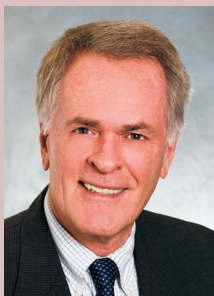




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Restructuring Chrysler and General Motors

In less than 60 days this summer, the North American auto industry was fundamentally restructured.

The stage was set for the unprecedented restructurings of General Motors and Chrysler by the global credit crisis and a dramatic drop in consumer confidence, contributing to a substantial decline in annual sales in the North American auto market. The automobile manufacturers faced uncertain futures; some experts believed that sales would stabilise at volumes well below peak levels for manufacturing capabilities. The disappearance of normal commercial credit markets at the same time meant that conventional financing was not available.

GM and Chrysler experienced difficult cash flow problems in early 2009 and sought financial support from the American and Canadian governments. Failure of the two companies would likely have had a major public impact because of the significant number of company employees and indirect employment in the auto parts and services industries. Leading up to the restructurings, the governments contributed billions of dollars of interim financing to support the companies' continuing operations.

Chrysler went into Chapter 11 first and exited in a remarkable 42 days after selling its assets in a transaction approved by the court over strenuous creditor objections. General Motors followed about a month later and also went through its Chapter 11 process in record time of 39 days. Its operating assets were conveyed in a court-approved sale process to a new company that assumed the General Motors name. Various assets and enormous liabilities were left behind in the old General Motors, renamed as Motors Liquidation Company.

The delicate restructuring situation was made much more complex by the highly integrated cross-border manufacturing operations. Without extremely close co-ordination and co-operation, the failure of operations on one side of the border would almost certainly have led to a business meltdown on the other side.

Combined, the governments of Canada and the Province of Ontario invested US\$12.5 billion in the restructurings. With the restructurings, the American, Canadian and Ontario governments are significant shareholders of the restructured GM and Chrysler.

A Canadian objective was to protect Canadian operations during and following the Chapter 11 reorganisations. Neither Chrysler nor GM filed in

Canada and a variety of checks and balances were needed in view of the risks of adverse action by creditors. These included highly structured initial credit facilities that contemplated the potential for subsequent restructurings, tranching and conditioned Canadian funding into the US Chapter 11 DIP facilities, various Canadian liquidity buffers, dedicated acquisition financing and an extremely high degree of participation in the US negotiations with close co-ordination with the United States Treasury Department. The ever-present risk of unexpected adverse events and the possibility of a complete business collapse required complex multi-track preparations, including the anticipation of possible separate Canadian proceedings and formal cross-border court-to-court protocols between Canadian and American courts.

Chrysler and GM were watershed cross-border restructurings for many notable reasons, including:

- (i) the very close US and Canadian governmental co-operation in the DIP and acquisition financing of the restructurings and throughout the course of the Chapter 11 proceedings;
- (ii) the co-ordination of the complex Chapter 11 proceedings while maintaining Canadian operations during the formal restructuring period without parallel insolvency proceedings in Canada;
- (iii) an unprecedented level of co-operation between the Canadian and Ontario governments on the restructuring of the Canadian operations;
- (iv) the speed of the restructurings, with major sale transactions in both cases; and
- (v) the governmental participation in the ownership of new Chrysler and new GM.

The active and knowledgeable involvement of senior representatives of the Canadian Departments of Industry and Justice, and of the US Treasury, contributed significantly to the success of the restructurings. ■

By Mike Weinczok, Bruce Leonard and Terry Hall at Cassels Brock & Blackwell LLP.

Editors' Note: Cassels Brock & Blackwell LLP, whose team included Mike Weinczok, Bruce Leonard, Joseph Bellissimo, Harvey Garman, Marc Mercier, David Budd and Charles Newman (restructuring) and Ken Snider (tax), acted as counsel to the Federal Government of Canada (through Industry Canada) in the General Motors and Chrysler restructurings. Terry Hall heads the firm's Financial Services practice group.