THE VANCOUVER SUN
Division of Canwest Publishing Inc.

Getting Real: The un-Union movement

By Nicolas Van Praet, Financial Post - August 7, 2009

As the worst global recession since the Second World War grinds on — although the Bank of Canada has declared the downturn over in Canada — workers are facing pay cuts, unpaid leave and layoffs. Labour strife has swelled. The wealth hit from battered investment portfolios and falling home prices is forcing consumers to adjust their expectations, too. Today is the fifth instalment of the *Financial Post*'s summer-long "Getting Real" series exploring the reality check now underway.

Never one to shy away from rhetorical bluster, Canadian Auto Workers Union President Ken Lewenza was in rare form this past March when he addressed a rally at the Ontario legislature pressuring lawmakers to protect employee severance.

Wearing a mock black turtleneck and black blazer, the leader of Canada's largest private sector union told the crowd: "You will see a militant labour movement. You will see anger like you have not seen before. And you will, you will my friends, revitalize the mood that is necessary to push the progressive agenda for workers."

And why wouldn't he believe that? Mr. Lewenza had just witnessed his own members storm a car parts plant in Windsor and occupy it for four days in a bid to win back wages and other pay owing to the workers. Union leaders finally struck a deal that saw the plant's employees lose their jobs but get the pay. "Fighting back makes a difference," is a CAW slogan. That week, the union battled.

Fast forward to August. Pushed into a corner by the federal government and pressured to save jobs, the CAW made major benefit concessions that helped secure the Canadian manufacturing operations of General Motors Co. and Chrysler Group LLC. Nudged by a federally appointed mediator and other unions, the CAW also helped keep Air Canada out of bankruptcy protection by agreeing to a 21-month moratorium on pension funding.

To an outsider, Mr. Lewenza's union is venturing deeper into uncharted waters. As part of these deals, it is taking an equity stake in Air Canada, breaking a long-standing vow not to become owners in any company. And in the case of the automakers, it is taking over a managerial task -- setting up and running a health benefit trust for current workers and retirees.

If this is "fighting back," the labour leader and his inner circle are wearing kid gloves.

"These are significant deviations from what unions have done before," said Gary Chaison, professor of labour relations at Clark University in Worcester, Mass. "And what they are, in my view, is the quid pro quo for the concessions that they've granted. That is, essentially, when they leave the bargaining table and they've agreed to wage cuts or freezes or something like that, they have to show something for it. And so what they're trying to do is be creative in what they're getting in return."

There are precedents for unions doing decidedly un-union things to protect their members. But they are rare and usually born out of financial crises.

To help Algoma Steel steer away from bankruptcy in the late 1990s, the United Steelworkers union agreed to new employee wages and bought equity in the company, which it later sold off. When employees at United Air Lines Inc. grabbed 55% of the airline in exchange for lowering their own pay, they were left holding worthless shares when the carrier filed for bankruptcy protection. The CAW's sister union in the United States, the United Auto Workers, took stakes in both Chrysler and GM this summer in exchange for health-care payments owed by the carmakers.

As it scrambles to keep its membership ranks up amid a decline in the auto sector, the CAW has proven it is also willing to break with past principles if it has to. Some might call that pragmatic. Others would call it selling out.

Having an equity share in Air Canada sounds great. Under the deal, the CAW would share 15% with the airline's four other unions and collectively hold one seat on the company's board. But does that mean then that the union now has an interest in keeping wages low?

Administering a health-care fund for auto workers is not only interesting, it is completetely new in Canada. It will allow GM to get billions in health-care liabilities off its books and is a way for the CAW to win some security in benefits funding. But does that mean the union now has an interest in keeping those medical costs in line?

Beyond the obvious conflicts, the question is whether there will be broader, lasting effects of the CAW and UAW moves on other unions and other companies. Will there be more co-operation ahead or will parties revert to more standard roles and relations when the economic strain subsides?

Mike Sherrard, a Toronto labour specialist at law firm Sherrard Kuzz LLP, said many unions are now taking a look at whether or not they can set up their own benefit programs. Construction unions, for example, are already managing pension trust funds. But he said unions taking equity in companies are the result of unique circumstances that may not be repeated.

Certainly, not all unions view the CAW's leadership as an act to follow. When the auto union reached a deal with car parts company Magna International Inc. in 2007 allowing it to organize Magna plants, it also gave up the right to strike and the right to directly elect local union leaders. The move, unthinkable in years past, prompted Wayne Fraser, Ontario and Atlantic director of the United Steelworkers, and several other top labour leaders to denounce the CAW. The union bosses called the agreement a "throwback to the days of Mackenzie King-style company unionism" that silences workers' voices.

Peggy Nash, an assistant to Mr. Lewenza who was heavily involved in the Air Canada talks, said no one should believe there is a change in philosophy occuring at the CAW. She said it was the airline's other unions, such as the Canadian Union of Public Employees, pushing for the equity stake. "When you're dealing with a company on the brink of bankruptcy, you're doing what you can to preserve the best interest of your members."

Of course, that is the difference between private and public-sector unions. Unions like those representing Toronto's city workers, who recently returned to work after a bitter summer strike, do not have the same pressures to make concessions for a struggling employer. After all, the government is not going out of business.

Bill Watson, a lawyer at Toronto firm Baker & McKenzie, has represented various employers in labour talks over 28 years. He says that while the lessons learned from finding creative solutions to problems will not be forgotten, Canada is not moving toward a labour-management love-in.

“When things settle down, and particularly in those sectors where employers are competitive and strong, I think we’ll revert to a more traditional set of labour negotiations,” he said. “On the union side, they will say ‘We really didn’t like some of this because we’ve now told employers that we’re prepared to do things that we said we’d never do.’”

Still, that door is now open. And Mr. Watson said unions will not succeed in shutting it completely. “Guys like me will try and drive a bus through it,” he said. “I wouldn’t be worth much salt if I didn’t.