Seuss “Grinch” movie! Take off the glasses, paste on a little hair and VOILA! The Mayor of Whoville! Or ... maybe it’s just another “separated at birth.” (Ctrl+Click on the pictures to follow the link to larger, clearer images.) Confused? The following report explains what I’m talking about.*



### **ASSUME FULL RANT MODE!!**

#### **Those Greedy Corporate Culprits**

A few weeks ago, soon after passage of the health care bill, several large U.S. corporations announced they were taking “large charge-offs” against profits due to the projected financial effects of the new legislation. It didn’t take (W)henry long to loudly cry “sour grapes” and claim this was just a plot to make democrats and the new legislation look bad. He was really P....D OFF! He quickly used his immense power to call hearings to investigate this unprecedented action by corporations manipulating profits for political reasons. He did this in his role of chairman of the House Energy and Commerce Committee. In a letter to certain executives of the offending corporations, demanding their attendance at the hearings he wrote: “The new law is designed to expand coverage and bring down costs, so your assertions are a matter of concern.”

In announcing these hearings Rep. Waxman stated he was pursuing this because he felt they were falsely claiming the new legislation would “adversely affect their company’s ability to provide health insurance to their employees. These assertions appear to conflict with independent analyses, which show that the new law will expand coverage and bring down costs.” First, I heard the hearings were being delayed. I am now predicting they will never occur. But why – and what was that all about?

### **Who Are These Corporate Culprits?**

(W)henry’s original targets were AT&T, Caterpillar, Verizon, Deere, and more recently Lockheed Martin, AK Steel, Prudential and others. Just these few companies announced charges totaling well over \$1.5 billion. AT&T was the largest at \$1 billion. Think about how large the number would have to be if it comprehended all corporations in the U.S.? Were these costs anticipated by the CBO’s measurement of the financial impact of health care legislation? Further implications include the likelihood that companies will have to drop certain benefits currently provided such as prescription drug coverage.

### **What Changed?**

A 2003 law provided a prescription drug benefit in Medicare. That law said employers who provide prescription drug benefits to retirees can receive subsidies. This tax advantage to companies providing the benefit amounted to about \$665 per retiree. Obamacare removed the tax deductibility of these subsidies. And this has an immediate, and retroactive, impact on the earnings of many U.S. companies.

### **But This Was Anticipated ... Right?**

The Congressional Budget Office (CBO) did work on this. And I believe they did their job by doing what they were told. But remember that they are limited to doing ONLY what they are told, and to use ONLY the information and assumptions they are given. As commentator Jack Kelly reported: “Eliminating the tax deduction for the subsidy would raise an additional \$5 billion, the Congressional Budget Office estimated, because CBO assumed all companies would continue to provide the benefit even if they lost the deduction. But if many drop it, the additional revenues will be much less. And CBO made no allowance for the additional cost to Medicare if retirees are shifted onto it.”

So – obviously CBO didn’t consider the logical impact of rising costs – i.e. companies might opt out of providing this coverage in favor of a cheaper alternative. And it appears they naively forgot to consider these charges as an additional economic impact of Obamacare. In any case these corporate announcements came out of left field to (W)henry and other democrats. They heard about them and “went for the throat” – but shrunk to the corner when some better informed individuals whispered the truth in their ears.

But they were warned and shouldn’t have been surprised. In a December 10, 2009 letter to the (W)hite House and others, the AFL-CIO stated: “(this change in tax treatment) will

be highly destabilizing for retirees who rely upon employer sponsored drug coverage ... (and) will impose a dramatic and immediate impact on company financial statements.”

**Those Wicked, Evil, Mean, Bad, and Nasty  
Generally Accepted Accounting Principles (GAAP)!**

At the time, it was speculated that if (W)henry went ahead with the hearings it would be he who would be embarrassed, and here’s why. For almost 20 years, corporations in the U.S. have been subject to the provisions of Financial Accounting Standard Board’s (FASB) Statement No. 106 – “Employers’ Accounting for Postretirement Benefits Other Than Pensions (12/90).” This Statement focuses principally on postretirement health care benefits. Quite simply stated, it requires accruing all such projected costs for the employees, their dependents, and beneficiaries. These are considered to be like deferred compensation and the eventual costs need to be estimated and accrued as they are earned while employed. Simple and logical for sure!

**What? They Don’t Have to Do Everything We Tell Them To? ... Oh! ... They Are?**

Not only are these charges required to be recognized by GAAP, but under the government’s SEC regs, they must be promptly reported on form 8-K. The SEC requires prompt disclosure of a “material event or a corporate change” that affects earnings. The Wall Street Journal noted, “... financial accounting rules require that corporations immediately restate their earnings to reflect the present value of their long-term health liabilities, including higher tax burden.” And the Sarbanes-Oxley law, for which Mr. Waxman voted, also requires companies to make their restatement of earnings public.

**What Don’tcha Understand About Accountability?**

Hey!! (W)henry!! What don’tcha understand about accountability, transparency, and responsibility? As I’ve written before, folks like you who have never had to really be accountable, individually, for your decisions try to beg understanding by emphasizing the importance of good intentions – however ignorant and naïve. That doesn’t cut it outside the halls of government – nor with me!

One of the staff on your congressional committee was quoted as saying that you didn’t understand how Obamacare would impact business. “We had memos on these issues, but none of our people, we think, looked at them,” the staffer said. “When they saw the stories last week about the charges some of the companies were taking, they were genuinely surprised, and assumed the companies were just doing this to embarrass them ... They just didn’t understand what they were voting on.”

You be dumb! And you ‘scaped scrutiny and criticism – ‘cept from foolish ol’ me!

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**Good bleepin’ grief! Uff Da! And (borrowing words used often by my feisty mother when I was a youth) ... “So help me Hanna, what next!?”**