Statement by

Shirley Smith

United for Respect Leader

Testimony before the Senate Banking, Housing, and Urban Affairs Committee

Subcommittee on Economic Policy Hearing
"Protecting Companies and Communities from Private Equity Abuse"

October 20, 2021

Good afternoon, Senators. My name is Shirley Smith and I live in Detroit, Michigan. For 23 years, I worked for Art Van Furniture as a sales manager — a job I truly loved. Art Van was a family-owned business, and the company culture was centered around family. The employees were tight-knit and we had each other's backs; there was a real sense of community. I was a single mom and I'm grateful for the support and flexibility I had at work, so I could be there for my son while juggling a successful career. I had the opportunity to build relationships with my customers and earn a good living, making it possible to buy my own home and provide a good education for my son. Working at Art Van was like my own little slice of the American Dream — until the private equity firm Thomas H. Lee (THL) came in and broke up our family.

Before T.H. Lee took over in 2017, Art Van had been a successful company, reporting $800 million dollars in revenue[1] that year. Up to then, most of my colleagues would have told you it was a company they loved working for, but those last three years were hell.

It wasn't obvious right away, but a lot started changing. We noticed our top company leaders were being pushed out the door. T.H. Lee brought in people who didn't know the furniture

[1] https://www.crainsdetroit.com/awards/40-art-van-furniture-inc

business, and our orders started coming in slower. In hindsight, that was a big red flag — sales associates work on commission which only gets paid when an order is delivered — and customer orders weren't being filled. Art Van's reputation was being destroyed right before our eyes, and we had to start making up excuses to our customers, some of whom grew violent when they learned they wouldn't be getting refunds. One of my colleagues even had a gun pulled on her during closing weekend. T.H. Lee made us feel like liars and thieves, taking people's hard-earned money when they were never going to receive their orders.

We stopped paying our bills on time, and started cutting staff. For decades, Art Van had been a debt-free company that paid all its bills. Under T.H. Lee's ownership, Art Van racked up millions of dollars in debt to Wall Street banks and other deep-pocketed creditors. T.H. Lee even sold off Art Van's real estate *to itself*, forcing Art Van to pay rent on the same properties it once owned. By the end of 2019, under T.H. Lee's so-called leadership, Art Van was in the red. It took just three short years for T.H. Lee to strip our company for parts.

Then the pandemic hit.

We first received WARN Act notices about our layoffs *before* the COVID-19 emergency order was issued in Michigan, so the bankruptcy and layoffs had nothing to do with the pandemic. But then, a few weeks later, Art Van changed their original WARN Act notice, citing COVID-19. As a result, we didn't get any severance pay or benefits. Nothing. Robbing the American workforce like this — hurting the same people on the front lines who've been applauded as "heroes" for keeping our economy open — should be a crime.

When we were told we'd be losing our jobs, we were promised a lot. We were promised health insurance after closing. We never got it. The only insurance I could afford charged me 10 times what I had been paying for prescriptions. I was unemployed for 5 months, and many times I had to choose between paying for my medication or paying other bills. We were also promised a retention bonus that we never got. Since my unemployment didn't kick in for 2 months, I had to take out money from my 401K to make ends meet, which I'm still paying taxes on today.

Sadly, my story is *not* unique — private equity has quietly taken over nearly every facet of life — from retail and grocery store chains, to housing, health care, media, and more — turning the American Dream into nothing more than a pipe dream for millions of working families. And T.H. Lee didn't only destroy us, the individual workers who lost their jobs; every community that had an Art Van store suffered too. We had a deep reach in our communities — we were the largest taxpayer in the city of Warren where we were headquartered, and the biggest contributor to the Food Bank. When the company went under, there was a terrible ripple effect of harm felt throughout the state of Michigan.

Art Van is not the only bankruptcy in T.H. Lee's portfolio. Between 2009 and 2019, T.H. Lee drove three other companies into bankruptcy. In each instance, T.H. Lee attempted to profit while paying down creditor interest by steadily decreasing the operational quality of these companies, destabilizing their real estate holdings, extracting their resources, and cutting jobs. While under T.H. Lee's ownership, over 6,000 people lost their jobs at four companies, including Art Van, that filed for bankruptcy in sectors spanning food processing, media, retail, and manufacturing. You can find more information about these bankruptcies in the attached research brief, *Thomas H. Lee Partners Creates ESG Risk for Investors (Appendix III)*.

I'm here today to show you the human toll of Wall Street's greed. Our elected leaders — each of you here today — have the power to stop private equity firms from coming in and taking over our companies, leaving employees with nothing and gutting our local economies. Billionaires shouldn't be allowed to gamble with our livelihoods, driving thriving companies into bankruptcy just to make another buck.

When faced with private equity's abuses, we fought back. More than 500 of my former coworkers and I teamed up with United for Respect to demand that T.H. Lee create a hardship relief fund. We called, wrote letters and told our story of what happened at Art Van, and after a year, T.H. Lee relented and ultimately provided nearly $2 million dollars to the relief fund, with eligible employees who signed up receiving about $1,200 dollars each. Make no mistake, we're proud of this hard-fought victory — but $1,200 dollars falls far short of the fair severance each of us deserved.

With nearly 12 million people working for private equity-owned companies in the United States, private equity is a major employer. Given the industry's poor track record we must also take a closer look at how their cost cutting and greed impacts workers and the customers they serve across America.

One example I'd like to share with you is the ongoing efforts of PetSmart employees to sound the alarm about unsafe conditions in stores that hurt both workers and pets under their care. With 56,000 employers and 1,650 stores across the US and Canada, PetSmart is the largest pet retailer in North America. PetSmart is also owned by London-based private equity firm BC Partners.

When BC Partners acquired PetSmart for $8.7 billion in March 2015, it was the largest private equity buyout of the year. In true private equity form, BC Partners took an $800 million dividend from PetSmart less than a year after taking over[2].

Like me and my former Art Van co-workers, the people who worked at PetSmart before BC Partners took over started noticing alarming changes to store practices and policies after private equity took over. PetSmart workers who started after the 2015 acquisition report having to struggle to provide quality pet care while dealing with understaffing, stagnant wages, lack of supplies, and broken equipment.

In July 2020, over 500 current and former PetSmart employees wrote to BC Partners alerting them to these serious problems. It has been over a year since PetSmart employees reached out to BC Partners and workers are still waiting for a response. You can read more about BC Partners mismanagement of PetSmart in a recently published report, *"Greed Unleashed: PetSmart, BC Partners, and what happens when private equity preys on workers and pets" (Appendix IV).*

Imagine the victories we could win for working families with the power of Congress behind us. I'm asking you, Senators, to summon the same courage we found to stand up to these Wall Street executives and corporate billionaires, because essential workers can no longer be treated as collateral damage. The Stop Wall Street Looting Act will finally close regulatory loopholes and change the rules that have only served the billionaire class while wreaking havoc in our communities. It's way past time to protect essential workers over wealthy corporate

[2] Forbes, Feb 18, 2016, "PetSmart's $8.7 Billion LBO Is Already Paying Off For Consortium Led By BC Partners."

executives — Congress must pass the Stop Wall Street Looting Act and finally put essential workers first.

Thank you for inviting me to testify today, Senator Warren. I hope all the Senators on this committee will join me in standing up to Wall Street.

APPENDIX I

Happy Allen (Tullahoma, TN)
Happy Allen worked at PetSmart for five years as a dog trainer in three stores and has six dogs of his own right now. He loved working at Petsmart and thought he had finally found a job he could retire from. He says it felt like a big family. Unfortunately, about a year into his time there, PetSmart was bought by BC Partners and Happy has seen PetSmart workers and innocent pets suffer as a result. After the change in ownership, Petsmart eliminated middle management, cut full-time positions and slashed hours. BC Partners seemed to want to put as much work on as few people as possible. As a result, Happy was doing training at three stores 85 miles apart, from Chattanooga to Nashville, and often had to help in stocking, petcare, and on the register on top of that. He felt like he was working four jobs instead of one. Happy and his coworkers went from having a workplace that they loved, to feeling stressed and overworked. There simply wasn't enough staff, unfortunately, many times Happy and his coworkers did not have enough supplies to provide proper care for the pets in their care.

Adrian Valdés (Savannah, GA)
Adrian Valdés has been a part-time stylist apprentice in a PetSmart grooming salon for almost a year. Adrian just completed PetSmart's training academy as part of the trajectory to become a Pet Stylist. Unfortunately, in his salon, employees lack the proper supplies and equipment to do their jobs well. Adrian has also been concerned about the safety of pets they have worked with in the salon because Petsmart's grooming training was so rushed and minimal. Adrian has also been concerned for their own health and safety at work when pandemic precautions were not enforced in the salon. The salon does not have doors or windows to the outside and masks have not been enforced for employees throughout the pandemic. Adrian's wage is $11 an hour and they cannot afford to move out of their parents' home despite working 40 hours per week. Before attending the grooming academy, Adrian was denied full-time hours and therefore also did not have access to health insurance.

Kaede Montooth (Savannah, GA)
Kaede Montooth started working at Petsmart nearly two and a half years ago because he loves animals. Ever since BC Partners took over, his hours have been cut, staff eliminated, and he is now expected to juggle many different jobs at once - from covering the register, to caring for animals, to stocking shelves, to cleaning, unloading inventory shipments and helping customers on the sales floor. The exhaustion and stress have negatively impacted his mental health - and things only got worse when the pandemic hit. For several months, Kaede had to pick up two other jobs in order to make ends meet and still relied on food stamps to survive. Despite working throughout the pandemic, mask-wearing was not consistent among employees in his store, social distancing was not adequately enforced and Petsmart never offered hazard pay to employees risking their health at work every day. Because Kaede received no health insurance as a part-time employee, he has often feared that if he contracted COVID-19 at work, he would not have been able to afford treatment.

Isabela Burrows (Grand Blanc, Michigan)
Isabela Burrows is an Associate Lead at PetSmart, and she lives with family and 8 pets. She has worked at Petsmart for a year and lives in Grand Blanc, MI. Isabela. In August, she was promoted

to the low level manager position but was still responsible for petcare and cashier tasks. She often feels overwhelmed and exhausted being expected to work 3 jobs instead of one. Isabela has seen coworkers overheat on the job when her store's air conditioning broke down, oftentimes so hot in the store that they had to remove their masks just to breathe. She has often felt unsafe going into work during the pandemic,because Petsmart does not offer paid sick time to part-time associates, she has had coworkers come to work sick during the pandemic. She feared bringing COVID-19 home to her mother who is high risk. When her brother passed away unexpectedly from health conditions, her manager told her to "get over it" and that her home life shouldn't impact her while at work. Isabella doesn't want others to go through the disrespect and lack of empathy she has experienced at Petsmart.

Sheena Simmons (Grand Rapids, MI)
Sheena Simmons was employed by Art Van for 11 years as a Sales Manager. She started in the electronics department and made her way to sales where she earned enough in commission to pay off her car. She enjoyed the family atmosphere and interacting with customers at Art Van. When she lost her job with no warning, that meant she lost her health insurance for her and her son. She applied for unemployment for the first time ever, struggled with finding a new job during the COVID-19 pandemic and had many sleepless nights not knowing if she could pay rent. When private-equity firm Thomas H. Lee Partners (THL) bankrupted and liquidated Art Van Furniture early last year, it shut down all 97 locations in Michigan and abruptly destroyed thousands of family-sustaining jobs — leaving workers like her without pay or health insurance at the onset of the COVID-19 pandemic.

Jenny Allen (Tacoma, WA)
Originally from Queens, NY, Jenny Allen served in the military for six years, and her family eventually settled in Tacoma. After separating from her husband, Jenny has been raising her two daughters while working at Payless as a store manager. She often worked opening and closing shifts, and would go home after her children had already gone to sleep. After her Payless store closed, Jenny was unemployed for several months before finding employment at a warehouse, but she's taking home less than what she made before and lives paycheck to paycheck.

Teria Berry-Moore (Ypsilanti, MI)
Teria Berry-Moore was supporting herself through college while working in retail, first at JCPenney then at Toys 'R' Us. She was not able to afford her tuition and had to put a pause on finishing her degree, and had worked at Toys 'R' Us for 2 years before her store closed down last year. She has since been juggling 2 or 3 jobs to make ends meet, and works through illnesses because she doesn't have health insurance and can't get a doctor's note. Teria can't afford the cost of getting a driver's license, and she walks by her old Toys 'R' Us store everyday from work.

Sheila Brewer (Rockford, IL)
Sheila Brewer remembers when she used to get her birthday and holidays off at the local Kmart where she worked, before ESL Investments took over control of the company. Then raises were frozen in 2005 and benefits changed, and it was never the same. Sheila worked for 17 years at

Kmart, and as a full-time employee was supposed to receive 8-weeks of severance after she helped close down the company. Her severance payment stopped when Sears filed for Chapter 11 bankruptcy protection in the following month. Sheila never received the rest of her severance.

Rebecca Cady (Louisville, KY)
Rebecca Cady loved working at Payless for most of the 21 years at the company. She worked her way up from a part time associate to multi-store leader until her last store closed in May 2019. She was devastated and felt like she lost her family members, after spending more than half her life with the company. In the end Rebecca only got 4 days worth of severance, even though she had been promised 12 weeks.

Sad’e Davis (Van Nuys, CA)
Sad’e Davis had worked at Toys ‘R’ Us for 4 years when her store closed down. She was already juggling multiple jobs to supper her daughters, her mother and grandmother, and her Toys ‘R’ Us job provided not only a steady income but also the opportunity to work at night so she can go to other jobs during the day. Sad’e found a second family in her Toys ‘R’ Us coworkers, many of whom worked at the same store for 20 years.

Tyler Dziendziel (Southgate, MI)
Tyler Dziendziel has been supporting himself ever since graduating from high school. He was working at Babies ‘R’ Us for 3 years when his store closed down, and saw many of his former coworkers struggle financially after giving decades to the company. As a part-time employee, Tyler had been piecing together an income from three jobs to cover his basic living expenses, and losing his job at Toys ‘R’ Us was a big blow to his income.

Madelyn Garcia (Boynton Beach, FL)
Madelyn Garcia is from Boynton Beach and worked at Toys R Us for 30 years until her store closed in June 2018. Madelyn started as a part-time associate and raised her daughters on her own while working long hours and during holidays at her store. She worked her way through the ranks and became a store manager, and helped to open 3 stores in Florida. Madelyn lost her mother and her job in the same week, and struggled through months-long unemployment. She is now working as a store manager at Dollar Tree, but the understaffing at her store causes her to work long hours and suffer from injuries at work.

Shania Hoadley (Sidney, MT)
There were 2 Shopko stores in Sidney, MT, and Shania Hoadley had been working as a cashier at one of them for 3 years when Shopko announced it was closing all stores. It has been an emotional and stressful period since Shania lost her job, and she is dipping into the little savings she put aside to cover her bills. Jobs are hard to come by in her small town of 6,000 residents. The closest major retail store, a Walmart, is a 40-minute drive away.

Lori Hoskins (Butte, MT)
Lori Hoskins was Softline Lead at her Kmart for 3 years, and she loved her job. When Lori's store closed in April 2018, Lori found out that many of her coworkers who had worked at the store for over 20 years did not receive any severance because they were part-time employees. Lori struggled to find a job for over a year, and found it incredibly hard to support her family on her and her husband's unemployment.

Alisha Hudson (Lexington, KY)
Alisha Hudson had been working at Babies 'R' Us for almost 3 years. While pregnant with her son, Alisha worked 12-hour shifts at an Amazon warehouse, and while shopping at Babies 'R' Us she jumped at the opportunity to apply for a job with the store. Alisha was pregnant with her second child when she found out her store was closing, and she lost her part-time job that was helping her family stay afloat on top of her husband's income. She has not been able to find steady jobs since her store closed.

Terry Leiker (Chesapeake, VA)
Terry Leiker worked at Kmart for almost 18 years and when she lost her job in 2018, she also lost her health insurance, pension, 401K, and her financial stability. For several months before her store closed, she had noticed changes at her store: products weren't coming in, vendors weren't getting paid, and her store wasn't able to fulfill orders. Shelves were so empty customers thought they were closing, but Terry and her co-workers were told by the company they were just downsizing. Terry's last day was October 13, 2018, just one day before Sears filed for bankruptcy protection. Terry has seen the financial and emotional toll of going through a retail bankruptcy herself and for her coworkers, many of whom had even longer tenure in her store than her.

Elizabeth Marin (Silverdale, WA)
Elizabeth Marin is originally from Anchorage, AK where she began her career at Toys 'R' Us in 2013 as an overnight stocker, and she was able to stay with the company as her family moved. When Toys 'R' Us announced it was liquidating all stores, Elizabeth was working as the full-time front-end HR supervisor supporting her 3 children while her husband was finishing his degree. After her store closed, Elizabeth's family fell behind on bills, and barely pieced together enough money to cover rent when they were 3 days away from being evicted.

Trina McInerney (Dubuque, IA)
Trina McInerney started working at Shopko in 2007 until the Midwestern retailer liquidated all stores in June 2019. Trina was earning $8 an hour in 2007, and by the time she was helping to close her store in June, her hourly wage was $9.87 - $1.87 in raises over 11 years. She nonetheless built deep connections with her coworkers over the years, who were all devastated by the company's liquidation. After her store closed, Trina struggled through months of unemployment, and she would not have been able to afford rent if it weren't for her boyfriend.

Rona McLaughlin (Chicago, IL)
Rona McLaughlin started as a part-time associate with Payless in the South Pacific 21 years ago and worked her way up to store manager after moving to the U.S., working in Florida and finally in Illinois. As a multi-store manager, Rona found out her store wes closing from news on TV, and it was devastating. Payless and her coworkers were a huge part of her life; Rona had her baby showers in the break room of a Payless store. Since losing her job in June Rona is on unemployment for the first time in her life. Her 17-year-old son started working to help her and her husband. Rona does not know how she is going to pay for her son's college tuition next year.

Brandy Mendoza (Fontana, CA)
Brandy Mendoza is a former Assistant Store Manager at Toys 'R' Us, a job that allowed her to raise 5 children and support her mother on her own. Brandy had finally bought a house on her salary a year before Toys 'R' Us announced it was liquidating all stores. In the 15 years she spent with the company, Brandy missed holidays and birthdays with her children. After losing her job, she would skip meals to make sure her children could eat, while digging into her savings to pay her bills and mortgage.

Bruce Miller (Toms River, NJ)
Bruce Miller was a mechanic at the Sears Auto Center in Toms River, NJ for 36 years until his store closed in April 2018. Bruce started as a custodian, and eventually worked to become Automotive Technician Level 3. Bruce recalls servicing 100 cars per day at the height of Sears' days, and he was able to buy a house in 1996. Bruce's commission pay declined after ESL Investments took over control of Sears, and he fell behind his mortgage. After his Sears closed and his 8-week severance ran out, Bruce lost his health insurance and his house, He has not been able to find a full-time job since then.

Debbie Mizen (Youngstown, OH)
Debbie Mizen was an assistant manager at Toys R Us and worked for the company for 31 years. When Debbie lost her job last year, she and her husband faced financial insecurity as her husband's pension wasn't enough to support both of them. Fixing up their car put them in thousands of dollars in debt. In Youngstown, she's found the job opportunities limited, very physically demanding, and lower paid than what she earned at Toys R Us. She eventually found employment grocery store doing curbside express, a labor-intensive job that was challenging at her age.

Madilyn Muniz (Bronx, NY)
Madilyn Muniz has worked in retail her whole life, 20 years of which were at Toys 'R' Us as she raised her two children. Four years ago Madilyn moved her aging parents from Puerto Rico to live with her in the Bronx in order to care for them, and she found comfort in her tight-knit Toys 'R' Us coworkers, most of whom were decades-long employees like Madilyn and working to

support their children and their families. After Madilyn lost her job, she struggled to support herself and her mother, who has Alzheimer's, on unemployment.

Mary Osman (Youngstown, OH)
Mary Osman worked as a cashier at her Toys 'R' Us store in Boardman, OH for 24 years. Mary missed 18 Thanksgiving dinners with her family and was looking forward to retiring in 3 years and spending time with her grandchildren, until her job was taken away last June. Her husband has put his retirement plans on hold, and Mary is concerned about their future as she has not been able to find a job at the age of 63.

Ondrea Patrick (Rockford, IL)
Ondrea Patrick is a single mother of 5 under the age of 11. She spent almost 9 years at Kmart, but because of her availability as a mother, she was only able to get part-time hours. Ondrea has seen the local economy crash around her. There have been several retail store closures in her town, so not only did she lose her job, but there is so much less opportunity for her to get another job to support her family. After her Kmart closed last September and losing her tight-knit work family, Ondrea nearly lost her house. It took her nearly a year to finally find new employment.

Michelle Perez (Vancouver, WA)
Michelle Perez crossed the stateline everyday to work at her Toys 'R' Us store in Janzten Beach, OR. She had worked at Toys 'R' Us for 4 years as a full-time supervisor, had health insurance for her and her two kids, and had just signed the lease on her first apartment. Her 3-year-old son was diagnosed with Type-1 diabetes on the day she found out her store was closing. As a single mother, Michelle has been thrown into a financial crisis after she lost her job, unable to find full-time, permanent employment for nearly a year and a half and struggling to pay for her son's medical bills and medication on top of her rent.

Jorge Saenz (Chicago, IL)
Jorge Saenz was a loyal and hardworking employee at Payless Shoe Source for 27 years. Jorge started his career as a part time associate and worked his way up to become a multi-store manager. Some of the hardest days of his life were when Jorge had to inform the employees in his stores, many of whom he considered family, that they were losing their jobs. Jorge is the head of household and supports his wife and two of his three daughters, and since losing his job in June this year, Jorge has been relying on credit cards to make ends meet. Still unemployed, Jorge has been able to secure health insurance for his daughters, but he and his wife still have not been able to get affordable healthcare coverage.

Ann Marie Reinhart Smith (Durham, NC)
In 1989 Ann Marie Reinhart Smith was a new mother buying diapers at Toys 'R' Us in Commack, NY when she applied for a seasonal position, and she never left. When her store in Durham, NC liquidated last March, Ann Marie found herself unemployed at the age of 59,

without health insurance and competing for jobs with people half her age. In the 20 months after her store closed, Ann Marie has not been able to find a full-time position with healthcare, and works two part-time jobs while helping to care for her grandchildren. Ann Marie was able to be there for her young sons while working at Toys ‘R’ Us as a young mother, a luxury her daughter-in-law who also works in retail, does not have today.

Jacob Soha (Saratoga Springs, UT)
Jacob Soha is the sole provider for his wife and kids. Jake has worked in retail for 17 years and worked for Shopko for 4 years in loss prevention. After getting laid off from Shopko in June, Jake and his family lost the health insurance they had received from Shopko, which has been very difficult for his wife and children.

Victor Urquidez (San Diego, CA)
Victor Urquidez is an Assistant Manager at his Sears Auto Center, where he started part-time 8 years ago. In 2 months, he will be losing his job as his store is closing. Victor has been the sole provider for his wife and 2 kids on his income, but they lost their house after his commission pay was cut in 2017, resulting in nearly $1,000 less he took home every month. Victor and his family were homeless for 3 months, sleeping in their families’ living rooms or in their car. They have since found an apartment, but Victor and his wife, who started working, struggle to pay rent and cover their bills every month.

Brenda Urrutia (El Centro, CA)
Brenda Urrutia has decades of experience in the retail industry. Brenda worked at Sears for 21 years, during which time she raised two children as a single mother and bought a house on her own. She loved her job as a commission salesperson until her store closed abruptly in January of 2019. She and her coworkers received just 4 weeks of severance for decades of service. Brenda has been left with a pension that is not nearly enough to survive on, and is struggling to find employment at her age.

Kristi Van Beckum (Madison, WI)
Kristi Van Beckum was an apparel manager at Shopko for 14 years and took pride in working for a Wisconsin-based company with a family-oriented culture. Many of her coworkers had been with the company for decades, and they were all blindsighted when the company filed for bankruptcy protection in January. Despite her tenure, Kristi was promised only 4 weeks of severance, and she found out on her last day of work that she would not be getting it at all.

Maryjane Williams (Waco, TX)
Maryjane Williams was an assistant manager at Toys ‘R’ Us in Waco TX when her store closed. Maryjane started working for Toys ‘R’ Us in Commack, NY as a part-time seasonal employee, and after the 2005 leveraged buyout her full-time position was slashed and she was demoted back to part-time. But Maryjane continued to work with the company and rose through the ranks,

while raising her five daughters with her husband. The day she lost her job at Toys ‘R’ Us, her husband was in an accident that put him in the ICU with head and neck trauma. Maryjane was able to find a job at Party City after taking care of her husband for several months, but still works at night in a cleaning business to supplement her income.

Sarah Woodhams (Harleysville, PA)
Sarah Woodhams started at Toys ‘R’ Us in 2011 as an overnight seasonal hire, and eventually became a Baby registry supervisor at her Babies ‘R’ Us. In 2018, Sarah was rushed to the hospital, and delivered her son who was stillborn. She was at home recovering when she found out on Facebook that her company was liquidating all stores. Facing unemployment and medical bills, she and her husband had to put their dream of buying their own house on hold. Sarah struggled for nearly a year to find employment.

APPENDIX II

Statement by

Melody Crawford

United for Respect Leader

Testimony before the Senate Banking, Housing, and Urban Affairs Committee

Congressional Briefing for Members and Staff on
“Dignity of Work: Workers whose daily lives are affected by the financial system”

April 27, 2020

Good morning, Senator. My name is Melody Crawford. I live in Detroit, Michigan. Until March of 2020, I was an assistant buyer for the mid-west regional retailer, Art Van Furniture. I am also now a leader with United for Respect.

Art Van was a good employer, where you could build your own financial stability. Art Van paid people well, with great benefits. And it was really a leader of our community. Not only did I work for Art Van, but my daughter, son-in-law, and niece worked there too. Art Van supported many local charities, like the food bank. I was there for 13 years, and proud of my company.

When private equity firm TH Lee took over Art Van in 2017, everything changed. Under TH Lee's ownership, Art Van came to owe millions of dollars to Wall Street executives, and creditors. One of the reasons for this was because TH Lee sold the properties to itself, including the Warren Michigan headquarters, and then made Art Van pay back an expensive lease!

Art Van had been a growing business, reporting $800 million in revenue in 2017. But by the end of 2019, Art Van was in the red. We got a WARN Act notice about the layoffs before the COVID-19 pandemic emergency order in Michigan, so the bankruptcy and layoffs originally had nothing to do with the pandemic. Then, a few weeks later, Art Van, under THL's ownership, changed their original WARN Act notice, citing the COVID-19 pandemic. We didn't get any severance pay or benefits as the employees. This meant we got *nothing*.

I received an email that everyone had to report to the office, then we were told on a conference call that all stores would be closed, and we were all laid off. The customers who had ordered furniture, paid for furniture, were told they wouldn't be getting it -- and wouldn't be getting their money back. It was chaos.

We were fired with no notice at all. And we all lost our health insurance. This was probably the most terrifying part for me, personally. I have underlying conditions that require medicines, and I could no longer afford to buy them. I had just bought a new car and then couldn't make payments.

The destruction of this once thriving company blew a giant hole through my entire family, my community, and the state of Michigan. It was really one of the worst things that has ever happened to me, and I wouldn't wish this on anybody. Working for a company for 13 years, and just - tossed out overnight, into the pandemic, while TH Lee executives pocketed millions on the deal.

That's why I am here today to ask you to stop allowing Wall Street to loot retailers like Art Van and Toys R Us, and treat American workers like collateral damage, while they get rich. It's not right, it has to end. I am here today to ask you to pass laws to protect workers from Wall Street greed in the US Senate as soon as possible.

Over 500 of my former coworkers and I worked with United for Respect, and called on TH Lee to provide health insurance to all employees for 90 days, and to create a hardship fund. We had never sat down with Wall Street executives before, but at that point - what did we have to lose? We'd lost everything, they'd taken it, and it was time to take action.

Last month, after a year of campaigning and publicity, they finally said they would provide nearly $2 million to a fund, and now all eligible employees who signed up will receive about $1,200.

It was former workers, myself and others who organized with United for Respect, who spoke up for ourselves, who brought this Wall Street private equity firm to the table. But $1,200 falls far short of the fair severance each of us deserves.

Elected officials need to stop private equity firms from coming in and taking over, leaving employees with nothing. That's what I'm here to fight for, and Senator -- I'm facing down Wall Street and demanding better for workers. It's time this committee of our US Senate does the same.

Companies owned by private equity firms accounted for 8.8 million jobs in the U.S. in 2018. 10 of the 14 largest retail bankruptcies since 2012 have been at stores owned by private equity, including Toys 'R' Us, Shopko, and Art Van. There are millions of people like me who have already been laid off by Wall Street owned retail companies, or are at risk of losing everything like we did.

I'm willing to fight to the end. We need laws in place so this doesn't happen to anyone else. I'm here. I'm ready. I hope you are too. Thank you for hearing my testimony today.

APPENDIX III

Thomas H. Lee Partners Creates Material ESG Risk for Investors

United for Respect, March 2021

Thomas H. Lee Partners ("THL") poses potentially significant risks to investors because of its mismanagement of companies within its portfolio. The recent and controversial bankruptcy of Art Van, a 60-year-old Midwest furniture retailer, represents a broader, unsustainable trend in

THL's strategy that threatens investors with operational, reputational, and competitive risk. Investors should encourage THL to change course to effectively mitigate these risks for the long-term.

THL acquired Art Van in 2017. At that time, Art Van was a successful and growing family-owned company with 117 stores and 3,500 employees.[3] In three short years THL drove Art Van into bankruptcy, forcing the once vibrant company to default on its obligations to creditors and customers and leaving thousands of employees unemployed and without health care at the start of the COVID-19 crisis.[4] In response, former Art Van workers waged a public advocacy campaign to compel THL to provide a hardship relief fund to compensate them for their lost health insurance benefits.

After months of public pressure, in March 2021, THL finally increased its financial contribution to the fund after initially only committing to $400 per employee for the limited number of employees who received notice from the firm to sign up for the hardship fund. Nevertheless, in yielding to public pressure, THL ostensibly sought to mitigate the considerable reputational harm created from its generally anemic response to the Art Van bankruptcy.[5] However, Art Van's bankruptcy remains emblematic of a strategy that continues to expose THL investors to significant long-term Environmental, Social, and Corporate Governance (ESG) risks.

THL'S HISTORY OF RECKLESS MANAGEMENT AND HIGH-RISK LBOS

Although Art Van's bankruptcy is the firm's most recent bankruptcy to date, it is not the only one in THL's portfolio. Within the span of just ten years (2009-2019), THL drove three other companies into bankruptcy. As was the case with Art Van, these companies were saddled with excessive debt obligations. In each instance, THL attempted to profit while paying down creditor interest by steadily decreasing the operational quality of these companies, destabilizing their real estate holdings, extracting their resources, and cavalierly cutting jobs. However, in each instance, when the credit bills ultimately came due in full, rather than rescue these pillaged companies, THL allowed them to go bankrupt and left workers with nothing.
While under THL ownership, over 6,000 employees lost their jobs at four companies, including Art Van, that filed for bankruptcy in sectors spanning food processing, media, retail, and manufacturing.

- ***CTI Foods 2019 bankruptcy***
  CTI Foods was acquired by THL in 2013 and closed its Long Beach facility just over a year later, laying off 315 workers.[6] The closure and subsequent job loss attracted the attention of the United Food and Commercial Workers and in 2016 CTI workers in Pennsylvania successfully ratified a union contract.[7] THL would continue to saddle CTI

[3] https://www.furnituretoday.com/business-news/art-van-sold-private-equity/
[4] https://www.bloomberg.com/news/features/2021-02-10/private-equity-art-van-workers-fight-for-severance-insurance-after-bankruptcy
[5] https://www.crainsdetroit.com/retail/art-van-workers-claim-victory-after-private-equity-firm-owner-boosts-bankruptcy-payouts
[6] https://www.edd.ca.gov/Jobs_and_Training/warn/WARNReportfor7-1-2014to06-30-2015.pdf
[7] https://www.ufcw.org/cti-workers-ratify-first-union-contract/

Foods with debt, including a $25 million loan that CTI Foods would take on for its 2016 acquisition of Liguria Foods.[8] Moody's then downgraded its rating of CTI Foods' debt in 2018, citing "very high financial leverage well in excess of 10 times on a Moody's-adjusted Debt-to-EBITDA basis."[9] When CTI Foods finally filed for bankruptcy in 2019, chief restructuring officer Kent Percy named debt as a significant driver of the company's financial woes, along with "declining sales ... and increased competition." He also pointed to the Liguria acquisition."[10]

- ***iHeartMedia 2018 bankruptcy***
  THL acquired radio broadcaster iHeartMedia (formerly Clear Channel) in 2008 in a heavily leveraged buyout, where THL and Bain Capital contributed only $2 billion of the $17.9 billion purchase price.[11] This subsequently brought iHeartMedia to the point where it was obligated to $1.4 billion in annual interest payments by 2017.[12] These financial burdens ultimately weighed down otherwise seemingly healthy revenues and operating incomes, driving the largest radio broadcaster in the country to bankruptcy in 2018.[13] Workers paid the price in the form of persistent layoffs, which climbed as high as about 1,500 dismissals in a 20,000-strong workforce in 2009,[14] and hundreds of DJs in 2011.[15]

- ***Simmons Bedding Company 2009 bankruptcy***
  Not even 133-year old Simmons Bedding Company could survive THL's poor stewardship. THL's ownership of the mattress manufacturer concluded with Simmons' filing for bankruptcy in 2009, just six years after THL's acquisition. THL set investors on a dangerous course by paying a "lofty" $1.1 billion for Simmons, a debt-burdened transaction that provoked a warning to investors from Moody's analysts.[16] The purchase price had already been inflated by a string of previous private equity buyouts, such that THL was gambling investor money on the prospect of more risky short-term profits. The scale of debt THL had loaded onto Simmons made it almost impossible to sustain operations in the long term, and executives' efforts to boost revenues fell far short of these new debt obligations. Even after the acquisition was complete, THL took out still more loans against Simmons, to the point that the manufacturer's 2009 debt burden of $1.3 billion exceeded its original purchase price.[17] Despite the debt load THL collected millions of dollars in profits while driving Simmons into the ground. The resulting bankruptcy made THL the face of private equity's two reckless decades at Simmons and left Simmons bondholders' with an estimated $575 million in losses and 1,000 employees (over a quarter of Simmons' workforce) laid off in the preceding year.[18] Prior to the

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8 https://www.wsj.com/articles/cti-foods-files-406-million-debt-cutting-bankruptcy-11552317991
9 https://www.moodys.com/research/Moodys-downgrades-CTI-Foods-ratings-CFR-to-Caa2-Outlook-negative--PR_383301
10 https://www.pehub.com/thl-goldman-to-lose-equity-with-cti-foods-restructuring/
11 https://pitchbook.com/news/articles/bain-capital-back-under-the-microscope-with-iheartmedia-toys-r-us-bankruptcies
12 Ibid.
13 https://www.npr.org/sections/thetwo-way/2018/03/15/593868390/iheartmedia-turns-the-dial-to-bankruptcy
14 https://www.reuters.com/article/industry-us-clearchannel/radio-ad-company-clear-channel-cutting-1500-jobs-report-idUSTRE50G0G720090117
15 https://www.cbsnews.com/news/is-romney-to-blame-for-hundreds-of-layoffs-at-clear-channel-radio/
16 https://www.nytimes.com/2009/10/05/business/economy/05simmons.html
17 https://www.nytimes.com/2009/10/05/business/economy/05simmons.html
18 Ibid.

layoffs, 56% of Simmons employees were represented by a union and collective bargaining agreement.[19]

Reputational Risk

While private equity-driven bankruptcies have long been scrutinized, the global pandemic and concomitant economic downturn have renewed public attention to the extractive nature of private equity acquisitions that leads to store closures and job loss. THL's bankruptcy of Art Van generated critical coverage from outlets like Bloomberg[20], Retail Dive,[21] and Crain's Business.[22] In addition, THL's financial malfeasance garnered the attention and outrage of both state and federal elected officials.[23]

As noted earlier, former Art Van employees fought for and won the creation of a hardship fund, but called THL's initial contribution, which averaged out to about $400 per person, "grossly inadequate."[24] Former employees called on THL to take fiduciary responsibility for the negative impact their investment decisions have had on former Art Van employees and provide no less than $1,500 per employee to help them cover health care expenses incurred after they lost their jobs and health care. After a year of pressure, THL ultimately doubled their contribution to the fund.

Former Art Van employees are still dismayed that THL's hardship fund, managed by a third party, **failed to reach nearly half of the former Art Van employees**. Despite the real social cost of THL's mismanagement of Art Van and the accompanying public relations nightmare, the firm still does not appear to have long-term fiduciary and risk management policies in place for its portfolio that can mitigate the risks and harms of such negative reputational events in the future.

According to THL's ESG principles statement, THL purports to follow specific "guidelines for responsible investment" that include a commitment to "consider environmental, public health, safety, and social issues associated with portfolio companies..."[25]

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19 https://sec.report/Document/0001275211-09-000023/

20 https://www.bloomberg.com/news/articles/2020-09-29/art-van-workers-demand-t-h-lee-pay-back-lost-benefit-accounts
https://www.bloomberg.com/news/features/2021-02-10/private-equity-art-van-workers-fight-for-severance-insurance-after-bankruptcy
https://www.bloomberg.com/news/articles/2020-06-10/t-h-lee-s-1-million-for-ex-workers-called-grossly-inadequate
https://www.bloomberg.com/news/articles/2020-04-22/tlaib-asks-thomas-h-lee-to-cover-insurance-for-art-van-workers
https://www.bloomberg.com/news/articles/2020-04-21/bankrupt-retailer-s-workers-beseech-thomas-h-lee-for-benefits

21 https://www.retaildive.com/news/former-art-van-employees-win-2m-hardship-fund-from-private-equity-firm/596538/

22 https://www.chicagobusiness.com/joe-cahill-business/what-went-wrong-art-van-furniture
https://www.crainsdetroit.com/retail/how-art-van-went-retail-juggernaut-house-afire
https://www.chicagobusiness.com/retail/art-van-workers-demand-owner-pay-back-benefit-accounts-lost-bankruptcy

23 https://www.freep.com/story/money/business/2020/03/05/art-van-furniture-jim-fouts-warren/4964627002/
https://www.bloomberg.com/news/articles/2020-04-22/tlaib-asks-thomas-h-lee-to-cover-insurance-for-art-van-workers

24 https://www.bloomberg.com/news/articles/2020-06-10/t-h-lee-s-1-million-for-ex-workers-called-grossly-inadequate?sref=AuDcg4aq

25 https://thl.com/home/esg/

By failing to live up to its own purported ESG commitments, THL risks becoming like its peers Bain Capital[26] KKR,[27] ESL Investments,[28] and Sun Capital whose business practices have garnered unwanted notoriety,[29] lawsuits, and activist campaigns.

Operational Risk

THL's public ESG commitment also states that THL will "..grow and improve portfolio companies for long-term sustainability" however THL's failure to chart a course for long-term growth at Art Van, or to prioritize workforce issues associated with managing the firm, before and after the bankruptcy, bears closer examination as these factors create risk for investors, as well as for the people and communities who depended on Art Van as an employer and retailer.

- *Increased debt and operating costs*: The factors that contributed to Art Van's demise started with THL's acquisition of the company. THL's $612.5 million buyout was financed by selling real estate owned by Art Van then having the company pay rent on more than 100 stores it used to own:[30] According to one report, the "...new rental payments weakened the retailer's finances…"[31]. Under THL's stewardship, Art Van acquired Levin Furniture and Wolf Furniture. Both of these purchases were financed by sale-leaseback transactions which saddled Art Van with new financial obligations and additional debt.[32] Prior to THL's acquisition, Art Van's revenue had grown an impressive 29% from 2014 to 2017,[33] but Art Van's bankruptcy filings revealed that revenue had since fallen a cumulative 27% on a same-store basis compared to fiscal year 2016; [34] By the end of 2019, net income had fallen into the negative.

- *Forced and voluntary exodus of experienced executives:* The first two years of THL's ownership of Art Van were marked by dramatic executive turnover. Twenty-two Art Van executives resigned or were terminated, including eight of the top 9 executives. Among them were longtime CEO Kim Yost, who was replaced by Ronald Borie, the former CEO of Barnes & Noble, who was ranked as the worst executive of 2016 by Yahoo! Finance.[35]

- *Failure to move Art Van into online shopping:* According to press reports, Art Van "bungled it's digital strategy" under THL's oversight. According to former THL executives, "the website became a standalone business, with separate merchandise, management, even office space. Rather than generating new revenue, this two-tiered system cannibalized the chain's retail sales".[36] This failure is all the more stunning as

[26] https://www.wsj.com/articles/vulture-investors-swoop-into-china-to-feast-on-soured-loans-11579602603
[27] https://www.theatlantic.com/magazine/archive/2018/07/toys-r-us-bankruptcy-private-equity/561758/
[28] https://www.reuters.com/article/us-sears-lawsuit/sears-sues-lampert-claiming-he-looted-assets-and-drove-it-into-bankruptcy-idUSKCN1RU1V3
[29] https://www.bloomberg.com/news/articles/2019-06-20/senator-rebukes-buyout-firm-sun-capital-on-shopko-severance-pay
[30] https://www.chicagobusiness.com/joe-cahill-business/what-went-wrong-art-van-furniture
[31] https://www.bloomberg.com/news/features/2021-02-10/private-equity-art-van-workers-fight-for-severance-insurance-after-bankruptcy?sref=AuDcg4ag
[32] https://www.detroitnews.com/story/news/local/macomb-county/2020/03/09/art-van-files-bankruptcy-delaware/4998571002/
[33] https://www.crainsdetroit.com/awards/40-art-van-furniture-inc
[34] https://www.retaildive.com/news/art-van-furniture-files-for-chapter-11/573728/
[35] https://www.crainsdetroit.com/retail/how-art-van-went-retail-juggernaut-house-afire
[36] https://www.bloomberg.com/news/features/2021-02-10/private-equity-art-van-workers-fight-for-severance-insurance-after-bankruptcy?sref=AuDcg4ag

THL bills itself as a leader in "using technology to improve productivity in business processes"[37] and has a distinct "THL Automation Fund" that has raised $900 million.[38]

- *A failed investment*: THL is reported to have lost their entire investment in Art Van Furniture three years after they purchased the company.[39]

When Art Van declared bankruptcy, THL initially walked away from former Art Van employees, largely ignoring the socioeconomic impacts that resulted from their failure. THL's backtracking of these missteps appears to have been the result of an ad hoc decision, not governed by a robust ESG policy. As such, there is little to prevent THL from responding to future crises with the same mistakes that exposed investors to considerable risk in the Art Van bankruptcy:

- When Art Van declared bankruptcy on March 8, 2020, workers were promised "continued work and health coverage until it finished shutting down stores in May;" instead, using the pandemic as an excuse, Art Van stores were closed abruptly, halting "all the pay, severance, and health insurance employees were expecting."[40]

- After over 500 former Art Van employees publicly called on THL to establish a hardship fund for former employees, THL initially committed $1million or about $400 per person,[41] far below the $1,500 per employee that workers had called for.

- THL committed to raise additional monies for the fund and committed to provide $1 million in matching funds but had come up with only another hundred thousand dollars by the end of January, 2021.[42] **THL's poor administration of the hardship fund compounded the damage done by the inadequacy of the fund, as many eligible employees were unable to enroll because outreach efforts were woefully inadequate.**

Competitive Risk
Industry peers have realized that maintaining positive public relations are of great material and social concern:

[37] https://thl.com/automation/
[38]https://www.businesswire.com/news/home/20201116005722/en/Thomas-H.-Lee-Partners-Raises-900-Million-for-Automation-Focused-Private-Equity-Fund
[39]https://www.bloomberg.com/news/articles/2020-06-10/t-h-lee-s-1-million-for-ex-workers-called-grossly-inadequate?sref=AuDcg4ag
[40]https://www.bloomberg.com/news/features/2021-02-10/private-equity-art-van-workers-fight-for-severance-insurance-after-bankruptcy?sref=AuDcg4ag
[41]https://www.bloomberg.com/news/articles/2020-04-21/bankrupt-retailer-s-workers-beseech-thomas-h-lee-for-benefits?sref=AuDcg4ag
[42]https://www.bloomberg.com/news/features/2021-02-10/private-equity-art-van-workers-fight-for-severance-insurance-after-bankruptcy?sref=AuDcg4ag

- In April 2020, Robert Levin voluntarily contributed $1,500 to each of his former employees, who also lost their jobs and healthcare when Art Van filed for bankruptcy and closed stores.[43]

- THL's commitment is also proportionately below the $20 million fund that employees at Toys R Us received from the company's former private equity owners, after declaring bankruptcy in November 2018.[44]

In neither of the aforementioned instances were the companies required by law to provide payments to their displaced workers, but it appears that they did so to maintain their industry competitiveness and to generate public goodwill. As such, these gestures were likely of material benefit to investors as well. Lorna Friedman, senior partner in the global health business at Mercer consultancy, told the Society for Human Resource Management, "People will remember the goodwill and reputational value of trying to do the right thing."[45]

Responsible Investment and Labor Policies Can Protect THL Investors and Workers

THL has an opportunity to adopt sound long-term investment and labor policies across its portfolio that will protect the interests of both investors and workers. Investors have a fiduciary responsibility and a compelling self-interest to ensure these ends are met.

For example, THL must develop sound worker-centric risk management protocols for bankruptcies to ensure the firm is adequately prepared to manage the social impacts and reputational harms stemming from such crises. THL's ESG commitment cannot end when a portfolio company files for bankruptcy. Refining THL's governance model to include these risk management protocols will ensure the firm's continued financial vitality and sustainability. To this end, it is incumbent upon investors to encourage THL to bring its governance policies into synchronization with existing and pending national and local legislation by advocating for the following:

1. A commitment to prioritize and pay out severance to employees who are displaced from their jobs as the result of mass layoffs, site relocations, or site closings[46]; equal to one week's pay for each year of employment.[47]

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[43] https://pittsburgh.cbslocal.com/2020/04/28/robert-levin-furniture-checks/

[44] https://www.washingtonpost.com/business/2018/11/20/million-fund-set-aside-laid-off-toys-r-us-workers/

[45] https://www.shrm.org/resourcesandtools/hr-topics/employee-relations/pages/these-companies-put-employees-first-during-pandemic.aspx

[46] Mass layoffs, plant relocations, and plant closings are defined by the federal Worker Adjustment and Retraining ("WARN") Act (29 U.S.C. ch 23). The federal WARN Act should be thought of as merely a baseline definition for what legally-defines terms such as mass layoff, plant relocation, and plant closure, inter alia, as well as the exemptions to the requisite notice that employers must give employers and state governments. Such terms and exemptions should be considered baselines because states maintain and, have in some cases, exercised the prerogative in their respective jurisdictions to lower the employer-size threshold for coverage, lower the affected employee threshold, and mandate employers pay severance to employees adversely affected by qualifying adverse employment events, among other policy changes.

[47] New Jersey recently passed legislation that mandates this severance standard. Setting aside a liability fund for liquidated damages accounting for no less than 60 days of back pay for all employees and benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974, including

2. A payment that extends or replaces employees' health care plan coverage for a minimum of 90 days' after a portfolio company files for bankruptcy protection.
3. Implementing an advance notice of at least 90 days for mass layoffs, site closings, and other qualifying adverse employment actions.[48]
4. Working with third-party administrators to ensure any and all monies an employee has paid into a health savings account or flexible spending account is returned to the employee within a reasonable amount of time following bankruptcy, mass layoffs, or site closures.
5. A public commitment to quality jobs at portfolio companies, including base wage of at least $15 an hour, adequate paid leave, fair and predictable scheduling, freedom of association with protections against retaliation, and worker representation on corporate boards of directors.[49]

Further, investors should encourage THL to implement controls to protect investors and workers against reckless leveraging and acquisitions by adhering to the following minimum standards as outlined in the Stop Wall Street Looting Act of 2019:

6. Prohibiting any special compensation for executives if the employer has not paid severance or employee benefits to employees.[50]
7. Requiring detailed transparency and reporting on fees, returns, and other financial information.[51]

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the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred. This liquidated damages liability fund should not be construed or interpreted as a substitute or replacement for severance pay.

[48] As outlined in the Fair Warning Act of 2019. https://www.congress.gov/116/bills/s2938/BILLS-116s2938is.pdf

[49] UFR Principles for Quality Jobs https://united4respect.org/principles/

[50] https://www.congress.gov/bill/116th-congress/house-bill/3848/text (See Title III, Section 305)

[51] Ibid.(Title V, Section 501)