

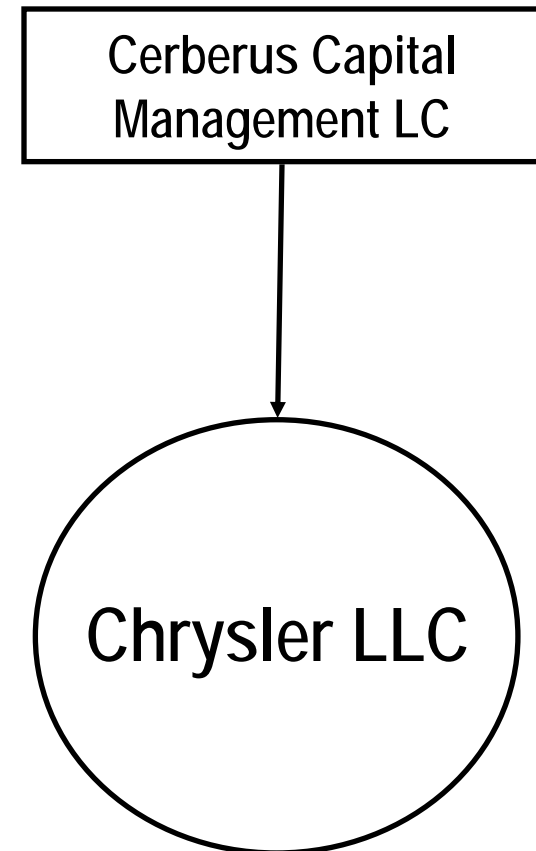
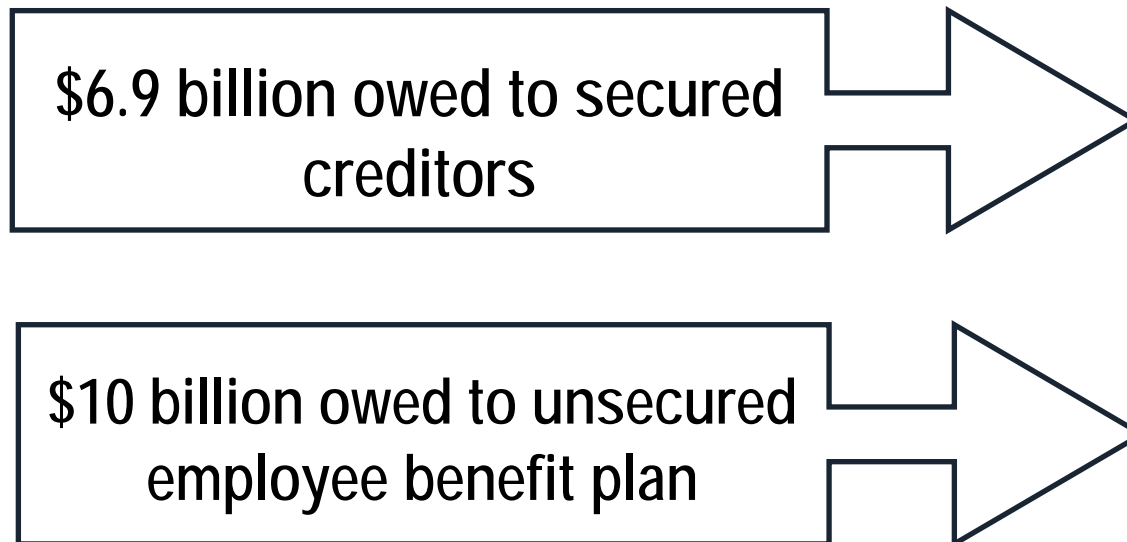
Case Study: The Chrysler & GM Bankruptcy Cases

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- Thomas E. Lauria, White & Case LLP
- J. Eric Wise, Gibson, Dunn & Crutcher LLP

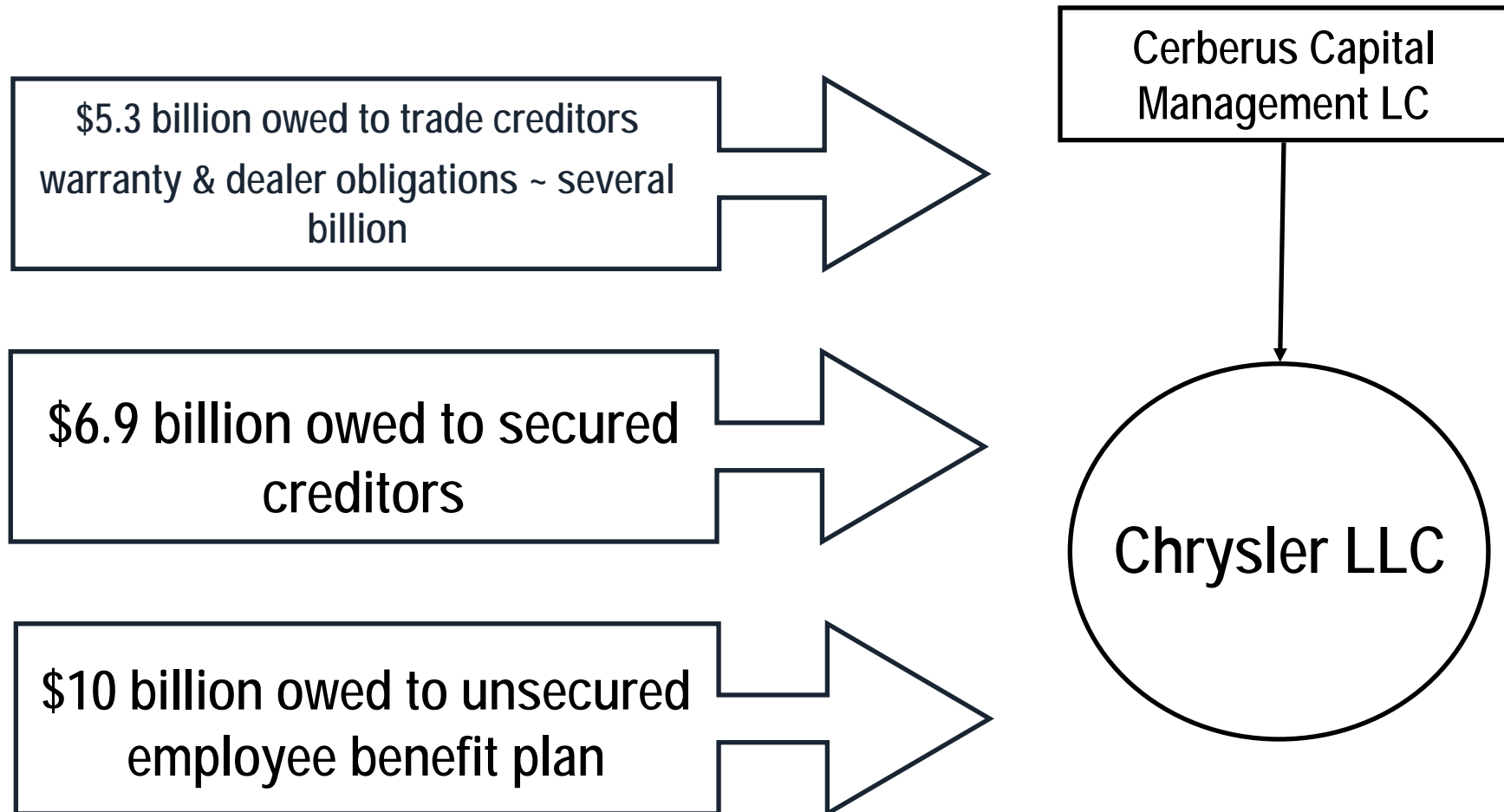
The Chrysler Case

Chrysler: Pre-Bankruptcy

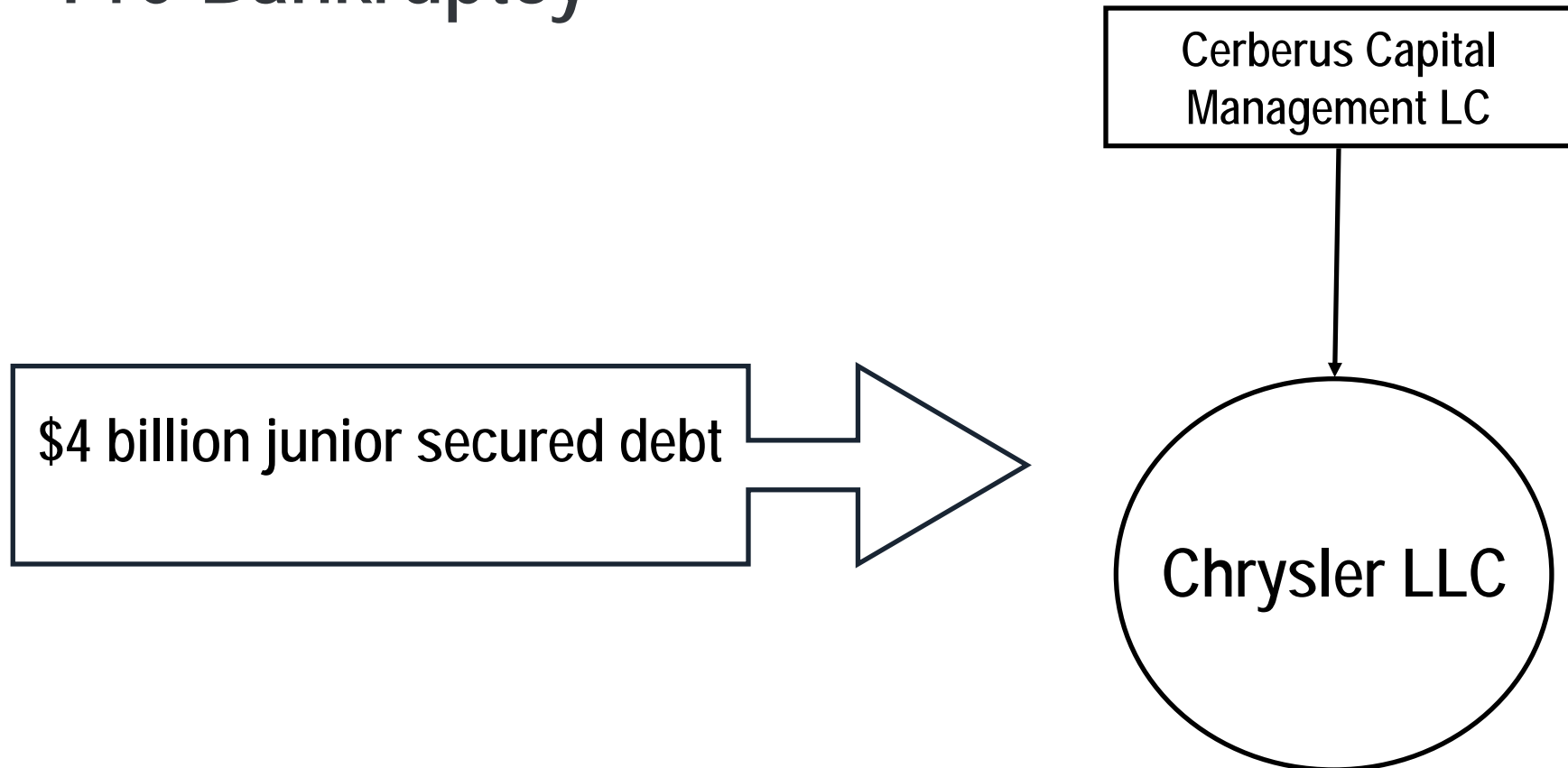
PRIVATE FIRM
Two largest creditors



Chrysler: Pre-Bankruptcy



Government Loans to Chrysler: Pre-Bankruptcy



April 2009

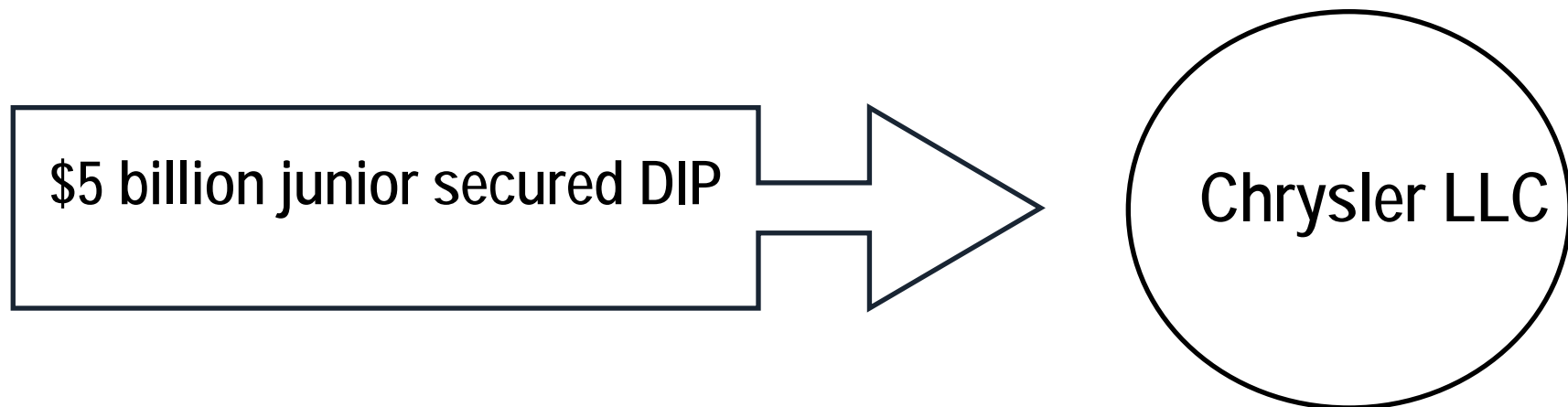
Chapter 11

Cerberus Capital
Management LC

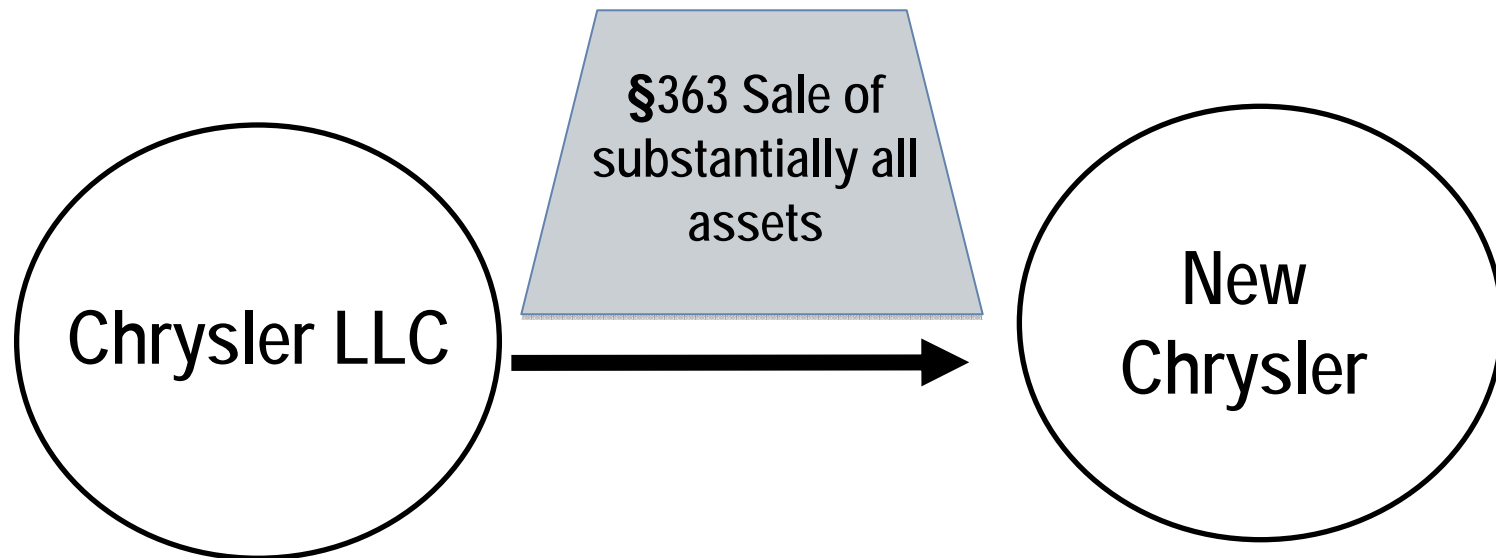
Chrysler LLC

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graph TD; A[Cerberus Capital Management LC] --> B((Chrysler LLC));
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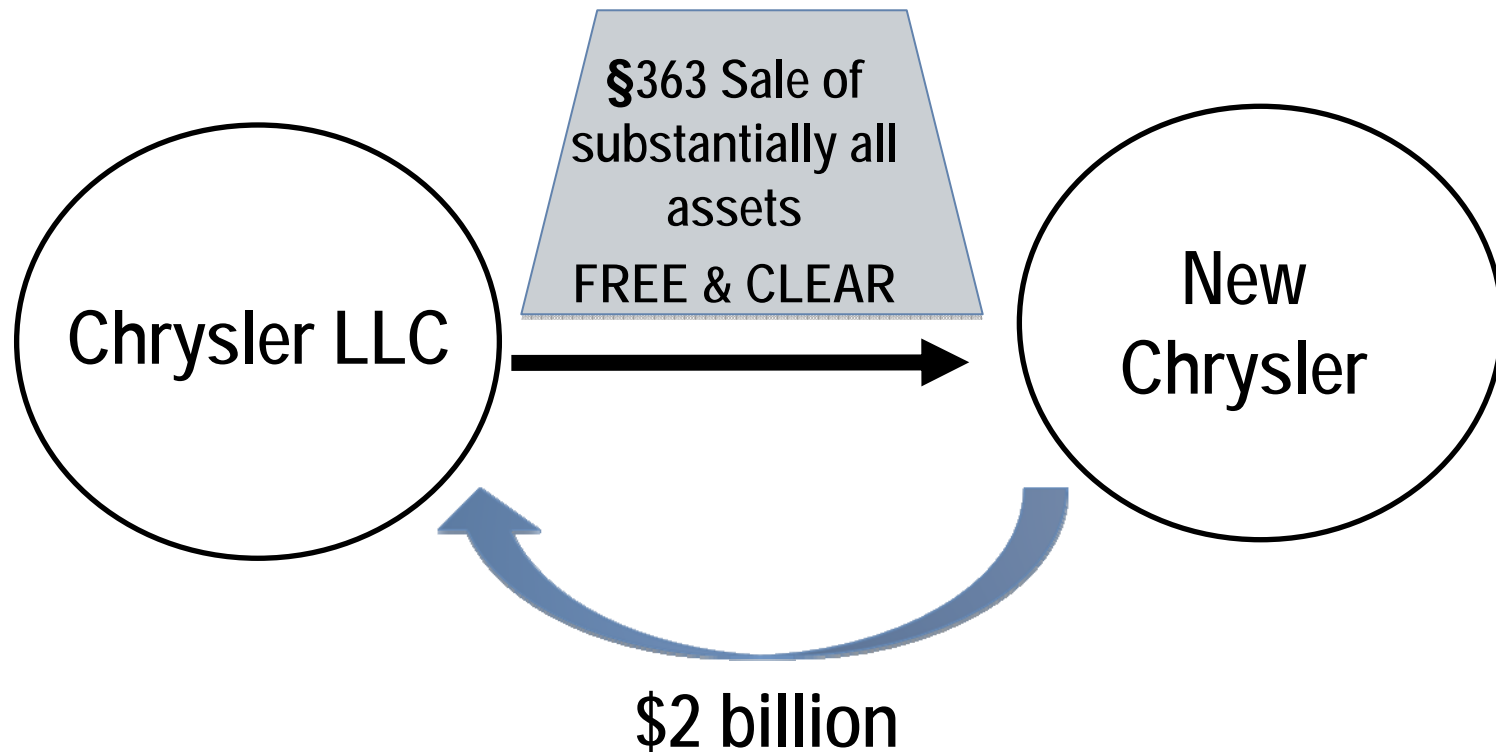
Government Loans to Chrysler: Post-Bankruptcy



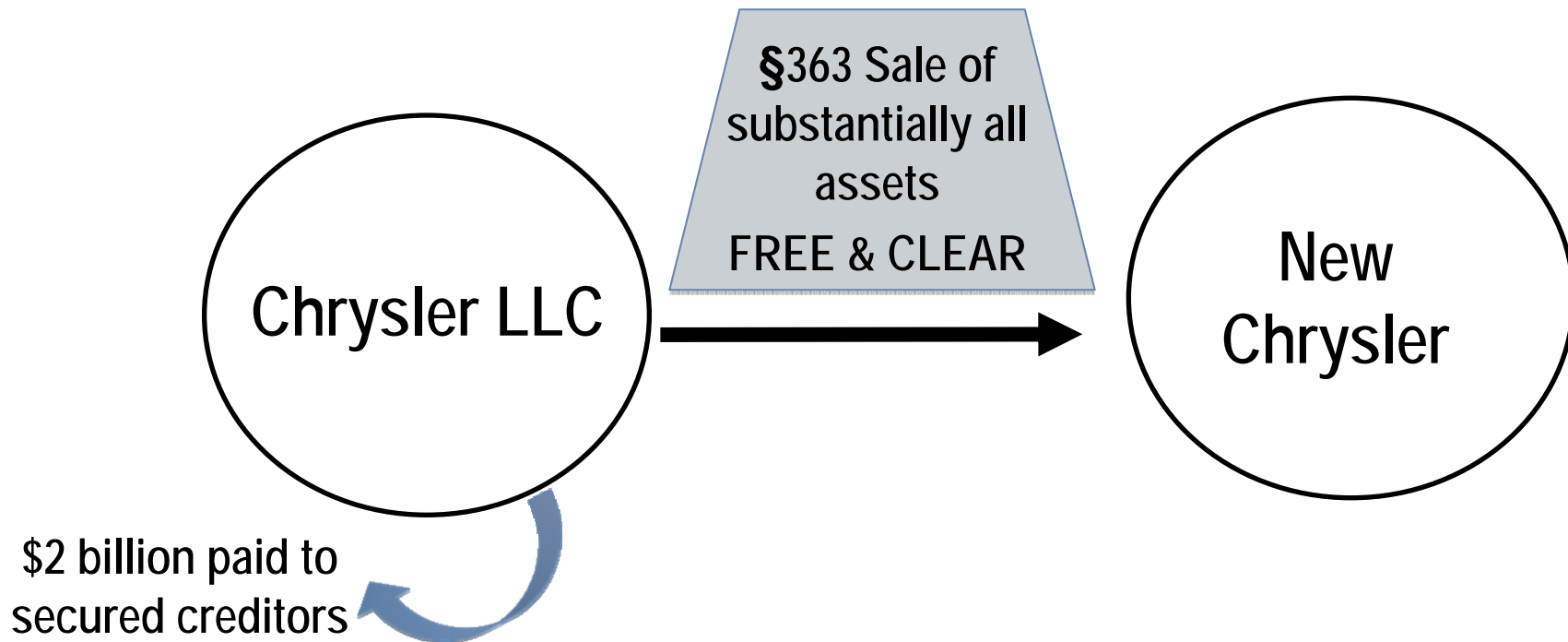
Government created and funded a shell corporation: New Chrysler

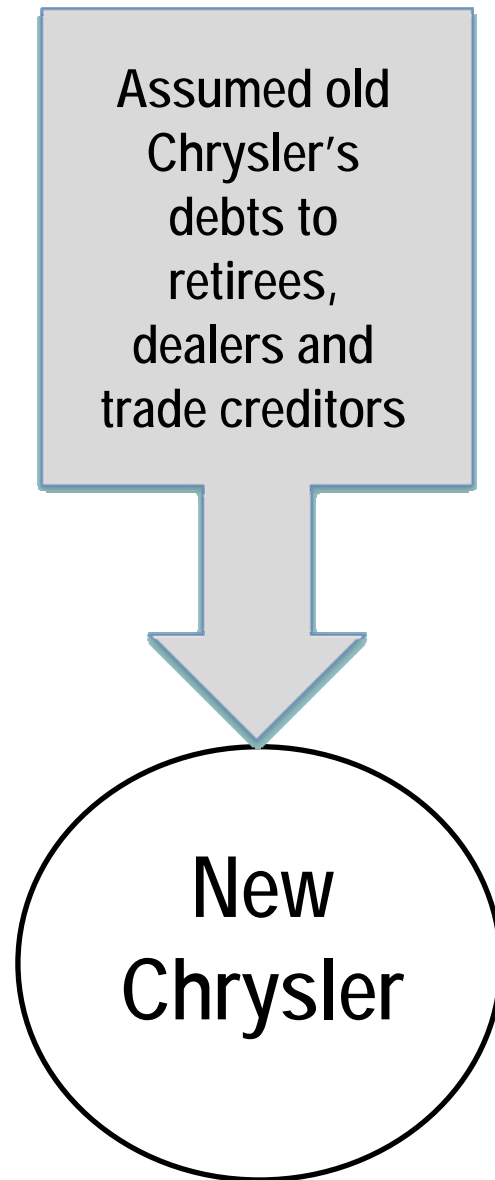


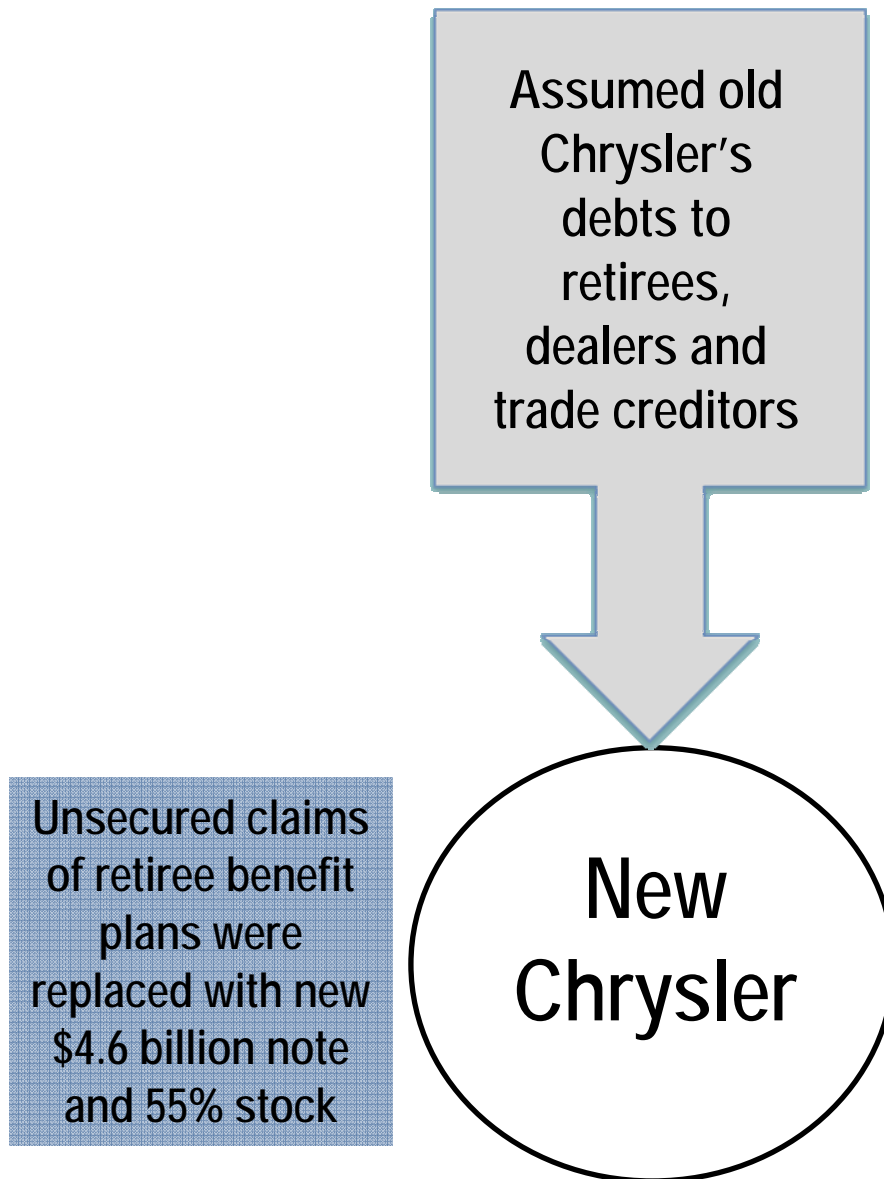
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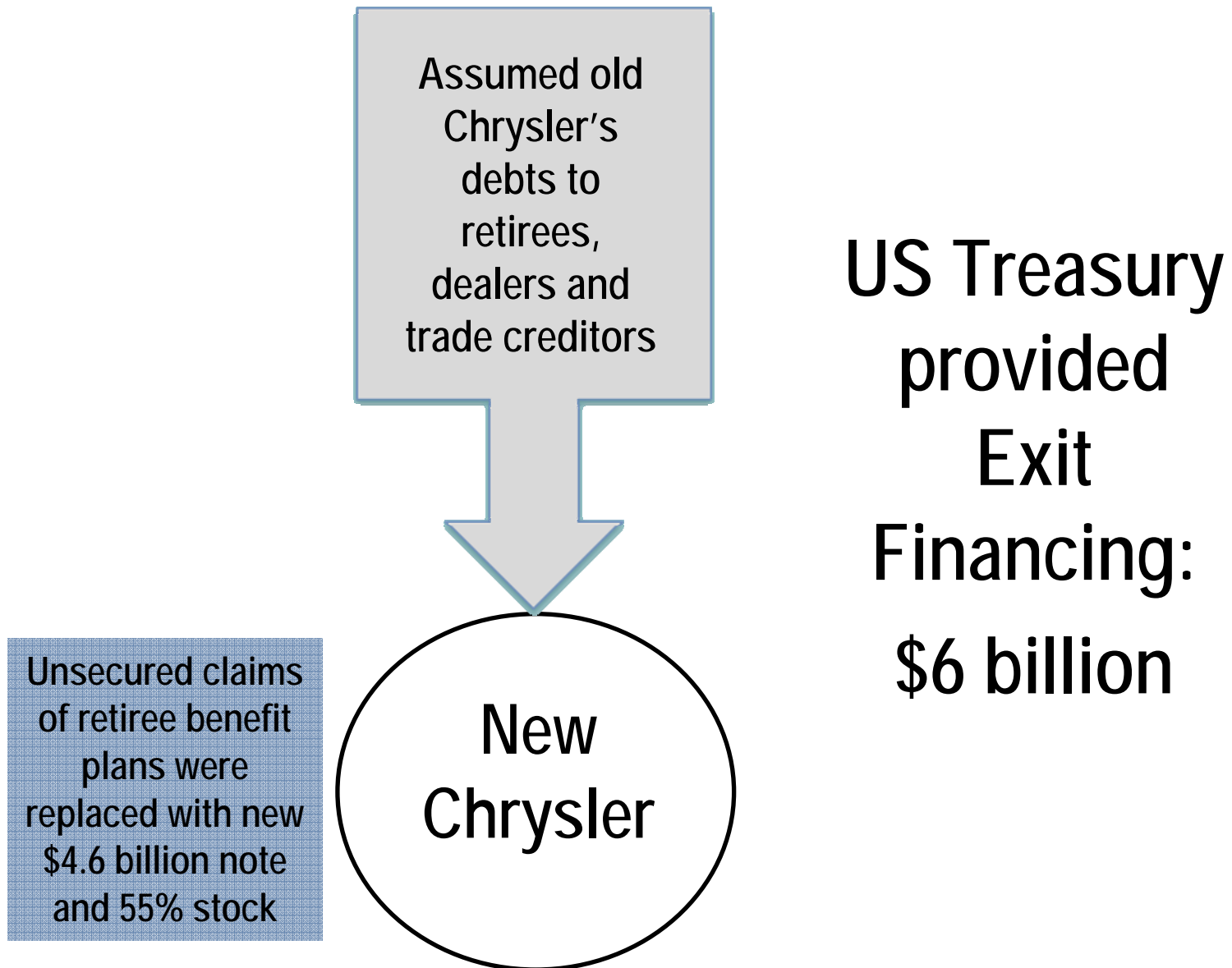
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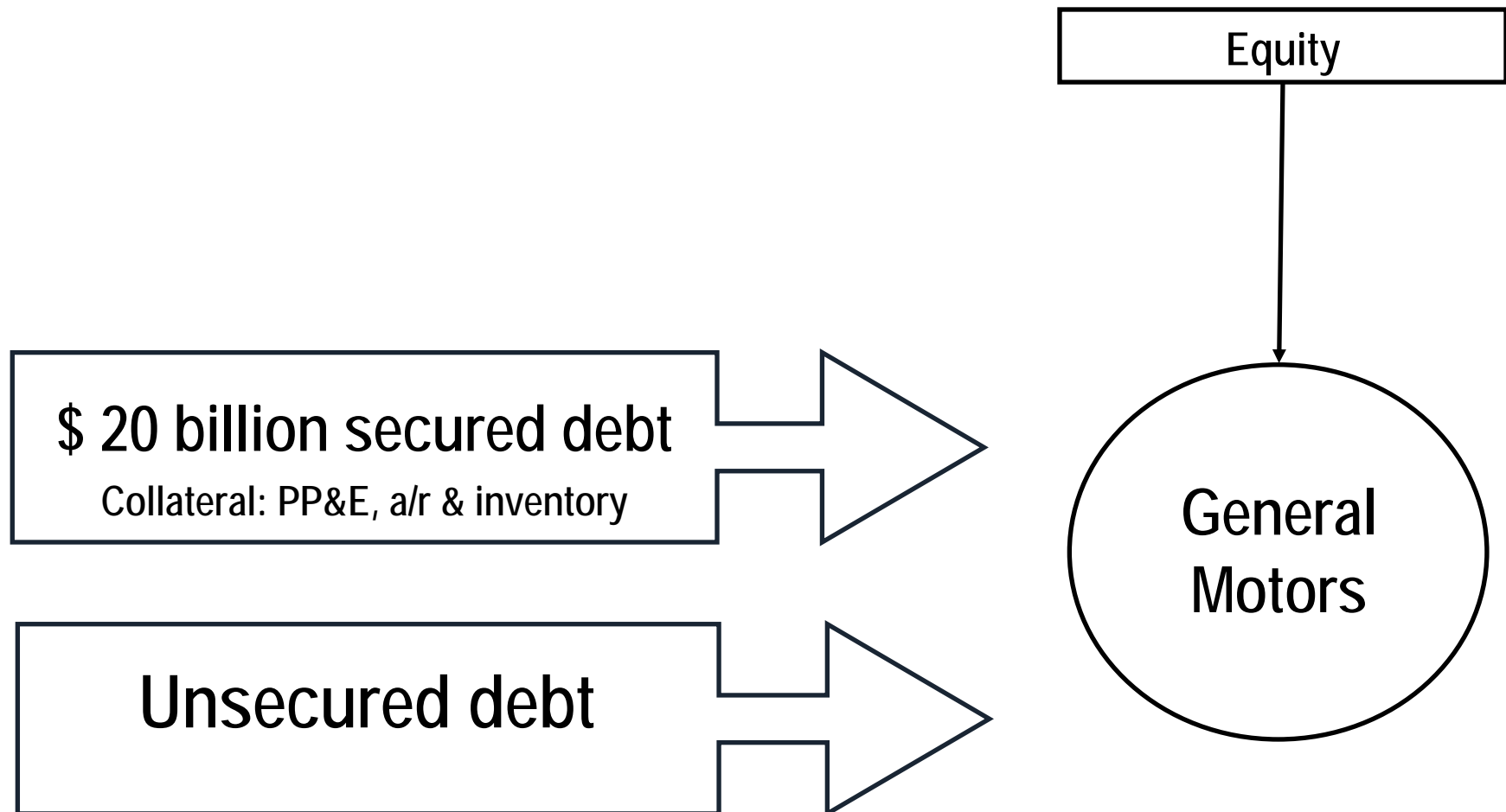




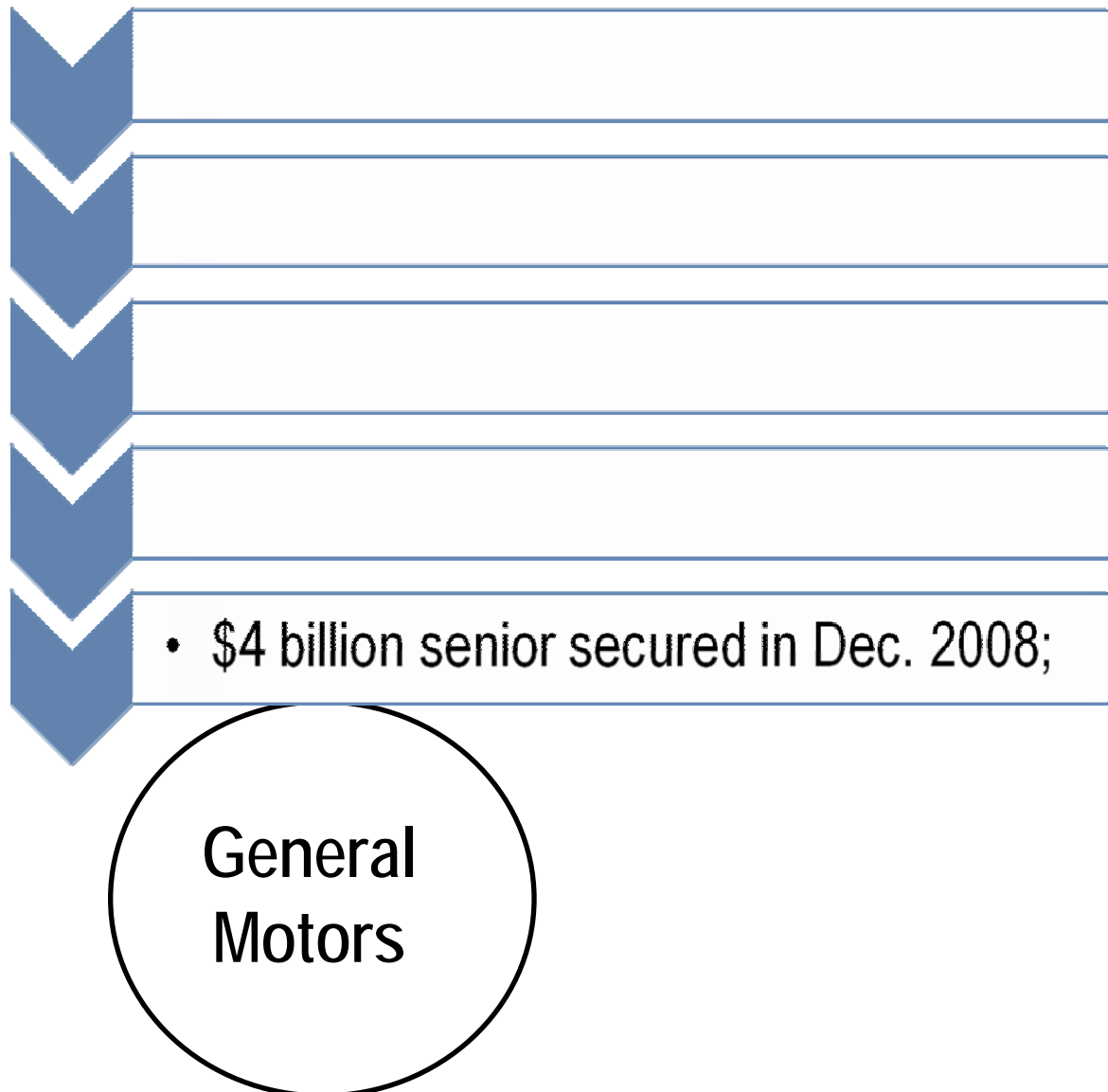
The General Motors Case



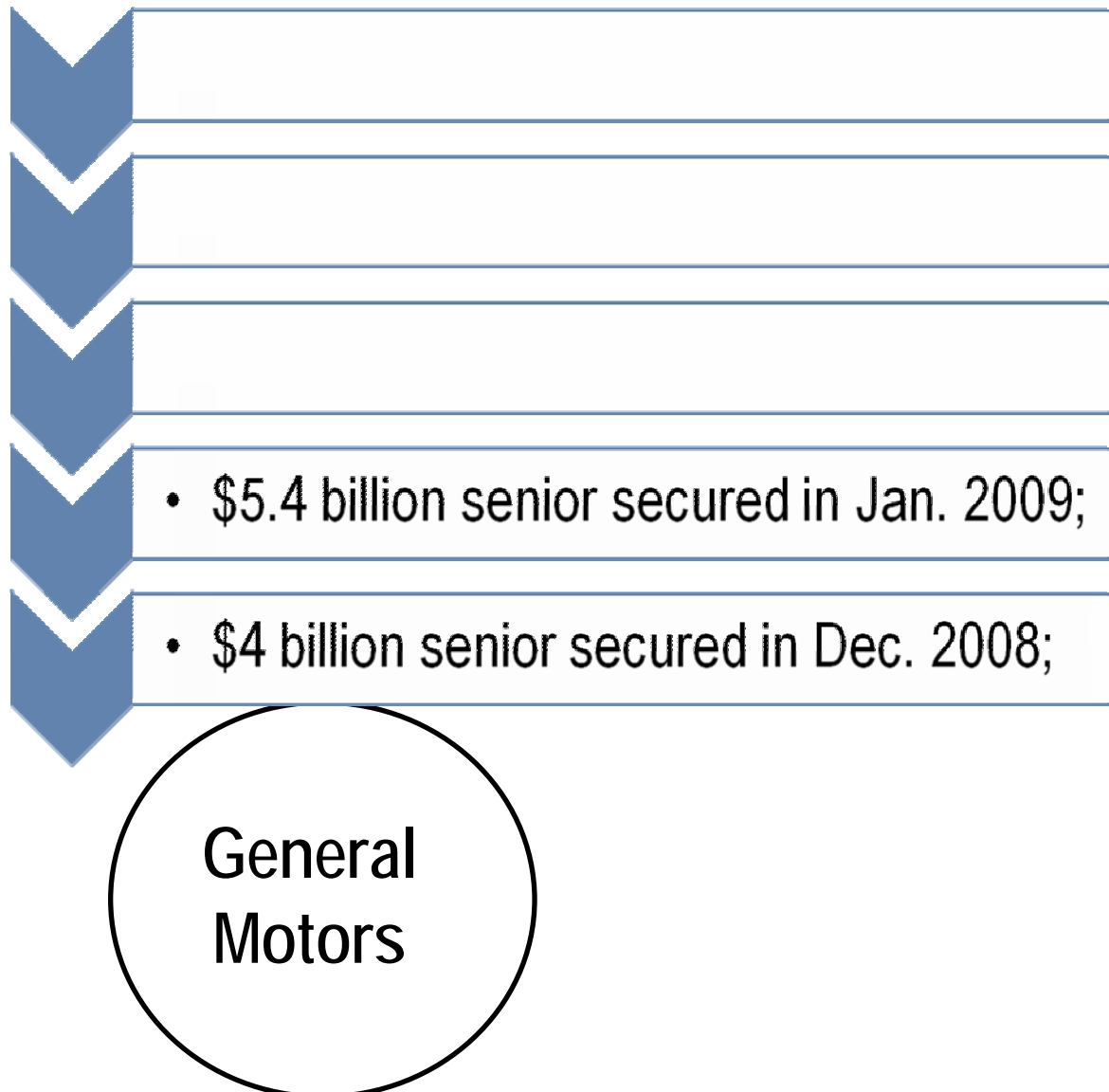
General Motors: Pre-Bankruptcy Filing



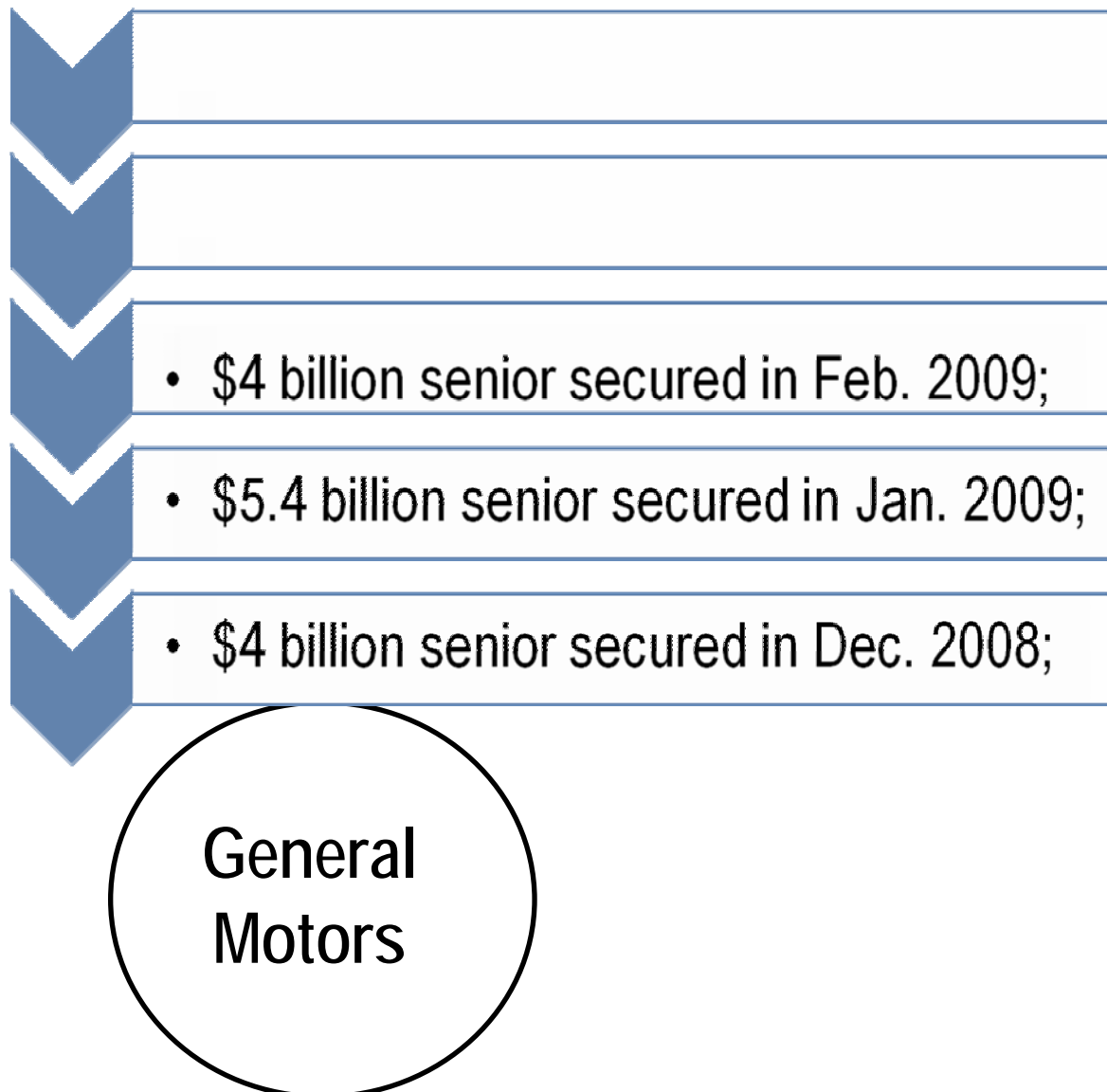
General Motors: Pre-Bankruptcy Government Loans



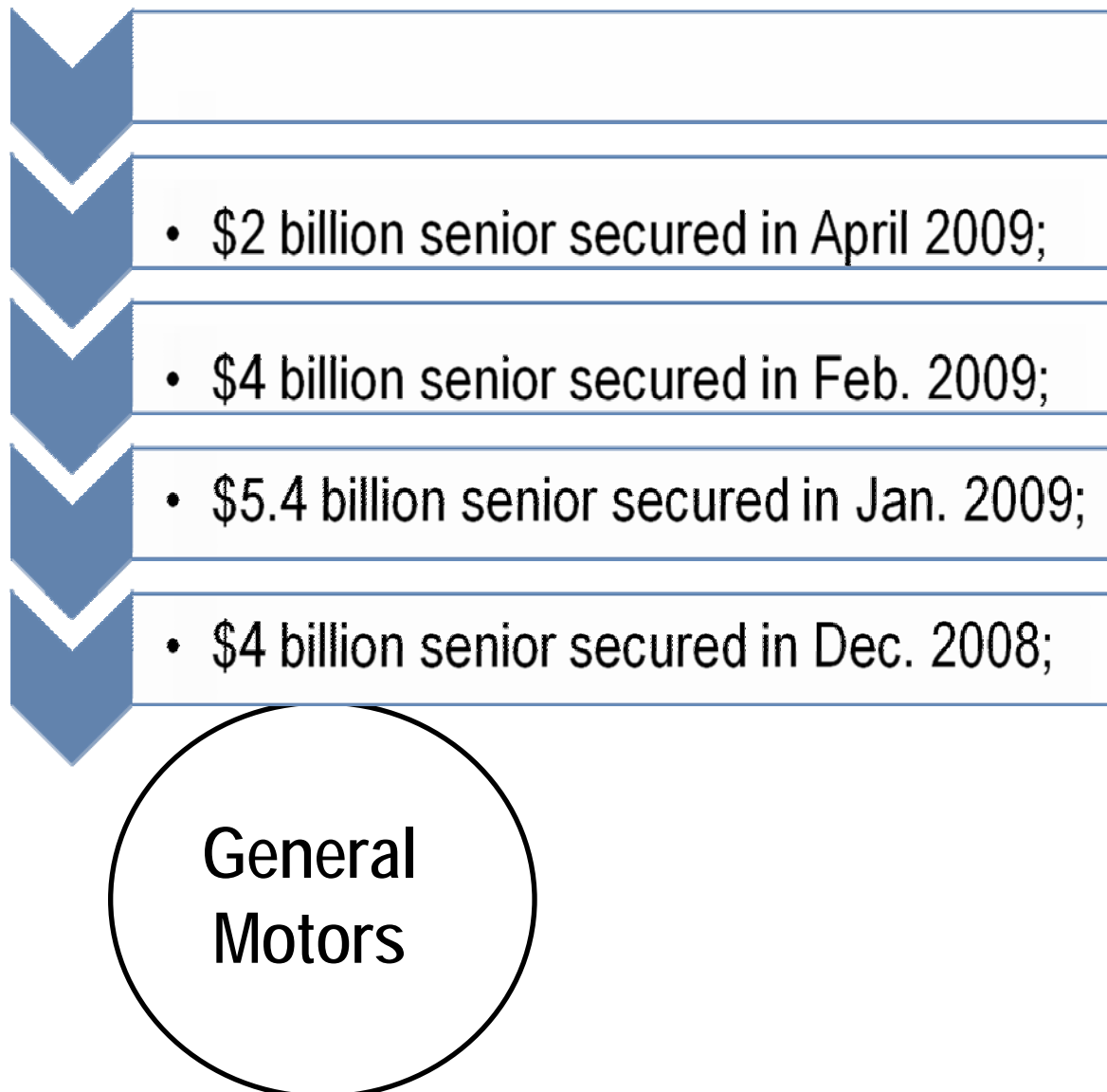
General Motors: Pre-Bankruptcy Government Loans



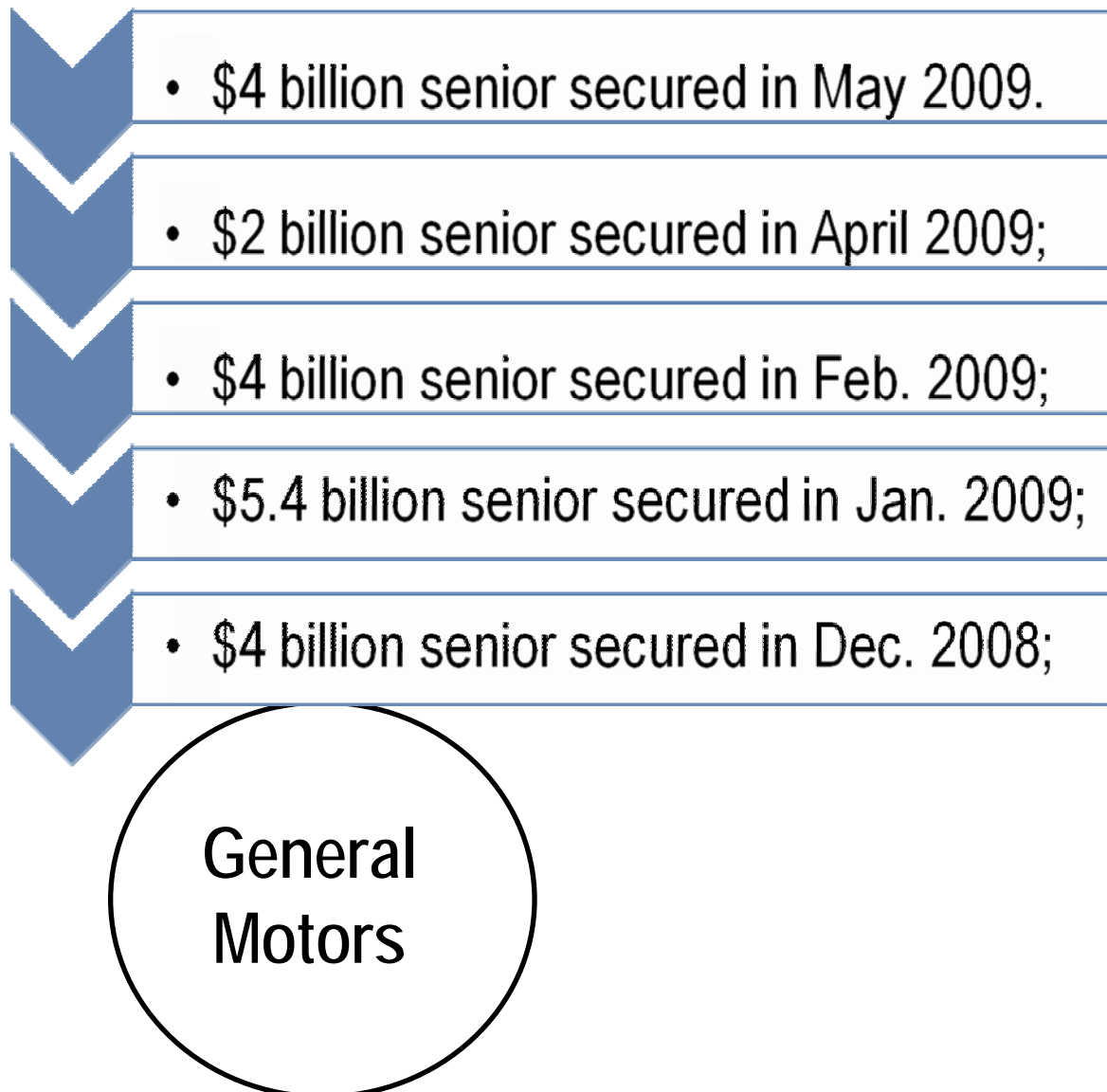
General Motors: Pre-Bankruptcy Government Loans



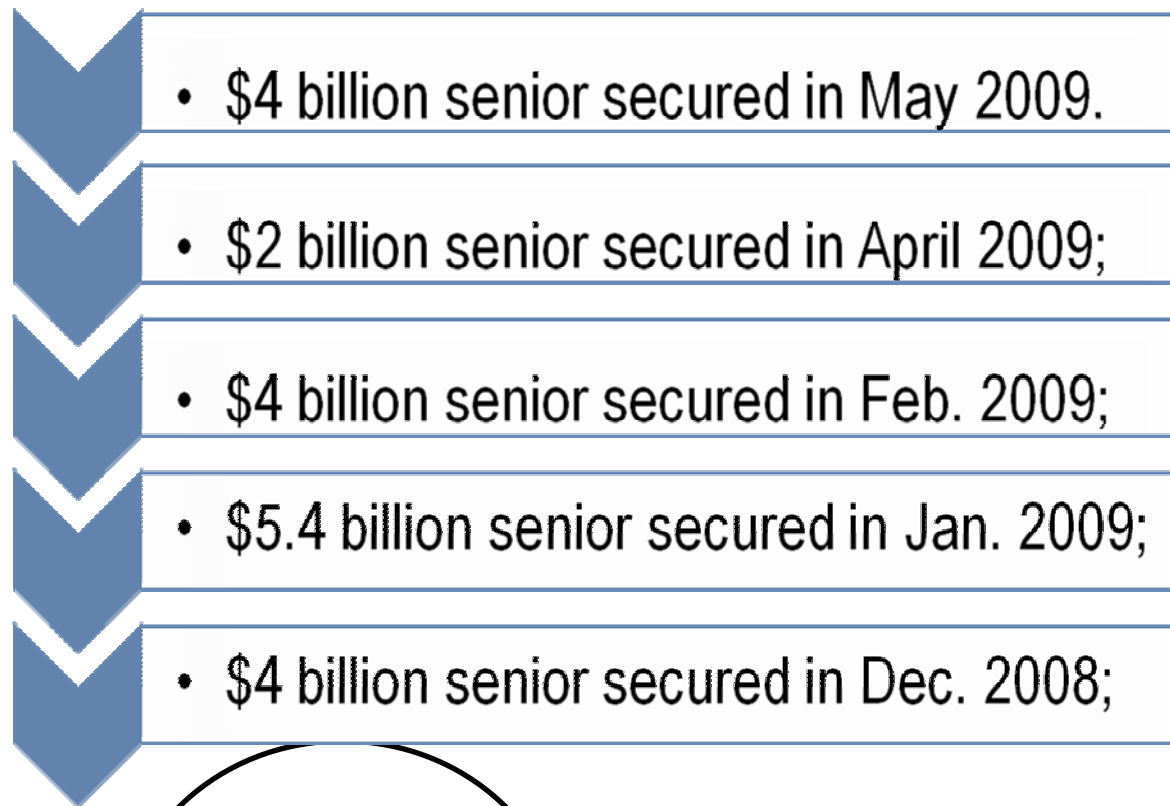
General Motors: Pre-Bankruptcy Government Loans



General Motors: Pre-Bankruptcy Government Loans



General Motors: Pre-Bankruptcy Government Loans



**General
Motors**

First lien on IP and second lien on other assets.

First infusion: no quid pro quo
Second and subsequent infusions:
lender forbearance

General Motors

Book value as of March 31, 2009

ASSETS	LIABILITIES
\$82 billion	\$172 billion

General Motors

2009 liquidation value?

ASSETS	LIABILITIES
\$~8 billion	\$172 billion

As of May 2009:

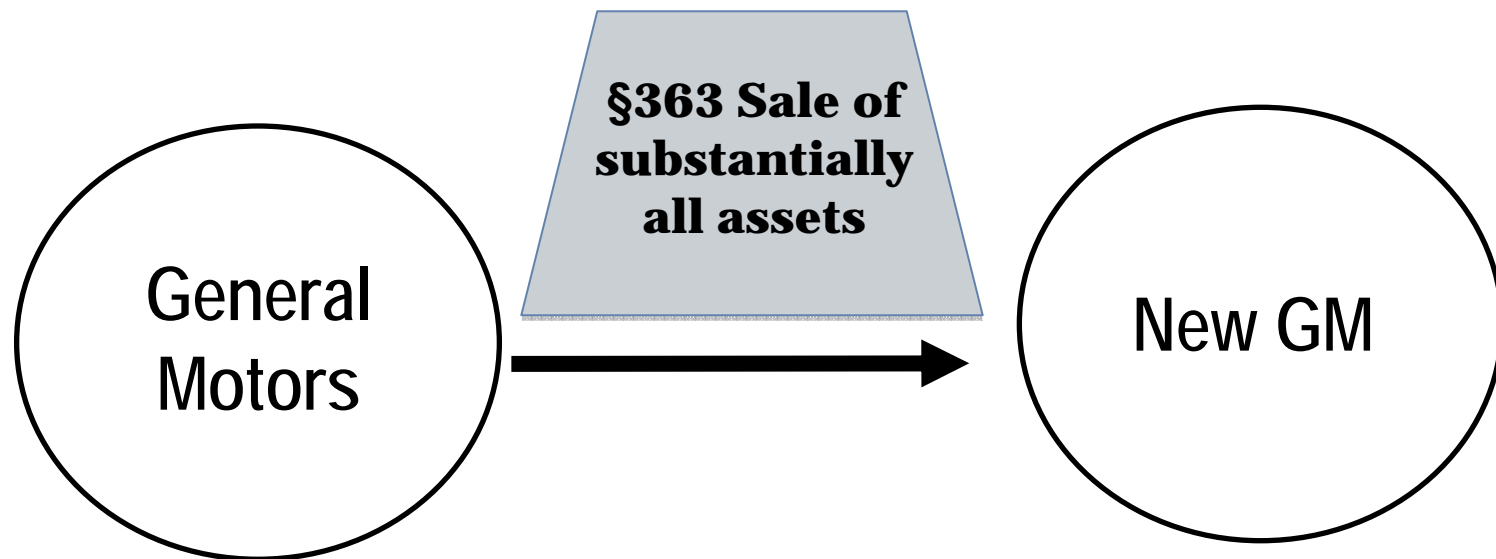
- GM's total revenue decreased by \$20 billion in the first three months of 2009, as compared to 2008;
- Operating losses increased by \$5.1 billion from prior quarter;
- Negative cash flow of \$9.4 billion;
- Available liquidity deteriorated by \$2.6 billion;
- Sales declined by 49%, compared to first three months of 2008.

June 2009

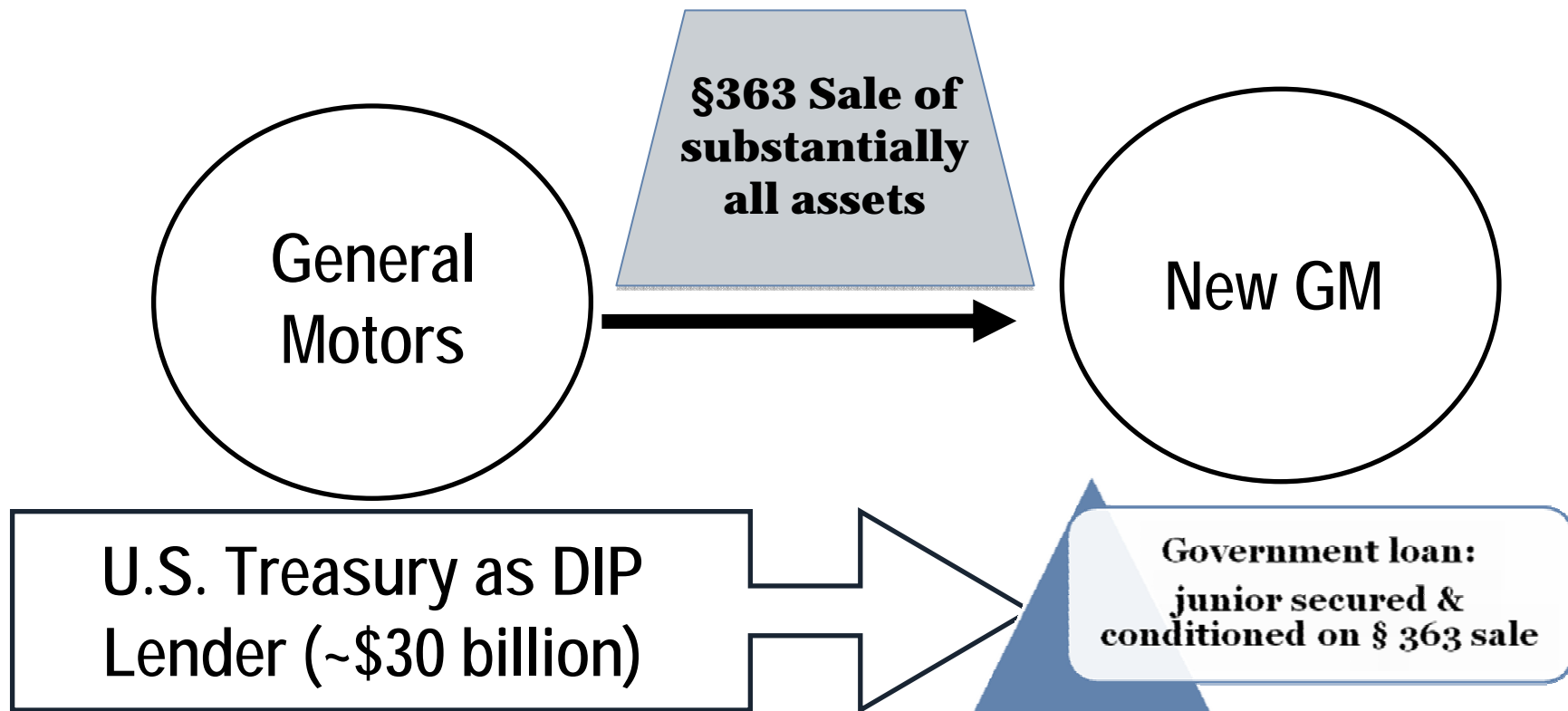
Chapter 11

General
Motors

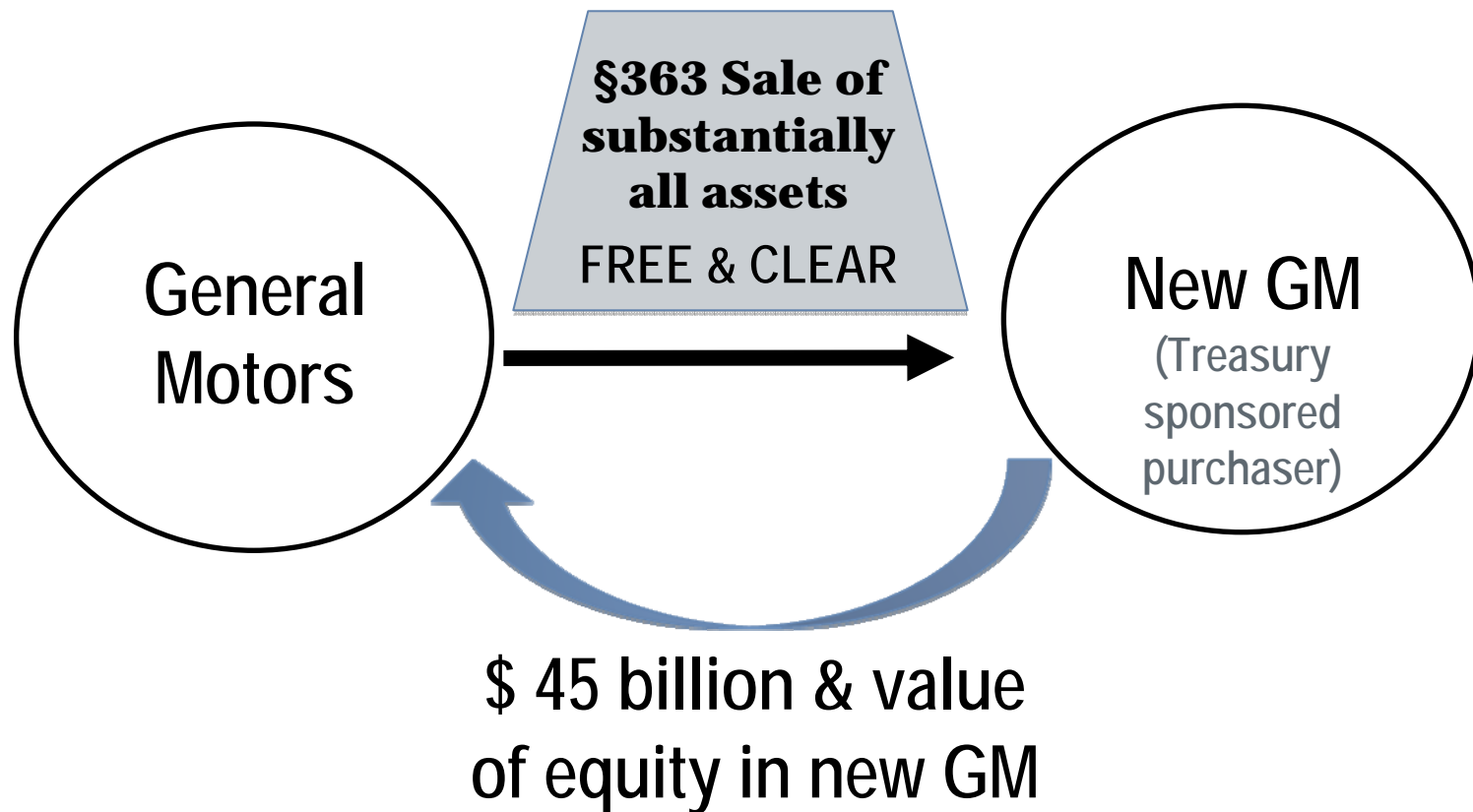
Government created and funded a shell corporation: New GM



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Government created and funded a shell corporation: New GM



Old GM Received:

- Credit bid by U.S. Treasury and Canada for prepetition indebtedness & DIP;
- Assumption by New GM of \$6.7 billion indebtedness under DIP;
- \$1.175 billion new Treasury DIP for wind-down;
- Surrender of warrant issued by Old GM to Treasury for prepetition loan;
- 10% of post-closing outstanding shares of New GM;
- Certain pre-petition unsecured claims (2% if old GM unsecured claims > \$35 B);
- Two warrants, each to purchase 7.5% of New GM.



Old
General
Motors

Old GM retained the following liabilities:

- All liabilities, except those expressly assumed by New GM, including:
 - Certain product liability claims;
 - Liability for asbestos claims;
 - Tort & contract claims;
 - Implied warranty claims;
 - Employment-related obligations not otherwise assumed
(other than those covered under UAW collective bargaining agreement)



Old
General
Motors

New GM acquired all Old GM's assets EXCEPT:

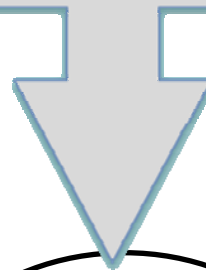
- \$1.175 cash & other restricted cash & receivables;
- Equity interest in Saturn;
- Certain real & personal property;
- Bankruptcy avoidance actions;
- Certain employee benefit plans.



New
GM

New GM assumed the following liabilities:

- Product liability claims;
- Warranty & recall obligations of Old GM & New GM;
- All employment-related obligations and liabilities under any employee benefit plan for employees covered by UAW collective bargaining agreement.



New
GM

Equity:

U.S. Treasury: 60.8% common stock & \$2.1 billion of Preferred Stock

UAW Retiree Health Trust: 17.5% common stock & \$400 million Preferred Stock

Government of Canada & Ontario: 11.7% common stock & \$6.5 billion Preferred Stock & warrant to acquire 2.5% of common.



New
GM

How were the secured and unsecured bondholders treated in the Chrysler case?

- Secured creditors received 29 cents on the dollar;
- Unsecured retiree claims ~ 50 cents on the dollar
 - New Note & 55% of New Chrysler Stock;
- Unsecured trade creditors were paid in full;
- Future products liability claimants: -0-
 - Can bring claims against Old Chrysler (assets?)

How were the secured and unsecured bondholders treated in the GM case?

- Secured bondholders paid in full;
- Unsecured bondholders: ~10% stake in equity

Conceptual issues raised by the GM & Chrysler cases

- Valuation of Assets?

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Conceptual issues raised by the GM & Chrysler cases

- Valuation of Assets?
- Consent of Parties-in-Interest
- Market Test of Transaction?
- Immediacy?
- *Sub rosa* plan & violation of absolute priority rule or a template for future Chapter 11 cases?
- Would exigent circumstances present in other cases lead courts to the same process (and outcome)?