

Hearing: June 9, 2009 at 8:30 a.m.

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Counsel to the Committee  
of Chrysler Affected Dealers

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

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In re:	: Chapter 11
	: :
CHRYSLER LLC., <i>et al.</i> ,	: Case No.: 09-50002 (AJG)
	: :
Debtors.	: (Jointly Administered)
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**NOTICE OF FILING BY THE COMMITTEE OF CHRYSLER AFFECTED  
DEALERS OF PROPOSED COUNTER ORDER ON DEALER  
AGREEMENT REJECTION MOTION**

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PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On May 14, 2009, the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed the Omnibus Motion of Debtors and Debtors in Possession for an Order, Pursuant to Sections 105, 365 and 525 of the Bankruptcy Code and Bankruptcy Rule 6006, (A) Authorizing Rejection of the Executory Contracts and Unexpired Leases with Certain Domestic Dealers and (B) Granting Certain Related Relief (Docket No. 780) (the "Rejection Motion"). Attached as Exhibit E to the Rejection Motion was a proposed form of order (the "Initial Proposed Order") granting the relief requested in the Rejection Motion.

2. On May 25, 2009, the Committee of Chrysler Affected Dealers (the "Dealer Committee") filed the Objection by the Committee of Chrysler Affected Dealers to Omnibus Motion of Debtors and Debtors in Possession for an Order, Pursuant to Sections 105, 365, and 525 of the Bankruptcy Code and Bankruptcy Rule 6006, (A) Authorizing Rejection of the Executory Contracts and Unexpired Leases With Certain Domestic Dealers and (B) Granting Certain Related Relief (Docket No. 2001) (the "Dealer Committee Objection").

3. On June 8, 2009, the Debtors filed its Notice Of Filing Of Revised Proposed Order Granting Relief Requested In Omnibus Motion Of Debtors And Debtors In Possession For An Order, Pursuant To Sections 105, 365 And 525 Of The Bankruptcy Code And Bankruptcy Rule 6006, (A) Authorizing Rejection Of The Executory Contracts And Unexpired Leases With Certain Domestic Dealers And (B) Granting Certain Related Relief (Doc. 3722) (the "Notice"). Attached as Annex 1 to the Notice is a form of revised proposed order granting the Rejection Motion (the "Revised Proposed Order").

4. The Dealer Committee appreciates the Debtors' effort to address certain of the Dealer Committee's objections to the Motion. The Revised Proposed Order in fact resolves

several of the Dealer Committee's objections but leaves other objections unresolved. Without waiving (and with express reservation of) its remaining objections set forth in the Dealer Committee Objection, the Dealer Committee believes that, in the event the Bankruptcy Court determines to grant the Motion, as modified to the extent set forth in the Revised Proposed Order, additional changes to the Revised Proposed Order should be made. Attached hereto as Exhibit A is a blackline showing the Dealer Committee's proposed changes to the Revised Proposed Order (the "Dealer Committee Proposed Order").

5. The Dealer Committee fully reserves its rights, including to make changes to the Dealer Committee Proposed Order as a result of the statements of counsel and the ruling of the Bankruptcy Court at the hearing on June 9, 2009, or otherwise.

Dated: June 8, 2009

s/Stephen D. Lerner  
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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

----- X  
In re : Chapter 11  
Chrysler LLC, *et al.*, : Case No. 09-50002 (AJG)  
Debtors. : (Jointly Administered)  
: :  
----- X

**COUNTER PROPOSED ORDER, PURSUANT TO SECTIONS 105  
AND 365 OF THE BANKRUPTCY CODE AND  
BANKRUPTCY RULE 6006, (A) AUTHORIZING THE REJECTION  
OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES WITH  
CERTAIN DOMESTIC DEALERS AND (B) GRANTING CERTAIN RELATED RELIEF**

This matter coming before the Court on the Omnibus Motion of Debtors and Debtors in Possession for an Order, Pursuant to Sections 105, 365 and 525 of the Bankruptcy Code and Bankruptcy Rule 6006, (A) Authorizing the Rejection of Executory Contracts and Unexpired Leases With Certain Domestic Dealers and (B) Granting Certain Related Relief (Docket No. 780) (the "Motion"),<sup>1</sup> filed by the debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors"); the Court having reviewed (i) the Motion, (ii) the Second Declaration of Peter M. Grady filed in support of the Motion and attached thereto as Exhibit B (the "Grady Declaration"), (iii) the other evidence designated into the record by the Debtors (Docket No. 3645) (collectively, the "Debtors' Designations"), the Committee of Chrysler Affected Dealers (Docket No. 3276) and other parties, (iv) the objections, statements, correspondence and other responses filed in response to the Motion (collectively with all supplements, amendments and joinders thereto, the "Objections") and (v) the Consolidated Reply

<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings given to them in the Motion.

filed by the Debtors in response to the Objections (Docket No. 3166) (the "Reply"); the Court having considered the statements of counsel and the evidence adduced with respect to the Motion, including at hearings before the Court on June 4, 2009 and June 9, 2009 (collectively, the "Hearing");

THE COURT HEREBY FINDS AND DETERMINES THAT:

A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

B. This is a core proceeding pursuant to 28 U.S.C. §§ 157(b) and 1334.

C. Venue is proper in this district pursuant to 28 U.S.C. § 1409.

D. Adequate notice of the Motion and the Hearing and an opportunity to be heard with respect to the relief granted herein was afforded to all necessary and appropriate interested parties, including, without limitation, the Affected Dealers and the Governmental Entities.

E. A waiver of the limitations of Bankruptcy Rule 6006(f)(6) is appropriate and justified with respect to the Motion.

F. Each of the Rejected Dealer Agreements and the Site Control Agreements (collectively, the "Rejected Agreements") is an executory contract capable of being rejected under section 365 of the Bankruptcy Code.

G. As reflected in the notice filed by the Debtors on June 3, 2009 (Docket No. 3478), New Chrysler has designated the Rejected Dealer Agreements as "Excluded Contracts" under the Purchase Agreement and thereby has (1) determined not to accept an assignment of any of the Rejected Dealer Agreements and (2) has waived its rights under the

Purchase Agreement and the Bidding Procedures Order to designate the Rejected Dealer Agreements for assumption and assignment in the future.

H. The Debtors have implemented a reallocation program under which qualified new Chrysler, Dodge and Jeep vehicles held by consenting Affected Dealers will be purchased from these dealers by remaining authorized dealers on the terms and conditions ~~substantially similar to the repurchase of vehicles that otherwise would occur under certain Dealer Laws upon a termination of a dealership~~ set forth in such program.

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

J. To the extent (and only to the extent) that any Dealer Laws conflict with the authority of the Bankruptcy Court to reject the Rejected Agreements, then for the limited purpose of authorizing such rejection under section 365(a) of the Bankruptcy Code, ~~the terms of this Order or the impact of the rejection of the Rejected Agreements under the Bankruptcy Code and applicable case law,~~ such laws Dealer Laws are preempted by the Bankruptcy Code, pursuant to the Supremacy Clause of the United States Constitution.

K. ~~Pursuant to section 365(g)(1) of the Bankruptcy Code, the rejection of the Rejected Agreements granted herein constitutes a prepetition breach by the applicable Debtors of each such agreement, which is authorized by the Bankruptcy Code and this Court.~~

KL. The legal and factual bases set forth in the Motion, the evidentiary record, the Grady Declaration, the Debtors' Designations and the Reply and at the Hearing establish just cause for the relief granted, and the findings made, herein.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED to the extent set forth herein. All Objections, to the extent not otherwise resolved as set forth herein or on the record of the Hearing, are OVERRULED.
2. The limitations contained in Bankruptcy Rule 6006(f)(6) are waived with respect to the Motion.
3. The Debtors are authorized to reject the Rejected Agreements with respect to the dealership locations identified on Exhibit A attached hereto and incorporated herein by reference. Effective as of June 9, 2009 (the "Rejection Effective Date"), all such Rejected Agreements are rejected, pursuant to section 365 of the Bankruptcy Code. Except for the factual finding in Paragraph J above, nothing contained in this order shall (a) constitute a finding of fact or conclusion of law regarding or affecting any alleged pre-emption of any applicable non-bankruptcy law by the Bankruptcy Code or otherwise or (b) limit or affect any rights of the Debtors, the Affected Dealers or other parties in interest to assert or oppose any alleged rights or interests under applicable non-bankruptcy law or the Bankruptcy Code.
4. Notwithstanding anything else contained in this Order, to the extent that new vehicles owned by an Affected Dealer are not reallocated pursuant to the Debtors' reallocation program and are subsequently sold by such Affected Dealer to retail consumers, the standard new vehicle warranty shall be applicable to each such vehicle, with the in-service date to be the date that such Affected Dealer submits a retail delivery report to the Debtors, to insure

the protections of safety recall notices to consumers and other public policy considerations of the National Highway Traffic Safety Administration or other regulatory agencies.

5.        All Affected Dealers who wish to assert claims against the Debtors of any kind or nature, including, but not limited to, claims arising out of or related to the rejection of the Rejected Agreements (collectively, "Rejection Damages Claims") must file a proof of claim for such Rejection Damages Claims no later than the general bar date to be established by the Court in these cases under Bankruptcy Rule 3003(c)(3) or make any administrative claim request by such other applicable deadline, and in accordance with such other procedures, as may be established by the Court for the assertion of such claims under section 503(a) of the Bankruptcy Code. If an Affected Dealer fails to file a timely ~~and proper~~ Rejection Damages Claim or administrative claim request, such Affected Dealer shall be forever barred, estopped and enjoined from asserting such Rejection Damages Claim or administrative claim request against the Debtors or voting or receiving distributions under any plan in these cases on account of such Rejection Damages Claim or administrative claim request. All issues relating to the allowance, amount, priority and treatment of any Rejection Damage Claim or any other claim, right or remedy asserted by the Affected Dealers are preserved. The Debtors and other parties in interest reserve and retain the right to object to any Rejection Damages Claims or other claims filed or asserted by the Affected Dealers (including as to allowance, amount, priority and treatment of such claims), or any other asserted rights or remedies, on any and all available grounds. None of the evidence provided by the Debtors, Affected Dealers or other parties in interest that was admitted into evidence in connection with the Motion, the Objections, the Hearing and this Order shall be treated as res judicata or collateral estoppel as to the Debtors, ~~or their estates,~~ Affected Dealers or any other party in interest, nor shall any such evidence ~~or otherwise shall have~~

preclusive effect on the Debtors, ~~or their estates, Affected Dealers or any other party in interest~~ in connection with any other proceeding, including in connection with the assertion of Rejection Damage Claims or other claims, rights or remedies by an Affected Dealer. All such evidence, to the extent admitted, was admitted for the purposes of the Hearing to consider the Debtors' ~~request to reject the Rejected Agreements~~ Motion.

5. — Pursuant to sections 365 of the Bankruptcy Code, as a result of the rejection of the Rejected Dealer Agreements, each Affected Dealer shall have no further rights (direct, indirect, contractual or otherwise) to act as an Authorized Dealer of the Debtors. As such, immediately as of the Rejection Effective Date, each such Affected Dealer is no longer authorized to, among other things:

- (a) — undertake any advertising, sales, repair or service of any of the Debtors' Products as an Authorized Dealer under the terms of the Rejected Dealer Agreements;
- (b) — hold itself out to any third party as an Authorized Dealer of the Debtors for any purpose; and
- (c) — display, distribute or otherwise use any signage, promotional or other materials bearing or containing the Debtors' trademarks, tradenames and servicemarks, except that it may use the Debtors' descriptive brand and vehicle model names solely for the purpose of identifying and advertising its inventory for sale to the extent permitted by applicable law for a party that is not an Authorized Dealer of the Debtors.

6. This Order shall be immediately effective and enforceable upon its entry.

7. This Court shall retain jurisdiction to resolve all matters relating to the implementation, enforcement and interpretation of this Order. Without limiting the foregoing, the Court also shall retain jurisdiction with respect to this Order and the Rejected Agreements over (a) any actions by the Affected Dealers against the Debtors or the property of their estates, including, without limitation, any actions in violation of the automatic stay under section 362 of

the Bankruptcy; ~~and~~ (b) any actions by the Debtors against the Affected Dealers; and (c) any ~~alleged~~ Rejection Damages Claims or other ~~alleged~~ claims alleged against the Debtors' estates, and any objections or defenses thereto.

Dated: New York, New York  
\_\_\_\_\_, 2009

UNITED STATES BANKRUPTCY JUDGE