

REJECTION MOTION HEARING: JUNE 3, 2009 AT 10:00 AM
REJECTION OBJECTIONS DUE: MAY 26, 2009 AT 4:00 PM

FLORIDA ATTORNEY GENERAL BILL McCOLLUM
Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399-1050
Telephone: 850.414.3854
Facsimile: 850.488.9134
Russell S. Kent & Ashley E. Davis (Pro Hac Vice Admission Request Pending)

Counsel to the Florida Attorney General

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

In re Chrysler LLC, <i>et al.</i> , Debtors.	: : : : : : : :	Chapter 11 Case No. 09-50002 (AJG) (Jointly Administered)
--	--------------------------------------	---

**OBJECTION OF THE FLORIDA ATTORNEY GENERAL 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 THE REJECTION OF EXECUTORY CONTRACTS
AND UNEXPIRED LEASES WITH CERTAIN DOMESTIC DEALERS AND (B)
GRANTING CERTAIN RELATED RELIEF**

TO THE HONORABLE ARTHUR J. GONZALEZ
UNITED STATES BANKRUPTCY JUDGE

The State of Florida, Department of Legal Affairs, Office of the Attorney General, by and through its undersigned counsel, hereby files this objection to 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” (the “Rejection Motion”) (Doc No. 780), and respectfully states as follows:

1. Objector is the Attorney General of the State of Florida. As the State’s chief legal officer, he is responsible for furthering the State’s interest in upholding the valid laws of the State and protecting the rights of dealers and consumers within the State.

2. Objector acknowledges the objections raised in 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,” dated May 25, 2009 (Doc. 2001).

3. In addition, Objector emphasizes the following points in furtherance of its objection:

- State Dealer Laws are not preempted by section 365 of the Bankruptcy Code. Section 365 says nothing about abrogating statutory obligations that are independent of those contracts. Additionally, those statutory obligations are based upon important public policies protecting decades long investments in

brands and communities. Like consumer protection laws, such obligations to a protected party are not preempted by section 365, but are expressly preserved under 28 U.S.C. § 959.

- Even if the Bankruptcy Code allows for termination of the relationship, state law still provides the procedure for that termination and ensures that jobs are not unnecessarily lost and that dealers have time to restructure their business as far as possible. There is no conflict between those laws and the purposes of the Bankruptcy Code. This is especially true where granting the Rejection Motion will be devastating to the community, town, and city, in which the affected dealers operate, as well as to the economy of the entire State. Among other things, an immediate rejection would result in a severe loss of jobs and a substantial risk of driving dealers and their families into bankruptcy themselves.
- State law also protects the regulatory authority of the State to consider licensure issues based on prepetition conduct. For example, approximately ten (10) dealers in Florida and two hundred (200) dealers nationwide decided to terminate their franchise agreements with Chrysler prior to the filing of the bankruptcy petition. It appears that these dealers, as of the effective date of their termination, were forced to turn over their parts inventory to Chrysler and to halt all efforts to dispose of their outstanding new vehicle inventory but have received no payment to date. The filing of the bankruptcy petition should have no effect on the ability of these dealers to ask the Florida Department of Highway Safety and Motor Vehicles to pursue licensure action against Chrysler under Chapter 320, Florida

Statutes, and for the Florida Department of Highway Safety and Motor Vehicles to take such action.

- The standard for approving the rejection of seven hundred and eighty-nine (789) dealer agreements *en mass* must be stricter than the business judgment rule usually applied to requests such as this. Dealer agreements are subject to specific laws in this state (*see* Chapter 320, Florida Statutes) intended to protect dealers from the very actions the Debtors are seeking approval of in the Rejection Motion. Similar to collective-bargaining agreements, these dealer agreements contain important rights and are a protected class of contract under the above-referenced dealer laws. As such, the Debtors should be required to satisfy a standard stricter than the business judgment rule in order to show that rejection is warranted in the face of the substantial harm it will cause to communities and individuals alike across the nation. The claimed benefits to Chrysler are disproportionately small compared to the effects on the affected dealers and their communities.
- Dealers have significant obligations to their customers and to the State. They will default on many of those obligations if the Rejection Motion is granted.

WHEREFORE, Objector respectfully requests that the Court deny the Rejection Motion in its entirety.

Dated: 5/26/09

Respectfully submitted,

BILL McCOLLUM
Attorney General

/s/ Russell S. Kent
RUSSELL S. KENT
Special Counsel for Litigation
Florida Bar No. 20257
russell.kent@myfloridalegal.com
ASHLEY E. DAVIS
Assistant Attorney General
Florida Bar No. 48032
ashley.davis@myfloridalegal.com
Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399-1050
Telephone: (850) 414-3854
Facsimile: (850) 488-9134