

GM should use bankruptcy to restructure carefully, McTevia tells Booth Newspapers

GM bankruptcy would not be quick or easy

by Rick Haglund | Detroit Bureau

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Veteran Bloomfield Hills bankruptcy attorney Douglas Bernstein told me he never heard the phrase "quick rinse" bankruptcy before an Obama administration official used it to describe a possible outcome for General Motors Corp.

He and other experts say they do not think it's likely GM can breeze in and out of bankruptcy court faster than a trip through a car wash. And they say a speedy bankruptcy might not even be a good idea.

"The company is massive, its operations are complex, and it has thousands of potential claimants and interested parties," said Bernstein, who heads the banking, bankruptcy and creditors' rights practice group at the law firm Plunkett Cooney.

Rushing such a complex process could result in a "rinse and repeat" bankruptcy for GM, Bernstein said.

Unless you have lost your house and have been living in your Hyundai, you probably know GM faces a government-imposed June 1 deadline to win concessions from bondholders and the United Auto Workers as part of a broad restructuring.

GM Chief Executive Fritz Henderson has said repeatedly it is "more probable" the automaker will file for bankruptcy to restructure contracts with the UAW, bondholders, dealers, suppliers and other creditors.

Like the Obama administration, Henderson hopes GM could quickly restructure in bankruptcy, emerging as a lean, competitive, profit-making machine.

But no one really knows if that's possible. No automaker, let alone the second largest in the world, has ever filed for Chapter 11 bankruptcy.

Jim McTevia, a corporate turnaround specialist in Bingham Farms, said GM might be better off taking time to carefully restructure in bankruptcy court, giving the automaker some breathing room until the economy improves.

"I'm for restructuring under Chapter 11, but Chapter 11 does not solve any business problems," McTevia said. "GM isn't going to get healthy until the consumer gets healthy."

Henderson recently told reporters GM was considering a prepackaged bankruptcy in which the company would plan the reorganization with its creditors and have it approved by a judge.

But that only works when a company can reach voluntary agreements with its various stakeholders and creditors. GM so far has not been able to craft such agreements with the UAW and bondholders.

Henderson acknowledged another route would be to create a "good" GM and dump unwanted assets into a "bad" GM that would be sold off in bankruptcy.

GM supplier Delphi Corp. used such a technique in its Chapter 11 bankruptcy to sell off most of its U.S. operations. But Delphi is still in bankruptcy after nearly four years of restructuring.

Whichever way it goes, a GM bankruptcy is likely to be contentious, with highly paid lawyers representing unions, suppliers, dealers, creditors and retirees slugging it out in court.

For everyone involved, the whole process might feel more like waterboarding than a "quick rinse" bankruptcy.