

**EPSTEIN BECKER GREEN P.C.**

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Hearing Date: TBD

Objection Deadline: Monday, June 15, 2009

and

**FRANTZ WARD LLP**

John F. Kostelnik (Ohio #0014919)  
Matthew H. Matheney (Ohio #0069974)  
Timothy J. Richards (Ohio #0078198)  
2500 Key Center, 127 Public Square  
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*Counsel to YRC Worldwide Inc.*

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

-----X		
In re	:	Chapter 11
	:	
GENERAL MOTORS CORP., <i>et al.</i> ,	:	Case No. 09-50026 (REG)
	:	
Debtors.	:	(Jointly Administered)
-----X		

**OBJECTION OF YRC WORLDWIDE INC. TO NOTICE  
OF (I) DEBTORS’ INTENT TO ASSUME AND ASSIGN CERTAIN  
EXECUTORY CONTRACTS AND (II) CURE COSTS RELATED THERETO**

YRC Worldwide Inc. (“Worldwide”) by its undersigned counsel, hereby objects on a limited basis (the “Objection”) to the Notice of (I) Debtors’ Intent to Assume and Assign Certain Executory Contracts, Unexpired Leases of Personal Property, and Unexpired Leases of Nonresidential Real Property and (II) Cure Costs Related Thereto (the “Notice of Intent”) served

upon Worldwide by the above-captioned debtors and debtors-in-possession (collectively, “GM”) pursuant to this Court’s Sale Procedures Order (ECF #274). In support of its Objection, Worldwide respectfully states as follows:

### **BACKGROUND**

1. YRC Inc., successor-in-interest to Yellow Transportation, Inc., Reimer Express Lines, Ltd and USF Reddaway Inc. are subsidiaries of Worldwide (collectively, the “Worldwide Entities”).

2. On June 1, 2009 (the “Commencement Date”), GM commenced these voluntary cases under chapter 11 of the Bankruptcy Code.

3. On June 1, 2009, this Court entered an order (the “Shippers and Warehousemen Order”) authorizing GM to pay the pre-petition claims of certain of GM’s carriers, warehousemen and other logistics suppliers.

4. Pursuant to the Shippers and Warehousemen Order, on or about June 1, 2009, GM sent a notice to stating that GM intends to pay the pre-petition claims of the Worldwide Entities in exchange for the Worldwide Entities’ written verification that they would (a) continue to provide services to GM during the pendency of GM’s bankruptcy case on the most favorable terms that existed between the Worldwide Entities and GM prior to the commencement of GM’s bankruptcy case and (b) not cancel any contract or agreement pursuant to which the Worldwide Entities provide services to GM on less than 90 days’ prior written notice. Each of the Worldwide Entities sent GM written verification of its agreement to these terms on June 5, 2009.

(*See, Exhibit A.*)

5. On June 2, 2009, this Court entered an order (the “Sale Procedures Order”) approving GM’s sale procedures, which includes procedures regarding GM’s assumption and assignment of executory contracts.

6. Pursuant to the Sale Procedures Order, on or before June 5, 2009, GM was required to send the Notice of Intent to each of the Worldwide Entities, indicating that GM intends to assume and assign certain of GM’s agreements with the Worldwide Entities (the “Assumed Contracts”). The Worldwide Entities have not received the actual Notice of Intent. Worldwide also has not received the actual Notice of Intent.

7. The Sale Procedures Order provides that information regarding the Assumed Contracts, including the Worldwide Entities’ cure amounts (the “Proposed Cure Amounts”), could be obtained from the Contract Website (as defined in the Sale Procedures Order). On June 11, 2009, the Worldwide Entities received login and password information from counsel to GM for the Contract Website. The Contract Website indicates that GM is assuming a contract with **Worldwide**, not each of the Worldwide Entities. The Contract Website does not indicate the Proposed Cure Amounts or has no cure amounts.

8. On June 9, 2009, GM sent Worldwide a letter stating that GM had sent Worldwide a Notice of Intent. (*See, Exhibit B.*) The letter also stated that, because Worldwide is paid on a tier 2 basis via one or several Lead Logistics Providers (LLP), the Proposed Cure Amount would be paid as part of the cure payment to the LLPs, however this was not provided for in any way in the Court approved Sale Procedures Order. The letter instructed Worldwide to contact its LLP to determine the Proposed Cure Amount.

9. Moreover, the Sale Procedures Order and the form Notice of Intent attached thereto limit the Proposed Cure Amount to such amounts that were in default as of the

Commencement Date, not the date the contracts will actually be assumed by GM and assigned to the Purchaser.

### **OBJECTION**

10. Worldwide does not believe it has a contract with GM. However, each of the Worldwide Entities has a contract with GM. Accordingly, Worldwide and the Worldwide Entities assume that GM actually intends to assume and assign the contracts of the Worldwide Entities.

11. Worldwide and the Worldwide Entities do not object to the sale of GM's assets as contemplated in the Sale Procedures Order and do not object to the assumption and assignment of the Worldwide Entities' contracts with GM. Worldwide and the Worldwide Entities only objects to the Proposed Cure Amounts contained in the Notice of Intent. Worldwide and the Worldwide Entities object to the Proposed Cure Amounts for two reasons.

12. First, the Sale Procedures Order and the form Notice of Intent attached thereto limit the Proposed Cure Amount to such amounts that were in default as of the Commencement Date, not the date the contracts will actually be assumed by GM and assigned to the Purchaser, as required under the provisions of 11 U.S.C. § 365. Under 11 U.S.C. § 365(b)(1), a debtor can assume an executory contract only if the debtor, at the time of such assumption, cures or provides adequate assurance that the debtor will promptly cure outstanding defaults. *In re U.S. Wireless Data, Inc.*, 547 F.3d 484, 489 (2d Cir. 2008); *see also, In re Stoltz*, 315 F.3d 80, 86 (2nd Cir. 2002). Accordingly, the Notice of Intent should make it clear that GM and/or the Purchaser are liable for all defaults as well as all other accrued liabilities that exist as of the moment the applicable executory contracts are actually assumed and assigned to the Purchaser.

13. Second, Worldwide and the Worldwide Entities object to the Cure Amounts proposed by GM to the extent the Proposed Cure Amounts are incorrect even as to those amounts that were in default as of the Commencement Date. As of the filing of this Objection, Worldwide and the Worldwide Entities have been unable to determine the Proposed Cure Amounts. Worldwide and the Worldwide Entities have not received the Notice of Intent. Worldwide and the Worldwide Entities have reviewed the Contract Website described in the Bidding Procedures Order. However, the Contract Website is unclear. The Contract Website either does not provide the Proposed Cure Amounts or provides a Proposed Cure Amount of \$-0-.

14. As suggested by GM's June 9, 2009 letter, the Worldwide Entities have contacted their LLP, Schneider Logistics, regarding the Proposed Cure Amount, even though this procedure was not provided for in any way in the Court approved Sale Procedures Order. According to Schneider, as of June 9, 2009 GM owes (i) YRC Inc., successor-in-interest to Yellow Transportation, Inc., \$4,636.42; (ii) Reimer Express Lines, Ltd \$-0-; and (iii) USF Reddaway, Inc. \$874.06. These amounts appear to be incorrect. The Worldwide Entities' books and records show that, as of June 10, 2009, the following amounts are owed by GM: (i) YRC Inc., successor-in-interest to Yellow Transportation, Inc., **\$20,829.00**; (ii) Reimer Express Lines, Ltd., **\$45,906.00**; and (iii) USF Reddaway, Inc., **\$6,787.00**. In an abundance of caution, these amounts include receivables that may be covered by the U.S. Treasury's automobile supplier program.

15. Further, Worldwide and the Worldwide Entities have not received the Notice of Intent and therefore are not certain which contract GM intends to assume and assign.

16. Worldwide and the Worldwide Entities expect that any differences regarding the appropriate cure amount can be reconciled, but files this objection out of an abundance of caution due to the deadlines for filing objections and to preserve all rights related to the proposed assumption of the Assumed Contracts.

17. Worldwide and the Worldwide Entities reserve all rights to amend and/or supplement this Objection.

WHEREFORE, YRC Worldwide Inc. and the Worldwide Entities respectfully request that, to the extent the parties cannot reconcile the correct cure amounts among themselves, this Court set the correct cure amount, compel GM to pay the correct cure amount and grant such other and further relief as is just and appropriate.

**EPSTEIN BECKER GREEN P.C.**

s/ Paul Traub

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*Counsel to YRC Worldwide Inc.*

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[trichards@frantzward.com](mailto:trichards@frantzward.com)

**UNITED STATES BANKRUPTCY COURT  
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GENERAL MOTORS CORP., <i>et al.</i> ,	:	Case No. 09-50026 (REG)
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Debtors.	:	(Jointly Administered)
-----X	:	

**AFFIDAVIT OF SERVICE**

STATE OF OHIO )  
 ) ss:  
COUNTY OF CUYAHOGA )

I, Timothy J. Richards, state as follows:

1. I am over 18 years of age and am not a party to this action.
2. I am employed by Frantz Ward LLP at 2500 Key Center, 127 Public Square

Cleveland, OH 44114.

3. On June 12, 2009, I caused to be served a true and correct copy of the *Objection of YRC Worldwide Inc. to Notice of (I) Debtors' Intent to Assume and Assign Certain Executory Contracts and (II) Cure Costs Related Thereto* on all ECF participants via the Court's ECF system and via overnight courier upon the following:

Miller, Johnson, Snell & Cummiskey, PLC  
250 Monroe Avenue, N.W., Suite 800  
Grand Rapids, Michigan 49503  
(Attn: Robert D. Wolford, Esq.)

*Attorneys for the Creditors Committee*

General Motors Corporation  
30009 Van Dyke Avenue  
Warren, Michigan 48090- 9025  
(Attn: Warren Command Center, Mailcode  
480-206-114)

*Debtors*

United States Treasury  
1500 Pennsylvania Avenue NW  
Room 2312  
Washington, D.C. 20220  
(Attn: Matthew Feldman, Esq.)

*United States Treasury*

Vedder Price, P.C.  
1633 Broadway, 47th Floor  
New York, New York 10019  
(Attn: Michael J. Edelman, Esq. and Michael  
L. Schein, Esq.)

*Attorneys for Export Development  
Canada*

Cadwalader, Wickersham & Taft LLP  
One World Financial Center  
New York, New York 10281  
(Attn: John J. Rapisardi, Esq.)

*Attorneys for the Purchaser*

Weil, Gotshal & Manges LLP  
767 Fifth Avenue  
New York, New York 10153  
(Attn: Harvey R. Miller, Esq., Stephen Karotkin,  
Esq., and Joseph H. Smolinsky, Esq.)

*Attorneys for the Debtors*

Office of the United States Trustee for the  
Southern District of New York  
33 Whitehall Street, 21st Floor  
New York, New York 10004.  
(Attn: Diana G. Adams, Esq.)

*United States Trustee*

Kramer, Levin, Naftalis & Frankel, LLP  
1177 Avenue of the Americas  
New York, New York 10036  
(Attn: Kenneth Eckstein, Esq. and Thomas  
Moers Mayer, Esq.)

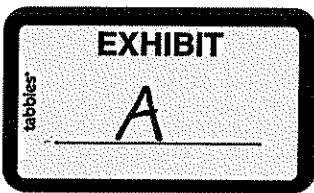


Chambers Copy

The Honorable Robert E. Gerber  
United States Bankruptcy Court  
Southern District of New York  
One Bowling Green, Room 621  
New York, NY 10004-1408

s/ Timothy J. Richards \_\_\_\_\_

Timothy J. Richards



Global Purchasing and Supply Chain

Cadillac Building  
M/C 480-206-136  
30009 Van Dyke Ave  
Warren MI 48090-9025

June 1, 2009

Dear GM Logistics Supplier:

In an important and positive development in GM's court-supervised proceedings, today the United States Bankruptcy Court for the Southern District of New York issued an Order approving GM's motion seeking the Court's authority to pay the prepetition claims of certain of its carriers, warehousemen and other logistics suppliers, referred to as "Shippers" and "Warehousemen". A copy of the Order approving the Shippers and Warehousemen Motion is attached and can also be obtained at [www.GM.com/Restructuring](http://www.GM.com/Restructuring).

Because you are a vital element of GM's reinvention and qualify as either a Shipper or Warehousemen, GM has been granted authority to pay your prepetition claim in exchange for your written verification that you will (a) continue to provide services to GM during the pendency of its chapter 11 case on the most favorable terms that existed between you and GM prior to the commencement of the chapter 11 case and (b) not cancel any contract or agreement pursuant to which you provide services to GM on less than 90 days' prior written notice. It is GM's hope that this process will allow GM's relationship with its carriers, warehousemen and logistics suppliers to continue during GM's court-supervised proceedings on essentially normal terms and conditions.

GM intends to pay the prepetition claims of its Shippers and Warehousemen on the next regularly scheduled contract payment date so long as the Shipper or Warehousemen has verified to GM in writing its agreement to the terms set forth above within 7 business days from the date of this letter. Please acknowledge your consent to the foregoing terms by executing this letter in the space provided below and returning an executed copy of this letter to Jeffrey Dzierbicki either by email to [Jeffrey.Dzierbicki@gm.com](mailto:Jeffrey.Dzierbicki@gm.com) or by fax to 1-586-575-0272.

If you have any questions regarding the Shippers and Warehousemen Motion or Order, please do not hesitate to contact the Supplier Information Call Center toll free at 1-888-409-2328 or 1-586-947-3000 (international).

GM greatly values its relationship with you and looks forward to an ongoing business relationship. All of our key stakeholders, including our logistics suppliers, play a vital role in our reinvention and we thank you for your continued patience and support.

Sincerely,

Susanna Webber

**Acknowledged and Agreed:**

YRC Inc.

Print name of Shipper or Warehousemen

*Phil J. Gaines*

Signature of Authorized Representative of Shipper or Warehousemen

Phil J. Gaines - SVP + CFO

Print name of Authorized Representative

6/5/09

Date of Execution



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Global Purchasing and Supply Chain

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M/C 480-206-136  
30009 Van Dyke Ave  
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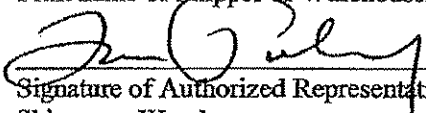
Sincerely,

Susanna Webber

**Acknowledged and Agreed:**

USF Reddaway Inc.

Print name of Shipper or Warehousemen



Signature of Authorized Representative of  
Shipper or Warehousemen

Tom Palmer

Print name of Authorized Representative

June 4, 2009

Date of Execution



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Global Purchasing and Supply Chain

Cadillac Building  
M/C 480-206-136  
30009 Van Dyke Ave  
Warren MI 48090-9025

June 1, 2009

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Sincerely,

Susanna Webber

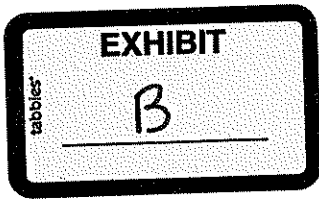
**Acknowledged and Agreed:**

Reimer Express Lines Ltd.  
Print name of Shipper or Warehousemen

Ken Bowman  
Signature of Authorized Representative of  
Shipper or Warehousemen

Ken Bowman  
Print name of Authorized Representative

6/5/09  
Date of Execution



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Global Purchasing and Supply Chain

Cadillac Building  
M/C 480-206-136  
30009 Van Dyke Ave  
Warren MI 48090-9025

June 9, 2009

Dear GM Logistics Supplier:

Currently General Motors is executing the contract assignment and assumption process as part of our intent to form a New GM through the 363 Sale Process. As a result, your company was sent a letter detailing GM's intent and the process with respect to the assignment of your contracts to the New GM. Part of this process involves resolving or "curing" any amounts owed to your company. This cure amount is listed on the cure website for which you received a sign-on and password in the contract assumption notice sent to you on Friday, June 5, 2009. Because your company is paid on a tier 2 basis via one or several Lead Logistics Providers (LLP), your cure amount will be paid as part of the cure payment to the LLP(s). Please contact your respective LLP(s) to determine your cure amount. If you disagree with the proposed cure amount you must respond to the contract assumption notice based on the cure amount given to you by your LLP. You must respond to the assumption notice within the time noted therein if you disagree with the cure amount provided by your LLP(s).

If you have any questions, please feel free to contact your buyer.

Sincerely,

Lisa Patterson