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ENVIRONMENTAL PROTECTION BUREAU

March 22, 2011

By Electronic and Overnight Mail

Honorable Robert E. Gerber
United States Bankruptcy Court
Southern District of New York
One Bowling Green, Courtroom 621
New York, New York 10004-5660

Re: *In re Motors Liquidation Company*,
Case No. 09-50026

Dear Judge Gerber:

The debtors did not share with the State of New York the proposed confirmation order prior to submitting it to the Court last Friday night, although we understand that several other constituencies received it and had an opportunity to comment on it. As a party filing limited objections to the plan, New York expected a reasonable opportunity to review, at a minimum, the language related to the Plan's jurisdiction provision, which was resolved consensually with the debtors at the confirmation hearing, and the provision on third party exculpation, on which the Court expressly ruled (see March 7, 2011 Bench Decision, p. 34). Our review of the provisions in the proposed order and amended Plan indicates that the exculpation provision has not been adequately revised in accordance with the Court's Bench Decision.

With respect to the proposed order's exculpation provision set forth in paragraph 52, the language is not consistent with the Court's Bench Decision and the *Chemtura*, *DBSD* and *Adelphia* decisions. In paragraph 52, the debtors simply added the phrase, "To the maximum extent permitted by law," while continuing to include precisely the same third party exculpation language we believe your Honor rejected. Indeed, the proposed order on its face still expressly provides for third party exculpation. We do not believe that the continued inclusion of the language granting a full third party release is the "fix" that the Court had in mind in its Bench Decision and the lengthy discussion of its prior rulings at the confirmation hearing.

New York therefore requests that paragraph 52 of the proposed confirmation order be revised by deleting the language that states that third parties shall not have or incur any liability.

Alternatively, paragraph 52 can expressly state that third parties are not exculpated under the plan or by the confirmation order.

The language in paragraph 52, in which the Court retains “exclusive jurisdiction,” is similarly inconsistent with the Court’s ruling and with the agreement reached by New York to resolve its objection to the Plan’s separate exclusive jurisdiction provision. The Court’s Bench Decision states that the debtors may include language “requiring third-party claims of the type now covered to be first brought before me, *for a threshold inquiry...*” (emphasis added). The Court did not rule that it has exclusive jurisdiction over exculpation and third party release issues. Paragraph 52 should be revised to state precisely what the Court’s Bench Decision states, namely, that it will conduct a threshold inquiry in the first instance.

Although we advised the debtors by email on Monday, March 21, 2011 of the foregoing concerns and requested that they make every effort to promptly respond in order to avoid having to contact the Court, we have not received an acceptable or adequate response. We therefore respectfully request that the proposed confirmation order be revised consistent with the Court’s ruling at the confirmation hearing, and specifically with its Bench Decision. Thank you.

Respectfully submitted,

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