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**UNITED STATES BANKRUPTCY COURT
 SOUTHERN DISTRICT OF NEW YORK**

In re)	
MOTORS LIQUIDATION COMPANY, et al.,))	Chapter 11 Case No.
f/k/a General Motors Corp., et al.,))	09-50026 REG
Debtors.))	(Jointly Administered)
MOTORS LIQUIDATION COMPANY,))	
Plaintiff,))	
v.))	
MCM MANAGEMENT CORP.))	Adv. Pro No. 10-05008 REG
Defendant.))	
MCM MANAGEMENT CORP.,))	
Counter-Plaintiff,))	
v.))	
MOTORS LIQUIDATION COMPANY))	Adv. Pro No. 10-05008 REG
Counter-Defendant.))	
))	

**MCM MANAGEMENT CORP.'S (A) ANSWER AND AFFIRMATIVE DEFENSES
TO FIRST AMENDED COMPLAINT AND OBJECTION TO CLAIM NO. 371
FILED BY MCM MANAGEMENT CORP.; AND
(B) COUNTERCLAIM AGAINST MOTORS LIQUIDATION COMPANY**

MCM Management Corp. ("MCM" or "Defendant"), by and through its attorneys, Jaffe, Raitt, Heuer & Weiss, Professional Corporation, files these Answers and Affirmative Defenses to Motors Liquidation Company's First Amended Complaint and Objection to Claim 371 filed by MCM Management Corp., and files its Counterclaim against Motors Liquidation Company ("Liquidation" or "Plaintiff"), and states as follows:

PARTIES, JURISDICTION AND VENUE

1. Admitted.

2. Admitted.

3. Admitted.

4. Defendant admits that it filed a proof of claim in the Chapter 11 bankruptcy case.

Defendant intends to file an amended proof of claim seeking additional contract damages. Defendant neither admits nor denies the remaining allegation contained in Paragraph 4 because it calls for a legal conclusion.

GENERAL ALLEGATIONS

5. Admitted.

6. Admitted.

7. Defendant neither admits nor denies the allegations contained in paragraph 7 because it is without sufficient knowledge or information to form a belief as to the truth thereof.

8. Defendant neither admits nor denies the allegations contained in paragraph 8 because the documents speak for themselves.

9. Defendant neither admits nor denies the allegations contained in paragraph 9 because the documents speak for themselves.

10. Defendant neither admits nor denies the allegations contained in paragraph 10 because the documents speaks for themselves.

11. Defendant denies that it was required to make upfront payments. Defendant neither admits nor denies the remaining allegations contained in paragraph 11 because the documents speak for themselves.

12. Defendant neither admits nor denies the allegations contained in paragraph 12 because the documents speak for themselves.

13. Defendant neither admits nor denies the allegations contained in paragraph 13 because the documents speak for themselves.

14. Defendant denies as untrue the allegations contained in Paragraph 14 of the Complaint because Defendant does not owe and money to Plaintiff.

15. Defendant denies as untrue the allegations contained in Paragraph 15 of the Complaint because Defendant does not owe any money to the Plaintiff.

16. Admitted. Plaintiff owes Defendant at least \$22,476,106 as of the Petition Date.

17. Admitted that Defendant filed liens with respect to the Demolition Sites prior to the Petition Date.

18. Admitted that Defendant filed Affidavits of Interest with respect to the Demolition Sites prior to the Petition Date.

19. Admitted.

20. Defendant denies as untrue the allegations contained in Paragraph 20 of the Complaint.

21. Defendant denies as untrue the allegations contained in Paragraph 21 of the Complaint.

22. Defendant neither admits nor denies the allegations contained in paragraph 22 because the documents speak for themselves.

23. Defendant denies as untrue the allegations contained in Paragraph 23 of the Complaint.

24. Defendant denies as untrue the allegations contained in Paragraph 24 of the Complaint. Defendant was fully performing its obligations at the Demolition Sites at the time it was wrongfully thrown off the Demolition Sites by Plaintiff.

25. Defendant neither admits nor denies the allegations contained in paragraph 25 because the document speaks for itself. In addition, Defendant did not fail to complete the work at the Demotion Sites.

26. Defendant agrees that it obtained a water discharge permit at the request of Plaintiff only after Plaintiff failed to maintain and/or allow MCM to use Liquidation's permit.

27. Defendant neither admits nor denies the allegations contained in paragraph 27 because the document speaks for itself.

28. Defendant neither admits nor denies the allegations contained in Paragraph 28 because it is without sufficient knowledge or information to form a belief as to the truth thereof. Defendant denies as untrue that it defaulted on any obligation to Plaintiff.

COUNT I
OBJECTION TO CLAIM NO. 371

29. Defendant incorporates by reference all its prior responses set forth above.

30. Defendant denies as untrue the allegations contained in Paragraph 30 of the Complaint, because the Plaintiff owes the Defendant at least \$22,476,106 as of the Petition Date.

31. Defendant admits that it is seeking damages for delay caused by Plaintiff, but denies as untrue the remaining allegations contained in Paragraph 31 of the Complaint.

32. Defendant denies as untrue the allegations contained in Paragraph 32 of the Complaint.

33. Defendant denies as untrue the allegations contained in Paragraph 33 of the Complaint.

34. Defendant admits that it is seeking funds based in part on work it performed in addition to the originally agreed upon scope of work, but denies as untrue the remaining allegations contained in Paragraph 34 of the Complaint.

35. Defendant denies as untrue the allegations contained in Paragraph 35 of the Complaint. Defendant does not owe Plaintiff any amount under the Building Contracts or the Demolition Contracts.

36. Defendant denies as untrue the allegations contained in Paragraph 36 of the Complaint, because the Plaintiff owes the Defendant at least \$22,476,106 as of the Petition Date.

37. Defendant admits that it filed its claim as a secured claim. Defendant denies as untrue any objection to its Claim.

38. Defendant denies as untrue the allegations contained in Paragraph 38 of the Complaint.

39. Defendant denies as untrue the allegations contained in Paragraph 39 of the Complaint.

40. Defendant neither admits nor denies the allegations contained in Paragraph 40 of the Complaint because the statute speaks for itself and because it calls for a legal conclusion.

41. Defendant denies as untrue the allegations contained in Paragraph 41 of the Complaint.

42. Defendant denies as untrue the allegations contained in Paragraph 42 of the Complaint.

43. Defendant denies as untrue the allegations contained in Paragraph 43 of the Complaint. Other than with respect to any unpaid taxes, Defendant has the first lien on all the Demotion Sites.

44. Defendant neither admits nor denies the allegations contained in Paragraph 44 because it is without sufficient knowledge or information to form a belief as to the truth thereof.

COUNT II
COUNTERCLAIM TO RECOVER MONEY DAMAGES
FOR BREACH OF CONTRACT

45. Defendant incorporates by reference all its prior responses set forth above.

46. Defendant denies as untrue the allegations contained in Paragraph 46 of the Complaint, because Defendant does not owe any money to Plaintiff.

47. Defendant denies as untrue the allegations contained in Paragraph 47 of the Complaint, because Defendant does not owe and money to Plaintiff.

48. Defendant denies as untrue the allegations contained in Paragraph 48 of the Complaint. Any failure to complete the work at the Demotion Sites was cause by the actions and inactions of Plaintiff, including but not limited to wrongfully throwing Defendant off the Demolition Sites.

49. Defendant denies as untrue the allegations contained in Paragraph 49 of the Complaint.

50. Defendant denies as untrue the allegations contained in Paragraph 50 of the Complaint.

51. Defendant denies as untrue the allegations contained in Paragraph 51 of the Complaint.

COUNT III
ADVOIDANCE OF PREFERENTIAL TRANSFER UNDER 11 U.S.C. § 547

52. Defendant incorporates by reference all its prior responses set forth above.

53. Admitted that it recorded Liens with respect to the Demotion Sites within 90-days of the Petition Date, but denies that the recording of the Liens was a preference.

54. Admitted that the recording of the Liens were to or for the benefit of Defendant, but denies that the recording of the Liens was a preference.

55. Admitted.

56. Defendant neither admits nor denies the allegations contained in Paragraph 56 because it is without sufficient knowledge or information to form a belief as to the truth thereof.

57. Defendant denies as untrue the allegations contained in Paragraph 57 of the Complaint.

58. Defendant denies as untrue the allegations contained in Paragraph 58 of the Complaint. The Liens relate back to the date of the first physical improvement at the Demotion Sites. Also, the recording of the Liens is not a preference by virtue of 11 U.S.C. section 547(c)6 which provides that the trustee (the Plaintiff herein) may not avoid the fixing of a statutory lien that is not avoidable under section 545, and the Liens are statutory liens.

COUNT IV
QUIET TITLE

59. Defendant incorporates by reference all its prior responses set forth above.

60. Defendant neither admits nor denies the allegations contained in Paragraph 60 because it is without sufficient knowledge or information to form a belief as to the truth thereof.

61. Defendant neither admits nor denies the allegations contained in Paragraph 61 because the language of the documents speak for themselves.

62. Defendant denies as untrue the allegations contained in Paragraph 62 of the Complaint.

63. Defendant neither admits nor denies the allegations contained in Paragraph 63 because the language of the documents speak for themselves.

64. Defendant denies as untrue the allegations contained in Paragraph 64 of the Complaint.

65. Defendant denies as untrue the allegations contained in Paragraph 65 of the Complaint.

COUNT V
DECLARATORY JUDGMENT

66. Defendant incorporates by reference all its prior responses set forth above.

67. Defendant neither admits nor denies the allegations contained in paragraph 67 because the document speaks for itself. Defendant further states that Plaintiff does not have any Completion Rights in this case. Defendant denies that it was in breach of any provision of the Building Contracts. Rather, Plaintiff is in breach of the Demolition Contracts.

68. Defendant neither admits nor denies the allegations contained in paragraph 68 because the document speaks for itself. Defendant further states that Plaintiff does not have any Completion Rights in this case. Defendant denies that it was in breach of any provision of the Demolition Contracts. Rather Plaintiff is in breach of the Building Contracts.

69. Defendant denies as untrue the allegations contained in Paragraph 69 of the Complaint. Defendant further states that Plaintiff does not have any Completion Rights in this case. Defendant denies that it was in breach of any provision of the Demolition Contracts. Rather Plaintiff is in breach of the Demolition Contracts.

70. Defendant neither admits nor denies the allegations contained in Paragraph 70 because it calls for a legal conclusion.

71. Defendant neither admits nor denies the allegations contained in Paragraph 71 because it calls for a legal conclusion.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted.
2. The Plaintiff has failed to mitigate its damages, if any, which resulted from any alleged negligent conduct by Defendant and/or any purported breach committed by Defendant.
3. The Plaintiff's claims are barred, in whole or in part, by its own contributory negligence, actions or inactions.
4. The Plaintiff's claims are barred, in whole or in part, by waiver.
5. The Plaintiff's claims are barred, in whole or in part, by laches.
6. The Plaintiff's claims are barred, in whole or in part, by estoppel.
7. The Plaintiff's claims are barred by the statute of limitations.
8. The Plaintiff's claims are barred, in whole or in part, because Defendant breached no purported duty owed to the Plaintiff.
9. The Plaintiff's claims are barred, in whole or in part, by the applicable provisions of the Uniform Commercial Code (the "UCC") to the extent the UCC applies to the facts of this case.

10. The Plaintiff's damages, if any, may be attributable, in whole or in part, to the actions or omissions of persons over whom Plaintiff had or has no control.

11. Plaintiff's claims are barred by 11 U.S.C. section 547(c)(6), which provides that the Plaintiff may not avoid the fixing of a statutory lien that is not avoidable under section 545.

12. Plaintiff's equitable claims are barred under the doctrine of unclean hands.

13. Defendant reserves the right to amend its Answer to assert any additional affirmative defenses that are determined to exist through investigation and discovery.

**MCM MANAGEMENT CORP.'S COUNTERCLAIM AGAINST
MOTORS LIQUIDATION COMPANY**

Defendant MCM Management Corp. ("MCM") complains against Plaintiff Motors Liquidation Company ("Liquidation") as follows:

Introduction

1. MCM has been in the demolition business since 1993.
2. Other than the Demolition Sites which it has been prevented from completing by the bad faith actions of Liquidation, MCM has successfully completed each and every one of its approximately 600 demolition contracts since 1993.
3. MCM began performing demolition work for Liquidation in 1999.
4. MCM and Liquidation entered into not less than 15 demolition contracts for various Liquidation facilities.
5. Since 1999, MCM has successfully demolished in excess of 30 million square feet of materials at various Liquidation facilities.
6. In connection with its demolition contracts, MCM has paid Liquidation in excess of 23 million dollars.

7. Prior to its contracts with MCM, Liquidation paid contractors for demolition work at various Liquidation facilities.

8. MCM first introduced Liquidation to a revenue sharing program with respect to demolition contracts, whereby the contractor would agree to demolish a particular Liquidation facility at no cost to Liquidation and the contractor would in fact be required to share with Liquidation a percentage of scrap revenue above an agreed up revenue threshold.

9. In order to demolish a facility at no cost to Liquidation, it is critical to closely monitor scrap material markets in order to take advantage of market peaks, which require, among other things, the following:

A. The good faith cooperation of Liquidation so that demolition can proceed aggressively during peak market time periods, with site preparation and clean up concentrated during less than peak market time periods; and

B. Strict adherence to time management issues so that labor and equipment can be in place and put in use as needed to take advantage of peak market time periods.

10. The ability to timely demolish a facility, generate the scrap materials and take advantage of market fluctuations are the critical elements of all demolition contracts, including the Demolition Contracts at issue in this matter.

11. Liquidation and MCM entered into the Demolition Contracts with respect to the Demolition Sites at issue in this Complaint.

12. The first dispute between Liquidation and MCM did not occur until 2008.

13. In 2008, Liquidation placed new personnel in charge of its demolition contracts, including those with MCM at the Demolition Sites.

Liquidation's Breaches of Contract and Bad Faith

14. Liquidation breached the Demolition Contracts. The breaches include, but are not limited to, the following acts and omissions:

- A. Causing delay in the initiation, implementation and the completion of the Demolition Contracts;
- B. Mandating changes and additions to work orders and failing to pay for such items;
- C. Hindering MCM from obtaining critical Demolition Site permits;
- D. Failing to provide the necessary site grading plans;
- E. Failing to honor Demolition Site management agreements;
- F. Failing to provide the necessary engineering and contract support;
- G. Failing to work with MCM to address and resolve obstacles;
- H. Failing to respond to MCM's claims for cost overruns; and
- I. Failing to allow MCM to complete the Demolition Contracts.

Liquidation's Breaches at Lansing Plants 1 & 6

15. With respect to the Demolition Contract for Lansing Plants 1 & 6, there were no site grading requirements in the original Demolition Contract. The City of Lansing then required site grading at Lansing Plants 1 & 6, and MCM was requested by Liquidation to complete a site grading plan. After the site grading was initiated, Liquidation and MCM discovered a second cement slab and foundation, which required a second site grading plan which was similarly not required by the original Demolition Contract. Liquidation requested that MCM build a green belt and service road around the Demolition Site and to remove concrete footings, slabs and walls from prior, hidden structures, which were not covered by the original Demolition Contract.

16. MCM is owed \$584,588 with respect to the Demolition Contract for Lansing Plants 1 and 6.

17. Liquidation's experts and employees concurred that MCM is entitled to a \$584,588 claim with respect to the Demolition Contract for Lansing Plants 1 and 6.

18. According to the Debtors' Schedule A, Lansing Plants 1 and 6 have a market value of \$0.

19. Lansing Plants 1 and 6 may be subject to junior liens in favor of the State of Michigan, and the United States Department of Treasury and Export Development Canada.

20. MCM filed a Claim of Lien with respect to Lansing Plants 1 and 6 in the amount of \$584,588 (the "Lansing Plants 1 and 6 Lien").

21. Plaintiff has no equity in Lansing Plants 1 and 6, and Lansing Plants 1 and 6 are not necessary to an effective reorganization because Plaintiff is in Liquidation and is not reorganizing.

Liquidation's Breaches at Pontiac Validation Center

22. With respect to the Demolition Contract for the Pontiac Validation Center, Liquidation requested that MCM supply a substantial quantity of additional fill material that was not required by the original Demolition Contract.

23. MCM is owed \$194,875 with respect to the Demolition Contract for the Pontiac Validation Center.

24. Liquidation's experts and employees concurred that MCM is entitled to a \$194,875 claim with respect to the Demolition Contract for the Pontiac Validation Center.

25. According to the Debtors' Schedule A, the Pontiac Validation Center has a market value of \$606,287.

26. The Pontiac Validation Center may be subject to junior liens in favor of the United States Department of Treasury and Export Development Canada.

27. MCM filed a Claim of Lien with respect to Pontiac Validation Center in the amount of \$212,687 (the "Pontiac Lien").

28. Plaintiff has no equity in the Pontiac Validation Center, and the Pontiac Validation Center is not necessary to an effective reorganization because Plaintiff is in Liquidation and is not reorganizing.

Liquidation's Breaches at Muncie Manual Transmission Plant

29. With respect to the Demolition Contract for the Muncie Manual Transmission Plant, Liquidation requested that MCM perform PCB remediation that was not required by the original Demolition Contract.

30. MCM is owed \$335,278 with respect to the Demolition Contract for the Muncie Manual Transmission Plant.

31. Liquidation's experts and employees concurred that MCM is entitled to a \$335,278 claim with respect to the Demolition Contract for the Muncie Manual Transmission Plant.

32. The Plaintiff admits that the Muncie Manual Transmission Plant is owned by a non-debtor affiliate of Liquidation.

33. MCM filed a Claim of Lien with respect to the Muncie Manual Transmission Plant in the amount of \$335,278 (the "Muncie Lien").

34. MCM has or intends to initiate an action to foreclose the Muncie Lien in the Indiana State Courts.

Liquidation's Breaches at Lansing Plants 2 & 3 and Building 70

35. With respect to the Demolition Contract for Lansing Plants 2 & 3 and Building 70, demolition was scheduled to begin in June of 2007. Demolition was delayed due to Liquidation's failure to obtain the necessary approvals from the Charter Township of Lansing, Michigan. MCM was also requested to perform work not covered by the original Demolition Contract, but was required by the Charter Township of Lansing, including asbestos removal and completing a site grading plan. Liquidation also supplied a defective site grading plan and delayed in allowing the removal and transportation of certain presses which hindered the demolition process. But for Liquidation's breach and request for MCM to perform additional work, demolition would have been completed by no later than August of 2008, at a time when the market for scrap metals was at a peak.

36. MCM is owed \$7,430,050 with respect to the Demolition Contract for Lansing Plants 2 & 3 and Building 70, broken down as follows:

Ferrous Pricing Losses:	\$3,062,750
Copper Prices Losses:	\$ 212,443
Aluminum Pricing Losses:	\$ 15,500
Idle Labor:	\$ 164,823
Idle Equipment:	\$ 997,863
Overhead:	\$ 174,403
Additional Asbestos at Plant 2:	\$ 102,833
4 Month Delay:	\$2,699,634
Additional Security:	\$ 28,800
Removal of Feather Duster:	\$ 22,500
Removal of transformer:	\$ 4,000
Removal of conveyor drive unit:	\$ 5,000
Removal of Body Shop Framer:	\$ 57,589
Removal of 800 amb buss duct:	\$ 38,786
Demolition Permit:	\$ 62,500
Total Contract with Extras:	\$7,649,425
Payment by Liquidation:	-\$ 219,375
Total Claim:	\$7,430,050

37. Liquidation's experts and employees concurred that MCM is entitled to a \$2,699,634 claim with respect to the Demolition Contract for Lansing Plants 2 & 3. Liquidation asserts that MCM is not entitled to any other delay costs such as lost profits, overhead and consequential damages.

38. MCM filed a Claim of Lien with respect to the Lansing Plant 2 in the amount of \$2,192,387 (the "Lansing Plant 2 Lien").

39. MCM filed a Claim of Lien with respect to the Lansing Plant 3 in the amount of \$5,237,863 (the "Lansing Plant 3 Lien").

40. According to the Debtors' Schedule A, the Lansing Plants 2 and 3 each have a market value of \$0.

41. The Lansing Plants 2 and 3 may be subject to junior liens in favor of the United States Department of Treasury and Export Development Canada and others.

42. Plaintiff has no equity in Lansing Plants 2 and 3, and Lansing Plants 2 and 3 are not necessary to an effective reorganization because Plaintiff is in Liquidation and is not reorganizing.

Liquidation's Breaches at Grand Blanc

43. With respect to the Demolition Contract for Grand Blanc, Liquidation told MCM and all other potential bidders for the demolition work that the water level in the basement was maintained by a piping system that moved water through the Liquidation press room to the Liquidation waste water treatment plant, and that they could use Liquidation's existing facilities and water discharge permit to keep the basement area dry and clear of water. Thereafter, in bad faith, Liquidation decided that MCM could not use the existing facilities or the existing water discharge permit. Based upon information and belief, Liquidation never intended to allow MCM

to use the existing waste water treatment facilities and permit. As a result, it took MCM approximately six months to obtain another water discharge permit, and in the interim there was substantial flooding and contamination in the basement area including the floors and walls. Liquidation also breached its obligation to provide an on-site location (a "Burrow Site") from which MCM could obtain soil to fill the basement. Liquidation delayed in providing the Burrow Site, causing significant project delays and additional costs. Moreover, there was a labor dispute at Liquidation which caused MCM to use union employees at substantial additional costs. Overall, Liquidation's bad faith, intentional interference with the contract and other breaches caused at least 18 months delays in completion of the Demolition Contract.

44. MCM is owed \$13,913,401 with respect to the Demolition Contract for Grand Blanc broken down as follows:

Ferrous Pricing Losses:	\$7,179,353
Copper Prices Losses:	\$ 55,834
Idle Labor:	\$ 337,996
Idle Equipment:	\$3,595,277
Overhead:	\$ 589,991
10 Month Delay:	\$3,338,016
Removal of Brick and Block	\$ 75,583
Removal of Power House Basement Floor	\$ 14,157
Import Fill Material	\$ 91,000
Labor Trade Reclassification	\$ 324,958
Pumping Claim	\$ 498,298
Revenue Share:	\$(2,187,065)
Total Claim:	\$13,913,401

45. Liquidation's experts and employees concurred that MCM is entitled to a \$4,523,264 claim with respect to the Demolition Contract for Grand Blanc. Liquidation asserts that MCM is not entitled to any other delay costs such as lost profits, overhead and consequential damages.

46. MCM filed a Claim of Lien with respect to Grand Blanc in the amount of \$13,913,401 (the "Grand Blanc Lien").

47. According to the Debtors' Schedule A, Grand Blanc has a market value of \$0.

48. Grand Blanc may be subject to junior liens in favor of the United States Department of Treasury and Export Development Canada and others.

49. Plaintiff has no equity in Grand Blanc, and Grand Blanc is not necessary to an effective reorganization because Plaintiff is in Liquidation and is not reorganizing.

Overall Damages

50. Each and every delay to timely completion of the Demolition Contracts:

A. Was of a kind not contemplated by the parties;

B. Amounted to an abandonment of the contract;

C. Was caused by bad faith on the part of Liquidation;

D. Was caused by the active interference of Liquidation.

51. MCM filed a Proof of Secured Claim against Liquidation and its properties in the amount of \$22,476,106 as of the Petition Date.

52. MCM is also entitled to a post-Petition Date administrative expense claim in amount in excess of \$2,000,000 based on Liquidation's post-Petition Date bad faith and breaches.

Liquidation's Post-Petition Date Bad Faith and Breaches

53. Liquidation filed a voluntary petition for relief under Chapter 11 on June 1, 2009.

54. After the Petition Date, representatives of MCM and Liquidation met to discuss the issues with respect to the Liens filed by MCM, completion of the Demotion Contracts and new demolition contracts in favor of MCM.

55. From September 1 through October 22, 2009, Liquidation and MCM engaged in negotiations for a business resolution of all open issues between the parties.

56. In November of 2009, Liquidation and MCM agreed on the essential terms of an agreement between the parties resolving all open issues.

57. In December of 2009, Liquidation prepared and forwarded to MCM a new contract which would, among other things, release MCM from any obligation to pay any sums to Liquidation and would provide MCM additional to work to help offset its substantial losses and damages.

58. Over the course of negotiations from September through December of 2009, MCM continued to perform under the Demolition Contracts at a loss of in excess of \$2,000,000, despite the fact that Liquidation was in default of the Demolition Contracts and Liquidation did not assume the Demolition Contracts.

59. Despite telling MCM that the new contract had been approved by all necessary Liquidation personnel, on December 17, 2009 Liquidation advised MCM that it would not execute and move forward with the new contract, citing a concern that MCM did not have the financial wherewithal to complete the Demolition Contracts and the new jobs.

60. In January and February of 2010, counsel for Liquidation advised MCM that the only reason the new contract was withdrawn was because certain representatives of Liquidation were concerned that MCM would go out of business before completing the Demolition Contracts.

61. Liquidation requested that MCM show more progress in the completion of the Demolition Projects and that MCM provide MCM with a completion schedule.

62. MCM continued to show good faith by continuing to work at the Demolition Sites and provided to Liquidation a completion schedule for Lansing Plants 2, 3 and 6.

63. In order to provide comfort and assurance to Liquidation that MCM could and would complete the Demolition Contracts, in February of 2010 Sims Metal Management, the largest scrap metal company in the world, agreed to provide LIQUIDATION a completion bond and guaranty of completion of the Demolition Contracts.

64. Despite numerous promises to respond to the Sims Metal Management offer, Liquidation instead sent a March 3, 2010 Notice of Default to MCM and attempted to serve several MCM field employees with a copy of the default letter.

65. In the March 3, 2010 letter, Liquidation gave MCM until 2:00 p.m. on March 5, 2010 (less than two days) to: (1) complete demolition work at the referenced sites pursuant to the applicable scope of work, (2) resolve certain debt to Genesee County and ensure that its lien is removed from real property, (3) remit \$7,097,000 in required upfront payment to Liquidation, and (4) remit \$2,707,276 in scrap material and/or stamping die revenue to Liquidation.

66. MCM disputed each and every allegation set forth in the March 3, 2010 letter.

67. On March 5, 2010, MCM locked Liquidation out of the Demolition Sites preventing MCM from completing the Demolition Contracts.

68. Despite the serious delays and additional costs caused by Liquidation's actions and inactions, the Grand Blanc Demolition Contract was approximately 99% complete, and the Lansing Plant 6 Demolition Contract would have been completed in April of 2009 and the Lansing Plants 2 and 3 Demolition Contract would have been completed in May of 2009 but for Liquidation kicking MCM off the Demolition Sites.

69. MCM continued to work at the Demolition Sites for 7 months despite that fact that MCM would lose millions of additional dollars based on Liquidation's promise to award MCM new work and a new contract to compensate MCM for its substantial losses.

70. Liquidation had no intention to award MCM the new contract and work, as there could be no legitimate concern about completion of the Demolition Contracts given Sims Metal Management's involvement in the Demolition Contracts.

71. MCM incurred in excess of \$2,000,000 of actual, necessary costs and expenses in preserving and improving the Demolition Sites after the Petition Date.

72. Bankruptcy Code section 503(a) provides that an entity may timely file a request for payment of an administrative expense.

73. Bankruptcy Code section 503(b) provides that there shall be allow administrative expenses for actual, necessary costs and expenses of preserving the estate.

COUNT I
(Post-Petition Date Administrative Expense Claim)

74. MCM incorporates by reference the allegations made in the foregoing paragraphs.

75. Bankruptcy Code section 503(b) provides that there shall be allowed administrative expenses for actual, necessary costs and expenses of preserving the estate.

76. After the Petition Date, incurred MLC in excess of \$2,000,000 of actual, necessary costs and expenses preserving and benefiting the estate at the Demolition Sites. Liquidation received an actual and substantial benefit from MCM's post-Petition Date services in excess of \$2,000,000.

Wherefore, MCM should be awarded a post-Petition Date claim as an administrative expense under Bankruptcy Code section 503 for an amount in excess of \$2,000,000.

COUNT II
(Equitable/Promissory Estoppel)

77. MCM incorporates by reference the allegations made in the foregoing paragraphs.

78. In November of 2009, Liquidation agreed to the essential terms of a new contract with Liquidation.

79. Liquidation falsely promised that it would enter into a new contract with MCM.

80. Liquidation intentionally made such promise to MCM to induce MCM to continue to perform under the Demolition Contracts at a loss of in excess of \$2,000,000, despite the fact that Liquidation was in default of the Demolition Contracts and Liquidation did not assume the Demolition Contracts. MCM reasonably relied on Liquidation's promises to its detriment.

81. Liquidation never intended to honor its promise from the beginning.

82. Liquidation made that false promise with the intention that MCM would act upon it, which MCM did, to its detriment.

83. MCM was without the knowledge or the means to obtain knowledge of the real facts, namely, Liquidation's promises were false and Liquidation never intended to honor its promises from the beginning.

84. As a result of MCM's reliance upon by the promises of Liquidation, MCM has suffered and continues to suffer damages. MCM lost in excess of \$2,000,000 on the Demolition Contracts at a time when it had no legal obligation to complete such contracts due to Liquidation's breaches.

Wherefore, MCM should be awarded a post-Petition Date claim as an administrative expense under Bankruptcy Code section 503 for an amount in excess of \$2,000,000.

COUNT III
(Negligent Misrepresentation)

85. MCM incorporates by reference the allegations made in the foregoing paragraphs.

86. In November of 2009, Liquidation agreed to the essential terms of a new contract with Liquidation.

87. Liquidation falsely promised that it would enter into a new contract with MCM.

88. Liquidation did not exercise reasonable care when it made the promises to MCM.

89. MCM suffered a pecuniary loss by justifiably relying on the false representation by Liquidation.

90. MCM lost in excess of \$2,000,000 on the Demolition Contracts at a time when it had no legal obligation to complete such contracts due to Liquidation's breaches, based on the false representation by Liquidation.

Wherefore, MCM should be awarded a post-Petition Date claim as an administrative expense under Bankruptcy Code section 503 for an amount in excess of \$2,000,000.

COUNT IV
(Good Faith and Fair Dealing)

91. MCM incorporates by reference the allegations made in the foregoing paragraphs.

92. Liquidation had a duty of good faith and fair dealing with respect to the Demolition Contracts with MCM.

93. Liquidation breached its duty of good faith and fair dealing when it breached its promise of the essential terms of a new contract with MCM and improperly locked out MCM from the Demolition Sites.

94. Liquidation acted in arbitrary, capricious and unreasonable manners that exceeded MCM's justifiable expectations.

95. As a result of Liquidation's post-Petition Date breach, MCM has and continues to suffer damages in excess of \$2,000,000.

Wherefore, MCM should be awarded a post-Petition Date claim as an administrative expense under Bankruptcy Code section 503 for an amount in excess of \$2,000,000.

COUNT V
(Allowance of Secured Claim and Relief from the Automatic Stay)

96. MCM incorporates by reference the allegations made in the foregoing paragraphs.

97. MCM filed its proof of secured claim in the amount of \$22,476,106.

98. Pursuant to Bankruptcy Code section 502, a proof of claim is deemed allowed unless a party in interest objects.

99. For the reasons set forth above, Liquidation's Amended Complaint and the objection to MCM's proof of claim must be dismissed.

100. Pursuant to Bankruptcy Code section 362(d)(2), the Court shall grant relief from the automatic stay with respect to an act against real property if (A) the debtor does not have any equity in such property; and (B) such property is not necessary to an effective reorganization.

101. Liquidation does not have any equity in Lansing Plants 1 and 6, Lansing Plant 2, Lansing Plant 3, Grand Blanc or Pontiac.

102. Lansing Plants 1 and 6, Lansing Plant 2, Lansing Plant 3, Grand Blanc and Pontiac are not necessary to an effective reorganization because Liquidation is in liquidation and is not reorganizing.

103. There is cause to grant MCM relief from the automatic stay to foreclose on its Lansing Plants 1 and 6 Lien, Lansing Plant 2 Lien, Lansing Plant 3 Lien, Grand Blanc Lien and Pontiac Lien.

Wherefore, the objection to MCM's proof of claim should be dismissed, MCM shall be afforded an allowed Secured Claim in the amount of \$22,476,106, and MCM should be granted relief from the automatic stay to foreclose on its Lansing Plants 1 and 6 Lien, Lansing Plant 2 Lien, Lansing Plant 3 Lien, Grand Blanc Lien and Pontiac Lien.

**COUNT VI
(Quantum Meruit)**

104. MCM incorporates by reference the allegations made in the foregoing paragraphs.

105. In connection with and/or arising from the Demolition Contracts, MCM reasonably conferred a benefit on Liquidation that it would be inequitable for Liquidation to retain.

106. MCM has been damaged by Liquidation's retention of this benefit.

107. To the extent that MCM is not entitled to full recovery under the Demolition Contracts, MCM is entitled to recover money damages under the doctrine of quantum meruit or unjust enrichment.

REQUEST FOR RELIEF

WHEREFORE, Defendant MCM respectfully requests that this Honorable Court: (A) dismiss Liquidation's Amended Complaint with prejudice; (B) afford MCM an allowed Secured Claim in the amount of \$22,476,106; (C); grant MCM an administrative expense claim in an amount in excess of \$2,000,000 and compel Liquidation to immediately pay such amount to MCM; (D) grant MCM relief from the automatic stay to foreclose on its Liens filed with respect

to the Lansing Plants 1 and 6 Lien, Lansing Plant 2 Lien, Lansing Plant 3 Lien, Grand Blanc Lien and Pontiac Lien; (E) award MCM its costs and attorney fees incurred in defending this matter; and (F) grant MCM such other relief as is just and equitable.

Respectfully submitted,

JAFFE, RAITT, HEUER & WEISS, P.C.

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