

MEAT

THE BUSINESS PHILOSOPHY AND
PRACTICE OF LABOR NOMINEE
ANDREW PUZDER **BY SUSAN
BERFIELD AND CRAIG GIAMMONA**

MARKETER



hat's more American,"

the Carl's Jr. narrator asks in a 2015 advertisement for the Most American Thickburger, "than a girl [swimsuit model Samantha Hoopes, biting into a potato-chip-stuffed cheeseburger that's topped with a grilled hot dog] in a bikini [camera zooms out to reveal she's wearing a stars-and-stripes string bikini] in a hot tub [covered with stars and stripes] in a truck [a Crew Cab pickup with an American flag paint job] on an aircraft carrier [with fighter planes taking off] underneath the Statue of Liberty?" Final shot: Hoopes biting into the huge burger, then #mostAmerican.

This commercial is the marketing vision of Andrew Puzder, the chief executive officer of CKE Restaurants, owner of Carl's Jr. and Hardee's, and now President Donald Trump's nominee for secretary of labor. Puzder's appeal to "young, hungry guys" and their version of what makes America great helped two struggling fast-food chains become, if not top contenders, at least contenders. "I like beautiful women eating burgers in bikinis. I think it's very American," Puzder, who's 66, said of that ad to *Entrepreneur* magazine. "I used to hear, 'brands take on the personality of the CEO.' And I rarely thought that was true, but I think this one, in this case, it kind of did take on my personality."

That personality is also what makes him one of the most Trump-like of all Trump appointments. He got the president's attention in some of the same ways Trump got America's. Puzder has teased competitors, casually denigrated the workforce he relies on, and rallied customers with an anti-PC snubbing of the quinoa-eating elite.

Unlike Trump, though, Puzder maintains a consistent ideology: free markets, free trade, and zero-sum, trickle-down economics. Six days after the election, Puzder—lean, balding, dark-suited—addressed a restaurant industry event at the Bellagio Hotel in Las Vegas. "More government is not the solution to every problem, it's the problem to every solution," he said. "They punish us for being in business to make a profit." Within a few days he got word that he might be joining the government. Puzder's confirmation hearing, originally set for mid-January and now scheduled for Feb. 16, had been pushed back four times, in part because he believed he could transfer his holdings into a blind trust rather than divest, says someone familiar with the matter. Puzder's stake in CKE—in 2012 he owned about 4.3 percent of the private company, according to filings analyzed by Bloomberg—presented too much of a conflict of interest, though.

Opponents have used the time to criticize his company's treatment of workers; supporters have produced line cooks and cashiers at the two chains to describe how much they love their jobs. Puzder has been mostly silent, except to defend himself for once employing a housekeeper he says he didn't realize was undocumented.

Although Carl's Jr. is a reflection of Puzder, for a long time it was a reflection of its namesake, Carl Karcher, who started selling hot dogs from a cart in South Central Los Angeles in 1941 and opened the first Carl's Jr. burger joint 15 years later. Karcher, a devout Catholic, married with 12 children, would hand out coupons for free burgers—with a Bible verse on the side. He began company meetings by reciting the Pledge of Allegiance and the prayer of St. Francis of Assisi. In 1978 protesters targeted his restaurants when he unsuccessfully backed a proposition that would have allowed public schools to fire gay teachers. Still, a year later, sales reached \$100 million, and Karcher opened his first restaurant outside California, in Las Vegas.

The company went public in 1981, and legal and financial woes followed, which is how he met Puzder. Like Karcher, Puzder came from a working-class Catholic family in Ohio. He got caught up in the counterculture, grew his hair, played guitar, went to Woodstock, and marched on Washington in 1969 to protest the Vietnam War. He was studying at Kent State when Ohio National Guardsmen killed four students in 1970. He dropped out, played in rock bands for three years, married, and had kids. He eventually graduated from Cleveland State University, then received a law degree from Washington University in St. Louis.

At some point, Puzder's politics seem to have shifted, though it's not something he's discussed in public. By the 1980s he was a member of the St. Louis Republican establishment, helping Missouri Governor John Ashcroft draft a strict anti-abortion law.

During those years, Puzder's first marriage fell apart. Lisa Henning, now Lisa Fierstein, alleged in divorce proceedings that he had attacked her, and while he acknowledged that police were called to their disputes twice, he denied any physical abuse. Fierstein retracted her allegations in 1990, and on Jan. 18 sent the Senate committee considering his nomination a page-and-a-half letter to clear any character damage she thought her accusations might have inflicted. "What we should have handled in a mature and private way," the letter said, "became a contentious and ugly public divorce."

Soon after the divorce, Puzder married his current wife, Deanna Descher. The next day he flew out to meet Karcher. CKE had been sued in Kansas City, Mo., and Puzder was referred to him as a good local trial lawyer. He became Karcher's personal attorney, helping him avoid bankruptcy, and then was

hired as general counsel for the company. The men went to the same church and shared political views.

In the late 1990s the company bought Hardee's, a struggling chain of about 3,000 restaurants located mostly in the South and Midwest, where Carl's Jr. hadn't established itself. The acquisition strained the company's finances, though, and Karcher was forced out. In 2000, Puzder was appointed CEO. "Well, I think they really just said, 'Let's see if the cocky lawyer can fix it,'" he recalled in a 2009 oral history of the company conducted by California State University at Fullerton.

The first memo Puzder wrote to Hardee's managers was direct: "No more people behind the counter unless they have all their teeth." He closed some restaurants and directed the franchisees, who owned about half of all Hardee's, to remodel, but that wasn't enough to revive the brand. "You go into a store, and there's a guy with a dirty shirt who is rude, and then you remodel the store, but the customers still go in and find a guy with a dirty shirt who is rude," he later recounted to a trade publication. Slowly, Hardee's came around. Sales in established restaurants increased in 2004 for the first time in years. Still, Puzder's estimation of the workforce remained low. Hardee's was "hiring the best of the worst. It's kind of the bottom of the pool," he said in a 2011 speech CNN recently dug up.

Puzder knew Hardee's and Carl's Jr. couldn't compete with McDonald's for families. Instead, they'd come up with big, calories-be-damned burgers to appeal to young men, the original and most loyal fast-food eaters, and market the brands as if they were beer labels. The first ad featured Paris Hilton, in a barely-there black bathing suit, soaping up a Bentley before biting into a Spicy Burger. A parents' group criticized the ad as "soft-core porn." Puzder told them to "get a life." And so it went for years: Padma Lakshmi ate a Bacon Western Thickburger, Kate Upton promoted the Southwest Patty Melt, Kim Kardashian introduced an indulgent salad, Heidi Klum bit into a Jim Beam Bourbon Burger. Charlotte McKinney walked naked through a farmers market, her body parts concealed by a series of visual double-entendres (chest blocked from view by melons, etc.) to introduce its All-Natural Burger during the 2015 Super Bowl. A Bacon 3-Way Burger commercial suggested just that.

Karcher, who died in 2008, told Puzder he hated the ads, women criticized them as misogynistic, and some franchisees were embarrassed. But millions viewed them. Puzder said his wife approved each one. Troi Martin Wierdsma and her husband are part-owners of about 200 Carl's Jr. restaurants in California. She says she first thought the ads were too raunchy but changed her mind when sales increased. "If you're in the business to make a profit, that's what you need," she says.

"Andy kept making the right decisions for the company," says Melissa Robinson-Coggins, who worked for CKE's marketing agency and then the company itself from 2008 to 2015. "He doesn't apologize, and I respect that."

In 2010, as the recession bit into sales, CKE was acquired by private equity firm Apollo Global Management for about \$1 billion, including \$310 million in debt. When Apollo tried to take the company public again in 2012, CKE's financial prospects weren't strong enough to attract any interest. Puzder blamed market conditions, the high price of corn, which made beef more expensive, and Obamacare. The initial public offering process was "an embarrassment and total waste of time for Apollo and CKE," restaurant consultant John Gordon told the *Los Angeles Times*. Company filings showed that Puzder had received a compensation package

of \$10 million in 2010, including \$30,000 for corporate jet and car travel. The following year he earned \$4.5 million.

In 2013, CKE was bought by Roark Capital Group, a private equity firm (named after Howard Roark, the Ayn Rand character) that owns Arby's, Cinnabon, Carvel, and other chains. It paid a reported \$1.6 billion, \$650 million in cash while taking on almost \$1 billion in debt. Afterward, CKE stopped matching contributions to employee retirement accounts. It also continued to sell off the restaurants it owned in the U.S. to raise cash and streamline operations, reducing the number from 892 to 237 in 2016. CKE, which earns 4 percent of franchisees' gross sales, reported U.S. revenue of \$913 million and net income of \$50 million in 2015, according to company documents. The average sales per restaurant grew 13 percent from 2006 to 2015, slightly below sales at its rivals. The chain, which is almost 95 percent franchised, has global sales of \$4.4 billion, a 33 percent increase since Puzder took over, CKE says.

Although Puzder and his would-be boss in the White House talk about job creation, most of the jobs CKE has created recently are, as at the Trump Organization, outside the U.S. When Puzder took over CKE in 2000, there were close to 3,500 Carl's Jr. and Hardee's outlets in the U.S. Now there are 3,000. The company's international presence, meanwhile, has expanded to include 750 restaurants in 40 countries. CKE says it hopes to double the number in the next five years. The biggest market so far is the Middle East, where about 350 Hardee's sell Frisco and Memphis BBQ burgers with ads that are more subdued—the men still ogle, but the women are fully clothed. Among CKE's newest markets are Australia, Cambodia, and Japan.

In the U.S., the chains are in a tough spot. Last year food deflation pushed down the price of groceries, so more Americans are eating at home. Larger rivals are engaged in a price war to draw in their most frequent customers, those on a budget. And higher-end chains such as Shake Shack, Smashburger, and Panera Bread are attracting younger diners with their less-processed ingredients.

Puzder has reluctantly conceded that tastes are changing. He's joked about having to offer gluten-free buns and spend money on advertising salads no one buys. The restaurants offer turkey burgers, which one of his marketing executives calls "food for women." Puzder eventually recognized that the marketing had to change, too. "It played itself out," says Cheryl Doerr, director for operations at a large franchisee in California. "It seems like we're done with girls in bikinis and the sauce dripping on the white shirt. Now we're showing our high-quality food."

So maybe it's a good time for Puzder to pivot, career-wise. If he does get confirmed as labor secretary, he'll oversee a staff of more than 17,000 civil servants. At CKE, some 85 people worked at the offices in Carpinteria, Calif., near Santa Barbara, and 320 at offices in Anaheim and St. Louis. Puzder traveled between them but was most often in the Carpinteria office. It had a gym, which he used, and running trails that overlooked the Pacific, which he also used. Everyone regularly ate the company's burgers and chicken sandwiches, though Puzder usually dispensed with the fattening toppings and occasionally the bun, too.

The top executives were mostly—and in 2016 entirely—male. "I felt respected," says Robinson-Coggins, the former marketer. "I was never intimidated by Andy. I wonder if maybe that's why we got along." A former senior manager and a franchisee, both of whom left the company with agreements



FROM TOP: NINA AGDAL, PARIS HILTON, AND KATE UPTON REACH OUT TO CARL'S JR.'S TARGET DEMO



not to speak publicly, describe the culture as patriarchal, and Puzder as someone who tends to view the women around him as “the help.” Another former executive says that the atmosphere in the Carpinteria office was professional, but behind closed doors it was “good ol’ boys.” A fourth former executive describes Puzder as loyal, confident, and hard-nosed. She says that while he was a demanding boss who held people accountable, he didn’t believe in performance reviews. She thought that was a way to avoid lawsuits if he wanted to fire someone. “For my direct reports, I was happy to give a performance review to anyone who requested one, but nobody ever requested a formal review,” Puzder said via e-mail, noting that instead, he would have annual discussions about their performance.

Puzder’s business experience has been largely in a low-wage, low-margin industry built on a franchise model that tends to shift profits upward and responsibility downward. He claims 75,000 people as employees in the U.S. when presenting his qualifications for a cabinet position. But, like other fast-food executives, he tends to deflect blame for their treatment by franchisees when workers complain.

And many complain. About 60 percent of the U.S. Department of Labor’s investigations into CKE restaurants turned up at least one violation of the Fair Labor Standards Act, according to data compiled by Bloomberg BNA. Most other fast-food chains were even worse.

CKE has even had trouble with labor violations in Russia. In February 2015, the government determined that employees were owed back wages and severance totaling some \$82,000 after 50 restaurants closed. “That didn’t have anything to do with us. Franchisees are responsible for labor issues,” says Cathy Kellner-Diaz, vice president for international marketing at CKE. She says a new franchisee has opened 13 Carl’s Jr. restaurants in Russia.

Since Puzder took over, CKE has settled six cases brought by the U.S. Equal Employment Opportunity Commission, the two most serious of which concerned allegations of racial discrimination and sexual harassment. In 2002 the EEOC brought a claim against CKE saying a shift leader in a Carl’s Jr. in Elk

Grove, Calif., had bragged about being a skinhead and flying a Confederate flag at home. He allegedly told a young female black worker that he wanted to get a tattoo of a lynching. She notified her district manager, but the shift leader wasn’t disciplined, and she was fired. In 2005, CKE entered into a consent decree, denying the allegations and agreeing to pay \$255,000 in compensation and provide anti-harassment training to all its managers. Four years later, the EEOC obtained a \$75,000 settlement for a group of women who said they were sexually harassed at a Hardee’s in Livingston, Tenn. CKE notes that “there were no EEOC settlements of adverse findings” from 2010 to 2016.

In a 2014 speech at Chapman University, a Christian university in California, Puzder said the company had spent \$20 million settling lawsuits related to overtime pay for some managers. He said the company had reclassified managers as hourly workers as a result. He thought that was unfortunate. Under the old system, “what they lose in overtime pay they gain in the stature and sense of accomplishment that comes from being a salaried manager. This is hardly oppressive,” he wrote in a *Wall Street Journal* op-ed.

Puzder’s decision about the pay structure, though, led to two other legal challenges, both pending in the California courts. The first alleges that CKE refused to pay back wages to general managers once it began applying the overtime rules. The trial is scheduled to begin in September. A second case concerns how CKE converted managers’ salaries to hourly wages. “Wage theft is distressingly common in the fast-food industry. It’s really the norm among franchisees,” says attorney Allen Graves, who is bringing both cases against CKE. “The thing that distinguishes these cases is that these restaurants were corporate-owned. I never thought that someone whose company’s conduct is bad enough to warrant a lawsuit would be in a position of public trust.” In an e-mail, CKE said it would vigorously defend both cases and declined to comment further, citing pending litigation.

On Jan. 27 current and former CKE workers filed more than



FAST-FOOD WORKERS PROTESTING IN LOS ANGELES, JAN. 26

30 wage theft, harassment, and intimidation complaints with state and federal agencies. Robert Sunderlin, a 26-year-old shift leader at a Hardee’s in Illinois, says his general manager had been altering his pay sheet and forging his signature to reduce the hours he worked. Concepción Betancourt, who’s 39 and has been working at a Carl’s Jr. in Oakland for 14 years, alleges that the restaurant has been systematically underpaying her for five years and that management has ignored her accusations.

“That’s all politics,” says franchisee Amir Siddiqi, who started as a dishwasher at a Carl’s Jr. in 1985 and now owns 108 restaurants in California, none of which are named in the complaints, and works with Doerr.

Puzder has called California a socialist state that’s killed capitalism with excessive regulation. “It’s easier to open a restaurant in Karl Marx Prospect in Siberia than on Carl Karcher Boulevard in California,” he’s often said. During the oral history interview he gave in 2009, he said: “Have you ever been to a fast-food restaurant and the employees are sitting and you wonder, ‘Why are they sitting?’ They are on what’s called a mandatory break. Your restaurant can be falling apart, and you can’t move. You sit and watch till your rest break’s over. So we don’t build restaurants in California anymore.”

That’s not entirely true: In its 2015 disclosure documents, CKE reported that it expected to build two new company-owned restaurants in the state—the only place in the country where it was doing so. That might have something to do with the help the company received from the government. The Governor’s Office of Business and Economic Development described to *Bloomberg Businessweek* via e-mail how in 2011 they’d worked with CKE to push through permits in six weeks for 300 outlets that were expanding their kitchens because it would add one or two more employees per restaurant.

“They want to protect workers, and there’s nothing wrong with that,” Puzder continued in the oral history. “But this nanny-state philosophy where the government’s going to be responsible for protecting you and you aren’t responsible for protecting yourself is not going to produce... a class of people who are interested in really developing themselves or this economy.”

In March 2016, Puzder announced he was moving CKE’s headquarters to Tennessee, where it’s easier to do business. CKE is getting \$2 million in state and local tax incentives. Early this year, more than one-third of the corporate employees at the Carpinteria and St. Louis offices received word that they’d be laid off (with what the company calls generous severance packages) as a result. Joe Caruso, a franchising consultant who was CKE’s director for franchise development in the 1990s, told Bloomberg BNA that Puzder’s top concern as CEO must be his fiduciary responsibility. That said, he added:

“I think at times it can come off as not having an emotional attachment” to workers.

If Puzder set out to make his career an audition for a role in the Trump administration, he couldn’t have done much better. Around the time CKE became a private company, he began to brand himself as a straight-talking defender of commonsense business practices. He co-wrote a book, published in 2010, called *Job Creation: How It Really Works and Why Government Doesn’t Understand It*. He joined the commentariat, giving speeches, writing op-eds, and appearing on Fox News Channel criticizing Obamacare, overtime pay, and the fight for a \$15-an-hour minimum wage. He had a blog. He tweeted, sometimes in Trumpian ALL CAPS. Puzder and his wife gave \$150,000 to Trump’s Victory fund in May 2016, and when the *Access Hollywood* sexual assault video hit, he came to Trump’s defense. In an appearance on Fox Business in early November, he was asked if he’d want to work in Trump’s cabinet. His answer: “I think it would be... the most fun you could have with your clothes on.”

Trump promised working-class voters that they would benefit from a strong Trump economy, but he rarely spoke about the biggest group of working-class voters, those in the service sector, or one of their most off-cited concerns, raising their hourly wages. Like Trump, Puzder promotes a nostalgic vision that occludes the reality of the American permanent low-wage workforce while enjoying the profits of the complex globalized world. “There’s nothing more fulfilling than seeing new and unskilled employees work their way up to managing a restaurant,” he told a Senate committee in 2014. Fast food is an inverted funnel, though, with very few such positions at the top. To get by, workers at CKE’s restaurants rely on about \$250 million a year in taxpayer-funded safety net programs, according to the National Employment Law Project.

Puzder has said he doesn’t oppose a modest increase to the minimum wage. But he told *Business Insider* in March 2016 that if wages were raised too high, restaurants would replace cashiers with machines. Many executives in the fast-food industry and beyond have suggested the same. Puzder went one step further. “They’re always polite,” he said of the proposed robots. “They always upsell, they never take a vacation, they never show up late, there’s never a slip-and-fall, or an age, sex, or race discrimination case.”

Assuming Puzder does get confirmed, what could he actually do to enact his economic ideals? He could narrow the recently widened definition of who’s an employee in “gig economy” companies—Uber, for example—and who’s an independent contractor. That’s important because company employees are covered by federal labor laws, while independent contractors aren’t. He could limit three guest worker programs, including the H-1B visas for high-skilled employees that Silicon Valley in particular depends on. Judging from his record at CKE, he’d likely push back on attempts to hold companies equally responsible with their franchisees for labor violations. And even if a Puzder Labor Department doesn’t formally eliminate some of the 180 laws and thousands of regulations it oversees that affect 125 million people, it could accomplish more or less the same thing by simply not enforcing them. The department is also home to the bureau that releases the monthly employment numbers, statistics that Trump formerly derided as “phony.” But as of the latest release showing the creation of 227,000 jobs in January, he now says they’re “great.” — *With Carol Matlack, Ben Penn (Bloomberg BNA), and Leslie Patton*

CHAIN REACTION

As CKE's U.S. expansion has slowed, more stores have opened overseas

