GM AND CHRYSLER DEALERSHIP CLOSURES AND RESTRUCTURING

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

OF THE

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HOUSE OF REPRESENTATIVES

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GM AND CHRYSLER DEALERSHIP CLOSURES AND RESTRUCTURING

THURSDAY, JUNE 12, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC.

The subcommittee met, pursuant to call, at 10:00 a.m., in Room 2322, Rayburn House Office Building, Hon. Bart Stupak [chairman of the subcommittee] presiding.

Present: Representatives Stupak, Braley, DeGette, Doyle, Schakowsky, Ross, Welch, Green, Sutton, Dingell, Walden, Radanovich, Burgess, and Barton (ex officio).

Staff Present: Theodore Chuang, Chief Oversight Counsel; Scott Schloegel, Investigator, Oversight and Investigations; Jennifer Owens, Special Assistant; Jennifer Berenholz, Deputy Clerk; Lindsay Vidal, Special Assistant; and Kenneth Marty, Detailee, HHS–OIG.

OPENING STATEMENT OF HON. BART STUPAK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. STUPAK. This committee will come to order.

As you can see, there is a lot of interest in this hearing today. I expect Members who are not on the committee will be coming in and out. And we are going to try to hold a tight rein on time and statements and questions in this hearing today because, as I said, there is a lot of interest in this oversight hearing.

This hearing today is entitled, "GM and Chrysler Dealership Closures and Restructuring." The chairman, ranking member, and the chair emeritus will be recognized for 5-minute opening statements. Other members of the subcommittee will be recognized for 3-minute opening statements. I will begin.

For much of the past 100 years, General Motors has been the largest automobile company in the world. The Detroit three—GM, Ford, and Chrysler—have fueled the engine of Michigan's economy, as well as the economy of the United States, for generations. Through their vehicle manufacturing, countless suppliers, and a vast dealer network, the automotive industry has created and supported millions of jobs.

With the recent global financial collapse, much of the domestic auto industry has been brought to its knees. In 2008, General Motors and Chrysler lost $30.9 billion and $17 billion respectively, and, in order to survive, they both filed for bankruptcy. In the bankruptcy process, General Motors has announced plans to close roughly 1,200 dealerships and Chrysler announced plans to close 789 dealerships nationwide.

The Federal Government has loaned billions of dollars to GM and Chrysler in an effort to help stabilize them. Billions of more have been committed to assist them while emerging from bankruptcy.

Today's hearing will focus on several issues associated with General Motors and Chrysler's decisions to close more than 2,000 dealerships across the country. Among the questions to be answered are: Why do the manufacturers believe they need to close so many dealerships? What criteria were used to determine which dealerships to close? How do GM and Chrysler save money by closing these dealerships, which are independently owned?

Why were Chrysler dealers given a mere 26 days' notice that their franchise would be pulled? Why were dealerships that had been meeting or exceeding their expected sales requirements still ordered to close? Why did Chrysler effectively order dealers to buy more cars in January but now refuses to buy those cars back from dealers who are being forced to close?

Who made the decisions of which dealerships to close? What are GM and Chrysler doing to assist dealerships with selling their parts, cars, and specialty tools before they are put out of business? How will the dealership closures and restructuring make GM and Chrysler more competitive and profitable?

Being from Michigan, I absolutely want General Motors and Chrysler to survive. I think we all do. But we have an old saying in Michigan that, "when the auto industry sneezes, Michigan catches a cold."

Now, due to the global financial collapse, the entire Nation is feeling the impact of a crippled domestic auto industry. Other than high gas prices or a serious food outbreak, I can't think of few subjects that have brought the ire of so many Members as these auto dealership closures.

I understand the fact that General Motors and Chrysler need to improve their bottom line. I also understand that the import brands have far fewer dealerships, with higher sales volume per dealership. What many of my colleagues and I do not fully understand is why there is a need to close so many dealerships and why dealerships that appear to be performing well are now being told to close their doors.

We will hear from Chrysler today that the average Chrysler dealer sold 405 vehicles and lost $3,431 in 2008.

We will also hear from Dan Kiekenapp of Tacoma Dodge in Tacoma, Washington. Tacoma Dodge had net sales exceeding $1.7 million last year and was one of the top 100 dealers for sales of parts in 2008 and was the number-one ranked Dodge dealer in western Washington during the month of April this year but still received a closure notice from Chrysler. I look forward to asking Mr. Press how he reconciles this decision to close Tacoma Dodge.

As I mentioned earlier, I want to see GM and Chrysler return to strong and vibrant companies. I am, however, concerned that the accelerated timeframe for dealership closures and the way in which dealers have been treated may actually damage the brands more than help them.

I am also deeply concerned that the closures will hurt rural communities disproportionately. In my vast rural northern Michigan district, if a dealer closes down, it can mean a 2-hour drive for us to reach the next closest dealer. This will cause added expense and hardship for my constituents who need to have warranty work or special service done at a certified dealership.

In addition, when it comes time to purchase a new vehicle, many of my constituents will abandon GM or Chrysler and go to whichever brand is locally sold by people they trust within our communities rather than traveling a long distance to huge, impersonal, big-box dealerships, where they don't know the sales or the service staff.

In closing, I want to thank General Motors and Chrysler executives for coming here today. This committee understands how busy you are and greatly appreciates you taking time to work with our staff and attend today's hearing.

In addition, I want to thank the dealers who have come from every region of the country to testify today. I know that, in many instances, many of you are facing the loss of your livelihood, and to take the time and expense to travel to Washington to be part of this hearing is appreciated by myself, the staff, and everyone here.

Next, I would turn to the ranking member, Mr. Walden, for an opening statement.

[The prepared statement of Mr. Stupak follows:]

Opening Statement
Rep. Bart Stupak, Chairman
Committee on Energy and Commerce
Subcommittee on Oversight and Investigations
Hearing: "GM and Chrysler Dealership Closures and Restructuring"
June 12, 2009

For much of the past 100 years, General Motors (GM) has been the largest automobile company in the world. The Detroit three - GM, Ford and Chrysler - have fueled the engine of Michigan's economy as well as the economy of the United States for generations. Through their vehicle manufacturing, countless suppliers and a vast dealer network, the automobile industry has created and supported millions of jobs.

With the recent global financial collapse much of the domestic auto industry has been brought to its knees. In 2008 GM and Chrysler lost $30.9 billion and $17 billion respectively and in order to survive, they both recently filed for bankruptcy. In the bankruptcy process, GM has announced plans to close roughly 1,200 dealerships and Chrysler announced plans to close 789 dealerships nation wide.

The federal government has loaned billions of dollars to GM and Chrysler in an effort to help stabilize them. Billions more have been committed to assist them while emerging from bankruptcy.

Today's hearing will examine several issues associated with GM and Chrysler's decisions to close more than 2000 dealerships across the country. Among questions to be answered are:

- Why do the manufacturers believe they need to close so many dealerships?
- What criteria were used to determine which dealerships to close?
- How do GM and Chrysler save money by closing these dealerships which are independently owned?
- Why were Chrysler dealers given a mere 26 days notice that their franchise would be pulled?
- Why were dealerships that had been meeting or exceeding their expected sales requirements still ordered to close?
- Why did Chrysler effectively order dealers to buy more cars in January, but now refused to buy those cars back from dealers who are being forced to close?
- Who made the decisions of which dealerships to close?
- What are GM and Chrysler doing to assist dealerships with selling their cars, parts and tools before they are put out of business?
- How will the dealership closures and restructuring make GM and Chrysler more competitive and profitable?

Being from Michigan I absolutely want to see General Motors and Chrysler survive. We have an old saying that "when the auto industry sneezes, Michigan catches a cold." Now due to the global financial collapse, the entire nation is feeling the impact of a crippled domestic auto industry. Other than high gas prices, and food safety, I can think of few subjects that have brought the ire of so many Members of Congress as these auto dealership closures.

I understand the fact that Chrysler and GM need to improve their bottom line. I also understand that the import brands have far fewer dealerships with higher sales volumes per dealership. What many of my colleagues and I don't fully understand is why there is a need to close so many dealerships and why dealerships that appear to be performing well are now being told to close their doors?

We will hear from Chrysler today that the average Chrysler dealer sold 405 vehicles and LOST $3,431 in 2008. We will also hear from Mr. Dan Kiekenapp of Tacoma Dodge in Tacoma, Washington. Tacoma Dodge had net sales exceeding $1.7 million last year, was one of the top 100 dealers for sales of parts in 2008, and was the number one ranked Dodge dealer in Western Washington during the month of April this year but still received a closure notice from Chrysler. I look forward to asking Mr. Press how he reconciles this decision to close Tacoma Dodge.

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I am also concerned that the closures will hurt rural communities disproportionately. In my vast rural district, if a dealer closes down, it can mean a 2 hour drive for you to reach the next closest dealer. This will cause added expense and hardship for my constituents who need to have warranty work or special service done at a certified dealership. In addition, when it comes time to purchase a new vehicle, many of my constituents will abandon GM or Chrysler and go to whichever brand is still locally sold by a person they trust within their community rather than traveling to a huge, impersonal big-box dealership where they don't know the sales and service staff.

In closing, I want to thank our GM and Chrysler executives for coming here today. This Committee understands how busy you are and greatly appreciates you taking the time to work with our staff and attend today's hearing. In addition, I want to thank the dealers who have come from every region of the country testify today. I know that in many instances you are facing the loss of your livelihood and to take the time and expense to travel to Washington is much appreciated!

OPENING STATEMENT OF HON. GREG WALDEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WALDEN. Thank you very much, Chairman. I want to thank you and Chairman Waxman for concurring with me in the need for our subcommittee to conduct an oversight hearing and investigation to get answers regarding the termination of auto dealer franchises all across our country.

I want to recognize the dealers, including a constituent of Oregon's Second District, which I represent, Bob Thomas of Thomas Chevrolet-Cadillac in Bend, Oregon. Bob and the rest of the dealers have taken time and expense to travel to Washington to provide us with their perspective on this issue.

I also welcome Mr. Press of Chrysler and Mr. Henderson from General Motors. We are honored to have you here today, as well. We have some hard questions for you, and I appreciate your willingness to come here today and explain your situation, your perspective, with clear and straight answers.

Since American taxpayers now own 60 percent of General Motors, we have a right to know just how the decisions affecting our constituents are made. We also have a duty to make this process more accountable and transparent for all concerned.

So let's start with a look at customer service. And, Mr. Henderson, you have spent a pretty large some of money on newspaper ads recently—I am sure you are familiar with your own ads—proclaiming your concern for greater transparency and customer service.

Yet, you have dictated the closure of GM dealerships all across Oregon and the country. And I will cite one in specific out in Burns, Oregon. Now, if you are a GM customer and the dealership in Burns, Oregon, Ruel Teague Motor Company, is closed, your nearest GM dealer is Payette, Idaho, 136 miles away. Now, that is the equivalent of driving from Philadelphia to Washington, D.C., to get service for your General Motors vehicle.

Since we don't have the 3-plus hours it would take to drive there even in one of the new Camaros, we are using the fastest plane our Air Force has, the F–15 Eagle, and Google Earth to demonstrate the route, while I talk, to that new brand of customer service. This will be in 3D for your enjoyment. It will take a while.

Just about a month ago, General Motors and Chrysler sent what were effectively termination notices to about 2,000 auto dealerships nationwide. We are told their notices serve to accelerate restructuring plans that are a must-do step for these troubled automakers. This is so Chrysler and GM can emerge successfully from bankruptcy with stable financial support.

Many dealers and the communities they serve, frankly, feel blind-sided. The mid-May notices came in the form of complex, take-it-or-leave-it wind-down contracts, with just weeks to make important and expensive life-changing decisions about their own livelihoods, few explanations, no real opportunity to negotiate corrections or even sell to another more favored dealer, and no clear rationale for why they were chosen for closure.

Thousands more received continuation contracts, equally complex, which forced them into 18 months of limbo, giving up protections against abusive practices they would normally have been able to be protected against under State franchise law. But they had no choice; it was take it or leave it.

Oh, and the agreements, by the way, required the dealers to say they weren't signing under duress. Really?

So let's talk about transparency. We have yet to get a clear answer on how the so-called rationalization of dealer networks will save the automakers or taxpayers money. Rationalization seems like the 21st-century version of "we had to burn the village to save it." I want to hear this morning from GM about how cutting dealers really will save $2 billion.

The National Auto Dealers Association argues the dealers cost the automakers little on the margin and provide necessary and convenient outlets for consumer sales and even the local connection the automakers so sorely need. Dealers, even small dealers, make sales and make the automakers money.

By what we can gather today, many dealers affected are not bad-apple operations. Maybe they weren't meeting your mandated sales quotas, but it is hard to see them as cost drains on automaker operations. They often are the mainstays of the local communities they serve. They contribute substantial taxes, support local sports and community events, and they have good reputations. They are established, they are hardworking, and they are struggling in a horrible economic environment.

And soon, their employees will be out of work. By one estimate, the termination notices may cost upwards of 190,000 well-paying jobs.

The validity of the cost issue is of particular interest since the press reported yesterday that the House Majority Leader said he had spoken to the White House's Auto Task Force and it acknowledged that the automakers will see no immediate cost savings from closing the dealerships.

So, Mr. Henderson, you say GM is going to be more accountable. Let's talk about accountability. Who made the closure decisions? How were they made? When were they made? Who made the recent decisions to reverse closures of 41 dealerships?

Mr. Henderson, you say GM will be more focused on customers. Let's talk about customers. How it ispro-customer to reduce competition by eliminating dealerships which compete with each other for price, quality, and service?

It has been said that our domestic automakers own rural America. You know how it is to serve rural America. To eliminate the lone dealership in a place like Burns, Oregon—we are still not to Idaho, by the way. We did just pass Stinking Water Pass.

In this "Alice in Wonderland" world of rationalization, where up is down and less is more, how are customers served by less competition and higher prices while, on the taxpayers' dime, better served?

In Bend, Oregon, for example, General Motors terminated the only GM dealership with substantial service repair facilities, servicing tens of thousands of people in the 16,000-square-mile radius. Do the planners behind this restructuring understand the rural America from whence I come? Do they really understand rural customers, the rural market, the loyalty?

Let's talk plainly. If you just want to turn GM and Chrysler into a network of urban dealerships, then tell me. But don't ask me and my constituents to provide the bailout.

Or is your plan to use the crisis of bankruptcy as a cheap and quick way to get rid of dealers you don't want, only to eventually sell or put in place, since you don't sell them, a new franchise in a market you have left?

If you plan to reduce dealers, can you give me a guarantee that you won't simply get rid of a Bob Thomas only to turn around and offer a GM franchise in Bend to someone else in the coming months?

So the goal for me in today's hearing, Mr. Chairman, is to get straight talk and facts. We need to know the real reasons for the closure decisions and whether they are really justified. We need to know how this is really a good deal for the taxpayer and the consumer. We need to know whether auto dealers targeted for closure in their local communities are getting that fair shake.

We all recognize the very tough and painful times for the auto industry, especially its workers and suppliers. The reverberations of Detroit's troubles have already reached into every one of our districts.

I look forward to the testimony, and I look forward to working with you, Chairman, on further investigating this matter, and hope future hearings will focus on the role of the President's Auto Task Force, as well.

Mr. STUPAK. Thank you, Mr. Walden.

Mr. Dingell for an opening statement, please.

OPENING STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. DINGELL. Mr. Chairman, thank you.

And I commend you for holding this hearing. This is a time of unprecedented hardship for the domestic auto industry, but I feel it is prudent that we objectively examine all aspects of General Motors' and Chrysler's restructuring plans, including how they affect dealers.

Although, restructuring of these companies is inevitable and necessary, it means that we are going to have to achieve their long-term viability, but at the same time we are going to have to look to see how it is being done and how it is going to impact on other parts of our economy. Measures must being taken to mitigate excessive hardship on working Americans, especially in a time of grave national recession.

In view of this, I will be asking frank questions of our witnesses today. In particular, I seek to determine for the record how GM and Chrysler arrived at the decisions they did related to dealer closures. Public furor over these closures demands truthful answers from these companies regarding these matters. And it is my hope that they will provide much needed insight into the decision-making process whose results will affect the livelihood of many thousands of Americans in all parts of the country.

Moreover, I understand that GM and Chrysler have approached dealer closures in a markedly dissimilar fashion. And this, again, should be subject to candid discussion.

Finally, I wish to ascertain what steps, if any at all, GM and Chrysler have taken or will take to mitigate the impact of these closures on dealership owners and their employees and also on the communities. Their fair treatment is paramount to the success of any rationalization of the companies' respective value streams.

I conclude by encouraging our witnesses to engage in open dialogue with members of the committee about the matters that I have just mentioned. The honest disclosure at today's hearings is necessary to restoring the semblance of public trust in the plans for restructure.

So, thank you, Mr. Chairman, thank you to our panel, and I yield back the balance of my time.

Mr. STUPAK. Thank you, Mr. Dingell.

Mr. Barton for an opening statement, please.

OPENING STATEMENT OF HON. JOE BARTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BARTON. Thank you, Mr. Chairman.

I want to thank you and Chairman Waxman for holding this hearing. I want to thank you personally for agreeing to let Mr. Frank Blankenbeckler, who is dealer in my district, testify.

And, also, thank you for being willing to put a segment in the record of Congressman LaTourette, who is not a member of the committee but has asked to sit on the dais, And you indicated that you would accept unanimous consent to allow his statement into the record.

So I appreciate all those courtesies.

Mr. Chairman, I have a prepared statement, and I will submit it for the record, but I want to just kind of speak extemporaneously.

I see both sides of this issue. I have a GM assembly plant in my district in Arlington, Texas, that has been in business since 1954. There are 2,400 people that work there; management, about 250; and UAW workers, around 2,200. They have been making cars and trucks in Arlington, Texas, for over 50 years. And I have dealers all over my district, about a dozen of which have received closure or termination or failure-to-renew notices.

I met yesterday with the president of GM North America and also the president of Chrysler. And I see the management side of this, the manufacturing and the business side of it. It is a different era, and we have to make tough decisions to keep U.S. nameplate manufacturing cars and trucks in America. I understand that.

But there is another side. There is a human side, a dealer side. And we are going to hear from Mr. Frank Blankenbeckler of Waxahachie, Texas. He is a fourth-generation GM dealer and, I think, a second-generation Jeep dealer.

His grandfather started selling Chevrolets in Waxahachie, Texas, in 1926. He made it through the Great Depression. His family made it through World War II, when you had quotas. They made it through the boom years of the 1950s. They made it through the gas rationing of the 1970s.

Bomb or bust, there has been a Blankenbeckler selling cars in Waxahachie, Texas, for over 80 years. And, in May, he got letters, I think, back to back, Jeep terminating his contract immediately, or within 3 weeks, and GM saying they weren't going to renew it.

Now, when the GM and the Chrysler people, the managers were in my office yesterday, they were very sincere. They had their flip charts and they had their notebooks and they could look up and show me if I wanted to see the performance or nonperformance of all the dealers in my district.

But that doesn't touch on the human story. Again, Carlisle Chevrolet in Waxahachie, Texas, has 40 employees. They are not at the bottom of these flow charts. Now, they are not at the top either, but they are not at the bottom.

Mr. Blankenbeckler told me that last year he paid $1.3 million in taxes in Ellis County, employed 40 people, sells an average of 50 cars and trucks a month. In good years, he can double that. So he could do better; he says that.

But his business that has been in his family for four generations, if we can't get Chrysler and GM to take a second look, is gone. And his son, Austin, who is sitting right out here, his opportunity at the American way of life, as we know it, is gone.

Now, what I am asking, Mr. Chairman, is I am not asking the management of Chrysler and GM to do things that don't make sound business, economic sense. But what I am asking is the show a little mercy, if that is the right term. Every decision does not have to be the toughest decision you can make. You know, you can err on the side of leniency. And if somebody is selling 50.5 cars a month and the goal is for them to sell 51, you don't have to cut them off at the knees.

So, Mr. Chairman, I want to hear from both sides. But I really, hopefully by the end of the day, want to hear from the presidents of the manufacturing companies that they will go back and take a second look at some of these decisions and, if there is an opportunity that makes reasonable business sense, that they will give the Frank Blankenbecklers and the people that he represents today an opportunity to continue in business.

Because if they go out of business, it is gone. And, you know, ultimately, if nobody is selling cars and trucks, it doesn't matter what your manufacturing capability is, nobody is going to buy them.

So, with that, Mr. Chairman, I yield back.

As you know, there is another hearing going on downstairs. Mr. Markey's subcommittee is having a transmission hearing. I have to run and make a statement down there, too, but I will be back up here for the question period.

And thank you again for your many courtesies.

Mr. STUPAK. Thank you, Mr. Barton.

And members will be moving in and out.

And while I am at it here, I should mention that we have other Members who are not part of the Energy and Commerce Committee, who are not part of this subcommittee, but are here. Dan Maffei over here, from New York, I know he has some legislation pending on dealerships. That is why he is here. He will probably be in and out. Patrick Murphy is over here from Pennsylvania. He is not on the committee, but very interested. You mentioned Mr. LaTourette, Mr. Barton. I saw him earlier. I am sure he will be popping in and out. I know he has legislation.

And, in all honesty, I think we have 435 Members of Congress, I think 430 contacted me and all wanted their dealer to testify today. That wasn't possible. But we are going to try to get you in this hearing. We welcome Members who would like to sit and watch these proceedings.

But we are going to have to keep a tight timeframe on all Members who have an opportunity to ask questions. For the Members who are here who are not part of the committee, if you an have opening statement you would like to submit for the record, without objection, that would be accepted.

And let me do one more thing. As we were preparing for this hearing, there were some concerns that Members may get into the confidentiality agreement or, I should say, the dealer agreement that GM has. And since Chrysler has already emerged out of bankruptcy, GM is still there, there is a confidentiality agreement with the dealers.

And I talked with Mr. Walden here. It is our understanding that GM, Mr. Henderson, has no objection whatsoever to a dealer testifying before the subcommittee about its business, circumstances, or other matters involving the dealership. Further, it is our understanding that General Motors has no objection to the dealer testifying about the terms of the wind-down agreement itself.

And GM is proud of these agreements and the assistance and support they will provide to dealers compared to what they would have received under an ordinary bankruptcy proceeding.

GM does have concerns, though, on the confidentiality part of these wind-down agreements in two areas: the amount of the wind-down payments set forth in paragraph 3(a) and any discussions with GM representatives about the wind-down amount found in that agreement.

So I am cautioning Members that if you want to talk about the wind-down agreement, you have a right to, but we are not going to expect the witnesses, for proprietary and business reasons, to get into financial amounts and things like this with the agreement.

Other than that, we are in agreement with that, Mr. Henderson?

Mr. HENDERSON. That is correct.

Mr. STUPAK. And, Mr. Press, as I stated, you have no problems as long as we don't get into money exchanges with dealerships?

Mr. PRESS. That is correct.

Mr. STUPAK. OK.

OK, with that, let's continue to opening statements, 3-minute opening statements. I am going to hold you guys to it pretty firm.

Next on the list would be Mr. Braley.

OPENING STATEMENT OF HON. BRUCE L. BRALEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. BRALEY. Well, thank you, Mr. Chairman and Ranking Member Walden.

I think you can tell from the interest in this hearing that it is something that affects all 435 congressional districts. And that is why I am going to submit my written statement and focus instead on the human cost of what we are here to talk about, as Mr. Barton was just talking about.

I am very fortunate one of my constituents, who is the chairman of the National Auto Dealers Association, John McEleney from Clinton, Iowa, is here, because he works and sells cars in the heartland. And I think a lot of what we are talking about here today is an explanation of how the decisions that are being made are affecting dealers all over the country.

My wife's grandfather, Burt Kalb, was the first Ford dealer in Dubuque, Iowa. And my uncle, Lyle Nusserhoe, came home from World War II and, at the request of one of his Navy buddies, moved to my hometown of Brooklyn, Iowa, and started work being as a parts manager in a Chevy dealership that he later purchased and worked in for 60 years.

And I want to talk a little bit about where we have been to get to where we are right now. Because I remember those fall rollouts of new models and the excitement that they brought to my hometown. And I remember those ads that my uncle ran in my hometown newspaper showing all of the employees of his dealership and how many years they had worked there, to show the impact that his business was having object our community. Because those same employees were the ones volunteering in the Boy Scouts and the Little League and in school activities, and they were making our community a better place to live.

And when you talk about these dealer closures, you are not just talking about the application of economic principles and mathematical formulations; you are talking about the impact on people's lives in every congressional district in this country.

And that is why the issues we are going to be discussing today matter. That is why they matter to me, they matter to my colleagues on both sides of the aisle, and they matter to the constituents we represent. Because when these dealerships close, they don't just take away the opportunity to buy and get service for your cars and trucks, they take away the lifeblood of these communities. And it is much broader than simply the loss of sales and service. It is part of the fabric of this country.

And, Mr. Henderson and Mr. Press, your corporations were built on the backs of people like the dealers you see in this room, who went out there, invested in their communities, and made you profitable during your boon times. And now I think each of you and your companies owe them and the taxpayers of this country a detailed explanation for your business decisions, because we have to live with the aftermath.

And I welcome everyone's testimony on the committee and look forward to further opportunities to question the witnesses.

Ms. DeGette for an opening statement, please.

OPENING STATEMENT OF HON. DIANA DEGETTE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Ms. DEGETTE. Thank you very much, Mr. Chairman.

Following up on what Mr. Braley and Mr. Barton said, these bankruptcies and these closing of the local car dealerships are not just affecting the dealers themselves, but millions of people who live in all of our districts, who are going to be inconvenienced, at the very least.

And the thing I am struggling with is, if bankruptcy reorganization is designed to help GM and Chrysler become leaner and meaner, become more efficient, then how does it help to close profitable dealerships? Because, in my home State of Colorado, for example, 14 profitable Chrysler dealerships are going to be closed, and a number of other GM dealerships and some others.

So I guess the reason why we are concerned is because, on the one hand, we see these profitable dealerships in our districts; on the other hand, we see the need for consolidation and for saving money. But we don't quite understand how closing those profitable dealerships works, especially given the human implications. And that is why we are concerned, and that is why we are having this hearing. I think that our constituents deserve an explanation.

I want to mention one other thing really briefly that is not the subject of this hearing, Mr. Chairman, but might be worth some further investigation. As part of the administration's bankruptcy plans, they are putting all of the product liability court claims into the bankruptcy court, which is going to wipe out the claims of victims who have had defective products.

And talk about leaner and meaner. This is something that is going to hurt millions of Americans who have been injured by these cars and who don't have some kind of a fund set up through the bankruptcy.

Now, in the past, when the government has helped companies like GM and Chrysler through their bankruptcy plans, like with the asbestos, we set up a fund to compensate victims. But here there is no fund whatsoever that has been set up to compensate victims. And I think this committee needs to look at this, and I also think the administration needs to revisit their policy of not setting up this kind of fund.

Thank you very much, Mr. Chairman, and I yield back.

Mr. STUPAK. Thank you, Ms. DeGette.

Mr. Green from Texas, opening statement, please. Three minutes.

OPENING STATEMENT OF HON. GENE GREEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. GREEN. Thank you, Mr. Chairman. Like my colleagues, I would like my full statement placed into the record.

Mr. STUPAK. Without objection.

Mr. GREEN. And I am glad you are holding this hearing because it is probably one of the biggest issues that I have heard from in our district in a long time.

And I guess the problem I have is the lack of transparency on how the decisions were made. And I think, hopefully, the witnesses today will make some discussion or provide that to us.

I didn't vote for the TARP bill last fall, either time. One of the reasons is that I thought it was more of a bailout of Wall Street, not Main Street. And now we are seeing what is happening on Main Street, because our dealerships are on Main Street in our area.

And I will give you a great example. The Houston market, where I am from, already lost three large-volume Chevrolet dealerships, and yet Knapp Chevrolet, one of the oldest dealerships in Houston, actually close to the central business district, which opened on December 6, 1941, the day before Pearl Harbor Day, received their letter, and their appeal was denied.

It is the only Chevy dealership in the downtown area. In fact, it is the only one inside what we call the 610 Loop, and there are only two inside Beltway 8, which is miles and miles away. So now people in my district who live in the inner city will have to definitely go to the suburbs to have their car serviced or to buy a vehicle.

More than 4,000 people live in the core of downtown Houston, and 74,000 people live within a two-mile radius. And a rapidly growing population of about 4,000 live within that five-mile radius. And over 140,000 people work in downtown Houston, with 17,000 students at downtown colleges. It seems to me that market is pretty sizable.

And Knapp Chevrolet was actually one of the highest profitability, in the top 20 percent, for many years. I guess that is what is frustrating, how this decision was made. People working in downtown Houston could drop their cars off and their trucks and get serviced, and then they would shuttle them back and forth.

And, again, on Wednesday of this week, Knapp Chevrolet received the denial of their appeal, for no reasons at all, just, "Your appeal was denied." We are losing a lot of high-paying jobs. We have a lot of high-paying jobs in downtown Houston. I don't know why it is.

And that comes from someone who buys Chevrolet and GM products. I drive Chevy trucks. I am kind of Texas that way, and I will continue to buy them. I am glad they are made in Mr. Barton's district.

And I know the witnesses may not be able to answer individually why that happened, but when you lose—in the last year, we have lost three huge Chevy dealerships in the Houston market—why we would go in and pick one of the oldest and the only one within the inner city to close, it just kind of boggles my mind.

So, with that, Mr. Chairman, I will yield back my time, and appreciate you calling this hearing.

And, like other Members, I am getting ready to go down to the transmission hearing down in the room below us, but I will be back.

Thank you.

Mr. STUPAK. Thanks, Mr. Green.

Mr. Doyle for opening statement, please. Three minutes.

OPENING STATEMENT OF HON. MICHAEL F. DOYLE, A REPRESENTATIVE IN CONGRESS FROM THE COMMONWEALTH OF PENNSYLVANIA

Mr. DOYLE. Thanks, Mr. Chairman. Thanks for holding this hearing. And I want to thank you personally for allowing Jim Golick from Golick Jeep-Chrysler, a constituent of mine and someone in my district, for allowing him to testify today.

I didn't have a prepared statement, Mr. Chairman. I just want to make a few comments.

My friend Joe Barton says maybe we are in a new era, and I fear that maybe he is right.

You know, growing up in Pittsburgh, I have had the privilege of representing Pittsburgh, Pennsylvania, and the Turtle Creek and Mon Valley in Congress. We are blue-collar kids. Our dads and grandfathers made the steel that go into a lot of your cars. We look after one another in Pittsburgh. We buy from our own. We were taught never to buy foreign cars, where I grew up. The thought never would occur to us. We buy American, and we buy from the people we know.

I remember Mr. Gatti had the local pharmacy on the corner. He is long gone. There are no more family pharmacies left. It is all the big-box stories. Mr. Tamarello had the hardware store where I grew up. No more family hardware stores. Now it is Home Depot, Wal-Mart.

But we always had our car dealerships. Jim's family has been in business at the same location since 1935, an institution in Mon Valley, in the Turtle Creek Valley.

I wouldn't buy a Jeep from anyone else besides the Golicks. I don't care that their showroom isn't fancy. I don't care that it is not the newest, most modern-looking place, or they don't have a giant floor. What they have is service. They know you when you come in. They don't take that little piece of paper back to the manager and say, "I will try to get you a better deal," and go through that whole dog-and-pony show they pull at these big places. They give you a good price right upfront. And they take care of you. That is why I buy Jeeps there. I wouldn't think of going anywhere else.

I raised my family on Dodge Caravans. My wife Susan and I, we have four children. That car took care of our family for years. I owned a bunch of them. Got it from another local family dealership.

We are losing that. We are losing that in this country, this idea that you can buy from people you know and trust, that you know are going to take care of you. You don't have to guess if they are going to take care of you; you know they are are going to take care of you. That is why I buy the cars I buy at the places I buy.

Now, Jim tells me he has met his quota-plus every year since he has been in business. These guys started out in 1935, a Hudson dealer. Then it was Jeep, Jeep-Eagle. Then Jeep-Chrysler, when Chrysler come through.

You can't take people like this of the—you just can't replace people like this. I can't imagine myself—I have never bought a foreign car, but I can't imagine myself ever buying a Jeep again if the Golicks aren't in business in Pittsburgh.

I don't understand how they are costing you money. I think they are a revenue stream for you guys. And if for some reason this has to happen, I want to know why you are not taking care of people who spent 70 years and generations selling your cars and, as you tell them that they don't have a business anymore, that you are not doing something to help these guys out in the transition.

So I have lots of questions, Mr. Chairman. I am just glad that you are holding this hearing today, so that I can ask them.

Mr. STUPAK. Thank you, Mr. Doyle.
Ms. Sutton from Ohio, please.

OPENING STATEMENT OF HON. BETTY SUTTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Ms. SUTTON. Thank you, Chairman Stupak, for holding the hearing and inviting one of my constituent dealers, Alan Spitzer, here to testify today. Mr. Spitzer is losing seven of his Chrysler dealerships. And, additionally, there are two other Chrysler dealerships in my district that are being eliminated.

Across Ohio, 47 Chrysler dealerships are being eliminated, and the Ohio Auto Dealers Association estimates that 130 GM dealerships may be cut. The impacts of these decisions on families and local economies will be substantial. And we heard from the distinguished gentleman from Pennsylvania, and I associate myself with his remarks.

On average, 43 people work at a dealership in Ohio, where the average pay is $44,000 a year. With these closings, millions of dollars of income will disappear with the jobs. And those jobs are lost on top of the 2,000 auto manufacturing jobs that will be eliminated by the closing of the Chrysler Twinsburg plant, the GM Mansfield Metal Center plant, and GM's powertrain unit in Parma.

These dealers and their employees, they are not merely statistics. They have families, they have mortgages, and, dare I say, they have car payments. And in the time that I have been in Congress, we have been fighting. We have been fighting hard to try and keep those jobs in America. Because if people do not have good jobs in the United States, they are not going to have any money to buy things and they can't be consumers.

And over the last few months, along with my colleagues, many of them in this room, we have been working on the Consumer Assistance to Recycle and Save Act, known as the CARS Act, which passed earlier this week. And through the CARS Act, it is going to help manufacturers and it is going to help auto-related jobs throughout the country, while improving the environment and helping consumers.

But, again, it is called the CARS Act, but it is really not about cars, it is about people. It is about the people who produce those cars. And our job here—the actions that we have been taking—and it is really hard to understand—have not been taken just to preserve the brands of GM and Chrysler. It has been to preserve the jobs, the jobs that our families and our friends and our neighbors and our communities depend upon for their tax base, to fund their police and their fire and their schools and their other city services. It is about people. And the impact of the decisions that have been made have been extreme, and they have been decimating to many.

Now, we have been trying to get answers and trying to understand the rationale that has been undertaken to come to these decisions. And I think you heard it here today, that we don't get it. We don't understand it. And we want to know why, if you are trying to sell more cars, why having less sales people to do it, who have been committed to doing it for years and decades on end, will result in more sales.

That just doesn't seem logical to many of us here or logical to many of the people who are out there in our communities about to become jobless or who have become jobless because of the decisions that have been taken. So I am interested in hearing about that.

And I am also interested in making sure and hearing the commitment, hopefully from the companies, about how we are going to keep the market share of cars that are being sold in the United States from the companies at its present level or increase it so that we are not selling more cars from GM or Chrysler that are imported.

Because, again, we haven't been taking these actions to save the brands. We have been taking these actions to save our manufacturing base, strengthen our Nation, and to preserve the jobs of so many that are in our districts and across the country.

And I yield back.

Mr. STUPAK. Thank you, Ms. Sutton.

And the CARS Act that she mentioned is really called "Cash for Clunkers," as we call it. She was the lead author, along with myself, Mr. Dingell, a bunch of us on this committee. In fact, it went through this committee, went to the floor. We had votes on the floor this week. We got that passed. It is actually now in conference. So the Cash for Clunkers, hopefully next week we can have that done. This committee has always been supportive of the auto industry, no doubt about that.

Last but not least, Mr. Welch from Vermont, opening statement, 3 minutes, please.

OPENING STATEMENT OF HON. PETER WELCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VERMONT

Mr. WELCH. Thank you, Mr. Chairman and Mr. Walden. I really appreciate you calling this hearing.

I am going to be repetitive. The reason I am going to be repetitive is that this is a catastrophe for every community where we have car dealers that have been doing a good job. And you guys know it.

I mean, Mike Doyle was talking about the family dealerships. I was taking to the Handys—52 years, father to son, supporting Little League teams, providing good service, good jobs in their community, and they get a letter telling them "no."

Wade Walker is here from Vermont, one of our great car dealers who has been playing a lead role. And you have heard these stories one after another, and it doesn't seem to sink in.

One of the things that is bewildering to us is that, as we understand it, the car dealers pay basically for everything. Every single thing that they get from the manufacturers they have to pay for, from brochures to signs.

And I just asked Wade to put together a few facts for me. $22,000 he has to pay every year—$21,000, actually, for special tools. These are tools you could go down the street and get for next to nothing, and they have to pay $21,000 to the manufacturers because that is part of the deal. $2,000 for parts and service promotion; $3,200 to put up a sign. Your sign they have to put up every year. They have to sign a contract, and I guess it is a 10-year contract. They have to pay for that. $3,200 per employee to send to service training. $10,000 to hook up to the computer. $5,000 for the brochures.

So it is money out of their pocket that supports the manufacturer. So it is very hard for us to understand why it is these guys are, quote, "a drain" on the business model.

Secondly, I think what you are hearing from all of us is that there is something wrong with a business model that basically says, in order to survive, we have to crush our local dealers; we have to take out of the community some of the folks in the community that have been doing the most to create a sense of community and to provide local jobs.

I mean, the economy has to be about making a living in our local communities. And we are going dead-wrong if we can't have a business model that rewards local success and gives people in a community that are willing to take a risk to do a job, provide a service, be related to their customers, if they don't have a place in the economy and in the auto future of this country.

You know, it is almost as though each one of the manufacturers wants to have one dealer on steroids that can sell to everybody in the country over the Internet. And it just ain't going to work.

So, Mr. Chairman and Mr. Walden, I really appreciate you having this hearing. My hope is that we can find a way where there is a place that includes our local car dealers who have been doing so much for so many for so long.

Thank you very much.

Mr. STUPAK. Thank you, Mr. Welch.

Ms. Schakowsky, if you have an opening statement, a 3-minute opening statement, now would be the time. Give yourself a second, get situated there.

OPENING STATEMENT OF HON. JANICE D. SCHAKOWSKY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Ms. SCHAKOWSKY. Thank you, Mr. Chairman. I appreciate this hearing.

And the circumstances that bring us here today are really unfortunate. Despite signs that the economic downturn has slowed and may be even turning around, many Americans are still unemployed, are fearful of losing their jobs. And, for some, this fear is—for many, this fear is very real.

Two iconic companies here today, Chrysler and GM, are closing more than 2,000 dealerships nationwide, with potential job losses numbering in the hundreds of thousands. This move will impact every State and city in the United States. On Tuesday, 789 Chrysler dealerships closed their doors, including some in Chicago, where I am from. About 2,500 GM dealers closed by the end the year.

There are three GM dealers in my district and another four nearby that my constituents depend on. There has been no public announcement of whether any of those businesses will close, but the employees and their families go to sleep every night wondering what the news will bring in the morning.

And I am glad that this committee will have the opportunity to review how the decisions are made to close certain dealerships. Closures of local businesses of this magnitude will severely harm communities and local economies that are already strained. And nationwide these closures have an exponentially larger effect.

We have to determine whether the process used for deciding whether and which dealer to close was fair to all involved. We also have to begin to think about how to assist those who have lost or will lose their jobs.

In addition, we must look to the future of our Nation's historic auto industry. I have no doubt that these brands will be able to make a comeback building and selling the cars and trucks of the future, ones that are energy-efficient, innovative, and uniquely American.

Also, while this may not be the primary focus of this hearing, it has been brought to my attention that there are concerns about how GM and Chrysler's restructuring will affect injury and liability claims from current customers. I think this issue is important and is something that we may want to consider in the future.

Thank you, Mr. Chairman, for your indulgence. I yield back.

Mr. STUPAK. Thank you.

That concludes the opening statements of all members of the Oversight and Investigations Subcommittee.

Let me introduce our first panel of witnesses. Some of the members have asked to introduce some of them. I will yield to them at the appropriate time. And keep your comments brief.

First, we have Mr. James Press, who's President of Chrysler, LLC; Mr. Fritz Henderson, chief executive officer of General Motors Corporation.

Mr. Braley, do you want to introduce Mr. John McEleney?

Mr. BRALEY. Yes. I am very pleased to have John McEleney, who is the chairman of the National Auto Dealers Association and also president of McEleney Auto Center in Clinton, Iowa, in my district, and also has another franchise in Iowa City.

Welcome, John.

Mr. STUPAK. Mr. Alan Spitzer of Spitzer Automotive Group of Elyria, Ohio. Betty, do you want to introduce him?

Ms. SUTTON. Mr. Spitzer, as I said in my opening statement, has been in the business a long time in Elyria and the surrounding area, 100 years, I believe, in the auto dealership.

Mr. SPITZER. 105. We are 4 years older than General Motors and more than 20 years older than Chrysler.

Ms. SUTTON. Well, those are pretty deep roots.

And I am honored and grateful, Mr. Chairman, that you brought Mr. Spitzer here to share his experience, not only in, obviously, providing our communities with the cars they need to drive, but helping to shore up so much within our community by sponsoring organizations and contributing to the quality of life there.

Mr. STUPAK. Next we have Mr. Bob Thomas. Mr. Walden, if you'd like to say a few words.

Mr. WALDEN. Thank you very much, Mr. Chairman.

Mr. Thomas is a constituent of mine from Bend, Oregon. His grandfather formed the dealership for General Motors in 1918. He served as a lieutenant in the U.S. Marine Corps from 1969 to 1972. He's a graduate of Stanford University.

Serves on the boards of the United Way of Deschutes County, Greater Bend Rotary, St. Charles Hospital Foundation, Boys and

Girls Club, Bend Chamber of Commerce, Oregon State University-Cascade's campus, and the Central Oregon Visitors Association—the kind of person you'd want to represent your company in central Oregon.

Mr. STUPAK. Next is Mr. Daniel Kiekenapp of Tacoma Dodge in Tacoma, Washington. He was requested by Mr. Dicks.

Thanks for being here. And Mr. Dicks asked that you be here.

Mr. James Golick—Mr. Doyle, do you want to say a few words there?

Mr. DOYLE. Thanks, Mr. Chairman.

It's a pleasure to welcome my friend Jim Golick at today's hearing. Jim and his family at Golick Chrysler-Jeep have been at the same location in Pittsburgh since 1935, a business that is still owned and operated by his family. They started with a Hudson franchise. Then Golick sold cars from AMC–Jeep and later Eagle. Several mergers later, Golick was a successful Jeep-Eagle dealer until 1999.

In 2000, they acquired the Chrysler franchise. Now they're a Chrysler-Jeep dealer and have sold over 10,000 new and used vehicles over the last few decades. They have consistently held the highest customer satisfaction rating for sales and service in the State of Pennsylvania.

And I welcome you, Jim.

Mr. STUPAK. Next is Mr. Duane Paddock of Paddock Chevrolet in Kenmore, New York. Thanks for being here.

And last but not least—Mr. Barton is not back—is Mr. Frank Blankenbeckler III, of Carlisle Chevrolet Company of Waxahachie, Texas. Frank is here with his son, Austin.

And thank you for coming.

Joe, did you want to say anything about your witness?

Mr. BARTON. Thank you, Mr. Chairman. I've been down in the electricity hearing.

It is my honor to introduce Frank Blankenbeckler. He is a native of Waxahachie, Texas. Graduated from Waxahachie High School. Went to the University of Texas, where he lettered in basketball. Came back home to Waxahachie and entered the business that his grandfather started in 1926.

He is one of the civic leaders in Waxahachie. He and his family have been major donors to every civic improvement in the last 50 years in that community. And, as I said in my opening statement, last year his business and the 40 employees generated revenues that resulted in over $1.3 million in taxes being paid to various State, local, and Federal entities.

He is considered one of the leading entrepreneurs, businessman, philanthropists of his hometown. And I consider him to be a personal friend. So we are honored to have him here.

And, as I said earlier, I think he represents hundreds, if not thousands, of family-owned dealerships that have been in business for decades. And most of those dealerships hopefully want to continue in a positive business relationship that is positive for themselves and General Motors and Chrysler—and Ford, who's not here.

Thank you, Mr. Chairman.

Mr. STUPAK. Thank you.

And it's also my understanding Mr. Blankenbeckler's son, Austin, is here, right? He is also in the car business?

Mr. BARTON. He is.

Mr. STUPAK. OK, that is our first panel of witnesses.

It's the policy of this committee to take all testimony under oath.

Please be advised that you have the right to be advised by counsel during your testimony. Do any of you wish to be represented by counsel?

They are shaking their head "no."

If, at any time, you wish to be advised by counsel, let me know before you answer a question, and we will accommodate that.

Therefore, since we take our testimony under oath, I am going to ask you all rise, please raise your right hand to take the oath.

[Witnesses sworn.]

Mr. STUPAK. Let the record reflect that the witnesses applied in the affirmative.

You are all now under oath.

We are going to start with your opening statement, which would also be under oath. I am going to ask you to please limit it to 5 minutes. We have an unusually large panel. That's because of all the interest in this hearing.

Mr. Press, if you don't mind, we'll start with you, and then we'll do Mr. Henderson, Mr. McEleney, and then we'll go to Mr. Thomas and Mr. Blankenbeckler, Mr. Paddock, Mr. Kiekenapp, Mr. Spitzer, and Mr. Golick. That will be the order.

Mr. Press, would you like to start, please? Five minutes.

TESTIMONY OF JAMES PRESS, PRESIDENT, CHRYSLER, LLC; FRITZ HENDERSON, CHIEF EXECUTIVE OFFICER, GENERAL MOTORS CORPORATION; JOHN MCELENEY, CHAIRMAN, NATIONAL AUTOMOBILE DEALERS ASSOCIATION; ROBERT THOMAS, BOB THOMAS CHEVROLET–CADILLAC, BEND, OREGON; FRANK A. BLANKENBECKLER III, CARLISLE CHEVROLET COMPANY, INC., WAXAHACHIE, TEXAS; DUANE PADDOCK, PADDOCK CHEVROLET, KENMORE, NEW YORK; DANIEL J. KIEKENAPP, TACOMA DODGE, INC., TACOMA, WASHINGTON; ALAN SPITZER, SPITZER AUTOMOTIVE GROUP, ELYRIA, OHIO; JAMES GOLICK, GOLICK MOTOR COMPANY, PITCAIRN, PENNSYLVANIA

TESTIMONY OF JAMES PRESS

Mr. PRESS. Thank you.

Chairman Stupak, Ranking Member Walden, and members of the committee, I appreciate this opportunity to discuss why a realigned dealer network is important to the new Chrysler Group.

Despite completing a painful restructuring, the new Chrysler Group will retain 86 percent of its dealers by volume and 75 percent by location. I empathize with the dealers who were not brought forward into the new company, and I surely understand their disappointment. This has been the most difficult business action I have ever personally taken.

I'd like to begin first by answering the four questions that I have been asked most often while I've been here in Washington.

First, was discontinuing these dealers really necessary for Chrysler's survival? The answer is: absolutely, yes.

Today's automative industry cannot support the number of dealers currently in the marketplace. We have gone from 17 million new vehicle sales in 2006 to less than 10 million today. As a whole, the Chrysler dealer network is not profitable and not viable. In 2008, the average U.S. auto dealer sold 525 vehicles and made a profit of $279,000. The Chrysler dealer average was 405 vehicles and lost $3,431.

Without profits, dealers can't invest in people or training, facilities. As a result, sales and customer satisfaction suffers. The old Chrysler's multiple dealer channel was too costly to support. I'll give some examples of that in a moment. And to complete our bankruptcy process and our alliance with Fiat, we needed a realigned, new dealer network for the new company to emerge on day one.

On June 9th, the bankruptcy court authorized the discontinuation of our dealer agreements as part of our optimization plan. In his order, Judge Gonzalez said the dealer restructuring plan was, "an exercise of sound business judgment made in good faith and for legitimate commercial reasons." The judge also said in his ruling that the dealer reorganization was, "appropriate and necessary." On June 10th, the Fiat-Chrysler alliance was launched, with a right-sized new dealer network.

Second question: Dealers don't cost the company anything, do they? Well, in fact, they do. The cost to Chrysler of an oversized dealer network includes both lost sales and excessive spending.

First of all, dealers have a minimum sales responsibility every year. It's realistic and conservative and based on their average sales of Chrysler sales. Underperforming dealers cost unit sales as well as revenue. In 2008, of the 789 discontinued dealers, 80 percent of them were below their minimum sales responsibility, which translated into 55,000 lost sales, $1.5 billion in lost revenue.

Second, the old Chrysler dealer network included many dealers that sell only one or two of the three brands. This has led to tremendous redundancies and inefficiencies in product development and brand strategy.

For example, we spent $1.4 billion in the last product cycle in engineering and development cost for sister vehicles that did not return 1 cent of incremental profit or sales. For example, Chrysler currently supplies dealers with two similar minivans, two similar full-size sport utilities, two similar mid-size SUVs, and two similar sedans.

We cannot afford to produce unique products any longer, and that is one of the real reasons that the company had to declare bankruptcy.

Other cost inefficiencies include $150 million annually in marketing and advertising, $33 million annually in just administrative costs to work with the dealer body.

Third question. My discontinued dealer says he is profitable, so why not keep him? Profitability alone is not an adequate measure to determine a dealer's viability or value to Chrysler's future. Chrysler's discontinued dealers were, for the most part, the least profitable dealers in the network. On average, the discontinued dealers lost $73,000 last year.

But, of course, some of them are profitable, yes. Some of them are profitable, but their new Chrysler business may not be. In fact, most of the profitability of these dealers in question is driven from used car business or the sales of other makes in this same business.

Several problems beyond profitability contributed to certain dealers being discontinued. Many dealers are in the wrong location. Five hundred and fifty-five of the 789 are standalone. They do not have all three brands. They aren't viable. We can no longer produce products to keep those dealers alive. Fifty percent sell a hundred or fewer vehicles per year. Eighty-four percent sell more used than new. Forty-four percent sell competing brands in the same showroom.

Here is a typical example, a Dodge dealer in the mid-Atlantic area. This dealer is profitable, but he also sells Buick, Pontiac, Subaru, Isuzu, and of his new car sales Dodge only represents 3 percent of his sales, total sales for his dealership last year. That is a good example of the situation that we face.

So while some of the 789 dealers may be profitable, chances are they are making money selling used cars, competitive vehicles; and, by our assessment, they are a drag on the network in total.

The last page of my presentation isn't here, but I will paraphrase it very quickly. And that is that this is a very painful process. Going through bankruptcy was not our choice. The company is no longer a functioning organization. We have had to make some very difficult decisions in business that would assure, by making these tough calls for 789 dealers, we have got 2,391 dealers not represented here, in small towns, with Little Leagues, with a lot of employees whose jobs and business is saved, along with the full enterprise of our company, the suppliers, and the rest of the Nation.

This was a very difficult decision that we have made. It is one that we want to share with you in terms of transparency. We have taken every step to make this a soft landing for the dealers involved. And you will find out soon that all of the vehicles in the discontinued dealers have been redistributed, along with most of the parts and most of the equipment.

We stand ready to answer your questions and respond to any suggestions that you may have. Thank you very much.

[The prepared statement of Mr. Press follows:]

House Energy and Commerce Subcommittee on Oversight and Investigations

June 12, 2009

Chrysler's Dealer Network

James Press

Vice Chairman and President

Chrysler LLC

Introduction

Chairman Stupak, ranking member Walden, and Members of this Committee, I appreciate this opportunity to discuss how and why the new Chrysler Group is realigning its dealer network. Chrysler LLC's decision about which of the company's 3,181 dealers would be brought forward to the new company was gut wrenching, but it was an absolutely necessary part of our effort to assure the long-term viability of the new Chrysler Group. The goal of the sale of our assets to a new company was to position Chrysler to move forward as a strong, financially sound automotive company serving our customers with a broader and more competitive lineup of environmentally friendly, fuel-efficient, high-quality vehicles, and an equally high level of customer service through an efficient dealer network.

Court Approves Dealer Optimization Plan, and Chrysler - Fiat Alliance Finalized

The last thing Chrysler wanted to do was enter into Chapter 11. I can empathize with the dealers who were not brought forward into the new company, and can understand their disappointment. This has been the most difficult business action I have personally ever had to take. But the optimization of Chrysler's dealer restructuring plan was necessary to save the company. In an order filed June 9, 2009, U.S. Bankruptcy Court Judge Gonzalez authorized the discontinuation of dealer agreements as part of our optimization plan:

> *The rejection of the Rejected Agreements, as set forth herein,*
>
> *(1) constitutes an exercise of sound business judgment by the Debtors, made in good faith and for legitimate commercial reasons;*
>
> *(2) is appropriate and necessary under the circumstances described in the Motion, the evidentiary record, the Grady Declaration, the Debtors' Designations and the Reply; and*
>
> *(3) is warranted and permissible under sections 105 and 365 of the Bankruptcy Code and Bankruptcy Rule 6006.*

Also on June 9, The Supreme Court lifted its stay on Chrysler LLC's transaction with Fiat S.p.A., enabling the previously announced global strategic alliance to proceed. I am pleased to report that today, the alliance agreement has been finalized, and a vibrant new automotive company has been formed.

There are two main elements that we can control as an automaker: our products and our dealer network. It's a well-documented opinion of the Administration and many members of Congress that over the years Chrysler has not moved fast enough to make the tough changes necessary to become a formidable competitor. The changes currently underway at Chrysler are needed for the company to produce competitive products and field a healthy dealer body. If we invest in better products while maintaining a disadvantaged dealer body, neither Chrysler nor our customers will benefit.

Why Optimizing Our Dealer Network Is Necessary

At Chrysler, we are realigning our dealer network to ensure that the new dealer body will be strong and competitive in the future. We entered Chapter 11 proceedings because the automobile industry is in a depression, brought about by the economic slowdown and the freezing up of credit markets. Chrysler was unable to survive in that environment because our products and our dealer network were not competitive. The new Chrysler formed as a result of the Chapter 11 process needs to be able to survive and compete in the face of increasing global competition better than the Chrysler that went into it.

As a whole, the Chrysler dealer network is not profitable, and therefore is not viable. In 2008, the average U.S. automotive dealer sold 525 vehicles and made a profit of $279,000 according to the National Automobile Dealers Association, but Chrysler dealers sold only an average of 405 vehicles...and on average lost $3,431.

Dealer Profitability and Annual Unit Sales Comparisons - 2008

All Automotive Dealers U.S. National Average	**All Chrysler Dealers U.S. National Average**	**Discontinued Chrysler Dealers**
Retail Sales: 525 Vehicles	Retail Sales: 405 vehicles	Retail Sales: 163
Profit: $279,000	Profit: ($3,431)	Profit: ($73,000)

2008 Average Retail Sales per Dealership

Chrysler LLC Total	**Chrysler LLC Assumed only**	**Honda**	**Toyota**	**Nissan**
405	640	1,219	1,292	693

NADA and Chrysler data

Today's automotive industry cannot support the number of dealers currently in the marketplace. From 1990 through 2007, the industry averaged 16 million new vehicles sold each year. As a result of the industry depression, U.S. light vehicle sales fell to 13.2 million vehicles in 2008 and are projected to be only 10 million to 10.5 million vehicles in 2009. As part of the viability plan submitted to the administration on Feb. 17, Chrysler revised its Seasonally Adjusted Annual Rate (SAAR) forecast covering the next four years to reflect the reality of a declining automotive industry. The plan projected, commencing in 2009, a SAAR level of 10.1 million units, and for years 2009 through 2012, an average SAAR level of only 10.8 million units.

There's not enough business for the number of dealers Chrysler has today, given that we have less than two-thirds of our former sales volume. The Chrysler dealer network faces the additional disadvantage of a legacy of dealers that sell only one or two of the company's three brands – Chrysler, Jeep® and Dodge – which have led to redundancies and inefficiencies in product development and marketing costs. Poor performing dealers within the dealer network also cost the company in terms of lost sales and low customer satisfaction.

The "overdealering" problem has been well-chronicled over the past several years, even before the drastic downturn in sales. In the May 28, 2009, *Detroit Free Press* journalist Sarah Webster recalled writing about the problem two years ago:

> *"When I was working on the series in 2007, a Chrysler dealer in the Boston area wanted me to visit his Dodge store so he could show me what a dump it was and how badly it was hurting Chrysler's image. This dealer wanted to upgrade his run-down store, but, the way he saw it, Chrysler had crowded so many dealerships into his area to fight over a shrinking pie that he would never be able to sell enough cars and trucks to pay for the renovations.*
> *Dealers clustered in an area would move quickly to discount cars and trucks -- sometimes taking a loss -- just so they could close the sale and move a vehicle off their lot.*
> *Cutting the price obviously hurt the dealers and the automakers. But the dealers had no choice. If they didn't, another nearby dealership selling the same models most certainly would."*

David Cole, chairman of the Center for Automotive Research, was quoted in the May 17 *Crain's Detroit Business* as saying the current dealership network is too large.

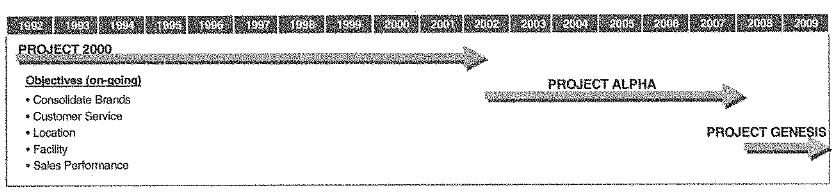
> *"The companies have lost so much volume, so they have dealerships for twice that volume...In the end, it's important to have successful dealers that can present the best possible face to the consumers," Cole said.*

AutoNation, Inc., one of Chrysler's largest dealer groups by volume, will stop selling new Chrysler, Jeep and Dodge vehicles at seven Chrysler dealerships as a result of our consolidation plan. Nevertheless, Mike Jackson, Chairman and Chief Executive Officer of AutoNation, released this statement:

> *"We believe Chrysler's consolidation plan is a difficult but positive step forward for Chrysler and the automotive retail industry. Dealer consolidation is a necessary measure in today's automotive industry and will strengthen America's dealer network and improve dealer profitability over the long term."*

Even before the current economic crisis, Chrysler realized it needed a smaller dealer network. Chrysler's efforts to consolidate its dealer network date back to 1992, when we had 4,923 dealers, and have continued since.

History of Chrysler Dealer Network Optimization Initiatives



Chrysler has consistently communicated the need for a consolidation of dealers to our network. Our most recent restructuring effort, Project Genesis, is aimed at bringing all three brands under one roof to go along with our plan to produce fewer products that overlap. Genesis was launched in 2008 with an extensive communication plan including a series of meetings across the United States with our dealers and presentations at the National Auto Dealers Association annual conference. In each market, we identified the optimal number of dealers and locations and began working collaboratively to build a healthy and profitable network.

Some have suggested that because an auto manufacturer like Chrysler sells cars to the dealerships, and these dealerships are independent businesses, they are not a cost to Chrysler. This is simply not true. For Chrysler, excess dealerships are costly in several ways. First is the problem of maintaining several dealership channels. Maintaining multiple distribution networks is inefficient and costly. Product complexity is increased because of the need to provide products in the same segment to different networks. For example, Chrysler currently supplies dealers with two similar minivans, Chrysler Town & Country and Dodge Grand Caravan; two similar full-size sport-utilities, Chrysler Aspen and Dodge Durango; two similar mid-size SUVs, Dodge Nitro and Jeep® Liberty; and two similar sedans, the Chrysler Sebring and Dodge Avenger. Based on six major vehicle launches between 2005 and 2008, Chrysler incurred approximately $1.4 billion in incremental costs to develop these multiple pairs of "sister vehicles."

Second, as a result of overdealering, the marketing and advertising messages are split between multiple products, diminishing the reach and frequency of each campaign. For example, in 2008 we spent about $100 million on each of two marketing and advertising campaigns to launch our two redesigned minivans instead of spending half as much to support a single launch to attain virtually the same sales volume.

Going forward, the new Chrysler Group LLC will reduce the number of overlapping products. We are moving from 27 nameplates covering 13 product segments in 2007 calendar year to a target of 20 nameplates covering 17 segments by 2013 calendar year. Fewer nameplates with better product and customer market coverage will help improve the overall return on our product capital investment. This means that dealers need to have all three of our brands under one roof in order to offer a full range of products and to optimize their profit potential.

Examples of Lost Revenue and Cost Associated with Discontinued Dealers

• Product engineering and development for "sister vehicles"	$1.4 billion over 4 years
• Lost sales due to dealer underperformance	$1.5 billion revenue annually
• Administrative cost to maintain the 789 discontinued dealers	$33 million annually
• Marketing and advertising	$150 million annually

Chrysler data

Finally, poor performing dealers cost us customers. It's true that dealers are our customers, but it works both ways. If they don't sell cars, we don't either. Poor performing dealerships cannot afford to keep facilities up-to-date or hire and train the best people, resulting in poor customer experience and lower sales. In fact, in 2008, the 789 discontinued dealers achieved sales of only 73 percent of the minimum sales responsibility, representing 55,000 lost unit sales and $1.5 billion in lost revenue in 2008.

A financially strong, competitive dealership should generate profits of more than $1 million a year. Profitable dealers can afford to invest in facilities, in people, in training and in amenities that produce a high level of customer satisfaction.

As I said earlier, we tried our best to avoid Chapter 11. Now, the new Chrysler Group needs to do its best to become as viable as possible. We recognize that the U.S. government and the American taxpayers have a stake in our success, and we are committed to building a new American automotive company that is financially sound and competitive both from a product and dealer perspective. This was our goal when we presented our viability plan in February and it was our goal in the Chapter 11 process.

How Identified Dealers: a Data-Driven, Objective Methodology

To achieve the necessary realignment, we used a thoughtful, rigorous and objective process designed to have the least negative impact while still creating a new dealer footprint scaled to be viable and profitable for the long term. The methodology was consistently applied to every dealer in the company's U.S. operations. The decisions made to either continue or discontinue dealer contracts were based on a robust process that looked at all market types: metro, secondary and rural. This analysis reviewed many factors that are unique for each market and dealer. The primary focus of this initiative, as it has been under Project Genesis, was to create a more viable network footprint that enhanced sales per dealer while bringing all three brands together within each retail outlet.

These factors included:

- Total sales potential for each individual market
- Each dealer's record of meeting minimum sales responsibility
- A scorecard that each dealer receives monthly, and includes metrics for sales, market share, new vehicle shipments, sales satisfaction index, service satisfaction index, warranty repair expense, and other comparative measures
- Facility that meets corporate standards
- Location in regard to optimum retail growth area
- Exclusive representation within larger markets

A team of people within our local business centers around the country, as well as headquarter's staff reviewed every market and dealer situation as a group many times. From this analysis, the 2,392 dealers who would best carry the new company forward were identified.

Although Chrysler submitted a plan to reduce total dealer count by 25 percent, those dealers represent only 14 percent of our sales volume. Half of these dealerships sell fewer than 100 vehicles a year, or less than nine vehicles per month on average (that compares with 125 vehicles sold per month on average at Toyota dealerships). About 44 percent of the discontinued dealers who reported revenues were profitable, earning $84 million last year, while the remaining 56 percent were unprofitable, losing a total of $136 million.

Chrysler 789 Discontinued Dealers at a Glance

- 25 % of total dealer network
- 14 % of sales volume
- 50 % sell 100 or fewer new vehicles per year
- 84 % sell more used than new vehicles
- 44 % are dealers dualled with a competing franchise

In many instances, we're moving a franchise as part of our overall Project Genesis consolidation that brings all three of our brands under one roof. So, when a Dodge dealer's contract is not assumed, that franchise in some cases will wind up in a nearby Chrysler/Jeep store. In that case, the business should grow, become more profitable and have a beneficial impact on the community. Of our remaining 2,392 dealers, 84 percent will carry all three of our brands compared with 62 percent prior to implementation of this plan. The new Chrysler Group LLC dealer network will be in better retail locations with more modern facilities that are convenient and better positioned to serve customers. With the opportunity for increased sales per outlet, dealers should experience an enhanced franchise value resulting in more willingness to invest in facilities, people and their local communities.

Chrysler Customers Will Still Have Convenient Access to Improved Dealer Network

Of the 789 discontinued dealers, 284 are within 10 miles of a same-line dealer that is being retained. Based on registration data, our customers reside an average of 6.28 miles from the nearest Chrysler, Jeep or Dodge dealer now; this distance will increase to 6.80 miles after the consolidation. With regard to rural dealers, the distance increases from 9.72 to 10.70 miles. Even with the consolidation, our dealers on average are more conveniently located to customers than Toyota or Honda dealers are to their customers.

Customer Convenience Comparison

Average distance in miles a customer must drive to reach a dealership

	Old Chrysler	New Chrysler	Change	Toyota	Honda	Chevy	Ford
Metro	4.45	4.82	0.37	5.01	5.11	4.10	4.23
Secondary	6.08	6.44	0.36	7.38	7.58	5.69	5.76
Rural	9.72	10.70	0.98	19.27	24.27	8.04	8.69
Total	**6.28**	**6.80**	**0.52**	**9.11**	**10.31**	**5.58**	**5.81**

Urban Science 2008

It's vital to Chrysler's future that we take care of our customers' needs during this process. We have a comprehensive communications plan to be launched by the new company that will include a letter to all owners explaining our alliance with Fiat and emergence as a vibrant new company. These letters also will assure customers that all warranty claims will continue to be honored and provide a toll-free hot line number to a call center to answer their questions. Those owners who are customers of terminated dealers will receive another letter a few days after the terminations are official, providing information on other dealers in their area as well as a service offer.

Timing of the Dealer Consolidation

The time frame for discontinuing dealers was driven by the Chapter 11 process and the need for speed in order to preserve maximum value for Chrysler. Prior to May 1, Chrysler had planned to avoid bankruptcy. Only after filing did we begin the necessary process of actually identifying which dealers could go forward with the new company. Timing was mandated by the Chapter 11 proceeding, including the requirement to complete our strategic alliance with Fiat by June 15. It was important to Chrysler and Fiat that a new and stronger dealer network would be in place by the closing date. On May 14, we notified the dealers of our decisions, and later filed the list of discontinued dealers with the court.

In his approval of the sale motion, Judge Gonzalez confirmed, "while in Chapter 11, Chrysler is a wasting asset," – meaning that while we're not building cars, our assets are deteriorating and customers are losing confidence.

It was in the best interest of Chrysler and discontinued dealers to move quickly through this process. The number of days' notice provided to discontinued dealers was similar to the 30 days provided under the Chrysler voluntary termination process, and it provided for a quick process in everyone's best interest. Financial commitments from both the U.S. and Canadian governments require our alliance with Fiat be completed by June 15. This deadline determined a number of other deadlines, including the June 9 termination date for rejected dealers. That termination date is needed to ensure that our new dealership structure will be firmly in place at or about the time the new company is formed with Fiat – something understandably important to Fiat.

The success of our new enterprise depends in large part on this new dealer body, and we must focus our limited resources on this. Similarly, we do not want customers to have any confusion about who is and who is not a dealer for the new company. The termination date for discontinued dealers was chosen, therefore, to meet the demands of our creditors and partners, to bring our new dealer network online as quickly as possible and to strongly signal customers that the new dealer body will meet their needs.

What Chrysler Is Doing to Provide Relief for Discontinued Dealers

We have worked hard to assure as soft a landing as possible for the dealers whose contracts have not been assumed. We quickly put together a program with GMAC to provide wholesale financing so all remaining inventory would be redistributed to the dealers going forward. Under this program, a dealer would receive the invoice price less holdback and other fees the dealer was already paid, less a $350 dollar fee for inspection, cleaning and transportation of each vehicle. Since the inventory is owned by a dealer, their approval is required for Chrysler to assist in the redistribution process. Every dealer was asked to sign an "Inventory Assistance Acknowledgement Form" indicating that he or she understood the process and wanted our assistance. There were 42,000 vehicles in stock at discontinued dealers on May 14, and working together, we've already sold or redistributed nearly 100 percent of all vehicles in discontinued dealer inventory.

Inventory Status of Discontinued Dealers as of June 9, 2009

	5/14/09 Dealer Inventory	Sold/Re-distributed		Balance	
		#	%	#	%
Total	**42,006**	**41,786**	**99%**	**220**	**1 %**
(memo) Dealers Accepting Assistance	12,347	12,347	100%	0	NA

Every dealer on the discontinued list was contacted by a representative from his or her business center by close of business May 22. Each dealer was advised of and received a letter that outlined the process that Chrysler developed for assisting in the disposition of vehicles, parts inventory, special tools and signage. Our objective was to have 100% of the inventory sold to customers or committed to a "go forward" dealer by June 9. We accomplished this. For all dealers who agreed to accept Chrysler's assistance in the redistribution, the inspection and shipment of inventory will begin on June 12, and we will continue to work with dealers in the processing of outstanding incentive and warranty claims.

The potential job losses associated with discontinued dealers are far less than some of the public speculation you have seen. Based on our data, we estimate a total of 29,982 people are employed at the dealerships that we proposed to discontinue. However, it is important to note that 44 percent of these dealers are dualled with our competitors and are expected to continue selling those other makes. In those dualled dealerships, Chrysler brands represent only 12 percent of their total sales volume. In addition, it's important to note that 84 percent of these dealers sell more used vehicles than new, and many of these dealers will continue selling and servicing pre-owned vehicles. Therefore, it is a safe bet that a substantial number of these employees will not lose their jobs. For those who do, we're expanding our current online job posting hiring process to help place dealership employees who lose their positions. The job loss is painful and tragic, but is much better than the alternative of all dealers closing as a result of liquidation.

Shared Sacrifice Required to Save Chrysler

There's no question that Chapter 11 has been a painful process. While a number of elected officials, commentators and other observers of the industry have advocated bankruptcy for the company, it was not Chrysler's first choice. However, at this point, we are committed to do our best to create a new company that will succeed in the long term. We recognize that you and your constituents have a stake in our success, and that's why we are committed to take the tough but necessary actions to build a new Chrysler that is fully able to compete and win. To do that, we must provide the

American public fuel-efficient vehicles with strong consumer appeal and a strong, high-quality and viable dealer network; one without the other will fail.

Does my heart go out to the dealers who will not be part of the new company? Absolutely. But we've had to make many hard choices to create a viable business and preserve jobs for tens of thousands of people. Many of our other stakeholders have made unprecedented sacrifices. In that perspective, the sacrifices of the dealer network are in-line and appropriate considering that 27,000 Chrysler jobs were eliminated, the UAW accepted wage and benefit cuts that place them on a par with workers at transplant operations, many suppliers have experienced pricing reductions in addition to significant job losses resulting from reduced volumes, and many retirees are losing a significant portion of their pensions.

Given the auto industry depression, Chrysler had no choice but to seek Chapter 11 protection. Facing that reality, we used a thoughtful, fair process to assess our dealer network, and we are doing everything possible to soften the impact for everyone affected.

Realignment of our dealer network will help create a vibrant new company, with a stronger and leaner organization and a key partner in Fiat. Moving forward with 75 percent of our dealer network is far better than the alternative of liquidation, which Chrysler will face if the sale of assets is not finalized and the alliance with Fiat completed. Under liquidation, tens of thousands would be out of work, and all 3,181 of our U.S. dealerships would lose their agreements to sell and service Chrysler vehicles, which would have a far more devastating effect on scores of communities and on our national economy.

We're extremely excited about our prospects going forward. Our alliance with Fiat will provide significant strategic advantages, including access to high quality, fuel-efficient small and compact vehicles, as well as platforms, powertrain technologies and components that will be produced at Chrysler manufacturing sites. Together, the Chrysler Group and Fiat will bring a range of exciting, new fuel-efficient compact vehicles to North American consumers, helping stimulate growth in this segment. The new Chrysler Group's revamped dealer network will help ensure that remaining dealers and the new company will be stronger, and more profitable, providing a solid base of jobs and capable of growth going forward.

Chrysler's Special Bond with the American Public

Throughout its 84-year history, Chrysler has had and will continue to have a special relationship with the American public. The "new" Chrysler Group LLC will continue to provide innovative, high-quality vehicles and service to the American consumer and also will be fully capable of competing in the global market. It is an exciting time for the entire "new" Chrysler family.

We recognize that we have a special bond with America and with American taxpayers, and we're committed to deliver on their investment by building a viable company and building high-quality products with strong consumer appeal. We take to heart our responsibility to produce vehicles that serve society and contribute to getting our country and our national economy back on track.

As we have testified before, several actions will help stimulate automotive sales. First, returning to a functioning finance environment for our customers and dealers will help spur sales. Second, programs that will increase demand such as the bill that the house just passed, The Consumer's Assistance to Recycle and Save Act, would be very helpful. We appreciate Congresswoman Sutton's leadership sponsoring this legislation as well as Chairman Stupak's efforts in getting the bill through the house. This fleet modernization program will stimulate sales while improving fuel economy.

A strong new Chrysler can play a key role in rebuilding the American manufacturing base – and manufacturing must thrive if we want the economy to grow in the long term. Simply put, our country's health and security depends on our ability as a nation to make things that people want to buy.

Given the fragile state of the economy, a failure of Chrysler would be a severe setback for the efforts to restore confidence and revive growth. A healthy U.S.-based automotive industry is the backbone of the nation's economy – creating wealth. Every direct job at an automaker creates nearly 10 more jobs at suppliers and supporting industries. The auto industry has been a great engine for producing well-paying, middle-class jobs.

We are very grateful to loyal Chrysler customers who have supported us throughout this process and assure them Chrysler Group is well-prepared to produce and support quality vehicles under the Jeep, Dodge and Chrysler brands as well as parts under the Mopar® brand. We also recognize the sacrifices, unstinting loyalty and enduring belief in Chrysler of many stakeholders, including Cerberus and Daimler, the UAW and CAW leadership, employees, dealers and suppliers who made critical contributions to the viability of Chrysler Group, Chrysler Financial and their efforts with GMAC to provide financing, and the energy and commitment of the U.S. Treasury, the President's Auto Task Force, Members of Congress and representatives at the state and community level and Canadian Federal and Ontario Provincial governments in helping to move Chrysler Group forward. Without the extraordinary efforts of all these constituents, the alliance and the creation of a new Chrysler would not have been possible.

All of us at Chrysler take enormous pride in the contributions that the company has made to our industry and country. We also are deeply honored by the trust that customers continue to place in us, and we look forward to continuing to earn their trust for many more years.

Thank you very much.

Mr. STUPAK. Thank you. Thank you, Mr. Press.

Mr. Henderson, your opening statement, please.

TESTIMONY OF FRITZ HENDERSON

Mr. HENDERSON. Good morning and thank you, Chairman Stupak and Ranking Member Walden.

Mr. STUPAK. You may want to pull that just a bit closer.

Mr. HENDERSON. Behind each action we are taking to reinvent GM, there is a human story. Our dealers are part of the larger GM family. They are valued business partners and, for many consumers, the face of General Motors. However, the sacrifices, all painful, that we are all making are necessary to put GM on a brighter path to long-term viability and success.

We owe this to the U.S. taxpayer. In essence, this is our last chance to deliver and reduce debt, to operate under competitive labor agreements, to have the manufacturing capacity that matches today's market realities, and, most importantly, to continue to design and build winning cars and trucks with leading technology.

We simply cannot undergo this sweeping transformation without a comparable effort to reshape our retail network, one which was largely created in the '50s and the '60s. We have been called upon to make tough commercial decisions, and we will do so responsibly and compassionately and, in the case of our dealers, to act as carefully, responsibly, and objectively as we can to help them wind down their businesses in an orderly fashion, with a structured assistance package that benefits them relative to their alternatives.

This approach is in stark contrast to what happens in most contracts in bankruptcy, where contracts are typically simply rejected with no assistance. And, unfortunately, we are a company today in bankruptcy.

Let me first discuss costs and then sales opportunities that are relevant to these dealer decisions. A concentrated and highly profitable dealer network will reduce costs for GM at a time when every dollar is precious. These cost savings come in two categories. A right-sized network of strong dealers will allow GM to systematically—and this is over time—reduce direct dealer support programs, which today involve for General Motors about $2 billion here in the U.S., or approximately a thousand dollars per retail sale. This is a gross savings of a little less than a million dollars per discontinued dealer.

This, however, does not take place immediately, because these support programs, or in fact subsidies, have been incorporated over many years to help dealer profitability as our dealer network has, unfortunately, weakened financially. To the best of our knowledge, our best-in-class competitors today bear few, if any, of these costs.

Our consolidation will also provide an estimated $415 million in gross fixed-cost savings potential, items like guaranteed local advertising—excuse me—assistance, service and training, and information technology systems, for a potential of approximately $180,000 per dealer.

Second, our dealer consolidation is not just about saving money but about creating opportunity and revenue growth. It is about our dealers augmenting our efforts to greatly enhance consumer perception in our products, brands, and General Motors directly and on a daily basis.

That is why in every other aspect of the retail business, from Harley-Davidson to Apple stores and, yes, Toyota and Honda, you see that a premium is placed upon creating a distinct, consistent, and top-notch retail experience. That is why we are building a profitable business plan for between 3,500 and 3,800 U.S. dealers by the end of 2010, which, with a retail sales market of over 10 million units and a conservative share assumption, would allow our dealers to approximately double their throughput. For dealers, this translates into a greater return on investment, better profits, and the ability to attract and retain new customers and the best people to service our vehicles.

Finally, even with these cutbacks, GM will still have the largest dealer network in the country, more than any of our competitors. In our case, around 3,600 versus, for example, Toyota's at 1,200. This would include an extensive rural network of 1,500 dealers nationally in markets where we hold today on average more than a 10 point advantage in market share.

While we are operating with a high sense of urgency, it is equally important we get this process right, considering the personal and financial stakes at hand. We recognize we won't get every call right. That is why we are listening and working with the dealers and with the NADA to give us all a better understanding of their concerns. As a result, we sent our dealers a letter this week clarifying various subjects in the participation agreement, most notably dualing with competitive makes and performance standards.

So what is the current status of our work on this important front? We have in place an appeals process and have considered 856 appeals requests as of yesterday and have granted 45. We will continue to evaluate all GM dealers against a common set of performance standards to ensure that our selection process is fair and robust.

As of today's deadline, we are encouraged by the progress we are making, and the overall dealer response has been strong. Approximately 99 percent of GM dealers have signed or verbally agreed to our participation agreements, while almost 96 percent have done so with the wind-down agreements.

In closing, we are deeply grateful for the support of these dealers. They are helping to create a viable GM that will preserve over 200,000 jobs at GM's remaining dealers, along with hundreds of thousands of jobs with GM's direct manufacturing and supply network.

We are also grateful for your support during this critical time. We take our responsibility to the American taxpayers very seriously, and we promise to be open and transparent in all we do every step of the way.

Thank you, and I look forward to your questions.

[The prepared statement of Mr. Henderson follows:]

Testimony delivered to

United States House of Representatives
Subcommittee for Oversight and Investigations,
Committee on Energy and Commerce,
June 12, 2009

by

Frederick A. Henderson
President and Chief Executive Officer
General Motors Corporation

Good morning and thank you, Chairman Stupak and Ranking Member Walden.

I'm Fritz Henderson, President and CEO of General Motors. Thank you for the opportunity to discuss an important part of GM's viability plan, our dealer network restructuring. Simply put, a strong dealer body is vital to GM's success. Indeed, for many customers, our dealers are the "face of GM" – so this effort is critically important to the successful reinvention of General Motors.

Our dealer restructuring is also an effort that is quite painful – for us, for our customers, and especially for our dealers. Many of our dealers operate businesses that have been in their families for generations. Our actions affect them personally as well as financially. They also affect the communities and states where our dealers live and work.

That is why we are conducting our GM dealer restructuring very objectively and carefully and in consultation with several of our dealers. We decided not to terminate any dealers, and instead developed a unique wind-down process that we believe is considerably more equitable for our dealers. I will share details about our process later in my testimony.

GM's current dealer network was largely established in the late 1940s and '50s, before the U.S. Interstate Highway system was built. America at that time was a much more rural country, and GM, Ford and Chrysler dominated the U.S. car market. But times have changed.

Today, I'm here to discuss:

- why GM needs to have fewer, more profitable dealers selling at higher volumes;
- the costs associated with having under-performing dealers; and
- the objective process we are using to make the changes we need to make.

* * * * * * *

For decades, GM and our dealers have enjoyed periods of prosperity, just as we have weathered the inevitable troughs that are part of the cyclical auto business. Over the last 20 years, we have seen particularly dramatic changes and pressures that have come from international trade, volatile energy markets and increased competition in the U.S. market. Today, more people live in the suburbs of major metropolitan areas, versus rural areas or small towns.

Foreign manufacturers who entered the U.S. market in earnest beginning in the '70s had the advantage of establishing dealer networks in response to these trends and in line with modern demographics.

But the most recent global financial crisis – which has yet to stabilize – has made it clear that we no longer have the luxury of restructuring our business through the evolutionary approach we have used in recent years. It was an approach that was changing GM while minimizing the disruption that such change brings to everyone involved.

Although it's been tough to hear at times, the direction we received from Congress, the current and previous Administrations, the Automotive Task Force, and countless industry analysts and pundits, was clear and to the point: to remain viable, GM needed to enact a dramatic restructuring, with speed, across all parts of our business. We were asked to deliver a plan to make that happen by June 1.

President Obama acknowledged what we all understood from the start – such a plan would require shared sacrifice from GM and all of our stakeholders. What has become clear as we have executed our plan is that GM, our employees, and our dealers do matter to America. We are collectively woven throughout the economic fabric of our country.

And this has been the most difficult part of executing our plan: the human story of the people who are affected by the painful but necessary actions we are taking to ensure our viability. Members of Congress, the Automotive Task Force and other Administration officials have seen this for themselves during their visits to our facilities and plant communities in recent months.

Reinventing GM – real change – does require shared sacrifice. Thousands of hourly and salaried employees are losing their jobs, and those who remain have had their pay and benefits cut. Plant closures impact families and the communities where they live.

These are tough times for everyone in the GM family. And, as a part of the GM family, our dealers are also being asked to bear some of the sacrifice in order to build a stronger, more viable GM.

The reality of our situation is this: all parts of GM, including the dealer network, must become smaller and more efficient to reinvent GM as a company that is not only viable, but capable of surviving cyclical downturns. GM's viability plan calls for fewer, stronger brands, as well as fewer, stronger dealers.

For years, we have heard that GM must adapt to today's global competition and market conditions or it will not survive. We agree.

In the case of our dealer network, because of our long operating history and existing dealer locations, many dealerships now operate in outdated facilities that are no longer located where they can best serve our customers.

Much of the growth in GM's dealership network occurred in the 1950s and '60s, when we held a dominant share of the U.S. auto market. Since that time, strong new competitors have entered the U.S. market and GM's market share has shrunk, leaving us with too many dealerships. For example, GM today has roughly 6,000 dealerships in the U.S., compared to 1,240 for Toyota and 3,358 for Ford.

In addition to the intense pressure from competitors, GM dealers also compete against each other. Over the years, many GM dealers could not earn enough profit to renovate their facilities and retain top-tier sales and service staffs.

Thin profit margins and state franchise laws also prevented many dealers from relocating as U.S. demographics shifted from urban to suburban settings. The dealers that remain compete with each other for a shrinking share of GM sales. Current market conditions only make this situation worse.

Dealer attrition in 2009 through a bankruptcy or other financial distress is averaging 80 GM dealers per month. This rate would imply attrition of 1,280 dealerships through October 2010, or approximately the same number of dealers that have been offered wind-down agreements.

Our current plan calls for GM to have between 3,800 and 3,500 U.S. dealers by the end of 2010, depending on attrition levels, with a retail market share of 17.3 percent in a retail sales market of 10.15 million units per year. This means the number of units sold per dealer would nearly double.

This overall number of dealers is based on the previously announced potential sale of the Saturn, Hummer and Saab brands, or their phase-out if they can't be sold; dealer attrition over the next 18 months, which – in these difficult times – is running at record levels; and the wind-down over time of the approximately 1,200 dealers we notified on May 15th, plus an additional 200 dealers who also received wind-down agreements last week. And I hasten to point out that, even with these cutbacks, GM will still have the biggest, most extensive dealer network in the country – more than any of our competitors, including Toyota, Honda, Nissan, Ford or Chrysler.

On March 30, 2009, the U.S. Department of the Treasury noted the challenges posed by GM's current dealer network:

"GM has been successfully pruning unprofitable or underperforming dealers for several years. However, its current pace will leave it with too many such dealers for a long period of time while requiring significant closure costs that its competitors will not incur. These underperforming dealers create a drag on the overall brand equity of GM and hurt the prospects of the many stronger dealers who could help GM drive incremental sales."

Everyone agrees – even the dealers themselves – that a restructuring of GM's dealer network must take place.

Obviously, General Motors is presently in bankruptcy and this is a time when resources are extraordinarily limited. Our company takes very seriously our responsibility to the taxpayers. A focused dealer network will reduce costs for GM in a very meaningful way at a time when every dollar is precious. These cost savings come in two categories.

First of all, a right-sized dealer network centered around strong dealers will allow us to drastically reduce, and in some case eliminate, many direct dealer support programs –

programs such as the incentives paid to the dealer, factory wholesale floorplan support, and the one percent market support for each vehicle. The reductions in direct dealer support will result in annual savings of over $2 billion annually – or about $928,000 per closed dealer.

Second, the dealer network reductions will also save an estimated $415 million per year in structural cost savings – items like local advertising assistance, service and training, and information technology systems. These savings amount to about $180,000-per-closed dealer. In total, the dealer restructuring should result in approximate savings of over $2.5 billion per year, or over $1.1 million per closed dealer on an annual basis.

But cost savings are not the only reason restructuring the dealer network is so important. GM's success over the long haul – which U.S. taxpayers are invested in – will depend in no small part on a healthy, strong and profitable dealer network that can provide the industry's best customer service and enhance the image of our four remaining brands: Chevrolet, Cadillac, Buick and GMC. Dealers who underperform simply cannot provide these benefits to our customers. GM's remaining dealerships will be better positioned to keep their current GM customers, while aggressively marketing to take sales from competitors.

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I'd like to talk for a moment about the objective process we are using to consolidate GM's dealer network. We strongly believe that <u>how</u> we are doing this is as critical to our success as <u>what</u> we are doing, and GM's dealer consolidation process is unique.

Prior to taking any action, we conducted a thorough analysis of every GM dealer in every market throughout the U.S. to assess individual market requirements and dealer performance.

Some of the key dealer performance factors that we looked at included:

- Customer satisfaction index
- Sales performance and volume
- Working capital
- Profitability
- Dualing patterns
- Dealership location
- And current state of each facility

We also carefully considered our dealer network coverage in rural areas and small towns versus urban/suburban markets. We know that our strong presence in rural areas, small towns and "hub" towns gives us a strong competitive advantage on average of more than 10 points in market share, and we would like to maintain that advantage. When our rural and small town dealers perform to our standards, they are a huge asset, and so we intend to retain an extensive rural network of 1,505 dealers nationally.

We also took great pains to ensure that minority dealers were considered equitably and proportionally in our process. In fact, the percentage of minority dealers overall may actually increase slightly after the consolidation takes place.

Following our analysis, we identified those dealers that we cannot retain in the GM dealer network long-term. It is important to note, as I stated earlier, that we have not terminated any GM dealers. Instead, we have sent wind-down agreements to those dealers we cannot retain. When executed, these agreements allow dealers to stay in business until October 2010 – the expiration date of their current dealer agreement – so they can sell down their vehicle inventories and provide warranty service to customers. This allows dealers to wind down their businesses in an orderly fashion – for the benefit of GM, our dealers and our customers.

Subject to bankruptcy court approval, we also offer some financial assistance to dealers as part of the wind-down agreements to help them close their stores in an orderly fashion. And we notified dealers about our planning as soon as possible – on May 15, in most cases. While this process is far from painless, we think it is far preferable to an abrupt termination.

Identifying dealerships that we cannot retain has been a very difficult step, but one we had to take for GM's long-term viability.

By reducing the number of GM dealers, our remaining dealers will see increased sales throughput at more competitive levels. This will provide a greater return on their investment, especially in metropolitan markets. They will be able to retain top sales and service talent, invest in their facilities and focus more resources on selling vehicles to people who don't currently own a GM car or truck. Most importantly, they will be able to improve the overall customer experience and retain current customers.

By winding down under-performing dealers, we will eliminate the negative impact they have on our brand image and increase the opportunity for sales and service by our high-performing dealers. As a result of this effort, we will achieve substantial cost reductions. And moving forward, these actions will enable us to focus our limited resources on strong performers and core brands, enhancing our long-term viability, spurring a return to profitability and enabling us to repay our debt to the taxpayer more quickly.

While we are operating with the highest level of urgency in these matters, we believe it is equally important that we get this process right in light of the personal and financial stakes at hand. We recognize we won't get every call right. That's why we are listening and working with our dealers and the National Automobile Dealers Association to give us all a better understanding of their concerns.

As a result of these consultations, we sent our dealers a letter this week clarifying various subjects in the participation agreement for remaining dealers, most notably dualing with competitive makes and performance standards.

We also have in a place an appeals process. We have considered **856** appeal requests and are reviewing hundreds of appeal cases. We will continue to evaluate all GM dealers against a common set of performance standards to ensure that our selection process is fair and robust.

As of today's deadline, we are encouraged by the progress we are making and the overall dealer response has been very strong. 91 percent of GM dealers have signed or verbally agreed to the participation agreements, while almost 67 percent have done so with the wind-down agreements.

Successful dealers are critical to the future of General Motors. Strengthening our dealer network will make that future possible and preserve over 200,000 jobs at GM's remaining dealers, along with hundreds of thousands of jobs with GM's direct manufacturing and supplier network.

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Before concluding, I would like to commend the House of Representatives for its swift passage earlier this week of the Consumer Assistance to Recycle and Save (CARS) Act. This fleet modernization or "scrappage" legislation provides incentives for customers to trade in older, less fuel-efficient vehicles for vouchers to purchase newer, cleaner more fuel-efficient vehicles. Similar programs have been very successful in stimulating vehicle sales in other countries, and we urge the full Congress to quickly enact legislation for such a program in the U.S.

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In conclusion, we at GM are grateful for the support of Congress and the Administration as we undertake this painful, yet essential reinvention of our company.

As we are experiencing first-hand, it's much easier to talk about the need to change than to make it happen.

The wholesale reinvention of GM requires sacrifice, and will not been easy. But we will not soften our determination to see this process through. We hope your support remains just as strong.

We understand our responsibility to American taxpayers, and we take it very seriously. We want GM not only to survive, but thrive. And we want our employees, communities and our dealers to thrive with us. This – and of course great cars and trucks – is the way to pay back our nation's support.

The end result will be a leaner, stronger "New GM" positioned for a profitable, self-sustaining and competitive future – one that will not only benefit employees and dealers, but contribute to America's economic well being.

Thank you. I look forward to your questions.

Mr. STUPAK. Thank you, Mr. Henderson.

Mr. McEleney, please, National Auto Dealers Association.

TESTIMONY OF JOHN MCELENEY

Mr. MCELENEY. Thank you, Chairman Stupak, Representative Walden.

My name is John McEleney, Chairman of NADA, the National Automobile Dealers Association. I am also President of McEleney Autocenter of Clinton, Iowa, which is in the district of Representative Bruce Braley. We operate General Motors, Toyota, and Hyundai franchises and have been in business for 95 years; and we provide jobs for 140 people. Additionally, my family held a Chrysler franchise from 1984 to 2007.

NADA welcomes engagement of this subcommittee. This panel has a long history of aggressive congressional oversight, and that is exactly what we need to enhance your understanding of the Chrysler and GM bankruptcy proceedings. The lack of transparency during this government-structured process has compounded our concerns about the treatment of dealers throughout this ordeal.

In the initial viability submissions, Chrysler mentioned nothing other than continuing their current program to facilitate dealer consolidation. Yet bankruptcy has left 789 Chrysler dealerships without franchises on 26 days notice without even buying back their vehicles, parts, and factory specific tools. No manufacturer has ever done this.

GM's original viability submissions reflected the desire to eliminate some brands, and its call for additional dealer consolidation was over an extended period of time. Now, besides the brand eliminations, 1,350 additional GM dealers face terminations on a much more aggressive timeline.

Why this dramatic shift? In response to a question before the Senate Banking Committee on June 10th, Ron Bloom of the Auto Task Force said, and I quote, we did not give the companies a numerical target, but we certainly did say, regarding plants, regarding dealers, regarding white and blue collar head count, regarding all these matters that you need to be more aggressive, close quote.

Everyone agrees that these companies need to decrease costs and increase revenue, but dealer cuts do not achieve these goals. The other key elements of the restructurings provide direct and timely cost savings to GM and to Chrysler. In sharp contrast, terminating a dealership does not provide any material cost savings. The retail network, the land, the buildings, the employees, training, the dealers pay for all of this.

As detailed in my written testimony, we dispute the notion that the dealer network imposes any significant per vehicle cost or any significant administrative costs on the manufacturers. Indeed, company officials have been widely quoted as saying that the manufacturers' costs do not vary, whether there are 6,000 dealers or 3,000 dealers. Moreover, the faster, deeper approach of the Auto Task Force will actually reduce manufacturer revenue at this critical juncture.

Over 90 percent of Chrysler and GM's revenues come from the dealers. Because the dealers buy the cars, the parts, even the dealership signs from the manufacturers. Automakers will tell you that it takes at least 18 months to regain the sales of a closed dealership. And that is the best-case scenario. In short, the dealer terminations will cause revenue losses for the manufacturers without any corresponding cost savings. As such, we do not see how these cuts make economic sense, not for the companies, not for the dealers, not for local communities, and certainly not for the struggling U.S. economy.

Now I will turn to the status of the GM agreements, both the participation agreements for those dealers going forward and the wind-down agreements for those dealers who lose their franchises.

Last week, during my testimony to the Senate Commerce Committee, I voiced NADA's concerns about the extremely one-sided participation agreements delivered to 4,000 dealers of the new GM. During that hearing, Mr. Henderson committed to meet with NADA to discuss our concerns. GM followed through on that commitment. Our leadership met with senior GM officials last Friday, and we had a very frank discussion. As a result, GM has agreed to make significant improvements in the participation agreement. Additionally, GM is committed to clarify some of the terms of the wind-down agreements, and NADA will continue to work with GM to improve these agreements. We appreciate GM's efforts to interact with NADA on these crucial matters.

In conclusion, Mr. Chairman, I want to thank you again for convening this hearing, because we still have fundamental concerns. These government-negotiated bankruptcies continue to threaten dealer rights under State motor vehicle franchise laws. These laws inject balance in the inherently unbalanced economic relationship between a dealer and the manufacturer; and they also provide consumers a reliable, convenient, and competitive auto retail network. Therefore, Congress should ensure that the franchise laws of 50 States apply with full force and effect, especially when the new Chrysler and the new GM are operating outside of bankruptcy.

We urge Members of Congress to support H.R. 2743, which would restore fundamental rights to dealers. We stand ready to work with you to achieve this goal.

Thank you for holding this important hearing, and thank you for the opportunity to testify.

[The prepared statement of Mr. McEleney follows:]

Written Testimony of John P. McEleney, Chairman

National Automobile Dealers Association

Submitted to the House Energy and Commerce Committee
Subcommittee on Oversight & Investigations

For Hearing On

GENERAL MOTORS AND CHRYSLER DEALERSHIP CLOSURES AND RESTRUCTURING

June 12, 2009

Mr. Chairman, Ranking Member Walden, my name is John McEleney, and I am the Chairman of the National Automobile Dealers Association (NADA). I am also president of McEleney Autocenter, of Clinton, Iowa., which is actually in Rep. Bruce Braley's district, who is on this subcommittee. We operate General Motors, Toyota and Hyundai franchises and have been in business for 95 years and now provide jobs for 140 people. Additionally, my family held a Chrysler franchise between 1984 and 2007.

NADA's membership consists of over 17,000 new car and truck dealers in the United States, both domestic and international nameplates, whose independently-owned businesses employ upwards of 1 million "Main Street" Americans. NADA truly is the "Voice of the Dealer" because our association represents over 93 percent of all dealers, regardless of make and model. To put this powerful employment model in perspective, the largest private sector employer in America is Wal-Mart, with 1.3 million employees. Moreover, dealership jobs pay well. The typical compensation for a dealership's employee is more than twice the national average of jobs in the retail sector, and our jobs cannot be outsourced. Even more Americans are employed in businesses that supply goods and services to dealerships. Statistics that document the extent of automotive retailers contribute to our economy at the local, state, and national levels may be found at NADA's website.[1]

We need the help of this subcommittee to ask some key questions about the treatment of dealers, their employees, their communities, and the customers that depend upon these local businesses. Why are dealer reductions necessary at this time? How did Chrysler decide which dealers to terminate? How will the announced dealer reductions enhance the viability of GM and Chrysler? To date, we have received no plausible answers to these most basic questions.

At the outset of my testimony, I wish to emphasize that the overall state of auto retailing is dire. No previous economic challenge except for the Great Depression can compare to what confronts franchised dealers today. The automobile retail industry is highly credit-dependent and, as such, was disproportionately hard hit by last year's financial crisis. Floorplan credit, the financing used by dealers to buy new and used vehicle inventory, has contracted dramatically, and even creditworthy dealers are having trouble finding access to floorplan financing. At the same time, we are experiencing the lowest new car sales rate since World War II. Unless and until these larger challenges are resolved, all auto manufacturers and dealers will continue to face problems. In fact, we will not have a meaningful economic recovery in this country without resolving these broader issues, because auto sales historically have constituted 20 percent of all retail spending in the United States.[2]

As the President's Auto Task Force has initiated the restructuring of two of the largest manufacturers in the United States, there has been a significant lack of transparency or justification in this process. As the Chairman of NADA, I have

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[1] (http://www.nada.org/Publications/NADADATA/DrivingUSEconomy/)

[2] For more on credit and the auto industry, see the attached Appendix, "Credit and the Auto Industry"

represented dealers in three meetings with the President's Auto Task Force as well as in conference calls, and have provided at their request many documents and data. At our meetings with the Task Force, we have repeatedly explained the fact that dealers are not cost centers for manufacturers but rather externalize the manufactures' costs. Dealers are the largest source of revenue for the manufacturers, and to the extent there is "overdealering" in certain areas, the past 50 years the dealer population has declined every year due to orderly consolidations. I elaborate on these points later in this testimony.

NADA has had regular meetings with the manufacturers on a wide variety of matters related to industry relations. During the past year we have met with Chrysler and GM on numerous occasions to discuss the specific submissions that each company made in conjunction with the bridge loans last year and the viability plans this year. Additionally, we have had numerous conference calls on the same issues.

None of Chrysler's submissions to the government prior to the May 14th announcement could have been interpreted to put Chrysler dealers on notice of the scope of the terminations that followed. Similarly, our discussions with Chrysler officials during the past year did not give any indication of these drastic cuts proposed, much less of the onerous terms and conditions. To the contrary, all indications were that dealer reductions would be achieved in the context of the on-going Genesis program which relies principally upon negotiated transactions based on conditions in the local market.

The potential for such an orderly transition has degenerated into chaos for 789 Chrysler dealers. These dealerships learned on May 14th that they would lose their franchises within 26 days. Moreover, they were told that the factory would not buy back any unsold inventory of vehicles and parts or any of the factory-specific tools that all dealers are required to buy from the manufacturer. No dealer could possibly have anticipated this egregiously short timetable and these unprecedented terms. After all, the franchise agreement requires the manufacturer to buy back vehicles, parts, and tools. No manufacturer has ever imposed such onerous conditions on terminated dealers. Especially troubling is the fact that during the last few years, some of these terminated dealers were pressured by the manufacturer to build large new retail facilities. Moreover, within the past few months, many of the terminated dealers were strongly encouraged by Chrysler to take additional inventory even when local market demand didn't support this decision. In short, many of these 789 Chrysler dealers were team players. They did all that was asked of them by Chrysler and in return were stripped of their franchises on less than three weeks' notice with virtually no recourse. In return for their loyalty, they saw any goodwill in their business evaporate in a matter of days.

Adding insult to injury, *Automotive News* reported just four days after the termination letters arrived that Chrysler was planning to re-enter some of these 789 markets. Since then, we have heard that in some areas prospective new dealers are even touring some of these dealerships targeted for closure. This certainly does not look like a strategy to reduce the dealer count to achieve an efficient rationalization. Rather, this just looks like a strategy to leverage the tremendous unfairness of bankruptcy to force the closure of some dealerships for the benefit of others.

Apparently, at some time during the deliberations of the Administration Auto Task Force, the treatment of GM and Chrysler dealers took a drastic turn for the worse. On March 30, the Task Force rejected GM and Chrysler's own dealer consolidation plans, set forth in their respective "viability submissions" of February 17th, based in part on the fact that task force officials believed their dealer reduction plans did not go far enough or move fast enough. The Auto Task Force's March 30, 2009 Viability Assessment of GM specifically states with respect to brands and dealers that:

> The Company is currently burdened with underperforming brands, nameplates and an excess of dealers. The plan does not act aggressively enough to curb these problems.[3]

Contemporaneous news reports highlighted the same reality:

> New CEO Fritz Henderson says the federal Auto Task Force's rejection of GM's viability plan requires GM to make "deeper and faster" cuts. GM has 60 days to submit a new, more drastic restructuring plan or face bankruptcy. That means GM is pulling forward its plan for dealership consolidation.[4]

Finally this was confirmed in GM's letter on May 14 notifying 1,100 GM dealers of the intention not to renew their franchise agreement beyond October 2010 which read in part "As we have communicated to all dealers, our revised restructuring plan is a result of GM being challenged to move more aggressively and faster in its restructuring efforts".

The Auto Task Force has taken the position that it had not mandated the acceleration of dealer cuts and advised that it was the companies that were initiating the dealer reductions. An Obama administration source told *Politico*," We're happy to listen, but what we will politely say to them is: It's not our job to tell these companies what dealers they should have or, or even how many."[5]

However, in response to a question before the Senate Banking Committee on June 10th, Ron Bloom of the President's Auto Task Force said, "We did not give [the companies] a numerical target, but we certainly did say, regarding plants, regarding dealers, regarding white and blue collar headcount, regarding all these matters, that you need to be more aggressive. . . ."[6]

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[3] Auto Task Force, March 30, 2009. *GM Viability Assessment – Rejection of GM's February 17, 2009 plan*. "Brands/Dealers: The Company is currently burdened with underperforming brands, nameplates and an excess of dealers. The plan does not act aggressively enough to curb these problems", p. 1.
[4] *Automotive News*, "Henderson's GM speeds up dealer cuts", April 6, 2009
[5] Allen, Mike. "Car dealer cuts coming soon." *Politico*, May 13, 2009
[6] Testimony before Senate Banking Committee, *Congressional Quarterly Transcriptions*, June 10, 2009

While it is recognized that the Auto Task Force did not identify specific dealer reductions, the question remains why did the Auto Task Force mandate these drastic dealer cuts? What is the objective standard for these actions? Where is the public accountability for these decisions? These rapid dealer reductions will adversely affect 789 Chrysler and over 1,100 General Motors dealerships, employing over 100,000 middle-class Americans. These people deserve more. The country, currently facing a national unemployment rate approaching nine percent, deserves more. The state and local governments that depend on the dealerships for revenue deserve more. The Federal taxpayers, footing the bill for the restructuring, deserve more.

These drastic dealer reductions will not increase the viability or competitiveness of GM and Chrysler. Franchised dealerships are independently owned businesses, not the "company owned" stores used by many other industries to distribute their products. The dealer – and not the manufacturer – invests in the land, buildings, facility upgrades, personnel, and equipment necessary to sell and service vehicles. Because of these sizable multi-million dollar dealer investments, manufacturers receive a national retail distribution network at no capital expense and are able to externalize virtually all of the costs associated with the establishment and maintenance of a national retail distribution network for their products.

Absent the franchised dealers, a manufacturer would have to invest billions of dollars to replicate the existing facilities, employees, and retail presence. No manufacturer, much less an automaker in extremis, could possibly assume this burden and hope to remain competitive. No manufacturer would want to assume the risk involved with retailing. For example, if the manufacturers make an unappealing vehicle, the dealers bear the brunt of that mistake and suffer the consequences of unsold inventory. Similarly, the dealers also bear the risk of the deterioration of a prime real estate location and the risk of a local economic downturn.

According to the attached report that we provided to the task force, "The Franchised Automobile Dealer: The Automaker's Lifeline", prepared for NADA by the Casesa Shapiro Group, "far from being a burden to the manufacturer it represents, the automobile dealer supports the manufacturer's efforts by providing a vast distribution channel that allows for efficient flow of the manufacturer's product to the public at virtually no cost to the manufacturer."[7]

Franchised dealers are the largest source of revenue for the manufacturers. In the United States, the dealer body provides 92 percent of GM's revenue. To casual observers this may be a complete surprise, but the explanation is simple. A manufacturer does not sell cars to consumers. A manufacturer sells cars to a dealer, and the dealer sells the car to a consumer. Moreover, because the manufacturers control large streams of payments to the dealer body – all of which are non-interest bearing payments made in arrears for products already delivered or services already performed – the manufacturers can simply use cash management techniques to achieve "cost of money" savings that would easily

[7] "The Franchised Automobile Dealer: The Automaker's Lifeline." Casesa Shapiro Group, November 26, 2008 (Attached)

offset these minimal operational expenses. In the aggregate, the manufacturers can use this "float" to earn millions of dollars. And there are a number of purchases that dealers are required to make – including signs and specialized tools – on which the manufacturers actually make a profit. The "cost of money" savings alone are likely to offset the minimal administrative expenses associated with the direct support of the dealer network.

The rapid and destructive dealer reductions will erode market share. Dealers have deep roots in the community and have helped provide manufacturers with long-term customer relationships that create brand loyalty and maintain customer convenience. Therefore, reductions in dealer numbers will not only cut manufacturer revenue but also market share. Dealer closures must be done carefully to maintain the manufacturer's viability. "We had 13,000 dealers 18 years ago, so we've already cut that in half," Mark LaNeve, GM's North American President, said at this year's North American International Auto Show in Detroit. "We don't want them to close all at once because we figure we lose sales for 18 months after a dealership closes until other dealers pick up the business."[8]

The purported administrative savings from reducing the dealer count will not materialize. Since the principal purpose of the franchised dealer network is to outsource costs, the manufacturers incur very little direct costs related to the dealer network. Therefore, few savings are likely to be generated from dealer reductions.

- Marketing and advertising costs are not likely to be reduced because of a reduction in the dealer network**.** Individual dealers, not the manufacturer, pay for state and local marketing and advertising. Also considering the initial loss in market share resulting from dealer closings, marketing efforts will likely have to be increased in the short run.

- Manufacturer retail incentive costs are determined by the number of vehicles being sold, not the number of dealers in a given market**.** The manufacturers provide various incentives (i.e. rebates) for dealers and consumers to stimulate vehicle sales to clear inventory or increase market share for a particular vehicle. The only way for these costs to be reduced would be a reduction in total vehicle sales.

- Manufacturers require various dealer employees to undergo training, but the dealer pays for these costs, not the manufacturer**.** The dealers will continue to absorb these costs regardless of the number of dealers.

- Destination fees are standardized, so it is highly unlikely that manufacturers' distribution costs will be reduced**.** The manufacturer sets the distribution fee. And unless the manufacturer plans on exiting an entire geographic region, shipping costs will not significantly change. If such a drastic consolidation even did occur,

[8] *Bloomberg News,* "Small cars aren't selling as well, GM official says; Fuel prices send buyers back to SUVs, pickups", January 14, 2009.

the manufacturer would immediately suffer losses in market share, causing the per unit distribution cost to rise.

- Manufacturer's interest expense will not decline, since the expense is related to the number of vehicles financed, not the number of dealers financing the vehicles. Most manufacturers provide some financial incentives to offset the initial costs of dealer borrowing (for inventory, parts, etc.). Since fewer dealers would have to finance greater numbers of vehicles to keep sales constant, the remaining dealers would expect to continue to receive the per unit incentive to offset the additional risk of financing a larger inventory.

- The dealer network requires very little incremental costs. With modern electronic communications, the costs needed to maintain the dealer network are minimal, as are the potential savings with reducing or even eliminating dealers.

- Simplistic attempts to compare the number of dealerships or the "throughput" of new car sales at GM and Chrysler dealerships to Toyota dealerships are invalid. The task force is only focused on new car sales. Yet, there are 66 million GM vehicles on the road today and 33 million Chrysler vehicles versus 22 million Toyota vehicles. Consumers need to service and repair these vehicles, and domestic brand dealerships serve more cars per location than international nameplate dealerships. Drastically reduced dealers mean consumers will experience higher prices from reduced competition and greater inconvenience from reduced service facilities. Similarly, GM and Chrysler serve far more rural areas than Toyota and – as a direct result – enjoy a higher market share in rural areas.

The inescapable conclusion is clear. Accelerated dealership closings are not necessary for the future viability of either GM or Chrysler. Dealership closings result in loss of revenue for the automakers without any real cost savings.

Now, I will to turn to the status of the GM agreements, both the Participation Agreements for those dealers going forward and the "wind down" agreements for those dealers who will lose their businesses. Last week during my testimony to the Senate Commerce Committee, I voiced NADA's concerns about the extremely one-sided terms of the Participation Agreements delivered to the 4,000 dealers of the new GM. During that hearing Mr. Henderson committed to meet with NADA to discuss our concerns. GM followed through on that commitment. Our leadership met with a team of senior GM officials last Friday, and we had a very frank discussion. As a result, GM has made significant improvements in the Participation Agreement. Additionally, GM has committed to clarify some of the terms of the wind down agreements, and NADA will continue to work with GM to make sure that the wind down agreements will be improved. NADA appreciates GM's efforts to continue to work with NADA on these critically important matters.

An orderly, market-based consolidation of the dealer network has been underway for more than 50 years. For decades the number of dealerships in the U.S. has been shrinking at a consistent pace, dictated by market conditions and accelerating during a recession such as today. In 1949 there were almost 50,000 dealerships and by 1970 that number was 30,800. During that timeframe virtually all of these held domestic franchises. In 1987, there were 25,150 new-car dealerships; by the end of this year, we expect that number to have dropped below 17,000.

The sharp reductions in domestic dealerships have occurred despite the fact that the size of the nation's fleet keeps increasing. The number of vehicles in operation rose from approximately 125 million in 1976 to almost 250 million in 2007. More importantly, the majority of the vehicles in operation today have domestic nameplates. Therefore, the number of domestic vehicles in operation per domestic dealership continues to rise. Even without the drastic reductions that GM and Chrysler seek to impose, the number of GM and Chrysler vehicles on the road today per dealership is at an all time high.

While market forces have operated – and will continue to operate – to reduce the number of dealerships, there are important counterbalancing factors to consider. The foremost of these are the convenience and competition that consumers receive from an extensive dealer network. Intra-brand competition is very important to consumers. Indeed, the most intense competitor for, say, an individual Ford dealer is the nearest Ford dealer. Therefore, any precipitous decline in the size of the dealer network of any manufacturer could dramatically reduce competition for the sale and service of vehicles.

For 100 years, the franchise system has provided a strong auto retail network for consumers, dealers, and vehicle manufacturers alike. All 50 states have enacted motor vehicle franchise laws to inject balance in the inherently one-sided economic relationship between a dealer and the manufacturer and to provide consumers a reliable, convenient, and competitive retail network for automobiles sales and service. The state franchise laws guard against a manufacturer unilaterally terminating a dealership without cause and unilaterally threatening to put the same brand on every corner. A typical state franchise law requires a manufacturer to show good cause in order to terminate a dealer agreement, provides a framework for determining a fair value of the franchise terminated, establishes basic rights of succession from generation to generation, and sets out a definition of relevant market area to preclude unfair proliferation of dealerships. Numerous courts, including the United States Supreme Court, have upheld the constitutionality of various state franchise laws.

The state franchise laws have provided a rational framework for consolidation and reduction of dealerships and have not prevented the termination of brands. Within the past sixty years, the number of dealerships has declined steadily from almost 50,000 in 1949 to 17,000 today. Even with the state franchise laws in full effect, the manufacturers have combined brands under one roof at the dealership level via channeling agreements, eliminated brands altogether, and terminated individual dealers.

The unprecedented evisceration of state franchise laws under the guise of a structured bankruptcy is one of the most disturbing aspects of the treatment of GM and Chrysler dealers. This disregard of state franchise laws is threatening the economic stability of communities and eroding the national infrastructure essential to the recovery of troubled manufacturers. In the case of Chrysler, we have a window to the future unless corrective action is taken: closed businesses, terminated employees, increased foreclosures, and idle real estate, thereby deepening the current recession and threatening even the dealerships that the manufacturers would designate for survival.

The more we learn of the specific facts and circumstances of the Chrysler closures, the more we are concerned that this forced bankruptcy is being used to circumvent long-standing state laws. The fact that the Administration is part of this process is especially surprising, because on May 20, 2009, the Obama Administration released a memorandum that stated as the general policy of the Administration: "preemption of State law by executive departments and agencies should be undertaken only with full consideration of the legitimate prerogatives of the States and with a sufficient legal basis for preemption" Moreover, according to the memorandum, "The Federal Government's role in promoting the general welfare and guarding individual liberties is critical, but State law and national law often operate concurrently to provide independent safeguards for the public."

In addition to protecting broad public interests, the state franchise laws actually provide an economic benefit of the manufacturers as well. Dealer investments in the retail network are premised on the existence of franchise law protections. If the franchise laws were not present to protect those investments, the investments would carry more risk. And that risk, in turn, would command a risk premium. Indeed, publicly-traded auto retailers routinely disclose the possible repeal of state franchise laws as a risk factor in their public filings. If those laws were in fact to be removed, that risk would become a reality and the capital investment markets would respond accordingly. Existing capital would seek safer havens, and the cost of attracting new capital would rise. While this would be very visible in the public capital markets, the same phenomenon would play out in the private capital arena as private dealers make decisions where to place their resources.[9] And these increased costs would have to be paid somewhere in the overall industry value chain. Thus, far from saving manufacturers anything, the removal of the state franchise laws would actually raise their costs of operation.

In conclusion, rapid dealer reductions increase unemployment, threaten communities, and decrease state and local tax revenue without any material corresponding decrease in the automaker's costs. Mr. Chairman, I want to thank you again for convening this hearing, because we still have fundamental concerns. These government-negotiated bankruptcies impose drastic, unjustified dealer cuts, and continue to threaten dealer rights under state motor vehicle franchise laws. These laws inject balance in the inherently one-sided economic relationship between a dealer and the

[9] Similarly, dealers with franchise agreements that have limited durations – e.g., five or six years – could find it difficult (or more expensive) to convince finance sources to loan them money absent the fact that most of the state franchise laws protect non-renewals in the same way they protect against unwarranted terminations.

manufacturer and also provide consumers a reliable, convenient, and competitive auto retail network. Congress must act to ensure that the franchise laws of the 50 states remain intact and apply with full force and effect, especially when the new Chrysler and the new GM are operating outside of bankruptcy. Therefore, we are urging Members of Congress to support H.R. 2743, which would restore fundamental rights to dealers. We stand ready to work with Congress to achieve this goal, because the state franchise laws are the foundation of auto retailing in this country.

Thank you for holding this important hearing, and thank you for the opportunity to testify.

November 26, 2008

The Franchised Automobile Dealer: The Automaker's Lifeline

"Far from being a burden to the manufacturer it represents, the automobile dealer supports the manufacturer's efforts by providing a vast distribution channel that allows for efficient flow of the manufacturer's product to the public at virtually no cost to the manufacturer."

Prepared for:

NATIONAL AUTOMOBILE DEALERS ASSOCIATION NADA ®

CASESA SHAPIRO GROUP

Executive Summary

The independently owned and independently financed franchised automobile dealer network is a critical asset to the auto manufacturers. U.S. auto dealers have $233.5 billion invested in their businesses. This capital is supplied by 20,700 independent dealerships that employ and train over 1.1 million people.

The dealer body is not owned by the manufacturer but is independent and self financed. It serves as the link between the assembly line and the consumer. Far from being a burden to the manufacturers they represent, dealers act as an extension of the manufacturer. They support the manufacturers' efforts by providing, at virtually no cost to the manufacturer, a vast distribution channel that allows for efficient flow of product to the public.

The relationship between the dealer and manufacturer is mutually beneficial. The dealer's significant investment allows the manufacturer to spend its resources on research and development of product while the dealer spends its resources on sales, marketing, and customer handling. Each group benefits from the other and neither could afford all the expenses of the total value chain.

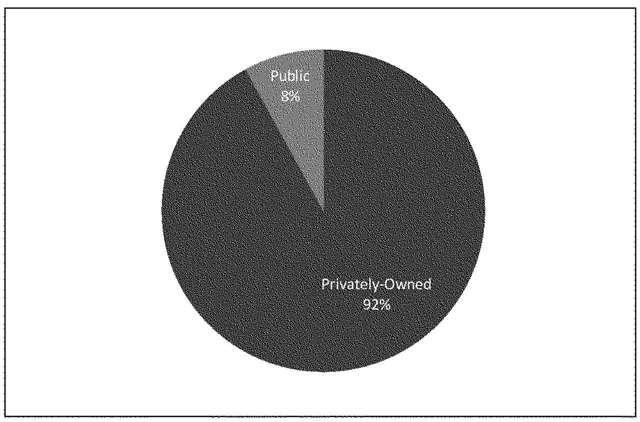
Overview of US Auto Retailing

Virtually all new cars and light trucks bought in the U.S. are sold through franchised dealers. Dealers are independently owned, and combined, represent the largest retail business in the U.S., with approximately $693 billion in revenues in 2007. Franchised dealers employ over 1.1 million people, comprise nearly 20% of all retail sales in the U.S., and, in total, pay billions annually in state and local taxes.

Dealers are Independent Businesses

The nation's 20,700 independent franchised new car dealerships comprise an industry that is fragmented and largely privately held, with private ownership accounting for 92% of the market (Chart A). ***The franchised dealership is a business independent of the auto manufacturer, is self financed, and serves as an extension of the manufacturer. Far from being a burden to the manufacturer it represents, it supports the manufacturer's efforts by providing a vast distribution channel that allows for efficient flow of the manufacturer's product to the public at virtually no cost to the manufacturer.***

Chart A: Dealership Ownership in the U.S.



Source: Merrill Lynch

Dealers Play a Complex and Essential Role

The franchised dealership system in the U.S. is the independent link between the manufacturer's assembly line and the consumer and its functions include, but are not limited, to the following:

- Selling the product and providing information for consumers
- Holding vehicle and parts inventory for a push oriented manufacturing system
- Performing service and providing parts to fulfill manufacturer warranty obligations
- Handling product safety recalls

- Facilitating the exchange of used vehicles
- Arranging financing for consumers
- Supplying capital for new showrooms and service facilities
- Creating advertising and marketing programs targeting local markets
- Providing market feedback to the manufacturer
- Training employees as required by the manufacturer

Dealer Investment on Behalf of Automakers

In filling their essential role as the link between the assembly line and the consumer, franchised dealers make large investments, incur substantial expenses, and bear considerable financial risk that *otherwise* would be borne by the manufacturer. The scope and magnitude of these financial commitments is discussed below.

1. Dealer Investment

Franchised dealers have $233.5 billion invested in their businesses, or an average of $11.3 million per dealership. The main components of this investment can be broken down into the following categories:

a. Facilities and Land

Most individual auto dealerships require several acres of land, which the owner must purchase or lease. Manufacturers require that the owner build or maintain a facility that houses a vehicle showroom and a service and parts center, along with all related customer and employee amenities. The business is real estate intensive. Casesa Shapiro Group estimates, conservatively, the average dealership has approximately $2.5 million invested in land, buildings, furniture, fixtures and equipment.

b. Inventory

In lieu of the auto manufacturers having to do so, dealerships maintain a large physical inventory of new cars. Typically, a dealership will hold a 60-90 day supply of new cars. The average dealership has approximately $4.9 million invested in new car inventory. This number nationally is $101.3 billion.

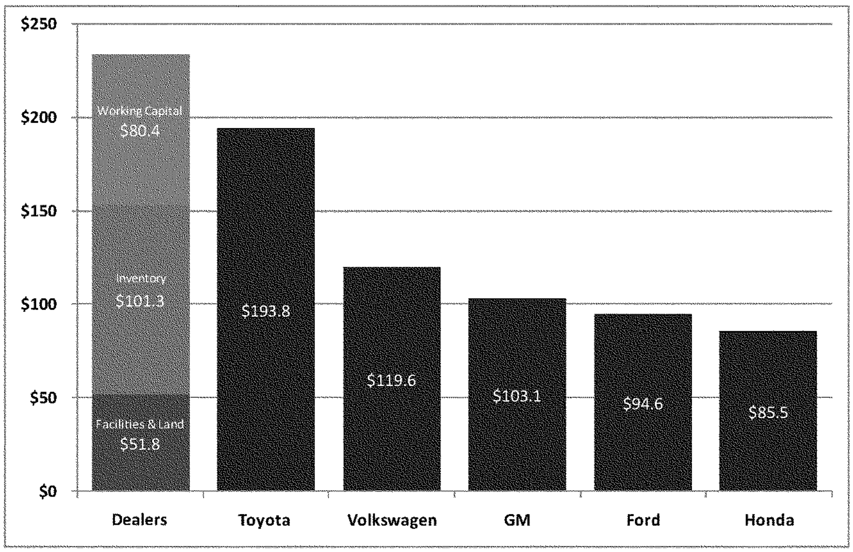
c. Working Capital

Manufacturers dictate specific working capital requirements, which are significant. For example, manufacturers typically require that dealers carry net working capital investment equal to two months of parts inventory value, new and used inventory value, and other expenses. In addition, more capital is needed to fund receivables due from manufacturers, customers, and finance companies. The average dealership needs approximately $3.9 million in working capital and nationally dealerships have $80.4 billion invested in working capital.

In total, U.S. franchised dealers have more capital invested in their businesses than the world's largest automakers, as shown in Chart B.

Chart B: Investment of the U.S. Franchised Dealer Body vs. Total Industrial Assets of Major Automakers

$Billions



Source: NADA Industry Analysis for September 2008; company reports for latest fiscal year; Honda and Toyota fiscal year ends March 31.

2. Operating Expenses

In 2008, dealers are expected to deliver approximately 13.5 million new vehicles to customers. In doing so, they will incur approximately $80.8 billion in expenses.

a. Personnel Expense

The largest category of expense is for personnel, which is estimated at $36.5 billion for 2008.

b. Sales Related Expense

In 2008, dealers will spend approximately $7.3 billion advertising manufacturers' products, or more than $20 million per day. These expenditures are in addition to what the manufacturer spends to advertise its product, thus augmenting the automakers' marketing efforts. Dealers also spend $329 million annually to train sales personnel to remain knowledgeable about manufacturers' products. In addition, it is estimated that dealers spend $873 million annually on regulatory issues such as Truth in Lending and Graham Leach Bliley Act/privacy compliance.

c. Service and Parts Related Expense

Dealers incur costs to train service technicians who repair and maintain customers' vehicles. Training expense is ongoing as the manufacturer continually introduces new models and technologies. In addition, dealers must also comply with changing OSHA and EPA requirements. The dealer body spends $423.8 million per year to keep its service staff proficient, or about $20,473 per dealership.

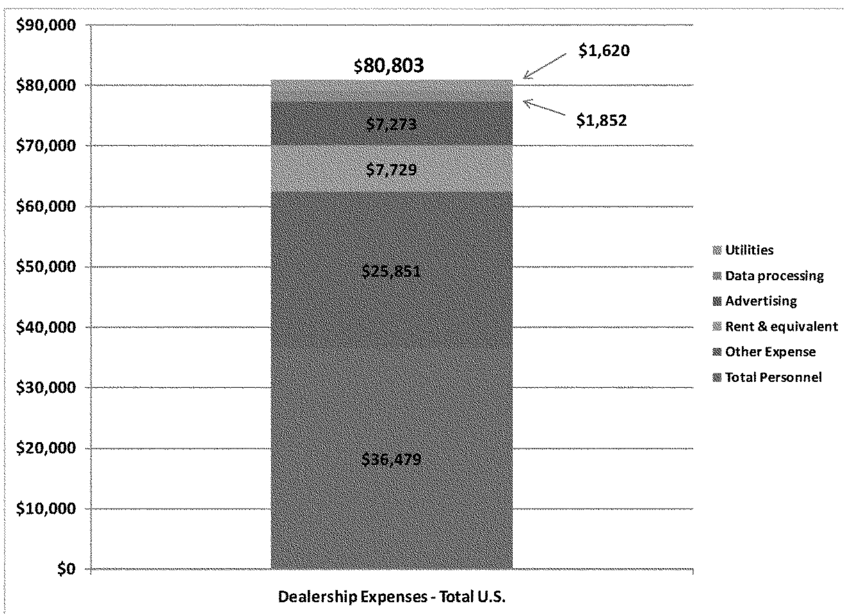
d. Inventory Expense

Aggregate new vehicle inventory carrying costs are $890 million or $42,995 per dealership on an annual basis.

Chart C below illustrates aggregate dealership expenses for dealerships in the U.S. Chart D shows the average pre-tax net margin for dealerships in the U.S., which is etimated to fall to 0.8% in 2008.

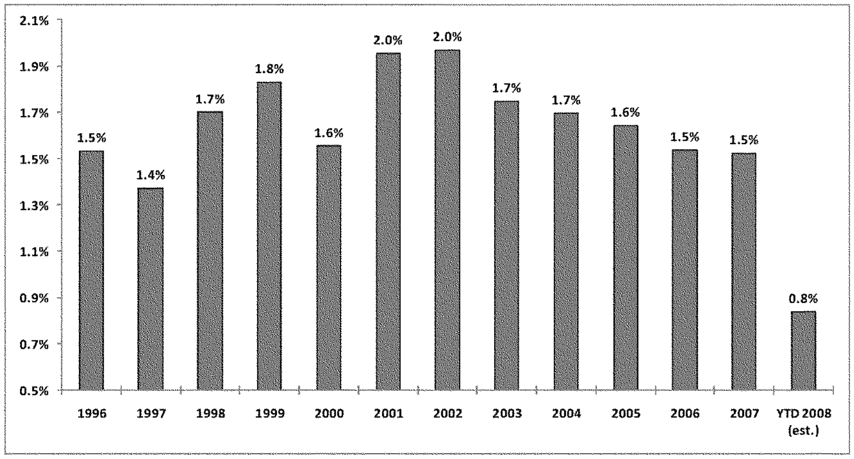
Chart C: Aggregate Dealership Expenses for Dealerships in the U.S.

$millions



Source: NADA Industry Analysis

Chart D: Pre-tax Net Margin for Dealerships in the U.S



Source: NADA Industry Analysis; Casesa Shapiro Group estimates

Automakers Have Externalized Significant Risks to Dealers

In addition to making large investments and incurring substantial expenses to operate, dealers shield the manufacturer from various risks.

1. Multi Million Dollar Inventory Risk

The manufacturer invoices the dealer for a new vehicle when it ships the vehicle from the plant, not when the vehicle arrives at the dealer. Often, time from invoicing to physical receipt can take two weeks, or longer. The dealer bears the carrying cost during this delivery period. On the other end of the spectrum, the dealer bears the risk of aging inventory. While the manufacturer may provide assistance from time to time in the form of rebates and incentives, the dealer takes the risk that the vehicle may sell at a loss. The average dealer has approximately $4.9 million of new car inventory at risk.

2. Financing Risk

Most dealers finance their vehicle inventory through a finance facility called a floorplan. Most dealer principals are personally responsible for this floorplan liability. Risks here are twofold: a floorplan lender may rescind its commitment, leaving the dealer to find a new lending source or being forced to pay off the note, a potentially devastating outcome as dealers rarely have enough cash to pay off such a large obligation. On the consumer side of the equation, dealers are at the mercy of the consumer lending market. Should lenders cease to lend, or tighten their lending standards, the dealer's ability to sell his or her inventory is greatly diminished.

3. Receivables Risk

Receivables due from the manufacturer include vehicle holdback (essentially a margin payment), vehicle incentives, and warranty reimbursements. While the dealer must fund payment timing differences through working capital, the dealer is at risk in the case of a manufacturer bankruptcy. Receivables due from the consumer include payment for labor and parts for service work performed but not yet paid. The dealer is also at risk for receivables from financial institutions funding the consumer's purchase of the vehicle.

4. Real Estate Risk

Dealers have large investments in land and facilities. Often, these facilities are single purpose and cannot be used for occupants other than auto dealerships. In addition, manufacturers often require dealers to undertake substantial renovation projects to their facilities for branded image programs. Manufacturers often wield a velvet hammer, attempting to use a dealer's refusal to embark on an image program to prevent the dealer from sharing in certain incentives available to those who have undertaken the program. Should a particular manufacturer's sales decline, or should a manufacturer exit the market, the return on capital invested in these programs is often poor or worse.

Importance to Local Communities

Car dealerships are local businesses and provide significant sales tax revenues and employment opportunities to the communities in which they operate. Nationwide, car dealerships provide employment for 1,114,500 people and pay billions annually in state and local taxes. In addition, on average, each dealership makes $25,600 in charitable contributions to its community.

Appendices A and B attached provide some context on a state by state basis of the prevalence and reach of these businesses. At a more local level, a typical dealership geographic profile may look as follows:

Table A: Estimated Economic Impact of Dealers, by Representative Town/City

	Population	Estimated No. of Dealers	Estimated Employment	Estimated Investment
Newark, OH	47,176	9	486	$101,700,000
Greensboro, NC	247,193	90	4,860	$1,017,000,000
San Jose, CA	939,899	220	11,880	$2,486,000,000

Source: Casesa Shapiro Group

Conclusion

U.S. franchised auto dealers have invested $233.5 billion in their independent businesses. This investment represents more capital than the total industrial assets of any of the world's largest automakers. These businesses employ over 1.1 million people, are supportive of their local communities, and pay billions annually in state and local taxes. They deflect certain financial risk from the manufacturers by putting their own capital at risk. The dealers' enormous investment allows the manufacturer to spend its resources on research and development of product while the dealers spend their resources on sales, marketing, and customer handling. Neither group alone could afford all the expenses of the total value chain. Dividing the value chain rationalizes the process. Automakers spend their resources efficiently on manufacturing and dealers spend their capital efficiently on serving the consumer. The independent franchised dealer body is the lifeblood of the automaker. While the retail consumer is the dealer's customer, the dealer is the manufacturer's only customer.

Far from being a burden to the manufacturer it represents, the automobile dealer supports the manufacturer's efforts by providing a vast distribution channel that allows for efficient flow of the manufacturer's product to the public at virtually no cost to the manufacturer.

Appendix A: Estimated Number of New Car Dealership Employees in 2007, by State

	Total Employees	Avg. number per dealership
Alabama	16,471	48
Alaska	2,292	60
Arizona	29,182	114
Arkansas	8,712	33
California	133,721	84
Colorado	17,076	60
Connecticut	14,388	45
Delaware	4,022	62
DC	32	32
Florida	76,508	81
Georgia	33,858	56
Hawaii	5,105	77
Idaho	5,842	47
Illinois	43,336	46
Indiana	21,778	42
Iowa	12,020	33
Kansas	10,072	39
Kentucky	13,072	44
Louisiana	18,210	54
Maine	5,350	37
Maryland	24,131	67
Massachusetts	23,400	49
Michigan	36,258	48
Minnesota	19,500	45
Mississippi	9,460	39
Missouri	21,603	44
Montana	4,280	32
Nebraska	6,584	31
Nevada	11,025	93
New Hampshire	7,122	42
New Jersey	32,152	56
New Mexico	7,458	53
New York	49,122	44
North Carolina	32,828	47
North Dakota	3,196	33
Ohio	40,937	43
Oklahoma	19,979	67
Oregon	14,092	51
Pennsylvania	50,694	44
Rhode Island	3,308	53
South Carolina	15,042	46
South Dakota	3,480	30
Tennessee	22,121	53
Texas	86,828	65
Utah	9,340	61
Vermont	2,783	29
Virginia	33,094	60
Washington	23,317	61
West Virginia	6,227	37
Wisconsin	21,633	36
Wyoming	2,460	35
Total US	**1,114,501**	**53**

Source: NADA Data, 2008 Edition

Appendix B: Relationship of New Car Dealerships to Total Retail Trade in 2007, by State

	Dealer payroll as % of total retail payroll in the state	Dealer employees as % of total retail employment in the state
Alabama	12.9%	7.0%
Alaska	11.5%	6.8%
Arizona	15.2%	8.4%
Arkansas	12.7%	6.7%
California	13.9%	7.9%
Colorado	13.6%	7.3%
Connecticut	14.0%	8.0%
Delaware	15.2%	8.2%
DC	1.4%	0.7%
Florida	15.1%	7.9%
Georgia	13.8%	7.4%
Hawaii	12.0%	6.2%
Idaho	12.6%	7.3%
Illinois	13.8%	7.6%
Indiana	12.9%	7.0%
Iowa	13.3%	7.3%
Kansas	13.2%	7.2%
Kentucky	11.9%	6.4%
Louisiana	14.5%	7.5%
Maine	11.8%	6.6%
Maryland	14.7%	8.3%
Massachusetts	12.7%	6.8%
Michigan	15.1%	7.7%
Minnesota	12.3%	6.8%
Mississippi	12.4%	6.4%
Missouri	13.9%	7.3%
Montana	12.1%	7.0%
Nebraska	12.6%	6.9%
Nevada	14.9%	7.7%
New Hampshire	13.9%	7.7%
New Jersey	13.4%	7.2%
New Mexico	14.0%	7.8%
New York	10.5%	5.9%
North Carolina	13.8%	7.5%
North Dakota	14.0%	8.0%
Ohio	12.9%	7.3%
Oklahoma	14.6%	7.7%
Oregon	13.1%	7.4%
Pennsylvania	13.8%	8.0%
Rhode Island	11.9%	6.5%
South Carolina	12.1%	6.6%
South Dakota	13.3%	7.5%
Tennessee	13.4%	7.3%
Texas	14.6%	7.9%
Utah	11.6%	6.2%
Vermont	12.9%	7.5%
Virginia	14.6%	7.9%
Washington	12.1%	7.2%
West Virginia	12.7%	7.4%
Wisconsin	12.9%	7.6%
Wyoming	13.5%	7.4%
Total US	**13.4%**	**7.3%**

Source: NADA, 2008 Edition

Sources

Casesa Shapiro Group
Ford Motor Company
General Motors Corporation
Honda Motor Co.
Merrill Lynch & Co.
NADA Industry Analysis
Toyota Motor Co.
Volkswagen AG

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Appendix B: Credit and the Auto Industry

Credit is the lifeblood for every franchised dealer, and the credit markets are still not functioning properly. Since more than 90 percent of vehicle purchases are financed, adequate retail credit is essential to facilitate auto sales. Additionally, dealers, like many other businesses, need sufficient working capital to maintain cash flow. Finally, floorplan credit – the financing dealers use to buy new and used vehicle inventory – is essential. These continuing problems are not limited to dealers with domestic nameplates and are not limited to any one region of the country.

Floorplan lending capacity has contracted dramatically during the past nine months. Most of the captive finance companies have reduced their floorplanning activity, in large part due to liquidity constraints. At the same time, several regional banks have completely eliminated this line of business, and many of the remaining floorplan lenders are not adding any additional dealers. Even creditworthy dealers are having trouble finding access to any floorplan financing or the financing available to them is being offered on terms that are not competitive and not commensurate with the risk to the borrower. In sum, a fear-based retrenchment in floorplan lending is underway throughout the auto industry despite the fact that the typical portfolio of floorplan loans (1) has an excellent repayment history, (2) is highly collateralized, and (3) has historically carried a AAA rating when securitized.

Moreover, the lack of consumer confidence is a persistent problem, despite the fact that there has never been a better time to buy a new car. The quality of vehicles being sold by our highly motivated retailers is better than ever, with great incentives; but the public is not shopping. The annualized rate of new vehicle sales for 2009 is hovering around 10 million. Even the replacement rate due to salvage is estimated to be at least 12 million per year.

The drop in sales came in response to a variety of factors. Last summer, we had to deal with a massive spike in gasoline prices which dramatically disrupted consumer demand. For several months, the amount of discretionary income and the fear of sustained gasoline prices in excess of $4.00 per gallon economy altered consumer preferences so rapidly that the market could not adjust. As the economy deteriorated last fall, consumers naturally were less likely to commit to big ticket purchases. Then came the near meltdown of the nation's credit markets, and highly publicized problems within the automotive industry. The events of the past year truly have been the perfect storm in auto retailing.

Mr. STUPAK. Thank you.

We are now going to go from my left to right with the dealers.

Mr. Thomas, would you like to begin? Pull that mike over, turn it on until you get a green light, and speak into it so we can hear you and they can also pick it up.

TESTIMONY OF ROBERT THOMAS

Mr. THOMAS. Thank you Mr. Chairman, Ranking Member Walden.

May 15, 11 a.m., the FedEx truck arrives. Employees watch as the driver hands me the thin cardboard envelope that contains our destiny. I received an unsigned letter from General Motors. The tone of letter was vague and referred to criteria but not the specific methodology, neither stating the relative importance of each, nor how great a period of time was being referenced.

The letter stated, quote, we don't think we will be able to renew your contract in October 2010. This is not final. Submit what you like by the end of the month to this e-mail address.

The significance of this letter became clear on June 2, when the content of the vague letter had been construed into the offer of a wind-down agreement. The agreement offered on the 2nd had to be returned in time to arrive in Detroit by the 12th, a scant 10 days to decide one's options, to confer with professionals regarding unprecedented legal matters and loved ones about our financial and professional future.

My grandfather immigrated to the U.S. in 1900 and by 1918 had established himself as a Chevrolet dealer in Bend, Oregon. His daughter married my father, and he was a dealer until 1982, when I succeeded him. Our company has woven itself into the social fabric of the community since the time it was a village. Our family has provided automobile sales and service, civic leadership, and community involvement every year continuously since 1916.

These are hard times for Bend, but not as difficult as those we survived in the Great Depression and the world wars. General Motors has been with us the whole time, from 1918 forward.

We have been GM to our community. Now it is a dark time when GM must abandon our town, our region, and us. Just as GM is an icon, we enjoy iconic status in our region: Always there, always helpful and compassionate, always acting responsibly.

The letters we garnered in support to our appeal to GM were humbling in their appreciation of our caliber and quality of service and community support. Moreover, there was confusion as to why Bend, now 80,000 strong, will be abandoned, as will we, their dealer of choice, the largest GM dealership in central and eastern Oregon.

Their world is crumbling. Things they thought they could count on are being taken away: Long-standing reliability, integrity, a safe harbor. In a very real sense, our customers are afraid.

Who benefits from this taking, this cancellation that is so unnecessary, so wrong, so wrongly executed? Not GM. Having no dealer in Bend will not increase GM's sales. Not the 216,000 people in our region who are left solely with a small GM dealer in the tiny town at its perimeter, with limited inventory and repair capacity. Not our community, who has relied on us always to generously support its activities. Not our employees, who are highly trained to work on sophisticated GM products like Cadillac and Chevrolet and service clientele with courtesy and compassion. Not our customers, who bought our products thinking, like we did, that we would be here forever.

That is our business model, the longest term you can imagine. Always do it right. Be here for the long haul. Earn the loyalty of your clientele, and they will reward you with long-term patronage.

Over the years, that has been GM's business model, too; and we were a good fit for 91 years until we got cut from the team.

Why are these cuts necessary? I recently attended a meeting of letter recipients in Oregon. Who was there? A roomful of respectable business people with whom I have attended GM business meetings for 30 years. Obviously, they are able business people to have survived, as have we.

The marketplace should be the sole arbiter of who should fall by the wayside, not the arbitrary acts of well-meaning administrators. If the plan is to replace us with another GM dealer, why have we been deprived of the opportunity to make such a transaction with their approval? Will our market be awarded to a GM favorite or insider? This would seem to be an unreasonable and wrongful taking of a valuable asset nurtured through the years, only to be snatched by an overreaching at a moment of opportunity inside the bankruptcy.

And what of the inventory that remains? In our case, some $4 million, the value of which could shrink by a million or more from what we paid. Over a year's supply of GM cars await our sale. A half-a-million dollars of parts cannot be returned.

What I would hope for in such dire straits would be a request of reason. Allow us to provide support for those GM customers in our region and relieve us of the inventory obligations we incurred in good faith by repurchasing at what we paid. This is a small price to pay for potentially depriving a long and faithful associate of its livelihood.

[The prepared statement of Mr. Thomas follows:]

Statement of Robert S. Thomas testimony before HOUSE ENERGY AND COMMERCE COMMITTEE, SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, Friday, June 12, 2009

On May 15th, I received an **unsigned** letter from General Motors by FedEx delivery. The tone of the letter was **vague** and referred to criteria but not to specific methodology neither stating the relative importance nor how great a period of time was being referenced.

In general, the letter stated, "We don't think we will be able to renew your contract in October, 2010. This is not final; submit what you like by the end of the month to this **email address**..."

The significance of this letter became clear on June 2, when the content of the vague letter had been construed into the offer of a **Wind Down Agreement.**

In a GM press conference on May 15, at about the time the first letters were being opened, reporters were told that few changes would be made to the original list of 1100 dealers. The first letter was **disingenuous; no real appeal would be allowed.**

The period of review apparently lasted from **midnight May 31, until June 1,** the date of the letter and wind down agreement we received by FedEx on **June 2.**

The agreement offered on the 2nd had to be returned in time to arrive in Detroit by the 12th, a scant **10 days** to decide one's options, to confer with professionals regarding unprecedented legal matters and loved ones about our financial and professional future.

Testimony:

My grandfather, Walter Coombs, immigrated to the U.S. in 1900 and by 1918 had established himself as the Chevrolet dealer in Bend, Oregon. His daughter, Dorris, married my father, Robert W. Thomas, and he was the dealer until 1982, when I succeeded him.

Our family has operated this dealership by the **strictest of ethical guidelines** and **highest level of customer service.** My father and I both served as officers in the United States Marine Corps. He attained the office of general and I of captain.

Our company, Bend Garage Co, dba **Bob Thomas Car Company**, has woven itself into the social fabric of our community since the time it was a village. Our family has provided automobile sales and service, civic leadership and community involvement every year continuously--- **since 1918!**

These are hard times for Bend (unemployment above 16%), but not as difficult as those we survived in the Great Depression and two World Wars. General Motors has been with us the whole time – from 1918 forward.

We have **BEEN** GM to our community. Now, it is a dark time when GM must abandon our town, our region and us. Just as GM is an American, if not world icon, **WE** enjoy iconic status in our region---always there, always helpful and compassionate, always acting responsibly and doing the right thing.

The over 300 letters we garnered in a 24-hour period in support of our appeal to GM were humbling in their appreciation of our caliber and quality of service and community support. Moreover, there was confusion as to why Bend, now 80,000 strong, the largest dealership in the central and eastern part of our state, will be abandoned as will WE, their dealer of choice.

Their world is crumbling. Things they thought they could count on are being taken away…long standing reliability, integrity, a safe harbor. In a very real sense, they are afraid.

Who benefits from this taking, this cancellation that is so unnecessary, so wrong, so wrongly executed?

Not the 216,000 people in our region who are left solely with a small GM dealer in a tiny town at its perimeter, with limited inventory and repair capacity.

Not our community, who has relied on us always to generously support its activities.

Not our employees, who are highly trained to work on sophisticated GM products like Cadillac and Chevrolet, and serve clientele with courtesy and compassion.

Not our customers, who bought our products thinking, like we did, that we would be here forever.

That's our business model, the longest term you can imagine. **ALWAYS DO IT RIGHT**, never take shortcuts. Be here for the long haul. Earn the loyalty of your clientele and they will reward you with long term patronage.

Over the years, that's been GMs business model, too, and we were a good fit for 91 years– **until we got cut from the team.**

Why are these cuts necessary? I recently attended a meeting of letter recipients in Oregon. Who was there? A room full of respectable business people with whom I have attended GM meetings for 30 years. Obviously, they are able business people to have survived, as have we.

The marketplace should be the sole arbiter of which dealers should fall by the wayside, not the arbitrary acts of well meaning administrators.

I enclose our appeal to remain a GM dealer and our supporting materials, and invite you to peruse it yourselves. You will find our conclusions and justifications are compelling when viewed through the eyes of now and prospective GM customers.

Having no GM dealer in our town of 80,000 will not increase GM sales.

If the plan is to replace us with another GM dealer, why have we been deprived of the opportunity to make such a transaction, with their approval? Will our market be awarded to a GM favorite or insider??? This would seem to be an **unreasonable and wrongful taking of a valuable asset**, nurtured through the years only to be snatched away by an overreaching at a moment of opportunity inside the bankruptcy.

And what of the inventory that remains? In our case, some **4 million dollars**, the value of which could shrink by a million or more from what we paid. Over a years' supply of GM cars await our sale. A **half million dollars** of parts cannot be returned.

Our orders were accepted within days prior to our receipt of the non-renewal letter. Had we known our fate, our inventory would be been far less than it is presently. We planned long-term and we have been caught by circumstance.

What I would hope for in such a dire circumstance would be a request of **REASON. Allow us to provide support for those GM customers in our region and relieve us of the inventory obligations we incurred in good faith, by repurchasing at what we paid.**

This is a small price to pay for potentially depriving a long and faithful associate of its livelihood.

Respectfully submitted,
Robert S. Thomas

Bob Thomas
CAR COMPANY

Curriculum Vitae
Robert S. Thomas

Career
1972 – Present:
President and Dealer Principal
Bend Garage Company dba Bob Thomas Car Company
Bend, Oregon

1969 – 1972:
Lieutenant
U.S. Marine Corps

Education
General Motors Dealer Development School

Stanford University, 1969

Civic Involvement

United Way of Deschutes County	Board Member
Greater Bend Rotary	Board Member
St. Charles Hospital Foundation	Board Member
Boys and Girls Club	Board Member
Bend Chamber of Commerce	Board Member
Oregon State University – Cascades	Board Member
Central Oregon Visitors Association	Board Member

Bob Thomas
CAR COMPANY

June 5, 2009

Subject: Request for Wind Down Review

Dear Ladies and Gentlemen:

As a recipient of GM's May 14th letter of anticipated contract non-renewal and the Wind Down Agreement dated June 1, 2009, we request that you review and reconsider the decision to abandon the Bend, OR market of 80,000, the hub of the Central Oregon region of 216,000, in light of the enclosed information. Our continued partnership is truly best for our mutual clientele, the current and future GM customers in this vital area.

As part of our appeal, we have selected key quotes from customer letters, explaining why they believe Bob Thomas is the best dealership to represent the New GM in Bend, Oregon.

In an overwhelming show of support from the community, we have received nearly 300 letters and emails, most within a 24 hour period last week due to a grass-roots effort by customers to Keep Bob Thomas in Bend. We would be happy to provide all these letters if you wish to review them.

If we cannot convince you to renew our contract, we invite you to consider a relationship wherein we would continue to service GM cars and trucks and sell GM parts. Otherwise, the only remaining GM dealer in Central Oregon will be in Madras, and they do not presently have the capacity to serve all of the Chevrolet and Cadillac warranty service in our region.

We respectfully request an opportunity to review the details of our situation in person with an appropriate GM representative at your earliest convenience. We are prepared to meet at your convenience in Bend or at any alternative location you indicate.

Respectfully submitted,

Robert S. Thomas, Dealer
Bend Garage Company dba Bob Thomas Chevrolet-Cadillac
BAC 114386 3776

The best dealership to represent the New GM in Bend, Oregon is the Bend Garage Company (dba Bob Thomas Chevrolet-Cadillac), for each of the following reasons:

Location

- Bend, OR is the economic, medical and educational hub of the entire Central Oregon region.
- We are, by far, the best-located dealer in the Central Oregon region, an area of 8400 square miles and home to 216,000 permanent residents.
- Bend, OR is the 4th fastest growing Metropolitan Statistical Area (MSA)[i] in the United States. We are the only remaining GM dealer in this town of 80,000, also home to a Toyota dealership and numerous big box stores.
- We are the largest and best-equipped GM repair facility between Redding, CA and Yakima, WA on US Hwy. 97 and between Eugene, OR and Nampa (Boise), ID on US Hwy. 20—distances greater than 400 miles N-S & E-W, respectively.
- Our current GM customers tell us they will not drive 45 miles north to Madras (population 5000) to buy or service their GM vehicle. Madras is the location of the nearest dealer not receiving the termination letter and is one of several much smaller satellite towns in the Central Oregon region in which Bend is the hub. These current GM customers will defect to other brands provided by a local dealer. People scattered in this region come to Bend – not Madras – for other business, medical, educational and social activities; commerce does not flow in this region to Madras.

Customer Support

- We provide the bulk of service and warranty support for this region and for the significant incursion of GM vehicles purchased out of our rapidly-growing area.
- The nearly 2.5 million yearly visitors[ii] to this major tourist area, in which Bend is the primary destination, would be frustrated to find no GM service options.

Service, Parts and Body Shop

- Last year alone, we purchased $1,312,707 of GM parts.
- We stock $437,855 in parts in 19,629 distinct GM part numbers. Fill rate = 90%
- We perform $4 million in service and body shop sales per year in 31 service bays with 22 lifts for 20 highly-trained technicians. In 2008 we were 416% STS trained. By July 2009, training percent will return to 300%.
- We offer extended and weekend hours to better serve our mutual GM customers.

Sustainability

- Our company has been trusted and respected by the public and GM since 1916.
- We are the dealership the community wants, having been voted 4 out of the last 5 years as the "best dealership" from which to buy a car[iii].
- Bob Thomas Chevrolet-Cadillac is a long and faithful associate of GM and invariably does the right thing by the customer and GM alike.
- We are a well-capitalized, economically-viable, going concern business in well-kept and substantially-sized facilities (30,000 square feet).

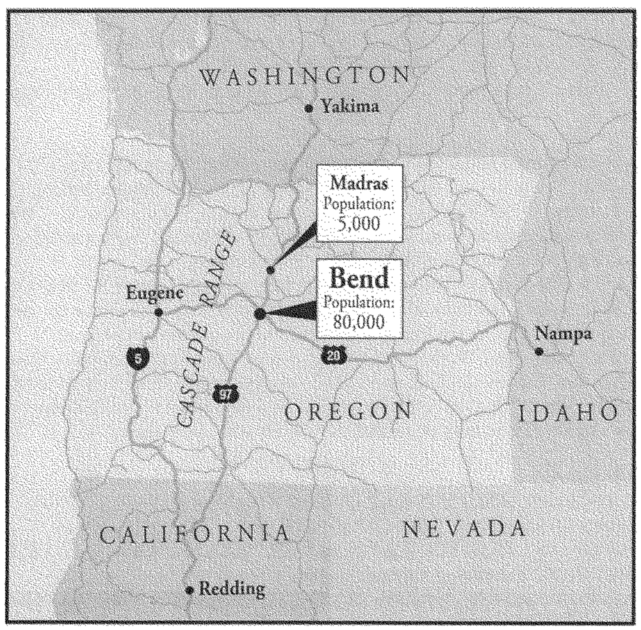
Transitory Conditions

- Bend is in the bust cycle of a boom/bust economy (16% unemployment), severely depressing discretionary purchases of all kinds. For example, Toyota sales are off 50% in our market. We have been through other extreme business cycles in our 92-year history and have emerged stronger from each cycle. We are well capitalized and positioned to rebound with the recovery which will be fueled in part by the continuing influx of entrepreneurs to our region.

Other Considerations:

There are 7 new car dealerships, representing 22 brands in Bend, which is an extremely competitive automobile market. In addition, Chevrolet and Cadillac are currently included in that number, represented by our well-established dealership.

- From 1988 through 2007, this dealership averaged 444 GM units per year, which is the national average for GM dealers.
- We consistently receive "Satisfactory" scores for GM Certified Used Vehicle sales.
- Sold 67% of our objective in 2008. The entire Western Region sold 76% of objective, compared to 85% nationally.
- We were -46.79% in sales from 2007-2008. Dave Smith, the largest volume dealer in the Western Region, was -41.03% from 2007-2008.
- Recognized in Top 50 CSI dealers in Western Region in 2008.



In the words of Bob Thomas Chevrolet-Cadillac and GM's mutual customers:

Reputation

- "Bob Thomas Chevrolet-Cadillac is considered by most of us who have lived here for some time to be the premier automobile dealership in our part of the world." – Mike Hollern, CEO, Brooks Resources Corporation
- "Mr.Thomas is one of the most widely respected business people in Central Oregon. His ethical business practices are the standard to which all other local businesses, including my own, are compared." – Adam Bledsoe
- "The name Bob Thomas is synonymous with honest value, commitment and long-term relationships." – Dr. Kit Carmiencke, O.D.
- "...as a former longtime F & I professional in the Portland, OR market and at a competing dealership in Bend, ...I have never seen this level of professionalism in a car dealer or the community respect for a car dealer that Bob Thomas has earned in Central Oregon. – Michelle Miller
- "They (Bob Thomas) set the example of what other business owners should aspire to be like. From a representation of your brand they are excellent, and their business ethics are beyond reproach." –Jeff Robberson, President, Robberson Ford Sales, Inc.
- "Bob Thomas brings honesty and integrity to the car business in Central Oregon." – Pauline Rhoads

Outstanding, well-trained employees, providing exceptional customer care

- "Previously living all over the world and having purchased cars and having them repaired in various places..., Bob Thomas' service and warranty is by far superior." – Bud Capell
- "The sales and customer service experience at Bob Thomas...has been very good, that is why I choose to go back as a repeat customer." – Peter Carlson
- "...it is obvious that Bob Thomas always and consistently looked for new ways of doing business to provide the best sales and service in the region. Workforce development has always been important to the dealership and hundreds of people have benefitted." – Ray Hoyt, Director, Training and Workforce Development, Clackamas Community College
- "We own two Tahoes...a 2002 and a 2008 both purchased from Bob Thomas Chevrolet. Besides the great value we received we bought them primarily for **the dependable, courteous and excellent service they provided to us each and every time."** – Greg Cushman

Community Support

- "THE THOMAS FAMILY IS ONE OF THE BINDING FABRICS OF OUR COMMUNITY AND HAS BEEN FOR THREE GENERATIONS." – Patrick Kesgard
- "If they go away, so does the good name of GM and Chevrolet in about a 250 square mile region of central and eastern Oregon." – James T. Lussier
- "We want GM and Bob Thomas to remain the centerpiece for auto sales in booming Central Oregon." – Spencer Schock
- "But if you want a dealer with solid reputation, operated by a family that is a solid member of the largest city in Central Oregon, with a reputation for fairness and integrity earned over decades of actual performance-then you would be well advised to retain ...Bob Thomas." – Raymond Spreier
- "Their (Bob and Clella Thomas's) dedication to and active involvement in this community reflects extremely well on GM and provides a source of goodwill that would be lost if this connection were broken." – Bruce Abernethy

Loyal, established clientele

- "I am a committed GM fan as my purchase records will show – I am fiercely loyal TO THE DEALERSHIP and have been to the brand. I hope that doesn't change but if Bob Thomas Motors is stripped of it's GM ties, I will remain loyal to his dealership with whatever brands they carry." – Michael Donahue, V.P., Smith Barney
- I am a small business owner who relies on Bob Thomas not only for company cars and truck but also personal cars and trucks. If Bob Thomas is no longer a dealer I would be forced to buy all our autos from Ford. We have done business with Bob Thomas for 40 years and I hope that it continues." – Mark Eberhard, Eberhard's Dairy Products
- "It is because of the excellent service and commitment to their clients that I am always comfortable in my Suburban. The Thomas family doesn't simply sell cars, they build life long relationships." - Amy and Charles Fraley
- "Bob Thomas is the ONLY GM dealer that I will work with. Not only are they knowledgeable, honest and reliable, the company is an integral part of our community." – Kristine Kaufman
- "We chose to purchase our last car with them and we honestly will never purchase another car from any other dealer. They truly set the bar so high with the entire experience; we simply will not go anywhere else in the future." – Michelle Klein
- "Anyone who has had the pleasure of doing business with Bob Thomas would not switch allegiance to any other car dealership in Bend." – Nancy and Izzy Oren
- "I do not believe local citizens who are aware of the dealership's and the family's economic, philanthropic and community support contributions to this region will consider buying vehicles from any regional success to Bob Thomas if you do disenfranchise them." – Mike Hollern, CEO, Brooks Resources Corporation

An asset to New GM as they move forward

- "The Thomases and Bob Thomas Chevrolet present an excellent image for General Motors in Central Oregon." – Les Alford
- "It is sad what is happening to GM, but I am very hopeful for a full rebound, with relationship based dealers like Bob's leading the way. Price is not the leading factor in buying cars." – Adam Bledsoe
- "…it (Bob Thomas) has been a "shining" example of how a GM dealership can partner with its community. GM, now more than ever, needs this type of relationship and image in our region." – Barry N. Maroni
- "In the future, one of the most challenging things for GM will be to rebuild its reputation. Bob Thomas has a stellar reputation in Central Oregon and Oregon as a whole. This trust people have in Bob can be leveraged to restore the trust in GM for people in our area." – Wayne Purcell
- "As you (GM) and the federal government's Auto Task Force seek to restructure GM to compete in the 21st Century, it is my hope that you recognize the value that distributors like Bob and Clella Thomas bring to your brand and what a loss it would be to Bend and to General Motors if that relationship was severed." – Ron Wyden, United States Senator
- "For GM's interest—not merely that of our citizens or the Bob Thomas family—I ask that you accept this appeal and reverse your current decision. Nothing shows leadership better than the wisdom to recognize that a poor about-to-be-made-decision should be reversed. I hope you exercise such wisdom." – James E. Middleton, President, Central Oregon Community College

"We in the West place a great value on loyalty, perhaps to a greater degree than other areas of the country. If there is to be a thriving General Motors of the future it would seem that severing its long relationship with an exemplary dealership in a town rated as one of the Top 10 American cities by several national business, travel, and retirement publications is a decision that will be regretted…and remembered…by the local population for decades." – James Crowell

"During my professional life I devoted over 40 years to General Motors operations and more specifically to the Chevrolet brand. The lessons that Bob Thomas taught me were carried forward with tremendous success in subsequent endeavors. There is a reason why he commands the respect of the business leaders of the community. And most of all, there is a reason why Bob Thomas and the Thomas Family need to stay in place as the General Motors representative for all of Central Oregon." – Nick Taylor

Thank you for the opportunity to submit this Review of Wind Down status. Please contact me at 541-382-2911 if I can provide further information that would be helpful in this process.

I, along with my family and our loyal GM customers, look forward to hearing from you.

Robert S. Thomas, Bend Garage Company, dba Bob Thomas Chevrolet-Cadillac

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[i] *US Census Bureau*
[ii] *2006 Central Oregon Visitors Association Annual Report*
[iii] *The Source Weekly*

Mr. STUPAK. Thank you, Mr. Thomas.

Mr. Blankenbeckler, your opening statement, please, sir.

TESTIMONY OF FRANK A. BLANKENBECKLER, III

Mr. BLANKENBECKLER. My name is Frank A. Blankenbeckler, III. I am the dealer-principal of Carlisle Chevrolet-Cadillac-Jeep in Waxahachie, Texas, to my knowledge the oldest Chevrolet dealership in the State of Texas. The Cadillac line was added in 1990, and the Jeep line was added around 1978.

This dealership was operated continuously in the same community, with the same family ownership since 1926. The dealership was found in 1926 by my maternal grandfather, Y.C. Carlisle. My father, Frank A. Blankenbeckler, Junior, who was awarded a bronze star for his service to his country at Bastogne during World War II and who received a masters in tax law from Harvard, married my mother in 1947 and moved to Waxahachie to be the dealer at Carlisle Chevrolet for the next 55 years.

I graduated from the University of Texas in 1974 with an MBA. Since that time I have had one job. I have been a GM and Jeep dealer for nearly 35 years.

Approximately 3 years ago, my son graduated from Ole Miss and joined me at the dealership to fulfill his childhood dream of being an automobile dealer like his father, his grandfather, and his great grandfather before him.

During these 84 years of dealership ownership and operation, my family has been one of the most generous and civic minded in Waxahachie. My family was very instrumental in the founding of Baylor Hospital there, the YMCA, served on the school board, and made many other numerous contributions, too numerous to mention.

The point of this type of introduction is to state that my family has been an integral and generous part of Waxahachie for a long time.

On May 13th, I received a letter from Chrysler. It stated I will no longer be a Jeep dealer after June 9. On May 14th, I received a letter from GM stating that my Chevrolet and Cadillac dealer agreements would not be extended beyond 2010. In 24 hours, I was told that everything my family and I had worked for for 84 years would be taken away, with no compensation.

I have introduced a folder which conveys some facts about Carlisle Chevrolet. I would like to request this folder and the balance of my testimony be entered into the record.

Mr. STUPAK. Without objection. Mr. Walden had supplied it to the committee. Without objection, it will be part of your testimony.

[The information was unavailable at the time of printing.]

Mr. BLANKENBECKLER. The pages of this folder show the location of the dealership, including an article by the local paper and a page of facts about the dealership.

I would particularly encourage you to look at the total amount of taxes paid by Carlisle in 2008, about $1.3 million. It contains sales history, CSI scores, and a couple of articles about the dealership that is located next door. I can assure you Carlisle is not the bottom of the heap in regards to its peers per this folder.

I want to make mention of my employees. Over the years, Carlisle has had numerous employees that had worked for my family for 35 to 50 years. Time doesn't permit me to do them justice. My point is Carlisle has had and currently has the best people in the industry.

I would like to mention to the committee the human element of these actions by GM and Chrysler. Nearly 90 souls depend on Carlisle for their existence. With our closing, these people will be subjected to serious economic hardship.

I have had numerous offers to sell my business. I have had that right taken away. My family will be left with a single-purpose dealership facility with no tenant. This is senseless.

My grandfather paid for Carlisle Chevrolet from his labors. My father paid my grandmother for Carlisle Chevrolet through his efforts. It took me nearly 20 years to pay my parents for Carlisle Chevrolet. It took GM and Chrysler a mere 24 hours to take Carlisle Chevrolet from me.

This makes no sense. Why is this happening? GM and Chrysler have stated publicly they have not used the Bankruptcy Code to usurp State and local motor vehicles codes and statutes. This is patently not true. I don't care how it is spun.

GM dealers have offered either a wind-down agreement or participation agreement. The content of the agreements is horrible. Dealers are told to either sign the agreements or GM will petition the bankruptcy court to have them immediately terminated. There is no alternative to signing these new agreements. This is wrong.

Now I would like to address what I think is the most important part of my testimony. In a period of 24 hours, my business was essentially taken from me with no real explanation other than that these are difficult times. How in this country can a man's property be taken without due process and without compensation and apparently given to another dealer with better political connections who has been in my community for less than a year for nothing?

I adamantly think my constitutional rights have been violated. I think I am a victim of an illegal taking. This is the most important point of this hearing in my mind, and I think it is the feeling of all the dealers that are in the same position. I feel like it should be the concern of all Americans. When your property rights are destroyed, how long will it be until it happens to you?

I am hurt. I feel violated, and I am extremely upset. I wear my father's Bronze Star lapel pin on my coat. He was truly a member of the greatest generation. I am glad that he is not alive to witness this terrible injustice. To have risked his life for a country that does what they are doing would have destroyed him.

I love my country, and I love my State. I feel great pain from what is happening. It is my hope and my prayer that I will be able to continue my life and not be consumed by bitterness should this situation not be reversed and this country not return to the tenets of the Founding Fathers who created it.

Thank you for hearing my testimony.

[The prepared statement of Mr. Blankenbeckler follows:]

CARLISLE CHEVROLET COMPANY
SINCE 1926

Chevrolet **Cadillac**

1701 West U.S. 287 Bypass
Waxahachie, Texas 75165

My name is Frank A. Blankenbeckler, III. I am the dealer-principal of Carlisle Chevrolet-Cadillac in Waxahachie, Texas. Carlisle Chevrolet, to my knowledge, is the oldest Chevrolet dealership in the state of Texas, operating continuously from 1926 until the present time as Carlisle Chevrolet Company. This dealership was founded in 1926 by my maternal grandfather Y.C Carlisle. My father Frank A. Blankenbeckler, Jr., awarded with a Bronze Star for his service to his country at Bastogne during World War II and having received a Master in Tax Law from Harvard, married my mother in 1947 and moved to Waxahachie, Texas to be the dealer at Carlisle for nearly the next 55 years. I graduated from the University of Texas in 1974 and since that time I have had one job, that being a GM dealer for nearly 35 years. Approximately three years ago my son, Austin, graduated from Ole Miss and joined me at the dealership to fulfill his childhood dream of being a Chevrolet dealer like his father, his grand father, and great grand father before him.

During these years, almost 84, I would say that my family as a Chevrolet dealer and a citizen of Waxahachie would without question be numbered as one of the most generous and civic minded. My family was very instrumental in the founding of Baylor Hospital, the YMCA, school board member, and other contributions too numerous to mention. My point of this type of introduction is to state that the Blankenbeckler and Carlisle families have been an integral and generous part of Waxahachie.

To clarify a point, at the start of May this year my dealership was franchised as a Chevrolet, Cadillac, and Jeep dealer. One 13 May 2009 I received a letter from Chrysler via UPS. It stated that I would no longer be a Jeep dealer as of 8 June 2009. On 14 May 2009 I received a letter from GM stating that they believed it to be their intention that my dealer agreement would not be extended beyond the expiration of the current agreement which is due to expire in October 2010. To say the least this was a tremendous 24 hours. In 24 hours I have been told that basically everything my family and my self have worked for was being taken away.

I have introduced a folder which conveys some facts about Carlisle Chevrolet. I would like to convey to the committee some of the contents of this folder. From the first page you can see that Waxahachie is located approximately 30 miles to the south as the county seat of Ellis, the contiguous south county to Dallas County on IH 35 E. Additionally this location is at the intersection of U.S. 287 Bypass. These are two of the major highways in the state. This location is on approximately 10 acres. This is an excellent location for an automobile dealership. Also it might be noted that Ellis County is one of the fastest growing and most vibrant counties in the DFW metroplex.

Next is one of several newspaper articles written about my dealership in the local paper, the Waxahachie Daily Light.

Next is a page of facts about Carlisle Chevrolet. I will read this page. ----- As you can see, my dealership is a significant contributor to my community, county, state, and country. Eliminating Carlisle Chevrolet will take a considerable amount of dollars out of the economy. I would like to digress to the point about my employees. I just attended the funeral of my office manager, Tommie Connelly. My grandfather hired her at the age of 16. She worked for Carlisle Chevrolet for nearly 50 years. My current office manager has been at Carlisle for over 35 years. There have been only two office managers at Carlisle Chevrolet. We had a service manager, Joe McMahan, who worked for Carlisle Chevrolet for nearly 50 years. My grandfather hired him when he was about 17. When I came to work at Carlisle there was salesman, Doc Flynn. When he died he had worked at Carlisle for 50 years and was the ranking member in Chevrolet's national sales organization, Legion of Leaders. I could go on and on about the people who currently work or have worked at Carlisle. My point is, over the past years 84 years Carlisle has had and currently has the best people in the industry.

I would like to mention to the committee the human element of these actions by GM and Chrysler. Nearly 90 souls depend upon Carlisle for their livelihood. With our closing these people will be subjected to extreme economic hardship. I've had many opportunities to sell this business. Now I am deprived of that right. My family will be left with a single purpose facility with no tenant. This is totally senseless.

My grandfather bought and paid for Carlisle Chevrolet from his labors. My father paid my grandmother over a period of 15 years for Carlisle Chevrolet through his efforts and work. It took me nearly 20 to pay my parents for Carlisle Chevrolet. It took GM and Chrysler a mere 24 hours to steal Carlisle Chevrolet from me!

This makes no sense. Why is this happening?

GM and Chrysler have stated publicly that they have not used the bankruptcy code to usurp state and local motor vehicle codes and statutes. This is patently not true. I don't care how their actions are spun or discussed.

To my understanding, all GM dealers have been offered either a wind down agreement, for terminated dealers, or a participation agreement for potentially continuing dealers. The content of these agreements is horrible. Dealers are told either to sign the agreements or they, GM, will petition the bankruptcy court to have them immediately terminated. The decision not to sign is ultimately not a decision. Some of the provisions of the "wind down" agreement are: (1) electronically furnish a copy of your sales and service customers that most probably will be given to the new dealer that is awarded your point. This I feel is a violation of federal privacy laws that have terrible penalties upon violation. (2) we are not to be paid for our special tools or parts. (3) we relinquish any right of recourse against them. (4) waive all termination assistance rights. (5) agree not to sue. (6) waive all state statutes or regulations that would normally apply to termination. (7) agree not to sue. (8) agree to not protest the reestablishment of a new dealer in place of yourself. (9) waive any right to recover financial loss from signing.

For the "participation agreement dealers" it is my understanding that they have to agree to (1) stocking requirements. (2) monthly sales goals. (3) building image. (4) dualing regulations. If they fail to comply with these requirements, they run the risk of quick termination. All of these mentioned items are in direct conflict with most state motor vehicle statutes.

Again it is impossible for an intelligent person not to come to the conclusion that G.M. is definitely using the bankruptcy code to usurp local and state statutes and doing so much to their advantage. This is wrong.

Now I would like to address what I think is the most important part of my testimony. As I have previously stated in a period of 24 hours, my business was essentially taken from me on the grounds that I am not a productive dealer. I adamantly dispute this point. Carlisle Chevrolet and I are more than adequately capitalized. As I have previously stated our CSI is definitely within the range of my peers. You can see that we are definitely a player when it comes to the sale of vehicles. We are located in a superb location in a nice facility in a vibrant automotive market. So why am I being terminated? More importantly, how in this country can a man's property be taken without due process and without compensation and possibly given to another party that has been in my community for less than a year for nothing.

I adamantly believe my constitutional rights have been violated. I think that I am a victim of an illegal taking. This is the most important point of this hearing in my mind. And I think it is the feeling of all the dealers that are in this same position. I also feel like it should be the concern of all Americans.

I am hurt. I feel violated. I am extremely angry. I wear my father's Bronze Star label pin on my coat. He was a member of the greatest generation. I am glad that he is not alive to witness this travesty. To have risked his life for a country that would do what they are doing would destroy him. I love my country and my state. I am feel great pain in what is happening. It is my hope and prayer that I will be able to continue my life and not be consumed by bitterness should this situation not be reversed and the country returned to the tenets that our founding fathers created.

Thank you for hearing my testimony.

Frank A. Blankenbeckler, III

Mr. STUPAK. Thank you.

Mr. Paddock, your opening statement, please, sir. You may want to pull that mike a little bit closer. They don't pick up as well as we think they do. Thanks.

TESTIMONY OF DUANE PADDOCK

Mr. PADDOCK. Good morning. I am a "go forward" dealer. My name is Duane Paddock, dealer-owner of Paddock Chevrolet in Kenmore, New York, where we employ 135 of the finest, most hard-working Americans in the Buffalo area. I am proud to say that Paddock Chevrolet is currently the largest GM dealership in the Nation, and we have been proudly serving western New York for almost 75 years.

I am really pleased to be here today. It seems especially appropriate for me at least, since my father passed away exactly 15 years ago to this day. It was on that day the livelihoods of my employees were passed on to my hands, and our company's responsibility to our community had to be preserved.

In addition to my responsibilities at the dealership, I serve as Chairman of GM's National Dealer Council, known as the NDC, for the past 2½ years, a position I was elected to by my fellow GM dealers.

The state of our industry is this. The U.S. marketplace for automobiles is the most open and competitive in the world, with that competition taking place across a wide variety of brands and competing dealers and now the Internet. But it is a recognized fact that, since 2006, a rapid decline of our retail business across all automakers, domestic and foreign, has occurred.

Our industry has gone from an annual selling pace of over 17 million units to just more than 9 million. My fellow dealers of every brand, both GM and non-GM, have suffered huge financial losses in a very short period of time. The amount of working capital necessary to fund their day-to-day operations has been severely diminished. In addition, bank loans to dealers for working capital are essentially nonexistent.

As I sit before you today, I am a franchisee of a company going through a painful restructuring, a restructuring that is not only necessary, but it is critical to the future of our customers, suppliers, dealers, employees, and other stakeholders. Some of my fellow dealers, many of whom I consider friends, received notices this past few weeks that they will not be part of the new GM.

While I cannot advocate the termination of any individual dealership, I will tell you that the Dealer Council will work vigorously with senior GM management over the past 2½ years to address circumstances that we dealers face today. During my tenure as chairman, all meetings between the NDC and GM management have and will continue to be led with dealer profitability as the primary goal of our dealer network. That is because dealer profitability and the reinvestment it makes possible are the keys to improving our customer experience at our dealership and improving that experience is essential to our ability to compete against our best competitors.

I also can tell you that, regarding the restructuring of the GM dealer network to improve its competitiveness, GM has elected to wind down affected dealers over a 17-month period, allowing them to make an orderly business planning decision about their futures. In addition, GM has recognized the need——

Mr. STUPAK. It is just going to buzz. Go ahead. Keep going.

Mr. PADDOCK [continuing]. GM has recognized the need to offer certain compensation to dealers winding down their operations, something Chrysler clearly chose not to do.

Before I conclude, I should tell you that the vast majority of GM dealers I know are also overwhelmingly optimistic about GM's future. They believe in the uncompromising quality, reliability, and dependability of our current portfolio of vehicles. I can tell you that in my 26 years at Paddock Chevrolet, I have never had a better portfolio of vehicles to sell. The stunning designs and compelling fuel economy improvements of these vehicles gives us hope for the future.

In closing, let me say I appreciate your time and, more importantly, your understanding of the significant impact a successful General Motors will have on this great Nation. My family has been a part of GM for decades, my father as a GM dealer, my two uncles, who were UAW members working at the Tonawanda engine plant. Since the day I was born, everything my family had came from their association with GM, from the food on my table to the 1982 Camaro I proudly drove to my high school graduation.

Paddock Chevrolet and all GM dealers are and will continue to be a vital part of the future success of the new GM. I, like my father before me, will continue to work tirelessly to ensure that a vibrant GM dealership can be proudly passed onto my children and will continue to be a fixture in the Buffalo community.

Thank you for this opportunity, and I look forward to answering your questions.

[The prepared statement of Mr. Paddock follows:]

Testimony delivered to

United States House of Representatives
Subcommittee for Oversight and Investigations,
Committee on Energy and Commerce,
June 12, 2009

by

Duanne Paddock
President, Paddock Chevrolet
Kenmore, NY

Good morning. My name is Duane Paddock, Dealer-Owner of Paddock Chevrolet in Kenmore, NY, where we employ 135 of finest, most hard-working Americans the Buffalo area has to offer. I'm proud to say that Paddock Chevrolet is currently the largest GM dealership in the Nation, and we have been proudly serving Western NY for almost 75 years.

I'm really pleased to be here today. It seems especially appropriate, for me at least, since my father passed away exactly fifteen (15) years ago this day. It was on that day the livelihoods of my employees were passed on to my hands, and our company's responsibility to our community had to be preserved.

In addition to my responsibilities at the dealership, I have served as Chairman of the GM National Dealer Council, known as the "NDC," for the past 2 ½ years, a position I was elected to by my fellow GM dealers.

The state of our industry is this. The U.S. marketplace for automobiles is the most open and competitive in the world - with that competition taking place across a wide variety of brands, competing dealers, and now, the Internet.

But it's a recognized fact that since 2006, a rapid decline of our retail business - across all automakers, domestic and foreign - has occurred. Our industry has gone from an annual selling pace of over 17 million units to just more than nine million. My fellow dealers of every brand, both GM and non-GM, have suffered huge financial losses in a very short period of time. The amount of working capital necessary to fund their day-to-day operations has been severely diminished. In addition, bank loans to dealers for working capital are essentially non-existent.

As I sit before you today, I am the franchisee of a company going through a painful restructuring - a restructuring that is not only necessary, but critical to the futures of our customers, suppliers, dealers, employees, and other stakeholders. Some of my fellow dealers, many of whom I consider friends, received notice over the past few weeks that they will not be part of the New GM.

While I cannot advocate the termination of an individual dealership, I will tell you that the Dealer Council has worked vigorously, with senior GM management, over the past 2 ½ years to address the circumstances we dealers face today. During my tenure as Chairman, all meetings between the NDC and GM management have, and will continue to be, led with "Dealer Profitability" as the primary goal for our dealer network. That is because dealer profitability and the reinvestment it makes possible are the keys to improving the customer experience at our dealerships. And improving that experience is essential to our ability to compete against our best competitors.

I would like to say I see a future auto industry in which GM, as it did ten (10) years ago, has a 30% share of a 17.0 million U.S. car market. Under those circumstances, with that level of market share, there would be no need to endure these painful sacrifices, as GM dealer sales per dealership would be higher than industry-average, and dealer profitability would be at record levels. The simple truth is that in today's economy and competitive market we believe that GM's future market share may be something like 20% of a hopefully 14.0 million car market. The bottom line is this – dealers have been faithfully selling GM products for a century, and I can say that although my fellow GM dealers and I are not the cause of this situation, we stand ready to work in partnership with GM on the solution.

I can also tell you that, regarding the restructuring of GM's dealer network to improve its competitiveness, GM has elected to wind-down the affected dealers over an 17-month period, allowing them to make orderly business planning decisions about their future. In addition, GM has recognized the need to offer certain compensation to these dealers winding down their operations, something Chrysler clearly chose not to do.

Moreover, I would like to commend GM and its leadership team for working with the National Automobile Dealers Association (or "NADA") and the NDC to address recent dealer concerns voiced regarding the Participation Agreements for dealers going forward with the New GM. With dealer feedback coming to GM from NADA and NDC, a June 5th meeting was called to address the content of the Agreement. Following the meeting, and an entire weekend of negotiations, a letter of clarification (incorporated as an addendum to the Agreement) was sent to dealers on June 10th informing them of the changes agreed to by NADA, NDC, and GM. These modifications illustrate GM's sensitivity to dealer concerns. This has been my experience with GM management on any dealer issues during my two-and-a-half years as NDC Chair.

Before I conclude, I should tell you that the vast majority of GM dealers I know are also overwhelmingly optimistic about GM's future. They believe in the uncompromising quality, reliability, and dependability of our current portfolio of vehicles. I can tell you that in my 26 years at Paddock Chevrolet I have never had a better portfolio of vehicles to sell. The stunning designs and compelling fuel-economy improvements of these vehicles give us all hope for the future.

In closing, let me say I appreciate your time, and more importantly, your understanding of the significant impact a successful General Motors will have on this great Nation. My family has been a part of GM for decades, including my father as a GM dealer, and my two (2) uncles who were UAW members working at the Tonawanda Engine plant. Since the day I was born, everything my family had came from their association with GM, from the food on my table to the 1982 Chevy Camaro I proudly drove to my high school graduation. Paddock Chevrolet and all GM dealers are and will continue to be a vital part of the future success of the New GM. I, like my father before me, will continue to work tirelessly to insure that a vibrant GM dealership can be proudly passed on to my children, and continue to be a fixture in the Buffalo community. Thank you for this opportunity, I look forward to answering your questions.

Mr. STUPAK. Thank you.

Mr. Kiekenapp, can we get your testimony in?

We have one vote, and I will let Members know I plan on getting through this testimony of this witness, and then we will take a 15-minute break and get right back and finish up this hearing. This is the only vote we will have today, so we will get it done.

Mr. Kiekenapp, if you can, please.

TESTIMONY OF DANIEL J. KIEKENAPP

Mr. KIEKENAPP. Mr. Chairman and Members of the subcommittee, my name is Daniel J. Kiekenapp; and I am the general manager and a shareholder of Tacoma Dodge, an automobile dealership in Tacoma, Washington. Thank you for giving me the opportunity to tell you the Tacoma Dodge story and how the TARP funds you authorized are being used.

Tacoma Dodge has been in business continuously since 1972. Until this week, the dealership was valued at several million dollars and employed 71 people. In the month of April 2009, the last month for which we have a complete report, reports prepared by Chrysler showed that Tacoma Dodge was ranked number one in western Washington and number two in the entire State of Washington for the sale of new Dodge vehicles.

These reports, prepared by Chrysler, also show that out of eight western States covered by the reports Tacoma Dodge ranked 32 out of 313 dealers for the sale of Dodge vehicles. Other reports prepared by Chrysler for the area Chrysler termed Team Washington, which covers more than the State of Washington, shows that in 2006 Tacoma Dodge was ranked 7th out of 60 dealerships; in 2007, it was ranked 8th out of 41 dealerships; and, in 2008, our worst year ever because of the economy and the public's lack of enthusiasm for Dodge vehicles, we still ranked 8th out of 35 dealerships. These stellar sales rankings were accomplished in competition with other dealers selling multiple lines of Chrysler vehicles, whereas Tacoma Dodge only had the opportunity to sell Dodge brand vehicles.

The Dealer Performance Report prepared by Chrysler for year end 2008, comparing Tacoma Dodge with the Dodge dealers in Washington State, shows we have net earnings of $1,704,249, whereas the group average for the same period was $680. Yes, only $680 average per dealership.

We enjoyed the same success with our parts business. The dealer scorecard for December 2008, a report prepared by Chrysler, shows that in 2008 Tacoma Dodge purchased $3,895,166 worth of new parts from Chrysler, whereas the average dealer within the United States purchased a total of only $746,107 worth of parts. Chrysler designates its top 100 dealers for the sales of parts as Mopar Master Dealers. We were one of these top 100. In fact, we ranked number 76 among all the Chrysler dealers in the United States for the sale of parts.

In the area of customer satisfaction and retention, we consistently outperformed our peers. As of February, 2009, Tacoma Dodge had an over 25 percent customer retention average, as compared to approximately 17 percent average for all of the Chrysler dealers in the western United States.

Our problems began when Chrysler assigned us an unreasonably high minimum sales requirement, requiring us to sell an unrealistically high number of vehicles. We didn't understand why Chrysler would assign us such an unreasonably high number, so we looked at the demographics they used and found they had made several errors in the traffic patterns and other demographics they used for our market area. We then pointed this out to Chrysler and asked them to recompute our minimum sales requirement based upon the correct demographical information. Unfortunately, Chrysler refused to even consider our request.

In the spring of 2008, I attended the only dealer meeting I am aware of, whereby representatives of Chrysler explained Project Genesis to the Chrysler dealers in western Washington. Project Genesis is the name of their program to reduce the number of dealers. During that meeting, representatives of Chrysler stated that under Project Genesis there would be two Chrysler dealerships in Pierce County, Washington, and one of those dealerships would be in the City of Tacoma so that the needs of Chrysler customers in Tacoma would be adequately addressed.

On May 14, 2009, I received notification from Chrysler that it intended to terminate Tacoma Dodge as a dealer. In the State of Washington we have a Franchise Act to protect dealers from manufacturers unreasonably terminating a dealer. Under the Washington Franchise Act, Chrysler would never have been able to terminate Tacoma Dodge, since Tacoma Dodge was one of its most outstanding dealers, using any yardstick you want to use to measure our performance. However, the notification from Chrysler told us we were being terminated under the U.S. bankruptcy laws, which provide no such protection to dealers.

The termination of Tacoma Dodge leaves the city of Tacoma, which is the second largest city in western Washington, with a population of almost 200,000, without a single Chrysler dealership. Chrysler's termination of us also leaves Pierce County, which has a population of almost 800,000 persons and is the second most populous county in the State of Washington, with only one Chrysler dealership.

As a result of Chrysler's actions, Tacoma Dodge, which in April was ranked the number one Dodge dealer in western Washington, can no longer sell any new vehicles, nor can we do any warranty work on any new vehicles. We have been reduced to being a used car lot and a neighborhood automobile repair facility. In the process, 35 faithful and loyal long-term employees have lost their jobs; and Pierce County and the State of Washington have lost a payroll of approximately $1.3 million per year.

Again, thank you for the opportunity you have given me to tell you how the TARP funds you authorized are being used.

[The prepared statement of Mr. Kiekenapp follows:]

TESTIMONY OF DANIEL J. KIEKENAPP
BEFORE THE CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
FRIDAY, JUNE 12, 2009, 10:00 A.M.
ROOM 2322 RAYBURN HOUSE OFFICE BUILDING

Mr. Chairman and Members of the Subcommittee:

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Again, thank you for the opportunity you have given me to tell you how the TARP funds you authorized are being used.

Mr. STUPAK. Thank you, and thank you for your testimony.

We have a vote on the floor. It is only one vote, so I am going to ask Members to—let's recess right now, go down and vote. We will come back. We will hear from Mr. Spitzer and Mr. Golick, and we will go right into questions.

So please come back in 15 minutes. We are going to be in recess for about 15, 20 minutes, give you all a chance to stretch your legs. And see you back here in about 15, 20 minutes.

We are in recess.

[Recess.]

Mr. STUPAK. The committee will come back to order, and we will wait for the rest of our folks to reassemble. No more votes today, so we should be able to continue our hearing uninterrupted.

When we left off, Mr. Spitzer, I believe we were up to you to give an opening statement for 5 minutes, please, sir. Take your time. Pull that forward. You are on.

TESTIMONY OF ALAN SPITZER

Mr. SPITZER. Chairman Stupak, Ranking Member Walden, distinguished members of the subcommittee, I want to thank you for the honor of appearing here today. I would especially like to thank Congresswoman Sutton for her role in providing this opportunity to represent my fellow dealers.

We are losing seven dealerships because Chrysler, the bankruptcy court, and the executive branch of our government have acted precipitously to deny us our economic rights. This is a public policy issue worthy of your time and worthy of congressional legislation, since without your prompt intervention to restore rights to franchisees under State law, 2,000 businesses and approximately 100,000 jobs will be lost. As a Nation, can we really afford to let this take place? I urge Congress to enact H.R. 2743, the bipartisan Automobile Dealer Economic Rights Restoration Act, next week.

We have a long and proud history with Chrysler and GM. The majority of our stores sell these brands and these brands only. None of our stores are dualed with other brands. We have a combined 374 years of business relations with Chrysler alone.

We are passionate about both Chrysler and GM, and we want both companies to succeed. We are committed to helping them do so. That is why we are both disappointed and perplexed by the recent actions to terminate us and over 2,000 other dealers.

We are not perfect. During those 374 years of operations, we have made mistakes. Like Chrysler's managers, our managers aren't perfect either. Nevertheless, we have stood shoulder to shoulder with Chrysler during good times and bad. In fact, my Uncle Del, as the President of the Dodge National Dealer Council, lobbied this very Congress for funds to bail out Chrysler the first time. We never quit on them, and they shouldn't quit on us and the hundreds of other dealers who remain committed to Chrysler.

This issue is not about the Spitzer family or our seven dealerships that are being terminated or even the 300-plus employees who work in them. It is about destroying the entire net woth and life's work of hundreds of entrepreneurs and the thousands of people they employ. And I fear that these actions by Chrysler and GM will lead to their demise. And all of it is unnecessary.

First, our dealerships do not cost manufacturers one dime. All products and services which Chrysler and GM provide are charged back to the dealership at a profit. Whether it is special tools, training, or even those colorful brochures, we pay for all of it. We build our own facilities, we provide our own operating capital, we hire our own people; and if we lose money, it comes out of our pocket.

Second, Chrysler has argued that the 789 dealerships terminated were for performance reasons or to put all brands under one roof. As demonstrated by the sworn testimony of myself and dozens of other dealers in the bankruptcy court, many of the terminated dealerships were high-performing or Genesis stores or both.

Chrysler did not terminate dealers for the stated reasons but rather to rid themselves of outspoken dealers and will now redistribute to other dealers while skirting around the laws of all 50 States, laws which otherwise prohibit this type of arbitrary and capricious action. Profitable, high-performing dealerships will be given to our fellow remaining dealers with no due process and no compensation whatsoever.

It is unconscionable for a failed private business to bankrupt another private business which was succeeding. But when our government uses its power, its influence, and our money to aid and abet such action, it is downright unAmerican.

At a time when our government is spending billions of dollars to stimulate the economy and create new jobs, this action will destroy 37,000 jobs with Chrysler dealers and quite likely another 60,000 or more at GM dealerships and millions and millions of local tax dollars will be lost and all for no good reason.

In fact, this plan may ultimately destroy the new Chrysler and severely damage GM's hopes of survival. Dealers are their only customers. We are the face of these once-proud car companies in our communities. The fact that we have survived and prospered over the last hundred years, even as they often produced vehicles American consumers did not want, proves that independent entrepreneurs find ways to survive and create employment opportunities even in tough times.

If Congress does not step in, dealers will be unwilling to invest in new facilities, purchase millions of dollars in inventory, and otherwise risk their capital if State law protections are meaningless and if it could all be taken away in the next downturn. Fewer dealers today means fewer sales of Chrysler and GM products tomorrow, leading to a further erosion of market share for both companies.

Allow the marketplace to select who lives and who dies, not some committee in Detroit. As of today, approximately 350 of the 789 rejected dealers have accepted their fate by not objecting to their terminations. Thus, the accelerated reduction of dealerships has already occurred for those who believe such a reduction was necessary. There is no need to eliminate those of us who remain committed to Chrysler and GM's success.

I thank you, Mr. Chairman, and I can assure you that I will work tirelessly and will not rest until H.R. 2743 becomes law, which already has over 100 cosponsors, Congressman Maffei, Congresswoman Sutton, Congressmen Hoyer and Van Hollen and others who have supported our bill, and we have only been out 3 days.

So thank you for your time, and I will answer any questions. Thank you.

[The prepared statement of Mr. Spitzer follows:]

Testimony of Alan Spitzer before the Sub-Committee on Oversight and Investigations

Distinguished members of this subcommittee, I want to thank you for the honor of appearing before you today. I would especially like to thank Congresswoman Sutton for her role in providing me this opportunity to tell my story.

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This issue is not about the Spitzer family, our seven dealerships or even the 300-plus employees who work there. It is about destroying the entire net worth and life's work of hundreds of entrepreneurs and the thousands of people they employ. I fear that these actions by Chrysler and GM will lead to their demise. And all of it is unnecessary.

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Allow the market place to select who lives and who dies, not some committee in Detroit. As of today, approximately 350 of the 789 rejected dealers have accepted their fate by not objecting to their terminations. Thus, the accelerated reduction of dealerships has already occurred for those who believe such a reduction was necessary. There is no need to eliminate those of us who remain committed to Chrysler and GM's success.

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:	:	**CHAPTER 11**
	:	
CHRYSLER, LLC et al.	:	CASE NO.09-50002(AJG)
	:	(Jointly Administered)
	:	
	::::	

FIRST DECLARATION OF ALAN SPITZER

I, Alan Spitzer, make this Declaration under 28 USC §1746 and state:

1. I am currently the President of the following entities: Spitzer Autoworld Akron, LLC, Spitzer Columbus, Inc., Spitzer Dodge, Inc., Lakewood Chrysler-Plymouth, Inc., Spitzer Motor Center, Inc., Spitzer Motor City, Inc., and Spitzer Autoworld Sheffield, LLC.

2. Each of the above entities has a Dodge, Chrysler or Jeep franchise.

3. I have personally been a dealer-operator for Chrysler for over 30 years.

4. **Spitzer Autoworld Sheffield, LLC** was formed in 2002, through the merger of two Dodge franchises, Spitzer Motors of Elyria, Inc. (a fifty year old Dodge franchise) and Abraham Dodge of Lorain.

5. At Chrysler's request, Spitzer Motors of Elyria, Inc. purchased and then closed Abraham Dodge in neighboring Lorain, Ohio for a purchase price of $1.1 million.

6. I then closed our Dodge store in downtown Elyria and relocated it to a site in Sheffield Village, Ohio located directly on Interstate 90, where we constructed a brand new, state of the art facility to Chrysler's specifications at a cost of $3.5 million dollars.

7. We built a new facility on a site much larger than necessary for the now consolidated Dodge franchisee on the promise by Chrysler that Spitzer would eventually be awarded or be able to purchase a Chrysler Jeep franchise under Chrysler's consolidation plan.

8. Chrysler plans to take the Dodge franchise that we consolidated for Chrysler at a cost of $1.1 million and award it to a Chrysler-Jeep dealer who is located in a small building on a secondary road with a traffic count one tenth the traffic count on I-90 at Spitzer's Sheffield location.

9. Sheffield has $1.5 million of new vehicle inventory, all of which will be worth about $750,000 after June 9 because Chrysler will not buy it back and Sheffield cannot sell its' inventory with a new vehicle warranty nor does it have any of the factory incentives that the remaining Dodge dealers can offer.

10. We will also be left with an empty 30,000 square foot ($3.5 million) building built specifically as an auto dealership, which will be worth significantly less after June 9, 2009 because there are no other new vehicle franchises available.

11. The losses described above will force Spitzer Autoworld Sheffield, LLC into bankruptcy, while enriching the Chrysler-Jeep dealer who will obtain Spitzer Dodge's franchise.

12. **Spitzer Motor City, Inc.** has been a Dodge dealer since 1959 and is located at the corner of Brookpark Road and West 130th Street in Cleveland, Ohio with direct access to I-480.

13. The Brookpark Road intersection is one of the busiest intersections in the Cleveland market. There are more than eleven new vehicle franchises within one mile of Motor City on Brookpark Road, including Toyota, Lexus, Acura, Buick, Mitsubishi, Cadillac, Pontiac-GMC, Chrysler-Jeep, Jaguar, Land Rover and Kia. (Toyota and Lexus are within a few hundred yards and are two of the largest volume stores in Cleveland for any brand.)

14. Last month, Motor City sold more new Dodge's than any other Dodge dealer in a 21 county region in Northeast Ohio with the exception of one. In the last eight years, Motor City's sales have, in total, exceeded its MSR (Minimum Sales Requirement) by over 1,000 vehicles. It was at 137% of its MSR in 2005 and 134% of its MSR in 2006 and was consistently in the top ten of all Dodge dealers in its region since 2000.

15. As late as last year, Chrysler had planned to move a Chrysler-Jeep franchise to the Motor City location, but could not do so because it was unable to obtain the approval from the existing nearby Chrysler-Jeep dealer.

16. The Dodge brand will not be offered on the Westside of Cleveland under Chrysler's plan and instead will be awarded to a Chrysler–Jeep dealer in North Olmsted, a suburb of Cleveland at a site that is not large enough to accommodate all three franchises.

17. Motor City has $3.25 million in new vehicle inventory, which will be worth about $1.6 million after June 9, 2009 for the reasons stated above.

18. A loss of $1.6 million dollars on the sell of its inventory would force Motor City to seek protection in bankruptcy court.

19. **Spitzer Autoworld Akron, LLC** is now a full line Chrysler dealership, established in 2002, when Akron purchased the assets of a bankrupt Dodge dealer on the westside of Akron, Ohio.

20. In 2008, Spitzer Akron, Inc., which was then a forty year old Chrysler-Jeep dealership, closed and relocated to the westside Dodge location pursuant to Chrysler's Project Genesis.

21. We then purchased vacant land on Arlington Road South of downtown Akron on Interstate 77 for a price of $1.6 million. We have plans and permits to build a new Dodge-Chrysler-Jeep dealership at the new Arlington Road location. We did all of this pursuant to Chrysler's Project Genesis program and with Chrysler's assistance.

22. We paid other Chrysler dealers a total of $200,000, pursuant to a series of agreements with Chrysler and those dealers who voluntarily closed. One dealer, who remained open, was also paid by us because our new location, according to Chrysler, has a larger planning potential.

23. According to Project Genesis plans, the Akron metro area would be served by four, full line dealerships: Falls Dodge Chrysler-Jeep to the north; Fred Martin Dodge-Chrysler-Jeep to the west; Klaben Dodge Chrysler-Jeep to the east; and, Spitzer Autoworld Akron, LLC to the south. Prior to these agreements, none of the dealers had all of three Chrysler brands.

24. We signed an agreement just prior to Chrysler filing for bankruptcy, wherein Chrysler extended the time for our Akron store to move to the Arlington Road location. The extension goes through 2010.

25. Based on Chrysler's agreements and representations, we have already invested nearly $2 million to achieve the Project Genesis plan for the Akron metropolitan area.

26. The request by Chrysler to now reject Akron's Dealer Agreement is directly contrary to the Project Genesis plans which Chrysler itself developed just last year.

27. Akron has $2.4 million in new vehicle inventory which will be worth approximately $1.2 million if Chrysler's plan is approved.

28. Akron will be forced into bankruptcy if the plan is approved and the remaining three dealers will be unjustly enriched, while Chrysler will be unrepresented in the southern part of the Akron metropolitan area, an area which has the largest planning potential for Chrysler according to Chrysler itself.

29. **Spitzer Dodge, Inc.**, (Homestead) is a full line Chrysler dealership located in Homestead, Florida. It has had a Dodge franchise for nearly 36 years and purchased the Chrysler-Jeep franchise across the street from it in 2003 pursuant to Chrysler's consolidation of dealerships plan. Homestead paid $2 million for the Chrysler-Jeep franchise.

30. In 2007, we completed an expansion and remodeling of the dealership adding showroom space and offices to accommodate the Chrysler-Jeep franchises and moved them into the renovated building just two years ago. The facility was designed to Chrysler's specs for a full line Chrysler dealership.

31. The cost of the renovation to accommodate all three Chrysler franchises was approximately $1 million and was done based on Chrysler's representation that Homestead would continue as the Chrysler dealer for that market. Homestead is located on South Dixie Highway, which is the only highway leading from Miami Florida to the Florida Keys.

32. Homestead has consistently achieved one of the highest customer satisfaction scores in the region.

33. If Chrysler's plan is approved, the Homestead market will be underserved and existing Chrysler customers will have to travel a heavily congested ten miles to the north for next closest dealer for service or sales (some customers will have to travel 15 or more miles.)

34. Homestead has $2.4 million in new vehicle inventory, which will be worth approximately $1.2 million under Chrysler's plan.

35. The loss suffered by Homestead will force it into bankruptcy.

36. **Spitzer Lakewood Chrysler-Jeep, Inc.** has been a Chrysler dealer since 1965. In 2000 Lakewood purchased the Jeep franchise from a dealer who was going out of business for $1,050,000 and relocated the Jeep franchise to its existing facility at 13815 Detroit Road, Lakewood, Ohio.

37. Detroit Road is a high traffic east-west roadway that ends in Downtown Cleveland, which is about five miles away. Lakewood is the most densely populated city in Ohio. Although it is in an older location, Lakewood is still viable and it could be relocated to the Motor City location on Brookpark Road, which was Chrysler's plan under Project Genesis.

38. Lakewood has consistently been a profitable dealership, achieving better than average sales performance and consistently good customer satisfaction scores.

39. Lakewood has $1.9 million in new vehicle inventory, which will be worth approximately $1 million under Chrysler's plan.

40. Lakewood could be forced to file for bankruptcy protection under Chrysler's plan.

41. **Spitzer Motor Center, Inc.** is a Dodge dealership located in Mayfield Heights, Ohio on Mayfield Road, a busy five lane thru way that is one mile from I-271. There are at least five dealerships within a mile of Motor Center, including Ford and Chevrolet.

42. For the past two years, Mayfield Road has been under extensive construction to widen and improve it. The work is now nearly complete, but was a major hindrance to businesses located on Mayfield Road the past two years and hurt Motor Center's performance.

43. During the past 12 months, Chrysler has attempted to facilitate a consolidation of Motor Center's Dodge franchise with the Chrysler Jeep franchise owned by the Deacon family. Chrysler was willing to and offered to pay $850,000 to either dealer to help facilitate a sell by one to the other Spitzer was willing to sell or to purchase on Chrysler's terms, but Deacon was not willing to do so arguing that it could not justify the investment and that it did not want to construct a new, larger facility; nor would Deacon sell to Motor Center on the same terms as were offered to it.

44. Under Chrysler's proposal, Deacon will remain and presumably be given Spitzer Dodge's franchise for nothing thereby damaging Motor Center, even though it was Deacon who was unwilling to sell or buy.

45. Motor Center was an acceptable dealership to Chrysler within the last 12 months even to the point that Chrysler was willing to help Motor Center purchase Deacon's Chrysler-Jeep franchise, now Deacon will be allowed to remain and benefit from its unwillingness to invest in the future of Chrysler.

46. Motor Center has $1.2 million of new vehicle inventory, which will be worth approximately $600,000 under Chrysler's plan.

47. Deacon Chrysler-Jeep will be awarded Motor Center's Dodge franchise and will be unjustly enriched by the action.

48. Based on the projected loss, Motor Center will have to seek protection in bankruptcy.

49. **Spitzer Columbus, Inc.** has been a Dodge dealer for nearly fifty years. It is located in a suburb of Columbus southeast of downtown Columbus.

50. Columbus has never had a losing year from a profitability standpoint and was at one time the most profitable Dodge dealer in the United States. Even in these difficult economic conditions, Columbus continues to earn a net profit.

51. While Columbus sales have been below MSR, in 2008, they registered more Dodges in Franklin County (Columbus) than any other Dodge dealer by more than fifty percent.

52. The Columbus Dodge franchise is not going away, like Sheffield, Motor Center, and Motor City, the Columbus Dodge franchise will be awarded to the local Chrysler-Jeep dealer known as Byers Chrysler-Jeep. Interestingly, the Byers Chrysler store, north of Columbus, was terminated by Chrysler.

53. Byers Chrysler-Jeep will be unjustly enriched by Chrysler's plan.

54. Columbus has $2.4 million in new vehicle inventory, which will be worth approximately $1.2 million under Chrysler's plan after June 9, 2009.

55. Columbus may be forced into bankruptcy by Chrysler's actions despite the fact that it has been profitable every year for the past thirty years.

56. The Spitzer family owns a total of 29 franchises, including Chevrolet, Ford and Toyota, in twenty locations and is overall a profitable, solvent entity.

57. Chrysler's actions, if approved, will result in the loss of 12 franchises in seven locations.

58. The Chrysler franchises represent about forty percent of Spitzer's revenue, but worse, the loss of $7.4 million on the inventory could cause the collapse of not just the Chrysler stores, but the other stores, as well, six of which are GM brand stores.

59. Many of our floor plans are cross-collateralized and its floor plan lenders, already nervous about the Chrysler bankruptcy and the impending GM bankruptcy will undoubtedly call in their loans thereby creating a domino effect and putting a 105 year old, profitable business enterprise out of business. Over 1,000 employees could lose their jobs as a consequence.

60. This same scenario will most likely be played out across the United States as the 782 other Chrysler dealers employing about 37,000 people face the same fate.

I declare under penalty of perjury that the foregoing statements are true and correct.

Dated: May 22, 2009

ALAN SPITZER

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Spitzer Motor Center, Inc.
Spitzer Motor City, Inc.
Spitzer Autoworld Sheffield, LLC

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

....x
In re:

Chrysler LLC, *et al.*,

Debtors.

Case No. 09-50002 (AJG)
(Jointly Administered)
Chapter 11

....x

OBJECTIONS OF SPITZER AUTOWORLD AKRON, LLC, SPITZER COLUMBUS, INC., SPITZER DODGE, INC., LAKEWOOD CHRYSLER-PLYMOUTH, INC., SPITZER MOTOR CENTER, INC., SPITZER MOTOR CITY, INC., AND SPITZER AUTOWORLD SHEFFIELD, LLC (HEREINAFTER "SPITZER") TO MOTION OF DEBTORS AND DEBTORS IN POSSESSION FOR AN ORDER REJECTING THE DEALERSHIP AGREEMENTS OF SPITZER AND GRANTING CERTAIN RELATED RELIEF

To the Honorable Arthur J. Gonzales, United States Bankruptcy Judge:

Spitzer hereby objects to the Debtors motion to reject their dealer agreements for the reasons set forth below:

I. OVERVIEW

Spitzer is one of the largest and oldest Chrysler dealer groups in the United States. No other group loses more dealerships under Chrysler's plan and only one other dealer group (Auto Nation, Inc.) will lose as many dealerships under the proposed motion.

The request by Chrysler must be denied because (1) it is legally flawed and (2) it will result in a weaker Chrysler and will disproportionately place the financial burden of Chrysler's bankruptcy on the Affected Dealers while enriching dealers who remain in place.

Specifically, as to Spitzer's dealerships, the request of Chrysler is legally flawed because:

(1) The franchise agreement between Spitzer and Chrysler is not a typical "executory contract" as that term is used in Section 365 of the Bankruptcy Code, but rather is a contract subject to state regulation in Ohio and Florida;

(2) Even if the Dealer Agreements were typical executory contracts, the proposal does not meet the legal requirements for rejecting them because (a) the action will not benefit the debtor's estate (and, in fact, will harm the debtor's estate) and (b) the action is not an exercise of sound business judgment, but rather an attempt to skirt substantive state law rights; and,

(3) The result of Chrysler's request will be to bankrupt the Spitzer dealerships as well as hundreds of other Affected Dealers, while enriching the remaining Chrysler Dealers even though all dealers' contracts are otherwise identical. The request, if granted, will result in a preference to one group at the expense of another group, who have otherwise identical contracts, for no valid business reason.

II. FACTS SPECIFIC TO SPITZER

Spitzer Autoworld Sheffield, LLC ("Sheffield")

1. Spitzer Autoworld Sheffield, LLC was formed in 2002, through the merger of two Dodge franchises, Spitzer Motors of Elyria, Inc. (a fifty year old Dodge franchise) and Abraham Dodge of Lorain.

2. As part of Chrysler's plan of consolidation, Spitzer Motors of Elyria, Inc. purchased and then closed Abraham Dodge in neighboring Lorain, Ohio for a purchase price of $1.1 million. Chrysler contributed to the merger and acquisition. (See Declaration of Alan Spitzer at ¶5.)

3. Spitzer closed its Dodge store in downtown Elyria and the newly acquired Abraham Dodge and relocated both to a site in Sheffield Village, Ohio located directly on Interstate 90, where Spitzer constructed a brand new, state of the art facility to Chrysler's specifications at a cost of $3.5 million dollars. (Id. at ¶6.)

4. Spitzer built the new facility on a site much bigger than necessary for just the Dodge franchises on the promise by Chrysler that eventually Spitzer would be awarded the Chrysler Jeep franchises under Chrysler's consolidation plan. (Id. at ¶7.)

5. Chrysler now plans to take the Dodge franchise that Spitzer consolidated at a cost of $1.1 million and award it to a Chrysler-Jeep dealer who is located in a small building on a secondary road with a traffic count one tenth the traffic count on I-90 at Spitzer's Sheffield location. (Id at ¶8.)

6. Sheffield has $1.5 million of new vehicle inventory at the Sheffield dealership, all of which will be worth about $750,000 after June 9 because under Chrysler's plan it will not buy it back and it will not allow Spitzer to sell its' inventory

with a new vehicle warranty nor will it give Spitzer the factory incentives that the remaining Dodge dealers have available. (Id. at ¶9.)

7. Spitzer will also be left with an empty 30,000 square foot ($3.5 million) building built specifically as an auto dealership, which will be worth significantly less after June 9, 2009. (Id. at ¶10.)

8. The losses described above will force Spitzer Autoworld Sheffield, LLC into bankruptcy while enriching the Chrysler-Jeep dealer who will obtain Spitzer Dodge's franchise at no cost. (Id. at ¶11.)

Spitzer Motor City, Inc. ("Motor City")

9. Motor City has been a Dodge dealer since 1959 and is located at the corner of Brookpark Road and West 130th Street in Cleveland, Ohio with direct access to I-480.

10. The Motor City intersection is one of the busiest intersections in the Cleveland market. There are more than eleven new vehicle franchises within one mile of Motor City on Brookpark Road, including Toyota, Lexus, Acura, Buick, Mitsubishi, Cadillac, Pontiac-GMC, Chrysler-Jeep, Jaguar, Land Rover and Kia. (Toyota and Lexus are within a few hundred yards of Spitzer and are two of the largest volume stores in Cleveland for any brand.) (Id. at ¶13.)

11. Last month, Motor City sold more new Dodge's than any other Dodge dealer in a 21 county region in Northeast Ohio with the exception of one. In the last eight years, Motor City's sales have, in total, exceeded its MSR (Minimum Sales Requirement) by over 1,000 vehicles. It was at 137% of its MSR in 2005 and 134% of its MSR in 2006 and was consistently in the top ten percent of all Dodge dealers in its region since 2000. (Id. at ¶14.)

12. As late as last year, Chrysler had planned to move a Chrysler-Jeep franchise to the Motor City location, but could not do so because it was unable to obtain the approval from the existing nearby Chrysler-Jeep dealer. (Id. at ¶15.)

13. The Dodge brand will not be offered on the Westside of Cleveland under Chrysler's plan and instead will be awarded to a Chrysler–Jeep dealer in North Olmsted, a suburb of Cleveland at a site that is not large enough to accommodate all three franchises. (Id. at ¶16.)

14. Motor City has $3.25 million in new vehicle inventory, which will be worth about $1.6 million after June 9, 2009 for the reasons stated above. (Id. at ¶17.)

15. A loss of $1.6 million dollars on the sell of its inventory would force Motor City to seek protection in bankruptcy court. (Id. at ¶18.)

<u>Spitzer Autoworld Akron, LLC ("Akron")</u>

16. Akron, now a full line Chrysler dealership, was established in 2002 when it purchased the assets of a bankrupt Dodge dealer on the Westside of Akron, Ohio.

17. In 2008, Spitzer Akron, Inc., which was then a forty year old Chrysler-Jeep dealership was closed by Spitzer and relocated to the Westside Dodge location pursuant to Chrysler's Project Genesis. (Id. at ¶20.)

18. At Chrysler's direction, Spitzer purchased vacant land on Arlington Road, south of downtown Akron on Interstate 77 for a price of $1.6 million. Spitzer has plans and permits to build a new Dodge-Chrysler-Jeep dealership at the Arlington Road location, pursuant to Chrysler's Project Genesis.

19. To accomplish Project Genesis for the Akron, Ohio metro market, Spitzer paid other Chrysler dealers a total of $200,000 pursuant to a series of agreements with

Chrysler. Some of those dealers voluntarily closed and four dealers remained open. (Id. at ¶22.)

20. According to Project Genesis plans the Akron metro area would be served by the four, full line dealerships; namely, Falls Dodge Chrysler-Jeep to the north; Fred Martin Dodge-Chrysler-Jeep to the west; Klaben Dodge Chrysler-Jeep to the east; and, Spitzer Autoworld Akron, LLC to the south. Prior to these agreements, none of the dealers had all of three Chrysler brands. (Id. at ¶23.)

21. It was Chrysler's "business judgment" as late as last month that Spitzer Akron would best meet Chrysler's business needs and market coverage by remaining as a dealer and relocating to the Arlington Road location by the end of 2010. Chrysler reiterated its faith in Spitzer by granting Spitzer a one year extension to build the new store, which extension was signed just prior to Chrysler filing bankruptcy. (Id. at ¶24.)

22. Based on Chrysler's agreements and representations, Spitzer invested nearly $2 million to achieve the Project Genesis plan for the Akron metropolitan area. (Id. at ¶25.)

23. The request by Chrysler to now reject Akron's sales and service agreement is directly contrary to the Project Genesis plans which Chrysler itself developed just last year. (Id. at ¶26.)

24. Akron has $2.4 million in new vehicle inventory which will be worth approximately $1.2 million if Chrysler's plan is approved. (Id. at ¶27.)

25. Akron will be forced into bankruptcy if the plan is approved and the remaining three dealers will be unjustly enriched, while Chrysler will be unrepresented in

the southern part of the Akron metropolitan area, an area which has the largest planning potential for Chrysler products according to Chrysler itself. (Id. at ¶28.)

Spitzer Dodge, Inc. ("Homestead")

26. Homestead is a full line Chrysler dealership. It has had a Dodge franchise for nearly 36 years and purchased the Chrysler-Jeep franchise across the street from it in 2003 pursuant to Chrysler's consolidation of dealerships plan. Homestead paid $2 million for the Chrysler-Jeep franchise. (Id. at ¶29.)

27. In 2007, Homestead completed an expansion and remodeling of its dealership adding showroom space and offices to accommodate the Chrysler-Jeep franchises and moved them into the renovated building just two years ago. The facility was designed to Chrysler's specs for a full line Chrysler dealership. (Id. at ¶30.)

28. The cost of the renovation to accommodate all three Chrysler franchises was approximately $1 million and was done based on Chrysler's representation that Homestead would continue as the full line Chrysler dealer for that market. Homestead is located on South Dixie Highway, which is the only highway leading from Miami Florida to the Florida Keys. (Id. at ¶31.)

29. Homestead has consistently achieved one of the highest customer satisfaction scores in the region. (Id. at ¶32.)

30. If Chrysler's plan is approved, the Homestead market will be underserved and existing Chrysler customers will have to travel a heavily congested ten miles to the north for next closest dealer for service or sales (some customers will have to travel 15 or more miles.) The next closest Chrysler dealer to the south is in Key West, Florida (3 hours away).

31. Homestead has $2.4 million in new vehicle inventory, which will be worth approximately $1.2 million, after June 6, 2009. (Id. at ¶34.)

32. The loss suffered by Homestead will force it into bankruptcy. (Id. at ¶35.)

Spitzer Lakewood Chrysler-Jeep, Inc. ("Lakewood")

33. Lakewood has been a Chrysler dealer since 1965. In 2000 Lakewood purchased the Jeep franchise from a dealer who was going out of business for $1,050,000 and relocated the Jeep franchise to its existing facility at 13815 Detroit Road, Lakewood, Ohio. (Id. at ¶36.)

34. Detroit Road is a high traffic, east-west roadway that ends in Downtown Cleveland, which is about five miles away. Lakewood is the most densely populated city in Ohio. Although it is in an older location, Lakewood is still viable or it could be relocated and merged with Dodge at the Motor City location on Brookpark Road, which was Chrysler's plan under Project Genesis. (Id. at ¶37.)

35. Lakewood has consistently been a profitable dealership, achieving better than average sales performance and consistently good customer satisfaction scores.

36. Lakewood has $1.9 million in new vehicle inventory. It will be worth approximately $950,000 under Chrysler's plan. (Id. at¶38.)

37. Lakewood could be forced to file for bankruptcy protection if Chrysler's plan is approved. (Id. at ¶39.)

Spitzer Motor Center, Inc. (Motor Center)

38. Motor Center is a Dodge dealership located in Mayfield Heights, Ohio on Mayfield Road, a busy five lane thru way that is one mile from I-271. There are at least

five dealerships within a mile of Motor Center, including Ford and Chevrolet. (Id. at ¶40.)

39. For the past two years, Mayfield Road has been under extensive construction to widen and improve it. The road work is now nearly complete, but was a major hindrance to businesses located on Mayfield Road during the past two years. (Id. at ¶41.)

40. During the past 12 months, Chrysler has attempted to facilitate a consolidation of Motor Center's Dodge franchise with the nearby Chrysler Jeep franchise owned by the Deacon family. Chrysler was willing to and offered to pay $850,000 to either dealer to help facilitate a sell by one to the other. Spitzer was willing to sell or to purchase on Chrysler's terms, but Deacon was not willing to purchase Spitzer, arguing that it could not justify the investment and that it did not want to construct a new, larger facility; nor would Deacon sell to Motor Center on the same terms as were offered to it. (Id. at ¶43.)

41. Under Chrysler's proposal, Deacon will remain and presumably be given Spitzer Dodge's franchise for nothing thereby damaging Motor Center, even though it was Deacon who was unwilling to sell or buy. (Id. at ¶44.)

42. Motor Center was an acceptable dealer to Chrysler within the last 12 months even to the point that Chrysler was willing to help Motor Center purchase Deacon's Chrysler-Jeep franchise, now Deacon will be allowed to remain a dealer and benefit from its unwillingness to invest in the future of Chrysler. (Id at ¶45.)

43. Motor Center has $1.2 million of new vehicle inventory, which will be worth approximately $600,000 under Chrysler's plan. (Id. at ¶46.)

44. Deacon Chrysler-Jeep will be awarded Motor Center's Dodge franchise and will be unjustly enriched by the action. (Id. at ¶47.)

45. Based on the projected loss, Motor Center will have to seek protection in bankruptcy. (Id. at ¶48.)

Spitzer Columbus, Inc. ("Columbus")

46. Columbus has been a Dodge dealer for nearly fifty years. It is located in a suburb of Columbus southeast of downtown Columbus. (Id. at ¶49.)

47. Columbus has not had a losing year from a profitability standpoint since the early 1960s and was at one time the most profitable Dodge dealer in the United States. Even in these difficult economic conditions, Columbus continues to earn a net profit. (Id. at ¶50.)

48. While Columbus sales have been below its MSR, in 2008, it registered more Dodges in Franklin County (Columbus) than any other Dodge dealer by more than fifty percent. (Id. at ¶51.)

49. The Columbus Dodge franchise is not being eliminated, like Sheffield, Motor Center, and Motor City, the Columbus Dodge franchise will be awarded to the local Chrysler-Jeep dealer known as Byers Chrysler-Jeep. Interestingly, the Byers Chrysler-Jeep store, north of Columbus, was terminated by Chrysler. (Id. at ¶52.)

50. Byers Chrysler-Jeep will be unjustly enriched by Chrysler's plan.

51. Columbus has $2.4 million in new vehicle inventory, which will be worth approximately $1.2 million under Chrysler's plan after June 9, 2009. (Id. at ¶53.)

52. Columbus may be forced into bankruptcy by Chrysler's actions despite the fact that it has been profitable every year for the past thirty years. (Id. at ¶54.)

Overall Impact to Spitzer Organization

53. The Spitzer family owns a total of 29 franchises, including Chevrolet, Ford and Toyota, in twenty locations and is overall a profitable, solvent entity. (Id. at ¶56.)

54. Chrysler's actions, if approved, will result in the loss of 12 franchises in seven locations. (Id. at ¶57.)

55. The Chrysler franchises represent about forty percent of Spitzer's revenue, but worse, the immediate loss of $7.4 million on the inventory could cause the collapse of not just the Chrysler stores, but the other stores, as well, six of which are GM brand stores. (Id. at ¶58.)

56. Many of the Spitzer's floor plans are cross-collateralized and its floor plan lenders, already nervous about the Chrysler bankruptcy and the impending GM bankruptcy, will undoubtedly call in their loans or seek different terms, thereby creating a domino effect and putting a 105 year old, profitable business enterprise at risk of going out of business. Over 1,000 employees could lose their jobs as a consequence. (Id. at ¶59.)

57. This same scenario will most likely be played out across the United States as the 782 other Chrysler dealers employing about 37,000 people face a similar fate.

III. REQUEST OF CHRYSLER IS CONTRARY TO LAW

Dealer Agreements Are Unique Executory Contracts

1. Contrary to Chrysler's claim, the Dealer Agreements held by the Spitzer family and the other Affected Dealers are not typical "executory contracts" within the meaning of Section 365(a) of the Bankruptcy Code.

2. The Dealer Agreements create a unique relationship between Spitzer and Chrysler which, unlike typical executory contracts, are specifically and closely regulated by state laws in Ohio and Florida.

3. These Dealer Agreements do not create a burden on or a cost to Chrysler, as a typical contract would create. The Spitzer dealerships represent revenue centers for Chrysler not cost centers and, unlike other contracts, Spitzer and the other Affected Dealers have invested millions of dollars in facilities and inventory on the strength of state laws, which prohibit the arbitrary termination of their Dealer Agreement.

4. The state legislature of every state, including Ohio and Florida (where all of Spitzer's dealerships are located), have passed laws which govern the relationship between Spitzer and Chrysler in recognition of the large investment a typical dealership represents. See Title 13 of Ohio Revised Code and Florida statutes Section 320 et seq.

5. While this Court has jurisdiction over the Debtors, it does not have the authority to ignore statutory rights of Spitzer and the other Affected Dealers. This Court may have authority to ultimately decide which contracts Chrysler may honor and which contracts it may reject, but it must do so by applying the applicable statutory law that Chrysler submitted to when it decided to do business in Ohio and Florida. ***See, Dan Hixson Chevrolet Company, Debtor***, 12 B.R. 917, (Bankr. N.D. Texas 1981) where the Bankruptcy Court states that:

> A manufacturer could be held in violation of the subsection (Texas law) terminating the franchise without good cause. Such a proceeding by the commission against the manufacturer would be a proceeding to enforce such unit's police or regulatory power.

6. Ohio and Florida, like Texas, have a vested interest in protecting legitimate business within their jurisdiction and to date, the federal government has not pre-empted the rights of states to do so. Clearly, the Court in ***Hixson*** recognized that a dealer-debtor had rights under both Bankruptcy Law and Texas law. Spitzer, as a non debtor dealer, has similar rights under Ohio and Florida law, namely that its franchises cannot be terminated without a "good cause" hearing.

7. If Chrysler's request is granted, the Spitzer entities in question will be forced to seek their own protection under federal Bankruptcy law. If that happens, Spitzer will be a dealer-debtor, like Hixson; and, the Bankruptcy Court in a Spitzer bankruptcy could issue an order allowing Spitzer as a debtor in possession to assume the Chrysler dealer agreement thereby creating a stalemate. In the end, it is clear that this Court must give deference to state laws governing these dealer agreements. ***See, In re: Tom Stimus Chrysler-Plymouth, Inc., Debtor*** 134 B.R. 676 (Bankr. M.D.T. 1991).

Spitzer's Dealer Agreements with Chrysler are not burdensome obligations.

8. The threshold question for this Court is whether the dealer agreements which Chrysler seeks to reject are "burdensome" obligations. In other words, do the agreements create some economic cost to Chrysler? ***See, In re:Riodizio, Inc., Debtor***, 204 B.R. 417 (1997) (Bankr. S.D.N. 1997)

9. As Chrysler itself admits, all of the executory contracts of its dealers are identical or nearly identical, thus, on their face; there is no economical difference between the Spitzer dealer agreements and those of the remaining Chrysler dealers. So Chrysler cannot argue to this Court that the Spitzer dealer agreements are "burdensome", while those of the remaining 3,000 dealers are not burdensome! Other than citing general

criteria that Chrysler allegedly applied, Chrysler offers no specific hard data or even subjective data that supports a finding that the Spitzer dealerships are any more or less "burdensome" than any other.

10. The action by Chrysler herein is precisely why every state in the United States has adopted franchise laws governing these Motor Vehicle Dealer Agreements. As noted in ***Hixson, supra***, these laws were established to protect dealers from arbitrary, capricious or bad faith actions by manufacturers. Chrysler's argument that the Spitzer agreements are burdensome, while identical agreements with other dealers are not, is further discredited by the fact that Spitzer's franchises are going to be awarded to other dealers in the same market under identical agreements. (Sheffield's Dodge franchise will go to Tomko Chrysler-Jeep; Motor Center's Dodge franchise will go to Deacon Chrysler-Jeep; Columbus's Dodge franchise will go to Byers Chrysler-Jeep and Motor City's Dodge franchise will go to Chrysler-Jeep of North Olmsted.) Thus, Chrysler will still have the "cost" of supporting the same franchises, only at different locations.

11. The Spitzer dealer agreements are not "burdensome" for the further reason that Spitzer pays exactly the same for a vehicle it purchases from Chrysler as do other dealers; it is reimbursed for warranty work at the same or substantially similar rate as the other dealers; and, it receives the same sales incentives. Chrysler has not nor will it be able to establish a net cost to itself from the Spitzer dealer agreements because Spitzer is a source of net revenue to Chrysler and in some instances, it is the source of vast revenue for Chrysler. Spitzer also services the warranty obligations of Chrysler at its seven service departments for thousands of Chrysler product owners. A loss of these service

centers will cause considerable ill will with these customers, as they are forced to travel farther and wait longer for service.

Chrysler's request to reject Spitzer's Agreements does not meet the "business judgment" test required by law.

12. Given the fact that Spitzer's dealer agreements are not "burdensome" to Chrysler as they are identical to the remaining Dealer Agreements, the only explanation for Chrysler's rejection is that it is arbitrary, capricious or made in bad faith. It is no coincidence that the larger dealer groups lost the most franchises. Spitzer had rejected 7 of its 8 dealerships representing 9 of its 10 Chrysler franchises. Auto Nation had nearly a third of its Chrysler franchises rejected and one dealer in Virginia, Jack Fitzgerald, will lose all five of his dealerships if this motion is approved. Larger dealer groups, like Spitzer, have clearly been targeted by Chrysler. There is also a pattern of abandoning urban areas, while moving franchises to suburban areas with no business reason set forth for doing so.

13. The Bankruptcy Courts have, over the years, looked at various reasons for rejecting an executory contract to determine if the rejection represents a valid "business judgment". Those reasons are not met in the case of the Spitzer agreements. Those acceptable reasons are as follows:

(1) The contract is uneconomical to complete according to its terms;

As indicated above and in the attached declaration, the terms of the rejected Spitzer dealer agreements are identical to the terms of the agreements, which are being assumed by Chrysler. If Spitzer's agreements are uneconomical, so too are the other agreements. Chrysler plans to enter into the same agreement now being rejected as "uneconomical" with another dealer down the street or across town.

(2) The contract is financially burdensome to the estate;

Spitzer's dealerships have, in the past and will in the future, generate revenue for Chrysler. Spitzer has over $15 million in Chrysler inventory today. All of it was paid for by Spitzer with the revenue going to Chrysler. Since competing Chrysler dealers have access to as much Chrysler product as they need, even if Spitzer had poor sales performance, (which it does not) the other Dodge dealers and thus Chrysler are not prevented from selling as many vehicles as they are capable of selling. Chrysler could not have sold the vehicles sold to Spitzer (or which it would sell to Spitzer in the future) for a higher price to one of the other dealers.

On the other hand, the rejection of the Dealer Agreements is a huge financial burden on Spitzer (and the other Affected Dealers), who will shoulder 100% of the cost of "downsizing the distribution system". Effectively, the remaining dealers and especially the dealers like Tomko, Deacon, Byers and Chrysler Jeep of North Olmsted, will receive a preference and a windfall in the form of additional franchises, increased market share and warranty business, while the Affected Dealers, through no fault of the their own, are bankrupted. Dealers who are otherwise similarly situated will be divided into separate classes for no valid reason.

(3) Rejection will make the debtor more attractive to a prospective purchaser or investor;

, While Chrysler claims in its motion that Fiat, as a prospective purchaser, has collaborated with Chrysler on its decision to reject these contracts, the truth of the matter is that such a review by Fiat would have been impossible in the time frame in which it has been operating.

Neither Fiat nor a prospective purchaser would want to lose, its largest and best capitalized dealers! Chrysler's own objective criteria lead any reasonable business person to the conclusion that the Spitzer dealership agreements should not be rejected. Chrysler claims that its "Project Genesis", commenced in 2001, was designed to "identify key locations"; (2) identify most desirable dealerships; and (3) create "full line" dealers. (See Paragraph 33 of Chrysler's Motion at p. 15.) if true, then Spitzer's dealerships should remain.

Spitzer Sheffield was a consolidation of Dodge stores which were then relocated in 2003 to I-90 and Detroit Road across the road from Mike Bass Ford, one of the largest volume Ford dealers in Ohio. The Sheffield facility is a brand new, state of the art facility on an intestate highway.

Spitzer Autoworld Akron **is** a **Project Genesis,** full line store. It has all three brands and was chosen by Chrysler to be one of four, full line dealers in the Akron metro market. Spitzer has invested over $2 million to date and plans another $3 million investment in a new facility at a location chosen by Chrysler.

Spitzer Homestead **is a Project Genesis,** full line store also and recently completed an expansion and renovation of its facility using Chrysler's design! It is located on the only north-south highway south of Miami, Florida. It always has above average consumer satisfaction scores.

Spitzer Motor City, Inc. has, over the past eight years, sold hundreds of vehicles above its MSR and last month, it sold more new Dodges than 21 out of 22 Dodge dealers in its region. Motor City was slated to be a Project Genesis store by moving Spitzer Lakewood's Chrysler-Jeep franchise to the Motor City location. Motor City is located right off of I-480 and next to the largest volume Toyota and Lexus dealers in northeast Ohio.

Spitzer Motor Center's Dodge franchise was supposed to be merged with Deacon's Chrysler-Jeep franchise on the east side of Cleveland Chrysler offered to contribute over $800,000 to facilitate the merger with either Spitzer or Deacon remaining as the full line dealer. Finally, Spitzer Columbus Dodge registered more new Dodge vehicles in Franklin County (Columbus) Ohio than any other Dodge dealer in that county for 2008. Columbus has been profitable every year for the past 30 years.

Chrysler chose Spitzer as its Project Genesis dealer in six of the seven dealerships it now claims are "burdensome". Chrysler's decision to reject these stores now is directly contrary to its selection of these same Spitzer dealerships as Project Genesis stores over the past few years.

Spitzer has invested over $7 million in the past few years to help accomplish the Chrysler plan and Chrysler has also invested over a million dollars to assist Spitzer in accomplishing the plan.

A prospective purchaser will find more value in having these locations in these new or renovated facilities with a dealer who is one of the largest and oldest Chrysler dealers in the United States than it would without them.

14. If Chrysler's request is granted, it will not lower its costs, nor will it sell more vehicles because it will not have more "favorable" contracts with the remaining dealers. As Chrysler itself argues in its request, the dealer agreements are nearly identical. Thus, the choice Chrysler claims to be making is not to keep more favorable contracts, while rejecting less favorable contracts. Rather, Chrysler's products will be sold its warranty work will be done by a different dealer under the exact same terms as Spitzer now performs that service. As a consequence, dealers who have exactly the same contracts with the Debtor will be treated differently in a significant way. The Affected Dealers lose everything, while the remaining dealers receive everything; thereby placing the entire cost of the revamped distribution system on the Affected Dealers even though they have the same exact contracts as the remaining dealers and despite the fact that Chrysler has offered no reason for the different treatment. Chrysler's motion must be denied as to Spitzer.

Dated: May 22, 2009

Giardini, Cook & Nicol, LLC

By: */s/ Anthony B. Giardini*

Anthony B. Giardini, #0006922

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Dear President Obama,

I am the third generation leader of an automotive retail organization that has been in business since 1904. We operate thirty franchises in three states (Ohio, Pennsylvania and Florida). Over the next few years we will be transitioning to fourth generation members of my family to lead the approximately 1000 associates whose families depend on our company for their livelihood. Unfortunately, seven of our dealerships are Chrysler Corporation stores that are among those targeted to be cancelled by Chrysler. **No dealer organization in the country has been more adversely affected**. These franchises have been in our family for a combined 320 years. All of them have a very good customer satisfaction rating with more than adequate facilities and most are in excellent locations. One of them is in the process of relocating, at Chrysler's insistence, to a new location on a parcel of land that we have **already purchased** at a cost of $1,600,000 (land cost only)! Another **led the Cleveland, Ohio metro market** in Dodge sales **just last month** and has been at or near the top for years. **Our Dodge store in Columbus, Ohio sold more Dodges than any other dealer in the Columbus metro market for the full year 2008**. We're not perfect by any means but we're well capitalized and have tried to be team players and work with Chrysler to help them accomplish their goals. On more occasions than I can count we've purchased vehicles from Chrysler that we didn't need because they said they needed the orders.

We are a strong company with a lot of great people and there is no doubt in my mind that we will survive. Our intent is to be in business for another 105 years and beyond. Sadly, hundreds of others are far less fortunate. Many of the dealers slated to be terminated have their entire life's work and all their net worth wrapped up in their Chrysler franchise(s), only to have them abruptly terminated with **no** due process and **no** reparation. In many cases, including most of our own Chrysler stores, they were thriving, reasonably well managed **and** profitable.

In fact, in one of the markets in which we operate we are slated to GAIN the franchises of two terminated dealers. I guess that benefits us but there is something inherently wrong in the way it was handled and I certainly don't feel good about it.

I can assure you beyond a shadow of a doubt that these dealership closings will make Chrysler **less viable**, not more, which, after all, was the stated goal. **Dealers are independent businesses who cost Chrysler zero.** (This is completely unlike Starbucks who closed hundreds of unprofitable outlets. In that case they **were** owned by Starbucks and, in that case, there was a cost savings.)

Most customers are not going to obligingly drive significantly further distances than they have been accustomed to driving just out of loyalty to Chrysler, which has historically been one of the least loyal brands to begin with. In fact, unless you are prepared to pour an almost infinite amount of taxpayer dollars into the company, this move will almost certainly sound the death knell of Chrysler and send them into oblivion (same for GM if they follow the same formula). In the process these actions will not only devastate the lives of families numbering in the tens of thousands in both small towns and large cities across America; they will almost certainly send our already fragile economy further into an abyss from which it may take decades to recover.

I have attached a link to our web site on which there is an open letter from me to our Dodge, Chrysler and Jeep customers. I hope you will read it. On my letter there is another link to an interview by Greta Van Susteren with Jack Fitzgerald who is a dealer from the D.C. area. Our family has known Mr. Fitzgerald for more than forty years. He has an outstanding reputation, is a wise and savvy businessman who takes care of his employees and provides top notch service to his customers, is an inspirational leader in his community, devoted patriot and dedicated American citizen. He is all these things, yet **all five** of his Chrysler franchises are slated to be cancelled. Please explain how this decision makes Chrysler more viable. In my opinion it is madness!! It will be worth the twenty minutes or so it takes to watch his interview. He is a street wise veteran who frames the issues very well.

I understand the Automotive Task Force is seeking to replicate the Toyota model of fewer dealers, more sales per dealer, etc. On paper that may make sense, until one realizes that Toyota lost one billion dollars **more** than GM in the first quarter of this year. It looks as though the Toyota model isn't perfect after all! Their CEO very recently resigned. Right now they, like most all car makers, are like a "deer in the headlights!" We also represent the

Toyota brand and know firsthand the frustration that they are experiencing. Toyota is a great car company and will certainly "figure it out" and, unlike GM and Chrysler, Toyota is in a much better cash position. Of course, they haven't had to pay the hundreds of billions in legacy costs to retirees that Detroit has. As the saying goes, "Let no good deed go unpunished!"

The larger problem is that when the market goes from 17 million vehicles sold in the U.S. per year to 9 million almost overnight it is virtually impossible for **any** car maker, foreign or domestic, to be profitable in the near term. And to compound the problem, as you are acutely aware, this is not a situation unique to this country. Car makers **and** dealers **and** suppliers are struggling all over the globe. I am not aware of any safe haven anywhere in the world in the auto industry today.

The reality is that the free market has been making the necessary adjustments to the dealer count pretty rapidly through attrition (i.e., voluntary closings, dealer consolidations, etc). Equilibrium will be established in the next three or four years that will be much more palatable, much more humane and wreak far less havoc on our society and our economy than the current plan. **Please put a stop to these terminations** or at least **put them on hold**. There has to be a better way!

Mr. President, I am solidly behind you in your efforts to rebuild our economy in these extremely difficult, arguably unprecedented, times. Furthermore, I pray that you are successful in guiding our country to new heights as the pre-eminent leader of the free world.

I believe I can speak for all of our associates and the vast majority of my colleagues in the automotive industry when I tell you that we really want to be part of the solution. All we want is the opportunity. Thank you for listening.

Most respectfully yours,

Alan Spitzer

Chairman & CEO

Spitzer Management, Inc.

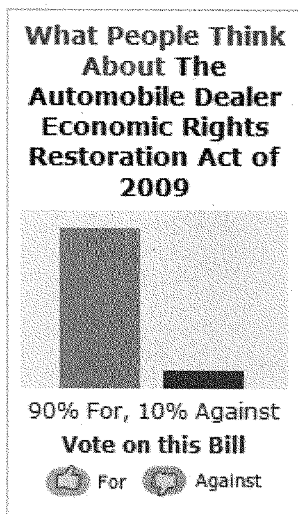
Elyria, Ohio

June 25
2009

SUPPLEMENTAL DOCUMENTS TO THE JUNE 9, 2009 HEARING OF ALAN SPITZER

[Submitted to the Sub-Committee on Oversight and Investigations]

PUBLIC OPINION SUPPORTS H.R.2743



Poll courtesy of washingtonwatch.com illustrates overwhelming public support for H.R. 2743

What the Task Force Missed

A Letter from Jack Fitzgerald on Behalf of the Committee to Restore Dealer Rights
June 14, 2009

As Congress and the Administration consider various proposals to restore the rights of affected auto dealers, I want to share with you the context for making such decisions. We believe that there was a fundamentally flawed analysis of the domestic auto industry that led to a misguided decision to close numerous dealerships and which will add to the nation's unemployment misery.

Right now, Congress has before it a legislative proposal that would restore dealers' economic rights and permit a case-by-case assessment of our dealerships. It is the best way to correct what has occurred and to put our industry on a path to growth and employment opportunities instead of the path of cannibalism, economic dislocation, and a downward spiral for the U.S. auto industry as a whole as consumers react to being abused. The enclosed maps depicts very expensive data. It was provided free of charge by R.L. Polk, as a public service. It depicts Domestic and Import cars in operation in each state as of December 2008 (VIO means passenger cars and light trucks in operation). It explains graphically why Toyota has fewer dealers overall, but more in the densely populated coastal areas.

The yellow boxes are comments the Committee to Restore Dealer Rights has added. Careful study of this map shows that the Task Force was significantly off base in its decision to reduce dealer counts. They are exacerbating the east and west coast Domestic brand losses and potentially dissipating the Domestic lead in the rest of the country.

This is a recipe for failure.

The Committee has also included data showing the state by state reduction and the results including potential job losses, etc. But the ultimate loss will be the failure of the 'Plan'. Reducing dealers in the blue states amount to conceding those extremely high volume markets to Import cars forever! Detroit cannot rise again without reclaiming some of what it has lost there. They can, "yes we can, and yes we can"! The maps show the potential, 40 to 65 percent of all the cars on the road even in the blue states are Domestic brand cars (trucks too). Most of these owners will buy another one if Consumer Reports recommends it, but not if you reduce service for the cars they already own and if you make it easier for them to buy an Import. And not if you overcharge them on purpose. Main Street doesn't work like Wall Street. People know more about cars and they will not be deceived.

Consumers deserve better treatment and they know how to get it. Please do what you can to save the country from this bad plan! Time is running out. We must act now. A first step is prompt enactment of H.R. 2743. July 4 is a celebration of the perseverance of our forefathers, who fought for their rights, primarily economic rights. How timely would it be for Congress to restore our rights and to permit us to continue our tradition of consumer service and employment throughout the nation.

Sincerely,
Jack Fitzgerald
Committee to Restore Dealer Rights
www.hometownautodealers.org

How can anyone allow over 169,000 people to be needlessly thrown out of work by closing viable, sustainable dealerships, for any reason, at a time like this?

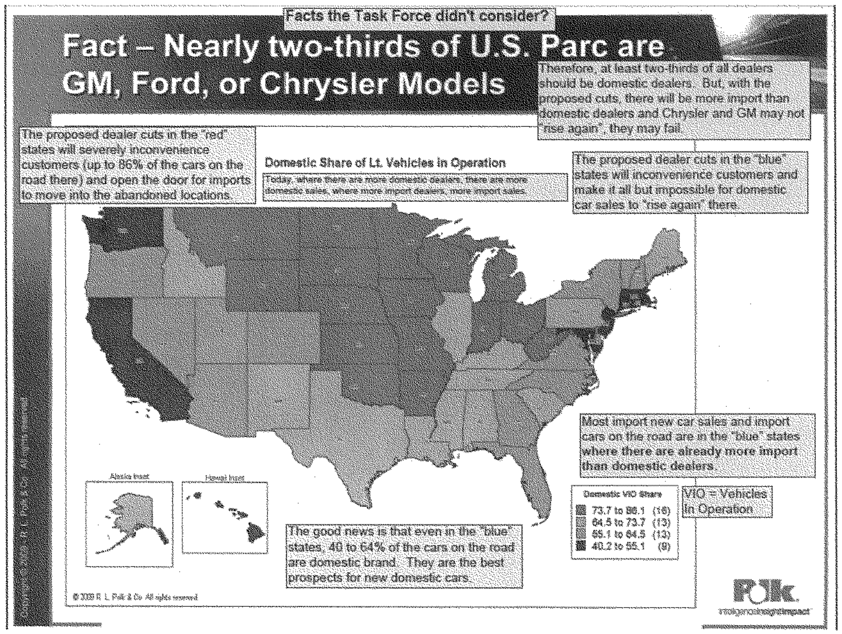
- This map appeared in the WSJ on June 20, 2009. The job losses have been noted in each state using NADA Data.
- Potential Dealership Job Losses by State (in black) Totaling 169,652
- Over 75,000 of these job cuts will be in the 16 Red States!

Facts The Task Force Didn't Consider?

Source: NADA DATA from AutoExec - May 2008, Chrysler Dealer Closure List, GM Dealer Closing - Wash Post
* Includes Estimated 2000 Domestic/Import Duals Dealers (U.S.) - Source: Paul Taylor NADA

STATE	TOTAL New Car Dealerships	Exclusive Import Dealerships	Exclusive Domestic and Domestic Import Duals *	Chrysler Closures	GM Announced Closures	GM Proposed Closures	TOTAL Closures	Remaining Exclusive Domestic and Domestic Import Duals *	Percent Reduction D3	TOTAL Dealership Employment	Estimated Job Loss From Chrysler and GM Dealer Closures
Arkansas	267	74	193	8	17	16	41	152	21.5%	8,811	1,366
Indiana	521	132	389	25	48	46	119	270	30.7%	21,882	5,012
Iowa	369	77	292	22	46	44	112	180	38.5%	12,177	3,709
Kansas	258	69	189	17	29	28	74	115	39.1%	10,062	2,886
Michigan	759	158	601	39	58	56	153	448	25.5%	36,432	7,343
Minnesota	438	101	337	18	39	38	95	242	28.1%	19,710	4,259
Missouri	494	123	371	27	14	14	55	316	14.7%	21,736	2,399
Montana	132	40	92	4	16	15	35	57	38.5%	4,224	1,134
Nebraska	213	45	168	8	21	20	49	119	29.3%	6,603	1,527
North Dakota	96	18	78	8	6	6	20	58	25.4%	3,168	653
Ohio	958	296	662	47	79	76	202	460	30.6%	41,194	8,697
Oklahoma	299	78	221	12	17	16	45	176	20.5%	20,033	3,042
South Dakota	117	19	98	7	16	15	38	60	39.2%	3,510	1,153
West Virginia	169	50	119	17	25	24	66	53	55.6%	6,253	2,447
Wisconsin	597	129	468	18	50	48	116	352	24.8%	21,492	4,185
Wyoming	70	21	49	5	6	6	17	32	34.3%	2,450	588
73.7 - 86.1 % D3 UIO	5,757	1,430	4,327	282	487	470	1,239	3,088	28.6%	239,737	50,401
Alabama	345	128	217	12	33	32	77	140	35.4%	16,560	3,689
Alaska	38	16	22		0	0	0	22	0.0%	2,280	0
Idaho	123	44	79	3	8	8	19	60	23.7%	5,781	880
Illinois	934	302	632	44	66	64	174	458	27.5%	42,964	7,990
Kentucky	298	109	189	9	23	22	54	135	28.7%	13,112	2,385
Louisiana	337	118	219	16	10	10	36	183	16.3%	18,198	1,925
Maine	144	55	89	4	14	14	32	57	35.4%	5,328	1,166
Mississippi	242	92	150	6	38	37	81	69	53.8%	9,438	3,146
New Mexico	140	57	83	3	10	10	23	60	27.3%	7,420	1,201
Pennsylvania	1,161	404	757	54	90	87	231	526	30.5%	51,084	10,158
South Carolina	326	136	190	11	24	23	58	132	30.6%	14,996	2,676
Tennessee	420	162	258	14	30	29	73	185	28.3%	22,260	3,867
Texas	1,346	490	856	51	55	53	159	697	18.6%	87,490	10,341
64.6 - 73.7% D3 UIO	5,854	2,113	3,741	227	401	387	1,015	2,726	27.1%	296,911	49,424
Arizona	256	153	103	5	11	11	27	76	25.8%	29,184	3,034
Colorado	284	131	153	13	15	14	42	111	27.8%	17,040	2,549
Delaware	65	32	33	3	2	2	7	26	21.0%	4,030	430
Florida	948	484	464	33	35	34	102	362	21.9%	76,788	8,244
Georgia	603	242	361	13	24	23	60	301	16.7%	33,768	3,369
Nevada	118	59	59	5	3	3	11	48	18.5%	10,974	1,013
New Hampshire	169	78	91	6	6	6	18	73	19.6%	7,098	747
New York	1,112	464	648	28	60	58	146	502	22.5%	48,928	6,420
North Carolina	692	272	420	14	36	35	85	335	20.2%	32,524	3,983
Oregon	274	129	145	9	21	20	50	95	34.7%	13,974	2,564
Utah	153	60	93	10	6	6	22	71	23.4%	9,333	1,329
Vermont	97	36	61	2	8	8	18	43	29.1%	2,813	514
Virginia	551	234	317	25	26	25	76	241	24.0%	33,060	4,566
55.1 - 64.5% D3 UIO	5,322	2,374	2,948	166	253	244	663	2,285	22.5%	319,514	38,763
California	1,594	877	717	32	65	63	160	557	22.3%	133,696	13,418
Connecticut	320	169	151	7	11	11	29	122	19.0%	14,400	1,288
DC	2	2	0	0	0	0	0	0		64	0
Hawaii	66	36	30	1	2	2	5	25	16.4%	5,082	380
Maryland	358	190	168	17	21	20	58	110	34.7%	23,986	3,904
Massachusetts	478	216	262	12	29	28	69	193	26.3%	23,422	3,381
New Jersey	574	296	278	29	33	32	94	184	33.8%	32,144	5,256
Rhode Island	63	41	22	1	3	3	7	15	31.3%	3,339	365
Washington	383	191	192	15	18	17	50	142	26.2%	23,363	3,073
40.2 - 55.1% D3 UIO	3,838	2,018	1,820	114	182	176	472	1,348	25.9%	259,696	31,064
Total	20,771	7,935	12,836	789	1,323	1,277	3,389	9,447	26.4%	1,115,858	169,652

* There are 2,000 import franchises dualed with domestic brands so the total import count is actually 9,935


Facts the Task Force didn't consider?
Fact – Nearly two-thirds of U.S. Parc are GM, Ford, or Chrysler Models
Therefore, at least two-thirds of all dealers should be domestic dealers. But, with the proposed cuts, there will be more import than domestic dealers and Chrysler and GM may not "rise again", they may fail.
The proposed dealer cuts in the "red" states will severely inconvenience customers (up to 86% of the cars on the road there) and open the door for imports to move into the abandoned locations.
Domestic Share of Lt. Vehicles in Operation
Today, where there are more domestic dealers, there are more domestic sales, where more import dealers, more import sales.
The proposed dealer cuts in the "blue" states will inconvenience customers and make it all but impossible for domestic car sales to "rise again" there.
Most import new car sales and import cars on the road are in the "blue" states where there are already more import than domestic dealers.
Alaska Inset
Hawaii Inset
Domestic VIO Share
73.7 to 86.1 (16)
64.5 to 73.7 (13)
55.1 to 64.5 (13)
40.2 to 55.1 (9)
VIO = Vehicles In Operation
The good news is that even in the "blue" states, 40 to 64% of the cars on the road are domestic brand. They are the best prospects for new domestic cars.
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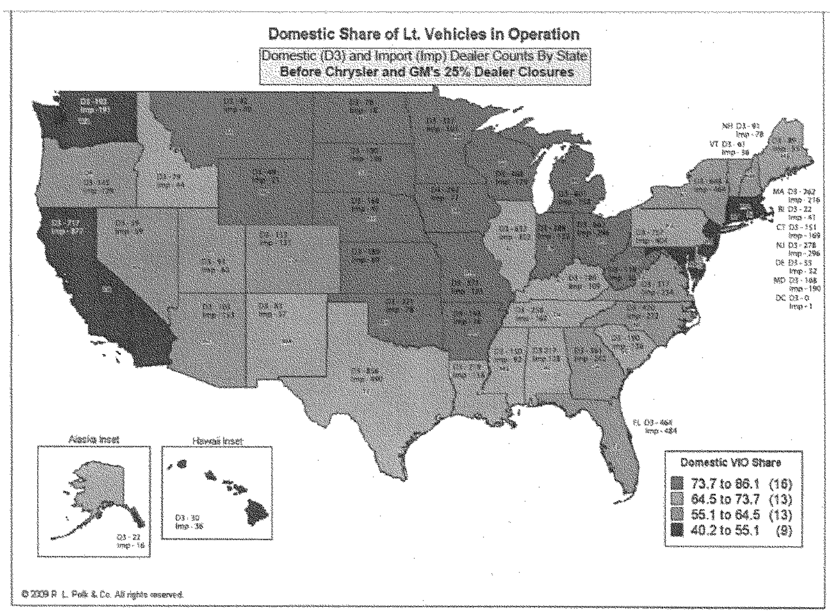
Polk


Domestic Share of Lt. Vehicles in Operation
Domestic (D3) and Import (Imp) Dealer Counts By State
Before Chrysler and GM's 25% Dealer Closures
Alaska Inset
Hawaii Inset
Domestic VIO Share
73.7 to 86.1 (16)
64.5 to 73.7 (13)
55.1 to 64.5 (13)
40.2 to 55.1 (9)
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What The Task Force Missed:
Three Vital Needs That Must Be Addressed Now

1. Service to Consumers
2. Redistribution of Fleet Sales which average 3 Million Annually
3. Retail Used Vehicle Sales

The Detroit 3 brand vehicle population on the road has gone up from 50 million to 150 million (import total is 87 million). The Detroit brand dealer count has gone down from over 40,000 to 13,000 today (imports 9,937).

All the "experts" agree GM and Chrysler may fail by reducing dealers another 3,400 because Detroit has twice as many vehicles to serve and must cover the whole country, not just primarily the east and west coasts.

The proposed reductions (800 for Chrysler and 2,600 for GM) will leave fewer, about 500, Detroit 3 than import dealers, even though Ford is not reducing dealers.

Detroit Should Offer More Service to Consumers not Less

GM and Chrysler will fail if most of the 150 million owners of their vehicles don't come back to them. But why should they, if you take away service, particularly if it doesn't cost you anything to provide service?

While there were 10.5 million retail new vehicles registered in 2008, there were **35 million retail used vehicles**. Two thirds of those were Detroit 3 brand vehicles. Many were fleet vehicles recycled by Detroit.

Adding 2008 Used Retail to New Retail Sales Changes Everything

- GM new and used retail registrations totals **11.6 million**.
- Chrysler new and used retail registrations totals **5.9 million**.
- Toyota new and used retail registrations totals **4.3 million**.
- Honda new and used retail registrations totals **3.4 million**.

GM and Chrysler together out-registered Honda and Toyota by **10 million new and used retail registrations.** Do you really think you can do that with fewer dealers?

The Task Force did not consider those 10 million extra sales; they were misled by the factory and only looked at new retail, which is less than half the story.

Consumers should ask, "What will the Task Force do now?"

Henderson Testimony Rebuttal

Page 9 lists "Direct Dealer 'Support' Savings Potential" of approximately $928,000 per "rooftop." The specific line-items are listed below with our rebuttal:

Dealer Margin (1% Market Support)
This will not go away as it is offered on a per unit basis not a per dealer basis. Given the assumption of 3.1 million in Sales Volume, it is difficult to imagine how this number will decrease when it assumes an increase in sales over 2008 (2.98 million).

Incentives Paid Directly to Dealer
Again, these incentives are based on sales volume and will not go away. They will merely shift to the remaining dealers who are expected to sell even more.

Standards for Excellence
This is a fatally flawed program requiring dealers to meet standards to participate and not all dealers are eligible. Further, dealers have to pay $15,000 quarterly to participate in this program. Over the past 2 years, GM actually had to reduce standards to increase the numbers of dealers eligible. Our dealership slated for closure participates in this program. Yet, we are sure there are some staying open that do not. Based on partial participation by dealers and the fact that you must pay to participate begs the question, "Where are the savings?"

New Vehicle Inspection
Again, this is based on the number of vehicles sold and not the number of dealerships. Will GM now choose to not inspect vehicles as a result of their questionable indemnification going forward through bankruptcy?

Factory Wholesale Floorplan Support
This is based on the number of cars produced and sent out to dealers and not the number of dealers.

Fuel Fill
Again, this is based on the number of cars produced and not the number of dealers.

Page 10 lists "Direct GM Structural Cost Savings Potential" of approximately $180,000 per "rooftop." These savings were quite a surprise to us as none of our GM dealerships have ever received the type of aid GM expects to eliminate and save on. Our rebuttals to their line-items are below:

Local Dealer Advertising Assistance
We pay for our entire advertising budget with no assistance from GM. They may choose to reduce their overall national advertising budget, but having them attribute that to the number of dealers they have is a stretch. Further, it will only end up hurting the remaining dealers if that is the case.

Funding for Dealer Channel Network Alignment
We have no idea what this means but know that it is not something we receive support from GM for.

Number of Sales & Service Consultants
Over the past several years, GM has cut the number of sales reps and increased their territories to a point which most dealers recognize as being ineffective. They may make further cuts, but it will only serve as a detriment to the remaining dealerships.

Funding for Dealer Website & Lead Mgmt Tools
We fund, develop and maintain our website on our own with no assistance from GM. Regarding the management of leads, again, we take care of these ourselves. Others may receive help from GM that we do not. However, to extrapolate savings when none may be reached is disingenuous at best.

Dealership Employee Product & Service Training
Again, we pay our way to training.

Funding for Dealer IT Systems & Support
Again, we fund, develop and maintain and support our systems independently of GM.

For further substantiation of our claims that we pay for these items, you may reference the attached spreadsheet and corresponding invoices (each is marked with column letter from spreadsheet).

Please know that we are dedicated to GM. We have sold their product for over 30 years and hope to remain a part of the New GM. However, the lack of transparency in this whole process is frightening to us. We have always wondered where GM expected to achieve savings by eliminating so many dealers, and their responses to your subcommittee leave us still wondering. It is as if they thought they could give you fancy names of programs to achieve savings, and they hoped you would never bother to ask for the details. Like in so many other cases, "the devil is in the details" and we hope you will consider them.

Thank you again for your time and devotion to protecting dealers and the thousands of jobs they create in communities all across America. We hope you find this information helpful. Please don't hesitate to call or e-mail if you should have any questions or need further clarification.

The Truth of the Matter

Written by Bob Dilmore on June 18, 2009
Chairman/CEO of Management Performance Groups, Inc.

We have been watching with interest the day-to-day developments in both the Chrysler and GM Chapter 11 Bankruptcies. We serve many prominent dealers throughout the USA and Canada and our phones have been busy with comments and questions from dealers who frankly are in a state of shock. Because of our position in the industry, i.e. provider of 20 groups, educational webinars, HR consulting & testing, and litigation support, we have the benefit of knowing exactly what dealers are feeling and how they are reacting.

Mark LaNeve's letter to all GM dealers today (June 18th) is a classic example of GM's arrogance and their lack of empathy or understanding of how their dealers really feel. They view the return of "participation agreements" as support for their restructuring efforts, when the facts of the matter are that dealers signed and sent these letters giving up their rights out of pure fear and in an effort to survive! Even those dealers who GM is terminating were coerced into signing, because if they didn't they lost everything very suddenly, much like the experience of 789 Chrysler dealers.

I worked for General Motors for 17 years when GM was a truly great company - one of the largest corporations in the world - held in high regard by everyone. Having served in an executive position in the central office of Buick Motor Division, I came to know the real leaders - the movers and shakers - at General Motors; as well as at Buick. These were intelligent people, moral people; whose leadership was very apparent. They recognized their dealer body as GM's greatest asset. Harlowe Curtice, Chairman and CEO of GM, initiated the Quality Dealer Program. We all lived by the standards established. We respected dealers as business partners.

To see the depths to which this once great company has fallen is frankly heart-breaking. The actions of the current management at both GM and Chrysler are not only unjust and immoral; they will prove to be self-destructive!

Under the guise of the necessities of their "restructuring plans", GM and Chrysler have attempted to convince all the President's men that getting rid of 25-40% of their dealer body will save them into prosperity. The REAL reason for these terminations, under the umbrella of a chapter 11 bankruptcy, is to eliminate dealers who have stood up to them, refusing to be "team players" on a team that was very obviously **losing the game**. Less than a year ago, GM was literally forcing their Hummer dealers to build an idiotic Quonset hut building that never moved the sales needle and then they announced to the world that they were selling Hummer. Actions such as these have destroyed GM's credibility.

Chrysler has erred in many of the same ways. The big difference being that Chrysler has never had a solid rapport with their dealers - post Iacocca. They have constantly brow beaten their dealers to accept unwanted, unsalable, and poor quality product.

A huge example of corporate immorality is GM's testimony before Congress trying to convince Senators and Representatives that by eliminating 1323 dealers, they will save over 1.25 billion dollars (928,000 per roof top). On the face of their information, those not totally familiar with our industry may naively accept their figures, but the truth is dealers cost them very little.

Let's review the list they compiled to support their argument:

- *Dealer Margin* (1% market support)
  This is product advertising where GM has contributed 50% and the dealer contributes half to advertise GM products with the minimal dealer identification at the close of the commercial. It is only in fairly recent years that dealers paid anything toward GM's product advertising - that advertising likely will continue - and there is no "savings" to GM.

- *Incentives Paid Directly to Dealer*
  GM has overpriced their product to provide the gross margin to pay these incentives. The customer has received "the benefit" of the incentive - not the dealer - and it's doubtful incentives will go away. Regardless of who sells the vehicle, the incentives become a cost of sale. Eliminating dealers will not change this cost per vehicle.

- *Standards for Excellence*
  This one is really a stretch! Each dealer who "participated" paid a healthy sum to GM for each franchise line. Unrealistic sales goals were established by GM unilaterally and if a dealer didn't hit objective, the dealer lost the investment in SFE. SFE was what internally GM refers to as a self-funding program. Eliminating dealers will not reduce this expenditure. The customer was the beneficiary of these funds as dealers scrambled to make their quotas.

- *New Vehicle Inspection*
  The amount GM pays a dealer for new vehicle inspection is on a per vehicle basis. It is computed into the cost of each vehicle. Selling more vehicles will cost GM more money. Selling less vehicles will cost GM less money. The number of dealers has absolutely no bearing on this cost. Fewer dealers will not save GM one penny on this item.

- *Factory Wholesale Floor Plan Support*
  What a great business the manufacturer has. The materials they use to produce a vehicle come from suppliers who are paid 30-60 days after receipt. When the vehicle is produced, it is immediately billed to the dealer. The manufacturer gets paid immediately! The dealer, more often than not, floor plans the vehicle with the captive finance company - in this case GMAC. GMAC charges roughly 1% over prime while the vehicle is in the dealer's stock. When the vehicle is sold, quite often GMAC gets the finance contract and the interest - this time from the consumer. Now that's throughput!

In order to "encourage" a dealer to buy (stock) more vehicles, GM offers an incentive - wholesale floor plan support. The number of dealers does not change this cost one iota! If GM builds more vehicles, floor plan support in total increases. If they build fewer vehicles, the floor plan support decreases.

- *Fuel Fill*
  This is another "cost of sale" item attributable to each individual sale. The number of dealers does not affect this cost! The number of vehicles sold does.

If one totals the "wind down dealers by state", it equals 1,323 (page 4). On page 9, however, GM estimates the number of rooftops to be eliminated in GM's dealer network at 2,300. Where's the difference? Are there 1,000 more rooftops than dealers? We call this "GM math".

GM management states, "a right-sized dealer network will allow GM to systematically reduce virtually all direct dealer support programs which cost GM approximately 2.1 billion a year." an asterisk points out that this is based on a projected 3.1 million GM sales volume. None of the "so called" dealer support systems listed above are affected by the number of dealers! If GM thinks they can eliminate these costs of sales, they can do so without throwing 2,300 dealers or 1,323 dealers, whichever number is the correct one, in the street. Competition in the market place drives these costs as a business necessity! Toyota has them, Lexus has them, Nissan, VW, why does GM feel they can eliminate "virtually all direct dealer support programs"?

The maps of the states showing the number of domestic (Big 3) dealers vs. the import dealers is eye opening indeed! The percentage of domestic vehicles in operation is between 73.7 and 86.1% of all vehicles in operation where the domestic dealers dramatically outnumber import dealers.

GM and Chrysler; as well as the Treasury Department and the American Public (now stockholders), are on a path of self-destruction by eliminating dealers. In those markets where import dealers dramatically outnumber domestic dealers, the domestic vehicles in operation drops to 40.2 to 55.1%.

GM's estimate of 3.1 million sales volume is grossly overstated. MPG projects a 23% reduction in GM and Chrysler sales in 2010, and if they both follow a trend-line that dates back to the turn of the century, we predict an annual reduction ad infinitum. GM's market share for 2010 will be in the range of 14-15% on a volume of 1,345,000 vehicles (a 9.5-10 million car and light truck year nationally). Chrysler will be lucky to hit 7.5-8% market share with a sales volume of 748,000 vehicles. If Fiat experiences the typical timetable of entry into the USA, we will not see "Fiatslers" until 2011.

We are asked all the time what various franchises are worth. (I'm looking at a Nissan store - what's the multiple?) I have asked numerous dealers recently "What do you think a publicly held company would pay for a GM or Chrysler store?" I've yet to hear an answer above "zero".

General Motors Corporation and Chrysler along with the whiz kids from the Treasury Department have effectively destroyed the value of their franchises. They have also put a giant crack in the overall automotive franchise system. On average, a dealer today has at least 10 million dollars in assets plus land and buildings. Who, in the future, will take the risk of one day losing it all because a greedy manufacturer couldn't manage their business?

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111th CONGRESS
1st Session
H. R. 2743

To restore the economic rights of automobile dealers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

June 8, 2009

Mr. MAFFEI (for himself, Mr. KRATOVIL, Mr. VAN HOLLEN, Mr. HOYER, Mr. MCMAHON, Ms. SUTTON, Mr. BARTLETT, Mr. HALL of New York, Mr. POSEY, Mr. HEINRICH, Mr. PAULSEN, Ms. SHEA-PORTER, Mr. MANZULLO, Mr. DEFAZIO, and Mr. DAVIS of Alabama) introduced the following bill; which was referred to the Committee on Financial Services

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A BILL

To restore the economic rights of automobile dealers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Automobile Dealer Economic Rights Restoration Act of 2009'.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Automobile dealers are an asset to automobile manufacturers that make it possible to serve communities and sell automobiles nationally.

(2) Forcing the closure of automobile dealers would have an especially devastating economic impact in rural communities, where dealers play an integral role in the community, provide essential services and serve as a critical economic engine.

(3) The manufacturers obtain the benefits from having a national dealer network at no material cost to the manufacturers.

(4) Historically, automobile dealers have had franchise agreement protections under State law.

SEC. 3. RESTORATION OF ECONOMIC RIGHTS.

(a) In order to protect assets of the Federal Government and better assure the viability of automobile manufacturers in which the Federal Government has an ownership interest, or to which it is a lender, an automobile manufacturer in which the Federal Government has an ownership interest, or which receives loans from the Federal Government, may not deprive an automobile dealer of its economic rights and shall honor those rights as they existed, for Chrysler LLC dealers, prior to the commencement of the bankruptcy case by Chrysler LLC on

April 30, 2009, and for General Motors Corp. dealers, prior to the commencement of the bankruptcy case by General Motors Corp. on June 1, 2009, including the dealer's rights to recourse under State law.

(b) In order to preserve economic rights pursuant to subsection (a), at the request of an automobile dealer, an automobile manufacturer covered under this Act shall restore the franchise agreement between that automobile dealer and Chrysler LLC or General Motors Corp. that was in effect prior to the commencement of their respective bankruptcy cases and take assignment of such agreements.

(c) Except as set forth herein, nothing in this Act is intended to make null and void:

> (1) the court approved transfer of substantially all the assets of Chrysler LLC to New CarCo Acquisition LLC; or
>
> (2) a transfer of substantially all the assets of General Motors Corp. that could be approved by a court after the date of introduction of this Act.

END

111th CONGRESS
1st Session
S. 1304

To restore the economic rights of automobile dealers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

June 18, 2009

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To restore the economic rights of automobile dealers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Automobile Dealer Economic Rights Restoration Act of 2009'.

SEC. 2. AUTOMOBILE DEALER ECONOMIC RIGHTS RESTORATION.

(a) Findings- Congress finds the following:

(1) Automobile dealers are an asset to automobile manufacturers that make it possible to serve communities and sell automobiles nationally.
(2) Forcing the closure of automobile dealers would have an especially devastating economic impact in rural communities, where dealers play an integral role in the community, provide essential services, and serve as a critical economic engine.
(3) The automobile manufacturers obtain the benefits from having a national dealer network at no material cost to the manufacturers.
(4) Historically, automobile dealers have had franchise agreement protections under State law.

(b) Restoration of Economic Rights-

(1) IN GENERAL- In order to protect assets of the Federal Government and better assure the viability of automobile manufacturers in which the Federal Government has an ownership interest, or to which it is a lender, an automobile manufacturer in which the Federal Government has an ownership interest, or which receives loans from the Federal Government, may not deprive an automobile dealer of its economic rights and shall honor those rights as they existed, for Chrysler LLC dealers, prior to the commencement of the bankruptcy case by Chrysler LLC on April 30, 2009, and for General Motors Corp. dealers, prior to the commencement of the bankruptcy case by General Motors Corp. on June 1, 2009, including the dealer's rights to recourse under State law.

(2) RESTORATION OF FRANCHISE AGREEMENTS- In order to preserve economic rights pursuant to paragraph (1), at the request of an automobile dealer, an automobile manufacturer covered under this section shall restore the franchise agreement between that automobile dealer and Chrysler LLC or General Motors Corp. that was in effect prior to the commencement of their respective bankruptcy cases and take assignment of such agreements.

(3) CONSTRUCTION- Except as set forth herein, nothing in this section shall be construed to make null and void--

(A) the court approved transfer of substantially all the assets of Chrysler LLC to New CarCo Acquisition LLC; or

(B) a transfer of substantially all the assets of General Motors Corp. that could be approved by a court after June 8, 2009.

END

Mr. STUPAK. Thank you, Mr. Spitzer. You want to hand that mike to Mr. Golick.

And we will hear from Mr. Golick.

TESTIMONY OF JAMES GOLICK

Mr. GOLICK. Distinguished members of the subcommittee, thank you for this opportunity to testify today. I am one of the 789 dealers that Chrysler is terminating, and I am here to give you my views on the situation and to advise you on what you can do to help us.

My dealership is located in a suburb of Pittsburgh. We have been there since 1935 and been in our present building since 1948, and we are a family-run dealership. I am the third generation to sell new vehicles at our facility.

One of the distinguished members of your subcommittee, Congressman Doyle, has bought three new vehicles some us and sent some of his friends and family to our store, so he knows firsthand what we are all about and how we run our business. My family and employees have worked very hard to maintain our excellent reputation. The Golick name has been synonymous with trust and integrity.

I want to tell you next about the pressure that Chrysler placed on me several years ago to purchase the Chrysler franchise from a neighboring dealer. They pushed me into paying hundreds of thousands of dollars to buy that franchise and told me that my facility was fine and that I could stay in my present location indefinitely.

Now that my franchise has been stripped from me, I have been deprived of recovering that money, as I could have sold my franchises locally for hundreds of thousands of dollars.

Last week there was a Senate hearing on June 3rd, and the president of Chrysler, Jim Press, said these words, and I quote, that “Chrysler wants to bring the performers along that will allow us the best return on our investment. In the case of the dealers not being taken forward last year, we lost 55,000 units of sales,” unquote.

I would like to let everyone know that I am one of their performers. I have always been at 150 percent of my required minimum sales responsibility and 150 percent of my required working capital. My customer satisfaction rating has been among the highest in the State of Pennsylvania for many years, and I have always been profitable.

Now I would like to talk about why us dealers do not cost the factory any money or very little money. In the case of my dealership, the total cost to the factory, I really believe, would be about $2,000 per year. To arrive at that number, I am guessing my district manager’s annual salary is, say, $52,000. I divide that by the 26 dealers in my district, and thus I come up with the $2,000 per dealer cost. Last week at the Senate hearing, Jim Press said that each dealer cost the factory about $41,000 per year, which is a far cry from the $2,000 that I am coming up with.

He gave his side of the story as to why Chrysler needed to eliminate 789 dealers. Mr. Press said that the dealers should have sold 55,000 more units than they did last year, and that cost the factory

$1.5 billion in lost revenue. What he didn't say is that, when we are gone, they will lose 140,000 units in annual sales, and the factory is going to lose $4 billion annually.

So, let's see, you are worried about the 55,000 units, but you are going to lose 140,000 units. No wonder you are in trouble, I mean, with that kind of thinking. I just don't see the logic.

Second, he said us dealers cost the factory $1.4 billion a year in development costs. That is a very large sum of money. I would really like to see the breakdown of those numbers and how the 789 dealers cost you that much.

I mean, you went into this theory about how you have to have two separate minivans, the Chrysler and the Dodge, and that costs you money to build an extra minivan. You put on different hubcaps, different wheels on the car, different grill, and different seat fabrics. I don't see the real cost, heavy cost involved with that. I really don't.

Next I would like to talk about the process of selecting the 789 dealers. In Chrysler's viability report that they submitted to the government in February, Chrysler indicated that 25 percent of their dealers were in financial trouble. I am not in financial trouble. I would like to know how many of those dealers that were in financial trouble are still with the company.

If Chrysler was bent on eliminating 25 percent of their dealer body, the prudent thing to do would be to get rid of the 25 percent that were in financial trouble and represented a liability to them. My guess is that many of the financially troubled dealers were picked to continue with the new Chrysler.

I would now like to talk about the rationale of cutting any dealers at all in this tough economy. Ford Motor Company is not cutting any of its dealers, and they are doing pretty good right now. In the 1970s, when Chrysler was in financial trouble and the government stepped in, how many dealers did Lee Iacocca cut? He didn't cut any.

One would never think that we would see the day when someone could just take your business from you in the United States of America. But this very day is now upon us. Why can't we let the free market decide which dealers survive or fail? Why dictate it under the cloak of bankruptcy? That was un-American.

No matter what the outcome here, I really think that the bankruptcy laws should be changed to protect executory contracts, such as new car franchise agreements, as I believe they represent a pure revenue stream to the factory. And we must protect the dealers' rights and protect the manufacturers from their own imprudence.

I would also like to say that at least the GM dealers that were being eliminated were given some money. You know, they were given 10 months to wind down, and GM offered each dealer anywhere from $100,000 to $1 million to help with the transition. The Chrysler dealers' "soft landing," quote, was 3 weeks long, and we received absolutely no compensation—nothing, not one penny. That was an unconscionable act.

In closing, I would like to give some facts and figures that should point the way forward from here. I took a look back at the past 8 years of Chrysler's financial statements, and I have discovered that they did not have a year where they made more than $2 billion profit in any 1 year. In fact, they lost money in 5 of the last 8 years.

The point I am trying to make here is that I really want the new Chrysler to succeed. They will need every order and every sale from us dealers that they can get in the next couple of years to survive. They have exited bankruptcy owing over $13 billion to the Treasury. The past shows that it is very difficult to even make $2 billion profit in any 1 year as an auto manufacturer.

The pragmatic approach to getting that money paid back to the Treasury is to reinstate us dealers and let us order our 140,000 vehicles annually. This will give Chrysler $4 billion in annual revenue to help them survive and pay back that money.

I am extending an offer to Sergio Marchionne from Fiat to welcome us with open arms. And I am urging Congress to sign on to bill H.R. 2743, which will restore our rights and our protection under the State franchise laws to where they were before Chrysler entered bankruptcy. If Chrysler wants to pare back their dealer body, why not let them do it within the framework of the State franchise laws, which were enacted to prevent this very thing from happening?

Again, I would like to thank everyone for taking the time to hear me out, and may God bless America.

[The prepared statement of Mr. Golick follows:]

TESTIMONY OF JAMES GOLICK

Distinguished members of the subcommittee, thank you for this opportunity to testify today. I am one of the 789 dealers that Chrysler is terminating and I'm here to give you my views on the situation and to advise you on what you can do to help us. My dealership is located in a suburb of Pittsburgh. We have been there since 1948 and we are a family run dealership. I am the third generation to sell new vehicles at our facility. One of the distinguished members of your subcommittee, congressman Doyle, has bought 3 new vehicles from us and has sent some of his friends and family to our store so he knows first hand what we're all about and how we run our business.

My family and my employees have worked very hard to maintain our excellent reputation. The Golick name has been synonymous with trust and integrity.

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I'd like to let everyone know that I am one of their "performers". I have always been at 150% of my required minimum sales responsibility and 150% of my required working capital. My customer satisfaction rating has been among the highest in the state of Pennsylvania for many years and I've always been profitable.

Now, Id like to talk about why us dealers do not cost the factory any money or very little money. In the case of my dealership the total cost to the factory would be about $2,000.00 per year. To arrive at that number I'm guessing my district managers annual salary is $52,000 dollars and I divided that be 26 dealers in my district and thus the $2,000 per dealer. Last week at the senate hearing Jim Press said that each dealer cost the factory about $41,000 dollars per dealer per year, which is a far cry from the $2,000.00 that I'm coming up with. He gave his side of the story as to why Chrysler needed to eliminate 789 dealers. Mr. Press said that the dealers should have sold 55,000 more units than they did last year, and that cost the factory $1.5 billion dollars. What he didn't say is that when were gone they'll lose 140,000 units in annual sales and the factory is going to lose $4 billion dollars annually!

Second, he said us dealers cost the factory $1.4 billion dollars a year in development costs. That is a very large sum of money. I would really like to see a breakdown of those numbers and how the 789 dealers cost them that much and what the words "development costs" even mean.

Next, Id like to talk about the process of selecting the 789 dealers. In Chrysler's viability report to the government that they submitted in February, Chrysler indicated that 25% of their dealers are in financial trouble. I am not in financial trouble. I would like to know how many of those dealers that were in financial trouble are still with the company. If Chrysler was bent on eliminating 25% of their dealer body, the prudent thing to do would be to get rid of the 25% that were in financial trouble and represent a liability to them. My guess is that many of the financially troubled dealers were picked to continue with the "new Chrysler".

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In closing I'd like to give some facts and figures that should point the way forward from here. I took a look back at the past 8 years of Chrysler's financial statements and I have discovered that they did not have a year where they made more than 2 billion dollars profit in one year. In fact they lost money in 5 of the last 8 years. The point I'm trying to make here is that I really want "the new" Chrysler to succeed. They will need every order and every sale from us dealers that they can get in the next couple of years to survive. They have exited bankruptcy owing over 13 billion dollars to the Treasury. The past shows that it is very difficult to make even $2 billion dollars profit in any one year as an auto manufacturer. The pragmatic approach to getting that money paid back to the treasury is reinstate us dealers and let us order our 140,000 vehicles annually. This will give Ch! rysler $4 billion dollars in annual revenue to help them survive and pay back that money. I am extending an offer to Sergio Marchionne from Fiat to welcome us with open arms and I am urging Congress to sign onto bill H.R. 2743 which will restore our rights and our protection under the state franchise laws to where they were before Chrysler entered bankruptcy. If Chrysler wants to pare back their dealer body, why not let them do it within the framework of the state franchise laws which were enacted to prevent this very thing from happening. Again I'd like to thank every one for taking the time to hear me out and may God Bless America.

Mr. STUPAK. Thank you, Mr. Golick.

And thank you to everyone for your testimony.

We are going to go to questions, 5 minutes each. I am going to hold the line on the 5 minutes, and we will probably go more than one round.

Let me ask Mr. Press and Mr. Henderson this. The committee staff has received reports that some dealerships that have been chosen to go forward, in other words not being closed, are being told that they should resign from positions of the National Auto Dealers Association, NADA, and from positions on State auto dealer associations because of NADA's support of legislation to reinstate State franchise agreements. That is the Maffei bill, H.R. 2743.

So are either of you, Mr. Henderson or Mr. Press, aware of any such calls being made on behalf of GM or Chrysler to tell people not to be on these boards and State boards?

Mr. HENDERSON. Mr. Chairman, I am not aware of any of those calls.

Mr. PRESS. I am not only not aware of them, if I had anybody in my company doing that I would like to reprimand them or perhaps let them go.

Mr. STUPAK. Will you commit, Mr. Press and Mr. Henderson, will you commit to sending out a letter, a correspondence, a message to the employees of your companies instructing them that such intimidation would not be tolerated?

Mr. PRESS. We had an all-field conference call with all of our field organizations prior to starting this, and that was exactly the instructions that was given to them, to make sure that this was done in a very positive manner.

Mr. STUPAK. Right. My question, though, would you put that in writing and send it to everybody?

Mr. PRESS. Absolutely. There is no—I would like to know if anybody in our company did that. If you have that information, I would like to have that.

Mr. SPITZER. Right here. Right here is an e-mail from one of them right here.

Mr. STUPAK. OK, OK. You can't do that. If you have such an e-mail, why don't you give it to one of the Members here? They can ask the question then more specifically on that.

Mr. Henderson?

Mr. HENDERSON. Mr. Chairman, I will put that in writing.

Mr. STUPAK. OK.

So I take it, Mr. Press and Mr. Henderson, you will put it in writing then for us. OK, thanks.

Let me ask this. Mr. Henderson, it is my understanding, when you testified last week at the Senate, there was no appeal process for the closed dealers. And then at the Senate you announced an appeal process. And you said you were under review, and 45 dealers had those decisions then reversed.

So you didn't have an appeal process until you testified before the Senate, right?

Mr. HENDERSON. No, sir, we had planned to have an appeal process.

Mr. STUPAK. You planned, but you didn't have one. I mean, those dealers who were closed, when they were given their notice they were closing, they did not receive a way to appeal. You announced it that Wednesday, and then Thursday the process was made, e-mailed to everybody, and they had until Monday to submit their documents on appealing, right?

Mr. HENDERSON. Yes, they needed to submit their documents, sir.

Mr. STUPAK. OK.

Does Chrysler have any appeal process for any of dealers that were closed?

Mr. PRESS. No, sir.

Mr. STUPAK. So, if I may, Mr. Press, then the dealers you closed, there could have been some mistakes made then.

Mr. PRESS. Our situation, I think, is different from General Motors, and therefore the conditions are not really—would be favorable for having an appeal process.

Mr. STUPAK. Because of the short time frame?

Mr. PRESS. No, not the short time frame. The reason is that in General Motors, I believe, and I am not totally aware, I think they have a term agreement which is not being renewed, and there is a process to go through for nonrenewal.

Our situation is quite different from a standpoint that our company went bankrupt, a new company was formed——

Mr. STUPAK. Correct.

Mr. PRESS [continuing]. To take a different dealer body forward. And, strategically, that dealer body that was taken forward was based on criteria not performance-oriented, but strategic performance criteria with regard to single lines versus tri-branding and many other aspects that really—for example, locations or even the population and demographic projections.

Mr. STUPAK. But the single line and tri-vehicle, that is not the dealer's fault. That is Chrysler's fault. I mean, if you got two minivans that are the same thing other than the seats, the grill, and the design, that is not their fault. That is really Chrysler's fault. So why are they being punished?

Mr. PRESS. Great question, sir. I understand why you would ask that, and I understand the passion——

Mr. STUPAK. You know, I drive an Oldsmobile. They did away with it. I drove an Oldsmobile all my life. My last one here I am nursing along, I have pretty close to 200,000 on it, and I don't want to leave it. But at least I got other options. But I am mad that they closed Oldsmobile.

Mr. PRESS. Yes, sir.

Mr. STUPAK. But I understand the double branding. So why couldn't——

Mr. PRESS. I have been with the company a short time. I came from Toyota for 37 years.

Mr. STUPAK. OK.

Mr. PRESS. And I think that everybody understands the difficulties that our company has had with regard to integrity of product, quality, and appeal. In asking why that is, it isn't because people don't want to build good cars and trucks. There are insufficient resources available to do the engineering and development necessary to build winning formula vehicles.

In our case, it isn't just wheel covers and grills. It is about $250 million to $300 million per sister vehicle.

Mr. STUPAK. Sure.

Mr. PRESS. And that investment doesn't return any incremental sales, and it requires that we advertise the two cars against each other. And it is one of the most important reasons why the company went bankrupt, is that we kept kicking this problem down the road instead of addressing it, which is what we did.

Mr. STUPAK. My time is up. But that's your decision; the dealers. Even the dealers who survive, it's not their problem that we have a sister vehicle, as you call it. That's really Chrysler's problem. And the new Chrysler has got to address it.

So drop one, like you did on my Oldsmobile. Drop one.

Mr. PRESS. We did, sir. We did. And 555 of the dealers that are discontinued were selling not 3 brands, but 1. That was a necessary part of this. It wasn't our desire. It wasn't a plan. But 555 of these dealers that had only 1 brand won't have viable products coming. And unless all three brands are under one roof, the dealer body isn't going to be viable.

Mr. STUPAK. My time is up, but a retort would be: Why not allow those one-brand dealers to sell all three of your vehicles and keep them open?

Mr. PRESS. Well, because our volume has gone from over 2 million a year to 700,000, and the only way our dealers will ever survive—and I think these dealers all really understand that—is to have all three brands under one roof, where they can put together the synergy, the total customer base, and the fixed costs will be covered. That's something that everybody wants. We've known that for 10 years.

Mr. STUPAK. Then let them do it.

Mr. Walden, for questions.

Mr. WALDEN. Mr. Henderson, a question for you. Who is the purchaser of GM?

Mr. HENDERSON. The purchasers of General Motors, sir, will be 60.8 percent the United States Government, 11.7 percent the Canadian Government, 17½ percent of the shares will be held by a VIVA Trust, and the remaining approximately 10 percent will be held by the unsecured claimants of General Motors.

Mr. WALDEN. And so the vehicle acquisition holdings is really dominated by the U.S. Treasury.

Mr. HENDERSON. They will be the primary shareholder.

Mr. WALDEN. So, in your filing in the bankruptcy court, when you say on page 40 here, "Because there are now far more dealerships than the company's market share can support, including, in some cases, multiple dealers in a single contracting community and dealerships that have become poorly situated as a result of changing demographics, the purchaser is not willing to continue all dealerships."

That purchaser, you've told me now, is the U.S. Treasury.

Mr. HENDERSON. Yes, the purchaser, the largest shareholder, is the U.S. Treasury.

Mr. WALDEN. And it goes on to say here in your comments to the court, "Among the dealerships the purchaser is not willing to continue, for example, are those approximately 400 dealers who sell fewer than 50 cars per year and those approximately 250 dealers who sell fewer than 100 cars per year. Approximately 630 other dealerships are not being continued because they are dealers who, in whole or substantial part, sell brands that are being discontinued."

Mr. HENDERSON. That's correct.

Mr. WALDEN. So the question we've been trying to get to the bottom of, who is dictating how many dealerships are allowed to go forward for General Motors? You've told me here, under oath, that it's the purchaser—I mean, that's what you testified in the bankruptcy court, that it was the purchaser who made that decision. And that purchaser is the U.S. Treasury.

So doesn't that lead us back to the Auto Task Force making the decision that you're now having to implement?

Mr. HENDERSON. The Automotive Task Force, as we've gone through this process, has asked us to go through the process of right-sizing our dealer body. They said if they're going to buy the company, they want to have a right-sized dealer body. So they asked the management to develop a strategy to accomplish a world-class, correctly-sized dealer body. They were not willing to take on our dealer body as it stood, sir.

Mr. WALDEN. OK. But I thought I've read that some of you have said they didn't have anything to do with setting the dealer levels.

Mr. HENDERSON. They did not tell us a number.

Mr. WALDEN. Yet, in your testimony in the bankruptcy court, you say, for example, are those approximately 400 dealers who sell fewer than 50 cars and those approximately 250 dealers who sell fewer than 100 cars per year.

Mr. HENDERSON. That's true, yes.

Mr. WALDEN. These are ones the purchaser is not willing to continue.

Mr. HENDERSON. Amongst others.

Mr. WALDEN. So the purchaser did tell you they're not willing to continue those dealerships.

Mr. HENDERSON. The purchaser asked us to develop a strategy to have a competitive world-class dealer body. One of the issues that we had were the approximately 400 dealers who sold less than 50 cars per year, in terms of not——

Mr. WALDEN. So you're telling me the task force didn't tell you that these dealerships that sell fewer than 50 cars per year had to go.

Mr. HENDERSON. What I'm saying, sir, is that the task force advised us to develop a strategy to have a world-class dealer body, properly sized, and address what they considered to be serious concerns, which they articulated, for example, in the March 30th findings on our viability plan.

Mr. WALDEN. On page 5 of your testimony, you have, "We have not terminated any dealers." Do you believe that?

Mr. HENDERSON. Yes. Can I explain?

Mr. WALDEN. Yes, please.

Mr. HENDERSON. What we've done is we've offered dealers who will not continue with us wind-down agreements. The intent of those wind-down agreements is to provide a period of time with which to wind down their facility, provide compensation to them, allow them to purchase parts, perform warranty service, and, over time, we wouldn't renew their contract, and they would no longer be with us.

Mr. WALDEN. OK. And beginning this fall they can't buy the 2010 model year cars from you, can they?

Mr. HENDERSON. They will not be able to purchase new vehicles, that's correct, sir.

Mr. WALDEN. So it sounds to me more like you've diagnosed them with terminal cancer, just not going to take them out—Mr. Thomas, do you feel terminated?

Mr. THOMAS. Very much so. I feel terminated.

Mr. WALDEN. Why do you feel terminated?

Mr. THOMPSON. Well, because I don't have an opportunity to be a full-fledged General Motors dealer anymore. I can't order new cars, I can't return parts. I'm partially in the game, but I'm not really in the game.

Mr. WALDEN. How about the gentleman next to you? Mr. Blankenbeckler, do you feel terminated?

Mr. BLANKENBECKLER. Absolutely.

Mr. WALDEN. Why?

Mr. BLANKENBECKLER. The same reasons that Mr. Thomas said. The marketplace where I do business has viewed us as going out of business. The press has been to our dealership. TV stations have been to our dealership. My employees are extremely worried and extremely nervous. It's just like——

Mr. WALDEN. I think you mentioned that you've had sort of standing offers from people to buy your dealership over the years.

Mr. BLANKENBECKLER. There have been people that approached me. I'm sure Mr. Thomas has had people. Anybody who has a good, viable business.

Mr. WALDEN. Could there have been a different strategy here, where if you weren't meeting the goals that General Motors set for you, you could have been given time to sell your dealership? Did they give you an opportunity to change up what it was?

Mr. BLANKENBECKLER. No, sir.

Mr. WALDEN. And when they've evaluated you in the past, did they ever say, look, if you don't do these seven things, the next reauthorization we are not going to be there for you?

Mr. BLANKENBECKLER. No, sir, they didn't. Outside of bankruptcy, they couldn't say that. That's why they wouldn't.

Mr. WALDEN. My time has expired, Mr. Chairman. Thank you.

Mr. STUPAK. Thank you, Mr. Walden.

Mr. Dingell for questions, please.

Mr. DINGELL. Mr. Chairman, thank you.

Mr. Chairman, we are engaged in a very difficult business here. We have to decide how we are going to protect the rights of the dealers and at the same time see to it that we restructure our American automobile industry so that we save the rest of the dealers, as many of the workers as we can, the jobs in the communities that are affected. That will be one of my questions today.

First of all, to Mr. Press and Mr. Henderson, do you have written rules for the closure of dealers and for the termination of the dealers? Yes or no?

Mr. PRESS. Yes.

Mr. DINGELL. Mr. Henderson.

Mr. HENDERSON. Yes, sir.

Mr. DINGELL. Would you please submit each of them to the committee with such accompanying remarks you would like to make?

Now, there's no appeal right for a dealer, in the case of Chrysler; is that correct?

Mr. PRESS. That's correct.

Mr. DINGELL. Are there appeal rights for General Motors?

Mr. HENDERSON. Yes, there are, sir.

Mr. DINGELL. Would you submit to the committee the precise character of those appeal rights?

Now, would you tell us, please, Mr. Henderson and Mr. Press—just give us the number—how many of the dealer terminations have been changed by the companies under your appellate procedures or under your categories and standards?

Mr. HENDERSON. At this point we've changed 45 decisions. We are not completed with reviews, but that's the status as of this morning, sir.

Mr. DINGELL. Mr. Press.

Mr. PRESS. We have had no change.

Mr. DINGELL. I've heard of a dealer who was terminated—I won't tell you which company it was—where a big storm had caused the collapse of a bridge, and that dealer was essentially shut off from access to his customers. And he was terminated, but the company involved has seen fit to reinstate the dealer because they understand the facts.

Do you have provisions in your termination agreement, Mr. Henderson and Mr. Press, that would permit you to address that kind of a problem?

Mr. HENDERSON. Yes, sir. That was a General Motors dealer. And when we relooked at the facts after the submission, we concluded that we were in error in our decision, and we reversed that decision.

Mr. DINGELL. Now, Mr. McEleney, if the legislation that we are working on passes, and if it screws up the bankruptcy process and causes the collapse of either or both of the companies down the road, we're going to have a rather nasty situation on our hands. Part of it is going to be that we're going to see all the dealers out of business, all the plants close, all the communities hurt, all the workers and all the suppliers hurt. What do we do about that situation?

Mr. MCELENEY. Sir, I think that with that situation—you know, this is not a normal bankruptcy. This is, as you well know, a government-negotiated bankruptcy.

Mr. DINGELL. I understand those things, but what are we going to do if that result is occasioned by the situation we confront?

Mr. MCELENEY. I don't think that will happen. I think that the fact that the government is involved in this, they are going to prevent that from happening.

Mr. DINGELL. Is that a statement or a hope that it is not going to happen?

Mr. MCELENEY. I guess that is a hope, a fervent hope.

Mr. DINGELL. I join you in that hope.

Mr. MCELENEY. Thank you.

Mr. DINGELL. Mr. Press, Mr. McEleney asserts this: None of Chrysler's submissions to the government prior to the May 14 announcement could have been interpreted to put Chrysler dealers on notice of the scope of the terminations that followed.

Is that statement true, yes or no?

Mr. PRESS. I'm sorry?

Mr. DINGELL. Mr. McEleney states as follows: None of Chrysler's submissions to the government prior to the May 14 announcement could have been interpreted to put Chrysler dealers on notice of the scope of the terminations that followed. Yes or no? Is that true?

Mr. PRESS. We've had a Genesis program, dealer consolidation program, in place for more than 10 years. I think the majority of those dealers had a good, long time to prepare for that.

Mr. DINGELL. Would you submit for the record your comments that prove that this is not the case?

Now, Mr. McEleney, did General Motors give adequate warning prior to its May 15 announcement that it would be winding down approximately 1,200 dealers? Yes or no?

Mr. MCELENEY. Yes.

Mr. DINGELL. Mr. Press, please describe briefly what Chrysler is doing to reclaim and redistribute the inventory of the 789 dealerships it announced would be closed.

Mr. PRESS. Mr. Dingell, just 1 second. I now think I understand your question about notification to the dealers versus knowing that there was a reason they may not stay in business. The notification to dealers, there was not any additional time given. The primary reason for that was until April 30 at 6 o'clock at night, before we had to file for bankruptcy, we did not plan to. This was not a plan to go forward. We had no knowledge of this. After that, May 1 is when we began to develop this program. So there was no notification.

Mr. DINGELL. Now, Mr. Press, if you please, what is Chrysler doing to reclaim and redistribute the inventory from the 789 dealerships it has announced will be closed?

Mr. PRESS. Well, we have committed that we will redistribute every single vehicle and every part.

Mr. DINGELL. How about specialized equipment?

Mr. PRESS. And specialized equipment. And I'm happy to say that 100 percent of the vehicles have already been committed to. They have started moving. We're at 80 percent on the parts and about the same on specialized equipment. We will continue to work until that commitment is fulfilled and all of those burdens are relieved.

Mr. DINGELL. Now, I want you to listen to this question carefully. How much is it going to cost each dealer that is being terminated on each car from the termination? Are there any fees associated with that? Do they get the full value of the car? Is it a distressed price? How will that be addressed?

Mr. PRESS. The price is the invoice price they paid, less $350 for inspection, cleaning, and transportation to the dealer that will be selling the vehicle.

Mr. DINGELL. Can General Motors give me the same answer, Mr. Henderson?

Mr. HENDERSON. Sir, in the case of General Motors, to the extent the dealer signs a wind-down agreement, we would expect them over the course of the next 17 months to sell down their inventory. And they would be afforded the same treatment as any other General Motors deal with respect to retail incentives and support for selling to customers.

Mr. DINGELL. How much cash money are they going to be out in the case of General Motors?

Mr. HENDERSON. They shouldn't be out any.

Mr. DINGELL. So you're going to take back inventory, parts, vehicles, and specialized equipment.

Mr. HENDERSON. In the case of General Motors, if a dealer chooses to wind down, we anticipate that through that period they would not only sell their cars, they would sell their parts by virtue of the fact they would be able to provide warranty and service to customers. And then finally the tools would be amortized.

With respect to a dealer who terminates, if they just choose to voluntarily terminate, by virtue of our agreement with GMAC, a dealer can return the cars to GMAC, and we would redistribute the cars with no cost to the dealer.

Mr. DINGELL. Thank you. My time has expired.

Mr. STUPAK. Mr. Press, on Mr. Dingell's question, $350 for a 2009 model. But if they're turning back a 2008 model, it's $1,500.

Mr. PRESS. There's a curtailment for the model year, it is $1,500, yes, sir.

Mr. STUPAK. Why do they have to pay you to take back the vehicles when you shut them down?

Mr. PRESS. I'm sorry?

Mr. STUPAK. Why do they have to pay you $350 or $1,500 when you shut them down?

Mr. PRESS. First of all, obviously the company filed bankruptcy. It's a defunct organization. The fact of the matter is in a bankruptcy all precedent would be that the inventory would be the responsibility of the dealer if the company that they are franchised with is no longer in business.

There was not a provision in possession financing. It couldn't be provided to buy the cars back. And so our challenge was—and it was a good one—without using taxpayer money, to find a way to relieve the dealers of the inventory, and do it in a manner where it didn't cost the taxpayers, which we did through the redistribution program.

And so that redistribution program was implemented, and we did redistribute 100 percent of the vehicles. We're happy to say that that's complete.

Mr. STUPAK. That had to happen very late last night, because as of 7 o'clock last night, we still had phone calls from dealers saying, we have cars and they won't take them back.

Mr. PRESS. We will take every car; we will redistribute any car. We've made that comment. We've had written notices. It's been in the Senate. It's been in the newspaper. We will continue to provide the dealers information and evidence of that. We have redistributed the cars to other dealers. They physically may not all have left the lots, because we weren't able to begin moving them until yesterday when the new company formed, but we are at it.

Anybody who has that, please give them my name. I'd be happy to talk to them.

Mr. STUPAK. We will. I know you mentioned taxpayers. Every one of these dealers are taxpayers, too.

Mr. Barton for questions, please.

Mr. BARTON. Thank you, Mr. Chairman.

As you know, there's another hearing going on, and so I have been kind of shuttling back and forth. I also need to alert Mr. Blankenbeckler that there's a plane to Texas calling my name. I may leave after these questions.

I want to ask Mr. Press and Mr. Henderson—and you may have already answered this—but is there an established set of criteria for evaluation of which dealerships were to be closed and which were to be left open? Do you all have actual criteria in writing on how you evaluated dealerships for closure or remaining open?

Mr. HENDERSON. Yes, sir, we do. And we submitted those last night, actually.

Mr. BARTON. The same for you, Mr. Press.

Mr. PRESS. Yes, sir, we do.

Mr. BARTON. Did the dealers know of these criteria?

Mr. PRESS. In our case they were not notified of the criteria prior to the notification.

Mr. BARTON. What about you, Mr. Henderson?

Mr. HENDERSON. In our case we have identified what the criteria are, but, in fairness, haven't weighted that. So the dealers don't necessarily know what the weighting of all the individual criteria are, the two most important of which are sales effectiveness and customer satisfaction.

Mr. STUPAK. Mr. Barton, if I may.

You say you submitted them last night. To who?

Mr. HENDERSON. To the staff, I think, of this committee.

Mr. STUPAK. This committee.

Mr. HENDERSON. We can resubmit them.

Mr. STUPAK. We don't have them.

Mr. HENDERSON. We'll get them to you if you don't have them.

Mr. STUPAK. The point is you're under oath. And I don't want people to think that we're holding something back here. We don't have any criteria agreements.

Mr. BARTON. I think we have just established one of the puzzlements. It's somewhat unfair to Mr. Blankenbeckler and Mr. Thomas and the other dealers to be told that their dealerships are going to be revoked, and yet they didn't have any prior knowledge of the analysis and the criteria that were being used, and apparently to this day don't have the knowledge.

Mr. Blankenbeckler, do you think that's a fair way to run a railroad?

Mr. BLANKENBECKLER. No.

Mr. BARTON. Mr. Thomas.

Mr. THOMAS. I think it's been an opaque process.

Mr. BARTON. That's been one of the problems, I hope Mr. Henderson and Mr. Press realizes.

Mr. STUPAK. Is this the document?

Mr. HENDERSON. I apologize, sir. Yes, this is the document. On page 3 of the document, we outline the dealer performance score. And the weightings are actually in there: 50 percent sales, 30 percent customer satisfaction. It's on page 3 of the document.

Mr. STUPAK. The staff took this as just a PowerPoint presentation. They didn't realize this was the criteria you used. After looking at it, they didn't think it helped much. So this would be the criteria you said you used then.

Mr. HENDERSON. This was the dealer performance——

Mr. STUPAK. We'll have copies made and give it to everybody here.

I'm sorry. Mr. Barton.

Mr. BARTON. Mr. Blankenbeckler, since you've received your two letters, has anybody from either company, Chrysler or GM, come to you and said, we want to explain why we've done what we've done, and we want to give you a chance to show us the error of our ways, and if you wish to continue a business relationship, here's what you need to do?

Mr. BLANKENBECKLER. No, they have not.

Mr. BARTON. Mr. Henderson and Mr. Press, do you think it would be a reasonable business practice to give dealers that have, in some cases, had decades of relationships with the companies that you had some opportunity to know why they were evaluated the way they were, and give them some opportunity to show why they may have been evaluated unfairly?

Mr. PRESS. Yes, sir, I do. I would like to add that because of the fact that our notification was coincidental with the bankruptcy action and a lawsuit that was brought, and the fact that we couldn't have a lawyer in an active lawsuit involved in every discussion, we were not in a position to do that until yesterday. And we are more than happy to have those discussions going forward, now that that lawsuit has been finalized.

Mr. BARTON. Mr. Henderson, would you like to comment on that?

Mr. HENDERSON. Yes, sir. As of yesterday, we had received 856 requests to reconsider our decision. As I said in my testimony, we had reversed 45 of them. We had expected to complete that review by today, but given the number of requests, we are planning to work through the weekend and into Monday to finish this, and certainly are willing and open to consider any and all requests for consideration.

Mr. BARTON. Mr. Blankenbeckler, you don't have to answer this question if you don't wish to, but you have told me privately the amount of investment you have in your dealership. If you wish to acknowledge that, I would appreciate if you would. But, in any event, if you don't, do you feel that before that investment, which has been built up over 84 years, is just wiped out, that you should have some opportunity to get some remuneration or at least have a reasonable discussion about remuneration with GM and Chrysler?

Mr. BLANKENBECKLER. I can't imagine why that wouldn't be the case in the country. I don't see—as I said in my statement, I don't see how that can happen.

Mr. BARTON. Could you give a general parameter of the amount of the investment your family has made in these two dealerships over the years? You don't have to if you don't want that.

Mr. BLANKENBECKLER. I really don't care to state that.

Mr. BARTON. I'll just state for the record, Mr. Chairman, it's substantial.

Mr. BLANKENBECKLER. It's a large sum of money.

Mr. BARTON. It is orders of magnitude more than my net worth, Mr. Chairman. I will put it that way.

With that, my time has expired, and I yield back.

I do want to thank our witnesses. I want to thank, again, our Chairman. I do hope, when talking directly to Mr. Henderson and Mr. Press, you'll will come up with some protocol that dealers like Mr. Blankenbeckler that wish to continue a relationship are given a fair opportunity to present their case. I hope you will do that. Thank you, Chairman Stupak.

Mr. STUPAK. Thank you, Mr. Barton.

Mr. Braley for questions.

Mr. BRALEY. Mr. Press, do you know a Jennifer Fox?

Mr. PRESS. I don't know. I may.

Mr. BRALEY. Do you know a Jennifer Fox who works in Chrysler's Washington, D.C., office?

Mr. PRESS. Yes. I don't know her last name.

Mr. BRALEY. I assume if she uses an e-mail address that ends in Chrysler.com, that's an employee of Chrysler.

Mr. PRESS. I assume, yes.

Mr. BRALEY. Are you aware that Chrysler is attempting to convince Chrysler dealers who have not been terminated to engage in a lobbying effort to point out the positive aspects of the consolidation through bankruptcy that has been going on?

Mr. PRESS. I'm aware of the fact that because of the publicity that has been provided, that there are 2,391 dealers who have benefited, and are dealers, and give to Little League, and long-time, 100-year-long dealers who want an opportunity to also make their position known, sir.

Mr. BRALEY. Are you aware Chrysler has been sending out talking points under a heading "Key Messages Memo" that says things like Chrysler LLC made the appropriate business decision to move forward with the dealer network that overall can be thriving and profitable; and the automobile industry cannot support the number of dealers that currently exist; and dealers have known that Chrysler wanted to consolidate dealerships and locate all three brands under one roof. They started the process more than 100 years ago. And we understand that the process to evaluate the dealers was a thorough process based on data-driven metrics. And as a dealer moving forward with the new company, I plan to purchase some of the eligible inventory of some of the rejected dealers.

Were you aware that was going on?

Mr. PRESS. That's all in our testimony submitted to you. It's part of the consistent communication of those points. A number of dealers asked that they would like to be able to make their voice known as well through this.

Mr. BRALEY. Let me just ask you about the one point, that dealers have known—this has come up during the testimony today—that Chrysler wanted to consolidate dealerships for more than 10 years.

If that is truly the case, sir, then can you tell us why that didn't happen in the numbers we have seen until this bankruptcy arose?

Mr. PRESS. It has been happening, yes, sir. A great question. I can understand why you would ask that.

The fact of consolidation has been an ongoing process for a number of years. In fact, a year and a half ago when I came, we actually had meetings, and dealers were identified. They know which dealers were going forward, which locations would be going forward. We gave them a toolbox of things in terms of real estate, of tax planning to facilitate those discussions and transactions. And some of them did.

Mr. BRALEY. You have to agree with me that the volume of closed dealerships over that 10-year period paled in comparison to the announcement that grew out of the bankruptcy; isn't that true?

Mr. PRESS. That's because the bankruptcy was caused by the fact that we were made to support specific vehicles for standalone dealers. And the fact that we are a failed enterprise, that didn't get carried forward. A new company was formed that is going to go forward.

Mr. BRALEY. I understand that. And I only have 5 minutes, so I'm going to move on to something else. You talked in that statement about these data-driven metrics. Is that the plan, the criteria that Mr. Dingell and Mr. Barton requested? Will those contain the data-driven metrics that you have justified in this memo?

Mr. PRESS. Yes. And we have submitted in our testimony what the criteria is, and will provide additional data as requested.

Mr. BRALEY. In your testimony before the Senate Commerce Committee, you said that Chrysler loses over a billion dollars annually and lost sales opportunities because of underperforming dealers. And, Mr. Henderson, you claimed in similar testimony that dealers add $1,000 of cost to every vehicle.

So my question for both of you is: Do you have financial analysis that was conducted before the decision was made to terminate these dealer franchises that supports those allegations you made in your testimony?

Mr. Press?

Mr. PRESS. Yes, we have the analysis of the sales situation. That does exist. We knew what the number was.

Mr. BRALEY. Was that submitted as part of your testimony for today's hearing? Do we have that information?

Mr. PRESS. You do not have it by dealer.

Mr. BRALEY. Can you provide it to the committee?

Mr. PRESS. There is confidentiality in data that we receive from dealers.

Mr. BRALEY. Well, I know that there are means to redact information to protect confidentiality and still provide the information that I'm seeking. If there's a way to arrange that, would you agree to provide it to the committee?

Mr. PRESS. Yes, as long as it can be done within protecting the dealers' rights.

Mr. BRALEY. The committee, I'm sure, will be happy to work with you.

Mr. Henderson, the same question for you. Does GM have the data to support this statement that you made that these dealers are costing your company $1,000 per vehicle?

Mr. HENDERSON. Sir, as I mentioned in my testimony, we have an overall cost of $1,000 per vehicle. That cost is articulated in the same package that we submitted last night. It's approximately $2 billion, 2 million units.

Mr. BRALEY. Do you have the underlying data that was used to make that calculation, and is it in the materials that we have received?

Mr. HENDERSON. Yes, sir.

Mr. BRALEY. You can identify that for the committee.

Mr. HENDERSON. On page 9, sir.

Mr. BRALEY. All right. And so on that page where you made the calculation, do you have supporting documentation for the conclusions that show the portion for dealer margin, incentives paid directly to dealers, standards for excellence, and on and on? Those numbers aren't just published somewhere as a standard cost factor associated with the sales of each vehicle, are they?

Mr. HENDERSON. What I outlined in my testimony, sir, is that these are costs which over time have come into our structure to provide direct support to dealers. Over time. Those are not identified per individual dealer because, in fact, they're provided to all of our dealers. But to the best of our knowledge, our best-in-class competitors do not supply that same sort of support.

Mr. BRALEY. Mr. Chairman, my time has expired, but it seems to me there are still plenty of unanswered questions that the committee needs to explore on this subject.

Mr. STUPAK. Thank you, Mr. Braley.

I ask unanimous consent to put this document that's from General Motors that looks like they may have e-mailed last night, 10 pages, the one we have been discussing, without objection.

[The information was unavailable at the time of printing.]

Mr. WALDEN. Mr. Chairman, without objection. But I would just make the point it might be helpful for the dealers to be able to see a copy of this to review.

Mr. STUPAK. Since it's in the record, we will go ahead and put it on the table. If they want to look while we're going here, that would be fine. It's part of the record.

Next, I will move Mr. Burgess for questions, please. Five minutes.

Mr. BURGESS. Thank you, Mr. Chairman.

I've got a map here of the United States. This actually pertains just to Chrysler for the moment. It looks like what a Republican might want the electoral map to look like.

This reflects closed Chrysler dealers. You see my State of Texas. Although we've been relatively spared in the economic downturn, our State has been hit pretty hard with these closings.

Now, there's a Member in a State way up in the Northeast—I think he's the Chairman of the House Financial Services Committee—that was able to make a phone call and get one of his dealerships or distributors to stay open. My question is: What is the number that I need to call? Is it 1–800–CAR–CZAR? Tell me who to call so that I can help the dealers that are in my area that have been so badly hurt by this.

Mr. PRESS. You're asking that for Chrysler?

Mr. BURGESS. Yes.

Mr. PRESS. I don't understand your question. With all great respect for the office, I have to say that I'm not aware of any dealer that was ever removed from the list that was submitted to the judge on the 14th. I have no knowledge of that. I would very much like to see, if I could get that.

Mr. BURGESS. Well, it was in all the papers yesterday, and I'm sure we can get a copy. Barney Frank made a call to someone and got his dealer to stay open. Again, it's unconscionable, with what's going on in this country. I also sit on the Joint Economic Committee.

I beg your pardon. I was just told it was a GM dealer. Perhaps Mr. Henderson can answer that.

Mr. HENDERSON. Actually, it's not a dealer at all.

Mr. BURGESS. Just tell me the telephone number that I call. That's really what I'm after here.

Mr. HENDERSON. Sir, what we were asked to do was look at the timing of three after-sales warehouses which belonged to General Motors and were part of our restructuring plan, including facilities to be closed.

Mr. BURGESS. I'm going to direct you, in the interest of time. The fact is that a Member of Congress made a call, and a distributorship was not closed that was slated for closure. It is fundamentally unfair. You see the people that are sitting at this table. You've heard their stories. They represent families back in everyone's district across the country.

This process has to be open and transparent and fair. We have a President who was elected on the promise of transparency and fairness. I don't think that is being delivered right now.

Now, who wrote the language of the wind-down agreement? Can either of you answer that?

Mr. HENDERSON. In our case, it would have been General Motors, the staff of both the sales organization as well as our counsel.

Mr. BURGESS. And for Chrysler?

Mr. PRESS. There is no similar agreement. We have a very different situation. We have no wind-down agreement.

Mr. BURGESS. With whom in the White House have either of you communicated regarding the restructuring of both of your organizations?

Mr. PRESS. Our restructuring plans have been part of our bankruptcy and part of our application for funds. As the TARP funds were available through U.S. Treasury, they have been made aware of our process in discussions. But absolutely operationally they have not had any input or direction in what we're doing.

Mr. BURGESS. Would this committee be able to get access to the e-mails between your company and the White House regarding the restructuring and, in the case of General Motors, the wind-down?

Mr. PRESS. Yes, absolutely.

Mr. BURGESS. Will it be necessary—we, of course, can subpoena, if I can convince the Chairman to do so, but it would be easier if that could just be made available to us.

Mr. HENDERSON. Sir, in our case I have no idea how many that is. But we have been keeping—we would keep some of them that would be subject to litigation hold and some that wouldn't be. I will come back to you.

Mr. BURGESS. Let me ask you this: Have either of you ever spoken to Brian Deese?

Mr. HENDERSON. I have.

Mr. PRESS. Yes.

Mr. BURGESS. Have you exchanged e-mails with this individual?

Mr. HENDERSON. I think so, yes.

Mr. PRESS. I don't think I've ever addressed one to him. I may have seen some e-mail.

Mr. BURGESS. Mr. Chairman, I would just submit that I would be particularly interested in those e-mails to be made available to the committee and made part of the record.

And I do want to spend some time with Mr. Golick before I finish up.

Here's the deal. TARP funds, taxpayer funds, taxpayer funds paid by the employees of these dealerships have gone to fund the closing of these dealerships. I sit on the Joint Economic Committee. We saw unemployment numbers for last month in excess of 9 percent, heading for 10. And what's that number going to look like after you decimate these dealers across the country? Now, that's a rhetorical question. I don't expect an answer.

Mr. Golick, I do need to ask you—and I didn't intend to ask this—but your story is so similar to a story I heard down in my district; a gentleman being required, badgered, brow-beat into buying a dealership, and now he's faced with having to close his original dealership and the one he purchased.

Are you aware of other areas in the country where that occurred?

Mr. GOLICK. Now, it's general—for some reason there's always some kind of animosity between the factory and the dealer. It doesn't need to be. Ford right now has—there's no animosity between the factory and the dealerships. I think they're going to come out of this OK.

Mr. BURGESS. Let me ask you this before my time is up: Are you getting remuneration from the manufacturer to dispose of your inventory and your light bulbs?

Mr. GOLICK. I'd love to tell you about that. Mr. Press makes it sound like sunshine and lollipops. Your exact words were: Invoice minus $350. We're selling the cars for invoice, minus the holdback, minus the floor plan, minus the PPA, then minus the $350. We're selling the cars for $1,500 below invoice, on average.

We normally sell to the public at invoice. That's generally—right around there. So we're selling the cars for $1,500 less than we normally do to the other dealers.

Mr. BURGESS. What about your parts inventory?

Mr. GOLICK. Mine hasn't been addressed yet. I don't know. I'm still in a state of shock over everything.

Mr. BURGESS. I was told when Chrysler came in to see me yesterday evening in anticipation of this hearing, I was told they took care of all their dealers that they were closing; inventories would be purchased, cars would be purchased, parts inventories would be purchased. Is that your experience?

Mr. GOLICK. What needs to be understood, there's no written procedure as to how we're going to get paid for these cars. Thank God I only have two new cars left, but some people have a half a million dollars worth of cars. From what we hear, cars are going to be trucked away, and then we're going to wait for the money somehow. I haven't seen anything on paper that says how we're going to get paid. Now, that's a very important aspect of everything here. Is there a written procedure?

Mr. PRESS. First of all——

Mr. STUPAK. Last question, Mr. Burgess.

Go ahead, Mr. Press.

Mr. PRESS. I'd really like to respond to the issue about the reimbursement. The dealers are being reimbursed what they paid for the vehicle—what the vehicle cost them, less $350. The word invoice—when we invoice the dealer, their invoice includes these holdbacks that we collect and give back to them. But they're being paid what they paid us, less $350.

Mr. STUPAK. That's just for 2009; $1,500 for 2008.

Mr. PRESS. Yes. In terms of the process, we have published to the dealers the process for the redistribution. We have asked the dealers to sign an agreement that would allow us to take that responsibility. Some of the dealers have done that, some of them haven't. About 78 still haven't. But all the other dealers have been notified what the process is. It's available for them to understand that that can be used.

Mr. STUPAK. Mr. Spitzer, I know you're jumping here to jump in on this one.

Mr. SPITZER. You'd asked the question if Mr. Golick knew of other dealers in similar situations. Of our seven stores that were terminated, three of them were Project Genesis stores. One of them was underway. We purchased a piece of land at Chrysler's insistence for $1.6 million in the reorganization of the Akron market, and that store was in an area that they wanted to get away from.

And we were operating interim while we were undergoing construction, and they agreed to hold off construction because of the market conditions for 1 more year, and then they canceled the franchise. We still own the dirt, and they are penalizing us for results in an area that they want us to get out of.

Mr. BURGESS. Mr. Chairman, I know my time is up. This just cries out for further investigation. I hope this committee will do a much—very thorough job as to what's been going on here. Again, in Texas it looks like we've cleared the decks. I don't know how we're clearing them from. Someone is likely to make a great deal of money off the reemergence of Chrysler. I'd like to know who that is and what's in the plan and what's in the works.

I have a nagging suspicion that there is a political calculation here. And it is extremely distasteful when you look at these gentlemen who have had what I think unconstitutional takings of their private property.

And I'll yield back.

Mr. STUPAK. Ms. DeGette for questions, please.

Ms. DEGETTE. Mr. Press, I wanted to ask you if Chrysler has a similar set of written criteria as GM does for its closures.

Mr. PRESS. I'm not familiar with this document.

Ms. DEGETTE. Let me ask you this: Does GM have a written set of—I'm sorry, does Chrysler have a written set of procedures for its closures? Yes or no?

Mr. PRESS. Yes. We've published that.

Ms. DEGETTE. Does this committee have that?

Mr. PRESS. It's been published.

Ms. DEGETTE. Do you know if this committee has it, yes or no?

Mr. PRESS. I can't answer that.

Ms. DEGETTE. Mr. Dingell suggests that we have you submit that for the record. And we would appreciate that.

Mr. PRESS. If you don't have it, I will.

Ms. DEGETTE. Thank you very much.

Secondly, I heard both of you, Mr. Henderson's and Mr. Press's testimony, about what could make a dealer profitable; that it could be coming from selling used cars or parts or service or other things. I guess my question, and I will start with you, Mr. Henderson, is: If a dealer is profitable, and it's buying cars from the manufacturer, which it's then selling, what does it matter if that profit center is derived from the service center, used sales, or new cars?

Mr. Henderson?

Mr. HENDERSON. Good question.

Ms. DEGETTE. Thank you.

Mr. HENDERSON. First, in the case of the dealers who are impacted in our wind-down situation, 69 percent of them were not profitable.

Ms. DEGETTE. My question is: If a dealership is profitable, then what should you care about what center that profit is deriving from? Very quickly, please.

Mr. HENDERSON. In general, we look at overall profitability, not individual centers.

Ms. DEGETTE. Right. But if a dealer is profitable from whatever source, and buying cars from GM, why would you care if—I mean, if it's profitable, why not let it stay in business?

Mr. HENDERSON. If a dealer is profitable we don't care if it's from parts——

Ms. DEGETTE. Right. But why would you close a dealership like that?

Mr. HENDERSON. Not in all cases our profitable dealers, for example, have high levels of customer satisfaction.

Ms. DEGETTE. So now it's customer satisfaction.

Mr. HENDERSON. There were multiple criteria, yes.

Ms. DEGETTE. What about you, Mr. Press. What's your answer to that question?

Mr. PRESS. My answer is, first of all, we have too many dealers.

Ms. DEGETTE. Why would you care if they're profitable and buying cars from Chrysler?

Mr. PRESS. Because the only way we're going to survive is to have all three franchises up under one roof. The only way any dealers will survive will be to have tribranding, first of all.

Ms. DEGETTE. So one criteria is they have to have all three brands under one roof, right?

Mr. PRESS. Directionally. That's the position that we are going to achieve. That's one, but not the only one.

Ms. DEGETTE. Then you can talk about the other one. In Colorado, Chrysler has terminated five of the seven top-performing dealers, including John Medved's Chrysler store in Castle Rock, which is not in my district, but it's south of my district. They sell all three brands under one roof, and they are profitable.

So what would you say to them? You probably don't know each specific.

Mr. PRESS. I think it's difficult to get into going through each individual dealership.

Ms. DEGETTE. But what would your criteria be for a store like that?

Mr. PRESS. First of all, I'm not sure if I understand. You say the top-performing store. I don't know what that means.

Ms. DEGETTE. Five of the—the Chrysler dealerships are five of the seven top-performing dealerships in Colorado. And so this Medved dealership in Castle Rock is profitable, and it has all three brands under one roof. So for people like them, not them in particular, what would another criteria be?

Mr. PRESS. One criteria would be if it's not top performing, its costing us sales.

Ms. DEGETTE. So needs to be top performing, needs to have all three. And what else?

Mr. PRESS. They have to have a minimum sales responsibility covered so that we're not losing money, revenue in that store.

Ms. DEGETTE. Is that minimum sales responsibility covered in your written policies that have been distributed and what you're going to provide to us?

Mr. PRESS. A minimum sales responsibility is a basic part of our agreement. Dealers all know what that is.

Ms. DEGETTE. So it's in their agreement.

Mr. PRESS. It could also be that the market that they are in is no longer viable. The fact of the matter is we have gone from 2 million units to 700,000. We don't have enough available product to support all the dealers in every market.

Ms. DEGETTE. I don't mean to interrupt you. I understand what you're saying. But like Castle Rock, I'm going to tell you, is one of the fastest-growing areas. Douglas County, Colorado, is one of the fastest-growing counties in the country.

So I guess, without getting into the particulars—I know you don't know the particulars of each single one, but I heard you say that, unlike GM, Chrysler does not have an appeal process. So my basic question to you is: Do these dealers know—people like Medved—do they know exactly why their dealership was terminated? Have they been given that information?

Mr. PRESS. Because of proceeding in bankruptcy and the fact this coincided with a lawsuit, we were not in a position to communicate. I want to clarify that, because that was asked before, that now that we've come out of bankruptcy, we are in a position we will communicate to the dealers and let them know what the factors are.

And we had a very robust process that was fair and equitable. It was tested and approved by the bankruptcy judge, by the appeals court in New York, and the Supreme Court of the United

States. I would be more than happy to allow the committee members to see the same information. It's difficult, but we can go through individual dealers as you wish. We'd be happy to do that.

Ms. DEGETTE. What you would say is that you did not tell these dealers before exactly why they were terminated. So you can understand why they are upset.

Mr. PRESS. I understand their anger and upset. I can understand in my soul the whole situation. Being bankrupt is not a spectator sport.

Ms. DEGETTE. Well, obviously. You know, I used to be a lawyer in a different life. I don't know of any provision in the bankruptcy rules that says you can't tell people. Maybe that was the bankruptcy judge that told you not to tell people. But it seems to me you to give people the information.

Mr. PRESS. There was a lawsuit filed as part of that bankruptcy on behalf of the dealers, and it became very difficult for information, other than discovery, to go forward. Now that we're out of bankruptcy, we're fully prepared——

Ms. DEGETTE. What's your time frame for that, sir?

Mr. PRESS. We're fully prepared at any point to become transparent with the dealers that would like to.

Ms. DEGETTE. So you can get that out, what, in the next week you think?

Mr. PRESS. Perhaps sooner.

Ms. DEGETTE. Great. Thank you.

Thank you very much, Mr. Chairman.

Mr. STUPAK. Mr. Doyle for questions.

Mr. DOYLE. Thank you, Mr. Chairman.

I am a cosponsor of H.R. 2743. It took me about 2 seconds to sign that one.

Mr. Press, I'm trying to understand this. So you're saying that you have a very objective methodology to determine what dealers survived and what dealers didn't. I mean, you could feed the dealer data into a computer, and then you had this very objective criteria, and then a computer would spit out, without—was it that kind of a deal, or was there any subjective part to this?

Mr. PRESS. We have over 200 people in the field from local markets that were part of the process of collecting the appropriate information. We have a data service that provides demographic and location information and identification of future trends. We have the process of understanding what franchises that we have, the criteria from the dealers' own scorecards.

It's a number of pieces of information. It wasn't just a computer. It was vetted through a number of levels.

Mr. DOYLE. OK. Thanks.

So one of the criteria is—why would a dealer who had maybe two of your three brands and was a performing dealer and a profitable dealer, why wouldn't they be given the opportunity to just pick up—that you start selling the third brand to them? What stops you from doing that?

Mr. PRESS. Well, there's a couple of reasons. One of them, of course, is that you don't want to have two dealers that may be next door to each other selling the same products. I don't think the dealers really want that either. In fact, there are some laws that provide 10-mile separation, which should be respected. And so we have got to be careful to craft the right dealer network going forward that has the distance and the appropriate market so the dealers can survive.

Normally, many of these locations where we have the single-brand dealerships, they're in so close proximity that they have to be brought up into one. That means that one dealer may be chosen, and one may not. We have here that process, where the dealers that weren't chosen are in front of you.

Mr. DOYLE. Thank you.

Mr. Golick, you sold two of the three brands, right?

Mr. GOLICK. Yes.

Mr. DOYLE. Now, this minimum sales deal, have you met that?

Mr. GOLICK. Yes. I have always been—by the way, there are two criteria—two main criteria that a manufacturer can use to terminate a dealership under the State franchise Laws. And the two main things are your minimum sales responsibility and your minimum working capital requirements. We have always been at 150 percent of both of those.

There's one other criteria, and it's taking care of the customer—your customer satisfaction. We've always been just about the highest in the State.

Mr. DOYLE. Mr. Chairman, I want to submit for the record, there's a site called DealerRater.com, where you can go on and look up dealerships. And they do ratings.

I have Golick Jeep here, who consistently has a 5 out of a possible 5 customer satisfaction. Their 24-point rating, by the way, is 5.0, the highest you can get.

I have another dealer—I won't name them out of respect for them—also in the same market area, that was kept—that their dealer rating is 1 on a scale of 1 to 5. This is a surviving dealer. Mr. Golick is a dealer—I'd like to submit these ratings for record.

Mr. STUPAK. Without objection.

[The information was unavailable at the time of printing.]

Mr. DOYLE. Mr. Golick, I want you to grab that book on the table and turn to tab 14 on that book. Now, if you're looking at tab 14, this is an article that appeared in Automotive News on February 5, 2009, and it describes a conference call at which Mr. Press, the president of Chrysler, urged dealers to buy 15,000 cars from the company in order to save it.

Now, let me read you to what Mr. Press reportedly said to the dealers: "You have two choices. You can either help us, or you can burn us down."

Mr. Golick, are you familiar with this call?

Mr. GOLICK. Yes. Very familiar.

Mr. DOYLE. The article also quotes Mr. Press as saying this: "If you decide not to do that, we have got a good memory of who helped us and who didn't." Do you recall that, Mr. Golick?

Mr. GOLICK. I very much do.

Mr. DOYLE. How did you feel about that? Did you take that as a threat?

Mr. GOLICK. I have never heard that from an auto executive in my life. I've been in the business all my life. I never heard anything like that.

Mr. DOYLE. Mr. Golick, as a result, did you buy additional cars?

Mr. GOLICK. You know what, I honestly can't remember. I think if I had to look it up, I probably did not on that particular month, but I did on the other months. I think Chrysler could provide you with that. But I have a feeling I did not that particular month he said that comment, as I fluffed it off and told my family I couldn't believe this guy said this.

Mr. DOYLE. Mr. Kiekenapp, did you get a similar call? Were you on that call?

Mr. KIEKENAPP. Yes, I was.

Mr. DOYLE. These quotes that were attributed to Mr. Press in the article, do you recall hearing that?

Mr. KIEKENAPP. Yes, I did.

Mr. DOYLE. Did you buy cars as a result of that call?

Mr. KIEKENAPP. No, I did not.

Mr. DOYLE. How about you, Mr. Spitzer?

Mr. SPITZER. I was on the call. In some cases we bought them; in some of our stores we just couldn't take them.

Mr. DOYLE. After you and other dealers put up your own money to buy these cars in order to help out the company, you were shut down a few months later.

Mr. SPITZER. That's right.

Mr. DOYLE. Let me ask you, Mr. Press, is that an accurate quote in the paper, or you deny saying this?

Mr. PRESS. It's accurate.

Mr. DOYLE. It's accurate.

So let me ask you something, Mr. Press. You get on the phone and you ask your dealers to help you survive. You ask them to buy some more cars. You basically say you've got a good memory, and you'll remember the guys that helped you out and the guys that didn't.

Can you tell this committee that you didn't use that as one of your criteria—if dealers said we take that as a threat, and we resent it, and we're not going to buy any additional cars, would that be used to maybe retaliate against the dealers?

Mr. PRESS. Absolutely not, at all, in any way, shape or form.

Mr. DOYLE. How do you take a statement like: We have a good memory of who helps us and who doesn't? If I made that call to you and asked you that, how would you take that call?

Mr. PRESS. May I put that in context?

Mr. DOYLE. Sure.

Mr. PRESS. I understand your question, and I also fully realize the way that that could be used in a manner that may not be accurate. But the situation was that we had a shutdown in December before Christmas. We made no production. We had asked for and received a very small part of our TARP funds. We had asked for TARP funds for the first quarter. We got 1 month. And we had to extend through February 14 our timing to submit to get additional TARP funds.

In the month of February, we had insufficient production to meet cash flow targets that would have caused the company to liquidate. We had continued and were committed for everyone's sake to avoid bankruptcy and not liquidate the company.

We did make an appeal to the dealers to please understand that we need to buy the February production. I realize that you're not out of cars, but if the company is going to make it through February, and we have a chance at getting the TARP funding—which we finally did, and we're still here today—we would need that help.

Seventy percent of the dealers had purchased cars, 30 percent hadn't. And my quote was something like, if you don't buy the cars today, we liquidate. We're gone. If we buy the cars and we can stay in business, at least we have a shot at getting to the end of this tunnel and getting some money.

It's like a bucket brigade, and everybody's got a bucket.

Mr. PRESS. Seventy of you have——

Mr. DOYLE. That statement's fine. I don't have a problem with that.

Mr. PRESS. And 30 of you don't. And then I said, those of us in the bucket brigade will know which ones are in and which ones aren't, using the peer pressure of all of us, recognizing who's there.

I am a dealer guy. I would never threaten a dealer. You can ask anybody in the United States, that I would never use that pressure. And I promise you under any oath that there was never an aspect. And if you ask the people that did not get approved to go forward, they both equally either bought cars or didn't. And that's why we were so insistent on our redistribution program to make sure any dealer that took cars would be reimbursed. We added incentives.

We had the best sales—in February, after that, we had a retail month, for the first time in history we outsold Ford. We sold those cars. We didn't want the dealers to store them. We wanted to save the company and get to this point where we could emerge from bankruptcy.

Mr. DOYLE. Three months after those guys did that for you, you cut those guys loose.

I see my time is up.

Mr. STUPAK. Ms. Sutton of Ohio for questions, please.

Ms. SUTTON. Thank you, Mr. Chairman.

There are just so many things I'd like to pursue, but I just want to start; Mr. Henderson, you said that GM has an appeal process. We've heard about that. I just want to ask you: Why? Why do you have an appeal process?

Mr. HENDERSON. Our process was initially certainly intended to be data driven, but the data isn't always right, which is why I think we felt certainly compelled to have a review process which would reconsider facts that may not have been so clear in the data. And that review process has certainly borne out that it was the right thing to do, because there were cases where we were wrong.

Ms. SUTTON. So would you say it was a matter of fairness?

Mr. HENDERSON. Yes. We thought it was the fair thing to do.

Ms. SUTTON. And in those decisions where your decisions were overturned on the appeals, can you tell us examples? We heard the one about the devastation of the bridge that stopped the business from going forward. Can you tell us some other examples of what was overturned?

Mr. HENDERSON. Recently—I don't have the full knowledge of the 45—but another recent example was we had a small town that had a Buick and GM store and a Chevrolet store, and our initial plan would be to consolidate those two. The conclusion, after reconsideration, was no, let's leave the two, for example. That would be another one.

Ms. SUTTON. Mr. Press, in light of what we have heard Mr. Henderson say about the need to have an appeal process because fairness requires it, equity requires it, how do you feel about that in light of the fact that Chrysler has no such thing for those who have been shut out?

Mr. PRESS. Great question. I understand the contrast. The fact is, though, that our situations are completely different.

Ms. SUTTON. But the employees are affected the same way, and the dealerships are affected the same way.

Mr. PRESS. They are both dealerships, and they are both auto companies, but the factors that led to the appeal process don't exist for Chrysler. That is a completely different situation, because we don't have a term agreement that comes up——

Ms. SUTTON. With all due respect, the factor that was a determining factor of whether or not they were going to have an appeals process was fairness. And that applies to Chrysler as well; does it not?

Mr. PRESS. In our case what we had is a situation where the company went bankrupt.

Ms. SUTTON. I understand. I understand.

Mr. PRESS. A new company was formed to go forward and selected specific dealers based on criteria of beyond dealer performance from a standpoint of a strategic dealer network, the number of dealers, the location——

Ms. SUTTON. I understand the criteria, but, again, I think we're leaving out the point. And the point is both companies have an obligation, I would suggest, to make sure that those who have given a lot in working with your company for many years, decades upon decades in some cases, an appeals process as a matter of fairness—I understand all the underlying issues, I understand the business perspectives here. But what Mr. Henderson just referred to is something that applies to both companies, and that is a matter of fairness.

I will move on, but I am a little bit perplexed because I would suggest, Mr. Press, that regardless of your criteria, if it were OK at the inception, and it was all perfectly subscribed to in terms of being appropriate, you might still make mistakes.

So, with that, we will move on.

I want to clarify a little bit more this whole idea, because we hear from the dealers about how the dealerships don't feel that they cost the companies a lot of money. So if I could just get from Mr. Press and Mr. Henderson a yes or no answer to these questions.

Is it true that the dealers pay for the cars before they receive them?

Mr. PRESS. Yes.

Mr. HENDERSON. Yes.

Ms. SUTTON. Is it true that the dealers pay to have the cars shipped to them?

Mr. HENDERSON. Yes.

Ms. SUTTON. Do the dealers pay for the parts as they receive them?

Mr. HENDERSON. Yes, ma'am.

Ms. SUTTON. And do the dealers pay for their signs?

Mr. HENDERSON. Yes.

Mr. PRESS. Yes.

Ms. SUTTON. Do they pay for their buildings, including the taxes?

Mr. HENDERSON. Yes, ma'am.

Ms. SUTTON. Do they pay, obviously, their employees and all of those related taxes?

Mr. HENDERSON. Yes, ma'am.

Ms. SUTTON. Do they pay for the brochures that they hand out in their showrooms?

Mr. HENDERSON. Yes.

Ms. SUTTON. So, Mr. Press, last week you testified that the dealers cost you somewhere in the neighborhood of $3 billion. Have you provided substantiation of that number somewhere?

Mr. PRESS. Yes; in our testimony.

Ms. SUTTON. That's what you are submitting as the substantiation?

Mr. PRESS. We have submitted written testimony.

Ms. SUTTON. I have your testimony. There's nothing supplemental to provide for any additional substantiation; just your testimony?

Mr. PRESS. Yes.

Ms. SUTTON. Mr. Press, don't all the States allow you to terminate dealer agreements provided that there is just cause?

Mr. PRESS. It depends on the State. There are different franchise laws that exist.

Ms. SUTTON. I understand. But do they all provide you with the opportunity to terminate for just cause?

Mr. PRESS. I can't answer your question.

Ms. SUTTON. Fair enough.

How many dealer shipments did Chrysler terminate last year because of substandard performance?

Mr. PRESS. I can't answer your question. There were some, but I don't know how many.

Ms. SUTTON. Would you please provide that to me, because now we have 789 being terminated, and it's a huge number.

Mr. PRESS. It's not the same reason.

Ms. SUTTON. It would be interesting to see how many were terminated under the just cause standard in the last year.

Mr. Press, did I read correctly that you said that it cost $41,000—or in your testimony—per dealer to have staff call on dealers, or, was it some other number?

Mr. PRESS. Not just staff; for providing training, to have the computer systems, to have our Internet program up, to have all of the record inside the dealerships inside our country; all the audit information that we have; the computer data; the field organization—not just a traveler, but we have a full field office, transportation, logistics, parts, service. It's a fairly large enterprise of administrative costs, and it's $41,000 per dealer.

Mr. DINGELL [presiding]. The Chair recognizes the distinguished gentleman from Vermont, Mr. Welch.

Mr. WELCH. Thank you very much, Mr. Chairman.

You have been hearing very clearly from Republicans and Democrats who represent dealers that there is enormous concern about how they have been treated and the impact on communities. One area where there seems to be a dispute on the dais is whether this is a decision—each of these decisions on closing a dealer was made by Chrysler and GM, or was it orchestrated by the White House.

I know you were asked about that in the Senate hearings, and I just—and it's very important that it be clear who bears the responsibility here and accepts the responsibility.

So, Mr. Henderson, let me ask you, is it, in fact, the case that the Treasury was not involved in any way in the selection or the development or guidance on the number of dealers that would be closed?

Mr. HENDERSON. Could you repeat the question, sir? I'm sorry.

Mr. WELCH. Basically, the question is: Who made the decision on how many dealers to close and which dealers should close?

Mr. HENDERSON. Management.

Mr. WELCH. And that is you, making that decision according to your best judgment about what was in the interest of General Motors, correct?

Mr. HENDERSON. Yes, sir.

Mr. WELCH. The Treasury was not involved?

Mr. HENDERSON. Treasury was involved as a purchaser in making sure we had a properly sized dealer body, but they were not involved in individual decisions, nor what the exact numbers should be.

Mr. WELCH. So you will acknowledge that that decision, whether it was right or wrong, is a decision that you made, not the White House.

Mr. HENDERSON. Yes, sir.

Mr. WELCH. How about you, Mr. Press? Same question.

Mr. PRESS. It was not made by the White House. It was made by our company, Chrysler.

Mr. WELCH. OK. The basic question here is not just a matter of fairness, although I agree with my colleagues on that, it's a matter of business judgment. Somebody's right, and somebody's wrong. You two gentlemen on behalf of your companies have come to the conclusion that closing down dealers, including dealers in longstanding who've done a good job for a long time, in some cases generations, that it's in the interest of the company to close them down; is that right?

Mr. PRESS. In our case it's the only way we will survive going forward.

Mr. WELCH. And there's obviously a lot of evidence that's been presented to you at this hearing that those dealers are not costing you money, but actually can be a lifeline to reenergize sales in their local community. So you're going to bear the responsibility if, in fact, it turns out that you're wrong and they're right, correct?

Mr. HENDERSON. Yes, we will bear the responsibility.

Mr. WELCH. On this appeal question, here is the dilemma that we have. The Bankruptcy Code is brutal. This man over here, his grandfather was in the business, his father was in the business, and had there not been the resort to bankruptcy which was obviously made as a result of business situations that developed over decades, had there not been a resort to bankruptcy, you would have had to have a sit-down, face-to-face interaction with people that had been loyal, effective, and solid business partners for decades, correct?

Mr. PRESS. The bankruptcy was caused by a market that ended and no credit.

Mr. WELCH. I am not asking about the cause. Once you go into bankruptcy, all of the rules that used to apply, contracts, agreements, relationships, are thrown out the window. The law allows that to happen, but it is the nuclear option, correct?

Mr. PRESS. It was not our desire or plan, it was a failed enterprise that stopped operating and it doesn't exist any longer.

Mr. WELCH. Right. What it did was allow the court to throw out contract law that had applied or State statutes that provided some equity between the dealers and the company. You are not responsible for what bankruptcy law is.

This is the question to you and Mr. Henderson. Given the fact that bankruptcy is a brutal tool, in some cases it may be necessary, do you believe that that entity, General Motors and Chrysler, which resorts to bankruptcy with the best of intentions, I will stipulate to that at the moment, should bend over backwards on the side of giving the benefit of the doubt to dealers that have been loyal, effective, and largely profitable partners to the manufacturers?

Mr. HENDERSON. I can't really speak on what the bankruptcy court should or shouldn't do.

Mr. WELCH. I am asking what the company should or shouldn't do.

Mr. HENDERSON. The reason we developed our approach to wind-down agreements was to try to handle this as responsibly as we could.

Mr. WELCH. The bottom line here is that the law probably allows you to do what you are doing. I have no doubt that you have probably made a decision which you think is consistent with the exercise of your responsibilities. You have tough jobs. But we have a unique situation here where the brutal unfairness of the law is imposing enormous, frankly, unspeakable hardship on some pretty good people. And you will acknowledge, I am sure, that you are fallible and you made your best judgment, but that doesn't guarantee you are right, and the request I have of you is whether, in the exercise of your judgment, you will give the benefit of every doubt that can possibly be given to people who have been doing a good job for a long time?

Mr. PRESS. This was not using the law. With great respect, I understand how that could be construed. But the fact of the matter is, a new company was formed in our particular case, and a certain number of dealers with certain locations and certain brand representation were selected to go forward. The cause of this was it became a failed enterprise.

Mr. WELCH. I yield back the balance of my time.

Mr. STUPAK. Thank you. There is interest here, and we are going to go another round.

Mr. Henderson, let me ask you this. Canada has part interest in the new General Motors?

Mr. HENDERSON. Yes.

Mr. STUPAK. Are we closing dealerships in Canada?

Mr. HENDERSON. Yes. We actually went through a very similar process.

Mr. STUPAK. Did you have hearings and things like that up in Canada?

Mr. HENDERSON. No.

Mr. STUPAK. Mr. Press, we have the new Chrysler and old Chrysler. Will the new Chrysler dealers be required to sell Fiats?

Mr. PRESS. We have not yet established a brand position and a product plan going forward of exactly what products from our alliance will be branded Fiat or branded some other brand.

Mr. STUPAK. Was that one of Fiat's considerations for helping our here with the new Chrysler, is to get their product line in the United States?

Mr. PRESS. Well, part of the new company is definitely going to benefit from the $10 billion worth of resources and product development and hardware from Fiat that gives us tremendous car entries and technologies that we will bring into our product line.

Mr. STUPAK. Sure, but are you going to be required to sell Fiats? That is what I am asking.

Mr. PRESS. We are going to have cars that have Fiat technology or engines.

Mr. STUPAK. But a car that says "Fiat"?

Mr. PRESS. There may be. We have not yet determined which brands or what names will be on the vehicles. A vehicle could have a Fiat name on it, and it may not. It may have a Chrysler name on it.

Mr. STUPAK. Mr. Barton said I hope Chrysler and General Motors review some of these dealerships and maybe some of these things can be reversed. In all honesty, because you went through the bankruptcy, there is no way for any of these Chrysler dealerships that are being closed to get their car dealerships back; is there?

Mr. PRESS. That is correct. And my answer to him was that we will be transparent and share with them the information.

Mr. STUPAK. We have to be honest, none of these gentlemen here are going to get their dealerships back?

Mr. PRESS. That is correct.

Mr. STUPAK. And there was no appeal process for them to get their dealerships back?

Mr. PRESS. That is correct.

Mr. STUPAK. And in bankruptcy, those contracts were broke and therefore you don't have to offer them anything else, correct? Those franchise dealership agreements, they are broke, the bankruptcy discharged them?

Mr. PRESS. But we took responsibility for the redistribution of the inventories.

Mr. STUPAK. That is what bothers me. Those are old Chrysler parts, so how can the new Chrysler, if it doesn't give these gentlemen an appeal process, or even consider taking them back, how can the new Chrysler take stuff that was old Chrysler? It seems like you are being selective in what you are going to take.

Mr. PRESS. Sir, that is a great question. The restriction is to dealers, not to our company. So what we did was we provided for a distribution of the vehicles that were in old Chrysler dealers' inventories, and they are being moved into new Chrysler dealers' inventory.

Mr. STUPAK. So there is $350 that I have to pay to get my 2009 Chrysler moved off my lot since I am being closed. Who gets that money? Where does that money go?

Mr. PRESS. That goes for the inspection, the cleaning of the vehicle, and for the transportation, the logistics. It is an outside third party company.

Mr. STUPAK. So new Chrysler doesn't receive that money or distribute that money in any way?

Mr. PRESS. No, sir.

Mr. STUPAK. Go ahead, Mr. Kiekenapp, if you have a statement. No, you can't ask questions. Sorry.

Mr. Henderson, let me ask you this. Did you have a conference call on June 10 with GM executive retirees?

Mr. HENDERSON. Yes.

Mr. STUPAK. Two days ago?

Mr. HENDERSON. Yes.

Mr. STUPAK. Was a statement made along the lines of no executive level GM retiree will receive a retirement benefit package of more than $100,000 at the direction of the Treasury Department or the Auto Task Force?

Mr. HENDERSON. The discussion had to do with pensions that applied to executives' nonqualified plans. As part of a total number of liabilities, one of which was that, there were six liabilities that were unfunded and unsecured. And as part of our bankruptcy filing, the purchase and sale agreement suggested that we would have to reduce the total amount of those liabilities by two-thirds. Then management had the responsibility to allocate the two-thirds reduction.

So as part of doing that, we identified a plan with respect to the executive retirees, that any executive retiree whose combined qualified and nonqualified benefit was less than $100,000, they would be unaffected. And to the extent that their benefits in total were more than $100,000, the extent of the unqualified plan would be reduced by two-thirds.

Mr. STUPAK. Was that a decision made by the new General Motors or was that a decision made by the Treasury Department?

Mr. HENDERSON. The overall framework was part of the purchase and sale agreement. So the purchaser identified what amount of liabilities they were prepared to accept. The actual recommendation as to how to allocate that, including this particular recommendation, was management's.

Mr. STUPAK. General Motors' management?

Mr. HENDERSON. Yes, sir.

Mr. STUPAK. So to place the blame for that on the White House Task Force or the Treasury Department wouldn't be accurate?

Mr. HENDERSON. In the case of unqualified pensions such as this, sir, we had indicated to our retirees that in most bankruptcies that is zero. So in this particular case, this was considered to be a fair approach to it.

Mr. STUPAK. Today is June 12. That is the day that the wind-down agreements have to be returned to General Motors in Detroit, correct?

Mr. HENDERSON. Correct.

Mr. STUPAK. So of those dealers that are going forward or are going to be lost, closed, what happens if they don't sign it?

Mr. HENDERSON. Well, first of all, 96 percent as of today, this morning, had either signed it or had verbally said it was coming in. We anticipate a high percentage of those dealers will sign the wind-down agreements. A very high percentage.

In the event that they don't, those contracts would not be assumed by the new company. They would be left in the old company and they would be rejected.

Mr. STUPAK. So they would basically be out of business anyways?

Mr. HENDERSON. They could terminate their contract, yes.

Mr. STUPAK. But any financial incentives that would be in the wind-down agreement would be lost?

Mr. HENDERSON. Correct.

Mr. STUPAK. Go ahead, Mr. Walden.

Mr. WALDEN. So they are not signing that under duress?

Mr. STUPAK. But if there are a thousand more dealers that are going to be closed, right, a thousand more GM dealers, so if I don't get my contract in right away or protest too loudly, I could be one of those 1,000 other dealers?

Mr. HENDERSON. In terms of the participation agreement, 99 percent of those are in, and we expect to have all of them in.

Mr. STUPAK. Mr. Spitzer, did you have something to say on this?

Mr. SPITZER. I had a couple of comments. One on the 41,000, Mr. Press. I would submit that the cost per dealer will go up after these dealers are terminated because first of all, I think it is 40 percent or so get no representation at all. It is all done electronically. The smaller dealers, there is no personnel. I would also submit that they will cut very few field people, if any. With fewer dealers, those costs are almost fixed, or semi-fixed. That will go up.

The other comment that I was going to make, the minimum sales responsibility, just to quickly educate just in a couple of sentences the committee, they take the State average penetration for their brands and they expect every dealer to hit State average penetration. The problem with that is, and just to take an example of how that can be skewed and how it is an unfair measurement, in fact we have found at least in Ohio there are rooms full of testimony, expert testimony, and they have been thrown out in many cases, minimum sales responsibility as a criteria. In Sheffield, one of the terminated, rejected stores in Congresswoman Sutton's district, there is a Dodge dealership in the middle of Ford country. There are two Ford plants, one of them was just shuttered. But still, there are still a lot of residual buyers and owners still living there, retirees and so forth, and then a plant still going in Avon Lake. This dealership is right between them.

A hundred miles to the west there is another dealership near a Jeep plant in Toledo, Ohio. The dealer in Toledo and my dealership in Sheffield is held to exactly the same standard. That is absurd.

Mr. STUPAK. One more question, and then I will go to Mr. Walden.

Mr. Henderson, does GMAC have part of the new GM, or does GM still own part of GMAC Financing?

Mr. HENDERSON. GM will own shares in GMAC. We will own approximately 9.9 percent. The other remaining shares of General Motors are currently held in a trust to be sold because as part of our passivity agreement with the Fed, we agreed that we would sell down our interest to 9.9 percent.

Mr. STUPAK. Mr. Walden for questions.

Mr. WALDEN. Thank you, Mr. Chairman.

I would like to pick up on the GMAC part. I have talked to a lot of folks in my district, and one of their complaints is the flooring issue with GMAC. I had a dealer tell me that after GMAC got their government dollars due to flooring, they immediately raised the interest rate by 6 percent. They made this dealer pay $10,000 just to be able to stay on. It is nonrefundable. He had been with them 27 years and had no problems. In the last 7 months, they have changed his contract 14 times, always with the threat of curtailment, and then micromanage and manipulate floor stock. He told me that they told him he had too many cars and so he cleaned out his inventory, sent them to auction. Then they called to say that they had an inspection and his cars numbers were inaccurate.

He said, I did what you asked.

They said, You should call us to tell us you are doing what we asked.

He said it would be illuminating to have a congressional member in the room listening to the dealer conversation with the GMAC employee.

This is not unique, unfortunately, in terms of that side of this issue.

Well, let me go to Mr. Thomas and maybe Mr. Blankenbeckler as well. Is this the first time you have seen the criteria upon which the decision was made in your wind-down agreement?

Mr. THOMAS. It is the first time. I have seen the DPS one other time in the last few weeks. I have asked for things that are in this paper prior to making the wind-down agreement commitment, and it would appear that I made the wrong decision.

Mr. WALDEN. How so?

Mr. THOMAS. Well, it says in the case of a rejected dealer——

Mr. WALDEN. What page are you on?

Mr. THOMAS. This is page 5. At the very bottom, for GM dealers, that floor plan with GMAC, which unfortunately we are floored with Wells Fargo, and I don't know if this would pertain or not, but it says for GM dealers that floor plan with GMAC, if the dealer agreement is rejected, we expect that the dealer would turn in new vehicle inventory which GM would then redistribute.

Now this idea of playing out for 17 months, it sounds good and compassionate in a sense, perhaps for the employees, but it is a hard sell to convince someone why they should buy a past model car from you when you are not even going to be there. I mean, that is tough.

Mr. WALDEN. Is it hard to sell a model car from a manufacturer who people aren't convinced was going to be there?

Mr. THOMAS. That as well.

Mr. WALDEN. Has that affected your sales?

Mr. THOMAS. It has affected them.

Mr. WALDEN. Do you think that was taken into account?

Mr. THOMAS. I think there is something which has been taken into account, but I don't really see it as being sufficient. We took four cars to auction about a year ago, two Cadillacs and two Corvettes, and we stood to lose $65,000 on four automobiles. If I project that forward, it is not a pretty picture.

Mr. WALDEN. So do you feel like this information provided to the committee would give you an adequate understanding of how they evaluated the wind-down agreements versus the go-forward agreements?

Mr. THOMAS. The whole document, I asked specifically for a definition of what would be my fate in this state of rejection, and it was really—there are really two choices. If you were wind-down, you could either fall into—sign the wind-down agreement, very tough language, or fall into rejection, and no definition of what that really meant.

Mr. WALDEN. So you didn't know what the option really was?

Mr. THOMAS. Well, I asked for it.

Mr. WALDEN. Did you get it?

Mr. THOMAS. I didn't get something as thorough as this. I got rather short answers.

I had asked, on the e-mail question line, I asked about Mr. Henderson's comments about redistributing inventory that I think were made in the Senate hearings. The e-mail response comes back, you are going to have to call the call center. I call the call center. They don't have information about that comment or its implication.

Mr. WALDEN. So, Mr. Henderson, do you want to answer Mr. Thomas's question?

Mr. HENDERSON. Yes, sir.

In the case of vehicles, the first thing I would say is that the total compensation in the wind-down agreement is intended, in all cases, to be superior to termination. That is the reason why there is such a high percentage.

Second, if someone chooses to voluntarily terminate, and we have 50 dealers doing that today. We had 50 dealers last month voluntarily terminate.

Mr. WALDEN. You say 80 a month on average will terminate.

Mr. HENDERSON. We had 50 last month with people knowing this agreement was there. What happens in that case, to the extent they floor plan their cars with GMAC, GM has an obligation and an agreement with GMAC that the dealer could turn the cars back to GMAC and then we will redistribute the cars. That is how it works.

Mr. THOMAS. And if you are with a bank for flooring?

Mr. HENDERSON. We don't have such agreement. It would have to be bank by bank. The highest percentage of our dealers floor plan with GMAC.

Mr. WALDEN. What does that mean for you, Mr. Thomas?

Mr. THOMAS. I would have to talk to my bank.

Mr. WALDEN. Do you have that agreement with Bank of America or Wells Fargo?

Mr. HENDERSON. I don't know. I would have to follow up. This would apply only in the case of a termination as opposed to a wind-down. In a wind-down, we would continue to work with the dealer through October of 2010.

Mr. WALDEN. I guess the question, and I realize my time is over here, but to both the GM dealers in wind-down, what effect does it have on your ability going forward not to be able to have the new product line going into this next year? You are still going to be with a lot there, right?

Mr. THOMAS. We will, and we won't have the current offerings.

Mr. WALDEN. How does that help GM then? I don't understand that part. What am I missing here? How does them not being able to buy your new model vehicles help the 2010 vehicles?

Mr. HENDERSON. First of all, the one element of our wind-down agreement that we needed to apply was that they could no longer purchase new vehicles. They could purchase used vehicles, they could purchase parts to provide service.

Mr. WALDEN. My question was why? Help me understand why that makes sense? You make money by selling vehicles you make, right?

Mr. HENDERSON. Yes.

Mr. WALDEN. And they make money by turning around and selling those same vehicles, so why wouldn't you want them buying their 2010 vehicles? Then it is their problem, right? They go out of business at the end of October 2010?

Mr. HENDERSON. The purpose of the wind-down agreement we did provide as part of compensation, for example, incremental resources for the vehicles they had in inventory, and this was for providing a 17-month period to wind down their facilities in an orderly basis as opposed to replenishing new stock and we would have a problem at the end of the contract.

Mr. THOMAS. My sense is that when the model change occurs, everything we have will be yesterday's news; and it will be very hard to get from October 2009 to October 2010.

Mr. WALDEN. That gets to my point. I have been kidded a bit up here because apparently I asked you if you felt terminated, Mr. Thomas. I meant to say if you felt your dealership had been terminated. Isn't that exactly what has happened here, in effect? It is a much shorter term termination. I realize you are buying some things out, but in effect, it is taking effect this fall, right?

Mr. THOMAS. That is my sense, yes.

Mr. WALDEN. Mr. Blankenbeckler, do you track it the same way?

Mr. BLANKENBECKLER. In regards to the handout that was just given out, I could get no information to speak of in regards to what your fate was should you not sign the wind-down agreement. I was repeatedly, repeatedly, repeatedly called by GM, Where's your agreement? Where's your agreement? Do you understand? I said I can read. I know what it says.

You ask about what are the provisions of not signing?

You will be rejected.

What does that mean? Let's talk about it.

I do have some floor. I have a lot of paid vehicles, I can go floor every vehicle I have got, and if I can just pick the phone up and call GMAC and tell them to come get approximately $4 million worth of inventory, which 90 days, and right now they are starting to produce 2010. And you have got a business that appears to be going out. It is a long leash to 2010, October.

I would like to make one other comment while I do have the floor. One of the provisions of the wind-down agreement, I am paraphrasing this, states that in my case I will produce potentially 84 years of sales records. My customers' names, telephone numbers, my service customers' telephone numbers, and I am given 25 percent of my wind-down money.

I get one person, one attorney come to me and say—and the purpose, I am paraphrasing, the purpose of these electronic lists of all of my customers are to be used, given to another third party, another dealer, that is how I read it, my replacement dealer. What I have earned for 84 years, these are—the bulk of these people are my personal friends, that I have to give their names. And you helped me with the Federal statute name. I am not an attorney, but I see this as a huge liability to a dealer, to turn over their customer lists. They are confidential. You wouldn't go to a doctor's office and ask for somebody's medical records and get it. One customer would more than negate the amount of money that was given.

Mr. WALDEN. You mean one customer that brought an action?

Mr. BLANKENBECKLER. Yes, brought an action against me. And in this world, I can't see how that wouldn't happen.

My question to GM was, Why do I have to supply my customers' names? Everything I do is sent to you electronically. Every sale I make, I give. All of my warranty records, I get VIN number, labor operation number. It is given to them. Again, all of these data processing deals are thrown back on us. We pay for those things. I would really like to hear what Mr. Henderson would say in response to my fear of turning over my customers' identity.

Additionally——

Mr. WALDEN. Can he respond to that? Does GM assume the liability?

Mr. HENDERSON. GM has a privacy policy. We have had excellent experience with being able to properly control customer and consumer information in our corporation's history.

Mr. BLANKENBECKLER. It says in the agreement that it is going to be given to a third party. If it is given to a third party, I don't know how you have control.

Mr. HENDERSON. As I said, we have been able to manage customers' identity.

Mr. BLANKENBECKLER. Now let me ask you this. Would GM be in a position to indemnify me for that from a lawsuit?

Mr. STUPAK. We have to do the questions from here. Sorry.

Mr. Dingell.

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. McEleney, what is your opinion of GM and Chrysler's respective dealer closure plans with regard to both substance and procedure? Would you please submit your response for the record?

Mr. MCELENEY. In the case of Chrysler, I think they were too quick and too deep in terms of numbers.

Mr. DINGELL. I would like specific criticism, and I would ask you to submit it for the record because I only have 5 minutes. And submit as part of that how could those be improved to result in fairness, in your view, to the dealers.

Mr. MCELENEY. In the case of both GM and Chrysler, it was not a transparent process. In the case of GM, there was an appeal, which was favorable. And none with Chrysler, which I think is problematic. I think with the information we received today that the Chrysler dealers will be provided that criteria, it would seem to make sense that there be an appeal process so those Chrysler dealers who have been canceled can evaluate that.

In the case of GM, the wind-down is much more favorable, allowing dealers potentially through next October to sell off their parts and inventory and tools and reasonably close their businesses in a rational format.

In the case of Chrysler, the wind-down was very abrupt, 26 days. I think it created all kinds of problems for dealers and their employees. So I would not think very highly of that.

Mr. DINGELL. What is it going to cost per car for a GM dealer to wind down? How much is he going to lose per car, and how much is a Chrysler dealer going to lose per car?

Mr. MCELENEY. Sir, it would be very hard to project. I have been a dealer for 36 years. I would guess in the case of GM, there would be some cars. When you get to the tail-end of the process, you have some of the less popular models left. Dealers could lose several thousand dollars in those cases, but it just depends on their own situation.

In the case of Chrysler, those dealers that have vehicles left don't have a franchise, they don't have a license, they can't sell them or get Chrysler incentives. The costs could be many thousands, five, six, $10,000 per vehicle.

Mr. DINGELL. What charges are in the two closure plans that are detrimental to the dealers and how could that aspect of it be improved?

Mr. MCELENEY. I am sorry, sir, I don't understand the question.

Mr. DINGELL. I am not sure I do either.

What is there in the two plans which is particularly hurtful in terms of costs to the dealers, and how could those matters be improved?

Mr. MCELENEY. Sir, in the case of both GM and Chrysler when a dealer is losing their franchises, like these gentlemen at the table are and so many around the table, the value of the franchise is going to zero.

Mr. DINGELL. I want to know about the specific charges per car. In other words, Chrysler has a $350 item that they have to pay. Are there other charges like that in either one of these plans that would impact upon the dealer?

Mr. MCELENEY. Not that I am aware of. In the case of General Motors, they are not buying the cars back but they are providing the wind-down dealers an opportunity to sell them down over the next 15 months.

Mr. DINGELL. I am going to submit to you a letter, and there will be other letters submitted to others, and I ask unanimous consent, Mr. Chairman, that those letters and responses be inserted into the record.

Mr. STUPAK. Without objection.

[The information was unavailable at the time of printing.]

Mr. DINGELL. Mr. McEleney, given your assertion that dealerships do not in fact cost money to maintain, why do foreign transplants have significantly fewer dealerships in the United States than their domestic competitors?

Mr. MCELENEY. I happen to be an import dealer as well, a Honda and Toyota dealer, so I have some perspective on that. The business model for the import, the transplant manufacturers, is quite a bit different than the domestics.

GM, Ford, and Chrysler have a very strong market share in the rural markets, much like where I live in Iowa. Mr. Henderson mentioned earlier that they have a 10-point market share advantage in those areas. So it is a competitive advantage for Ford, Chrysler, and GM to have representation in communities less than say 75,000 or 100,000 people on average; where Toyota, Honda and Nissan have no interest. They will not go in and backfill some of these locations that are being closed with franchises.

Mr. DINGELL. Why would they choose not to back those kinds of franchises? That is really at the root of the question.

Mr. MCELENEY. I can't speak for them. Based on my experience, I would say they don't see the market opportunity for their brands as they do in more metropolitan areas.

Mr. DINGELL. Now, Mr. Press and Mr. Henderson, Mr. McEleney has indicated in his testimony that dealer franchises in fact do not cost manufacturers money to maintain. Do you agree with his position or not?

Mr. PRESS. I do not.

Mr. DINGELL. Mr. Henderson?

Mr. HENDERSON. I do not.

Mr. DINGELL. Mr. Press, why? Mr. Henderson, why, please?

Mr. PRESS. In our situation, one of the main reasons that caused our bankruptcy and weak product engineering is the requirement that we provide individual models for each stand-alone franchise as sister models that cost a substantial amount of money and took resources that had negative returns, no incremental sales, only costs, as one example. That is a huge cost.

The second one is the fact of lost sales, lost volume. In a market that is underperforming, those sales don't provide revenue for us. We lose that revenue. In our case it was about $1.5 billion.

The development of individual models is about $1.4 billion. And so we have—and that is a very real situation.

Third, because we have so many dealers and our average dealer loses money, we are not having a competitive dealer network that can compete with the other manufacturers in terms of customer satisfaction, location, facilities, trained people, advertising, et cetera. So it is a substantial cost to the company.

Mr. DINGELL. Mr. Henderson, if you please, give me your comments.

Mr. HENDERSON. Mr. Dingell, in my testimony I talked about the costs that the company over time has incurred to provide support for a dealer body in total that has been substantially weakened. So there are the costs articulated in my testimony.

Second, our principal issue, General Motors' market share in rural and small towns in the U.S. Is 10 full market share points higher than it is on average. It is a source of strength for us. And even when we are done with our restructuring, we will still have the most extensive dealer body in rural America.

What costs us today is that we have insufficient distribution in metropolitan markets where we have many, many locations and we have few strong ones. That is a significant problem today.

Mr. DINGELL. Mr. Press and Mr. Henderson again, it has been estimated that the average throughput for a foreign transplant dealer is twice that of a comparable domestic dealer. Is this true, yes or no?

Mr. PRESS. I don't know exactly double, but it is substantially higher. Perhaps in that range, yes.

Mr. HENDERSON. It would be our estimate that a Toyota, for example, versus Chevrolet, would be approximately double.

Mr. DINGELL. If this is true, and apparently it is, why is that the case? Mr. Press.

Mr. PRESS. Well, the reason in Toyota's case is they sell about 2 million cars and trucks a year out of 1,200 dealers. And if we didn't have this restructuring, we would sell about 700,000 cars and trucks a year at retail out of 3,100 dealers. So the average sales per dealer is substantially different.

In Toyota's case, as Mr. McEleney said, the product line they have is less truck oriented. They sell mainly cars in more metro markets or sunshine States, less presence in smaller rural areas or secondary markets. And they also don't have an 80-year legacy of having had a substantially higher dealer body and seeing the volume disappear.

Mr. DINGELL. Mr. Henderson?

Mr. HENDERSON. Sir, I wouldn't have anything to add to Mr. Press' comments.

Mr. DINGELL. Gentlemen, do you believe that your respective numbers of dealerships has been reduced per your rerestructuring plans? And if so, has parity been achieved through these plans in a way which will be adequate with regard to your foreign transplant competitors?

Mr. PRESS. We tried to achieve a dealer network going forward that had the minimal impact on removing dealers. There have been critics that say that we didn't go far enough, but we didn't want to go all of the way to have parity. We think we are in a very good position to continue to go forward with business and have that dealer network emerge over time.

But through the bankruptcy and through the emergence of a new company, we have the optimum number of dealers going forward, 3291.

Mr. DINGELL. Thank you. Mr. Henderson.

Mr. HENDERSON. As I mentioned in my testimony, we would expect that at 3,600 dealers approximately, even with only a modest improvement in the market next year and conservative market share assumptions, that throughput would almost double.

Mr. DINGELL. Very quickly, gentlemen, it has been said that the dealers should be permitted to remain open where you are terminating them to provide service and maintenance. What is wrong with that arrangement?

Mr. PRESS. In our situation, of course, because there are existing dealers that are surrounding them that are taking, in many cases, 555 cases, the franchise. For example, the Dodge-Jeep dealer, may be taking the Chrysler franchise. They are spending money and adding facility and overhead. That is part a part of the business in terms of loyal customers and part of the business that would travel with it.

Mr. DINGELL. Are you telling me this would have an adverse impact on adjacent and nearby dealers?

Mr. PRESS. It would have an adverse impact on adjacent dealers. There are some cases where there may be a single point that may have a real customer situation where they can't achieve the location. Then we have always had an opportunity to take a look at a very minimal number of companion points. But in this particular case, it would substantially reduce the ability of the dealers that go forward to derive the full benefit of their business.

Mr. DINGELL. Thank you. Mr. Henderson.

Mr. HENDERSON. I would have the same response, sir.

Mr. DINGELL. Mr. Chairman, I thank you for your courtesy. My time has expired.

Mr. STUPAK. Thank you, Mr. Dingell.

Mr. Braley for questions, please.

Mr. BRALEY. Gentlemen, I don't think it is any coincidence that with the exception of Mr. Walden, the remaining members all come from States that are represented in the Big 10 Conference. Our constituents built your cars and trucks, or in my case they built tractors and combines and heavy equipment, and the workers who build those products are so brand loyal to your company that they have created a dominant market share for you in U.S. auto sales that has lasted right up to this moment in history.

Mr. McEleney and my uncle and my brother-in-law, who are Chevy dealers, advertise your products on Big 10 sports networks so that your products are sold in this area where you have this dominant brand loyalty. And yet I look at page 4, Mr. Henderson, of your proposal, and what do I see: Wind-down dealers by State: Pennsylvania, 90; Ohio, 79; Illinois, 66; Wisconsin, 50; Michigan, 58; Indiana, 48; Iowa, 46.

And after your description of why these foreign automakers are not playing in this part of the country, I find it very difficult to believe that you will perpetuate your brand loyalty in light of these massive dealer closures in my State, in Representative Stupak and Congressman Dingell's State and Congresswoman Sutton's State. I see the evaporation of your market share because of this practice.

I just wonder whether as part of your restructuring you have given consideration to that? Mr. Henderson?

Mr. HENDERSON. Sir, first of all, I am a Wolverine, born in the State of Michigan. Second of all, when we are done, General Motors will still have what we believe is the largest distribution system for rural and small towns in the U.S. Approximately 1,500 of our 3,600 dealers will be located in those small towns, and we do believe we will be able to maintain a strong position, sir.

Mr. PRESS. Actually, through the new dealer network we have increased the share of dealers that are in rural markets and reduced the share of dealers in metro markets. We do realize the importance.

The difficulty is from our volume going from a peak of 2 million to 700,000, we don't produce enough vehicles to have every dealer stay in business. It is unfortunate, but it is a fact. We are trying to make sure that the dealers have a high enough volume that they can stay in business and have a good operation going forward to compete with the transplants.

Mr. BRALEY. Well, with all due respect to the two of you who have accomplished much in your careers, I would submit that the people sitting on this side of the table have a much deeper sense for the attitude of our constituents, and I would be shocked to see your brand loyalty maintained in light of these shutdowns.

One of the things that we know, and Mr. Walden referenced this in his opening statement, both companies have been doing advertising to talk about their business strategy going forward. And, Mr. Henderson, we have seen the GM ads that talk about how your company is going to stand behind the products it sells going forward. But in reality, you are not standing behind your products because one of the things that we know as part of these bankruptcy proceedings, every existing and future product liability claim that your company could be responsible for for selling a defective product is going to be extinguished; isn't that true?

Mr. HENDERSON. In our case, warranty recall will all be assumed by the new company. But in the case of product liability, purchasers in the normal 363 process do not assume that sort of obligation.

Mr. BRALEY. So they will be extinguished in the bankruptcy?

Mr. HENDERSON. They would be unsecured claimants of the old General Motors.

Mr. BRALEY. And they will be extinguished because we all know what happens to those unsecured claimants?

Mr. HENDERSON. Likely.

Mr. BRALEY. Yes. Now, have you informed your dealer network that you are going to be passing on a massive cost shifting to them because of that?

Mr. HENDERSON. No, we are not going to be passing on.

Mr. BRALEY. Yes, you are, sir, because I can tell you in the State of Iowa Mr. McEleney is currently immune from liability as a distributor of your product if the manufacturer is in existence and is not in bankruptcy. That is a fact in almost every State under State product liability law. So if you disappear as a potential claimant in that process, every one of these dealers is going to be on the hook, not just your remaining dealer network, but existing dealers that no longer have a franchise?

Mr. HENDERSON. In our case, both wind-down agreements as well as the continuation agreements will be assumed by the new General Motors and the indemnification provisions that GM has today will continue.

Mr. BRALEY. The indemnification provisions. So you are going to assume responsibility and pass that liability on?

Mr. HENDERSON. As part of our obligation, we will continue to indemnify the dealers who sign a new agreement with new General Motors.

Mr. BRALEY. So they are going to have to rely upon you to step up after they have been sued and they pass that on to you, and then they are going to have to have counsel involved because of that status?

Mr. HENDERSON. Sir, I think that by virtue of the indemnification continuing to the new company, we did that purposely to try to avoid the situation where a dealer could be badly hurt.

Mr. BRALEY. Mr. McEleney, I want to give you the last opportunity to talk about the impact on every one of the dealers that you represent as Chairman of NADA who haven't had a seat at the table and haven't had an opportunity to tell their story because I am guessing you have been getting a lot of phone calls. What has it been like for you and what types of concerns are you hearing?

Mr. MCELENEY. Well, we are hearing many of the concerns that have been expressed earlier today by some of the dealers on the panel. There are dealers who are sometimes third, fourth generation. My family has been in business for 95 years. Fortunately, we are going forward, but there are a lot of dealers like me who are not. Most dealers, the net worth of their enterprise, their life savings is represented in the value of their real estate, if they own it, and the value of their franchise.

In the case of dealers being terminated by either GM or Chrysler, the franchise value is zero immediately. And the real estate value with single purpose real estate, particularly in this commercial real estate market which is pretty stressed anyway, would be severely devalued even to the point where in many cases dealers will owe more money on the property than it is worth. Or they may have a lease that they are obligated to for a number of years and have no way to generate revenue to pay for that lease.

Those are some of the issues. There are dealers who have made significant investments in facilities with the expectation that they would have a franchise going forward as long as they met the requirements of the franchise agreement that are being left with those obligations.

So there are a myriad of stories that are very tough, personal bankruptcies in many cases, dealers and their employees having to take personal bankruptcy. And the dealership employees, we haven't talked a lot about. They earn, on average, about twice what is paid in retail. So these are good jobs. Most of these people will not be able to go to other dealerships and find employment, particularly in this market, in a 10 million market, I don't know of any dealers that are hiring people. I suspect there may be some as this rationalization takes place and dealers have bigger market areas. But for the most part, those 120,000, 130,000 employees of terminated dealerships will have to find work probably outside of the auto sector, and it is a tough market to find employment in right now.

So there are some pretty devastating stories out there.

Mr. STUPAK. Thank you, Mr. Braley.

Ms. Sutton for questions.

Ms. SUTTON. Thank you, Mr. Chairman.

I was talking to Mr. Press about the appeal process and I talked about the State law, and under State laws across this country it is my understanding that you can terminate for just cause. You can terminate dealerships. Is that your understanding; Mr. Henderson? Mr. Press wasn't certain.

Mr. HENDERSON. I have the same recollection. I think there are provisions, but they do depend by State. But yes, in general for cause.

Ms. SUTTON. When you say they depend, there may be differences, but they all have some sort of just cause standard; is that correct?

Mr. HENDERSON. I can't answer the question, ma'am.

Ms. SUTTON. Well, I can tell you in Ohio there is a law that allows for termination based on just cause, so we can just go with that understanding.

Let me ask you, how many dealerships did GM close last year based on just cause under State law?

Mr. HENDERSON. I would have to get back to you with an answer.

Ms. SUTTON. Do you have any idea?

Mr. HENDERSON. No.

Ms. SUTTON. How many are you slated to close through this bankruptcy?

Mr. HENDERSON. As we talked about, we will move from approximately 6,000 dealerships to approximately 3,600 over time.

Ms. SUTTON. So 2,600; is that about right? 3,600?

Mr. HENDERSON. No, no. About 2,400.

Ms. SUTTON. 2,400. Thank you.

Mr. HENDERSON. The reason, by the way, is that number isn't perfect. So it can go anywhere from 3,400 to 3,800.

Ms. SUTTON. I want to follow up on some of the discussion that was going on a while back about information being transferred from the dealerships that are being closed and the discussion, you said that GM has a record of securing that data in a way that is appropriate. It was mentioned that it is going to go obviously to third parties. So who are those third parties exactly? Are they all identifiable at this point?

Mr. HENDERSON. We can identify them for you. These would be parties that we would typically use to sell vehicles to customers, to make sure that their service is taken care of, to provide surveys. There are many reasons why we would want to contact customers.

Ms. SUTTON. Right. I would appreciate you submitting all of the third parties that might receive that information to the committee.

Mr. Spitzer, I want to thank you again for coming to testify today.

You spoke earlier about some of the investment that you have put into this life's work of yours representing Chrysler and their products. How much have you invested in Project Genesis so far?

Mr. SPITZER. Working closely with the people from the management of the business center, which is the Great Lakes Business Center, it includes Michigan and Illinois, and so forth, and has the responsibility for most of our dealerships except one, working very much in concert with them and sometimes almost at their direction, I won't say insistence but let's say strongly urging, we have consolidated two Genesis stores. One of them is in Florida with a different business center, was the first one in the State, or very close. It actually was called Project Alpha at that time.

We have spent in concert with Chrysler Corporation, I think, about $6 million in acquisitions at their urging and insistence. In fact, in two or three cases I was called by Chrysler and they said, This is the guy you have to buy and here is what you have to do, call them and buy them out and that way we will consolidate. That is in just goodwill, blue sky. That has gone away.

Over and above that, we have invested in Project Alpha—excuse me, Project Genesis now, they changed the name somewhere along the line. They didn't change anything but the name, but in bricks and mortar about $10 million. That doesn't count the land. That is just in buildings done in concert with Chrysler to consolidate and accomplish Project Genesis.

With all due respect to Mr. Press, who I have had a healthy respect for over the years, going back to his days with Toyota, we have known Mr. Press for probably 30 years, the arbitrary way in which these dealers were selected has no connection to Project Genesis or all three brands or stand-alone.

From my own experience I can assure you of that, and also anecdotal observations from other dealers that I know that where stand-alones went forward where Genesis got canceled, and all of the permutations and combinations that are out there.

Ms. SUTTON. Have you received the written criteria explaining why your dealerships have been canceled?

Mr. SPITZER. We received nothing. We didn't even receive termination. It was on the Web. I was told about it by other people that saw it on the Web. We didn't even get notification of who was going forward directly.

Ms. SUTTON. I see. I want to just like to give Mr. Kiekenapp a chance to speak. If you could ask a question here today, what would that question be?

Mr. KIEKENAPP. I think what is frustrating is that we are a very good dealership and we have done a good job and there are other dealerships that surround us that have lost financing, that don't have the ability to buy cars. We own all of our cars outright. We didn't have a financing problem. And now there are dealerships within GM and Chrysler that don't have the ability to finance their vehicles. They are now having to get bailed out by the Small Business Administration, and it is frustrating. I think there are probably some things that I might have said that created frustration with the factory and I think it cost employees' jobs. But I think we have done a great job.

I know that within Tacoma they want a point, and we are applying for that point. I just hope, you know, that they take a look at us because I think we are the dealer, and if we were to have conversations with them in regards to maybe moving the point to someone else, we will do whatever it takes. I believe in the product. I believe in what they are doing is right. I don't believe eliminating the dealer body did any good. I believe the bankruptcy was something that was inevitable. But the products that they make are far superior. The Dodge Charger, the Challenger, the new 1500 are phenomenal and I believe in the product. It is just unfortunate that when we have such a well-run business and there are other dealers that are out there that are substandard. You can really look at any metrics from any dealership and shoot holes in every one of them, and I don't believe it was——

Ms. SUTTON. Fair. I appreciate your testimony. Thank you.

Mr. STUPAK. Well, thank you. I am just going to follow up and clean this hearing up a little bit and then we will adjourn.

Mr. Henderson, if the government is going to own 68 percent of the new General Motors, and even Mr. Press, I guess I am concerned in my opening statement about the rural areas, especially where I live. Some of you have talked about 100,000, 80,000. I don't have a county in my district that has 70,000. I am vast, rural area, and I think we have like six Chrysler dealerships being closed, maybe four or five, maybe more than that in my district of General Motors.

How are people going to get service? I mean, if I bought a car this year, a General Motors or a Chrysler and my dealer is closed, how am I going to get service on that car? Am I going to have to drive 2 hours when my service light comes on? How do you do it?

Especially when you talk about the loyalty is in the rural areas, you have 10 percent greater loyalty base in the rural areas, but we are getting hard hit here.

Mr. PRESS. Mr. Chairman, I appreciate your concern, especially for the customers. That is a very fair question. Customer satisfaction is very important. In our particular case, after the reorganization, we have actually increased the share of our dealer body that is in rural markets. A higher portion of metro market dealers were actually removed.

Mr. STUPAK [presiding]. I guess I am saying if you improved the rural market why did you close in my district? You cant get much more rural than me. We lost six of them.

Mr. PRESS. The largest impact was on metro markets where the dealers were too close to each other.

Mr. STUPAK. I don't have any metro markets.

Mr. PRESS. I know that.

Mr. STUPAK. Miles from my one in my district to the next. Very few people in between.

Mr. PRESS. I realize that. I am very familiar with your area. I go there on weekends often, so I appreciate that. Actually, in terms of customer convenience, from the old dealer group to the new dealer group, the distance from a customer to a dealership increased 9.4 miles. So we were very careful to make sure that we were able to retain the convenience to customers. There may be——

Mr. STUPAK. That has got to be nationwide.

Mr. PRESS. That is for all rural markets.

Mr. STUPAK. How can it be—like 1 mile more for rural markets?

Mr. PRESS. There will be a few rural markets that we will no longer be represented in.

Mr. STUPAK. The only way to do that is then you will have to take these dealerships that you shut down and move other dealers in their places.

Mr. PRESS. Well, there are other dealers that have access to these markets or are adjacent. Especially in a case where there is a Dodge dealership that goes out, the Dodge franchise will go to the Jeep dealership that is in the same place. So the distance from repairs may not increase or be very minimal in terms of the number of locations.

And then second, I think from the standpoint of those markets if there is a market—there may be some markets where we are abandoning the market if there is no longer a potential for long-term growth and with 700,000 units of production we don't have enough vehicles to put to them.

Mr. STUPAK. I trusted you guys. I bought a car this year when the push was on. And when you abandon those markets you abandon me. And if I remember, the Federal Government said we are going to guarantee the warranties for 5 years. And I, the Federal Government, am going to guarantee the warranties for 5 years when you abandoned my part of the area? I might need that F–15.

Mr. PRESS. I am not aware of any F–15 trips that are necessary for service. We did look at the average distance. But we will sure take a look at your area and see what the distance difference would be. The Jeep dealership that closed, the repairs of that Jeep dealership can now be made in the Dodge-Chrysler dealership that exists in the same market area. So the customers will have another service outlet available.

Mr. STUPAK. Mr. Henderson? Do you want to——

Mr. HENDERSON. Certainly. We tried as much as possible to manage the drive times for service. We looked at State by State. We looked at averages. We looked at averages across the United States. If I look in the Upper Peninsula average of Michigan, 19 to 23 minutes. In Oregon for Chevrolet—this is in miles—from 10 to 14–1/2 miles. The issue we have is on the extremes, because there will be situations where we clearly will have a problem.

Mr. WALDEN. Mr. Chairman, if I might.

Mr. STUPAK. Go ahead.

Mr. WALDEN. You are closing the Klamath Falls dealership. It is probably at least 100 miles to Medford. That is the nearest Chevy, any kind of Chevrolet. So the people in southern Oregon will go from Klamath Falls, I suppose they could go to Lakeview. Burns, you are closing Burns. There is 136 to Payette, Idaho, is the nearest dealership; right?

Mr. HENDERSON. That is what I said. We will have situations where we have problems and we will have to solve those problems.

Mr. WALDEN. How will you solve the problems? By putting the dealership back in?

Mr. HENDERSON. That actually is not our intent.

Mr. WALDEN. How do you solve it?

Mr. HENDERSON. First of all, other General Motors franchises can provide service work.

Mr. WALDEN. There is not another one in Klamath Falls, Burns——

Mr. HENDERSON. The second thing we said is in the event we need to put a location back, one of the things we committed to the Senate and I will commit to you today is if we need to provide a spot there we will provide the existing operator an opportunity to look at that first.

Mr. WALDEN. OK. Let's go to Bend, Oregon. You have closed Bend, you closed Redmond and you leave Madras. What is the process that is going to be put in place that allows Mr. Thomas maybe to go get his dealership back? You are telling me you are going to look at it and you are going to decide.

I would not be asking these questions if it weren't taxpayer dollars funding this whole thing. I would let you all figure it out under the laws of the land. It is not that. These are the questions that are coming at us. I actually voted for TARP. I didn't vote for the auto bailout. I admit it. I voted for TARP.

Mr. HENDERSON. What we will do, as I said, we have location by location. If we have made mistakes in the future and we concluded that we cannot take care of customers in the location and a point needs to be put back, we would go to whoever the individual who was affected and give them the first chance to do that.

Mr. STUPAK. All right. We may follow that up further. Because I am just looking at Chrysler and here is Michigan, even though we have the Upper Peninsula, very small. Marquette and Escanaba are my two biggest cities. The dealers are gone. That is my two biggest cities in the Upper Peninsula. They are gone. And now next one closest across the bridge is Sheboygan. That is gone. Next one is Petoskey. That is gone. Next one is Rogers City. That is gone. With the Cadillac dealer there is no one in northern Michigan. Well, Traverse City—I will take that back, no longer part of my district—there isn't a Cadillac dealer around there with some of these ideas. Not that I drive Cadillacs; I told you I am an Oldsmobile guy. You took that away from me, too. So I am hurting now.

The point is the distances we have to travel I will have to follow that up. Just looking at the map and the things that have been closed just doesn't make sense. I know this district and those miles in between very, very well. That is where members say it could probably hurt you, especially in the rural areas where you have the most loyal customer base. I agree. Plus the Federal Government says we are going to guarantee these warranties. I don't know how we will service them.

Any other members? Mr. Braley? Ms. Sutton?

Mr. BRALEY. I wanted to add one thing, Mr. Chairman. I think that because of the concerns we have raised today about one of the other critical aspects of these bankruptcies; that is, the responsibility going forward for any products that may be defective and the implications for U.S. taxpayers and the dealers in this room, I would strongly urge the committee to take up that issue as well and flesh it out in more detail. I think it has enormous economic consequences even for people who have lost their franchise, and I would like to explore that in further detail.

Mr. STUPAK. Mr. Walden?

Mr. WALDEN. I think that this flooring issue with GMAC—I continue to hear from dealers about flooring in and of itself. Just to reiterate, I know that Dr. Burgess had to leave. I know he entered into the discussion with both you, Mr. Press, and Mr. Henderson, about e-mail traffic to Mr.—I think Dees and the White House and all of that, and I understood you both to indicate you would supply that e-mail. We will follow up. I think Dr. Burgess, the appropriate process would be for him to follow up with a letter of request, but I sense that subject a problem for you all to provide those e-mails.

Mr. STUPAK. Ms. Sutton?

Ms. SUTTON. Thank you, Mr. Chairman. I just want to add, of course, as you can see who has stayed here at end of this hearing. As it was pointed out, the CARS Act that we passed this week, Representative Braley, he was an original cosponsor, and Chairman Stupak and Chairman Dingell were involved in the process of getting that bill done, and it is intended to have a concrete impact because we really do believe, as Mr. Kiekenapp said, we want Chrysler and GM to be a success because we know how linked it is to our communities and we know how linked it is to jobs and the food that it puts on the tables of the people that we are so honored to represent. And so it is painful for us to be here and in this position.

But the pain that we feel listening to this is nothing compared to what we have heard displayed here of the folks who are losing their dealerships, and I want to thank all of you who came here today to put a human face and perspective about costs of what is going on on this major problem.

So thank you all for coming. And Mr. Chairman, thank you for holding this hearing. We do want you to be successful.

Mr. STUPAK. Well, thanks. And that concludes all of the questions from members. I think the hearings have been helpful. Since the Senate hearing we now have a field process with General Motors to help out some of these dealers. There is GM and the Auto Dealers Association working together trying to do some things. I think that is positive. I think we have further explanations.

But we will continue to monitor this. There is H.R. 2743 sitting out there, GMAC, and others. And it has been a long hearing and we appreciate everybody for coming. And if there is something anyone wants to add I will give you a minute to add something or so. We really do appreciate especially the dealers and Mr. Henderson and Mr. Press and others coming some distance. And I know that during this hearing once you have raised your hand and that, but because of the rules of the hearing I couldn't recognize you at times. So if there is something you wanted to add—Mr. Golick, I know you did—go ahead. Mr. Spitzer, if anyone wants to add something. Then we will wrap this up. We will keep this brief.

Mr. GOLICK. I am just perplexed when Mr. Press last week said that in the case of the dealers not being taken forward last year they lost 55,000 units of sales. That number is real important to them, apparently. But then like I say, they are going to lose 140,000 units of sales when these dealers are removed. I know that he says they can only produce 700,000 cars, but there has to be a plan in place for growth if the market improves. I am sure he could build another 140,000 cars.

That is why—I am perplexed over that. I thought I would throw that in.

Mr. STUPAK. Thank you and thank you for coming. Mr. Spitzer. Do you have anything?

Mr. SPITZER. Just that the marketplace was moving the industry to a number of dealer outlets rapidly close to where they are taking us immediately through consolidations, buy-sells. And we, in the case of Chrysler, had all of our generous points and projects on the table working with, buying out, or selling out what it is, to accomplish the goal painlessly. I don't know why it couldn't have just kept going a year or two and we would be where we are going to be anyway.

Mr. STUPAK. Mr. Kiekenapp? Mr. Press?

Mr. PRESS. I really appreciate the opportunity to communicate with the committee and provide this information. It has been a very good learning experience for us. This will be good communications going forward. I don't know that I am looking forward to our performance review when I come back, but I guess this will be the forum to do that.

Thank you.

Mr. STUPAK. Mr. Henderson?

Mr. HENDERSON. Like Mr. Press, I want to thank you, Mr. Chairman, and the committee for your time. Thank the dealers for joining us here very, very much. I appreciate it. Because this is a very difficult time for all of us, I very much appreciate the professionalism. So thank you very much.

Mr. STUPAK. Mr. McEleney?

Mr. MCELENEY. Thank you, Mr. Chairman. Again, we appreciate the opportunity to be here on behalf of 19,000 new car dealers in the country. I guess I would say in this difficult environment, and we know how tough the economy is, particularly the auto sector, if a dealer is able to keep his doors open, make the payroll and keep his customers coming in, floor plans, inventories, they are probably a pretty good operator. I know there are other elements that play into this, but that is important to remember as we look at this.

So thank you.

Mr. STUPAK. Thank you. Mr. Paddock?

Mr. PADDOCK. No, other than just saying thank you for giving me the opportunity today. Thank you.

Mr. STUPAK. Mr. Blankenbeckler?

Mr. BLANKENBECKLER. Thanks for letting me come. I think I have a story and I think everybody who is here today has a story. It is not a happy time. Thank you very much for listening to me.

Mr. THOMAS. I would close with a rhetorical question, and that would be with all these closings, will other makers go to these institutions that have facilities available and bring their new products and convey them to the public, instead of the established makers? Thank you very much.

Mr. STUPAK. Well, thank you all and thank you very much. That concludes our questions and concludes our hearing. I thank all of our witnesses for coming today and for your testimony.

The committee rules provide that members have 10 days to submit additional questions for the record. I ask unanimous consent that the contents of our document binder, with the exception of tabs 1 and 3, be entered into the record, provided that committee staff may redact any information that is business proprietary and relates to privacy concerns or is law enforcement sensitive.

Without objection. Without objection, the documents will be entered into the record.

[The information was unavailable at the time of printing.]

Mr. STUPAK. That concludes our hearing. The meeting of this subcommittee is adjourned.

[Whereupon, at 2:30 p.m., the subcommittee was adjourned.]

[Material submitted for inclusion in the record follows:]

STATEMENT OF
CONGRESSMAN MICHAEL C. BURGESS, M.D.

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
COMMITTEE ON ENERGY AND COMMERCE

June 12, 2009 HEARING
"GM and Chrysler Dealership Closures and Restructuring"

The National Association of Automobile dealers has stated that Chrysler and GM are closing approximately 2,000 dealerships, and these closures represent a loss of 187,000 jobs.

I sit on the Joint Economic Committee and almost once a month we get reports on the unemployment rate in the United States. The most recent report showed a nearly 10% unemployment rate – and this without the tens of thousands of job losses as a direct result of President Obama closing these dealerships.

How will these individuals be able to translate their automobile industry specific knowledge across this tough economic climate? How can President Obama say he will create 600,000 jobs from the stimulus bill he passed and at the same time look America straight in the eye and say 187,000 jobs quote-unquote "need" to be lost to keep Chrysler and GM a-float?

Now I voted against both the stimulus bill passed by President Bush and I voted against the stimulus bill passed by President Obama. America did not (and does not) need the nearly $2 trillion dollars in debt to keep our economy afloat.

But I think the 187,000 taxpayers employed by these closing GM and Chrysler dealerships are probably more cognizant of the fact that they paid their taxes to the federal government for the operation of the federal government not to bailout their corporate parents.

I am sure if they had known their hard-earned taxpayer dollars were going to be used by this White House to fire them from their livelihood -- while at the same time giving $50 billion in bailout money to GM and Chrysler -- they probably would not have paid their taxes rather than have the illogical argument of giving money to government only to lose their jobs.

What the Obama Administration could have done is given each of the 2,000 closing dealerships $4 million dollars directly instead of the $50 billion given to the parent corporations and that would have only cost the American taxpayer $8 billion dollars.

(Only since the passage of both stimulus bills could we say that spending $8 billion dollars is a bargain …)

Furthermore, The Wall Street Journal reported that these dealers who are closing will receive no compensation. This starkly contrasts with the estimated $2 billion that GM paid Oldsmobile dealers when the company ended that brand earlier this decade. They also won't be allowed to return inventory.

Furthermore under bankruptcy law, the court can tear up contracts with Chrysler business partners, including dealers. So what happens to the service industry who has contracts to honor warranties? How will vehicles now be serviced?

Second, I know none of us know exactly what GM and Chrysler have been doing with the stimulus money they received from the American taxpayer. As of last Friday, the Chair of the Congressional Oversight Panel on TARP can not account for how the money has been spent. Neither can the U.S. Treasury.

Since this Committee has subpoena power, if this Committee has not already been given a copy of the wind-down agreement between the parent corporation and the individual dealers, then I request we subpoena a copy. I also request we subpoena all document used in the assessment of every GM and Chrysler dealer that was closed.

If the GM and Chrysler chooses not to be transparent and inform us how each dealer was closed, then I request they be forced to return every single dollar they have received from the U.S. Treasury from both stimulus bills.

Thank you.

ONE HUNDRED ELEVENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE
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energycommerce.house.gov

July 20, 2009

Mr. James Press
President
Chrysler LLC
P.O. Box 21-8004
Auburn Hills, MI 48321

Dear Mr. Press:

Thank you for appearing before the Subcommittee on Oversight and Investigations on June 12, 2009, at the hearing entitled "GM and Chrysler Dealership Closures and Restructuring".

Pursuant to the Committee's Rules, attached are written questions for the record directed to you from certain Members of the Committee. In preparing your answers, please address your response to the Member who submitted the questions and include the text of the question with your response, using separate pages for responses to each Member.

Please provide your responses by August 3, 2009, to Earley Green, Chief Clerk, in Room 2125 of the Rayburn House Office Building and via e-mail to Earley.Green@mail.house.gov. Please contact Earley Green or Jennifer Berenholz at (202) 225-2927 if you have any questions.

Sincerely,

Henry A. Waxman
Chairman

Attachment

House of Representatives
Committee on Energy and Commerce

Responses to questions dated July 20, 2009

The Honorable John Dingell

1. You stated during the June 12, 2009, hearing that one of the criteria used by Chrysler to determine which dealer franchises it would terminate was whether a particular dealer offered for sale all three nameplates (Chrysler, Dodge, Jeep) manufactured by Chrysler. What would it cost Chrysler to allow such dealers to offer all three nameplates?

A. The cost comes from a financially unviable dealer network that can no longer afford the investments and upkeep to remain competitive. Awarding each dealer all three brands would exacerbate the profitability pressure from the fact there is simply not enough new vehicle business to spread to additional brand outlets. The average dealer in 2008 lost $3k.

2. Please describe what Chrysler is doing to reclaim and redistribute inventory from the 789 dealerships it announced would be closed.

A. Through a letter dated June 5, 2009 Chrysler informed all rejected dealers that we will now guarantee the re-distribution of 100% of eligible vehicle inventory for dealers who have signed the "Inventory Assistance Acknowledgement Form". Additionally we will facilitate the re-distribution of parts and special tools.

An email was sent Tuesday, June 2, to dealer principals and service/parts managers announcing the Essential Tool Redistribution Website – http://www.millerspecialtools.spx.com. This site provides dealers the opportunity to post essential tools available to other dealers for purchase. Dealers who post tools on the website will be contacted by a Chrysler Essential Tool representative to inquire about any additional assistance they may need. Dealers are utilizing the website and have posted tools for sale.

A "Redistribution Process" feature was made available on the Chrysler DealerConnect website to receive feedback and questions regarding the redistribution process (vehicle, parts, special tools). Dealer-specific issues are being sent to our local business center offices for direct follow-up.

Per Chrysler's commitment, all eligible new vehicles, parts inventory, and special tools have been or will be assigned for redistribution to the remaining dealers. Final pick up and delivery is in process. Note that some rejected dealers decided to keep their parts and/or special tools inventory to enable them to remain in business as service centers.

3. What does Chrysler estimate is the loss per vehicle to dealers whose franchises have been terminated?

A. During 2008, the average dealer lost $3k. The average rejected dealer lost $73k in 2008. Dealerships were not profitable; therefore, we can not assess financial losses to the stoppage of an unprofitable business.

4. **Why is Chrysler charging closed dealers inspection and redistribution fees for inventory? Moreover, is inventory from these dealers being purchased back at firesale prices?**

A. Due to the recent financial difficulties which led to bankruptcy, Chrysler does not have the funding available to fully cover redistribution costs. Therefore, we have a third party facilitating the transportation and inspection of these vehicles. These third party inspections are important to maintain new vehicle quality for both the receiving dealer and the final customer.

These vehicles are not being purchased at fire sale prices. The prices are preset based from the invoice price charged to the original dealer that the vehicle was shipped to. All Chrysler's dealers within the network are paying the same price for the vehicles.

5. **What does Chrysler estimate would be the cost of retaining the dealers whose franchises it announced would be terminated? Please describe and quantify the components of this cost.**

A. Examples of Lost Revenue and Cost Associated with Discontinued Dealers:

- Product engineering and development for "sister products" $1.4B over 4 years
- Lost sales due to dealer underperformance: $1.5B revenue annually

(789 dealers underperformed by 55,000 units in 2008)

- Administrative cost to maintain the 789 discontinued dealers: $33M annually
- Marketing and advertising $150M annually

Additional cost comes from a financially unviable dealer network that can no longer afford the investments and upkeep to remain competitive. There is simply not enough new vehicle business to spread throughout the dealer network. The average dealer in 2008 lost $3k.

6. **What efforts is Chrysler making to mitigate the impact of closures on dealership employees? Are programs in place to retain and relocate these employees? At the very least, is Chrysler contemplating such programs? Furthermore, please estimate (if at all possible) the percentage of closed dealership employees Chrysler will be able to retain or relocate as a result of these programs?**

A. As previously stated, we anticipate many of the rejected dealerships to continue their operations with competitive brand franchises and/or as used vehicle sales operations. A free website was established June 10th to assist displaced employees of rejected Chrysler

Dodge and Jeep dealerships in finding job opportunities nationally within the existing Chrysler Group LLC dealer network.

The site provides the ability for existing Chrysler Group LLC dealerships to post open positions and allows displaced rejected dealership employees the ability to apply to those open positions or post resumes. In addition, the site offers a resource section providing "how to" tips on items like resume writing, job search and interview techniques.

Multiple communications have been sent to both rejected dealers and existing Chrysler Group LLC dealerships providing information on the site and encouraging its use.

7. What will be the effect of dealership closures on consumers? For example, will it be more difficult on average for consumers to have their vehicles serviced by local dealers?

A. The remaining dealerships will continue to provide both warranty and retail customer service. There will be over 2300 remaining Chrysler, Jeep and Dodge dealerships conveniently located with the parts and trained technicians to service consumers vehicles. Chrysler has sent a letter to all customers notifying them of the 4 nearest dealers who can provide service. Further note that Customer Convenience (average distance from our customers have to travel to Chrysler, Jeep or Dodge) prior to rejection is 6.67 miles and 7.09 miles post rejection. These distances still compare favorably to Toyota at 9.11 miles and Honda at 10.31 miles.

In addition, a key factor in the health of a dealer network is sales per dealership (throughput). Given current and forecasted industry sales the sales per dealership will be too low to ensure the long-term health of our dealers. Dealers that are profitable and financially successful are better able to invest in their facilities and business operations and therefore better able to compete with dealers of other distributors. The strengthening of competition will be to the consumer's benefit.

The Honorable Joe Barton

1. You testified that Chrysler has not offered terminated dealerships an opportunity to appeal. Is this still the case?
    a. Has the decision to close any dealership been reversed? If so, why?

A. Chrysler is not offering an appeal process. However, we have implemented our commitment to review the rational for rejection with any dealer who so requests. Written responses have been given to the dealer as well as phone or face to face meetings if requested.

No rejection decisions have been reversed. We are honoring our commitment to consider a rejected dealer for future business opportunities if they are interested. The rejected dealer will be held to the same standard as any additional interested party. Chrysler will choose the party who can provide the best representation in the marketplace.

2. You state in your written testimony "lost sales due to dealer underperformance" have resulted in a $1.5 billion loss of revenue every year.
   a. Are you stating that these closings will result in additional revenues for Chrysler of $1.5 billion? If not, what increased revenue are you predicting?

A. We do anticipate the rejection of underperforming dealers will yield an increase in revenue for Chrysler over time.

3. During the Hearing you were questioned about your statements, as reported by Automotive News on February 5, 2009, asking dealers to buy 15,000 cars from Chrysler in order to save it. Is this true?
   a. Was a dealership's decision to purchase cars after this taken into consideration when Chrysler evaluated whether to terminate the dealership?

A. Chrysler was, up to the very last moment, vigorously trying to avoid bankruptcy. Therefore, we needed to encourage revenue generation in an effort to continue the company as a going concern. Not encouraging this revenue would have been irresponsible on the part of management when being faced with bankruptcy or potentially, liquidation.

A dealer's level of inventory purchase was not a factor in determining if they were carried forward into the new company

Furthermore, 100% of the rejected dealers' eligible new vehicle inventory has been sold to customers or reassigned to the remaining dealers. Final pick up and redistribution is currently taking place.

McEleney (NADA) responses to Congressman John Dingell for June 12 Subcommittee on Oversight and Investigations hearing on "GM and Chrysler Dealerships and Restructuring"

1. What does NADA estimate is the loss per vehicle to Chrysler and GM dealers whose franchises have been terminated or not renewed, respectively?

Both GM and Chrysler dealers are being faced with losses that are not accurately counted in a "per vehicle" notation. Dealers invest significantly in their businesses in the form of land and facilities, inventory and working capital. In the case of Chrysler, 789 Chrysler dealerships were unnecessarily forced to close their doors. These dealerships, many of which have been around for decades, were given less than four weeks to wind down their operations and sell off their parts and vehicle inventories. Chrysler did not pay dealers for the loss of their business or to reimburse dealers for vehicles, parts and tools as generally required under state law. After pressure from Congress, Chrysler offered dealers a vehicle redistribution system for a fee. Many of these terminated Chrysler dealers took a large loss on vehicles, because they needed to quickly sell inventory and some dealers did not have capital to wait for the vehicles to be sold through Chrysler's redistribution system.

Dealers who did participate with the redistribution system have been left paying some interest payments on cars moved from their lots which have been "reallocated" but not paid for, in some cases, because GMAC refuses to provide floorplan financing to the continuing dealers for the additional vehicles. Chrysler dealers are also facing losses on parts and tools, if they are able to sell them at all. Chrysler has made this process more difficult by cutting rejected dealers off from the dealer exchange network to offer these parts and tools to continuing dealers.

This treatment of dealers has been especially unfair since Chrysler had pressured dealers to take on additional and unneeded vehicle and parts inventory to help the manufacturer in recent months. ("Chrysler Again Urges Dealers to Order more Cars, Feb. 5, 2009")

In the case of GM, the wind-down process does provide money for dealers as long as they stay open until January 1, 2010, theoretically allowing them to sell down their vehicle and parts inventory and amortize the use of their tools. However, there are already problems in practice with this wind-down.

- Wind-down dealers can no longer order new vehicles from GM.
- GM has cancelled many vehicle orders for some wind-down dealers.
- Several dealers have told NADA that they have sold their inventory, but if they do not continue to January 1, 2010, they will not receive wind-down money from GM. While press reports indicate that GM has backed off this position, GM has not yet provided details of this revision to the wind-down agreement. Additionally, more comprehensive clarifications of the wind-down agreement promised by GM have not been forthcoming.
- Many banks have been wary to floorplan wind-down dealers, as they are seen as riskier, putting the current viability of the business in jeopardy, and creating a situation where GM will not pay out wind-down money.

We urge the committee to continue to investigate this wind down process to make sure that dealers receive fair treatment. In some cases, dealers are facing personal bankruptcy, because of defaults caused by the dealership terminations have triggered enforcement of personal guarantees. Many dealers that have put their whole life savings into their business and mortgaged their home are being forced into bankruptcy through no fault of their own.

2. Are Chrysler's policies related to the repurchase and redistribution of inventory fair to dealers? Furthermore, are you satisfied that Chrysler has worked with dealers adequately to ensure as painless a wind-down process as possible?

Chrysler's harsh terms for closure have still not been remedied. Chrysler did not repurchase automobiles from rejected dealers; this is a common misconception. In May, Senator Hutchison (R-TX) offered an amendment that called for Chrysler to allow a 60-day wind-down of its 789 terminated dealers. The amendment was withdrawn only after Chrysler made reassurances about the company's vehicle redistribution process. Chrysler agreed to "reallocate" vehicles from terminated dealers, that is, find assumed dealers who would be willing to take the extra inventory. This did not guarantee that the vehicles would be taken in a swift matter; NADA knows of dealers who retained the risk of loss on cars for weeks after closing, and were still paying interest on the floorplan loan, even though these rejected dealers had no further rights to sell the vehicles. Additionally, some "reallocation" deals fell through when GMAC, the new primary floorplan lender for Chrysler, refused to provide financing to allow the assumed dealers to take on the extra inventory.

Chrysler has also delayed payments to dealers for costs, such as rebate and warranty work reimbursement, incurred before and during the bankruptcy. As *Automotive News* reported on July 27, Chrysler has delayed these payments until "after June 28". While old Chrysler has maintained that they wish to make these payments, the delays are still troubling.

There has been no transparency to the Chrysler rejection process and 789 dealers saw their franchises eliminated without even an explanation. Furthermore, we are disturbed that there was no appeals process for the rejected Chrysler dealers. In some instances dealers with extremely high sales and customer satisfaction numbers were rejected, as in the case of Jim Tarbox, who testified as such before the bankruptcy court and before the House Judiciary Committee. He submitted documentation that demonstrated his rejection was not based on objective criteria and could well have been partly based on his previously exerting his rights under state law.

3. Are GM's policies related to the repurchase and redistribution of inventory fair to dealers? Furthermore, are you satisfied that GM has worked with dealers adequately to ensure as painless a wind-down process as possible?

General Motors, because of its fixed-length dealer contracts, has created a wind-down that gives dealers time to sell off inventory; however, this process still comes with major concerns. The first concern is that wind-down payments do not go into effect if a dealer gives 30 days' notice of vacating the franchise agreement before January 1, 2010. While press reports indicate that GM has backed off this position, GM has not yet provided details of this revision to the wind-down agreement. Additionally, more comprehensive clarifications of the wind-down agreement promised by GM have not been forthcoming. We are already seeing dealers who have sold down their entire inventory, but, as a wind-down dealer, cannot order more vehicles from GM. This is troubling, as it will cause dislocation and job loss much more quickly, and at a time when the economy is more strained to handle these losses.

4. What does NADA estimate would be the cost of retaining the Chrysler and GM dealers whose franchises have been terminated or not renewed? Please describe and quantify the components of this cost.

NADA estimates there will be very little cost accrued to the manufacturers as a result of retaining dealers. As part of a report prepared for NADA by the Casesa Shapiro Group in November 2008, it found that "far from being a burden to the manufacturer it represents, the automobile dealer supports the manufacturer's efforts by providing a vast distribution channel that allows for efficient flow of the manufacturer's product to the public *at virtually no cost* to the manufacturer."

In fact, both GM and Chrysler have put forth myths about dealer "costs" to the manufacturers, which I would like to address. In Chrysler's testimony to this committee, Jim Press estimated that six major vehicle launches of "sister vehicles" for two of their three brands cost Chrysler $1.4 billion. However, these costs were incurred as a result of manufacturer decisions, not dealers. Chrysler had already been working to put all three of their brands together in single dealerships before the bankruptcy through the "Project Alpha" and "Project Genesis" programs, as Mr. Press notes in his testimony. Rather than haphazardly cutting dealers, Chrysler could have continued these programs outside of bankruptcy, holding out the goal of a smaller number of nameplates across their three brands to more aggressively promote buy-sell agreements among dealers in response to local market conditions.

Additionally, Chrysler's notion of "lost sales due to dealer underperformance" is highly speculative. First, it is unknown how many of these "lost sales" were driven to other Chrysler, Dodge, or Jeep dealers. Second, many of the customers of the sales made by these "underperforming" dealers are not likely to consider Chrysler vehicles the next time they look to purchase a car, costing Chrysler more sales in the long run by cutting these dealers. Many consumers have loyalty to a particular dealer, not necessarily the brand. Third, the competitive marketplace will force unprofitable dealers, which Chrysler is concerned about, out of business. The marketplace, not managers in Detroit, is the most efficient and effective measure of the dealer count.

In the case of GM's "cost savings", most items listed in their testimony deal with costs incurred based on the number of cars sold, not the dealer count. For instance, factory sales incentives are attached to each car, not the dealer, and are mostly necessary for slow-selling models that the company produced but are unsuccessful in the marketplace. With less dealers, GM will continue to pay these incentives, but at a greater rate to each dealer. An additional item is the new vehicle inspection. This is mandated to dealers by GM to assure that vehicles do not leave dealer lots with defects either from the factory or transport, and is a reimbursement of costs that dealers incur; eliminating this item would decrease consumer confidence in GM vehicles.

In addition, GM's "Standards for Excellence" (SFE) program does not cost GM money. Dealers pay into the program to participate, and are also required to purchase more vehicles from the factory, providing revenue for GM. Dealers only receive money from the program based on achieving sales and customer satisfaction targets. Because of the way cash flows through the program, SFE likely either makes GM money or is break-even; NADA believes GM's estimate only considers the payouts and not the revenue GM derives from enrolling dealers. Also, if GM has only cut "underperforming" dealers, those dealers would likely be net losers into the SFE pool, paying into the program, but receiving few, if any of the funds. Cutting these "underperformers" would appear to hurt the program's viability.

NADA acknowledges that GM and Chrysler might be able to create some minimal administrative savings to dealers by reducing their count. However, in the past few months, we have seen time and time again that there are often communication breakdowns between manufacturers and dealers, and that GM and Chrysler have significantly reduced their face-to-face communications with dealers, relying on phone and email communications, sometimes from business centers located hundreds of miles away from the dealership. Therefore, many of the purported administrative savings have been achieved already.

Finally, the dealer body provides significant cash management benefits for GM and Chrysler. For example, the dealers carry the float - without receiving any interest payments - of hundreds of millions of dollars of factory rebates and warranty payments. Sometimes, the float may be as long as 30 days, and at any given time an <u>individual dealer</u> is extending an interest-free loan to the manufacturer in the amount of hundreds of thousands or even millions of dollars. The aggregate annual benefit to GM and Chrysler is easily tens of millions of dollars, because these two entities cannot easily obtain credit on favorable terms in the market. In conclusion, closing dealerships does not materially reduce manufacturers' cost and may materially lessen GM and Chrysler's ability to be competitive in the future.

5. Are you satisfied with GM's and Chrysler's efforts to retrain and relocate employees from closed dealerships? Please explain.

GM and Chrysler's forced closures could unnecessarily put more than 100,000 dealership employees out of work. With national unemployment at 9.5 percent, it doesn't make sense to eliminate these well-paying dealership jobs and the many related jobs in local communities. NADA is not aware of any activity by GM or Chrysler to retrain and relocate employees from closed dealerships. We anticipate as more dealers are forced to close this will cause tremendous hardship for many employees and their families. Because of the economy, dealership employees are not able to easily find employment with another dealership. In a presentation to the Auto Task Force in May to explain the significant unemployment problems related to dealership closures, we presented statistics that showed that:

- many sales and service departments are not performing at full capacity and thus can absorb additional work without the need for the dealership to hire new employees, and
- the internet and the automation of business systems reduce the need to hire several categories of additional employees (e.g., sales managers, service writers, title clerks, etc.) even if increased throughput ultimately is obtained.

GM and Chrysler have incorrectly assumed that terminated dealership employees can be retained by new car dealerships moving to a used-vehicle operation. It is much more complicated for new car dealers to move solely into the used car business. First, dealerships not only lose new car sales but also the warranty work from the manufacturer, which accounts for approximately 20 percent of business. This makes it difficult to pay the rent on expensive dealer real estate and facilities. Also, it can be difficult to find a new source of credit to convert from a franchised dealership to an independent dealership. And many jurisdictions have zoning restrictions that limit the ability of a new franchised car dealership to convert to a used car operation. GM and Chrysler's promises of "job posting" websites for displaced employees will likely have little to no effect and demonstrate the companies do not understand the severity of the job loss problem and its impact on the local and broader economy.

6. What will be the effect of dealership closures on consumers? For example, will it be more difficult on average for consumers to have their vehicles serviced by local dealers?

NADA expects a significant adverse effect on consumers from these dealership closures. Chrysler and GM have stated that they want to emulate the Toyota model by having fewer dealers that sell more cars. There are 66 million GM vehicles on the road today and 33 million Chrysler vehicles, versus 22 million vehicles for Toyota. Consumers need to service and repair these vehicles, and domestic brand dealerships serve more cars per location than import nameplate dealerships. In some cases, GM or Chrysler has eliminated its only dealership in a town, creating a significant distance for dealer service and warranty work, as Congressmen Stupak and Walden aptly showed during the hearing.

Reduced service facilities not only inconvenience the consumer, but also hurt GM and Chrysler market share. Many consumers will be losing a local business and technicians they have trusted for years. Often, the consumer and their family are loyal to the dealer, not necessarily the manufacturer.

July 25, 2009

The Honorable Henry A. Waxman, Chairman
Committee on Energy and Commerce
House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515-6115

Dear Chairman Waxman:

Pursuant to the instructions in your letter of July 20, 2009, enclosed please find my response to a question from Ranking Member Joe Barton subsequent to my testimony on June 12, 2009 before the Subcommittee on Oversight and Investigations at the hearing entitled "GM and Chrysler Dealership Closures and Restructuring".

I am grateful for the opportunity to have offered my testimony on this important issue that impacts the lives of hundreds of thousands of American citizens.

Please advise if you need further information.

Very truly yours,

Alan Spitzer

July 25, 2009

The Honorable Joe Barton, Ranking Member
Committee on Energy and Commerce
House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515-6115

Dear Congressman Barton:

Enclosed pursuant to the request of the Committee Chair is my response to your question submitted subsequent to my testimony on June 12, 2009 before the Subcommittee on Oversight and Investigations at the hearing entitled "GM and Chrysler Dealership Closures and Restructuring".

It was my privilege to testify before the Subcommittee and I am grateful to have had the opportunity.

I hope my answer to your question will shed more light on the unfair and unscrupulous manner in which Chrysler (and GM) abused Federal Bankruptcy laws and trampled on the laws of the states. This is an important issue that impacts the lives of hundreds of thousands of American citizens.

Please let me know if I may provide further information.

Very truly yours,

Alan Spitzer

The Honorable Joe Barton

1. "You testified at length that you had worked closely with Chrysler in purchasing land, performing acquisitions at the company's urging, and investing in buildings. Could you please provide a detailed explanation of your conversations with Chrysler, and actions taken on their behalf?"

Answer:
Chrysler has chosen to arbitrarily and capriciously terminate seven of our Chrysler, Jeep and Dodges locations. **The combined tenure of these franchises was approximately 320 years.**

In each case we were cooperating with Chrysler, at their behest, to accomplish brand consolidation commonly referred to as Project Genesis (fka Project Alpha) immediately preceding the Chrysler bankruptcy filing. In three cases we were in multi-party negotiations with Chrysler and neighboring dealers to accomplish the consolidation; in the other four cases we had already committed millions of dollars, again at their behest, toward a partial or complete consolidation when we received the termination notice(s). The following is a detailed explanation of each situation:

1. Lakewood, OH (Lakewood Chrysler-Plymouth, Inc. dba Spitzer Lakewood) – est. 1965(this was a relocation of a dealership located in Cleveland that was established in **1953**). In 1998 I was approached by then Pittsburgh Dealer Development Manager Jack Gannon and informed about Chrysler's plan to consolidate dealerships with the Jeep brand together with Chrysler-Plymouth dealerships. Mr. Gannon proposed that we contact the local Jeep dealer in Lakewood, OH, Fairchild Jeep, and negotiate to acquire his Jeep franchise. Over the next two years after numerous telephone conversations and meetings between either Mr. Fairchild and me or Mr. Gannon and me we were able to successfully complete negotiations with Mr. Fairchild to acquire his Jeep franchise in 2001 at a cost of $1,150,000. Shortly thereafter Chrysler eliminated the Plymouth brand. Chrysler had recently expressed interest in consolidating this franchise with a Dodge dealership we owned in the nearby suburb of Parma. On May 14 we received a termination notice.
   Total purchase price - $1,150,000 (does not include facility or equipment).

2. Sheffield, OH (Spitzer Autoworld Sheffield, LLC - In 1999 I was contacted by Mr. Greg Swetoha, Pittsburgh Zone Manager, about the possibility of moving our Dodge franchise in Elyria, OH (**est. 1946**) to a location on Interstate 90 that our company had purchased to develop for commercial but non-automotive purposes. A major impediment to Mr. Swetoha's proposal was that there was an existing

Dodge dealer within a very close proximity who would need to be acquired to make the relocation possible. At Mr. Swetoha's urging and after a lengthy period of negotiations we did so at a cost of approximately **$1,000,000.**

We then proceeded to build a facility at least 50% larger than was needed, again at Chrysler's request, because Mr. Swetoha indicated Chrysler wanted our company to eventually acquire the nearby Chrysler-Jeep franchise and that he would facilitate that acquisition because our location was the preferred location. On May 14 our 63 year old Dodge franchise was terminated and given to that same Chrysler-Jeep dealer. Total cost of building and land (now vacant): **$5,000,000.**

Total cost of Sheffield, OH project - **$6,000,000** (does not include investment in Elyria facility which is still vacant or previously owned equipment).

3. Homestead, FL (Spitzer Dodge, Inc. – est. **1973**) In 2001 I received a call from Chrysler Orlando Zone Manager Jim Brown. He informed me that the local Chrysler-Jeep dealer, Phil Smith, had been losing money for some time and Chrysler wanted our company to buy him out and eventually combine the three brands in our Dodge location. Over the next several months after numerous discussions with Mr. Smith and Mr. Brown our company purchased the assets of Phil Smith Chrysler-Jeep in 2002 for **$2,000,000.** We were then told by Mr. Brown that our Dodge facility would have to be expanded to accommodate the Chrysler-Jeep franchise. We operated the dealerships separately while the Dodge facility was being renovated at a cost of nearly **$1,000,000.** Despite being a completed Genesis operation (their stated goal); despite the fact that the closest dealership to the south is 100 miles and more than three hours away in Key West; despite the fact we had consistently one of the best customer satisfaction ratings in the state, we were given a termination notice on May 14, 2009.

   Total **additional cost** of Homestead, FL project- $**3,000,000** (does not include cost of existing facility before renovations or equipment).

4. Akron, OH (Spitzer Autoworld Akron, LLC/Spitzer Akron, Inc. – est. **1970**) In 2002 in an ongoing attempt to help in Chrysler's consolidation effort we purchased the assets of the local Dodge dealer for **$1,000,000** along with the dealership real estate for **$2,500,000.** At the time of this acquisition the seller was literally days from filing for bankruptcy. The goal again was to eventually combine it with a downtown Chrysler-Jeep dealership that we had owned since 1970 and relocate them both to a new location in the southern part of the county. Great Lakes Business Center Network Dealer Development Manager Jack Gannon and I had numerous conversations over the next several years as he was working out the logistics of consolidating the entire Akron, OH market for Chrysler. Eventually, Chrysler identified a parcel of property on which they wanted us to relocate. We negotiated a purchase of the land in 2007 at a cost of **$1,600,000.** We had intended to begin construction when the financial markets

collapsed in the fall of 2008. In fact, as recently as early spring of this year we were granted a one year extension by Chrysler due to market conditions. In addition, to facilitate the consolidation we were required, at the urging of Chrysler, to pay **$200,000** to a competitive dealer to help him buy out an existing lease. On May 14 we received a termination notice.

Total cost of Akron, OH project - **$5,300,000** (Does not include existing equipment).

Total **additional costs** of the previously listed projects, all at Chrysler's behest and all of which were terminated:

$15,450,000

Documentation for the cost of each of the above projects will be provided on request.

The following three projects were under discussion immediately prior to the Chrysler bankruptcy filing:

5. Mayfield Heights, OH (Spitzer Motor Center, Inc – est. **1971**) – In an effort to be "team players" and help with the Chrysler consolidation effort we agreed to sell this dealership to the local Chrysler-Jeep dealer, a long time family owned operation which owned no other dealerships. After months of negotiations with the dealer and Mr. Gannon of Chrysler we agreed to a price and shook hands. The dealer then recanted and offered us a lower price. We then renegotiated a lower price and, amazingly, after agreeing a second time the dealer wanted us to lower it again. The renegotiated price was $1,500,000. We told the dealer we would either buy or sell at that price. These events occurred immediately prior to the bankruptcy filing. On May 14 we received a termination notice.

6. Parma, OH (Spitzer Motor City, Inc. – est. **1959**) - We had been in negotiations with Mr. Gannon who had been trying unsuccessfully to consolidated the west side of the Cuyahoga County (Cleveland) Market. **This dealership has been the number one selling Dodge dealership for nine of the last ten years including April and May and five months year to date 2009.** Chrysler has chosen to terminate five long time, profitable dealerships on the west side of Cleveland (2 of ours) and award them to two remaining dealers. One of the remaining dealers has been deeply immersed in the National Dealer Council and the other on the Dealer Advertising Board. Both of these positions put the dealer in a position to schmooze with high ranking Chrysler executives. Coincidence??

7. Columbus, OH (Spitzer Columbus, Inc – est. **1955**) Similar circumstances to #6. Mr. Gannon has been negotiating with five dealers to consolidate six locations

into four (North, South, East and West). **Our Dodge dealership in Columbus registered 200 more Dodges in Franklin County, OH (Columbus) than the next best selling dealer in 2008**. It has made at least one million dollars net profit for twenty six straight years. On May 14 we received a termination notice for this dealership.

Congressman Barton, these are a few examples of the arbitrary, capricious and often vindictive nature of the actions of the failed management of Chrysler. I can provide you with similar reprehensible, short sighted decisions by GM. I am serving as one of three co-chairs of the Committee to Restore Dealer Rights (CRDR). We represent the thousands of dealers whose property was literally stolen from them with no due process, by companies funded with taxpayer dollars. I have been in this business all my life and these dealership terminations are without question the most unconscionable, un-American actions I have ever witnessed. GM and Chrysler have completely abused the Federal Bankruptcy laws and trampled on the laws of the states. Since I have been at the forefront of the advocacy for the pending legislation to reverse these terminations I hear heartbreaking stories daily about the devastation caused to good, hard working people who in many cases have been in business for generations and to their loyal employees, many of whom have been with them for decades. Profitable, well run independent businesses are being wiped out, and all for no good reason. It is totally counterproductive. I am firmly convinced these actions jeopardize the investment the taxpayers have made in these two companies. These dealership closures will make them less viable, not more which was the goal. It is why H.R. 2743/S1304 must pass.

Please advise if you need further information.

Very truly yours,

Alan Spitzer

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