

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11 Case
MOTORS LIQUIDATION COMPANY, <i>et al.</i> ,	:	Case No. 09-50026 (MG)
Debtors.	:	(Jointly Administered)
MOTORS LIQUIDATION COMPANY AVOIDANCE ACTION TRUST, by and through the Wilmington Trust Company, solely in its capacity as Trust Administrator and Trustee,	:	Adversary Proceeding
Plaintiff,	:	Case No. 09-00504 (MG)
vs.	:	
JPMORGAN CHASE BANK, N.A., individually and as Administrative Agent for Various Lenders Party to the Term Loan Agreement described herein, <i>et al.</i> ,	:	
Defendants.	:	

DECLARATION OF C. LEE WILSON IN SUPPORT OF TERM
LENDERS’ MOTION FOR ORDER ESTOPPING AVOIDANCE
ACTION TRUST FROM ASSERTING THAT ASSETS LEFT WITH
OLD GM SHOULD BE ASSIGNED KPMG OLV VALUES

I, C. Lee Wilson, declare as follows:

1. I am Of Counsel at the law firm of Jones Day, co-counsel for Defendant JPMorgan Chase Bank, N.A. I respectfully submit this declaration in support of the *Term Lenders' Motion for Order Estopping Avoidance Action Trust From Asserting That Assets Left With Old GM Should Be Assigned KPMG OLV Values*.

2. I declare under penalty of perjury that submitted herewith are true and correct copies of the following:

<u>Exhibit</u>	<u>Description</u>
A.	Chart containing David K. Goesling's OLVIE values and KPMG OLV values, respectively, for the 28 Representative Assets that were assigned liquidation values by both Mr. Goesling and KPMG and that this Court also determined were fixtures in its September 2017 Decision.
B.	Motors Trial Transcript Day 10 (Adv. Pro. Docket No. 1001, Ex. 10) and Day 11 (Trial Tr. (Closing Arguments) 3567-4006) (excerpted and highlighted).
C.	Parties' Joint Valuation Chart (Adv. Pro. Docket No. 993, Ex. A).
D.	Written Direct Testimony of David K. Goesling, April 14, 2017, as revised, May 3, 2017 (excerpted).
E.	Exhibit A to the Written Direct Testimony of David K. Goesling (excerpted).
F.	Patrick Furey Deposition Transcript, October 15, 2018 (excerpted).
G.	KPMG Workpaper Summarizing KPMG Calculation of "Liquidation Percentages," KPMG-GM0092368 (excerpted).

Dated: October 26, 2018
New York, New York

/s/ C. Lee Wilson
C. Lee Wilson
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Exhibit A

Goesling Trial OLVIE and KPMG OLVs for Representative Assets Determined by Court to Be Fixtures

Rep Asset No.	Asset ID	Asset Description	Goesling Trial OLVIE	KPMG OLV
1	100006527	OP-150 Shims Station	3,000	3,060
3	100033438	Power Zone Conveyor	3,000	50
5	100037940	Paint Circulation Electrical System	152,000	570
6	100037954	ELPO Oven Conveyor	7,000	80
9	100038119	Top-Coat Bells	263,400	840
12	100048169	Overhead Body Shop Welding Robot	25,000	890
13	100050513	Weld Bus Ducts	681,000	0
14	100053677	Leak Test Machine	9,000	10
15	100060623	Soap, Mount and Inflate System	59,000	560
16	100061079	Skid Conveyor	15,000	180
17	100061614	Power and Free Conveyor	24,000	120
18	100062269	Vertical Adjusting Carriers	59,000	300
19	100064667	Full Body Coordinate Measurement Machine	39,000	0
20	100065640	Wheel & Tire Conveyor	5,000	90
21	100066809	Final Line Skillet Conveyor	1,000	110
22	100069322	Fanuc Gantry Robot	32,000	6,090
23	100070012	Aluminum Machining System	14,000	12,700
24	100071009	Base Shaping Machine	224,000	6,730
25	100071022	Liebherr Hobb Machine	244,000	7,410
26	100095344	Core Delivery Conveyor System	1,000	20
27	100098085	Emissions System	131,000	85,030
29	BF2016822 01	GG-1 Transfer Press (Grand Rapids)	261,000	120,000
30	BGI20163301	TP-14 Transfer Press (Mansfield)	800,000	50,800
34	NIT219381	Build Line w/ Foundation	45,000	39,000
35	NITC03340	Button Up Conveyor System	2,000	140
36	NITC03507	Helical Broach	150,000	9,630
38	NJL2924414P	Gas Cleaning System	24,000	0
40	NJL6084400	Charger Crane	10,000	23,900
Total:			\$3,283,400	\$368,310

Note:

- (a) The Representative Assets not included in the chart are the following: Assets 2, 4, 11, and 31 are not included because they were not valued by KPMG at liquidation. Assets 7, 8, 10, 28, 32, 33, and 37 are not included because they were held by this Court not to be fixtures (also, KPMG did not assign liquidation values to assets 10, 32, 33, and 37). The parties agreed not to present evidence of the value of asset 39 at trial. See Op. Table A, n. 29.

Sources:

- [1] DX-0346.
[2] KPMG-GM0092370.
[3] Direct Testimony of David Goesling, dated April 7, 2017, Ex. A at Exhibit C.1.

Exhibit B

US Bankruptcy Court - New York
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<p style="text-align: right;">Page 3385</p> <p>UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK</p> <hr/> <p>MOTORS LIQUIDATION COMPANY AVOIDANCE ACTION TRUST, by and through the Wilmington Trust Company, solely in its capacity as Trust Administrator and Trustee, Plaintiff,</p> <p>v. JPMORGAN CHASE BANK, N.A., individually and as Administrative Agent for various lenders party to the Term Loan Agreement described herein; ADVENT GLOBAL OPPORTUNITY MASTER FUND; AEGON/TRANSAMERICA SERIES TRUST MFS HIGHYIELD; ALTICOR INC., et al., Defendants.</p> <hr/> <p>PROCEEDINGS OF Hearing Day 10 May 5, 2017 New York, New York</p> <p>BEFORE Judge Martin Glenn</p> <p>FINAL REVISED ON 5/16/17 [Pages 3385 - 3566] JANE ROSE REPORTING 1-800-825-3341</p>	<p style="text-align: right;">Page 3387</p> <p style="text-align: center;">A P P E A R A N C E S (Cont'd)</p> <p>ATTORNEYS FOR DEFENDANTS WACHTELL, LIPTON, ROSEN & KATZ 51 West 52nd Street New York, NY 10019-2000 Phone: 212-403-1000 Marc Wolinsky, Esquire C. Lee Wilson, Esquire Harold S. Novikoff, Esquire Carrie M. Reilly, Esquire S. Christopher Szczerban, Esquire Aneil Kovvali, Esquire Angela K. Herring, Esquire Emil A. Kleinhaus, Esquire</p>
<p style="text-align: right;">Page 3386</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>ATTORNEYS FOR PLAINTIFF BINDER & SCHWARTZ, LLP 366 Madison Avenue, 6th Floor New York, NY 10017 Phone: 212-510-7008 Neil S. Binder, Esquire Eric B. Fisher, Esquire Lisa C. Lightbody, Esquire Lindsay A. Bush, Esquire Lauren K. Handelsman, Esquire Tessa Harvey, Esquire</p>	<p style="text-align: right;">Page 3388</p> <p style="text-align: center;">A P P E A R A N C E S (Cont'd)</p> <p>JONES DAY 51 Louisiana Avenue, N.W. Washington, DC 20001-2113 Phone: 202-879-3939 Christopher DiPompeo, Esquire - and - 555 South Flower Street Fiftieth Floor Los Angeles, CA 90071 Phone: 213-243-2692 Gregory M. Shumacker, Esquire Erin L. Burke, Esquire</p> <p>KASOWITZ BENSON TORRES, LLP 1633 Broadway New York, NY 10019-6799 Phone: 212-506-1700 Isaac S. Sasson, Esquire (Via conference call)</p>

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<p style="text-align: right;">Page 3533</p> <p>1 Goesling - recross/Wolinsky</p> <p>2 Q. And in that sense old GM was a</p> <p>3 willing seller; do you agree?</p> <p>4 A. I think old GM was a compelled</p> <p>5 seller.</p> <p>6 Q. You understand that the subsidy --</p> <p>7 you heard the questions that were posed to, I</p> <p>8 think, Professor Fischel about the equity</p> <p>9 value that was generated as a result of the</p> <p>10 government's subsidy to new GM?</p> <p>11 A. I believe I heard part of the</p> <p>12 testimony, yes.</p> <p>13 Q. And that subsidy vastly benefitted</p> <p>14 the value of equity that old GM received in</p> <p>15 new GM, didn't it?</p> <p>16 A. Yes.</p> <p>17 Q. And that was available to benefit</p> <p>18 the secured creditors -- the unsecured</p> <p>19 creditors of old GM?</p> <p>20 MR. FISHER: Objection. Foundation.</p> <p>21 This witness lacks knowledge of that.</p> <p>22 THE COURT: Sustained.</p> <p>23 MR. WOLINSKY: Thank you.</p> <p>24 BY MR. WOLINSKY:</p> <p>25 Q. Let's go to your cost approach</p>	<p style="text-align: right;">Page 3535</p> <p>1 Goesling - recross/Wolinsky</p> <p>2 removal. That's your estimate of the cost --</p> <p>3 the installation cost in the original cost and</p> <p>4 the removal cost with a depreciation factor,</p> <p>5 right?</p> <p>6 A. Correct. And actually that is</p> <p>7 something that I forgot to mention during my</p> <p>8 explanation of the cost approach before.</p> <p>9 THE COURT: Tell me now so we can</p> <p>10 listen.</p> <p>11 THE WITNESS: So after depreciating</p> <p>12 for physical and functional obsolescence,</p> <p>13 we then adjust for the value of the</p> <p>14 installation and the cost of removal,</p> <p>15 again, keeping in mind that our premise</p> <p>16 is a premise of value in exchange, and</p> <p>17 those installation costs will provide no</p> <p>18 value to a buyer, and a buyer will</p> <p>19 account for his cost of removal in the</p> <p>20 price that he is willing to pay.</p> <p>21 THE COURT: Go ahead, Mr. Wolinsky.</p> <p>22 MR. WOLINSKY: Ms. Bush asked me to</p> <p>23 clarify that.</p> <p>24 BY MR. WOLINSKY:</p> <p>25 Q. If we go to estimated economic</p>
<p style="text-align: right;">Page 3534</p> <p>1 Goesling - recross/Wolinsky</p> <p>2 analysis. If you go to your report at page</p> <p>3 339, just so we are all clear.</p> <p>4 THE COURT: The report or the</p> <p>5 testimony?</p> <p>6 MR. WOLINSKY: Well, the report at</p> <p>7 339 which is attached to his written</p> <p>8 direct.</p> <p>9 BY MR. WOLINSKY:</p> <p>10 Q. Mr. Goesling, you have it, I have</p> <p>11 it, the Court has it.</p> <p>12 Just going down the line so we are</p> <p>13 all clear. Original cost of this helical</p> <p>14 broach was 1.472 million, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And there is your cost index</p> <p>17 trending factors of 1.06. So the trending is</p> <p>18 up to 1.565 million, Right?</p> <p>19 A. Correct.</p> <p>20 Q. And this is a pretty new machine so</p> <p>21 the percentage good is 69 percent, and you</p> <p>22 just multiplied 69 times 1.565 to arrive at</p> <p>23 1,083,000, right?</p> <p>24 A. Correct.</p> <p>25 Q. Then you adjust for installation and</p>	<p style="text-align: right;">Page 3536</p> <p>1 Goesling - recross/Wolinsky</p> <p>2 obsolescence, that's the minus 75 percent, and</p> <p>3 that's based on market data, right?</p> <p>4 A. Correct.</p> <p>5 Q. Sales of used machines principally</p> <p>6 in auctions from closed plants?</p> <p>7 A. Yes.</p> <p>8 Q. So that economic obsolescence is</p> <p>9 really a different concept than the concept</p> <p>10 that Mr. Furey testified about, right? Let me</p> <p>11 ask the same question a different way.</p> <p>12 A. Okay.</p> <p>13 Q. Mr. Furey was doing his economic</p> <p>14 obsolescence on the assumption of continuing</p> <p>15 use, whereas your economic obsolescence is</p> <p>16 really on a very different premise.</p> <p>17 A. That is true.</p> <p>18 Q. So -- and then your minus 75 percent</p> <p>19 arrives at 187,750 rounded to this \$1,472,000</p> <p>20 machine, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And that's -- no question. That's</p> <p>23 assuming this machine, either -- it's on the</p> <p>24 assumption the machine is taken out of the</p> <p>25 factory and sold to the highest bidders?</p>

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<p style="text-align: right;">Page 3537</p> <p>1 Goesling - recross/Wolinsky</p> <p>2 A. It would be sold in the factory, and</p> <p>3 it would still be installed which is why the</p> <p>4 buyer would make the deduction for the</p> <p>5 removal, but yes. It assumes a sale to</p> <p>6 another party for use elsewhere.</p> <p>7 Q. Now, if I could ask you some</p> <p>8 questions about your experience with Ford in</p> <p>9 Romania. I think you testified that in Ford</p> <p>10 in Romania, you had to -- there was a</p> <p>11 utilization factor that you needed to</p> <p>12 estimate, correct?</p> <p>13 A. We considered utilization.</p> <p>14 Q. So for assets that were going to</p> <p>15 continue in use, you did or did not apply a</p> <p>16 utilization discount?</p> <p>17 A. I would have to go back and look at</p> <p>18 the analysis, but my recollection would be</p> <p>19 that we did not apply a utilization penalty.</p> <p>20 Q. That's what I heard you testify to.</p> <p>21 And the reason why you didn't is because on a</p> <p>22 forward-looking basis, Ford was going to</p> <p>23 invest 600 million Euros into this plant and</p> <p>24 assets that were underutilized at the time of</p> <p>25 the sale, in the future, were going to be</p>	<p style="text-align: right;">Page 3539</p> <p>1 Proceedings - May 5, 2017</p> <p>2 THE COURT: Here is my thought. We</p> <p>3 will take the lunch break now. We will</p> <p>4 resume at 2 o'clock. I am hoping that we</p> <p>5 won't go particularly long after 2</p> <p>6 o'clock. We have no more witnesses to</p> <p>7 testify, correct?</p> <p>8 MR. FISHER: That's correct.</p> <p>9 THE COURT: I have reached no</p> <p>10 decisions about anything at this point,</p> <p>11 but I want to raise some issues that I</p> <p>12 would like you -- not now. You don't</p> <p>13 have to take your pen out now. I will do</p> <p>14 it at 2 o'clock, but you've got a</p> <p>15 briefing schedule. You have got -- we</p> <p>16 have an argument date. I don't remember</p> <p>17 what it is, but we agreed on an argument</p> <p>18 date, and there are some things I would</p> <p>19 like you to address in your briefing.</p> <p>20 I want to see -- I will think some</p> <p>21 more about it during lunch -- there may</p> <p>22 be a joint demonstrative exhibit I would</p> <p>23 like you to see if you can agree on with</p> <p>24 what numbers are assigned to the 40</p> <p>25 representative assets using the different</p>
<p style="text-align: right;">Page 3538</p> <p>1 Proceedings - May 5, 2017</p> <p>2 utilized at 100 percent, true?</p> <p>3 A. I am sorry. Are you talking about</p> <p>4 this valuation of Romania, or are you talking</p> <p>5 about the GM?</p> <p>6 Q. Romania. Romania. Romania.</p> <p>7 A. That is correct.</p> <p>8 MR. WOLINSKY: Romania Romania went</p> <p>9 over a lot of people's heads, Your Honor.</p> <p>10 MR. FISHER: Some of us.</p> <p>11 MR. WOLINSKY: I am sorry. Your</p> <p>12 answer?</p> <p>13 THE COURT: Yes.</p> <p>14 MR. WOLINSKY: Thank you. No</p> <p>15 further questions.</p> <p>16 THE COURT: Mr. Fisher.</p> <p>17 MR. FISHER: Nothing further, Your</p> <p>18 Honor.</p> <p>19 THE COURT: Thank you very much,</p> <p>20 Mr. Goesling. You can step down.</p> <p>21 Mr. Fisher.</p> <p>22 MR. FISHER: There are some document</p> <p>23 issues to attend to. I think, Your</p> <p>24 Honor, that we might be better able to</p> <p>25 attend to them after the lunch break.</p>	<p style="text-align: right;">Page 3540</p> <p>1 Proceedings - May 5, 2017</p> <p>2 methodologies or approaches that I have</p> <p>3 heard during the trial, for example.</p> <p>4 And I recognize that it reflects</p> <p>5 major disagreements and all that, but I</p> <p>6 would like to see one chart, if that's</p> <p>7 possible, and you can think about it</p> <p>8 during lunch whether -- how you think</p> <p>9 that would be most useful to the Court</p> <p>10 that would set out KPMG's RCNLD, the</p> <p>11 adjustment for economic obsolescence they</p> <p>12 made and what their final concluded</p> <p>13 numbers were.</p> <p>14 What value your different appraisers</p> <p>15 or other experts have assigned to the</p> <p>16 specific assets. With respect to the</p> <p>17 KPMG numbers, one of the things I am not</p> <p>18 clear about now fully is in the evidence</p> <p>19 is for each of these 40 assets -- I don't</p> <p>20 know -- how many of them did they put a</p> <p>21 value on of the 40? It wasn't all of</p> <p>22 them.</p> <p>23 MR. WOLINSKY: We believe 34, Your</p> <p>24 Honor.</p> <p>25 THE COURT: Assuming that's correct,</p>

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<p style="text-align: right;">Page 3541</p> <p>1 Proceedings - May 5, 2017</p> <p>2 for the 34 they put a number on, did they</p> <p>3 use a direct approach or an indirect</p> <p>4 approach? I want to make sure that I see</p> <p>5 sort of, if possible, in one place what</p> <p>6 you are all contending, and you can put</p> <p>7 in that same chart, accept Dean Hubbard's</p> <p>8 views, if there is no TIC adjustment,</p> <p>9 what the numbers would be, if you apply</p> <p>10 economic obsolescence, what do the other</p> <p>11 witnesses say?</p> <p>12 I referenced again this morning I</p> <p>13 asked Professor Fischel whether he had --</p> <p>14 how he would calculate the surplus. He</p> <p>15 said he had a proxy for it. So he</p> <p>16 obviously differed from Dean Hubbard</p> <p>17 about it. I would like to see, if</p> <p>18 possible, what numbers you get to</p> <p>19 applying different witnesses' testimony,</p> <p>20 and even if it's not what the reasonable</p> <p>21 calculations would be from the testimony</p> <p>22 that's come in, you can indicate even if</p> <p>23 the specific number wasn't. But let's</p> <p>24 talk at 2 o'clock. Thank you very much.</p> <p>25 MR. FISHER: Thank you, Your Honor.</p>	<p style="text-align: right;">Page 3543</p> <p>1 Proceedings - May 5, 2017</p> <p>2 AFTERNOON SESSION</p> <p>3 2:01 p.m.</p> <p>4 THE COURT: We're back on the</p> <p>5 record, Motors Liquidation Company</p> <p>6 Avoidance Action Trust v. JPMorgan Chase</p> <p>7 Bank N.A., et al, Adversarial Proceeding</p> <p>8 09-00504.</p> <p>9 Let me hear from plaintiff's counsel</p> <p>10 first and then I will hear from</p> <p>11 defendants' counsel. Obviously we are</p> <p>12 not arguing today. I would like from</p> <p>13 each of you your thoughts on what would</p> <p>14 be in your view the most useful way to</p> <p>15 proceed.</p> <p>16 Mr. Fisher.</p> <p>17 MR. FISHER: Eric Fisher for the</p> <p>18 plaintiff.</p> <p>19 THE COURT: Before you say anything,</p> <p>20 subject to the exhibits and the</p> <p>21 deposition designations, you didn't rest</p> <p>22 before lunch and I want to hear from</p> <p>23 Mr. Wolinsky that the defendants rest as</p> <p>24 well. But go ahead.</p> <p>25 MR. FISHER: I can report to the</p>
<p style="text-align: right;">Page 3542</p> <p>1 Proceedings - May 5, 2017</p> <p>2 (Lunch recess: 12:26 p.m.)</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3544</p> <p>1 Proceedings - May 5, 2017</p> <p>2 Court that subject to the Duker</p> <p>3 designation and the exhibits, we do rest,</p> <p>4 although my colleague Ms. Handelsman will</p> <p>5 be addressing the Duker designation</p> <p>6 issue.</p> <p>7 THE COURT: That's fine.</p> <p>8 MR. FISHER: Just in direct response</p> <p>9 to the Court's request about the possible</p> <p>10 submission of some kind of chart setting</p> <p>11 forth -- really trying to particularize</p> <p>12 the parties' dispute about value and not</p> <p>13 only the parties' respective position but</p> <p>14 as Your Honor requested, attempting to</p> <p>15 the extent possible to reflect on the</p> <p>16 chart what different third-party values,</p> <p>17 including for example KPMG to the extent</p> <p>18 it can be determined, what their values</p> <p>19 would be for each asset, and laying that</p> <p>20 all out as a way of just attempting to</p> <p>21 report to the Court on what those</p> <p>22 different values would look like is</p> <p>23 certainly, we think, a potentially</p> <p>24 constructive way to proceed.</p> <p>25 I think our only thought is that</p>

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<p>1 Proceedings - May 5, 2017</p> <p>2 rather than a joint submission, each</p> <p>3 party should decide to just prepare their</p> <p>4 own submission but the project should be</p> <p>5 to try on that joint submission to</p> <p>6 reflect what it is that the Court has</p> <p>7 requested.</p> <p>8 THE COURT: It will make my life</p> <p>9 easier if whatever each of you submit I</p> <p>10 get one piece of paper. Large, whatever</p> <p>11 it is, that reflects the views of each of</p> <p>12 you so I can look across and down and</p> <p>13 understand. I am not going to be</p> <p>14 throwing darts. I want to see this array</p> <p>15 of values to the extent they are</p> <p>16 available with different methodology you</p> <p>17 think is supported by the evidence and</p> <p>18 the briefings and findings of fact you</p> <p>19 get to do that. I would rather not have</p> <p>20 to hunt between what each of you do</p> <p>21 separately. I am sure in your proposed</p> <p>22 findings of fact and brief you will</p> <p>23 address your views on each of these more</p> <p>24 elaborately. It would be helpful to me</p> <p>25 to get something that reflects both</p>	<p>1 Proceedings - May 5, 2017</p> <p>2 parts of the KPMG report. That's true</p> <p>3 for both sides.</p> <p>4 MR. FISHER: I'm not sure, Your</p> <p>5 Honor, that I agree with that</p> <p>6 characterization of our position. We</p> <p>7 have no quibble whatsoever with the KPMG</p> <p>8 report as fresh start accounting for new</p> <p>9 GM as of July 10th. That's our position</p> <p>10 on the request you put to us.</p> <p>11 THE COURT: I view the KPMG report</p> <p>12 to the extent it has values for the 40</p> <p>13 assets or 33 of the assets as a data</p> <p>14 point. You will address why you don't</p> <p>15 believe it provides an appropriate value</p> <p>16 for purposes of this case. I'm not</p> <p>17 trying to get anybody to buy into that.</p> <p>18 I would just like to see this array of</p> <p>19 numbers.</p> <p>20 Look, at one point I asked one of</p> <p>21 the witnesses about it. What I would</p> <p>22 like to be able to do, and I may not be</p> <p>23 able to do it, I'm searching for an</p> <p>24 approach, whatever the numbers are, that</p> <p>25 would provide some meaningful guidance to</p>
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<p>1 Proceedings - May 5, 2017</p> <p>2 sides' views.</p> <p>3 MR. FISHER: Yes, Your Honor. The</p> <p>4 only small resistance I suppose you hear</p> <p>5 to the idea of a joint submission, and</p> <p>6 it's maybe hard to anticipate, is that</p> <p>7 even in trying to report to the Court</p> <p>8 about the values that others have arrived</p> <p>9 at, there may be -- I don't even know for</p> <p>10 sure -- there may be disagreements, for</p> <p>11 example, as to whether using KPMG values</p> <p>12 you can or cannot arrive at a specific</p> <p>13 value for a specific one of the 40</p> <p>14 representative assets. And so it could</p> <p>15 be that if we work on it on a joint basis</p> <p>16 you end up with many footnotes and</p> <p>17 caveats explaining the parties'</p> <p>18 respective positions on a question like</p> <p>19 that.</p> <p>20 THE COURT: I have no problem with a</p> <p>21 footnote that makes clear that you -- the</p> <p>22 plaintiff disagrees that either KPMG</p> <p>23 didn't reach a value or it did. You both</p> <p>24 -- this is an unusual case. You like</p> <p>25 parts of the KPMG report and you dislike</p>	<p>1 Proceedings - May 5, 2017</p> <p>2 both sides when you try to deal with the</p> <p>3 vast number of assets that are not</p> <p>4 involved in this trial. And it may not</p> <p>5 be possible. I don't know. But the one</p> <p>6 thing that's clear me is you are not --</p> <p>7 it's obvious you are not going to try</p> <p>8 what values to assign to 200,000 plus</p> <p>9 assets. It just isn't going to happen.</p> <p>10 MR. FISHER: Your Honor that's clear</p> <p>11 to us as well.</p> <p>12 THE COURT: When I ask a witness is</p> <p>13 there any rule of thumb, he said no. So.</p> <p>14 MR. FISHER: Your Honor, many of</p> <p>15 these issues are sure to come up in</p> <p>16 mediation. Some of the questions the</p> <p>17 Court is asking relate to questions of</p> <p>18 mass appraisal. When you just can't</p> <p>19 value each and every asset on an</p> <p>20 asset-by-asset basis, what's the best way</p> <p>21 to do it. We have ideas about that for</p> <p>22 purposes of mediation. We think that for</p> <p>23 purposes of a trial outcome, though, that</p> <p>24 it would be helpful to the parties to</p> <p>25 know what this Court thinks is a correct</p>

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<p>1 Proceedings - May 5, 2017</p> <p>2 way.</p> <p>3 THE COURT: I will tell you that. I</p> <p>4 don't know what it is yet. I am not</p> <p>5 shying away from doing that. Let me hear</p> <p>6 from Mr. Wolinsky about -- we will call</p> <p>7 it the chart for shorthand.</p> <p>8 MR. WOLINSKY: Your Honor, Marc</p> <p>9 Wolinsky from Wachtell for JPMorgan. We</p> <p>10 actually thought about it over the break</p> <p>11 and we didn't think this was that big a</p> <p>12 task. I am just making a list of the</p> <p>13 fields and it would start with installed</p> <p>14 cost, net book value, KPMG RCNLD, KPMG --</p> <p>15 then whatever is on General Motors' books</p> <p>16 and records. Evercore did an enterprise</p> <p>17 valuation.</p> <p>18 THE COURT: Evercore didn't do an</p> <p>19 asset-by-asset.</p> <p>20 MR. WOLINSKY: No, but they did an</p> <p>21 enterprise valuation that's comparable to</p> <p>22 the TIC, to the total invested capital</p> <p>23 calculation that --</p> <p>24 THE COURT: I am not telling -- I'm</p> <p>25 not saying you shouldn't include it.</p>	<p>1 Proceedings - May 5, 2017</p> <p>2 for a moment, I was told before lunch</p> <p>3 that they put a value on 33 of the 40</p> <p>4 assets and there was testimony about</p> <p>5 direct approach on some assets, indirect</p> <p>6 approach on others. I don't know what</p> <p>7 approach was used on the 33 that they do</p> <p>8 have numbers for.</p> <p>9 Can you tell me that?</p> <p>10 MR. FISHER: Your Honor, there are</p> <p>11 people on my team who are more</p> <p>12 specialized to answer that particular</p> <p>13 question.</p> <p>14 THE COURT: Mr. Binder.</p> <p>15 MR. BINDER: Neil Binder for the</p> <p>16 Avoidance Action Trust. First of all,</p> <p>17 KPMG has values as part of their</p> <p>18 calculation and you saw for approximately</p> <p>19 36 of the assets, they don't have their</p> <p>20 final concluded value. They did not</p> <p>21 provide individual numbers. So for some</p> <p>22 of these interim numbers we could, I</p> <p>23 believe, identify the approach that was</p> <p>24 used if that's helpful.</p> <p>25 THE COURT: It would be.</p>
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<p>1 Proceedings - May 5, 2017</p> <p>2 MR. WOLINSKY: We don't think it's</p> <p>3 that hard and we are prepared obviously</p> <p>4 to work with the plaintiff to get you</p> <p>5 what you want.</p> <p>6 THE COURT: Dean Hubbard said what,</p> <p>7 the break point on WACC, which there</p> <p>8 would be no TIC adjustment, 15.9?</p> <p>9 MR. WOLINSKY: 15.6 or 15.9. 15.9.</p> <p>10 I'm sure a smart person could even do a</p> <p>11 spreadsheet that would show you what</p> <p>12 happens if you pick 14 and if you pick</p> <p>13 20.</p> <p>14 THE COURT: Okay. When you do your</p> <p>15 -- Mr. Fisher, I would like you to -- I</p> <p>16 am not forcing anybody to do it. It</p> <p>17 would be helpful to me to get a chart.</p> <p>18 You can put disclaimers on the footnotes</p> <p>19 or whatever and I want to see -- at least</p> <p>20 have a sense of where each of these --</p> <p>21 from the evidence no one knows what</p> <p>22 conclusion will be reached from it -- I</p> <p>23 don't know whether it's in the evidence</p> <p>24 or not at this point.</p> <p>25 So just focusing on the KPMG again</p>	<p>1 Proceedings - May 5, 2017</p> <p>2 MR. BINDER: The final numbers, KPMG</p> <p>3 didn't do it. General Motors, I think as</p> <p>4 Mr. Wolinsky alluded to, did take</p> <p>5 information from KPMG and then applied</p> <p>6 them to all of the assets and we can</p> <p>7 provide that to the Court as well.</p> <p>8 THE COURT: Do you know at this</p> <p>9 point with respect to all of the disputed</p> <p>10 assets what value new GM applied to them</p> <p>11 as part of their fresh start accounting?</p> <p>12 Not just the 40 but all of them, all of</p> <p>13 the disputed -- assuming that you dispute</p> <p>14 lots of assets. So do you know what</p> <p>15 value new GM assigned to them?</p> <p>16 MR. BINDER: I think we do have that</p> <p>17 information. I think because some the</p> <p>18 assets were leased so they took some of</p> <p>19 the KPMG information. They did not</p> <p>20 assign values to the leased assets. But</p> <p>21 for most of them there is a GM ledger</p> <p>22 that reflects their --</p> <p>23 THE COURT: Is that in evidence? We</p> <p>24 are not looking at all the assets here.</p> <p>25 MR. WOLINSKY: Yes, Your Honor, we</p>

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US Bankruptcy Court - New York

**Motors Liquidation Company
Avoidance Action Trust
v.
JPMorgan Chase Bank, NA**

Proceedings of:
Hearing Day 11 - Closing Arguments
June 5, 2017
Pages 3567 through 4006

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<p style="text-align: right;">Page 3567</p> <p>UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK</p> <hr/> <p>MOTORS LIQUIDATION COMPANY AVOIDANCE ACTION TRUST, by and through the Wilmington Trust Company, solely in its capacity as Trust Administrator and Trustee, Plaintiff,</p> <p>vs. JPMORGAN CHASE BANK, N.A., individually and as Administrative Agent for various lenders party to the Term Loan Agreement described herein; ADVENT GLOBAL OPPORTUNITY MASTER FUND; AEGON/TRANSAMERICA SERIES TRUST MFS HIGHYIELD; ALTICOR INC., et al., Defendants.</p> <hr/> <p>PROCEEDINGS OF Hearing Day 11 - Closing Arguments June 5, 2017 New York, New York</p> <p>BEFORE Judge Martin Glenn</p> <p>FINAL COPY [Pages 3567 - 4006] JANE ROSE REPORTING 1-800-825-3341</p>	<p style="text-align: right;">Page 3569</p> <p>ATTORNEYS FOR DEFENDANTS (cont.):</p> <p>KASOWITZ BENSON TORRES, LLP 1633 Broadway New York, NY 10019-6799 Phone: 212-506-1700 Isaac S. Sasson, Esquire (Via conference call)</p> <p>WACHTELL, LIPTON, ROSEN & KATZ 51 West 52nd Street New York, New York 10019-2000 Phone: 212-403-1000 Marc Wolinsky, Esquire Emil A. Kleinhaus, Esquire C. Lee Wilson, Esquire Aneil Kovvali, Esquire Carrie M. Reilly, Esquire Harold S. Novikoff, Esquire S. Christopher Szczerban, Esquire Kevin M. Jonke, Esquire Angela K. Herring, Esquire</p>
<p style="text-align: right;">Page 3568</p> <p>A P P E A R A N C E S</p> <p>ATTORNEYS FOR PLAINTIFF: BINDER & SCHWARTZ, LLP 366 Madison Avenue, 6th Floor New York, New York 10017 Phone: 212-933-4557 Neil S. Binder, Esquire Eric B. Fisher, Esquire Lindsay A. Bush, Esquire Lisa C. Lightbody, Esquire Lauren K. Handelsman, Esquire Tessa Harvey, Esquire</p> <p>ATTORNEYS FOR DEFENDANTS: JONES DAY 555 South Flower Street, 50th Floor Los Angeles, California 90071 Phone: 213-489-3939 Gregory M. Shumaker, Esquire Bruce Bennett, Esquire Erin L. Burke, Esquire - and - 51 Louisiana Avenue, N.W. Washington, DC 20001-2113 Christopher DiPompeo, Esquire (Via Conference Call)</p>	<p style="text-align: right;">Page 3570</p> <p>ATTORNEYS FOR DEFENDANTS (cont.):</p> <p>KELLEY DRYE & WARREN LLP 101 Park Avenue New York, New York 10178 Phone: 212-808-7800 John M. Callagy, Esquire Nicholas J. Panarella, Esquire</p> <p>ALSO PRESENT VIA TELECONFERENCE Jeffrey Latov, Akin Gump Kirk Ludtke, Cowen and Company LLC John Spigel, Munger Tolles & Olson Patrick Mohan, Reorg Research</p> <p>ALSO PRESENT Andrew "Bunky" Cepregi Derek D.W. Cole</p> <p>JANE ROSE REPORTING 74 Fifth Avenue New York, New York 10011 1-800-825-3341 Frank Bas, CRR, RPR, Court Reporter</p>

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<p>1 Closing Argument - Binder</p> <p>2 fair-market value. The definition of</p> <p>3 fair-market value is simply not met.</p> <p>4 The government was acting under</p> <p>5 compulsion. It was providing a</p> <p>6 massive subsidy both to old GM, but</p> <p>7 also placing a massive subsidy into</p> <p>8 new GM, motivated not by the concerns</p> <p>9 of a private investor, but acting as</p> <p>10 a, one might say a responsible</p> <p>11 government in this instance, and</p> <p>12 Professor Hubbard agrees as well.</p> <p>13 This is consistent with, and</p> <p>14 your Honor directed the parties prior</p> <p>15 to trial to the valuation proceedings</p> <p>16 case, and we think the valuation</p> <p>17 proceedings case is particularly</p> <p>18 instructive here.</p> <p>19 That court had to deal with a</p> <p>20 situation that is essentially</p> <p>21 identical in the relevant respects.</p> <p>22 The court, as your Honor knows, under</p> <p>23 the Rail Act had to consider how to</p> <p>24 value assets that were part of a</p> <p>25 hopelessly failing business, as GM was</p>	<p>1 Closing Argument - Binder</p> <p>2 given to him that we asked him to</p> <p>3 accept from Mr. Fischel, that the</p> <p>4 assets simply had no value as a going</p> <p>5 concern. And so where assets have no</p> <p>6 value as a going concern, the</p> <p>7 appropriate premise of value is</p> <p>8 valuation in exchange.</p> <p>9 And Mr. Goesling, in his</p> <p>10 analysis, is the only expert who has</p> <p>11 applied an actual market-based</p> <p>12 valuation of the assets, an approach</p> <p>13 not only -- so valuation proceedings</p> <p>14 talks about market, and they</p> <p>15 acknowledge, as almost all of the</p> <p>16 cases do, that really comparable</p> <p>17 market transactions is the best way to</p> <p>18 go, and when cases don't use market</p> <p>19 it's because they are concerned that</p> <p>20 maybe the market doesn't actually</p> <p>21 reflect the appropriate transaction</p> <p>22 that's being valued, and so they look</p> <p>23 for alternatives.</p> <p>24 And that's what Mr. Goesling</p> <p>25 did as well. And that is, in other</p>
Page 3696	Page 3698
<p>1 Closing Argument - Binder</p> <p>2 at the time, and that were going to be</p> <p>3 taken over by a government-sponsored</p> <p>4 entity and put into continued use.</p> <p>5 And what the special court</p> <p>6 concluded is that no going concern</p> <p>7 value of the assets as part of this</p> <p>8 new government-sponsored entity may</p> <p>9 properly be ascribed to the assets of</p> <p>10 a dying business, in this case old GM.</p> <p>11 Where the government acquires</p> <p>12 private assets to protect the public</p> <p>13 interest, the assets' value must be</p> <p>14 determined as if the government had</p> <p>15 not intervened. And that's the</p> <p>16 but-for analysis that I think takes us</p> <p>17 to what Mr. Goesling did. And I think</p> <p>18 it explains, although I think I</p> <p>19 understand your Honor's point a little</p> <p>20 bit differently than I had been</p> <p>21 thinking about it originally, but let</p> <p>22 me start with Mr. Goesling's principal</p> <p>23 valuation. Because he accepted, based</p> <p>24 on the evidence, but for his appraisal</p> <p>25 purpose, he adopted the assumption</p>	<p>1 Closing Argument - Binder</p> <p>2 words, he started with market</p> <p>3 transactions, where they were</p> <p>4 reliable, and where he could not find</p> <p>5 them he used -- he relied on a cost</p> <p>6 approach. Although that approach,</p> <p>7 too, contained relevant market</p> <p>8 considerations.</p> <p>9 So let's just -- I think it</p> <p>10 would just be helpful to sort of lay</p> <p>11 it out, because I think there's been a</p> <p>12 little bit of confusion in how</p> <p>13 defendants characterize what's been</p> <p>14 done, so I would like to sort of</p> <p>15 remind the Court of sort of the</p> <p>16 considerations that Mr. Goesling made</p> <p>17 in determining orderly liquidation</p> <p>18 value and what orderly liquidation</p> <p>19 value reflects.</p> <p>20 So when valuing an exchange</p> <p>21 there are three alternatives. One is</p> <p>22 a forced liquidation, and that is --</p> <p>23 that's essentially your fire sale,</p> <p>24 your foreclosure. That's what the</p> <p>25 Court -- that was the sort of</p>

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<p>1 Closing Argument - Binder</p> <p>2 hypothetical sale in Rash that the</p> <p>3 Court said if it's hypothetical we're</p> <p>4 not going to consider.</p> <p>5 But it's also I think relevant</p> <p>6 in terms of responding to some of the</p> <p>7 briefing, what Judge Gerber was</p> <p>8 referring to when he said none of the</p> <p>9 parties are advocating liquidation.</p> <p>10 He was sort of -- noting Rash, he said</p> <p>11 nobody is -- there was no foreclosure</p> <p>12 here. The secured creditors in TPC</p> <p>13 didn't seize their assets and seek to</p> <p>14 sell them and nobody's advocating for</p> <p>15 that type of transaction, and so</p> <p>16 liquidation is not the proper measure</p> <p>17 of value.</p> <p>18 What Judge Gerber was not</p> <p>19 referring to is orderly liquidation</p> <p>20 value, which captures really the</p> <p>21 highest and best use of the assets in</p> <p>22 the hands of old GM at the time.</p> <p>23 I'll talk more about that in a</p> <p>24 minute. The difference essentially</p> <p>25 between orderly liquidation value and</p>	<p>1 Closing Argument - Binder</p> <p>2 Mr. Goesling applied is an opinion of</p> <p>3 a gross amount, expressed in terms of</p> <p>4 money, that typically could be</p> <p>5 realized from a liquidation sale,</p> <p>6 given a reasonable period of time to</p> <p>7 find a purchaser (or purchasers), with</p> <p>8 the seller being compelled to sell on</p> <p>9 an as-is, where-is basis, as of a</p> <p>10 specific date.</p> <p>11 As I just mentioned,</p> <p>12 Mr. Goesling considered that time</p> <p>13 frame for the sale when that would be</p> <p>14 the highest value, or that would yield</p> <p>15 the highest value for the debtor, and</p> <p>16 thus the highest appropriate value for</p> <p>17 the term lenders, valuing the assets</p> <p>18 in light of the value they had -- the</p> <p>19 fair-market value they had in the</p> <p>20 hands of old GM.</p> <p>21 So in part of his analysis he</p> <p>22 looked to considerable market</p> <p>23 transactions, transactions where the</p> <p>24 data exist. Those are in evidence.</p> <p>25 He made adjustments where appropriate.</p>
Page 3700	Page 3702
<p>1 Closing Argument - Binder</p> <p>2 fair-market value is how long the</p> <p>3 assets are held out for sale. Under</p> <p>4 the orderly liquidation value approach</p> <p>5 that Mr. Goesling adopted, it was a</p> <p>6 19, 18-month time frame, which he</p> <p>7 considered to be reasonable both in</p> <p>8 light of how things would actually</p> <p>9 work in a bankruptcy and to get</p> <p>10 reasonable values for the assets that</p> <p>11 he was valuing, and he compared that</p> <p>12 to the fair-market value. And he said</p> <p>13 that in many instances in fact the</p> <p>14 orderly liquidation value would yield</p> <p>15 higher values, and the reason has to</p> <p>16 do with essentially these machines are</p> <p>17 obviously very expensive to maintain,</p> <p>18 there would be enormous holding costs,</p> <p>19 some of them become obsolete, and so</p> <p>20 if they're held for two, three years,</p> <p>21 their value actually could go down</p> <p>22 than if they were sold within a</p> <p>23 shorter time frame.</p> <p>24 So the orderly liquidation</p> <p>25 value in exchange premise that</p>	<p>1 Closing Argument - Binder</p> <p>2 He applied the standards of the ASA</p> <p>3 for when it's appropriate to use</p> <p>4 market data. There were certain</p> <p>5 circumstances where none existed and</p> <p>6 he didn't apply it.</p> <p>7 So for every -- I think the</p> <p>8 Court knows this -- but for every</p> <p>9 asset he did a cost approach, and for</p> <p>10 those where there was relevant market</p> <p>11 data he did a market approach.</p> <p>12 But even the cost approach --</p> <p>13 and so of course Mr. Chrappa did no</p> <p>14 market approach -- but even for the</p> <p>15 cost approach the market was a</p> <p>16 relevant factor, because as a</p> <p>17 necessary part of the cost approach,</p> <p>18 the RCNLD plus all of the depreciation</p> <p>19 factors is a component of the economic</p> <p>20 obsolescence.</p> <p>21 THE COURT: Let me ask you</p> <p>22 about his cost approach.</p> <p>23 In paragraphs 243 and 248 of</p> <p>24 your findings of fact -- those might</p> <p>25 not be the paragraphs. I'm looking at</p>

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<p>1 Closing Argument - Binder</p> <p>2 the wrong paragraphs.</p> <p>3 MR. BINDER: I'm not sure if</p> <p>4 you're referring to page 243, your</p> <p>5 Honor.</p> <p>6 THE COURT: That must be what</p> <p>7 I'm referring to. Yes. Page 243.</p> <p>8 Sorry, not paragraph. Thank you.</p> <p>9 So he has the cost approach</p> <p>10 that starts on page 243, paragraph</p> <p>11 14S.</p> <p>12 This description of his cost</p> <p>13 approach sounds to me very similar to</p> <p>14 KPMG's methodology, except that</p> <p>15 Goesling said that he actually looked</p> <p>16 at, for the representative assets, he</p> <p>17 looked at each specific asset. He</p> <p>18 doesn't get into this issue of direct</p> <p>19 or indirect method that KPMG reported.</p> <p>20 So in the findings of fact you</p> <p>21 didn't indicate what RCNLD values</p> <p>22 Goesling determined. But one of my</p> <p>23 law clerks pulled for me this morning</p> <p>24 from his report, which is attached to</p> <p>25 his direct testimony at pages 362 and</p>	<p>1 Closing Argument - Binder</p> <p>2 that shouldn't be the end of the</p> <p>3 analysis. All right? That further --</p> <p>4 your position further adjusts -- and</p> <p>5 Goesling made further adjustments.</p> <p>6 The columns go further to the right.</p> <p>7 Adjust for installation and removal.</p> <p>8 Adjust for obsolescence.</p> <p>9 But just in terms of this</p> <p>10 RCNLD -- I didn't have time to do this</p> <p>11 yet, did you -- have you done a</p> <p>12 comparison of Goesling's RCNLD for the</p> <p>13 representative assets versus KPMG?</p> <p>14 You criticize KPMG's approach, I</p> <p>15 understand that, but what I didn't</p> <p>16 have time to do, because it wasn't</p> <p>17 until this weekend that I focused on</p> <p>18 this, was, well, how do Goesling's</p> <p>19 numbers differ from KPMG's numbers?</p> <p>20 MR. BINDER: Right.</p> <p>21 THE COURT: Just for this</p> <p>22 column.</p> <p>23 MR. BINDER: So, by the way,</p> <p>24 whether anyone has actually put them</p> <p>25 side by side, I don't know, but I'm</p>
Page 3704	Page 3706
<p>1 Closing Argument - Binder</p> <p>2 363, the cost approach analyses for</p> <p>3 the 40 representative assets.</p> <p>4 Goesling does -- has a column for</p> <p>5 replacement costs new less</p> <p>6 depreciation.</p> <p>7 And, you know, for example, GM</p> <p>8 Assembly Lansing -- I am sorry.</p> <p>9 I'll look at the second line.</p> <p>10 Paint building lines, process waste</p> <p>11 ELPO. He has an RCNLD of \$779,710.</p> <p>12 So I didn't have time to do it.</p> <p>13 I don't know whether you've done it.</p> <p>14 Have you looked to compare Goesling's</p> <p>15 RCNLD to KPMG's RCNLD for those assets</p> <p>16 that KPMG put a value?</p> <p>17 MR. BINDER: No, we didn't,</p> <p>18 your Honor. And one of the principal</p> <p>19 reasons is we think it would be</p> <p>20 irrelevant. Mr. Goesling -- so</p> <p>21 RCNLD -- economic obsolescence --</p> <p>22 THE COURT: Stop for a second.</p> <p>23 MR. BINDER: Sure.</p> <p>24 THE COURT: Okay. For purposes</p> <p>25 of our discussion I'll accept that</p>	<p>1 Closing Argument - Binder</p> <p>2 not aware of a comparison, and we</p> <p>3 haven't presented it to the Court.</p> <p>4 And I'll get to this later, but</p> <p>5 I do want to -- we don't criticize</p> <p>6 KPMG's calculation of the value of the</p> <p>7 assets at all.</p> <p>8 THE COURT: Sure you do.</p> <p>9 MR. BINDER: Well, not --</p> <p>10 THE COURT: Yeah, you have</p> <p>11 extensive findings of fact about they</p> <p>12 didn't really value specific assets.</p> <p>13 They valued lines. They didn't -- you</p> <p>14 know, assembly lines. They didn't</p> <p>15 value specific assets. You do</p> <p>16 criticize them for that.</p> <p>17 MR. BINDER: I don't --</p> <p>18 THE COURT: Let me withdraw the</p> <p>19 term criticism. You don't -- you</p> <p>20 think it was okay for the analysis,</p> <p>21 for the purposes of their analysis to</p> <p>22 do what they did, but it's not</p> <p>23 sufficient for purposes of this</p> <p>24 exercise at trial.</p> <p>25 MR. BINDER: Well, if we jump</p>

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<p>1 Closing Argument - Binder</p> <p>2 ahead. We think it's entirety</p> <p>3 irrelevant. Even on its own terms we</p> <p>4 think they're not particularized.</p> <p>5 THE COURT: Well, you say</p> <p>6 entirely irrelevant, but Goesling went</p> <p>7 ahead and computed RCNLD as well, and</p> <p>8 my question is: How does it compare?</p> <p>9 I'll have to go through that</p> <p>10 and look at it.</p> <p>11 MR. BINDER: So there is a cost</p> <p>12 approach, and the cost approach</p> <p>13 includes, as we all know, replacement</p> <p>14 cost less depreciation.</p> <p>15 As a matter of a sort of</p> <p>16 build-up of that number, the economic</p> <p>17 obsolescence factor is often described</p> <p>18 after this RCNLD number.</p> <p>19 THE COURT: Sure. Goesling has</p> <p>20 a separate line for obsolescence, and</p> <p>21 some of the assets, I mean, he</p> <p>22 provides -- and in the summary of the</p> <p>23 testimony you deal with it, on some of</p> <p>24 the assets he used 90 or 95 percent</p> <p>25 reduction.</p>	<p>1 Closing Argument - Binder</p> <p>2 an obsolescence. Only in the cost</p> <p>3 approach. Agreed or not? Do you</p> <p>4 agree or not?</p> <p>5 MR. BINDER: I'm sorry. That</p> <p>6 he has it on a separate line. But for</p> <p>7 instance, KPMG has a line that I</p> <p>8 believe says RCNLD pre-capacity</p> <p>9 utilization. But capacity utilization</p> <p>10 is a form of depreciation --</p> <p>11 THE COURT: That is the</p> <p>12 inutility penalty. And Goesling says</p> <p>13 I don't have to apply an inutility</p> <p>14 penalty because I'm valuing individual</p> <p>15 assets.</p> <p>16 MR. BINDER: Right.</p> <p>17 THE COURT: Okay. But I am</p> <p>18 trying to determine whether Goesling's</p> <p>19 RCNLD is an apples-to-apples</p> <p>20 comparison with the KPMG RCNLD.</p> <p>21 MR. BINDER: Right. And if</p> <p>22 it's helpful to the Court we can</p> <p>23 certainly put a chart lining the two</p> <p>24 up.</p> <p>25 THE COURT: Let's see where we</p>
Page 3708	Page 3710
<p>1 Closing Argument - Binder</p> <p>2 MR. BINDER: Right. My only</p> <p>3 point is that the economic</p> <p>4 obsolescence I think properly</p> <p>5 understood is really part of the D.</p> <p>6 In other words --</p> <p>7 THE COURT: Is part of what?</p> <p>8 MR. BINDER: The D, in RCNLD.</p> <p>9 THE COURT: Okay.</p> <p>10 MR. BINDER: It is a form of</p> <p>11 depreciation. So for the calculation,</p> <p>12 when you see these things set out on a</p> <p>13 spreadsheet --</p> <p>14 THE COURT: Well, neither KPMG</p> <p>15 nor Goesling put it as part of the D.</p> <p>16 They both have RCNLD, and then they go</p> <p>17 ahead and make further adjustments to</p> <p>18 it.</p> <p>19 MR. BINDER: They do.</p> <p>20 THE COURT: Inutility penalty.</p> <p>21 Goesling says no inutility penalty</p> <p>22 because he's valuing each individual</p> <p>23 asset. So he doesn't -- I think I'm</p> <p>24 right about this -- he doesn't do an</p> <p>25 inutility penalty. But he does have</p>	<p>1 Closing Argument - Binder</p> <p>2 get to. Go ahead.</p> <p>3 MR. BINDER: But I think the</p> <p>4 point is that RCNLD is not a -- is not</p> <p>5 a full -- the valuation methodology,</p> <p>6 the valuation methodology that</p> <p>7 Mr. Goesling applied, the valuation</p> <p>8 methodology that KPMG applied is</p> <p>9 something called the cost approach.</p> <p>10 THE COURT: But his cost</p> <p>11 approach included determining an</p> <p>12 RCNLD. I'm looking at it. I have it</p> <p>13 in front of me.</p> <p>14 MR. BINDER: Right. I -- yes.</p> <p>15 THE COURT: You summarize it in</p> <p>16 the testimony at pages 243 to 247.</p> <p>17 248. That's what led me to start</p> <p>18 searching this over the weekend. You</p> <p>19 specifically covered it in your</p> <p>20 findings of fact.</p> <p>21 MR. BINDER: Understood, your</p> <p>22 Honor. What I am trying to</p> <p>23 articulate, yes, it constitutes a</p> <p>24 different column, because it reflects</p> <p>25 a specific --</p>

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<p>1 Closing Argument - Binder 2 defendants' favor, they have a litany 3 of smaller criticisms, smaller in 4 scope but not in dollar amount. 5 They say that there's a -- in 6 the GMNA cash flows there's \$7 billion 7 that new GM explained to KPMG it had 8 to be allocated to a company called 9 Global Technology Operations because 10 they were the proper owner. 11 Mr. Lakhani said it shouldn't have 12 happened. He says, you know, this \$7 13 billion, or maybe a little less, 14 transaction should not have happened, 15 he disagrees with new GM's view as to 16 how costs should be allocated among 17 the various entities, and then he has 18 some other miscellaneous adjustments. 19 So one last thing that I wanted 20 to point out to the Court. I don't 21 know if you have the plaintiff's 22 proposed findings of fact? 23 THE COURT: I do. 24 MR. BINDER: I thought you 25 might. I'm sorry. Defendants'.</p>	<p>1 Closing Argument - Binder 2 THE COURT: Yes. I have it. 3 I've got a nice big one. 4 MR. BINDER: You're the judge. 5 I just want to make -- so the 6 first column you'll see, it's the 7 RCNLD values that they are urging, on 8 the left. 9 Does it say "KPMG Final RCNLD 10 Value"? 11 THE COURT: Yes, it does. 12 MR. BINDER: Is that what 13 you're looking at, your Honor? 14 THE COURT: Yes. 15 MR. BINDER: As it turns out, 16 every other valuation, or the next six 17 numbers all say the exact same thing. 18 And I think the suggestion here is 19 supposed to be that Evercore and 20 Hubbard and all of the other analyses 21 sort of agree with what KPMG 22 concluded, and that is the RCNLD is 23 the correct value. 24 These are not -- obviously 25 Evercore did not value these assets.</p>
Page 3768	Page 3770
<p>1 Closing Argument - Binder 2 Defendants'. 3 THE COURT: I do. 4 MR. BINDER: You have that one 5 also, right? 6 THE COURT: Yes, I've got both 7 of them here. 8 MR. BINDER: Okay. Exhibit B. 9 Exhibit A, the Court knows, that's the 10 joint valuation chart was submitted 11 that the Court requested. 12 THE COURT: Yes. 13 MR. BINDER: Defendants have 14 what they're calling the term lender 15 supplement to the chart. I just 16 wanted to make an observation about 17 this chart. 18 The middle section is -- 19 THE COURT: Is that this big 20 thing I got handed too, as well? 21 MR. BINDER: They don't give me 22 what they give you, so ... it 23 probably is. 24 At the top, "Term Lenders 25 Supplemental Joint Valuation Chart."</p>	<p>1 Closing Argument - Binder 2 This is just a sort of repackaged 3 argument over and over and over again. 4 It was probably obvious, but it was a 5 point we felt we wanted to sort of 6 highlight. 7 To sum up, your Honor, each of 8 defendants' contentions make the 9 extraordinary assumption to eliminate 10 EO -- which is even assuming we're 11 talking about KPMG, which we hope 12 we're not, but if we are -- to get rid 13 of EO it would require the Court to 14 make one or many extraordinary 15 assumptions that new GM's financial 16 statements were false in the amount of 17 billions of dollars. 18 Mr. Lakhani's TIC-based 19 adjustment, \$6.4 billion error in new 20 GM's financial reporting. The TST 21 reallocation, 7 billion. 22 And I won't read the whole 23 chart, but it goes on to set out all 24 of the implausible conclusions that 25 this Court would have to reach.</p>

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<p style="text-align: right;">Page 3771</p> <p>1 Closing Argument - Binder</p> <p>2 So for really all of these</p> <p>3 reasons, your Honor, we think there's</p> <p>4 no basis to even use KPMG. We think</p> <p>5 that it applies the wrong measure of</p> <p>6 value. And we would urge the Court to</p> <p>7 look to Mr. Goesling's liquidation</p> <p>8 value in exchange, because we do</p> <p>9 believe that it -- it's a principled</p> <p>10 approach to -- and recognition of the</p> <p>11 caselaw, that you look to the</p> <p>12 fair-market value in the hands of the</p> <p>13 debtor, which we believe is the</p> <p>14 appropriate method of valuation here.</p> <p>15 THE COURT: I'll probably show</p> <p>16 my level of confusion with the next</p> <p>17 question, but KPMG's analysis -- and I</p> <p>18 guess this really would come in with</p> <p>19 the TIC adjustment in particular --</p> <p>20 they make no effort to determine what</p> <p>21 portion of the invested capital was a</p> <p>22 subsidy?</p> <p>23 MR. BINDER: No. What -- so</p> <p>24 what KPMG did -- the reason that KPMG</p> <p>25 is doing a TIC analysis, a business</p>	<p style="text-align: right;">Page 3773</p> <p>1 Closing Argument - Binder</p> <p>2 MR. BINDER: But at the same</p> <p>3 time, as we tried to illustrate,</p> <p>4 irrespective of the purchase price,</p> <p>5 sitting at General Motors -- there are</p> <p>6 benefits from the bankruptcy that</p> <p>7 everybody would get, and we recognize</p> <p>8 that, and those shouldn't be</p> <p>9 discounted. If BMW was buying in a</p> <p>10 market transaction and the value was</p> <p>11 enhanced because there were certain</p> <p>12 benefits that the Bankruptcy Code</p> <p>13 provided, that would be fine. But</p> <p>14 there's more than that. There's \$20</p> <p>15 billion of government cash, which is</p> <p>16 not a true investment. You know, you</p> <p>17 don't know when you're going to get it</p> <p>18 back, you don't know what the rate of</p> <p>19 return is, you don't know if you're</p> <p>20 going to get all of it back, but it's</p> <p>21 sitting on their balance sheet. And</p> <p>22 that is a necessary component of</p> <p>23 the -- of even the ability to do a</p> <p>24 business enterprise value.</p> <p>25 THE COURT: Okay.</p>
<p style="text-align: right;">Page 3772</p> <p>1 Closing Argument - Binder</p> <p>2 enterprise value, is because they</p> <p>3 recognize, and they say this, the</p> <p>4 purchase price does not reflect</p> <p>5 anything relevant to determine the</p> <p>6 value of the business, because it's</p> <p>7 the government subsidy. So --</p> <p>8 THE COURT: Do they say that?</p> <p>9 Do they say that the purchase price</p> <p>10 doesn't reflect values because of the</p> <p>11 subsidy?</p> <p>12 MR. BINDER: I just -- I can't</p> <p>13 recall, your Honor, whether I'm -- I</p> <p>14 just can't recall whether I'm</p> <p>15 remembering deposition testimony or</p> <p>16 not. So let me withdraw the</p> <p>17 statement.</p> <p>18 But in any case, I can say</p> <p>19 this: That the purpose of the TIC</p> <p>20 adjustment -- of the TIC calculation</p> <p>21 was to value the business enterprise.</p> <p>22 Which is typically what you would</p> <p>23 expect the purchase price to be. But</p> <p>24 they didn't use that.</p> <p>25 THE COURT: Okay. All right.</p>	<p style="text-align: right;">Page 3774</p> <p>1 Closing Argument - Binder</p> <p>2 MR. BINDER: Thank you.</p> <p>3 THE COURT: All right. Let's</p> <p>4 break for lunch until 2 o'clock.</p> <p>5 ---</p> <p>6 (Lunch recess taken at 12:35 p.m.)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Exhibit C

Joint Valuation Chart

Rep. Asset #	Asset ID	Description	Old GM Historical		KPMG		New GM eFAST	Chrappa	Plaintiff/Goesling		
			Installed Cost [1]	Net Book Value [1]	Valuation Approach [2]	Final RCNLD Value [2]			Individual Asset Fair Value (d) [2]	New GM eFAST Ledger Value [3]	Appraised Fair Market Value in Continued Use or OLV [4]
25	100071022	Liebherr Hobb Machine	1,192,377	1,079,764	Direct RCN	591,000	266,000	336,977	965,000	244,000	298,000
26	100095344	Core Delivery Conveyor System	280,816	246,614	Indirect CRN	90,400	40,600	51,433	100,000	1,000	53,000
27	100098085	Emissions System	9,811,712	8,923,872	Indirect CRN	2,820,300	1,270,600	1,609,636	3,130,000	131,000	1,434,000
28	100099125	Holding Furnace	4,174,288	2,189,215	Indirect CRN	1,211,100	544,500	689,790	1,515,000	8,000	580,000
29	BF2016822 01	GG-1 Transfer Press (Grand Rapids)	11,340,238	0	N/A	N/A	N/A	N/A	930,000 (a)	261,000	261,000 [OLV]
30	BGI20163301	TP-14 Transfer Press (Mansfield)	4,636,106	0	N/A	N/A	N/A	N/A	500,000 (a)	800,000	800,000 [OLV]
31	BUY11820901	Danly Press	2,729,407	0	N/A	N/A	N/A	0	880,000	276,000	356,000
32	BUYR503469FA	AA Transfer Press	33,767,895	22,346,401	N/A	N/A	N/A	33,767,895	27,860,000	3,675,000	5,016,000
33	BUYR503481FA	B3-5 Transfer Press	27,682,072	18,726,108	N/A	N/A	N/A	27,682,072	22,455,000	2,400,000	3,285,000
34	NIT219381	Build Line w/ Foundation	3,580,522	0	Direct RCN	142,000	142,000	179,890 (b)	100,000	45,000	70,000
35	NITC03340	Button Up Conveyor System	2,689,706	2,065,615	Direct RCN	1,370,800	616,400	785,571	2,005,000	2,000	228,000
36	NITC03507	Helical Broach	1,472,023	1,135,009	Direct RCN	653,430	293,870	372,185	1,080,000	150,000	200,000
37	NITW0S11026A	Courtyard Enclosure	8,384,325	1,332,390	Direct RCN	2,667,590	1,097,144	1,332,458	N/A	0	612,100
37A	NITW0S11026A	Courtyard Enclosure (e)	665,448	105,749	Direct RCN	211,720	87,078	105,755	410,000	N/A	N/A
38	NJL2924414P	Gas Cleaning System	1,173,272	0	Indirect CRN	69,000	69,000	87,411 (b)	0	24,000	24,000
39	NJL2983009	Core Box Robot (c)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
40	NJL6084400	Charger Crane	639,653	26,652	Indirect CRN	114,000	51,300	64,988	160,000	10,000	40,000

	Old GM Historical		KPMG	New GM eFAST	Chrappa	Plaintiff/Goesling	
	Installed Cost	Net Book Value	Final RCNLD Value	New GM eFAST Ledger Value	Appraised Fair Market Value in Continued Use or OLV	Appraised Orderly Liquidation Value in Exchange	Appraised Liquidation Value in Place
Total for 33 Assets Valued by KPMG		140,704,653	91,567,030	45,181,166	N/A	4,679,900	19,152,900
Total for 33 Assets Valued by KPMG (reflecting partial Fixtures, as identified by Term Lenders)		126,927,202	84,551,160	41,901,846	103,013,100	N/A	N/A
Total for Representative Assets		221,491,098	N/A	106,631,133	N/A	12,164,900	28,983,900
Total for Representative Assets (reflecting partial Fixtures, as identified by Term Lenders)		207,713,647	N/A	103,351,813	156,058,100	N/A	N/A

Exhibit D

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*Attorneys for the Motors Liquidation
Company Avoidance Action Trust*

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

-----X
In re:

MOTORS LIQUIDATION COMPANY, f/k/a
GENERAL MOTORS CORPORATION, *et al.*,

Chapter 11

Case No. 09-50026 (MG)
(Jointly Administered)

Debtors.

-----X
MOTORS LIQUIDATION COMPANY AVOIDANCE
ACTION TRUST, by and through the Wilmington Trust
Company, solely in its capacity as Trust Administrator and
Trustee,

Adversary Proceeding

Plaintiff,

Case No. 09-00504 (MG)

against

JPMORGAN CHASE BANK, N.A., *et al.*,

Defendants.

-----X

DIRECT TESTIMONY OF DAVID K. GOESLING

381. On June 1, 2009, immediately after the Government's approval of GM's viability plan, GM filed for bankruptcy. Two days later, the Obama Administration provided a \$30.1 billion Debtor-in-Possession loan to General Motors.

382. In sum, as of the Valuation Date, the U.S. economy was in dire straits and without the U.S. government's intervention, two of the former Big Three automakers would likely have been dissolved. With this as the backdrop, below I discuss my appraisal of the Representative Assets in greater detail.

B. The Appropriate Premise of Value

383. The first step in performing any appraisal is to determine the appropriate premise of value to use. Consideration of the highest and best use of an asset (or group of assets) dictates the appropriate premise of value to apply in valuing the property. Determining the highest and best use of the 40 Representative Assets includes an analysis of the current use and alternative uses of the property, considering what is legally permissible, physically possible, financially feasible, and maximally productive. The highest and best use of the property is a use that meets all four of these criteria.

384. With regard to the 40 Representative Assets, there appear to be no legal issues that would prevent the subject assets from being used in automotive manufacturing operations and the past use of the assets by Old GM demonstrates that it was physically possible to use all of the 40 Representative Assets in automobile manufacturing operations as of June 30, 2009, [except perhaps for the Gas Cleaning System at Defiance](#). Thus, the focus of the highest and best use analysis for the appraisal of the Representative Assets is whether as of the Valuation Date, continued use of the assets was financially feasible and maximally productive.

385. Generally speaking, value can be broadly classified into the two premises of value: value in exchange and value in use. *See generally* Initial Expert Report at 334. Value in exchange

represents the amount that could be realized from a sale of the asset as if removed from use and available on the open market, and is often determined by consideration of actual sales of similar assets. On the other hand, appraising machinery and equipment under the in use premise requires adding the costs (direct and indirect) required to get the equipment installed in the plant and ready to operate to the market value of the asset. By adding these additional costs, the appraiser converts the market price of the asset to the in-use value of the asset.²⁴

386. To value assets in continued use, the collective assemblage of the company's assets must have going-concern value and there must be an adequate return on investment to justify the continued use of the assets. Otherwise, the continued use of the assets is not considered to be "financially feasible" or "maximally productive" under the highest and best use analysis:

A positive income stream indicates that the business enterprise is a going concern, with future benefits of ownership. **If the forecasted income stream is negative or zero, implying that the business is losing money, or at best breaking even, the assets must be valued under a premise of removal (net salvage). In theory, the assets should be deployed elsewhere to maximize their value.**²⁵

387. In connection with my appraisal, I was asked to assume that, absent a substantial government subsidy, Old GM would have been unable to continue as a going concern. As part of understanding why I was asked to make this assumption, I reviewed the Expert Report of Daniel Fischel, which concluded, among other things, that there was "no basis to attribute any value related to Old GM's assets as part of a going concern" and, further "since there are insufficient cash-flows to support the operations of the firm, the value of the firm is estimated based on the prices one would expect to receive for the firm's assets as part of a disposition of those assets on

²⁴ PX-0163 (Machinery and Technical Specialties Committee of the American Society of Appraisers, *Valuing Machinery and Equipment: The Fundamentals of Appraising Machinery and Technical Assets*, 3d ed. (Washington, DC: American Society of Appraisers, 2011) (the "ASA")) at 117.

²⁵ PX-0163 (ASA) at 108 (emphasis added).

a piecemeal basis through the secondary markets.” In addition to the support for the assumption that I found in Mr. Fischel’s report, I note that the assumption that Old GM did not have going concern value on the Valuation Date also comports with my own understanding of the state of Old GM’s business enterprise as of June 30, 2009, and the poor state of the automotive industry on the Valuation Date. Because Old GM’s assets did not have value as part of a going concern as of the Valuation Date, value in exchange, which is based on the market prices that would be received from the sale of the assets on the secondary market, is the appropriate premise to use in a valuation of the Representative Assets and has been used in my analysis.

388. After selecting the appropriate premise of value – here, value in exchange – I then had to determine whether to apply Fair Market Value, Orderly Liquidation Value or Forced Liquidation Value. The primary consideration in selecting the applicable definition of value is the amount of time available for the sale of the asset or assets. Fair Market Value is defined as a situation where there is no compulsion to buy or sell, and thus no time limitation for the sale.²⁶ Orderly Liquidation Value is defined as: “[a]n opinion of gross amount, expressed in terms of money, that typically could be realized from a liquidation sale, given a reasonable period of time to find a purchaser (or purchasers), with the seller being compelled to sell on an as-is, where-is basis, as of a specific date.”²⁷ Finally, Forced Liquidation Value is appropriate in circumstances where a seller is forced to sell in a severely restricted timeframe, such as a quick sale auction occurring in 30 to 60 days.

²⁶ Specifically, Fair Market Value is defined in the M&E literature as “an opinion, expressed in terms of money, at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts.” PX-0163 (ASA) at 10. In this Declaration, when I refer to Fair Market Value as a defined term, I am referring to the definition set forth in the ASA.

²⁷ PX-0163 (ASA) at 555.

389. Here, Old GM plainly was under compulsion to sell its assets. More than that, I think it is unreasonable to contend that Old GM did not have any compulsion to sell. GM was in bankruptcy and was on a tight timeframe to complete a 363 sale of most of its assets to avoid having to liquidate. As a managing director of Evercore Group, L.L.C., Old GM's financial advisors, stated in a sworn statement to the Bankruptcy Court:

The availability of financing, or lack thereof, is a principal factor in GM's decision to pursue the 363 Sale. The combination of (a) the fact that no bona fide potential buyers other than Vehicle Acquisition Holdings LLC have expressed an interest in acquiring GM, (b) that there is no alternative source to finance a restructuring for GM, either in or out of bankruptcy, and (c) that the DIP Financing proposal offered by the U.S. Treasury and Export Development Canada is conditioned on the 363 Sale, support the Conclusion that **the Company is faced with a choice between the 363 Sale or the immediate liquidation of the business.**²⁸

390. Under the Orderly Liquidation Value premise of value, the seller has a reasonable but limited amount of time to sell the assets. I determined that this was the most appropriate premise of value under the circumstances as of the Valuation Date (hereinafter, I refer to the Orderly Liquidation Value in exchange premise of value as "**OLV**"). More specifically, in appraising the Representative Assets, I assumed that Old GM would have between nine and eighteen months to dispose of the property.

391. Generally speaking, OLV is less than Fair Market Value because the concept behind Fair Market Value is that you can allow unlimited time for a sale to find the right buyer and maximize proceeds. "It is, however, possible for the value to be very close to fair market value, with the difference being that under the premise of orderly liquidation there is a limited period in which to sell. The seller is compelled to sell, although without the same sense of

²⁸ JX-0003 (Declaration of J. Stephen Worth, dated May 31, 2009 (Case No. 09-50026, Docket No. 3031) (emphasis added).

immediacy or urgency that is assumed in a forced liquidation.”²⁹ Given how depressed the market for automotive machinery and equipment was at the end of June 2009, there was not a significant difference between buyers at the retail level and buyers at the wholesale level, thereby narrowing any potential gap between Fair Market Value and Orderly Liquidation Value. Further, because of the dire state of the market, an extended period of time would have been required – perhaps several years – to maximize the proceeds of the sale of each of the Representative Assets. When you consider the significant holding costs and other costs that would have been associated with keeping the equipment for an extended period of time while waiting for the perfect buyer, it is likely that Fair Market Value would have yielded about the same values as Orderly Liquidation Value and, in some cases, Fair Market Value may even have been lower.

392. To be clear, OLV is not a “fire sale” or foreclosure value of the assets, which would yield much lower values as a result of the associated time pressure of a sale. Specifically, there are usually two types of buyers of automotive assets: end users, who purchase the assets for their own use, and used machinery dealers or brokers, who purchase the assets in anticipation of future resale. End users are more likely to pay a higher price for automotive assets than speculative dealers, who must take into consideration holding costs, including warehousing; any necessary repair or rebuild; marketing; and warranty expense. The less time that a seller has to sell an asset, the more likely it is that the seller will be forced to sell to dealers or brokers at a lower price. In the absence of either end users or used machinery dealers, certain assets (or portions thereof) may be sold for scrap. Here, because I am applying OLV, I have assumed that the buyers would be a mix of end users, speculative purchasers, and scrap dealers. Had I used a Forced Liquidation Value

²⁹ PX-0163 (ASA) at 110-11.

premise, I would have assumed a higher percentage of speculative purchasers and scrap dealers, resulting in lower values for the assets.

393. It is my view that for purposes of this appraisal, OLV most closely approximates a market-based valuation of the Representative Assets. Of course, because my approach is a market-based approach, the state of the economy as of the Valuation Date had a significant impact on the value of Old GM's assets. As discussed above, as of the Valuation Date, the manufacturing sector was significantly affected by poor economic conditions. Many manufacturers had curtailed production and/or closed plants and investment in capital equipment had slowed dramatically. Liquidations of automotive machinery and equipment in early 2009 produced mixed results: machinery that had experienced good demand and marketability in the past had become difficult to sell and equipment remained unsold due to an excessive amount of similar assets available in the marketplace, a lack of buyer interest, or unreasonable expectations on the seller's part regarding the value of the assets.

394. In the next section, I discuss the appraisal techniques that I used to value the Representative Assets employing the OLV premise of value and discuss in greater depth the appraisal of each of the Representative Assets.

C. Appraisal Techniques

395. In order to determine the OLV of the Representative Assets, I considered the potential applicability of the three standard appraisal techniques: the Income Approach, the Cost Approach, and the Market (or sales comparison) Approach.

396. Although I considered the Income Approach, I ultimately determined that it was not an appropriate way to value the Representative Assets because it is not possible to reliably allocate earning capacity when valuing individual assets. Even when income or earnings for a business are known (or can be forecast), it is highly unlikely that some small portion of earnings

can be reasonably attributed to an individual piece of machinery. For that reason, the Income Approach is rarely used when valuing individual pieces of machinery.

397. Accordingly, I applied the Cost and Market Approaches, but ultimately determined that the Market Approach yielded the most accurate values and, where possible, relied on the Market Approach.³⁰

398. I have made every effort to reach value conclusions that are supportable and representative of the automotive market as it was at the time, based on the best information available. In cases where there had been little or no recent activity involving transactions of similar equipment capacity, I have relied heavily on my experience, judgment, and opinion in reaching the value estimates. The assigned value estimates for the equipment are my best-informed opinion regarding the level of value at which a knowledgeable buyer would be motivated to purchase.

³⁰ “The used equipment market is an established means of buying and selling equipment. The used market consists of used machinery dealers, auctions, and public and private sales, and is often (but not always) the most reliable method of determining certain types of value for certain types of value for certain types of properties.” PX-0163 (ASA) at 93.

1. The Cost Approach

399. To value the Representative Assets under the Cost Approach, I first determined the replacement cost new (“RCN”) of the assets using the historic cost trending method. Under this method, a cost index, used to measure changes in prices over time, is applied to historical cost data to determine RCN. The reliability of the results in using the historic cost trending method depends heavily on the quality of the historical cost information used. I chose to apply this method because I believe that the costs and acquisition dates reported by General Motors in the eFAST system were accurate. The other methods for estimating RCN that I considered, but ultimately did not use in my analysis, are discussed in my Initial Expert Report. See pp. 336-37.

400. In order to calculate the RCN, I first segregated the Representative Assets into 15 different categories based on asset type, such as industrial furnaces, metal forming presses, cranes, etc. The cost of each item was then increased to a current cost using price indices from the United States Department of Labor’s Bureau of Labor Statistics. A list of the indices and class codes used for each asset class is set forth in the table below:

Class Code	Asset Class	Cost Index Source	Producer Price Index
1 or 31	General Equipment	Bureau of Labor Statistics - Producer Price Index	WPU114
5	Software	Bureau of Labor Statistics - Producer Price Index	PCU511210511210502
7	CNC Machining Equipment	Bureau of Labor Statistics - Producer Price Index	WPU1137
8	Leasehold Improvements - Central States	Marshall Valuation Service	Class S Bldgs
11	Metal Forming Presses	Bureau of Labor Statistics - Producer Price Index	WPU1138
15	Cranes	Bureau of Labor Statistics - Producer Price Index	WPU114404
18	Conveyor Systems	Bureau of Labor Statistics - Producer Price Index	PCU333922333922
19	Switchgear and Electrical Equipment	Bureau of Labor Statistics - Producer Price Index	WPU1175
37	Metal Tanks	Bureau of Labor Statistics - Producer Price Index	PU1072
38	Industrial Furnaces, Kilns, Ovens	Bureau of Labor Statistics - Producer Price Index	PCU333994333994

40	QC/Test Equipment	Bureau of Labor Statistics - Producer Price Index	PCU334516334516
43	Concrete block and brick	Bureau of Labor Statistics - Producer Price Index	WPU1331
44	Process Piping	Bureau of Labor Statistics - Producer Price Index	WPU101706
45	Utilities	Bureau of Labor Statistics - Producer Price Index	PCU221

Exhibit D.1 to my Initial Expert Report summarizes the Cost Approach as applied to each of the Representative Assets and identifies the class code used for each asset. A table summarizing the information obtained from the cost indices is attached hereto as Exhibit E. The trend factor column in Exhibit D.1 to my Initial Expert Report is derived from dividing the price index for applicable class code for the base year (here, 2009 because that is the Valuation Date) by the price index for the year the asset was capitalized. To take one example, Representative Asset No. 4 (the ELPO Process Waste Lines), which was placed into service in 2006 and for which I have assigned a class code of 44 (process piping), to calculate the trend factor of 1.07, I would divide 215 (row N39) by 200.85 (row N36).

401. To the extent possible, I verified the accuracy of the trending analysis through discussions with industry equipment dealers, publicly available data, and recognized industry cost sources. Finally, I compared the trended costs to the cost of assets newly acquired in 2009 to further test the accuracy of the trending process.

402. Since the Representative Assets were not brand new as of the Valuation Date, all forms of accrued depreciation – physical deterioration, functional obsolescence and economic obsolescence – then had to be deducted from the RCN. The depreciation factors were derived from studies of actual retirements of similar assets, discussions with current manufacturers, and my experience with similar assets and the automotive industry more generally.

403. To estimate physical depreciation, I considered the following information regarding the appraised assets: age of the asset as of the Valuation Date, current physical condition, current utilization, operating history, maintenance history, and planned future utility. This information was collected during the physical inspection of the assets and/or through discussions with New GM personnel knowledgeable about the Representative Assets. For each of the Representative Assets, I was able to obtain information regarding the actual age of each asset through numerous sources, including, but not limited to, the eFAST asset listing, discussions with New GM personnel, and serial number research.³¹ Next, I estimated the remaining useful life of each asset by subtracting the effective age of each asset from my estimate of the normal useful life of the asset. For example, looking at the first line of Exhibit D.1, Representative Asset No. 2, Pits and Trenches, I subtracted 2.9 from 35 to calculate a remaining useful life of 32.1 years. I then calculated one minus the remaining useful life (here, 32.1 years) divided by the normal useful life (35 years) times one hundred to arrive at the percentage of physical deterioration (here, approximately 8.4%:

$$\left[\left(1 - \left(\frac{32.1}{35} \right) \right) \times 100 \right] = 8.4$$

One hundred minus the physical deterioration is called the “percentage good” of the asset, as reflected in Exhibit D.1.

404. Next, I considered the other two forms of depreciation: functional and economic obsolescence. Functional obsolescence is a loss in value attributable to the development of new

³¹ Sometimes when conducting appraisals, I also estimate the effective age of assets based on a number of factors, including amount of use, regularity and extent of maintenance, and wear and tear. The effective age for a given asset may be more than, less than, or equal to, the actual age of the asset. In this case, except for the 100 ton furnace (Representative Asset No. 28), we did not have any factual information regarding the assets that would cause me to estimate the effective ages of the assets as different from the chronological ages.

technology that allows for more efficient or less costly replacement property. Economic obsolescence includes any economic or external factors that may have impacted the value of the assets. Signs of economic obsolescence can include: (i) reduced demand for a company's products; (ii) overcapacity in the industry; (iii) dislocation of raw material supplies; (iv) increasing costs of raw materials, labor, utilities, or transportation, while the selling price of the product remains fixed or increases at a much lower rate; (v) government regulations that require capital expenditures to be made, but offer no return on investment; and (vi) environmental considerations that require capital expenditures to be made, but offer no return on investment. The research I conducted for the Market Approach (discussed in detail below) indicated that as of the Valuation Date the market for manufacturing machinery was depressed, with little activity for many types of assets. Thus, additional depreciation was applied to account for economic obsolescence due to general market conditions.

405. The adjustment I made for obsolescence is based on discussions with equipment dealers, as well as a review and comparison of the values indicated under the Cost Approach (before obsolescence adjustments were made) to the value indicated by the Market Approach (discussed below).³² The difference in the values determined by the two approaches has been deemed to be due to unmeasured functional and economic obsolescence since the market prices for similar assets takes into consideration advances in technology and external market factors. Using market prices to quantify economic obsolescence makes intuitive sense given that one would expect the market price of an asset to capture and reflect all of the extrinsic factors that impact the

³² For any assets for which I was unable to locate market comparable transactions, I examined transactions involving assets with similar characteristics, and made any necessary adjustments, in order to estimate the obsolescence factor for those assets.

value of the asset. Thus, I adjusted the Cost Approach value indications to account for the additional depreciation that caused those differences in value.

406. For each of the Representative Assets, I quantified ~~the~~ depreciation due to physical deterioration and obsolescence (functional and economic), and deducted the total amount of depreciation from the RCN. Finally, I deducted the loss in value of installation and the cost of deinstallation in arriving at my indication of value under the Cost Approach for each asset. The adjustments for removal are based on estimates from knowledgeable industry experts, as well as my own experience with the installation and removal of similar assets. The depreciated value of installation costs was also deducted.

2. The Market Approach

407. In developing my opinion of OLV using the Market Approach, I considered the following three techniques to estimate the value of the assets: (1) a direct match of a recent sale in the used market; (2) a comparable match, which determined value based on the analysis of similar used equipment sales; and (3) the percent to cost technique.

408. For the direct match and comparable match techniques, values of the Representative Assets were estimated based on market prices in actual transactions and on asking prices for similar assets. After searching numerous sources and databases for sales or offerings of assets similar to the 40 Representative Assets, I selected the sales or offerings I deemed to be most comparable with the property being valued.³³ I then had to make adjustments to account for differences in factors such as time of sale, location, type, age, condition of the equipment and prospective use.

³³ For the convenience of the Court and the parties, attached hereto as Exhibit F is Exhibit E to the Goesling Initial Report, annotated to include references to PX exhibit numbers where appropriate.

409. The third technique, the percent to cost technique, involved an analysis of the ratio of used sales prices to the RCN of the asset, derived by reviewing transactions in assets similar to the 40 Representative Assets in nature and age. The relationships between age, selling price, and replacement cost were then analyzed to develop a percent to cost factor. These percent to cost factors were then applied to the cost of similar assets for which only limited or no market data was available. This procedure involves direct application of the percent to cost factor if the subject asset is of the same vintage and utility as the assets from which the factor was extracted. If the subject asset is similar but a different age, the appropriate percent to cost factor is developed through a relationship analysis. The percent to cost technique was used at least in part to estimate the market value of Representative Asset Nos. 1 (Shim Select and Placement Machine), 5 (Paint Mix and Circulation Electrical System), 11 (the Central Utilities Complex), 14 (the Leak Test System), 23 (Coolant Filtration System), 27 (Cupola No. 4 Emissions System), 34 (4 Speed Build Line), and 38 (the Gas Cleaning System).

410. I applied all three techniques in applying the Market Approach. In addition, in instances where there were no comparable sales of assets (or portions of assets), I considered whether there was any scrap value for the asset or a portion thereof. I also used these Market Approach techniques to validate and modify the results of the Cost Approach. Market data was obtained from "*Data Ref*" *Machinery & Equipment Pricing Guide*, by L & M Publications, and various new and used automobile machinery and equipment dealer websites. In addition, values were estimated on the basis of contact with manufacturers' representatives, used machinery dealers, internal databases, discussions with other knowledgeable experts, and my experience with cost/value relationships. The market data sources for each asset are set forth in the Goesling Initial Report in Exhibit A.

D. Reconciliation of Approaches

411. To the extent possible, the values indicated by the Cost and Market Approaches have been reconciled into a single conclusion of value for each asset. Based on my experience as an appraiser, I determined that the unique situation of the 40 Representative Assets as of the Valuation Date made it too difficult to reasonably estimate depreciation from all causes. When both approaches were applied, I placed all weight on the Market Approach indication of value.³⁴ It is my opinion that the Market Approach provides a far more reliable indication of value as of the Valuation Date, as the adjustments can be more reliably calculated to develop an indication of value as compared to the Cost Approach.

412. A chart summarizing the approaches to value and indicating which approach was ultimately applied is below:

Summary of OLV

Rep. Asset No.	Asset ID	Company Name (Location)	Asset Description	Cost Approach Value Indication [b]	Market Approach Value Indication [c]	Concluded Value	Concluded Approach
1	100006527	GM POWERTRAIN WARREN TRANSMISSION	OP-150 SELECT; CHECK PLACE SHIMS AUTO STATION	14,500	3,000	3,000	Market Approach
2	100017544	GM ASSEMBLY LANSING DELTA TOWNSHIP	GA PITS & TRENCHES	0	0	0	Cost Approach
3	100033438	GM POWERTRAIN WARREN TRANSMISSION	POWER ZONE ROLLER CONVEYOR AUTOMATION TCH MOD 3	23,000	3,000	3,000	Market Approach
4	100037892	GM ASSEMBLY LANSING DELTA TOWNSHIP	PAINT BLDG LINES - PROCESS WASTE ELPO	0	0	0	Cost Approach
5	100037940	GM ASSEMBLY LANSING DELTA TOWNSHIP	PAINT MIX & CIRCULATION - ELECTRICAL	105,150	152,000	152,000	Market Approach
6	100037954	GM ASSEMBLY LANSING DELTA TOWNSHIP	PAINT DIP CONVEYOR - ELPO OVEN IMC	25,035	7,000	7,000	Market Approach

³⁴ I did not apply the Market Approach where I was unable to identify comparable sales transactions. In those circumstances, I had no alternative but to rely on the Cost Approach and to make necessary deductions to account for depreciation and obsolescence.

Rep. Asset No.	Asset ID	Company Name (Location)	Asset Description	Cost Approach Value Indication [b]	Market Approach Value Indication [c]	Concluded Value	Concluded Approach
7	100038004	GM ASSEMBLY LANSING DELTA TOWNSHIP	PAINT TC AUTOMATION SOFTWARE	0	0	0	Cost Approach
8	100038035	GM ASSEMBLY LANSING DELTA TOWNSHIP	GA EOL PAINT SPOT REPROCESS SYS PAINT MIX ROOM	82,500	0	82,500	Cost Approach
9	100038119	GM ASSEMBLY LANSING DELTA TOWNSHIP	PAINT TC2 CC BELL ZONE	263,400	0	263,400	Cost Approach
10	100041920	GM MFD LANSING REGIONAL STAMPING	OPTICELL - ROBOTIC MEASUREMENT SYSTEM	73,000	0	73,000	Cost Approach
11	100045909	GM ASSEMBLY LANSING DELTA TOWNSHIP	LANSING DELTA TOWNSHIP ASSEMBLY UTILITY SERVICES	2,625,000	2,367,000	2,367,000	Market Approach
12	100048169	GM ASSEMBLY LANSING DELTA TOWNSHIP	BS ROBOT LAZN-150R1	30,100	25,000	25,000	Market Approach
13	100050513	GM ASSEMBLY LANSING DELTA TOWNSHIP	BS WELD BUS DUCTS	650,000	681,000	681,000	Market Approach
14	100053677	GM POWERTRAIN WARREN TRANSMISSION	LEAK TEST BASE MACHINE QTY = 1	43,750	9,000	9,000	Market Approach
15	100060623	GM ASSEMBLY LANSING DELTA TOWNSHIP	GA T/W: SOAP; MOUNT AND INFLATE	63,050	59,000	59,000	Market Approach
16	100061079	GM ASSEMBLY LANSING DELTA TOWNSHIP	BS SKID CONVEYOR - LAZA	56,100	15,000	15,000	Market Approach
17	100061614	GM ASSEMBLY LANSING DELTA TOWNSHIP	BS P&F CONVEYOR - BODY SIDE INNER LH DEL	37,250	24,000	24,000	Market Approach
18	100062269	GM ASSEMBLY LANSING DELTA TOWNSHIP	GA CONVEYOR: VERTICAL ADJUSTING CARRIER (VAC) SYS - CARRIERS (QTY 87)	91,800	59,000	59,000	Market Approach
19	100064667	GM ASSEMBLY LANSING DELTA TOWNSHIP	BS CMM FULL BODY MACHINE - LY90	46,000	39,000	39,000	Market Approach
20	100065640	GM ASSEMBLY LANSING DELTA TOWNSHIP	GA CONVEYOR SUB-ASM RECEIVING (SAR): WTD1000 - WHEEL & TIRE DELIVERY	25,900	5,000	5,000	Market Approach
21	100066809	GM ASSEMBLY LANSING DELTA TOWNSHIP	GA CONVEYOR: SKILLET - FINAL - LEG 1	33,600	1,000	1,000	Market Approach
22	100069322	GM POWERTRAIN WARREN TRANSMISSION	FANUC M-710IB/70T ROBOT - ASSEMBLY	72,500	32,000	32,000	Market Approach
23	100070012	GM POWERTRAIN WARREN TRANSMISSION	ALUMINUM MACHINING SYSTEM	65,000	14,000	14,000	Market Approach
24	100071009	GM POWERTRAIN	LFS220 BASE SHAPING MACHINE- OP 20 TRANSFER DRIVE GEAR	160,000	224,000	224,000	Market Approach

Rep. Asset No.	Asset ID	Company Name (Location)	Asset Description	Cost Approach Value Indication [b]	Market Approach Value Indication [c]	Concluded Value	Concluded Approach
		WARREN TRANSMISSION					
25	100071022	GM POWERTRAIN WARREN TRANSMISSION	LIEBHERR HOBBS MACHINE FROM ST. CATHARINES	180,000	244,000	244,000	Market Approach
26	100095344	GM POWERTRAIN DEFIANCE	CORE DELIVERY CONVEYOR SYSTEM CB116 & 122	6,750	1,000	1,000	Market Approach
27	100098085	GM POWERTRAIN DEFIANCE	EMISSIONS SYSTEM #4 CUPOLA	386,500	131,000	131,000	Market Approach
28	100099125	GM POWERTRAIN DEFIANCE	100 TON VERTICAL CHANNEL HOLDING FURNACE	44,200	8,000	8,000	Market Approach
29	BF2016822 01	GM MFD GRAND RAPIDS	TRANSFER PRESS-GG-1	510,000	261,000	261,000	Market Approach
30	BGI20163301	GM MFD MANSFIELD	TP-14 CS1-1 TRANSFER PRESS DANLY ET-2	710,000	800,000	800,000	Market Approach
31	BUY11820901	GM MFD LANSING REGIONAL STAMPING	DANLY 4000 TON PRESS	540,000	276,000	276,000	Market Approach
32	BUYR503469FA	GM MFD LANSING REGIONAL STAMPING	AA-11 SCHULER #1 AA CROSSBAR TRANSFER PRESS	3,925,000	3,675,000	3,675,000	Market Approach
33	BUYR503481FA	GM MFD LANSING REGIONAL STAMPING	B3-5 TRANSFER PRESS SYSTEM INCL. DESTACKER AND EOL	3,250,000	2,400,000	2,400,000	Market Approach
34	NIT219381	GM POWERTRAIN WARREN TRANSMISSION	BUILD LINE W/FOUNDATION	17,500	45,000	45,000	Market Approach
35	NITC03340	GM POWERTRAIN WARREN TRANSMISSION	BUTTON UP AND TEST CONVEYOR SYSTEM	58,400	2,000	2,000	Market Approach
36	NITC03507	GM POWERTRAIN WARREN TRANSMISSION	HELICAL BROACHING EQUIPMENT	187,750	150,000	150,000	Market Approach
37	NITW0511026A	GM POWERTRAIN WARREN TRANSMISSION	COURTYARD ENCLOSURE	0	0	0	Cost Approach
38	NJL2924414P	GM POWERTRAIN DEFIANCE	SYSTEM GAS CLEANING NO.4 CUPOLA	29,000	24,000	24,000	Market Approach
39	NJL2983009	GM POWERTRAIN DEFIANCE	CB 91 ROBOT	intentionally omitted			
40	NJL6084400	GM POWERTRAIN DEFIANCE	P & H 7 1/2 TON CHARGER CRANE 6E CUPOLA	25,000	10,000	10,000	Market Approach

**E. Detailed Description of the Appraisal of Representative Asset No. 36
(Helical Broach) Under the Orderly Liquidation Value in Exchange Premise
of Value**

413. I am now going to walk through one example of the application of the Cost and Market Approaches to a single Representative Asset to help illustrate the steps followed in my analysis.

414. Representative Asset No. 36 (Asset ID NITC035071) is a vertical broaching machine located at the Warren Transmission plant (discussed above). Broaching is a metalworking operation that uses a toothed cutting tool to remove metal, much like a saw cuts through wood as it is pushed forward. The broaching machine pushes the cutting tool against a metal surface; each tooth on the tool is a little longer and removes a little more metal.

415. The subject broaching machine was manufactured by Federal Broach and was placed in service in June 2006 (“Federal Broaching Machine”). This is a powerful broach, with two stations and a broaching force of 450 kilonewtons, or approximately 45 tons. It is used to cut interior helical splines in transmission components. Based on the inspection of the Federal Broaching Machine in June 2016, it appears to be in good condition overall, and was likely in very good condition in June 2009.

1. The Cost Approach

416. Following the steps described above, I estimated the value of the Federal Broaching Machine using the Cost Approach:

ASSET ID NITC035071 HELICAL BROACHING EQUIPMENT COST APPROACH		
Original cost		\$1,472,023

Date acquired		1-Jun-06
Cost indices applied	CNC Machining Equipment	
Cost Index	(Jan 2009)	173.8
Cost Index	(2006)	163.4
Trend Factor		(173.8/163.4) 1.0636
Trended RCN		\$1,565,618
Normal Useful Life (years)		10
Age (years)		3.1
Calculated Remaining Useful Life		6.9
Appraiser's estimated RUL		6.9
Percent Good		(6.9 ÷ 10) 69.2%
RCN less depreciation		\$1,083,407
Adjust for Installion and Removal		-30%
Adjust for functional obsolescence		0%
		\$758,385
Estimated economic obsolescence		-75%
RCN less depreciation		\$189,596
Rounded Cost Approach value indication		\$187,750

417. Under the indirect Cost Approach method, the historic cost was indexed up to a reproduction cost of \$1,565,618. I have assumed the effective age of the Broaching Machine is equal to its chronological age. Accordingly, physical deterioration is estimated to be approximately 30.8%.

418. Since the Federal Broaching Machine is being valued under a value in exchange premise, further reductions in value were made to account for the lost value of installation as well

as the cost of deinstallation that will be incurred by the buyer. The adjustment for lost installation value and deinstallation was estimated to be 30%.

419. No deduction in value has been made for functional obsolescence because a 3 year old machine tool such as the Federal Broaching Machine is unlikely to be significantly affected by changes in technology.

420. The final depreciation factor applied is economic obsolescence. The indicated value for the Federal Broaching Machine by the Cost Approach before consideration of EO is approximately \$758,000. However, market research indicates that nearly identical machines sold on the open market for hundreds of thousands of dollars less than \$758,000. The difference between \$758,000 and the selling prices of similar machines is due to EO, which was estimated at 75%, based on the observed differences between the Cost Approach calculated value (before EO) and the selling prices for similar broaching machines.

2. The Market Approach Applied to Representative Asset No. 36

421. The Federal Broaching Machine described in the Cost Approach section was also valued by the Market Approach using the direct match and comparable match techniques. I located sales of two Federal broaching machines sold from Old GM's Ypsilanti, Michigan plant in August 2010. One sale was a 2006 Federal model 450Kn X 2250 MM, serial number 07-S-103, reported to be a 2007 vintage machine in good operating condition. *See* PX-0103 (List of assets to be sold at auction at Willow Run Transmission held on 8/3/2010). It was sold at auction for \$150,000, even though it had a total installed cost of \$1,535,729 when placed in service on September 15, 2007. I determined that this broaching machine is comparable in that it is essentially the same age as the subject Federal Broaching Machine and has the same capacity. An upward adjustment for conditions of sale was required because the comparable machine was sold at auction and auction prices are typically lower than orderly liquidation values. Finally, a 10% downward adjustment

was made to the comparable broaching machine to account for the used equipment market being somewhat better in August 2010 than as of the Valuation Date.

422. The second sale is also a Federal broaching machine, a 2004 model 90KN X 1000MM, serial number 04-S-102, ~~with a working area of 56 cubic feet~~. See PX-0103 (List of assets to be sold at auction at Willow Run Transmission held on 8/3/2010). This machine was reportedly in good operating condition and sold for \$100,000, even though it had a total installed cost of \$476,728 when placed in service on September 1, 2005. This comparable broaching machine sale is older than the subject, so a small upward adjustment to the selling price is required for age and condition. Because the subject Federal Broaching Machine is more powerful than the comparable broaching machine, I adjusted the price of the comparable broaching machine up by 30% to account for its smaller capacity. The same upward adjustment for conditions of sale and downward adjustment for date of sale were made as with the other comparable broaching machine.

423. The Market Approach for Helical Broaching Machine is below:

Subject Asset ID NITC03507			
Description		Comparable No. 1	Comparable No. 2
Helical Broaching Machine		Helical Broaching Machine	Helical Broaching Machine
Manufacturer		Federal Broach	Federal Broach
Model		450KN X 2250	90KN X 1000MM
Serial Number		12-S-105	04-S-102
Vintage		2006	2004
Effective Age (Years)		3	6
Condition		Good	Good
Other		Includes coolant filtration system, operators platform, hydraulic powerpacks, and Siemens controller	Includes coolant filtration system, operators platform, hydraulic powerpacks, and Siemens controller
As of		6/30/2009	8/3/2010
Consideration		150,000	100,000
Consideration Type		Sale Price (Auction)	Sale Price (Auction)
Source		MAYNARDS001952 (RACER Willow Run Auction)	MAYNARDS001952 (RACER Willow Run Auction)
Location		GM Powertrain Warren Transmission	GM - Ypsilanti, MI
Age/Condition			20%
Capacity			30%
Other equipment			
Financing terms			

Conditions of sale		10%	10%
Market conditions (sale date)		-10%	-10%
Indicated Orderly Liquidation Value		\$150,000	\$150,000
	150,000		

424. For this particular asset, the first comparable sale (listed in the chart as “Comparable No. 1”) was an exact model match, meaning that no adjustments were required for physical characteristics. Because both comparable sales occurred on the same day, both were subject to the same adjustments for conditions of sale and market conditions. Because Comparable No. 1 broaching machine is such a close match physically, it is considered to be most comparable to the subject broaching machine, and so I relied on the value indicated by that sale.

3. Reconciliation of Cost and Market Approaches for the Helical Broach

425. For Representative Asset No. 36, discussed above, the value indicated under the Cost Approach was \$187,750 and the value indicated under the Market Approach was \$150,000. I concluded an Orderly Liquidation Value of \$150,000 for the asset, relying exclusively on the Market Approach value indication because the comparable broaching machine was such a close match to the subject asset. I considered, but ultimately disregarded, the Cost Approach analysis because it required significant adjustments to account for economic obsolescence that would render the concluded value less reliable.

F. Appraisal Review of Mr. Chrappa’s Appraisal and the Alternative Valuation

426. Defendants’ appraiser, Carl C. Chrappa, values the Representative Assets using the Fair Market Value in Continued Use (“FMVICU”) with Assumed Earnings premise of value for 38 of the 40 Representative Assets (the “Chrappa Report”). For all of the reasons set forth in my Appraisal Review Report attached hereto as Exhibit B, it is my opinion that Mr. Chrappa’s premise, methodologies and value conclusions are wrong and generally unreliable.

Exhibit E

CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER

**EXPERT WITNESS REPORT OF
David K. Goesling**

**Appraisal and Fixture Classification Analysis of 40 Representative Assets
as of June 30, 2009**

**Issued: November 23, 2016
Amended: February 6, 2017**

Presented in:

**Motors Liquidation Company Avoidance Action Trust v.
JPMorgan Chase Bank, N.A.**

**CHAPTER 11 CASE NO. 09-50026 (MG)
ADVERSARY PROCEEDING CASE NO. 09-00504 (MG)**

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

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EXHIBITS

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Exhibit B	Listing of 40 Representative Assets
Exhibit C	Valuation Conclusion Summary
Exhibit D	Cost Approach Analyses
Exhibit E	Market Approach Analyses
Exhibit F	Sources of Information
Exhibit G	Statement of Qualifications

V. VALUATION OF 40 REPRESENTATIVE ASSETS

determined by the two approaches has been deemed to be due to unmeasured obsolescence. Thus, I adjusted the Cost Approach value indications to account for the additional depreciation which causes those differences in value.

3. Market Approach Methodology

Under the Market Approach, value was estimated based on market prices in actual transactions and on asking prices for similar assets available as of the Valuation Date. Similar assets recently sold or offered for sale in the current market were analyzed and compared with the property being valued. Adjustments were made for differences in factors such as time of sale, location, type, age, condition of the equipment, and prospective use. In developing my opinion of Orderly Liquidation Value using the Market Approach, I considered three techniques, which are as follows:

- The first technique involved establishing the value of the assets based on finding a *direct match* of a recent sale in the used market;
- The second technique involved a *comparable match*, which determined value based on the analysis of similar used equipment sales; and
- The third technique, called the *percent to cost* technique, involved an analysis of the ratio of used sales prices to the Replacement Cost New of the asset, derived by reviewing transactions in assets similar to the 40 Representative Assets in nature and age. The relationships between age, selling price, and cost were then analyzed to develop a percent to cost factor. These percent to cost factors can then be applied to the cost of similar assets for which only limited or no market data was available. This procedure involves direct application of the percent to cost factor if the subject asset is of the same vintage and utility as the assets from which the factor was extracted. If the subject asset is similar but a different age, the appropriate percent to cost factor is developed through a relationship analysis.

I applied all three techniques in applying the Market Approach. In addition, in instances where there were no comparable sales of assets (or portions of assets), I considered whether there was any scrap value for the asset or a portion thereof. I also used these Market Approach techniques to validate and modify the results of the Cost Approach. Market data was obtained from "*Data Ref*" *Machinery & Equipment Pricing Guide*, by L & M Publications, and various new and used automobile machinery and equipment dealer websites. In addition, values were estimated on the basis of contact with manufacturers' representatives, used machinery dealers, internal databases, discussions with other knowledgeable experts, and my experience with cost/value relationships. A complete list of market data sources is displayed in Exhibit E1.

4. Sample Market Approach

The Federal Broaching Machine described in the Cost Approach section was also valued by the Market Approach using the direct match and comparable match techniques. I located sales of two Federal broaching machines sold from Old GM's Ypsilanti, Michigan plant in August 2010. One sale was a 2006 Federal model 450Kn X 2250 MM, serial number 07-S-103, reported to be a 2007 vintage machine in good operating condition. It was sold at auction for \$150,000, even though it had a total installed cost of \$1,535,729 when placed in service on September 15, 2007. I determined that this broaching machine is comparable in that it is essentially the same age as the subject Federal Broaching Machine and has the same capacity. An upward adjustment for conditions of sale was required because the comparable machine was sold at auction and auction prices are typically lower than orderly liquidation values. Finally, a 10% downward adjustment was made to the comparable broaching machine to account for the used equipment market being somewhat better in August 2010 than as of the Valuation Date.

V. VALUATION OF 40 REPRESENTATIVE ASSETS

The second sale is also a Federal broaching machine, a 2004 model 90KN X 1000MM, serial number 04-S-102, with a working area of 56 cubic feet. This machine was reportedly in good operating condition and sold for \$100,000, even though it had a total installed cost of \$476,728 when placed in service on September 1, 2005. This comparable broaching machine sale is older than the subject, so a small upward adjustment to the selling price is required for age and condition. Because the subject Federal Broaching Machine is more powerful than the comparable broaching machine, I adjusted the price of the comparable broaching machine up by 30% to account for its smaller capacity. The same upward adjustment for conditions of sale and downward adjustment for date of sale were made as with the other comparable broaching machine.

The Market Approach is displayed below for the Helical Broaching Machine, Asset ID NITC035071.

	Subject Asset ID NITC03507	Comparable No. 1	Comparable No. 2
Description	Helical Broaching Machine	Helical Broaching Machine	Helical Broaching Machine
Manufacturer	Federal Broach	Federal Broach	Federal Broach
Model	450KN X 2250	450KN X 2250MM	90KN X 1000MM
Serial Number	12-S-105	07-S-103	04-S-102
Vintage	2006	2007	2004
Effective Age (Years)	3	3	6
Condition	Good	Good	Good
Other	Includes coolant filtration system, operators platform, hydraulic powerpacks, and Siemens controller	Includes coolant filtration system, operators platform, hydraulic powerpacks, and Siemens controller	Includes coolant filtration system, operators platform, hydraulic powerpacks, and Siemens controller
As of	6/30/2009	8/3/2010	8/3/2010
Consideration		150,000	100,000
Consideration Type		Sale Price (Auction)	Sale Price (Auction)
Source		MAYNARDS001952 (RACER Willow Run Auction)	MAYNARDS001952 (RACER Willow Run Auction)
Location	GM Powertrain Warren Transmission	GM - Ypsilanti, MI	GM - Ypsilanti, MI
Adjustments for:			
Age/Condition			20%
Capacity			30%
Other equipment			
Financing terms			
Conditions of sale		10%	10%
Market conditions (sale date)		-10%	-10%
Adjusted Price			
		\$150,000	\$150,000
Indicated Orderly Liquidation Value	\$150,000		

For this particular asset, the first comparable sale (listed in the chart as "Comparable No. 1") was an exact model match, meaning that no adjustments were required for physical characteristics. Because both comparable sales occurred on the same day, both were subject to the same adjustments for conditions of sale and market conditions. Because Comparable No. 1 broaching machine is such a close match physically, it is considered to be most comparable to the subject broaching machine, and so I relied on the value indicated by that sale.

Comparable sales data considered in my Market Approach analysis is contained in Exhibit E. For certain assets, I also considered scrap value as part of the Market Approach, either in addition to the comparable sales or in cases where comparable sales did not exist. My analysis of the scrap value considered as part of the Market Approach for certain assets is also contained in Exhibit E..

V. VALUATION OF 40 REPRESENTATIVE ASSETS

5. Sample Reconciliation of Approaches

To the extent possible, the values indicated by the Cost and Market Approaches have been reconciled into a single conclusion of value for each asset. Based on my experience as an appraiser, I determined that the unique situation of the 40 Representative Assets as of the Valuation Date made it too difficult to reasonably estimate depreciation from all causes. When both approaches were applied, I placed all weight on the Market Approach indication of value. It is my opinion that the Market Approach provides a far more reliable indication of value as of the Valuation Date, as fewer adjustments are required to develop an indication of value than in the Cost Approach.

For example, in the case of Asset ID NITC035071, the Federal Broaching Machine, discussed in the samples above, the value indicated under the Cost Approach was \$187,750 and the value indicated under the Market Approach was \$150,000. I concluded an Orderly Liquidation Value of \$150,000 for the Federal Broach, relying exclusively on the Market Approach value indication because the comparable broaching machine was such a close match to the subject asset. I considered, but ultimately discarded, the Cost Approach analysis because it required significant adjustments to account for economic obsolescence.

E. MARKET APPROACH ANALYSES

Exhibit E.29 - Market Approach - Asset ID NIT219381

Subject Asset ID NIT219381	
Description	4 Speed Build Line
Manufacturer	n/a
Model	n/a
Serial Number	n/a
Vintage	1983
Effective Age (Years)	26
Condition	Fair
Other	Includes assembly equipment, conveyors, and other related assets.
As of Location	Jun-09 GM POWERTRAIN WARREN TRANSMISSION
Replacement Cost New [a]	7,031,876
Scrap Factor	0.64%
Indicated Orderly Liquidation Value	\$ 45,000
Market Approach Technique:	Percent of Cost

[a] Replacement Cost New is developed in the Cost Approach as shown in Exhibit D.

E. MARKET APPROACH ANALYSES

Exhibit E.30 - Market Approach - Asset ID NITC03340

Subject Asset ID NITC03340		Scrap Value Estimate
Description	Button Up and Test Conveyor	
Manufacturer	Hirata Corp Of America	
Model	n/a	
Serial Number	n/a	
Vintage	2006	
Effective Age (Years)	3	
Condition	Good	
Other	Includes 340 linear feet of 18" wide conveyor, rotary tables, elevator and lowerator sections, a control panel, and a HMI.	
As of Location	Jun-09 GM POWERTRAIN WARREN TRANSMISSION	
Scrap Value Estimate		
Estimated Conveyor Length (ft)		340
Estimated Weight per Linear Foot (lb)		Estimate based on manufacturer's specifications of similar conveyor.
Conveyor Weight (lb)		100
Estimated Mezzanine Length (ft)		34,000
Estimated Weight per Linear Foot (lb)		
Mezzanine Weight (lb)		(No Mezzanine)
Ancillary Equipment (lb)		
Total System Weight (lb)	a	1,000 35,000
Mixed Steel Scrap Steel Price (\$/lb)		2009 mixed steel scrap price per U.S. Geological Survey Mineral Commodity Release (2010). Adjustment accounts for the purchaser's cost of removing asset.
Price Adjustment for Removal Net Scrap Price	b	-25% 0.0675
Final Adjusted Price (Rounded)	(a x b)	\$2,000
Indicated Orderly Liquidation Value		
Market Approach Technique:	Sales Comparison	

E. MARKET APPROACH ANALYSES

Exhibit E.31 - Market Approach - Asset ID NITC03507

Subject Asset ID NITC03507		Comparable No. 1		Comparable No. 2	
Description	Helical Broaching Machine	Helical Broaching Machine	Helical Broaching Machine	Helical Broaching Machine	
Manufacturer	Federal Broach & Machine Company	Federal Broach & Machine Company	Federal Broach & Machine Company	Federal Broach & Machine Company	
Model	450KN X 2250	450KN X 2250MM	90KN X 1000MM		
Serial Number	12-S-105	07-S-103	04-S-102		
Vintage	2006	2007	2004		
Effective Age (Years)	3	3	6		
Condition	Good	Good	Good		
Other	Includes coolant filtration system, operators platform, hydraulic powerpacks, and Siemens controller.	Includes coolant filtration system, operators platform, hydraulic powerpacks, and Siemens controller.	Includes coolant filtration system, operators platform, hydraulic powerpacks, and Siemens controller.		
As of	Jun-09	Aug-10	Aug-10		
Consideration		\$150,000	\$100,000		
Consideration Type		Sold Price (Auction)	Sold Price (Auction)		
Source		Maynards 001952 (RACER Willow Run Auction) - DataRef validated	Maynards 001952 (RACER Willow Run Auction)		
Location	GM POWERTRAIN WARREN TRANSMISSION	GM - Ypsilanti, MI	GM - Ypsilanti, MI		
Adjustments for:					
Age/Condition			20%		Subject asset is 3 years newer.
Capacity			30%		Subject asset has a significantly larger broaching force and stroke.
Other					
Financing terms					
Conditions of sale		10%	10%		Increase (minimal) in value due to level of trade. Auction was a Forced Liquidation Value scenario considering a reserve (scrap value).
Market conditions (sale date)		-10%	-10%		Industrial equipment values were approximately 10% higher in 2010 [a].
Final Adjusted Price (Rounded)		\$150,000	\$150,000		
Indicated Orderly Liquidation Value	\$	150,000			
Market Approach Technique:	Sales Comparison				

[a] Reference Exhibit E.35 for market conditions (sale date) adjustments based on the comparable as of date.

E. MARKET APPROACH ANALYSES

Exhibit E.33 - Market Approach - Asset ID BF2016822 01

Subject Asset ID BF2016822 01		Comparable No. 1	Comparable No. 2	Comparable No. 3
Description	GG-1 Clearing Transfer Press - 4,500 TON total pressing capacity [a]	GG-1 Clearing Transfer Press - 4,500 TON total pressing capacity [a]	Schuler Transfer Press - 5,000 TON total pressing capacity	TP-1 IHI Transfer Press - 4,500 TON total pressing capacity
Manufacturer			Schuler	IHI
Model			TSE8-3000-2000-216-216-108	TSE8-3000-1500-252-252-132
Serial Number			10980151	n/a
Image			1987	n/a
Effective Age (Years)			23	n/a
Condition			Fair	Fair
Other	4,500-ton (total) two-station straight side transfer-type press. Tonnage: Station 1 - 3000 / Station 2 - 1500; Stroke: Station 1 - 28" / Station 2 - 37"; Bed: 216"x108". Includes two press stands, all drive components, sound enclosure, and rolling bolsters.	4,500-ton (total) two-station straight side transfer-type press. Tonnage: Station 1 - 3000 / Station 2 - 1500; Stroke: Station 1 - 28" / Station 2 - 37"; Bed: 216"x108". Includes two press stands, all drive components, sound enclosure, and a Schuler end of line conveyor system.	5,000-ton (total) two-station straight side transfer-type press. Tonnage: Station 1 - 3000 / Station 2 - 2000; Stroke: Station 1 / 2 - 40"; Bed: 216"x108". Includes two press stands, electronic transfer system, all drive components, sound enclosure, and rolling bolsters.	4,500-ton (total) two-station straight side transfer-type press. Tonnage: Station 1 - 3000 / Station 2 - 1500; Stroke: Station 1 / 2 - 40"; Bed: 252"x132". Includes two press stands, electronic transfer system, all drive components, sound enclosure, and rolling bolsters.
As of Consideration	Jun-09	Nov-10	Jun-12	Oct-11
Consideration Type		\$275,000 Sold Price (Auction)	\$350,000 Sold Price (Private Treaty Sale)	\$300,000 Sold Price (Auction)
Source		Maynards 00795 (MLC Grand Rapids Auction)	Maynards 004989 (RACER Indianapolis Auction) - Dateref validated	Dateref (Independent Auction Database)
Location	GM MFD GRAND RAPIDS	GM - Grand Rapids, MI	GM - Indianapolis, IN	GM - Mansfield, OH
Adjustments for:				
Age/Condition				
Capacity				
Other				
Financing terms				
Conditions of sale				
		-5%		-10%
		Subject asset does not include electronic transfer and end of line conveyor systems.		Subject asset has smaller part capacity due to reduced bed size.
		10%	0%	10%
		Increase (minimal) in value due to level of trade. Auction was a Forced Liquidation Value scenario considering a reserve (scrap value).	No adjustment to value. Private treaty sale is an orderly liquidation sale.	Increase (minimal) in value due to level of trade. Auction was a Forced Liquidation Value scenario considering a reserve (scrap value).
Market conditions (sale date)				
		-10%	-20%	-15%
		Industrial equipment values were approximately 10% higher in 2010 [b].	Industrial equipment values were approximately 20% higher in 2012 [b].	Industrial equipment values were approximately 15% higher in 2011 [b].
Final Adjusted Price (Rounded)		\$261,000	\$280,000	\$255,000
Indicated Orderly Liquidation Value				
Market Approach Technique:				

[a] The subject asset was sold in November of 2010. The sale of this press included additional components (electronic transfer and end of line conveyor system) that were not included in the capitalized cost of the subject asset.
[b] Reference Exhibit E.35 for market conditions (sale date) adjustments based on the comparable as of date.

E. MARKET APPROACH ANALYSES

Exhibit E.35 - Sales Comparable Market Condition (Sale Date) Adjustments

Sales Comparable as of (Date Range)	Market Value Adjustments for June 30, 2009 Valuation Date [a][b]
1/1/2014 - 11/23/2016	-35%
1/1/2013 - 12/31/2013	-25%
1/1/2012 - 12/31/2012	-20%
1/1/2011 - 12/31/2011	-15%
1/1/2010 - 12/31/2010	-10%
1/1/2009 - 12/31/2009	0%
1/1/2008 - 12/31/2008	-25%
1/1/2007 - 12/31/2007	-35%
1/1/2006 - 12/31/2006	-35%

[a] Quantitative analysis of new and used equipment sales/market data from 2006 through 2016 in addition to a qualitative analysis by interviews with used machinery and equipment dealers. This analysis takes into account the change in a machine's effective age between the different sales dates. The table above is a conservative summary of this analysis, which uses the Valuation Date as a base date range for the adjustments.

[b] Certain testimony of Robert Levy of Hilco Industrial and Taso Sofitakis of Maynards Industries concerning the market conditions and the resulting effect on the value of industrial machinery and equipment was considered in the development of this adjustment table.

E. MARKET APPROACH ANALYSES

Exhibit E.36 - Scrap Factor Analysis

Asset ID	Description	Replacement Cost New [a]	Weight	Scrap Price [b]	Removal Discount [c]	Adjusted Scrap Price	Scrap Value [d]	Scrap Value as a Percentage of Replacement Cost New
100037954	100037954 - PAINT DIP CONVEYOR - ELPO OVEN IMC	1,266,295	99,500	0.09	-25%	0.07	7,000	0.55%
100061079	100061079 - BS SKID CONVEYOR - LAZA	2,851,751	331,500	0.09	-50%	0.05	15,000	0.53%
100061614	100061614 - BS P&F CONVEYOR - BODY SIDE INNER LH DEL	1,885,658	543,800	0.09	-50%	0.05	24,000	1.27%
100065640	100065640 - GA CONVEYOR SUB-ASM RECEIVING (SAR): WTD1000 - WHEEL & TIRE DELIVERY	1,312,346	119,000	0.09	-50%	0.05	5,000	0.38%
100066809	100066809 - GA CONVEYOR: SKILLET - FINAL - LEG 1	1,691,120	20,500	0.09	-25%	0.07	1,000	0.06%
100095344	100095344 - CORE DELIVERY CONVEYOR SYSTEM CB116 & 122	308,405	28,000	0.09	-50%	0.05	1,000	0.32%
100033438	100033438 - POWER ZONE ROLLER CONVEYOR AUTOMATION TCH MOD 3	1,156,509	38,000	0.09	-25%	0.07	3,000	0.26%
NITC03340	NITC03340 - BUTTON UP AND TEST CONVEYOR SYSTEM	3,079,861	35,000	0.09	-25%	0.07	2,000	0.06%
100062269	100062269 - GA CONVEYOR: VERTICAL ADJUSTING CARRIER (VAC) SYS - CARRIERS (QTY 87)	4,674,928	765,600	0.09	-15%	0.08	59,000	1.26%

Mixed Steel Scrap Factor [e]

0.64%

Electrical System Scrap Factor [f]

6.40%

- [a] Replacement Cost New is developed in the Cost Approach as shown in Exhibit D.
 [b] Based on a price of \$0.09 per pound of scrap mixed steel as reported in the US Geological Survey, Mineral Commodity Summaries, January 2010.
 [c] Adjustment accounts for the purchaser's cost of removing the asset.
 [d] Calculated as (Weight x Adjusted Scrap Price).
 [e] Represents a weighted average scrap value as a percentage of replacement cost new.
 [f] Estimated based on comparison of commodity price between mixed steel and copper wire.

Exhibit F

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US Bankruptcy Court - New York

**Motors Liquidation Company
Avoidance Action Trust
v.
JPMorgan Chase Bank, NA**

CONFIDENTIAL

***Video Deposition of:
Patrick Furey, Volume 2
October 15, 2018***

US Bankruptcy Court - New York
MLC v. JPMorgan Chase BankFINAL - CONFIDENTIAL
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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORKIN RE:
MOTORS LIQUIDATION COMPANY, et al.,
Debtors.Chapter 11
Case No.: 09-50026 (REG)
(Jointly Administered)MOTORS LIQUIDATION COMPANY AVOIDANCE ACTION
TRUST, by and through the Wilmington Trust
Company, solely in its capacity as Trust
Administrator and Trustee,
Plaintiff.v.
JPMORGAN CHASE BANK, N.A., individually and
as Administrative Agent for various lenders
party to the Term Loan Agreement described
herein; ADVENT GLOBAL OPPORTUNITY MASTER
FUND; AEGON/TRANSAMERICA SERIES TRUST MFS
HIGHYIELD; ALTICOR INC., et al.,
Defendants.VIDEO DEPOSITION OF
Patrick Furey, Volume 2
October 15, 2018
Houston, Texas
Lead: Neil Binder, Esquire
Firm: Binder & SchwartzFINAL COPY - CONFIDENTIAL
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1 Q. And do you believe KPMG applied the
2 best methodology to assets being transferred to a
3 NewCo location? Let me reframe that. Do you
4 think that you — that KPMG applied an
5 appropriate methodology to value the assets that
6 were transferred from Old GM to New GM?

7 A. I feel like the methodology that we
8 employed was reasonable, given the scope of the
9 assets that we were looking at.

10 In a perfect world somebody would go
11 through each individual asset and come up with
12 estimates for uninstallation, freight and those
13 sort of things. Given the number of assets that
14 we were trying to analyze, we needed to use
15 percentages. And we felt that doing that at the
16 asset class level was a reasonable and
17 supportable way to come up with that calculation.

18 Q. And do you think it was reasonable to
19 value those assets on a going concern basis
20 rather than liquidation basis?

21 A. Yes, I did, given that the management
22 had indicated to us those would be moved to a
23 NewCo facility which would continue to operate
24 for the foreseeable future. So we felt that that
25 was the appropriate premise of value.

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1 Q. And I think it -- well, it says here
2 in the August 19, 2009 memo that uninstalled
3 percentages were based on our prior experience
4 with valuing similar types of assets. Can you
5 explain that?

6 MS. BOWER: Objection. I'll just
7 caution you not to reveal to the extent there's
8 anything confidential about other — other work
9 that you performed.

10 Q. Understood. I wasn't trying to get
11 at other specific assignments but rather how did
12 you use prior experience to derive uninstalled
13 percentages?

14 A. It would generally be based on
15 experience either appraising similar assets and
16 understanding the component costs that have gone
17 into those similar assets to provide a framework
18 for which assets would potentially have higher
19 uninstalled costs versus lower uninstalled costs.
20 That would be heavily supplemented by our
21 discussions with GM's engineers, who obviously
22 have significant expertise in the installation of
23 these assets. And between the two of those, we
24 would come up with what we could agree to be a
25 reasonable percentage for each asset category.

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1 Q. And I think you testified earlier
2 that the overall valuation approach, putting
3 aside the uninstall adjustment, was consistent
4 with the approach for assets that were already in
5 the New GM facilities. Would that include
6 economic obsolescence?

7 MR. BINDER: Objection.

8 A. Yes, they would all — all of the
9 assets within NewCo were subject to what I think
10 has been previously called the TIC adjustment.
11 So what we call from a valuation perspective
12 economic obsolescence would include all of the
13 assets at those locations for NewCo.

14 Q. And in addition to the TIC
15 adjustment, would those valuations include
16 physical depreciation?

17 A. Yes, they would.

18 Q. And would they include utilization
19 reductions, to the extent that facilities weren't
20 being utilized in full?

21 A. Yes, I believe they did.

22 Q. Okay. The methodology that you've
23 been testifying about where you have a cost
24 approach and then you have an adjustment for the
25 uninstall percent, is that a methodology that's

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1 been used in other matters, without getting into
2 any confidential specific matters?

3 A. I have used that in not exactly this
4 context, but I have used that methodology before.
5 I don't know that it's — it's — according to
6 the American Society of Appraisers, fair value
7 uninstalled is a premise of value that they
8 define. So we felt comfortable, given that that
9 is defined as a premise of value. And it seemed
10 to fit the fact pattern that we had of the assets
11 moving from OldCo to NewCo. We felt like it was
12 a reasonable way to proceed.

13 Q. And just to be clear on that answer,
14 the American Society of Appraisers does identify
15 uninstall — fair value uninstalled as a premise
16 of value?

17 A. They do.

18 Q. Okay. Let's talk about assets that
19 were not transferred to New GM but rather assets
20 that stayed at Old GM, which was the subject of
21 most of the testimony so far today.

22 If you could just open up the KPMG
23 report. NEWGM 189 is the first page. Turn to
24 page 328. That's NEWGM 328 on the bottom. It's
25 page 140.

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1 I think you've already testified
2 about this page and I'm not going to make you
3 read the whole thing, but I'm going to ask you a
4 few specific questions here.
5 There's a reference here to, "KPMG
6 relied primarily on auction data provided by
7 Maynards." Do you see that?
8 A. Yes, I do.
9 Q. And you testified today about
10 Maynards, right?
11 A. Yes.
12 Q. And in the next paragraph it says,
13 "KPMG compared the sales of assets similar in
14 nature to the personal property that GM had
15 disposed of through Maynards during the time
16 period from March 2009 through May 2009." Do you
17 see that?
18 A. Yes I do.
19 Q. And is that consistent with your
20 understanding that the Maynards sales that KPMG
21 relied on from a three-month period, March 2009,
22 April 2009, May 2009?
23 A. Yes, it is.
24 Q. And I think you testified earlier
25 that there were no sales prior to March 2009 from

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1 that.
2 Q. Okay. Do you know what GM's
3 instructions to Maynards were with respect to the
4 time period that Maynards had to sell assets?
5 A. I do not.
6 Q. Do you know whether Maynards, itself,
7 considered the sales in the March to May 2009
8 time period to be a forced liquidation?
9 A. We didn't ask Maynards to classify
10 the premise of value. We were just provided with
11 the proceeds that they realized in arm's length
12 transactions.
13 Q. Okay. So you don't know what
14 their -- what their view was of the premise of
15 value; is that correct?
16 A. No -- no, I don't.
17 Q. Okay. Now, this morning I think you
18 testified, and I was trying to just be very
19 accurate here. After a break you clarified your
20 testimony. And if I understand correctly, you
21 testified that the Maynards dispositions, they
22 were all the result of some kind of a
23 transaction. Is that a fair way to say it?
24 A. That was our understanding of the
25 data, yes.

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1 the Maynards sample; is that correct?
2 MR. BINDER: Objection.
3 MS. BOWER: Objection.
4 MR. BINDER: Misstates prior
5 testimony.
6 Q. Let me restate it. I certainly
7 wasn't trying to do that.
8 Is it accurate that there was not
9 Maynards data or -- Maynards sale examples from
10 prior to March 2009 that KPMG used for its
11 analysis?
12 A. There were not sales prior to that
13 that we -- that we used in our analysis, that's
14 correct.
15 Q. Okay. And is it also accurate that
16 there were no sales or dispositions from after
17 May 2009?
18 MR. BINDER: Objection.
19 MS. BOWER: Objection.
20 Q. Let me restate it. Is it also
21 accurate that KPMG in its valuation analysis did
22 not rely on any sales or dispositions from after
23 May 2009?
24 A. According to our report, that's what
25 it says. And I don't have a reason to dispute

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1 Q. And I want to just drill down to the
2 extent you know as to what kinds of transactions
3 they were. So, there were some transactions in
4 that sample that were arm's length sales of
5 individual assets, right?
6 A. Yes.
7 Q. Do you know -- of the over 4,000
8 dispositions, do you know how many fall in that
9 category?
10 A. I do not.
11 Q. And is it your understanding that in
12 that -- among the 4,000-plus dispositions, there
13 were also bulk scrap sales?
14 A. My understanding was that some --
15 some of the assets were sold for scrap, yes.
16 Q. And what other categories are there
17 that you have an understanding happened beyond
18 individual arm's length sales and scrap sales?
19 A. Well, I know some of the -- some of
20 the sales had come through auctions. Part of
21 what Maynards does is run -- run auctions for
22 secondary market assets. So our understanding
23 was that part of the sales proceeds had been
24 derived through that process.
25 We also know that some of the assets

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1 were just not marketable and had no offers and
2 were potentially just abandoned in place. But
3 beyond that, we didn't -- we didn't do -- we
4 didn't do any due diligence at the individual
5 transaction level to understand the exact nature
6 of each transaction.

7 Q. Got it.

8 So when you testified that your
9 understanding is that of the 4,000-plus
10 dispositions, they all involve some sort of
11 transaction, you don't have a detailed
12 understanding by category of what those
13 underlying transactions were; is that a fair
14 statement?

15 A. I would say that's a fair statement.

16 Q. All right. Let's pull up KPMG 92368.
17 This is a document we already looked at.

18 Mr. Furey, do you remember looking at
19 this document earlier today?

20 A. Yes, I do.

21 MR. BINDER: Are you just referring
22 to the whole Excel that's on the screen or just
23 the Summary by Retirement -- Retirement Year
24 page?

25 Q. That's fair. Right now what's on the

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1 Q. It's a very high percent of the total
2 dispositions, right?

3 A. That's correct.

4 Q. Let's go to -- sorry, I'm just trying
5 to skip things that were already covered.

6 A. Okay.

7 Q. All right. Let's go to "Assets
8 Disposed After 2-28-09" tab.

9 So I -- we just pulled up Assets
10 Disposed After 2-28-09, which is one of the tabs
11 in this spreadsheet, and just a few questions
12 about this.

13 Looking at column B, do you see the
14 heading that says, "KPMG File Source"?

15 A. Yes, I do.

16 Q. And I'm just going to ask that that
17 file source be sorted so that we can see the
18 different ones. And, Mr. Furey, do you see that
19 there are a list of six xls files listed here
20 under KPMG File Source?

21 A. Yes, I do.

22 Q. And the first one says Disposal code
23 scrap 2007 to 2009 categories other than robots,
24 other productive processing dot xls. Do you have
25 an understanding of what that refers to?

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1 screen is Summary by Retire Year. I'll try to be
2 clear as to what --

3 A. Okay.

4 Q. -- tab we're looking at.

5 I want to direct your attention to
6 the Grand Total row of the Account column. Do
7 you see that?

8 A. Yes I do.

9 Q. And I've been using over 4,000
10 because that's what the KPMG report and some
11 memos say, but when -- is it your understanding
12 that the Maynards data consisted of 4,485
13 transactions or dispositions?

14 MS. BOWER: Objection.

15 A. That appears to be a correct count
16 based on the disposal dates that are listed on
17 the header.

18 Q. Let's go to the count of zero
19 proceeds column, or I'll direct your attention to
20 that column, column C.

21 So out of the 4,485 total
22 dispositions, how many of them reflected a zero
23 proceeds for Old GM?

24 A. Based on -- based on the summary
25 that's shown there, it appears to be 4,243.

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1 A. I -- the -- the entirety of the name
2 is the identification of the file that that
3 individual transaction came from. I believe that
4 naming convention is the naming convention that
5 came in the files from Maynards, so we included
6 that in our consolidated file so that we would
7 have traceability back to the source documents.
8 Based on the name, it appears to come from a file
9 of assets that were sold for scrap in categories
10 other than robots.

11 Q. Okay. And the second category says,
12 "Proceeds for fixed assets 2007 to 2009 V2
13 disposal code sale." Do you have an
14 understanding what that refers to?

15 A. Again, those were Maynards'
16 terminology. So the disposal codes I'm not a
17 hundred percent clear on, but it appears to be,
18 again, a listing of proceeds that were received
19 from a variety of sales that Maynards has
20 conducted on GM's behalf.

21 Q. I'm not going to ask you to go
22 through each one, but you see 3, 4, 5 and 6 are
23 all file names that include a reference to scrap;
24 is that correct?

25 A. Yes, that is correct.

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1 Q. And your understanding is that those
2 are -- that's Maynards' characterization on a
3 Maynards file; is that correct?
4 A. That's correct.
5 Q. All right. Let's look at column Y,
6 "Disposal Code," please.
7 So this is a column that has one of
8 two letters under it. And can we sort column Y,
9 please, so you see the two options?
10 So there's an option for R and
11 there's an option for S. Can we just sort it so
12 we see how many are R and how many are S, please?
13 MR. BINDER: Objection. Do we know
14 Blanks isn't an option? I just don't know.
15 Q. Let's just sort it. Let's see how
16 many are R and how many are S, please.
17 So based on sorting for R, Mr. Furey,
18 how many of the records appear to be R?
19 A. Based on the count of the screen, it
20 looks like 4,054.
21 Q. Okay. And let's look for S, please.
22 And of the 4,485 records, based on
23 this spreadsheet, how many appear to be S?
24 A. It appears to be 428.
25 Q. Okay. And let's look for Blanks,

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1 I'm going to ask that this
2 spreadsheet and the R and the S be manipulated a
3 bit to see if it refreshes your recollection at
4 all as to what these categories are.
5 Why don't we filter column V so that
6 we have only the zero -- before I do that,
7 column V is -- what's the title of column V? Can
8 you just manipulate that so we can see the
9 column, please? It says, "Disposal Proceeds,"
10 right? Column V.
11 A. Yes.
12 Q. And under Disposal Proceeds, why
13 don't we manipulate it so it's only zeros
14 under -- under Disposal Proceeds.
15 So out of the 4,485, how many of the
16 records show zero for Disposal Proceeds?
17 A. Appears to be 4,243.
18 Q. Okay. Let's manipulate it further so
19 that it's Disposal Proceeds that have an S
20 instead of an R or anything else.
21 Okay. Out of the disposal proceeds
22 in the S category, how many have a zero?
23 A. Appears to be 186.
24 Q. Okay. Let's change it now so we look
25 at R rather than S.

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1 please.
2 MR. BINDER: Okay. You're right,
3 Neil, there are three blanks.
4 Q. So before I get into S and R in
5 further detail, do you know what S and R stand
6 for?
7 A. I believe the R and S designations
8 were on the files that came from Maynards. I
9 don't specifically know what R and S stand for.
10 Q. Are you familiar with a concept
11 called reclamation?
12 A. Yes, I am.
13 Q. Are you familiar with it in the
14 concept of a sale of assets, what reclamation
15 would be?
16 A. Not in -- not in this context, no.
17 Q. Okay. So you don't know one way or
18 the other whether R might stand for reclamation?
19 A. I -- I wouldn't know.
20 Q. Okay. And you wouldn't know whether
21 S stands for sale?
22 A. It's a reasonable guess, but I can't
23 say for certain.
24 Q. I don't want you to guess. I'm
25 asking you what you know.

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1 And in the R category, how many of
2 disposal proceeds are zero?
3 A. Appears to be 4,054.
4 Q. And that's everything in the R
5 category, right? There's nothing in the R
6 category that doesn't have a zero?
7 A. Is that a question for me? Sorry.
8 Q. Well, let's -- if it's not clear from
9 what everybody did, can we sort it in a way to
10 show whether there's anything in the R category
11 that's not a zero?
12 MR. CELENTINO: Filter column Y by R
13 and then sort column B by Anything. If you go
14 down, you sort from largest to smallest and get
15 all the zeros.
16 MR. BINDER: Getting a much needed
17 assist here.
18 Q. So would you agree that based on our
19 manipulation of the spreadsheet it appears that
20 everything in the R categories is a zero for
21 Disposal Proceeds?
22 A. Yes, it does appear that way.
23 Q. And does going through this exercise
24 refresh your recollection at all as to what R and
25 S signify?

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1 A. It doesn't.
2 Q. Okay. Who would know the answer to
3 that, would it be Maynards?
4 MS. BOWER: Objection.
5 Q. Well, can you -- do you have any
6 opinion as to who might know what R and S is?
7 A. Based on my read of the notes earlier
8 today, Sara Webb and/or Maynards would be the two
9 sources. Given that most of these columns were
10 populated by Maynards, I would think they would
11 be probably the most knowledgeable.
12 Q. All right. Let's go to the Summary
13 by Retire Year tab.
14 So just looking at one example, let's
15 look at Press Metal Equipment Medium Life. So
16 Maynards provided data, according to this tab,
17 for 1,140 assets in that category, right?
18 A. Yes.
19 Q. And under count of zero proceeds, it
20 says 1,092. So out of 1,140 assets, 1,092 had
21 zero proceeds for GM, right?
22 A. That's correct.
23 Q. So in this particular category, only
24 48 assets were sold for any value for GM. Is
25 that the right way to understand this?

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1 A. If that math is -- subtraction is
2 correct, yes, that would be the correct way to
3 characterize it.
4 Q. Okay. And then the .89 percent for
5 that same category, can you just explain -- and
6 here I apologize for making you repeat yourself
7 exactly. What's the division exercise that leads
8 to .89 percent?
9 A. Yeah, so the .89 percent for pressed
10 metal equipment, it would just be the ratio of
11 the disposal proceeds divided by the reproduction
12 cost new. So in that example the 311,000 divided
13 by the 35-odd-million dollars of reproduction
14 cost new.
15 Q. Okay. Are you aware that in this
16 litigation between the Avoidance Action Trust and
17 JPMorgan and others there has been an expert who
18 has done his own separate valuation of certain
19 assets that stayed back at Old GM?
20 A. No, I was not aware of that.
21 MR. KLEINHAUS: All right. Let's
22 mark an exhibit. What's that going to be?
23 THE COURT REPORTER: 16.
24 MR. KLEINHAUS: 16.
25 (Exhibit JPM-KPMG 16, marked for

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1 identification.)
2 Q. My first question will be have you
3 ever looked at this document before? And just to
4 be clear, what it is, it says, "Direct Testimony
5 of David K. Goesling," on the cover. It says,
6 "Binder & Schwartz LLP," on the top. It has the
7 caption of Motors Liquidation Company on it.
8 A. I don't -- I don't believe that I've
9 ever seen this before.
10 Q. Okay. All right. Let's go back to
11 GM -- KPMG-GM92370.
12 MS. BOWER: Not for you. It's for
13 the screen.
14 MR. BINDER: What's the --
15 MR. KLEINHAUS: You want to go off
16 the record?
17 MR. BINDER: We don't need to.
18 So there was the document -- I don't
19 know whether this is the red line, the one that
20 ultimately made -- is this the red line? The one
21 I think that was ultimately admitted was the red
22 line. I just want to know whether -- and this
23 isn't that. I don't know whether it's going to
24 impact any of your questions or not, but I just
25 wanted to note that.

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1 MR. CELENTINO: It shouldn't impact
2 any of the questions.
3 MR. KLEINHAUS: All right. Well,
4 look, I'm going to ask a few questions. If it
5 impacts it, we'll talk about it.
6 MR. BINDER: I just wanted to --
7 okay.
8 MR. KLEINHAUS: So just to your
9 point, this is dated -- this is a version dated
10 April 14, 2017, on page 197 at the end of the
11 Declaration.
12 Q. (BY MR. KLEINHAUS) So we're going
13 back to KPMG-GM-92370. And what I want -- let's
14 go to Asset Details tab here, please.
15 What I want to go here -- do now is
16 go through a particular asset, which is going to
17 be row 14736. And this asset is called --
18 MR. KLEINHAUS: Do we have 14736?
19 Q. This is the TP-14 CS-11 Transfer
20 Press Stanley E2-2.
21 Focusing only on the columns that
22 affect the valuation outcome, can you just tell
23 us how KPMG derived the OLV for this particular
24 asset and what that value was?
25 A. So the procedure for coming up with

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1 the orderly liquidation value would be -- for
2 this asset I believe would be consistent with the
3 other assets that we valued for OldCo.

4 Q. All right. Let's go to column AF.
5 We'll try to help this along.

6 Okay. So you have an RCN in
7 column AF, which is \$5,274,394. Do you see that?

8 A. That's correct. That would be the
9 reproduction cost for that asset as of our
10 effective date of valuation.

11 MS. BOWER: Just for the record, I
12 believe you said 274,000 instead of 724,000.

13 MR. KLEINHAUS: You're absolutely
14 right. It's 5,724,394.

15 Q. And then let's go to column BM,
16 please.

17 So, can you tell us how that OLV
18 override of I think it's \$50,817 was calculated?

19 A. I would assume that this asset is
20 being treated similarly to the other assets in
21 that that reproduction cost new is being
22 multiplied by the liquidation percentage that we
23 calculated for that asset category to -- to come
24 up with that number.

25 Q. Right. And we just looked at, and we

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1 Q. All right. This is an Order of the
2 bankruptcy court in our case on October 4th,
3 2017. I'm not going to ask you to read it in
4 detail, but I am going to ask you to turn to
5 Exhibit A?

6 A. Table A?

7 Q. Exhibit A has -- is followed by
8 Table A. Exactly.

9 A. Okay.

10 Q. If you look at -- there's a list of
11 assets -- right -- asset numbers?

12 A. Yes, I see that.

13 Q. If you look at asset number 30. Do
14 you see here that that's the TP-14 Transfer
15 Press?

16 A. Yes, I see that.

17 Q. And the value that's ascribed here is
18 \$800,000, right?

19 A. Yes, I see that.

20 Q. And that's a lot higher than \$50,800,
21 right?

22 A. Yes, that is higher, correct.

23 Q. And do you happen to know how --
24 well, let me ask this. Under "Source of
25 Valuation," do you see it says, "Goesling OLVIE"?

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1 can go back to it, we looked at transfer presses
2 which had a .89 percent liquidation percent. Do
3 you remember that?

4 A. That sounds correct, yes.

5 Q. Okay. I'm not going to make you do
6 complex math on the fly here, but --

7 MS. BOWER: You might be surprised.

8 MR. KLEINHAUS: I wouldn't be
9 surprised.

10 Q. But -- all right. So we have the
11 application of the liquidation percent for this
12 category of assets as against the RCN, right?

13 A. That's correct, yes.

14 MR. KLEINHAUS: Let's -- a new
15 exhibit. This is going to be JPM 17.

16 Q. And while we're getting it, you ended
17 up -- you end up in the spreadsheet with rounded
18 number -- right -- which is 50,800? That's in
19 column BO?

20 A. That's correct.

21 MR. KLEINHAUS: This is going to be
22 JPM 17.

23 (Exhibit JPM-KPMG 17 marked for
24 identification.)
25

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1 A. Yes, I do.

2 Q. So what I want to do now is show you
3 from Exhibit 16, which I put in front of you,
4 Mr. Gossling's analysis of the same asset that
5 KPMG valued at \$50,800.

6 A. Okay.

7 Q. And why don't you start with
8 paragraph 397, please.

9 So I'll just -- it says,
10 "Accordingly, I applied the cost and market
11 approaches, but ultimately determined that the
12 market approach yielded the most accurate values
13 and where possible relied on the market
14 approach."

15 And now I'm going to go to
16 paragraph 407, please, which is under a heading,
17 "The Market Approach." And starting at the
18 beginning of 407 it says, "In developing my
19 opinion of OLV using the market approach, I
20 considered the following three techniques to
21 estimate the value of assets: One, a direct
22 match of a recent sale in the used market; two, a
23 comparable match which determined value based on
24 the analysis of similar used equipment sales;
25 and, three, the percent to cost technique."

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1 And then paragraph 408 says, "For the
2 direct match and comparable match techniques,
3 values of the representative assets were
4 estimated based on market prices and actual
5 transactions and on asking prices for similar
6 assets. After searching numerous sources and
7 databases for sales or offerings of assets
8 similar to the 40 representative assets, I
9 selected the sales or offerings I deemed to be
10 most comparable with the property being valued.
11 I then have to make adjustments to account for
12 differences in factor such as time of sale,
13 location, type, age, condition of the equipment,
14 and prospective use."

15 So a couple of questions. Are you
16 familiar with a valuation approach where you use
17 a direct match to a recent sale in the used
18 market?

19 A. Yes, I am.

20 Q. And for purposes of KPMG's valuation
21 of assets that remained at Old GM, KPMG didn't
22 use that approach, did it?

23 A. That's correct, we did not.

24 Q. And are you familiar with a valuation
25 approach under which a value -- a valuing

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1 BG120163301"?

2 A. Yes, I do.

3 Q. And then the description of the asset
4 here is the TP-14 Danly Transfer Press." Do you
5 see that?

6 A. Yes, I do.

7 Q. And then do you see that on this page
8 Mr. Goesling identifies four different comparable
9 sales?

10 A. Yes, I do.

11 Q. And do you see that based on an
12 analysis of comparable sales, there's an
13 indicated orderly liquidation value here at the
14 bottom of 800,000?

15 A. Yes, I do.

16 Q. And based on what you've read,
17 understanding that this is a big document, but
18 based on what you've read of Mr. Goesling's
19 approach, fair to say it was quite different than
20 the approach KPMG used for this particular asset?

21 MR. BINDER: Objection to form.
22 Lacks foundation.

23 A. Yes, his -- his approach is clearly
24 much more detailed on discrete assets whereas our
25 approach was covering a broader population of

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1 valuator would -- a valuation firm would look for
2 a comparable match where a direct match is
3 lacking and determine value based on the analysis
4 of similar used equipment sales?

5 A. Yes, I'm familiar with that approach.

6 Q. And for purposes of valuing assets
7 that remained at Old GM, KPMG did not use that
8 approach in this context, correct?

9 A. That's correct.

10 Q. Okay. I want to turn your attention,
11 please, to page 409 of this document.

12 MS. BOWER: I'm sorry, when you --
13 what document are you --

14 MR. KLEINHAUS: Of Exhibit 16,
15 please, the Goesling opinion.

16 MS. BOWER: So are we outside of the
17 opinion? Mine only goes up to 197.

18 MR. KLEINHAUS: I'm sorry, it's
19 Exhibit A to the opinion.

20 MS. BOWER: Got it.

21 Q. So it's page 409 of the overall
22 document. It's -- on the top it says, "E. Market
23 Approach Analyses."

24 Are you -- do you see it says here,
25 "Exhibit E-32 Market Approach - Asset ID

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1 assets.

2 Q. Now let's go back to page --
3 paragraph 410 of Mr. Goesling's report. It says
4 here, "I applied all three techniques in applying
5 the market approach. In addition, in instances
6 where there were no comparable sales of assets or
7 portions of assets, I considered whether there
8 was any scrap value for the asset or a portion
9 thereof."

10 In KPMG's valuation of the assets
11 that remained at Old GM, before ascribing a zero
12 value to that asset, did you perform any kind of
13 individualized analysis to see if that asset had
14 scrap value?

15 MR. BINDER: Objection. Form.

16 A. We didn't perform a scrap value
17 analysis at the individual asset level, no.

18 Q. Can you look at paragraph 413 of
19 Mr. Goesling's report here. This is a detailed
20 description of an appraisal of a particular
21 asset. I'm not going to ask you to read it all
22 out loud. If you could just read paragraphs 413
23 to 420 and then I'll ask you a couple of
24 questions.

25 (Witness reviewing document.)

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1 A. Okay.
2 Q. In paragraphs 416 to 420,
3 Mr. Goesling describes a cost approach that was
4 applied to this particular asset, right?
5 A. Yes.
6 Q. Now, KPMG in valuing assets left at
7 Old GM did not apply a cost approach, did it?
8 A. No, we did not.
9 Q. All right. Now, if I could ask you
10 please to read paragraphs 421 and 422.
11 A. How far do you want me to read?
12 Q. Just through 422, please.
13 A. Okay.
14 Q. So do you see here that in applying
15 the market approach applied to representative
16 asset number 36, Mr. Goesling identified
17 particular sales of what he calls comparable
18 assets, right?
19 MR. BINDER: Objection.
20 A. Yes, I do see that.
21 Q. And KPMG did not look for comparable
22 sales of particular assets -- right -- in its
23 valuation of assets that remained at Old GM and
24 were valued on a liquidation basis?
25 A. We didn't look for unique sales of

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1 individual assets, we looked -- we utilized the
2 Maynards data at the asset category level to
3 reflect those sales.
4 Q. Okay. And do you see here there's a
5 reference to one of the comparable sales being a
6 sale that occurred in August of 2010?
7 A. I do see that, yes.
8 Q. And Mr. Goesling applied an
9 adjustment, a ten percent downward adjustment to
10 account for the used equipment market being
11 somewhat better in August 2010 than as the
12 valuation date. Do you see that?
13 A. I see that, yes.
14 Q. So KPMG didn't take into account any
15 sales after May 2009, right?
16 A. That's -- that's correct, yes.
17 Q. Okay. Now, we've been talking about
18 the valuation approach that KPMG used for assets
19 that remained at Old GM that are in the personal
20 property category, correct?
21 A. That's correct, yes.
22 Q. And KPMG used a different method for
23 buildings and improvements that remained at
24 Old GM; is that correct?
25 A. That's correct, yes.

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1 Q. All right. I'm going to spend a lot
2 less time on it, but I do want to touch it
3 briefly.
4 If you could look at KPMG -- this is
5 going to be KPMG-GM-92253, which is -- hopefully
6 everybody has, right? Yeah, this is the
7 October 26, 2009 memo, AAT Exhibit 4.
8 Now, the first part of this memo --
9 well, I'm just going to ask you in an open-ended
10 way. Does this memo describe the process for
11 valuing buildings and improvements that remained
12 at Old GM?
13 A. Yes, I believe it does cover -- at a
14 high level covers the methodology that we used.
15 Q. And where is that?
16 A. Let me see. That would be starting
17 on page 5, "Valuation Methodology." The
18 paragraph starts, "The real property valuation
19 conclusions," and continues from there.
20 Q. Okay. Can you just tell us in your
21 own words -- well, let me back up. Are you
22 familiar with the method used by KPMG to value
23 buildings and improvements that remained at
24 Old GM?
25 A. I'm generally familiar with the

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1 process. I wasn't as intimately involved in the
2 real property analysis, but I'm generally
3 familiar with what we did.
4 Q. And based on that general
5 familiarity, can you describe to us the method
6 used by KPMG to value assets that remained at
7 Old GM in the buildings and improvements
8 category?
9 A. So the valuation for the real
10 property was a bit different than that of the
11 personal property. We relied more on what was
12 previously referred to as a comparable match
13 method, so looking at comparable sized
14 properties. And that analysis covered the land,
15 the buildings, land improvements as well as the
16 building improvements for each of those
17 locations.
18 Given that those properties weren't
19 going to be used for the specialized purpose they
20 were constructed for on a go-forward basis, we
21 felt that doing a sales comparison approach like
22 that was a more accurate representation of the
23 value.
24 Q. And was the value done at an
25 asset-by-asset basis or at a facility basis?

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1 A. It was done more at the property
2 level. For the purposes of our final deliverable
3 those values were pushed back into the fixed
4 asset listings of GM, but the analysis for the
5 real property was done at the property level.

6 Q. What does it mean to say they were
7 pushed back?

8 A. So the -- for example, if for a
9 specific location, say Moraine Assembly, we did a
10 sales comparison approach and came up with a
11 value for the real estate, the underlying fixed
12 asset ledgers for that location would have
13 potentially several thousand line items that make
14 up all of the expenditures that were made over
15 the years to build that facility up.

16 So for the purposes of accounting, we
17 needed to reconcile that conclusion of value back
18 into the underlying sub-ledger, so we would
19 allocate that value back into the detail. So
20 generally our clients like that because they need
21 to upload that detail into their fixed asset
22 system, so it's a -- in that case, the model
23 doesn't drive the valuation, the value comes from
24 the sales comparison approach and is pushed into
25 the asset detail.

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1 Q. So you said you don't recall now
2 where it ultimately ended. Do you recall now
3 what your understanding was at the time of either
4 Pontiac or Orion?

5 A. I don't recall off the top of my
6 head.

7 Q. Without being specific to plant, did
8 you have an understanding in the June 2009 time
9 period that there were certain plants that were
10 closed for some period of time to be refurbished
11 and then reopened?

12 A. I do recall having some discussions
13 about certain plants that were going to be
14 refurbished for new future vehicle lines, but
15 beyond that I don't recall the specifics.

16 Q. So you don't have a recollection as
17 to whether Orion or Pontiac fell in that category
18 of something that was going to be refurbished?

19 A. I don't specifically recall.

20 Q. I'm going to put on the screen a --
21 well, it's NEWGM 949, a spreadsheet that we've
22 all seen before, Fresh Start Personal Property
23 spreadsheet. And then what --

24 MR. KLEINHAUS: Can you put that on
25 the screen, please?

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1 MR. KLEINHAUS: You guys want to take
2 a quick break?

3 THE WITNESS: Sounds good.

4 THE VIDEOGRAPHER: Going off the
5 record. The time is 3:59.

6 (A break was taken from 3:58 p.m. to
7 4:12 p.m.)

8 THE VIDEOGRAPHER: Media Number 7.
9 On the record at 4:13.

10 Q. (BY MR. KLEINHAUS) All right.
11 Mr. Furey, at the time of -- well, let me put it
12 this way. In the June 2009 time period, did you
13 have an understanding as to what the proposed
14 disposition of the Orion plant would be?

15 A. At the time, I'm certain I did. I
16 don't recall right now what the ultimate
17 disposition of that plant was.

18 Q. Okay. As of the June 2009 time
19 period, did you have an understanding of what the
20 proposed disposition of the Pontiac plant would
21 be?

22 A. Similarly, at the time I'm sure I was
23 involved in discussions on whether it would be
24 OldCo or NewCo, but I don't recall right now
25 where it ultimately ended.

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1 (Discussion off the record.)

2 Q. So this is NEWGM 949.

3 MR. KLEINHAUS: Nick, can we put up
4 the excerpt that we've created or the subset that
5 just has Orion and Pontiac?

6 Q. What I can represent here is we've
7 taken 949 and sorted it so we're only covering
8 two plants, that's Orion and Pontiac.

9 A. Okay.

10 Q. And can we go, please, to column BA,
11 "Basis for Concluded Value." And let's sort that
12 so we can see the options.

13 Why don't we start by just sorting it
14 by "inutility," in other words, only assets that
15 have "inutility" as the basis for concluded value
16 included.

17 Now, Mr. Furey, when we last met in
18 2017, you testified regarding inutility as a
19 basis for a concluded value for assets that were
20 in New GM plants. Do you remember that?

21 A. Yes, I do.

22 Q. And at a high level, can you remind
23 us what it means to say that inutility is a basis
24 for concluded value?

25 A. So that terminology was something we

Exhibit G

General Motors Corporation
Summary of Disposed Assets
Disposal Dates: 03/01/2009 - 05/31/2009

KPMG Asset Class	Count	Count of Zero Proceeds	Installed Cost	RCN	Disposal Proceeds	Proceeds / RCN	Average Age (RCN weighted)
Assembly Equipment - Medium Life	755	747	52,643,263	57,515,945	15,570	0.03%	16.66
Computer Equipment	570	570	4,446,689	4,446,689	-	0.00%	9.07
Conveyors - Medium Life	182	180	7,295,437	16,041,361	890	0.01%	28.92
Cranes	35	29	1,394,858	5,112,829	135,623	2.65%	39.44
Electric Power Equipment	14	14	139,600	378,559	-	0.00%	35.04
Foundry Equipment	35	35	1,319,637	1,567,167	-	0.00%	12.05
General Plant Equipment - Medium Life	366	348	5,855,212	8,193,661	46,718	0.57%	20.87
Machine Tools - Cutting - Medium Life	337	283	23,401,707	32,807,662	271,042	0.83%	17.55
Office Equipment	49	49	502,394	669,670	-	0.00%	10.44
Office Furniture & Fixtures	57	57	641,150	1,090,601	-	0.00%	23.46
Press Metal Equipment - Medium Life	1,140	1,092	28,511,210	35,075,218	311,374	0.89%	15.90
Robots - Medium Life	313	213	7,226,787	7,280,459	213,375	2.93%	9.93
Software	3	3	74,825	74,825	-	0.00%	2.67
Steam Power Equipment	1	1	22,345	32,613	-	0.00%	10.00
Testing Equipment	576	574	14,857,091	18,207,198	146	0.00%	15.59
Welding Equipment	52	48	1,291,468	2,071,296	4,889	0.24%	14.54
Grand Total	4,485	4,243	149,623,672	190,565,753	999,626	0.52%	17.94

Non-zero 242