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U.S. ultimatum to Chrysler was not coercion, Rattner testifies

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WASHINGTON — In the depths of the 2008-09 financial crisis, a crippled Chrysler Group didn't have any pleasant options. But it did have options. And the one it chose was the one that led to the axing of nearly 800 dealerships, abruptly and without compensation.

That was the gist of Steven Rattner's response to a group of dealers who claim that the U.S. Treasury forcibly steered Chrysler into a Chapter 11 reorganization plan that cost them their franchises. The dealers are finally getting their grievances heard in federal court here, 10 years after Rattner and his White House auto task force helped engineer the bailout and bankruptcy of the former Chrysler Group.

Rattner: "Shared sacrifice"

Under questioning by the dealers' lawyers, Rattner testified that the Obama administration's task force had doubts that Chrysler could be a viable company without a "more rational" dealer footprint, and acknowledged that it required a smaller retail network as a condition of additional government financing to keep Chrysler afloat through a Chapter 11 reorganization.

But he emphasized that it was Chrysler's decision whether to accept the government's financing offer and go through the bankruptcy on those terms.

"Chrysler always had all the choices as to what it did," Rattner testified. Ratt-ner said it was up to Chrysler to determine "whether to accept that money and file for bankruptcy," adding: "They had every choice not to and go in a different direction."

Whether that ultimatum amounted to a form of government coercion is the critical issue before the Court of Federal Claims, where dealers are seeking compensation for their lost franchises in a suit filed nine years ago. The trial began April 8, and Rattner is among some 40 witnesses who are expected to testify.

Leonard Bellavia, an attorney representing the dealers, believes Rattner's testimony helped the dealers make their case that the government forced Chrysler's hand.

"I think he proved the plaintiffs' case nicely in that, he pretty clearly and unequivocally, demonstrated that it was the government that was driving the bus here," Bellavia told Automotive News last week after Rattner's testimony. "And that although Chrysler had to capitulate — because they had a gun to their head — at the 11th hour, no one can credibly say that Chrysler was willingly a bankruptcy filer. They did so at the mandate of the government, so the government could effectuate the closure of the 789 dealers."

Store valuations

Bellavia says it doesn't matter that the bailout was a necessary and appropriate action for the U.S. government to take to save the economy. His argument in the suit is that when the government

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commits a “taking” of property for the public good, it must provide “just compensation” to the property owners.

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Dealers are asking the court for the fair value of their stores on the day the franchises were terminated. Requests for damages range from \$524,000 to \$8.8 million per rooftop among the seven model plaintiffs represented by Bellavia Blatt & Crossett in Mineola, N.Y.

If the dealers succeed, the court could order the Treasury to pay as much as \$850 million to terminated dealers.

The government attempted to discredit the valuation methods of those stores. Rattner further testified that it would have been irresponsible to use taxpayer funds to compensate the dealers, and the government had no legal obligation to do so.

Government attorney Kenneth Dintzer contended that Chrysler had already shown an intent to trim its rooftops under a consolidation plan called Project Genesis. The initiative, which the dealer legal team said was a voluntary measure, called for dealerships that did not sell all three of Chrysler’s brands at the time — Chrysler, Dodge and Jeep — to merge into locations selling all three.

‘Shared sacrifice’

Rattner, a journalist-turned-investment banker, was appointed in February 2009 to the auto task force that President Barack Obama had assembled to help General Motors and Chrysler Group restructure. He oversaw a group that distributed \$23.4 billion in prebankruptcy aid to GM and Chrysler and then steered them into Chapter 11 when their restructuring efforts came up short. Chrysler would receive around \$12 billion in all, Rattner said.

During his testimony, Rattner recalled the struggles of the captive finance units of Chrysler and GM during the recession as well as the task force’s desire to avoid a Chrysler bankruptcy.

Chrysler, Rattner said, was in a tough situation because its quality had been suffering and its product-development resources had been hollowed out under the ownership of Daimler and Cerberus Capital Management. Chrysler didn’t have a single car on the Consumer Reports recommended list, lacked a compelling small, fuel-efficient car and was limited to the North American market, Rattner said.

Rattner said the task force was guided by a principle of “shared sacrifice” that would impact a range of stakeholders, including investors, lenders, dealers and Chrysler employees. The decision on which dealers to cut, Rattner said, was left to Chrysler.

The government intervention “saved this industry,” Rattner told reporters after his testimony.

Hannah Lutz contributed to this report.