

Testimony of

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“Examining Accountability and Corporate Culture in Wake of the GM Recalls”

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Chairman McCaskill, Ranking Member Heller, and Members of the Committee:

Thank you for having me here to testify about my report on the Cobalt ignition switch.

In March of this year GM asked me to determine why it took so long to recall the Cobalt and other vehicles that contained the faulty ignition switch. I approached this task in much the same way that I did in conducting my review of the Lehman Brothers matter, albeit on a much more expedited timetable. My job was to find the facts as to how and why this occurred and set forth those facts in a report to the GM Board. I have conducted similar internal investigations for many other companies, boards, and board committees.

Jenner & Block was given unfettered access to GM witnesses and documents and was asked for an unvarnished account. We interviewed more than 230 witnesses and collected more than 41 million documents. We obtained and reviewed forensically imaged hard drives, including those belonging to top executives. We searched server-based e-mails and shared drives, electronic databases, and hundreds of boxes of hard-copy documents, all in an effort to identify any documents that would bear on our assignment to find out why the Cobalt recall was delayed for so many years. If we discover any new information that materially affects our report, we will supplement our findings to the Board.

In our report, we did not simply repeat what any individual GM employee told us. We tested those assertions against the extensive documentary record we gathered and against the statements of other witnesses.

I will not summarize the report in any detail – it speaks for itself. I will, however, highlight a few broad conclusions that tie directly to our recommendations.

- GM personnel approved the use of an ignition switch in the Cobalt and other cars that was far below GM's own specification. This was done by a single engineer and was not

known by those who were investigating the Cobalt from the time of the approval until 2013.

- From the time it first went into production, the Cobalt (and the Ion before it) had problems because the ignition switch could too easily be turned to Accessory, resulting in a moving stall including the loss of power steering and power brakes. GM engineers were fully aware of this problem but did not consider it a safety issue. That conclusion was the wrong one – amazingly, the engineers investigating the Cobalt in 2004 and 2005 did not understand that, when the key turned to Accessory, the airbags would fail to deploy.
 - o Because GM personnel failed to understand the potential hazard caused by the ignition switch, GM engineers debated through various committees whether any of the potential fixes were cost-effective. This focus on cost was driven by the failure to understand that a safety defect was at issue and the consequences of that defect.
- In 2006, the engineer who authorized the below-specification switch in the first place increased the torque in the ignition switch by authorizing a change to the switch. He approved a change to the switch, but did not change the part number, thereby concealing the change and leading to years of confusion among investigators about why, if the ignition switch was mechanically the same in all model years, accident data was so markedly different before and after Model Year 2008.
- GM personnel began recognizing the problem of non-deployment of airbags in the Cobalt as far back as 2007, but failed to take advantage of all the resources at their disposal – including information in GM’s own databases – to understand that the non-deployment was related to the known problem of the ignition switch. Others – outside GM – made this connection as early as 2007. But, as fatalities and injuries mounted in cases in which airbags did not deploy in Cobalts, GM personnel displayed no sense of urgency in determining the cause.
- By 2011, GM personnel knew that there was a pattern of non-deployments in Cobalts and that the ignition switch might be to blame. GM’s outside counsel warned GM that it might be liable for punitive damages for failing to deal with the problem for so many years.
 - o But, once again, GM personnel failed to display any sense of urgency. The non-deployment investigation languished, even as it became more and more clear that the ignition switch was the problem.
 - o And the investigation was further delayed when the engineer who originally approved the faulty switch told GM safety engineers that he had never changed the switch, when, in truth, he had.
- By 2013, the investigation had not progressed, and it was only when an outside expert hired by a plaintiff’s lawyer took the switches apart and compared them that GM

personnel finally understood that the switch had been changed. Even then, however, GM took another 10 months to recall the Cobalt.

The story of the Cobalt is one of a series of individual and organizational failures that led to devastating consequences. Throughout the decade that it took GM to recall the Cobalt, there was a lack of accountability, a lack of urgency, and a failure of company personnel charged with ensuring the safety of the company's vehicles to understand how GM's own cars were designed. We found failures throughout the company – including individual errors, poor management, byzantine committee structures, lack of training, and inadequate policies.

In our report, we review these failures, including cultural issues that may have contributed to this problem, and we provide recommendations to ensure that it never occurs again.

I understand that while this report answers many questions, it leaves open others:

- Government officials (and perhaps judges and juries) will assess the credibility of witnesses and whether there was civil or criminal culpability;
- GM will have to make decisions about how to ensure that this never happens again;
- Others, whether courts or Mr. Feinberg, will make decisions about which specific accidents were caused by the Cobalt's faulty ignition switch.

Our role was to find the facts as to why this recall took far too long. I believe we have done so.