

Hearing Date and Time: October 26, 2010 at 9:45 a.m. (Prevailing Eastern Time)
Objection Date and Time: October 19, 2010 at 4:00 p.m. (Prevailing Eastern Time)

Timothy F. Nixon
Carla O. Andres (*Pro Hac Vice*)
GODFREY & KAHN, S.C.
780 North Water Street
Milwaukee, Wisconsin 53202
Telephone: (414) 273-3500
Facsimile: (414) 273-5198

Attorneys for Fee Examiner

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

----- X
In re : Chapter 11 Case No.
: :
MOTORS LIQUIDATION COMPANY *et al.*, : 09-50026 (REG)
: : (Jointly Administered)
f/k/a General Motors Corp. *et al.*, : :
: :
Debtors. : Honorable Robert E. Gerber
: :
----- X

**FEE EXAMINER'S REPORT AND STATEMENT OF LIMITED OBJECTION
TO AMENDED FIRST INTERIM FEE APPLICATION OF DELOITTE TAX LLP**

**TO: THE HONORABLE ROBERT E. GERBER
UNITED STATES BANKRUPTCY JUDGE**

The Fee Examiner of General Motors Corporation (n/k/a Motors Liquidation Company), appointed on December 23, 2009 (the "**Fee Examiner**"), submits this *Report and Statement of Limited Objection* pursuant to the *Stipulation and Order With Respect to Appointment of a Fee Examiner* [Docket No. 4708] (the "**Fee Examiner Order**"), in connection with the *Amended First Interim Fee Application of Deloitte Tax LLP, As Tax Services Providers for the Period From January 1, 2010 through May 31, 2010* [Docket No. 6535] (the "**Amended Fee Application**"). The Court appointed the Fee Examiner to monitor the fees and expenses incurred by professionals in these chapter 11 cases and to provide periodic reports to the Court,

separately or in conjunction with applications submitted for approval by the professionals, with or without a filed objection.

With this *Report and Statement of Limited Objection*, the Fee Examiner identifies \$592.53 in fees and expenses, from a total of \$579,488.00 requested in the Amended Fee Application, that are objectionable. The Fee Examiner respectfully represents:

SUMMARY STATEMENT

The applicant and the Fee Examiner have reached agreement and resolved all concerns about the Amended Fee Application. As adjusted, the amount sought can be approved by the Court.

In general, the Amended Fee Application appears substantively sound. It requests a total of \$579,488.00. Nonetheless, after reviewing the *First Interim Fee Application of Deloitte Tax LLP as Tax Services Providers for the Period from January 1, 2010 through May 31, 2010* [Docket No. 6316] (the “**Initial Fee Application**”), counsel for the Fee Examiner raised some preliminary concerns with Deloitte Tax LLP (“**Deloitte**”) by letter dated July 12, 2010. On August 31, 2010, Debtors’ representatives, Deloitte representatives, the Fee Examiner, and counsel to the Fee Examiner joined in a conference call to discuss the services provided by Deloitte. On October 5, 2010, the Fee Examiner sent Deloitte a second letter, raising concerns with the Amended Fee Application. On October 11, 2010, Deloitte provided supplemental detail in response to the Fee Examiner’s concerns, and the parties have reached a consensual resolution. On October 12, 2010, the Fee Examiner sent Deloitte a draft of this *Report and Statement of Limited Objection*.

This *Report and Statement of Limited Objection* summarizes the Fee Examiner’s analysis in support of an agreed disallowance of \$577.53 in fees and \$15.00 in expenses for a total suggested reduction of \$592.53.

BACKGROUND

1. Commencing on June 1, 2009, General Motors Corp. and certain of its affiliates (“**Debtors**”) filed in this Court voluntary cases under chapter 11 of the Bankruptcy Code. The Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Federal Rule of Bankruptcy Procedure 1015(b). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to 11 U.S.C. §§ 1107(2) and 1108.

2. On August 31, 2010, the Debtors filed a Joint Chapter 11 Plan and Disclosure Statement [Docket Nos. 6829 and 6830]. Plan confirmation is anticipated before—or not long after—year-end.

3. On June 3, 2009, Diana G. Adams, the United States Trustee for the Southern District of New York, appointed the statutory committee of unsecured creditors pursuant to 11 U.S.C. § 1102 (the “**Creditors’ Committee**”).

4. On December 23, 2009, the United States Trustee, the Debtors, and the Creditors’ Committee proposed by stipulation the appointment of Brady C. Williamson as examiner in the above captioned chapter 11 cases and, without objection and through the Fee Examiner Order entered that same day, the Court approved the appointment.

5. On March 15, 2010, the Debtors’ counsel filed its *Motion of Debtors for Entry of Order Pursuant to 11 U.S.C. §§ 105(a) and 363(b)(1) Authorizing the Employment of Deloitte Tax LLP to Provide Certain Tax Advisory Services Nunc Pro Tunc to January 1, 2010* [Docket No. 5259] (the “**Retention Application**”). There were no objections to the Retention Application, and Deloitte was appointed by this Court’s *Order Pursuant to 11 U.S.C. §§ 105(a) and 363(b)(1) Authorizing the Employment of Deloitte Tax LLP to Provide Certain Tax Advisory*

Services Nunc Pro Tunc to January 1, 2010 dated April 12, 2010 [Docket No. 5477] (the “**Retention Order**”).

6. On July 12, 2010, Deloitte filed the Initial Fee Application, seeking fees in the amount of \$579,817.00 and expenses in the amount of \$135.00, for total requested compensation in the amount of \$579,952.00.

7. On August 5, 2010, Deloitte filed the Amended Fee Application, seeking fees in the amount of \$579,353.00 and expenses in the amount of \$135.00, for total requested compensation in the amount of \$579,488.00.

8. As of the filing of the Amended Fee Application, Deloitte had not yet been paid any compensation pursuant to the Court’s *Order Pursuant to 11 U.S.C. §§ 105(a) and 331 Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals* [Docket No. 3711] (the “**Compensation Order**”).

9. The Fee Examiner has evaluated the Retention Application, the Retention Order, and the Amended Fee Application.

10. By correspondence dated July 12 and October 5, 2010, counsel to the Fee Examiner requested supplemental information from Deloitte as part of its review of specific matters involving the fees requested. The supplemental information requested included:

- A. Detail of services provided;
- B. Information on billing rates and allocation of services;
- C. Explanations of administrative or clerical tasks;
- D. Supplemental detail required by UST Guidelines; and
- E. Support for meal expenses.

11. On October 11, 2010, Deloitte advised the Fee Examiner’s counsel, by telephone, that supplemental information was forthcoming and, later that day, provided supplemental detail resolving the Fee Examiner’s concerns.

12. On October 12, 2010, the Fee Examiner sent Deloitte a draft of this *Report and Statement of Limited Objection*.

13. All of the materials and comments provided by Deloitte were considered by the Fee Examiner.

APPLICABLE STANDARDS

14. The Amended Fee Application has been evaluated for compliance with the *Amended Guidelines for Fees and Disbursements for Professionals in Southern District of New York Bankruptcy Cases*, Administrative Order M-389 (Bankr. S.D.N.Y. Nov. 25, 2009) (the “**Local Guidelines**”), the *Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. § 330*, 28 C.F.R. Part 58, Appendix A (the “**UST Guidelines**”), the *Fee Examiner’s First Status Report and Advisory* [Docket No. 5002] (the “**First Advisory**”), and the *Fee Examiner’s Second Status Report and Advisory* [Docket No. 5463] (the “**Second Advisory**” and, together with the First Advisory, the “**Advisories**”), as well as this Court’s Compensation Order—including the extent, if any, that variation has been expressly permitted by order. In addition, the Fee Examiner has provided Deloitte with a draft memorandum summarizing the Court’s April 29 and July 6, 2010 rulings on fees and expenses.

COMMENTS

15. **Billing Rates and Project Staffing**. Deloitte did not provide a blended rate for the Amended Fee Application as required by the UST Guidelines. UST Guidelines, § (b)(3)(v).

The Fee Examiner calculates that blended rate at \$637.63 (the “**Blended Rate**”).¹ This Blended Rate is higher than the individual billing rate of five individuals (a Senior Manager, three Managers, and a Senior Associate) who reported services on the Amended Fee Application. Fully 51 percent of the firm’s work was performed by eight “Partner/Director” and “Senior Manager” accountants, supported by a single Senior Associate who performed less than one percent of the work. No work was performed at a rate lower than that of the Senior Associate.

Partner/Director and Senior Manager accountants also conducted significant amounts of legal research and drafting involving that research. A certain amount of legal research may need to be conducted by higher-level accountants from time to time, but the systematic use of higher-billing accountants to conduct substantial amounts of research raises questions about the appropriateness of the billing rates charged.

The reasonableness of a compensation request is determined, in part, by analyzing whether the billing rate is appropriate to each task performed. *See* 11 U.S.C. §§ 330(a)(3)(B), (D) (2010). As a result, services should be performed by a person with the lowest billing rate able to address the matter.

Deloitte has addressed the Fee Examiner’s concern, resolving any potential disallowance.

16. **Local Guideline Certification.** *The Certification of Scott Shekell in Support of the Amended First Interim Fee Application of Deloitte Tax LLP as Tax Services Provider for the Period from January 1, 2010 through April 30, 2010, Amended Fee Application, Exhibit A, does not contain the full certification required by the Local Guidelines. A supplemental certification may remedy this concern.*

¹ This Blended Rate does not reflect the billing discrepancies discussed elsewhere in this letter, nor does it include time billed by paraprofessionals. *See* UST Guidelines at § (b)(3)(v).

Deloitte has indicated that it will file a supplemental certification prior to October 26, 2010.

17. **Project Categories**. The project categories utilized by Deloitte do not include categories for administrative matters, preparation of employment and fee applications, or responses to objections relating to fee applications as required by UST Guidelines, § (b)(4)(i). While not all of these categories may be necessary at this juncture, the separation of categories assists the Court's review. In addition, the Amended Fee Application does not arrange all time and service entries by project category as required by § (b)(4)(i) and § (b)(4)(iii) of the UST Guidelines.

No disallowance suggested.

18. **Block Billing**. Block billing is prohibited by the UST Guidelines, § (b)(4)(v). "Services should be noted in detail and not combined or 'lumped' together, with each service showing a separate time entry." *Id.* The Fee Examiner identified one entry by a Deloitte professional for multiple tasks in excess of .5 hours in aggregate time that does not comply with this guideline. The entry with block billing totals \$3,850.20.

Agreed disallowance: \$577.53.

19. **Scope of Work**. The focus of Deloitte's services was drafting a request for an IRS letter ruling.

The Fee Examiner will defer any evaluation of the expenditure of time in connection with the IRS letter ruling until the results of the process are ascertainable.

20. **Meal Expenses**. Meal expenses totaling \$135.00 have been submitted for reimbursement. The Fee Examiner has requested supplemental detail concerning attendees and the reason for this meal.

Deloitte has provided supplemental detail, and agreed to the disallowance of expenses beyond the \$20 per person cap.

Agreed disallowance: \$15.00.

Total fees suggested for disallowance: \$577.53.

Total Expenses Suggested for Disallowance: \$15.00.

Total Fees and Expenses Suggested for Disallowance: \$592.53.

CONCLUSION

This *Report and Statement of Limited Objection* is intended to advise the Court, the professionals, and the U.S. Trustee of the basis for objections to the Amended Fee Application. It is not intended to be an exhaustive or exclusive list of possible objections and does not preclude or limit the Fee Examiner's scope of review or objection on future interim fee applications or on final fee applications. All professionals subject to the Fee Examiner's review should be aware, as well, that while the Fee Examiner has made every effort to apply standards uniformly across the universe of professionals in this case, some degree of subjective judgment will always be required.

WHEREFORE, the Fee Examiner respectfully submits this *Report and Statement of Limited Objection* to the Amended Fee Application.

Dated: Green Bay, Wisconsin
October 19, 2010.

GODFREY & KAHN, S.C.

By: /s/ Carla O. Andres
Carla O. Andres (CA 3129)
Timothy F. Nixon (TN 2644)

GODFREY & KAHN, S.C.
780 North Water Street
Milwaukee, Wisconsin 53202
Telephone: (414) 273-3500
Facsimile: (414) 273-5198
E-mail: candres@gklaw.com
tnixon@gklaw.com

Attorneys for Fee Examiner

5208680_4