

Clerk's copy ✓

David R. Volpe, pro se  
240 Berry Glen Ct.  
Alpharetta, GA 30022  
770-998-7758 (O)  
Creditor Claimant  
Claim # 62391

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

-----X		
<b>In re</b>	:	
	:	<b>Chapter 11 Case No.</b>
<b>MOTORS LIQUIDATION COMPANY, et al,</b>	:	
<b>f/k/a General Motors Corp., et al.</b>	:	<b>09-50026 (REG)</b>
	:	
<b>Debtors.</b>	:	<b>(Jointly Administered)</b>
-----X		

**OBJECTION TO DEBTORS' 183<sup>rd</sup> OMNIBUS OBJECTION TO CLAIMS**  
**(Welfare Benefits Claims of Retired and Former Salaried and Executive Employees)**

TO THE HONORABLE ROBERT E. GERBER,  
UNITED STATES BANKRUPTCY JUDGE:

Comes now David Volpe (a/k/a David R. Volpe), creditor and claimant against Motors Liquidation Company ("MLC") (f/k/a General Motors Corporation, "Old GM"), and a retired salaried manager from Old GM, who respectfully files this OBJECTION TO DEBTORS' 183<sup>rd</sup> OMNIBUS OBJECTION TO CLAIMS.

Relief Requested

Debtors' 183<sup>rd</sup> Omnibus Objection to Claims seeks entry of an order disallowing and expunging certain welfare benefits claims listed on that filing's original Exhibit "A", claims as filed by retired and former salaried and executive employees. Included on that list is Claim # 62391 in the amount of \$70,945.00 filed by David Volpe, Proof of Claim copy attached for reference.

Creditor Claimant Volpe requests the Debtors' proposed order not be allowed, thereby preserving Creditor Claimant's right to financial consideration for the value of diminished and cancelled welfare and basic life insurance benefits in retirement.

### Background

Creditor Claimant Volpe spent his entire adult working career at Old GM from age 18 through 50, holding many managerial positions in technical and engineering areas. He initiated, negotiated and accepted an early retirement offer in 2001 that involved leaving Old GM but receiving full salary compensation and benefits from July 2001 through October 2002, then transitioning to retirement pension and benefits starting November 2002. He retired as a Zone Manager from the Service Operations group.

### Debtors argue "Accrued Benefits Have Been Assumed by New GM"

Life Insurance benefits provided by New GM in 2010 are significantly different and diminished as compared to those provided in 2009 and earlier. Life Insurance benefits negotiated at retirement by Creditor Claimant Volpe in 2001 were stated and agreed upon by both parties at two times the annual salary to be provided entirely by Old GM. Anything beyond that, up to five times the annual salary, was to be paid by the retiree at a price set by Old GM (in conjunction with MetLife). Creditor Claimant Volpe was entitled for life, per the negotiated retirement package, to more than \$182,000 Life Insurance death benefit at retirement and that amount was in place until a unilateral reduction by Old GM was noted on Creditor Claimant Volpe's 2008 Annual Enrollment benefits package. It was then determined Old GM had unilaterally, and without notification or justification, decreased the Life Insurance death benefit to \$80,945. A further reduction in the death benefit was made unilaterally to a flat \$10,000 effective August 1, 2009. This significant decrease in Life Insurance death benefit to Creditor Claimant Volpe should not be categorized and concluded as "Accrued Benefits Have Been Assumed by New GM" based on these facts.

Debtors argue “Benefit Modification Claims Should Be Disallowed As Debtors Had Right to Amend Or Terminate Each Benefit Plan”

There is little doubt that many GM documents stated, “GM reserves the right to amend or terminate benefit plans.....”, or similar language. However, the voluntary early retirement initiated and negotiated by Creditor Claimant Volpe in 2001 should not be subject to changing the terms of the retirement contract “ex post facto”. Changing benefits or any provision of an employment and/or retirement contract is on firm legal ground for future agreements when both parties agree but Old GM being allowed to change the provisions unilaterally after the fact undermines the entire contractual process that American business is founded upon. Part of the standard retirement negotiations was the provision that Creditor Claimant Volpe could never be re-employed by GM. In the referenced *Sprague v. General Motors Corp.* case, the court stated:

To vest benefits is to render them forever unalterable. Because vesting of welfare plan benefits is not required by law, an employer’s commitment to vest such benefits is not to be inferred lightly; the intent to vest “must be found in the plan documents and must be stated in clear and express language”.

In the case of Creditor Claimant Volpe, the special early retirement was negotiated with the understanding that pension and retirement benefits, and the inability of Volpe to ever be rehired by GM, were contractual obligations of both parties. Why should Old GM not be bound to their contractual obligations? Because they patently state they have the right to terminate or amend at will? If provisions of any contract are allowed to be changed unilaterally, then what value does the contractual process have? Had Volpe known that GM was to be allowed (in the future) to unilaterally change the provisions without any negotiations, then the voluntary decision to retire may have been very different.

Discussion

The Court is being asked to consider the employment and retirement agreement between Volpe and Old GM, one where professional engineering services were tendered by Volpe for many years in return for a mix of salary compensation and benefits, both in the present during employment and in retirement. At any time either Volpe or Old GM had the ability to end the

employment agreement if the value and/or compensation for the services were not agreeable to either party. Retirement benefits are an integral part of one's compensation package. If the legal system does not uphold the ability to negotiate a contractual agreement regarding benefits in the future (retirement), then why should anyone have faith in the legal system to uphold any contractual obligation? The very foundation of American business is predicated upon this fact. Had Creditor Claimant Volpe known GM had the ability to walk away from these contractual obligations, he would not have initiated, negotiated and accepted an early retirement package, especially one that prevents him from ever accepting re-employment with GM in the future.

#### Summary

In summary, Creditor Claimant Volpe respectfully asks the Court to deny DEBTORS' 183<sup>rd</sup> OMNIBUS OBJECTION TO CLAIMS and preserve his claim to allow entitlement to the retirement life insurance and welfare benefits he worked so hard to earn.

Creditor Claimant reserves the right to modify, revise, or supplement the above referenced figures and calculations.

Attach: (1)

Dated: February 14, 2011

Respectfully Submitted,



David R. Volpe, pro se  
240 Berry Glen Ct.  
Alpharetta, GA 30022  
770-998-7758 (O)  
[dvolpe@netzero.net](mailto:dvolpe@netzero.net)

(GM Bankruptcy – Life Insur Claim – Objection 20110214.doc

**OBJECTION TO DEBTORS' 116<sup>th</sup> OMNIBUS OBJECTION TO CLAIMS**

**CERTIFICATE OF SERVICE**

I hereby certify that hard copy versions of the above and foregoing have been delivered or served upon the following via U.S. Postal Service with adequate first-class postage affixed, mailed February 14, 2011. Two originals were sent to the Court with Delivery Receipt Requested on the same date.

Clerk of the Court  
Honorable Judge R.E. Gerber  
U.S. Bankruptcy Court for the  
Southern District of New York  
One Bowling Green  
New York, NY 10004

- 1) Weil, Gotshal & Manges LLP, attorneys for the Debtors, 767 Fifth Avenue, New York, New York 10153 (Attn: Harvey R. Miller, Esq., Stephen Karotkin, Esq., and Joseph H. Smolinsky, Esq.);
- 2) Motors Liquidation Company, 401 South Old Woodward Avenue, Suite 370, Birmingham, Michigan 48009 (Attn: Ted Stenger);
- 3) General Motors, LLC, 400 Renaissance Center, Detroit, Michigan 48265 (Attn: Lawrence S. Buonomo, Esq.);
- 4) Cadwalader, Wickersham & Taft LLP, attorneys for the United States Department of the Treasury, One World Financial Center, New York, New York 10281 (Attn: John J. Rapisardi, Esq.);
- 5) United States Department of the Treasury, 1500 Pennsylvania Avenue NW, Room 2312, Washington, D.C. 20220 (Attn: Joseph Samarias, Esq.);
- 6) Vedder Price, P.C., attorneys for Export Development Canada, 1633 Broadway, 47th Floor, New York, New York 10019 (Attn: Michael J. Edelman, Esq. and Michael L. Schein, Esq.);
- 7) Kramer Levin Naftalis & Frankel LLP, attorneys for the statutory committee of unsecured creditors, 1177 Avenue of the Americas, New York, New York 10036 (Attn: Thomas Moers Mayer, Esq., Robert Schmidt, Esq., Lauren Macksoud, Esq., and Jennifer Sharret, Esq.);
- 8) Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Tracy Hope Davis, Esq.);
- 9) U.S. Attorney's Office, S.D.N.Y., 86 Chambers Street, Third Floor, New York, New York 10007 (Attn: David S. Jones, Esq. and Natalie Kuehler, Esq.);
- 10) Caplin & Drysdale, Chartered, attorneys for the official committee of unsecured creditors holding asbestos-related claims, 375 Park Avenue, 35th Floor, New York, New York 10152-3500 (Attn: Elihu Inselbuch, Esq. and Rita C. Tobin, Esq.);
- 11) Caplin & Drysdale, Chartered, attorneys for the official committee of unsecured creditors holding asbestos-related claims, One Thomas Circle, N.W., Suite 1100, Washington, DC 20005 (Attn: Trevor W. Swett III, Esq. and Kevin C. Maclay, Esq.);
- 12) Stutzman, Bromberg, Esserman & Plifka, A Professional Corporation, attorneys for Dean M. Trafelet in his capacity as the legal representative for future asbestos personal injury claimants, 2323 Bryan Street, Suite 2200, Dallas, Texas 75201 (Attn: Sander L. Esserman, Esq. and Robert T. Brousseau, Esq.);



David R. Volpe

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

## PROOF OF CLAIM

Name of Debtor (Check Only One)  
 Motors Liquidation Company (f/k/a General Motors Corporation)  
 MLCS, LLC (f/k/a Saturn, LLC)  
 MLCS Distribution Corporation (f/k/a Saturn Distribution Corporation)  
 MLC of Harlem, Inc (f/k/a Chevrolet-Saturn of Harlem, Inc )

Case No  
 09-50026 (REG)  
 09-50027 (REG)  
 09-50028 (REG)  
 09-13558 (REG)

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case but may be used for purposes of asserting a claim under 11 U.S.C. § 503(b)(9) (see item # 5). All other requests for payment of an administrative expense should be filed pursuant to 11 U.S.C. § 501.

Name of Creditor (the person or other entity to whom the debtor owes money or property) DAVID VOLPE

Name and address where notices should be sent  
 DAVID VOLPE

240 BERRY GLEN CT  
 Alpharetta GA 30022

Telephone number  
 Email Address

770-998-7758

DVOLPE@NETZERD.NET

Name and address where payment should be sent (if different from above)

FILED - 62391  
 MOTORS LIQUIDATION COMPANY  
 F/K/A GENERAL MOTORS CORP  
 SDNY # 09-50026 (REG)

Telephone number

Check this box to indicate that this claim amends a previously filed claim

Court Claim Number \_\_\_\_\_  
 (if known)

Filed on \_\_\_\_\_

Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars

Check this box if you are the debtor or trustee in this case

1 Amount of Claim as of Date Case Filed, June 1, 2009

\$ 70,945.00

If all or part of your claim is secured, complete item 4 below, however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. If all or part of your claim is asserted pursuant to 11 U.S.C. § 503(b)(9), complete item 5.

Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

2 Basis for Claim: VALUE OF CANCELLED BASIC LIFE INSURANCE  
 (See instruction #2 on reverse side) - AS A SALARIED RETIREE

3 Last four digits of any number by which creditor identifies debtor 0704

3a Debtor may have scheduled account as \_\_\_\_\_  
 (See instruction #3a on reverse side)

4 Secured Claim (See instruction #4 on reverse side)

Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information

Nature of property or right of setoff:  Real Estate  Motor Vehicle  Equipment  Other  
 Describe

Value of Property, \$ \_\_\_\_\_ Annual Interest Rate, % \_\_\_\_\_

Amount of arrearage and other charges as of time case filed included in secured claim, if any \$ \_\_\_\_\_

Basis for perfection \_\_\_\_\_

Amount of Secured Claim: \$ \_\_\_\_\_ Amount Unsecured, \$ \_\_\_\_\_

6 Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim

7. Documents: Attach redacted copies of any documents that support the claim such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary (See instruction 7 and definition of redacted on reverse side)

DO NOT SEND ORIGINAL DOCUMENTS ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING

If the documents are not available, please explain in an attachment

2 ATTACHED DOCS.

Your Claim is Scheduled As Follows.



If an amount is identified above you have a claim scheduled by one of the Debtors as shown. (This scheduled amount of your claim may be an amendment to a previously scheduled amount.) If you agree with the amount and priority of your claim as scheduled by the Debtor and you have no other claim against the Debtor, you do not need to file this proof of claim form EXCEPT AS FOLLOWS: If the amount shown is listed as DISPUTED UNLIQUIDATED or CONTINGENT a proof of claim MUST be filed in order to receive any distribution in respect of your claim. If you have already filed a proof of claim in accordance with the attached instructions, you need not file again.

5 Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.

Specify the priority of the claim

Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B)

Wages, salaries, or commissions (up to \$10,950\*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4)

Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5)

Up to \$2,425\* of deposits toward purchase, lease, or rental of property or services for personal, family or household use - 11 U.S.C. § 507(a)(7)

Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8)

Value of goods received by the Debtor within 20 days before the date of commencement of the case - 11 U.S.C. § 503(b)(9) (§ 507(a)(2))

Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(\_\_\_\_) Amount entitled to priority

\* Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment

FOR COURT USE ONLY

Date 11-20-09

Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

DAVID R. VOLPE

David R. Volpe

11-20-2009

COVERAGES

My Life Insurance

Beneficiary Management

Inquiry

Learn about Life Insurance

Calculate your needs

Contact a Life Benefits Specialist

Coverages - DAVID R. VOLPE, 11/20/2009 GM BANKRUPTCY CLAIM ATTACHMENT #1

Basic Life Insurance (Basic Life)

Approved Amount: \$80,945.00
Monthly Cost to You: \$0.00
Paid by: Employer

Table with 4 columns: Beneficiary, % Share, Role, Relation. Rows for MARY JEAN VOLPE, JENNIFER VOLPE, MICHAEL VOLPE.

Optional Life Insurance (Optional Life)

Approved Amount: \$177,900.00
Monthly Cost to You: \$55.15
Paid by: You

Table with 4 columns: Beneficiary, % Share, Role, Relation. Rows for MARY JEAN VOLPE, JENNIFER VOLPE, MICHAEL VOLPE.

Personal Accident Insurance (Optional AD&D)

Approved Amount: \$500,000.00
Monthly Cost to You: \$7.50
Paid by: You

Table with 4 columns: Beneficiary, % Share, Role, Relation. Rows for MARY JEAN VOLPE, JENNIFER VOLPE, MICHAEL VOLPE.

Dependent Life Insurance (Dependent Life) - Spouse

Approved Amount: \$100,000.00
Monthly Cost to You: \$28.00
Paid by: You

Dependent Personal Accident Insurance (Dependent AD&D) - Spouse

Approved Amount: \$500,000.00
Monthly Cost to You: \$7.50
Paid by: You

To designate your beneficiary, you will need the following information for your beneficiary.
- Date of Birth
- Address

Click on the Learn about Life Insurance link to determine how much life insurance you need

Printer-friendly version of your coverages

Did you know?

Most employees keep the same level of coverage year after year despite changes in their lifestyle. Has your life insurance kept pace with your changing needs? (Source: 6th Annual MetLife Study of Benefits Trends, 2008)

CALCULATION

GM PROVIDED BASIC LIFE INSUR. PRIOR TO 8-1-2009 = \$80,945

GM PROVIDED BASIC LIFE INSUR REDUCED ON 8-1-2009 & FORWARD = \$10,000

VALUE OF LOST LIFE INSURANCE = \$70,945

Per Cynthia - All rates & coverage remain the same for 2009 unless you change or cancel. You cannot increase your coverages - just decrease or cancel. You can call them to get prem. charges - Nothing advise to us in writing - they'll calc. on their computer & advise.



# YOUR PERSONAL FACT SHEET

## 2008 ANNUAL ENROLLMENT

4.GM-H-501B ENV# GM10108805001000216

DAVID R. VOLPE  
240 BERRY GLEN COURT  
ALPHARETTA, GA 30022

- Review your benefit elections and dependent information in this PERSONAL FACT SHEET carefully.
- To make changes to your benefit elections for 2008, follow the ENROLLMENT INSTRUCTIONS on the next page.
- If you do not make changes during the enrollment period, this PERSONAL FACT SHEET will serve as your confirmation statement.  
Enrollment Period: October 30–November 16, 2007

Dear DAVID R. VOLPE:

This PERSONAL FACT SHEET shows your 2008 benefit elections and the contribution amounts for each option. Remember, if you do not make any changes during the enrollment period, this PERSONAL FACT SHEET will serve as your confirmation statement.

Each year you have the opportunity to review and change certain benefit elections based on your current needs. At the close of this enrollment period, you cannot change your 2008 benefit elections, except in the case of a qualified life event change.

In addition to your PERSONAL FACT SHEET, the enclosed newsletter highlights changes for 2008. Please review these materials carefully when making your benefit enrollment decisions. Additionally, a detailed Health Care Resource Guide is available for review online in the Reference Library by clicking the Enroll Now icon on [gmbenefits.com](http://gmbenefits.com), or by calling the GM Benefits & Services Center at 1-800-489-4646. The number for the TTY Service for the Hearing or Speech Impaired is 1-877-347-5225.

Your current medical option will no longer be available to you. Unless you elect to enroll in a new medical plan during this enrollment period, you will be defaulted into Enhanced PPO (BCBS-US-RS) as shown below.

### YOUR CURRENT ELECTIONS WITH 2008 CONTRIBUTION AMOUNTS

This statement reflects your personal information as of October 1, 2007.

Plan	Option	Family Status/Coverage Volume	Your 2008 Monthly Contribution After-Tax
Medical	Enhanced PPO (BCBS-US-RS)	Self + Spouse/ Domestic Partner	\$121.00
Health Savings Account	No Health Savings Account with Bank of America	No Coverage	\$0.00
Extended Care Coverage (ECC)	Extended Care Coverage	Self + Spouse/ Domestic Partner	\$14.00
Dental	Traditional Delta Dental (RS)	Self + Spouse/ Domestic Partner	\$15.00
Vision	Cole Managed Vision (S)	Self + Spouse/ Domestic Partner	\$2.00
* Basic Life Insurance	2 X Annual Base Salary	\$80,945	\$0.00
Optional Life Insurance	2 X Annual Base Salary	\$177,900	\$76.50
Dependent Life Insurance — Spouse		\$100,000	\$34.00
Personal Accident Insurance — Employee		\$500,000	\$7.50
Personal Accident Insurance — Spouse		\$500,000	\$7.50
<b>TOTAL MONTHLY CONTRIBUTIONS</b>			<b>\$277.50</b>

Note: The (S) or (RS) after a benefit option is used for administrative purposes only.

Note: If applicable, you may decrease or cancel your contributory life insurance coverages; however, you may not increase your coverage or enroll in new coverage.