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2157 RAYBURN HOUSE OFFICE BUILDING

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April 29, 2010

Mr. Edward E. Whitacre, Jr.
Chairman and Chief Executive Officer
General Motors Corporation
300 Renaissance Center
Detroit, MI 48243

Dear Mr. Whitacre:

On April 21, 2010, you published an opinion piece in the *Wall Street Journal* entitled, "The GM Bailout: Paid Back in Full."¹ In the piece, you claimed that General Motors ("GM") had repaid the American taxpayers "in full, with interest, years ahead of schedule."² You also asserted that GM's ability to "pay back these loans less than a year after emerging from bankruptcy is a sign that our plan for building a new GM is working."³ Moreover, a recent GM television advertisement campaign features you walking leisurely through an assembly plant announcing to the American people that GM had "repaid our government loan in full, with interest, five years ahead of the original schedule."⁴ The details of GM's so-called repayment, however, demonstrate that your statements and the slick marketing campaign built around them constitute a lie to the American people, who have spent over \$50 billion to bail out GM and currently own over 60% of the company.

We are concerned that GM, under your leadership, has come dangerously close to committing fraud, and that you might have colluded with the United States Treasury ("Treasury") to deceive the American public.⁵ If someone relies on your statements in

¹ See Ed Whitacre, "The GM Bailout: Paid Back in Full," *Wall Street Journal*, April 21, 2010. Available at <http://online.wsj.com/article/SB10001424052702303491304575188473069446344.html>.

² *Id.*

³ *Id.*

⁴ See "Video: GM CEO Featured In New Ad To Announce Speedy Loan Repayment," Chevrolet in the News, April 22, 2010. Available at <http://www.chevroletinthenews.com/video-gm-ceo-featured-in-new-ad-to-announce-speedy-loan-repayment/>.

⁵ Broadly, a person or corporation has committed fraud if 1) his representation of an existing fact, opinion, intention, or law; 2) is material and false; 3) he knows of its falsity or is ignorant of the truth of the representation; 4) he intends that it be acted on or that a person refrain from acting; 5) the person to whom

the future, whether by purchasing a GM car or purchasing GM stock from the Federal government, your false statements may expose GM to millions of dollars in damages, further reducing the value of the taxpayer-owned company.

As of March 31, 2010, Treasury had committed approximately \$52.4 billion to GM.⁶ In exchange for the \$49.5 billion committed to GM through Treasury's Automotive Industry Financing Program, Treasury received a 60.8 percent common equity stake in GM, \$2.1 billion in preferred stock, and \$7.1 billion in GM debt.⁷ As noted by Senator Charles Grassley, Treasury put \$17.4 billion of the \$49.5 billion bailout in an escrow account, which required GM to obtain Treasury's permission to draw down.⁸ On November 16, 2009, GM disclosed that it intended to use the taxpayer money in the escrow account to finish paying back the original \$7.1 billion loan by June 30, 2010, drawing on the taxpayer money in the escrow account to pay back the taxpayer loan.⁹ The remainder of the money in the escrow account was to be released to GM to use with no strings attached.¹⁰ GM's announcement last week merely advanced this complicated scheme by two months.

Although the motives behind your recent decision to advance this timetable are not clear, some have speculated that these actions were taken to increase the political palatability of GM's application to the Department of Energy for \$10 billion in low interest loans to retool its plants to meet the government's tougher new Corporate Average Fuel Economy standards.¹¹

Regardless of your motive, however, the facts are clear: not one cent of your recent "repayment" came from GM's operating revenue, and the American taxpayers are not one cent richer as a result. As Shikha Dalmia recently explained in *Forbes*,

[GM] is using this escrow money – government money – to pay back the government loan. ... In short, GM is using government money to pay back government money to get more government money. ... This is a nifty scheme to refinance GM's government debt – not pay it back!¹²

it is made relies upon it in good faith and such reliance is justified; and 6) the hearer's damage is caused by the reliance. See e.g., *Schnellmann v. Roettger*, 373 S.C. 379, 382, 645 S.E.2d 239, 241 (2007).

⁶ See "Quarterly Report to Congress," Special Inspector General for the Troubled Asset Relief Program, April 21, 2010. Available at http://sigtarp.gov/reports/congress/2010/April2010_Quarterly_Report_to_Congress.pdf.

⁷ *Id.*

⁸ See letter from Charles Grassley to Timothy Geithner, April 22, 2010. Available at <http://grassley.senate.gov/about/upload/2010-04-22-Letter-to-Treasury-Department.pdf>.

⁹ See GM, 8K, Exhibit 99.1: "News Release Dated November 16, 2009 and Financial Statements," November 16, 2009. Available at <http://www.sec.gov/Archives/edgar/data/1467858/000119312509238453/dex991.htm>.

¹⁰ *Id.*

¹¹ See Shikha Dalmia, "Still Government Motors," *Forbes*, April 23, 2010. Available at http://www.forbes.com/2010/04/23/general-motors-economy-bailout-opinions-columnists-shikha-dalmia_print.html.

¹² *Id.*

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The American people, as the majority shareholders of GM, have a right to know the truth behind the cost of the GM bailout and GM's genuine financial condition. Deceptive and dishonest advertisements and statements that attempt to disguise what is merely the exchange of one pool of taxpayer money for another pool of taxpayer money as "real progress"¹³ potentially expose GM to charges of fraud and further destroy the credibility of GM with the American public. These actions will inevitably hamper GM's future ability to truly repay the taxpayer bailout.

GM's false advertisements are counterproductive and shameful, and they should stop.

Sincerely,



Darrell Issa
Ranking Member



Jim Jordan
Ranking Member
Subcommittee on Domestic Policy

cc: The Honorable Edolphus Towns, Chairman
Committee on Oversight and Government Reform
The Honorable Dennis Kucinich, Chairman
Subcommittee on Domestic Policy

¹³ See note 1, *supra*.