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September 10, 2013

**VIA ECF AND HAND DELIVERY**

Hon. Robert E. Gerber  
United States Bankruptcy Court for the Southern District of New York  
One Bowling Green  
New York, New York 10004-1408

Re: *In re General Motors Corp., et al.*, 09-50026 (REG)  
*Motors Liquidation Co. GUC Trust v. Appaloosa Inv. Ltd. P'ship I, et al.*, 12-09802  
(REG)

Your Honor:

On behalf of Green Hunt Wedlake, Inc. (the “**Nova Scotia Trustee**”), the trustee for the bankrupt estate of General Motors Nova Scotia Finance Company (“**GM Nova Scotia**”), we write to ask the Court permission to file a responsive letter, of no more than two pages, addressing a legal argument raised by the GUC Trust for the very first time in its Post-Trial Reply Brief (Dkt. No. 245). Specifically, the GUC Trust has now argued that the Nova Scotia Trustee’s long-standing position that it was entitled to disclaim the Swap Agreements “is disingenuous” because the disclaimer of “eligible financial contracts,” such as swaps, is allegedly impermissible under Canadian law.<sup>1</sup> The GUC Trust raised this argument for the first time in its Post-Trial Reply Brief, even though it has been aware of the Nova Scotia Trustee’s position that it validly disclaimed the Swaps since at least the discovery phase of this case,<sup>2</sup> and no later than when the Nova Scotia Trustee fully briefed the disclaimer issue in its pre-trial brief.<sup>3</sup>

The GUC Trust’s argument reflects yet another fundamental misunderstanding of Canadian bankruptcy law, and thus the Nova Scotia Trustee respectfully requests that it be permitted to file, prior to closing arguments, a two-page response letter. Because the underlying

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<sup>1</sup> GUC Trust Reply Brief at 73.

<sup>2</sup> See Wedlake Deposition Transcript (4/25/12) at 36:6-11, 102:11-23 (excerpts attached hereto as Exhibit A).

<sup>3</sup> See Nova Scotia Trustee Pre-Trial Brief (Dkt. No. 152) at 12-14, 21-23 (describing how and why the Nova Scotia Trustee “exercised its common law right to disclaim the Swap Agreements” pursuant to its obligation to “affirm or disclaim executory contracts belonging to a debtor within a reasonable time after appointment”).

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issue is one of foreign law, we think it is prudent to put our response in writing, but if the Court prefers, we will address the issue during closing arguments instead.

We appreciate the Court's attention to this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Sean E. O'Donnell". The signature is fluid and cursive, with a prominent initial "S" and "E".

Sean E. O'Donnell

cc: Counsel of Record Appearing in this Matter (via email)

**EXHIBIT A**

- PETER WEDLAKE -

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In Re: ) Chapter 11

MOTORS LIQUIDATION COMPANY, ) CASE NO.

et al., f/k/a General Motors ) 09-50026 (REG)

Corporation, et al., )

Debtors. ) (Jointly Administered)

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DATE: April 24, 2012

TIME: 10:05 a.m.

DEPOSITION OF PETER WEDLAKE, held at  
the offices of Dickstein Shapiro, 1633 Broadway,  
New York, New York, pursuant to Agreement, before  
Hope Menaker, a Shorthand Reporter and Notary  
Public of the State of New York.

1 - PETER WEDLAKE -

2 two conversations. Do they run into each other,  
3 these conversations, or are you able to isolate in  
4 your memory two distinct conversations?

5 A. I'm not able to.

6 Q. Okay. So then I'm just asking,  
7 whether it was one or two, what else you or  
8 Mr. MacKeigan said to Steve Golick on this topic  
9 of terminating the swaps?

10 A. We advised him that we, the estate,  
11 wanted to repudiate the contract.

12 Q. Okay. And was that something that  
13 you said or Mr. MacKeigan said to Mr. Golick?

14 A. I don't recall.

15 Q. Okay. And did you explain to him why  
16 the estate wanted to repudiate the contract?

17 A. I don't recall if we explained it to  
18 Mr. Golick.

19 Q. Did you at the time have an  
20 understanding as to why the estate wanted to  
21 repudiate the contract? Again, other than an  
22 understanding that may have come from  
23 conversations with Cox & Palmer.

24 A. All those discussions around how to  
25 deal with the swap agreement were with my legal

1 - PETER WEDLAKE -

2 doing it -- filed administration.

3 MR. O'DONNELL: I'm going to caution  
4 the witness not to speculate. He's asking  
5 for your knowledge, not for you to guess.

6 A. I don't know.

7 Q. As of the date that you submitted the  
8 Proof of Claim in the U.S. bankruptcy proceedings,  
9 had the swaps been terminated?

10 A. I don't believe so.

11 Q. Did there come a point in time when  
12 they were terminated?

13 MR. O'DONNELL: Object to form.

14 A. The estate rescinded the swap  
15 contract.

16 Q. And when did the estate do that?  
17 When you say "the estate," you mean the GM Nova  
18 Scotia Finance bankruptcy estate?

19 A. Yes.

20 Q. Rescinded the swap contract?

21 A. Yes.

22 Q. When did it do that?

23 A. In January of 2010.

24 Q. And why did it do that?

25 A. Because the estate couldn't complete