

BINDER & SCHWARTZ LLP

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

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In re:

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

Chapter 11

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

Debtors.

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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.

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**DECLARATION OF ERIC B. FISHER IN SUPPORT
OF PLAINTIFF'S APPLICATION FOR SECOND LETTER ROGATORY**

I, Eric B. Fisher, declare as follows:

1. I am a Partner with Binder & Schwartz LLP, counsel for plaintiff Motors

Liquidation Company Avoidance Action Trust, by and through the Wilmington Trust Company,

solely in its capacity as Trust Administrator and Trustee. I make this declaration in support of plaintiff's application for a second letter rogatory pursuant to Fed. R. Civ. P. 4(f)(2)(B), addressed to the appropriate Austrian judicial authority, requesting that the Austrian court cause the Fourth Summons and Notice of Pretrial Conference in an Adversary Proceeding (ECF No. 471) (the "**Fourth Summons**") and the First Amended Adversary Complaint (ECF No. 91) (the "**Amended Complaint**") to be served upon defendant Oesterreichische Volksbanken AG.

2. On May 20, 2015, plaintiff filed its Amended Complaint (ECF No. 91).

3. On June 29, 2015, the Court granted plaintiff's application for letter rogatory to be transmitted to the appropriate Austrian judicial authority and requesting service of the Stipulation and Order dated May 19, 2015 (ECF No. 90), Summons and Notice of Pretrial Conference in Adversary Proceeding (ECF No. 92), and Amended Complaint on Oesterreichische Volksbanken AG (the "**First Letter Rogatory**") (ECF No. 107). The First Letter Rogatory was thereafter submitted to the United States Department of State (the "**State Department**") on July 24, 2015.

4. On January 15, 2016, I was informed that the Austrian Ministry of Foreign Affairs rejected the First Letter Rogatory because the enclosed summons referenced a pretrial conference scheduled for August 13, 2015. I was informed that due to significant backlog of approximately six months at the State Department, the First Letter Rogatory was not processed by the State Department until after August 13, 2015 and, consequently, the First Letter Rogatory was also not transmitted to the Austrian Ministry of Foreign Affairs until after August 13, 2015. I was further informed that a new summons, with updated response and hearing dates, and letter rogatory would be required.

5. In an effort to ensure that the new summons and letter rogatory would not be rejected by the Austrian Ministry of Foreign Affairs, on March 25, 2016 plaintiff requested that the Fourth Summons, a custom foreign summons setting forth a response date of thirty days from the date of service and a hearing date to be determined by the Court, be issued.

6. On April 1, 2016, the Fourth Summons was issued. The Fourth Summons provides that the defendant must respond to the Amended Complaint within thirty days from the date of service of the Fourth Summons and Amended Complaint. *See* ECF No. 471 at 15. The Fourth Summons further provides that a hearing will be held at a date and time to be determined. *See id.* at 16.

7. Plaintiff respectfully requests that the Court issue a second letter rogatory, reflecting the revised information contained in the Fourth Summons and requesting that the appropriate Austrian authority cause the Fourth Summons and the Amended Complaint to be served upon defendant Oesterreichische Volksbanken AG.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: May 11, 2016

/s/Eric B. Fisher
Eric. B. Fisher