

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

FAH LIQUIDATING CORP. (f/k/a FISHER  
AUTOMOTIVE HOLDINGS, INC.), *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 13-13087 (KG)

Jointly Administered

Hearing Date: January 26, 2016 @ 2:00 p.m. (ET)

Objection Deadline: January 19, 2016 @ 4:00 p.m. (ET)

**THE LIQUIDATING TRUSTEE'S ELEVENTH OMNIBUS OBJECTION TO (I) NO  
LIABILITY CLAIMS AND (II) OVERSTATED CLAIMS (NON-SUBSTANTIVE)**

**THIS OBJECTION SEEKS TO REDUCE OR DISALLOW AND EXPUNGE  
CERTAIN FILED PROOFS OF CLAIM. CLAIMANTS RECEIVING  
THIS OBJECTION SHOULD LOCATE THEIR NAMES AND CLAIMS ON  
SCHEDULES 1 – 2 TO EXHIBIT A ATTACHED TO THIS OBJECTION.**

Emerald Capital Advisors Corp., the Liquidating Trustee (the “Liquidating Trustee”) for the FAH Liquidating Trust (the “Liquidating Trust”) appointed in the above-captioned proceedings of FAH Liquidating Corp. (f/k/a Fisker Automotive Holdings, Inc.), *et al.* (the “Debtors”), by and through its undersigned counsel, files this objection (this “Objection”) and seeks entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Order”), (1) disallowing and expunging the no liability claims identified on **Schedule 1** to the Order (the “No Liability Claims”) because the Debtors’ books and records (the “Books and Records”) do not support the existence of any liability on the part of the Liquidating Trustee with respect to such claims, and (2) modifying and reducing the overstated claims identified on **Schedule 2** to the Order (the “Overstated Claims,” and collectively with the No Liability Claims, the “Disputed Claims”) to the corresponding reduced amounts listed in the “Modified Claim Amount /

<sup>1</sup> The Debtors, together with the last four digits of each Debtor’s federal tax identification number, are FAH Liquidating Corp. (f/k/a Fisker Automotive Holdings, Inc.) (9678) and FA Liquidating Corp. (f/k/a Fisker Automotive, Inc.) (9075). The service address for the Debtors is 3080 Airway Avenue, Costa Mesa, California 92626.

Classification” column of **Schedule 2** because the amounts of the Overstated Claims as filed are not supported by or consistent with the Books and Records. In support of this Objection, the Liquidating Trustee submits the *Declaration of John P. Madden in Support of the Liquidating Trustee’s Eleventh Omnibus Objection to (I) No Liability Claims and (II) Overstated Claims (Non-Substantive)* (the “Madden Declaration”), attached hereto as **Exhibit B**, and respectfully states as follows:

**Jurisdiction**

1. The United States Bankruptcy Court for the District of Delaware (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2), and the Court may enter a final order consistent with Article III of the United States Constitution.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are section 502 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”), Rules 3007 and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 3007-1 and 9006-1(d) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”).

**Background**

4. On November 22, 2013 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Cases”).

5. On July 28, 2014, the Bankruptcy Court confirmed the Debtors’ plan of liquidation (the “Plan”) pursuant to its *Order Confirming Debtors’ Second Amended Joint Plan*

of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code [D.I. 1137] (the “Confirmation Order”).

6. On August 13, 2014 (the “Effective Date”), the Plan was substantially consummated and the Liquidating Trust came into existence as the successor in interest to the Debtors.<sup>2</sup>

### **The Claims Reconciliation Process**

7. On December 3, 2013, the Debtors filed their schedules of assets and liabilities and executory contracts and unexpired leases and statements of financial affairs [D.I. 94–96], as required by section 521 of the Bankruptcy Code, and filed amended schedules on July 25, 2014 [D.I. 1126].

8. On December 30, 2013, the Court entered the *Order (A) Setting Bar Dates for Filing Proofs of Claim, Including Claims Arising Under Section 503(b)(9) of the Bankruptcy Code, (B) Setting a Bar Date for the Filing of Proofs of Claim By Governmental Units (C) Setting a Bar Date for the Filing of Requests for Allowance of Administrative Expense Claims (D) Setting an Amended Schedules Bar Date, (E) Setting a Rejection Damages Bar Date, (F) Approving the Form and Manner of Filing Proofs of Claim, (G) Approving Notice of the Bar Dates, and (H) Granting Related Relief* [D.I. 252] (the “Bar Date Order”), which, among other things, established: (a) January 27, 2014, as the deadline for all persons and entities holding or wishing to assert a “claim” (as defined in section 101(5) of the Bankruptcy Code) against either of the Debtors that arose before the Petition Date (each, a “Claim”) including any claim arising under section 503(b)(9) of the Bankruptcy Code, to file proof of such Claim in writing; (b) January 27, 2014, as the deadline for all persons and entities holding or wishing to assert a

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<sup>2</sup> The Plan explicitly states that “[f]or the avoidance of doubt, the Liquidating Trust is a successor-in-interest to the Debtors.” Plan, Art. IV.E.

request for payment of administrative claims against either of the Debtors that arose between the Petition Date and January 2, 2014 (excluding any claim arising under section 503(b)(9) of the Bankruptcy Code), to file proof of such Claim in writing; and (c) May 21, 2014, as the deadline for all governmental units holding or wishing to assert a Claim against either of the Debtors that arose before the Petition Date to file proof of such Claim in writing. Notice of the Bar Date Order was provided in accordance with the procedures outlined therein.

9. To date, entities have filed approximately 700 proofs of claim against the Debtors on an aggregate basis, collectively asserting more than \$1 billion in aggregate liabilities. The Liquidating Trustee and its advisors are in the process of reviewing the proofs of claim, including supporting documentation, if any, filed together with any proof of claim, and reconciling the proofs of claim with the Debtors' Books and Records to determine the validity of the proofs of claim. Based on its review, the Liquidating Trustee has determined that the Disputed Claims are objectionable on the grounds set forth below.

### **Objection**

10. Section 502(b) of the Bankruptcy Code provides a number of grounds on which a claim may be disallowed, including where "such claim is unenforceable against the debtor and property of the debtor, under any agreement or applicable law for a reason other than because such claim is contingent or unmatured." See 11 U.S.C. § 502(b)(1).

#### **A. No Liability Claims (Schedule 1)**

11. By this Objection, the Liquidating Trustee hereby objects to the No Liability Claims listed on **Schedule 1** to the Order as not properly allowable according to the Debtors' Books and Records. The Liquidating Trustee has reviewed the No Liability Claims and the Debtors' Books and Records and has determined that the Liquidating Trustee does not have any liability with respect to any of the No Liability Claims. See Madden Declaration, **Exhibit B**. In

addition, certain of the No Liability Claims are claims filed by Holders of Warranty Claims, who did not elect to opt out of the Customer Support Program (as described in Article III.C.7(b)(ii) of the Plan). Because such Warranty Claims are addressed through the Customer Support Program, the Liquidating Trustee does not have any liability with respect to such claims. Accordingly, the Liquidating Trustee respectfully requests that the No Liability Claims listed on **Schedule 1** to the Order be disallowed and expunged in full pursuant to section 502 of the Bankruptcy Code.

**B. Overstated Claims (Schedule 2)**

12. By this Objection, the Liquidating Trustee objects to the Overstated Claims since the amount of the claims as filed is not supported by the Books and Records. The Liquidating Trustee has reviewed the Overstated Claims and the Debtors' Books and Records and has determined that the Overstated Claims are overstated and should be reduced to the amount set forth in the "Modified Claim Amount / Classification" column on **Schedule 2**. See Madden Declaration, **Exhibit B**.

13. Accordingly, the Liquidating Trustee objects to the allowance of each of the Overstated Claims included on **Schedule 2** to the Order, and seeks entry of the Order modifying and reducing the Overstated Claims to the amount set forth in the "Modified Claim Amount / Classification" column of **Schedule 2**, which reduced amount is supported by the Books and Records.

**Basis for Relief**

14. Section 502(a) of the Bankruptcy Code provides that "[a] claim or interest, proof of which is filed under section 501 of this title, is deemed allowed, unless a party in interest . . . objects." 11 U.S.C. § 502(a). A trustee has the duty to object to the allowance of any claim that is improper. See 11 U.S.C. § 1106(a)(1).

15. As set forth in Bankruptcy Rule 3001(f), a properly executed and filed proof of claim constitutes *prima facie* evidence of the validity and the amount of the claim under section 502(a) of the Bankruptcy Code. See In re Allegheny Int'l, Inc., 954 F.2d 167, 173 (3d Cir. 1992). To receive the benefit of *prima facie* validity, however, the proof of claim must “set forth facts necessary to support the claim.” In re Stoecker, 143 B.R. 879, 883 (N.D. Ill. 1992). Additionally, a claimant’s proof of claim is entitled to the presumption of *prima facie* validity under Bankruptcy Rule 3001(f) only until an objecting party refutes at least one of the allegations that is essential to the claim’s legal sufficiency. See In re Relford, 323 B.R. 669, 672-73 (Bankr. S.D. Ind. 2004). Once such an allegation is refuted, the burden reverts to the claimant to prove the validity of the claim by a preponderance of the evidence. Allegheny Int'l., 954 F.2d at 173. In other words, once the *prima facie* validity of a claim is rebutted, “it is for the claimant to prove his claim, not for the objector to disprove it.” In re Kahn, 114 B.R. 40, 44 (Bankr. S.D.N.Y. 1990).

16. Additionally, Bankruptcy Rule 3001(c) requires that if a claim is based on a writing, “a copy of the writing shall be filed with the proof of claim.” Bankruptcy Rule 3001(c) is designed to provide the debtor with “fair notice of the conduct, transaction and occurrences that form the basis of the claim.” In re O’Brien, 440 B.R. 654, 662-663 (Bankr. E.D. Pa. 2010); see also In re Umstead, 490 B.R. 186, 194 (Bankr. E.D. Pa. 2013). If a proof of claim fails to comply with Bankruptcy Rule 3001(c), it will not constitute *prima facie* evidence of the claim’s validity and amount under Bankruptcy Rule 3001(f). Id. Furthermore, if a proof of claim lacks sufficient documentary support to establish its validity, the Court may disallow the claim. In re Minbatiwalla, 424 B.R. 104, 119 (Bankr. S.D.N.Y. 2010); see also In re O’Brien, 440 B.R. at 666.

17. During the Liquidating Trustee's review of the Claims, the Liquidating Trustee determined that the Debtors are not liable for the Disputed Claims in the amounts asserted. The basis for the Liquidation Trustee's determination includes, but is not limited to, (a) the Books and Records, which are maintained in the ordinary course of business, and do not reflect the existence of the asserted Disputed Claims or (b) the proofs of claim asserting the Disputed Claims provide no basis or appropriate supporting documentation on which the Liquidating Trustee can determine that a valid Claim exists, and the Books and Records do not support such a Claim in the amount asserted.

18. For the reasons set forth herein and in the Madden Declaration, the No Liability Claims should be disallowed and expunged, and the Overstated Claims should be modified and reduced to the amounts set forth in the "Modified Claim Amount / Classification" column of **Schedule 2** to the Order. If the Disputed Claims are not so expunged, disallowed and reduced, the potential exists for the applicable Claimants to receive recoveries to which they are not entitled, to the detriment of other stakeholders. Thus, the relief requested herein is necessary to prevent any inappropriate distribution of estate funds and to facilitate the administration of the claims allowance process.

**Compliance with Bankruptcy Rule 3007(e)**

19. The Liquidating Trustee respectfully submits that this Objection complies with the requirements for omnibus objections set forth by Bankruptcy Rule 3007(e). Namely, among other things, the Objection conspicuously states that claimants receiving the objection should locate their names and claims in the Objection, contains objections to no more than 100 proofs of claim, and identifies this Objection as the eleventh omnibus claims objection. Additionally, the proposed form of Order identifies each claimant by category of claims subject to objection. To the extent that this Objection does not comply in all respects with the requirements of

Bankruptcy Rule 3007(e), the undersigned believes such deviations are not material and respectfully requests that any such requirement be waived.

**Separate Contested Matter**

20. Each of the above objections to the proofs of claim constitutes a separate contested matter as contemplated by Bankruptcy Rule 9014. The Liquidating Trustee respectfully requests that any order entered by the Court with respect to an objection asserted herein shall be deemed a separate order with respect to each Disputed Claim.

**Replies to Responses**

21. Consistent with Local Rule 9006-l(d), the Liquidating Trustee may, at its option, file and serve a reply no later than 4:00 p.m. (prevailing Eastern Time) one day prior to the deadline for filing the agenda on any hearing to consider the Objection.

**Adjournment of Hearing**

22. The Liquidating Trustee reserves the right to seek an adjournment of the hearing on any response filed to the Objection. In the event that the Liquidating Trustee seeks such an adjournment, it will be noted on the notice of agenda for the hearing, and such agenda will be served on the Claimant by serving the person designated in the response.

**Reservation of Rights**

23. The Liquidating Trustee expressly reserves the right to amend, modify, or supplement this Objection and to file additional substantive (to the extent allowable by the Court) or non-substantive objections to the Disputed Claims objected to herein, or any other Claims, filed or not, which may be asserted against the Debtors. Should one or more of the grounds of objection stated in this Objection be overruled, the Liquidating Trustee reserves the right to object on any other applicable grounds. In addition, the Liquidating Trustee reserves the right to seek to reduce any Claim for any reason, including to the extent such Claim has been



paid. The Liquidating Trustee reserves the right to raise further objections, including objections under section 502(d) of the Bankruptcy Code. To the maximum extent allowable by the Court, nothing in this Objection or the relief requested herein shall limit the right of the Liquidating Trustee to bring future and/or additional objections to any of the Disputed Claims on any basis.

**Compliance With Local Rule 3007-1**

24. To the best of the Liquidating Trustee's knowledge and belief, this Objection and the schedules attached to the Order comply with Local Rule 3007-1. To the extent that this Objection does not comply in all respects with the requirements of Local Rule 3007-1, the undersigned believes such deviations are not material and respectfully requests that any such requirement be waived.

**Notice**

25. Notice of this Motion shall be provided to: (a) the Office of the United States Trustee for the District of Delaware; (b) the holders of the Disputed Claims identified on **Schedules 1 - 2** to the Order or the applicable proof of claim; and (c) any party that has requested notice pursuant to Bankruptcy Rule 2002. The Liquidating Trustee submits that, in light of the nature of the relief requested, no other or further notice need be given.

**No Prior Request**

26. No prior request for the relief sought herein has been made to this or any other court.

WHEREFORE, the Liquidating Trustee respectfully requests that the Court enter an order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as the Court deems appropriate.

Dated: December 21, 2015

**SAUL EWING LLP**



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- and -

**BROWN RUDNICK LLP**

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*Co-Counsel to Emerald Capital Advisors Corp., the  
Liquidating Trustee for the FAH Liquidating Trust*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

FAH LIQUIDATING CORP. (f/k/a FISKER  
AUTOMOTIVE HOLDINGS, INC.), *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 13-13087 (KG)

Jointly Administered

Hearing Date: January 26, 2016 @ 2:00 p.m. (ET)

Objection Deadline: January 19, 2016 @ 4:00 p.m. (ET)

**NOTICE OF THE LIQUIDATING TRUSTEE'S ELEVENTH OMNIBUS  
OBJECTION TO (I) NO LIABILITY CLAIMS AND (II) OVERSTATED CLAIMS  
(NON-SUBSTANTIVE)**

TO: The United States Trustee for the District of Delaware, all affected claimants, and all parties who have previously requested notice pursuant to Bankruptcy Rule 2002.

Emerald Capital Advisors Corp., the Liquidating Trustee (the "Liquidating Trustee") for the FAH Liquidating Trust (the "Liquidating Trust") appointed in the above-captioned proceedings of FAH Liquidating Corp. (f/k/a Fisker Automotive Holdings, Inc.), *et al.*, by and through its undersigned counsel, has filed the attached **Liquidating Trustee's Eleventh Omnibus Objection to (I) No Liability Claims and (II) Overstated Claims (Non-Substantive)** (the "Objection").

Responses, if any, to the relief requested in the Objection are to be filed with the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, Wilmington, Delaware 19801 on or before **January 19, 2016 at 4:00 p.m. (EST)**.

At the same time, you must serve a copy of any response upon the following parties so as to be received no later than **4:00 p.m. on January 19, 2016**.

1. Co-Counsel for the Liquidating Trustee, Brown Rudnick LLP, Seven Times Square, New York, New York 10036 (Attn: William R. Baldiga, Esq.) and One Financial Center, Boston, Massachusetts 02111 (Attn: Sunni P. Beville, Esq. and Brian T. Rice, Esq.)
2. Co-Counsel for the Liquidating Trustee, Saul Ewing LLP, 222 Delaware Avenue, Suite 1200, P.O. Box 1266, Wilmington, Delaware 19899 (Attn: Mark Minuti, Esq. and Lucian B. Murley, Esq.)

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<sup>1</sup> The Debtors, together with the last four digits of each Debtor's federal tax identification number, are FAH Liquidating Corp. (f/k/a Fisker Automotive Holdings, Inc.) (9678) and FA Liquidating Corp. (f/k/a Fisker Automotive, Inc.) (9075). The service address for the Debtors is 3080 Airway Avenue, Costa Mesa, California 92626.

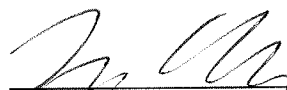
3. The Office of the Clerk of the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, Wilmington, Delaware 19801
4. The Office of the United States Trustee, J. Caleb Boggs Federal Building, 844 N. King Street, Room 2207, Lockbox 35, Wilmington, Delaware 19801 (Attn: Mark Kenney, Esq.)

In addition, if you have timely filed a written response and wish to oppose the Objection, you or your attorney must attend the hearing on the Objection scheduled to be held on **January 26, 2016 at 2:00 p.m. EST**, in the courtroom of the Honorable Kevin Gross, Judge of the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 6th Floor, Wilmington, Delaware 19801.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF DEMANDED BY THE OBJECTION WITHOUT FURTHER NOTICE OR HEARING.

Dated: December 21, 2015

**SAUL EWING LLP**



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Mark Minuti (DE Bar No. 2659)  
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*Co-Counsel to Emerald Capital Advisors Corp., the  
Liquidating Trustee for the FAH Liquidating Trust*

# **EXHIBIT A**

## **Proposed Form of Order**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:

FAH LIQUIDATING CORP. (f/k/a FISHER  
AUTOMOTIVE HOLDINGS, INC.), *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 13-13087 (KG)

Jointly Administered

Re: Docket No. \_\_\_\_

**ORDER GRANTING THE LIQUIDATING TRUSTEE'S ELEVENTH OMNIBUS  
OBJECTION TO (I) NO LIABILITY CLAIMS AND (II) OVERSTATED CLAIMS  
(NON-SUBSTANTIVE)**

Upon the objection (the "Objection")<sup>2</sup> of Emerald Capital Advisors Corp., the Liquidating Trustee (the "Liquidating Trustee") for the FAH Liquidating Trust appointed in the above-captioned proceedings of FAH Liquidating Corp. (f/k/a Fisker Automotive Holdings, Inc.), *et al.* (the "Debtors"), and the Liquidating Trustee's request for entry of an order (this "Order") (A) disallowing and expunging the No Liability Claims identified on **Schedule 1** to this Order and (B) modifying and reducing the Overstated Claims identified on **Schedule 2** to this Order, pursuant to section 502 of the Bankruptcy Code, Bankruptcy Rules 3007 and 9014, and Local Rules 3007-1 and 9016-1(d), all as more fully set forth in the Objection; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and that this Court may enter a final order consistent with Article III of

<sup>1</sup> The Debtors, together with the last four digits of each Debtor's federal tax identification number, are FAH Liquidating Corp. (f/k/a Fisker Automotive Holdings, Inc.) (9678) and FA Liquidating Corp. (f/k/a Fisker Automotive, Inc.) (9075). The service address for the Debtors is 3080 Airway Avenue, Costa Mesa, California 92626.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Objection.

the United States Constitution; and this Court having found that venue of this proceeding and the Objection in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Objection is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Liquidating Trustee's notice of the Objection and opportunity for a hearing on the Objection were appropriate and no other notice need be provided; and this Court having reviewed the Objection and the Madden Declaration and having heard the statements in support of the relief requested therein at a hearing, if any, before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Objection and at the Hearing, if any, establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Objection is GRANTED as set forth herein.
2. Any response to the Objection not otherwise withdrawn, resolved, or adjourned is hereby overruled on its merits.
3. The claims identified on **Schedule 1** attached hereto are hereby disallowed and expunged.
4. The claims identified on **Schedule 2** attached hereto are hereby modified to the corresponding reduced amounts listed in the "Modified Claim Amount / Classification" column of **Schedule 2**.
5. The Liquidating Trustee is authorized to update the claims register to reflect the relief granted in this Order.
6. Each Disputed Claim and the objections by the Liquidating Trustee to such Disputed Claims, as addressed in the Objection and set forth on **Schedules 1 - 2** attached hereto,

constitutes a separate contested matter as contemplated by Bankruptcy Rule 9014. This Order shall be deemed a separate Order with respect to each Disputed Claim. Any stay of this Order pending appeal by any claimant whose Disputed Claim is subject to this Order shall only apply to the contested matter which involves such Disputed Claim and shall not act to stay the applicability or finality of this Order with respect to the other contested matters identified in the Objection or this Order.

7. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. The Liquidating Trustee is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Objection.

9. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: \_\_\_\_\_, 2016  
Wilmington, Delaware

\_\_\_\_\_  
The Honorable Kevin Gross  
United States Bankruptcy Judge



**FAH LIQUIDATING CORP. (FKA FISHER AUTOMOTIVE HOLDINGS, INC.)**  
**CASE NO. 13-13087 (JOINTLY ADMINISTERED)**  
**SCHEDULE 1: NO LIABILITY CLAIMS**

|   | Name of Claimant                                                                                                                                         | Claim Number | Asserted Claim<br>Amount/Classification* | Reason for Disallowance<br>and Expungement                                                                       | Filed In<br>Case(s)* |
|---|----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|------------------------------------------|------------------------------------------------------------------------------------------------------------------|----------------------|
| 1 | 9165-4889 QUEBEC INC.<br>7575 TRANSCANADA HWY, SUITE 500<br>MONTREAL, QC H4T-1V6<br>CANADA                                                               | 602          | \$138,999.03 GUC                         | The Claimant has filed a Proof of Claim for a liability not reflected as owed in the Debtor's books and records. | 13-13086             |
| 2 | BENTELER ALUMINUM SYSTEMS DK A/S<br>C/O MILLER JOHNSON<br>ATTN: THOMAS P. SARB<br>PO BOX 306<br>GRAND RAPIDS, MI 49501-0306                              | 518          | \$4,853,473.38 GUC<br>\$659,550.68 SEC   | The Claimant has filed a Proof of Claim for a liability not reflected as owed in the Debtor's books and records. | 13-13086             |
| 3 | FAIR DRIVE BELUX SA/NV<br>ADDRESS REDACTED                                                                                                               | 270          | \$218,903.17 GUC                         | The Claimant has filed a Proof of Claim for a liability not reflected as owed in the Debtor's books and records. | 13-13086             |
| 4 | FISHER COACHBUILD, LLC<br>C/O O'KEEFE & ASSOCIATES LAW CORPORATION,<br>ATTN: SEAN A. O'KEEFE<br>4675 MC ARTHUR CT., SUITE 550<br>NEWPORT BEACH, CA 92660 | 411          | \$184,506.32 GUC                         | The Claimant has filed a Proof of Claim for a liability not reflected as owed in the Debtor's books and records. | 13-13086             |
| 5 | HARPEN, SHAWN<br>ADDRESS REDACTED                                                                                                                        | 468          | \$110,803.75 GUC                         | The Claimant has filed a Proof of Claim for a liability not reflected as owed in the Debtor's books and records. | 13-13087             |
| 6 | MCCUBBIN, GENE<br>C/O LEMON LAW GROUP PARTNERS, PLC.<br>ATTN: ADAM HAMILTON<br>2775 SUNNY ISLES BLVD, SUITE 150<br>NDRTH MIAMI BEACH, FL 33160           | 677          | \$120,000.00 GUC                         | The Claimant has filed a Proof of Claim for a liability not reflected as owed in the Debtor's books and records. | 13-13087             |

\* - See Claim Class Code and Debtor Case Number Legends at the end of this report

\*\* - "No Amt Given" includes, without limitation, Undetermined, Unliquidated, Unknown, To be Determined or the like or when no amount is listed at all

FAH LIQUIDATING CORP. (FKA FISHER AUTOMOTIVE HOLDINGS, INC.)  
CASE NO. 13-13087 (JOINTLY ADMINISTERED)  
SCHEDULE 1: NO LIABILITY CLAIMS

| Name of Claimant | Claim Number | Asserted Claim Amount/Classification* | Reason for Disallowance and Expungement | Filed In Case(s)* |
|------------------|--------------|---------------------------------------|-----------------------------------------|-------------------|
|------------------|--------------|---------------------------------------|-----------------------------------------|-------------------|

**\* Debtor Case Number Legend**

201512151417

|                |                                  |
|----------------|----------------------------------|
| 13-13087 (087) | Fisker Automotive Holdings, Inc. |
| 13-13086 (086) | Fisker Automotive, Inc.          |

**Claim Class Code Legend**

|           |                      |
|-----------|----------------------|
| GUC       | Unsecured Claim      |
| PRI       | Priority Claim       |
| SEC       | Secured Claim        |
| 503(b)(9) | 503(b)(9) Claim      |
| ADM       | Administrative Claim |

201512151412

FAH LIQUIDATING CORP. (FKA FISHER AUTOMOTIVE HOLDINGS, INC.)  
CASE NO. 13-13087 (JOINTLY ADMINISTERED)

SCHEDULE 2: OVERSTATED CLAIMS (MODIFIED CLAIM AMOUNT/CLASSIFICATION)

| Name of Claimant                                                                                                                                                 | Claim Number | Asserted Claim Amount/<br>Classification* | Filed In Case(s)* | Modified Claim Amount/<br>Classification | Reason                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|-------------------------------------------|-------------------|------------------------------------------|--------------------------------------------------------------|
| 1 GENERAL MOTORS LLC<br>C/O HONIGMAN MILLER SCHWARTZ & COHN<br>ATTN: JOSEPH R. SGROI<br>2290 FIRST NATIONAL BUILDING<br>660 WOODWARD AVENUE<br>DETROIT, MI 48226 | 679          | \$18,000,000.00 GUC                       | 13-13087          | \$80,400.00 GUC                          | Overstated Claim. Does not tie to Debtor's Books and Records |
|                                                                                                                                                                  |              | \$18,000,000.00                           |                   | \$80,400.00                              |                                                              |
| 2 STERLING DIE & ENGINEERING, INC.<br>C/O BERRY MOORMAN, PC<br>ATTN: GEORGE RUNSTADLER<br>255 E BROWN ST., STE 320<br>BIRMINGHAM, MI 48009                       | 23           | \$656,723.37 GUC                          | 13-13086          | \$429,160.35 GUC                         | Overstated Claim. Does not tie to Debtor's Books and Records |
|                                                                                                                                                                  |              | \$656,723.37                              |                   | \$429,160.35                             |                                                              |

201512151412

Debtor Case Number Legend

|                |                                  |
|----------------|----------------------------------|
| 13-13087 (087) | Fisker Automotive Holdings, Inc. |
| 13-13086 (086) | Fisker Automotive, Inc.          |

Claim Class Code Legend

|           |                      |
|-----------|----------------------|
| UNS       | Unsecured Claim      |
| PRI       | Priority Claim       |
| SEC       | Secured Claim        |
| 503(b)(9) | 503(b)(9) Claim      |
| AOM       | Administrative Claim |

# **Exhibit B**

## **Madden Declaration**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:

FAH LIQUIDATING CORP. (f/k/a FISKER  
AUTOMOTIVE HOLDINGS, INC.), *et al.*,

Debtors.<sup>1</sup>

Chapter 11

Case No. 13-13087 (KG)

Jointly Administered

**DECLARATION OF JOHN P. MADDEN IN SUPPORT OF THE  
LIQUIDATING TRUSTEE'S ELEVENTH OMNIBUS OBJECTION TO (I) NO  
LIABILITY CLAIMS AND (II) OVERSTATED CLAIMS (NON-SUBSTANTIVE)**

I, John P. Madden, hereby declare as follows:

1. I am the Senior Managing Director and founder of Emerald Capital Partners (“Emerald”), the Liquidating Trustee (the “Liquidating Trustee”) for the FAH Liquidating Trust appointed in the above-captioned proceedings of FAH Liquidating Corp. (f/k/a Fisker Automotive Holdings, Inc.), *et al.* (the “Debtors”). In such capacity, I have become, and am, generally familiar with the Debtors’ business and financial affairs and Books and Records. I am above 18 years of age, and I am competent to testify.

2. I have read the *Liquidating Trustee’s Eleventh Omnibus Objection to (I) No Liability Claims and (II) Overstated Claims (Non-Substantive)* (the “Objection”)<sup>2</sup> and am directly, or by and through the Liquidating Trustee’s advisors and personnel, familiar with the information contained therein and the exhibits attached thereto. I am authorized to submit this Declaration on behalf of the Liquidating Trustee. Except as otherwise indicated, all facts set

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<sup>1</sup> The Debtors, together with the last four digits of each Debtor’s federal tax identification number, are FAH Liquidating Corp. (f/k/a Fisker Automotive Holdings, Inc.) (9678) and FA Liquidating Corp. (f/k/a Fisker Automotive, Inc.) (9075). The service address for the Debtors is 3080 Airway Avenue, Costa Mesa, California 92626.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Objection.

forth in this Declaration are based on my personal knowledge of the Debtors' business and financial affairs, information learned from my review of relevant documents, and information I have received from the Liquidating Trustee's advisors and personnel. If I were called upon to testify, I could and would competently testify to the facts set forth herein on that basis.

3. To the best of my knowledge, information, and belief, the assertions made in the Objection are accurate. In evaluating the Disputed Claims identified in the Objection, the Liquidating Trustee (1) has reviewed the relevant proofs of claim, as well as the supporting information and documentation provided by each claimant, if any, (2) has made reasonable efforts to research the claim on the Debtors' Books and Records, and (3) has determined that each Disputed Claim should be disallowed, expunged, modified, reduced, and/or reclassified as set forth in the Objection.

4. Specifically, the Liquidating Trustee has determined that (a) each No Liability Claim identified on **Schedule 1** to the Order either (i) is not properly allowable according to the Debtors' Books and Records, and consequently the Liquidating Trustee does not have any liability with respect to any of the No Liability Claims and therefore each No Liability Claim should be disallowed and expunged in its entirety, or (ii) constitutes a claim filed by a Holder of a Warranty Claim, which Holder did not elect to opt out of the Customer Support Program (as described in Article III.C.7(b)(ii) of the Plan), and therefore the Liquidating Trustee does not have any liability with respect to such Warranty Claims, and therefore such No Liability Claims should be disallowed and expunged in their entirety, and (b) each Overstated Claim identified on **Schedule 2** to the Order is not supported by the Debtors' Books and Records, and consequently such Overstated Claims should be modified and reduced to the amount set forth in the "Modified Claim Amount / Classification" column of **Schedule 2**, which reduced amount is supported by

the Books and Records. Accordingly, the Disputed Claims should be disallowed, expunged, modified, reduced, and/or reclassified as requested in the Objection.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

Dated: December 21, 2015

/s/ John P. Madden  
John P. Madden