

American Correctional Officer

Intelligence Network

ROLL CALL BRIEFING

December 31, 2008

This months Briefing includes:

Could the Fall of Lehman Brothers Signal Trouble for Private Prison Corporations?

Could the Fall of Lehman Brothers Signal Trouble for Private Prison Corporations?

by Bob Libal and Nick Hudson

While recent business news has been dominated by the bailout of some of the nation's largest investment firms, the fall of financial giant Lehman Brothers may have unintended consequences for one of the nation's most controversial industries – the business of incarceration for profit. Articles about Lehman Brothers' history have largely ignored the fact that the company has been one of the largest, most consistent financial backers of the private prison industry.

Over the past decade, Lehman Brothers supplied billions of dollars in capital and credit to for-profit private prison firms such as Corrections Corporation of America (CCA), the GEO Group (formerly Wackenhut) and Cornell Corrections, while at the same time provided those companies with a safety net in times of financial difficulty.

An Industry Criticized

Private prison scandals often go unreported, but occasionally a situation is so egregious that the media takes notice. Such was the case with Scot Noble Payne, an Idaho inmate who committed suicide by cutting his throat with a razor blade in 2007 at the GEO Group's Dickens County Correctional Center in Spur, Texas. [See: PLN, Dec, 2007, p.23].

Payne had been moved from his home state of Idaho to a private prison in Minnesota and eventually to the Dickens County facility, operated by the Lehman-backed GEO Group. Although the exportation of prisoners to other states often limits their ability to appeal their cases, and makes it hard to maintain contact with their families, such transfers have become a common practice facilitated largely by the private prison industry's propensity to build prisons first and then find prisoners to fill them.

Payne had complained for months about feces and blood-encrusted bed sheets and damp, filthy conditions at the GEO prison. Sensing the improbability of appealing his Idaho case from Texas, and miserable in the subhuman conditions at the GEO facility, Scot attempted to escape and was placed in solitary confinement. Before slashing his throat he wrote long, detailed letters imploring his mother to contact the warden of the facility in an attempt to improve conditions.

Payne's death sparked a broader investigation in which the Associated Press called the facility's conditions "squalid," and the Idaho Department of Corrections health director said the prison was the worst he'd ever seen.

The Texas Senate Criminal Justice Committee held hearings on private prison oversight and performance, and Idaho eventually removed its prisoners from the Dickens facility. The prison has recently re-opened under the operation of another private prison corporation.

Payne's death and the tragic conditions it revealed did not come as a surprise to opponents of private prisons. In fact, another Idaho prisoner recently killed himself in another Texas GEO Group prison after being held for over a year in solitary confinement as punishment for a fight that was never prosecuted in court, but ruled a disciplinary violation by the private prison company.

A recent report by the Pew Center on the States, which found that 1 in 100 Americans are behind bars, has furthered criticism by human rights advocates like Amnesty International, which argue the private prison industry violates human rights and uses its political influence to promote tougher sentencing measures which expand the private prison market.

Private prison companies cut corners by paying significantly less to their employees than their public counterparts. Employing guards and personnel who are dangerously ill-equipped for work in a prison setting allows private companies to come in under most public facility operating costs, but at a significant price. For-profit prisons are linked to low employment standards, poor protection of prisoners' rights, and a disconcerting record on public safety. In private corrections, the diverse and potentially violent prison population in combination with poorly trained and inexperienced supervision creates a volatile situation.

A study authored by criminologist James Austin indicated that in comparable prisons, private facilities had 49% higher rates of prisoner assaults on staff and 65% higher rates of prisoner assaults on other prisoners.

"Fairy Godmother" of Private Prison Corporations

Lehman became something of a fairy godmother to the private prison industry, bailing out and supporting private prison companies for much of the past decade. Lehman Brothers underwrote billions of dollars in bonds and credit for private prison firms, and financed the construction of dozens of private and public prisons.

For more than two decades, Lehman Brothers supported CCA by delivering over one billion dollars in capital to the company for expansion. In 2000, a Lehman-backed deal helped CCA avoid bankruptcy; since then, Lehman has played an essential role in CCA's survival and expansion. In 2003, Lehman Brothers arranged a \$785 million refinancing package for CCA, earning the financial firm a substantial profit. In 2001, the same year that Houston-based Cornell Correction's CEO Steve Logan said that "September 11 is increasing ... business," Lehman Brothers helped Cornell transfer prisons to affiliated businesses in an Enron-like scheme that raised \$173 million for the private prison company, plus underwrote \$43 million in additional Cornell stock. In 2003, Lehman advised Wackenhut on a multi-million dollar spin-off of the company's corrections division, which was renamed the GEO Group. That same year Lehman helped float more than \$100 million in bonds for GEO. As recently as March 2008, GEO Group CEO George Zoley participated in a Lehman Brothers conference call and discussed why the company's private prisons were a good investment.

It remains unknown at this point how Lehman Brothers' demise will affect private prison companies, but it's clear that the industry has lost both a major cheerleader and financial backer. One thing is known: if another company picks up Lehman's role as lead private prison financier, it should be prepared for a divestment campaign.

In 2001, Grassroots Leadership's Not With Our Money! campaign (where Bob Libal, co-author of this article, later served as co-director between 2003 and 2006) waged a successful battle that led multinational Sodexo

Marriott to divest its CCA stock. At the time, Sodexo was CCA's largest institutional shareholder. The shares were bought by other investors.

As early as 2002, Lehman Brothers' involvement in the private prison industry drew scrutiny from activists. In a 2002 newsletter, May Va Lor, then co-director of Not With Our Money! said, "Lehman Brothers is the number one financier of the private prison industry ... Investment banks fund predatory loans, they fund globalization projects, they do horrible things – just pick one. But no other investment bank is as involved in the private prison industry as Lehman is."

In 2006, Lehman Brothers was pressured by students at the University of Minnesota, one of many colleges and universities where students protested bond underwriting deals with Lehman due to the company's private prison dealings.

In a time of falling markets and reduced capital investments, private prison expansion plans already may have been curtailed. The failure of Lehman Brothers can only hurt the prospects of the for-profit private prison industry – an outcome that is well earned.

As of October 10, 2008, GEO Group stock closed at \$14.84, down from a 52-week high of \$31.98 and losing 53.6 percent of value over the past year. CCA stock closed at \$18.58, down from a 52-week high of \$31.58 – a loss of 41.2 percent of value; and Cornell stock closed at \$21.06, down from a 52-week high of \$28.45, losing 26 percent of value.

However, there is little relationship between stock prices and profitability. The private prison industry continues to reap enormous profits, especially in the field of immigration detention, and its stock price downturn mirrors that of the stock market in general at the moment.

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