

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

_____)
In re:) Chapter 11
)
IEH AUTO PARTS HOLDING LLC, *et al.*,¹) Case No. 23-90054 (CML)
)
Debtors.)
_____) (Emergency Hearing Requested)

DEBTORS' CORRECTED EMERGENCY MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THEIR CASH MANAGEMENT SYSTEM AND MAINTAIN EXISTING BANK ACCOUNTS, (B) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS, (C) MAINTAIN EXISTING BUSINESS FORMS AND BOOKS AND RECORDS, AND (II) GRANTING RELATED RELIEF

Emergency relief has been requested. Relief is requested not later than 4:00 p.m. (prevailing Central Time) on February 1, 2023.

If you object to the relief requested or you believe that emergency consideration is not warranted, you must appear at the hearing if one is set, or file a written response prior to the date that relief is requested in the preceding paragraph. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

A hearing will be conducted on this matter on February 1, 2023, at 4:00 p.m. (prevailing Central Time) in Courtroom 401, 4th floor, 515 Rusk Street, Houston, Texas 77002. Participation at the hearing will only be permitted by an audio and video connection.

Audio communication will be by use of the Court's dial-in facility. You may access the facility at (832) 917-1510. Once connected, you will be asked to enter the conference room number. Judge Lopez's conference room number is 590153. Video communication will be by use of the GoToMeeting platform. Connect via the free GoToMeeting application or click the link on Judge Lopez's homepage. The meeting

¹ The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity's federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors' service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.



code is “JudgeLopez”. Click the settings icon in the upper right corner and enter your name under the personal information setting.

Hearing appearances must be made electronically in advance of both electronic and in-person hearings. To make your appearance, click the “Electronic Appearance” link on Judge Lopez’s homepage. Select the case name, complete the required fields and click “Submit” to complete your appearance.

The above-captioned debtors and debtors in possession (collectively, the “Debtors”) state as follows in support of this motion (this “Motion”):²

Relief Requested

1. The Debtors seek entry of interim and final orders, substantially in the forms attached hereto (respectively, the “Interim Order” and “Final Order” and, together the “Orders”), (a) authorizing, but not directing, the Debtors to (i) continue to operate their cash management system as set forth on **Exhibit 1** attached hereto (the “Cash Management System”) and maintain their existing bank accounts, including honoring certain prepetition obligations related thereto, (ii) continue to perform intercompany transactions with each other and with non-Debtor affiliates (the “Intercompany Transactions”) consistent with past practice and authorizing the Debtors to continue to operate and perform under the terms of the Shared Services Agreement and Transition Services Agreement; (iii) maintain existing business forms; and (b) granting related relief. The Debtors request that the Court schedule a final hearing within approximately 21 days after the commencement of these chapter 11 cases to consider entry of the Final Order.

² On January 31, 2023 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Capitalized terms used but not otherwise defined in this Motion have the meanings ascribed to them in the *Declaration of Michael Neyrey, Chief Executive Officer of IEH Auto Parts Holding LLC, in Support of the Debtors’ Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”) filed concurrently with this Motion.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the Southern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157 (b). The Debtors confirm their consent to the entry of a final order by the Court.

3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105, 345, 363, 364, 503, and 553 of title 11 of the United States Code (the “Bankruptcy Code”), rules 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and rule 9013-1 of the Bankruptcy Local Rules for the Southern District of Texas (the “Bankruptcy Local Rules”).

Cash Management System

5. The Debtors operate an integrated Cash Management System to collect, transfer, and disburse funds generated by their operations, which facilitates cash monitoring, forecasting, and reporting, and also enables the Debtors to maintain control over the administration of their bank accounts.

6. As of the Petition Date, the Debtors maintain fourteen (14) bank accounts (together with any other bank accounts the Debtors may open in the ordinary course of business, the “Bank Accounts”) with five (5) banks (collectively, the “Cash Management Banks”), including those set forth on **Exhibit 2** attached hereto and reflected on the diagram of the Cash Management System set forth on **Exhibit 1** attached hereto.³ Of the fourteen Bank Accounts, eleven (11) are in Debtor

³ The Debtors believe, and have undertaken reasonable efforts to ensure, that the Exhibits attached to the Motion list all their Bank Accounts. If any Bank Account has been inadvertently omitted, the Debtors request that the relief sought by this Motion be deemed to apply to any such Bank Account.

IEH Auto Parts LLC's name, two (2) are in IEH Auto Parts Holding LLC's name, and one (1) is in the name of AP Acquisition Company Clark LLC.

A. Description of the Cash Management System.

7. As of the Petition Date, the Cash Management System includes fourteen (14) Bank Accounts that are held at the following five Cash Management Banks: (a) Bank of America, N.A. ("BOA"), (b) Wells Fargo Bank, N.A. ("Wells"), (c) Regions Bank, N.A. ("Regions"), (d) Truist Bank ("Truist"); and (e) Signature Bank ("Signature"). The majority of the Bank Accounts are with BOA, which is the Debtors' main Cash Management Bank. As discussed below, the two Truist Bank Accounts are related to Debtor IEH AIM LLC's ("AIM") operations, which operations are being wound down.⁴

8. As of the Petition Date, the Debtors have approximately \$4.8 million in total in the Bank Accounts. Each of the Bank Accounts is described in detail below and in the schematic of the Cash Management System attached hereto as **Exhibit 1**. The Cash Management System consists of:

Bank Accounts	Description
<p><u>Concentration Account</u> BOA (3495)</p>	<p>The focal point of the Cash Management System consists of a concentration account maintained at BOA. The Concentration Account is funded from the Collection Accounts (discussed below), and, in limited instances, collections received via wire or ACH transaction are deposited directly into the Concentration Account.</p> <p>The Concentration Account is the account from which the Debtors fund the various disbursement accounts (discussed below).</p>

⁴ AIM was in the business of operating a buyer's group pursuant to which the Debtors and non-debtor entities purchased goods from third party suppliers.

Bank Accounts	Description
<p><u>Collection Accounts:</u></p> <p>Wells Fargo (1148): Store Activity Regions (1094): Store Activity BOA (1076) [ZBA]: Store Activity [Lockbox] BOA (1576) [ZBA]: Lockbox BOA (0454) [ZBA]: Credit Cards</p>	<p>The Debtors’ principal sources of cash include sales of inventory at their stores, warehouse, and online, which are deposited into one of five accounts:</p> <p><u>Store Level Accounts:</u> For receipts arising from the Debtors’ operations of their stores (other than credit card receipts), the funds are deposited into one of four accounts: (i) BOA Account ending x1076, which is a lockbox account, (ii) Wells Fargo Account ending x1148, and (iii) Regions Account ending x1094.</p> <p>The BOA Accounts are zero balance accounts (“<u>ZBA</u>”), which are automatically swept into the Concentration Account on a daily basis.</p> <p>The Wells Fargo Account and Regions Account—which the Debtors maintain for locations where BOA does not have a significant presence—are swept manually into the Concentration Account, usually on a weekly basis.</p> <p>Cash receipts collected at the stores are deposited into the applicable store level account on an almost daily basis, other than the cash held back for the Store Level Cash (defined below).</p> <p><u>Lockbox Account</u> (BOA 1576): Warehouse receipts and customer collections received via mailed checks, are deposited into a lockbox account at BOA (1576), which are then transferred into the Concentration Account on a daily basis.</p> <p><u>Credit Card Account</u> (BOA 0454): For all credit card sales and collections on account paid via credit card, the credit card receipts are deposited in the BOA Account ending x0454. This Bank Account is a ZBA and gets automatically swept into the Concentration Account on a daily basis.</p>
<p><u>Disbursement Accounts</u></p> <p>BOA (0909): Credit Card Fees BOA (9322): Checking BOA (6246): Auto Debit Account BOA (6233): ACH Account</p>	<p>BOA (0909): <u>Credit Card Fees</u> (the “<u>Credit Card Settlement Account</u>”) In connection with the Debtors’ merchant agreement with BOA, the Debtors maintain an account with BOA that pays all related credit card merchant fees. This account is funded from proceeds</p>

Bank Accounts	Description
BOA (9043): Holds Utility Adequate Assurance Deposit	<p>drawn from the Concentration Account.</p> <p><u>Accounts Payable Accounts / Payroll Accounts:</u> The Debtors maintain three BOA Accounts as disbursement accounts for their vendors and employees. The Accounts are set up to address the method of payments the Debtors make to the applicable party, and are all funded from proceeds drawn from the Concentration Account:</p> <ul style="list-style-type: none"> • Payments made by check are drawn from the BOA Account ending x9322; • Payments made by automatic debit, including automatic debits of the P-Card Obligations (as defined below) are from the BOA ending x6246; and • Payments made by ACH are from the BOA Account ending x6233. <p>The auto-debit account (BOA x6246) also serves as the Debtors' payroll account, whereby the Debtors make the applicable payment to their payroll processor.</p> <p><u>BOA (9043): Utility Adequate Assurance Deposit:</u> The Debtors also maintain a Bank Account with BOA that they previously used to fund certain benefit payments (e.g., life insurance). However, this Bank Account now holds the Adequate Assurance Deposit in the total amount of \$386,479.00 as set forth in the Debtors' Utilities Motion.</p>
Truist Accounts	
Truist (6445): Checking Account Truist (6437): Checking Account	<p>As of the Petition Date, these Bank Accounts are largely inactive.</p> <p>Historically, the Debtors used Truist Account (x6445) for the receipt of member dues, to pay for any operating expenses, and to make payroll payments to an individual that oversaw AIM's operations, but that individual is no longer employed by the Debtors. Further, because operations have ceased for this Debtor AIM entity, no further membership dues will be</p>

Bank Accounts	Description
	<p>collected into this account.</p> <p>Truist Account (x6437) is (a) the collections account, where rebates owed from suppliers are deposited; and (b) also the disbursement account, for distributions made to the other members of the buyer's group for their allocation of the rebates. As of the Petition Date, Debtor AIM has a single accounts receivable remaining for the rebates earned, and has kept this Bank Account open to avoid any disruption in collection.</p>
Signature Account	
Signature (0999)	As of the Petition Date, this account is largely inactive and holds approximately \$50,000.

9. The Debtors undertake no investment activities, and are not seeking to make investments.

10. Finally, the Debtors estimate that their store level cash is approximately \$230,000, with an average per-store balance of \$750.00 (“Store Level Cash”). The Store Level Cash is to be utilized for operating cash register drawers (making change), customer refunds, and business expenses. The Store Level Cash is critical to the Debtors’ ability to maintain ordinary course operations at the store level. When cash is needed, store managers record use of Store Level Cash via a “paid-in” and “paid-out” recording at the cash registers, thus allowing the Debtors to track the cash deposited and removed from the cash registers for approved purchases and business expenses. The Debtors request authority, but not direction, to continue utilizing and making payments on account of the Store Level Cash in the ordinary course of business on a postpetition basis.

B. Compliance with the Guidelines and Section 345 of the Bankruptcy Code.

11. The *Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees* (the “Guidelines”) promulgated by the Office of the United States Trustee (the “U.S. Trustee”), generally require chapter 11 debtors to, among other things, deposit all estate funds in an account with an authorized depository that agrees to comply with the U.S. Trustee’s requirements.

12. Section 345(b) of the Bankruptcy Code requires that a debtor’s bank post a bond unless a debtor’s funds are “insured or guaranteed by the United States or by a department, agency, or instrumentality of the United States or backed by the full faith and credit of the United States” or require the entity to deposit governmental securities pursuant to 31 U.S.C. § 9303.⁵ 11 U.S.C. § 345(b).

13. All of the Bank Accounts are maintained with Cash Management Banks that are authorized depositories. The Debtors are in compliance with Section 345(b) of the Bankruptcy Code.

C. Bank Fees and Courier Fees.

14. The Debtors incur periodic service charges and other fees in connection with the maintenance of the Cash Management System (the “Bank Fees”). Specifically, the Bank Fees include service charges and other fees, costs, lockbox management services, and expenses charged by the Cash Management Banks. Generally, the Bank Fees for each month are paid in arrears and are automatically deducted from the Debtors’ Bank Accounts as they are assessed by the Cash Management Banks.

⁵ Section 9303 of title 31 provides that when a person is required by law to give a surety bond, that person, in lieu of a surety bond, may instead provide an eligible obligation, designated by the Secretary of the Treasury, as an acceptable substitute for a surety bond. *See* 31 U.S.C. § 9303.

15. Historically, the Debtors estimate that they pay approximately \$90,000 in Bank Fees each month, which, generally, are automatically debited from the respective Bank Accounts. As of the Petition Date, the Debtors estimate that approximately \$90,000 in Bank Fees have accrued and remain unpaid.

16. The Debtors also incur certain fees related to armored-car or other transport of cash from store cash collections (the "Courier Fees"). The Debtors utilize Brinks and Loomis Fargo & Company ("Loomis," and together with Brinks, the "Couriers"). The Debtors pay approximately \$5,000 per month to the Couriers. As of the Petition Date, the Debtors estimate that they owe the Couriers approximately \$5,000 on account of unpaid Courier Fees.

17. The Debtors seek the authority to continue paying Bank Fees and Courier Fees, including prepetition Bank Fees and Courier Fees, in the ordinary course on a postpetition basis, consistent with historical practices.

D. Purchase Cards.

18. As part of the Cash Management System, the Debtors provide purchase cards to each of their store managers, which are primarily used to purchase goods from third parties in order to fulfill customer orders, to the extent necessary (the "Finish Order P-Card Program"). Generally, the Debtors maintain a policy that they will complete a customer's purchase request. If the Debtors do not have the requested item in their inventory or cannot otherwise acquire the item from their distribution centers in a timely fashion, the store managers will use the purchase cards to procure an outstanding item from a third party. The purchase cards are issued in the store names, not employee names.

19. The Debtors regularly audit the purchases made under the Finish Order P-Card Program to ensure compliance with their standard operating procedures. Purchases made outside

the policy require approval from the Vice President of Store Operations and/or the Chief Executive Officer.

20. In addition, the Debtors issued around 350 purchase cards to certain employees in field operations like corporate account managers, regional managers, and business development, which are used for corporate expenses, mainly travel and entertainment (the “T&E P-Card Program,” and together with the Finish Order P-Card Program, the “Purchase Card Program”). These cards are issued in the specific individual’s name, though the Debtors are ultimately liable for these charges. Individual employees who are issued purchase cards are responsible for reconciling all expenses charged to them.

21. Use of the Purchase Card Program is an integral part of the Debtors’ cash management and account functions and is essential to the continued operation of the Debtors’ businesses. Any interruption or inability to continue using this program would impose substantial hardship on the Debtors’ businesses because, for example, the Purchase Card Program is necessary to finishing orders for customers.

22. The Purchase Card Program is maintained with Citizens Bank (“Citizens”) under a Commercial Card Program Agreement by and between Citizens Bank, N.A. and The Pep Boys – Manny, Moe & Jack and Debtor IEH Auto Parts LLC (the “P-Card Agreement”).⁶ The Debtors’ obligations under the P-Card Agreement (the “P-Card Obligations”) are automatically drawn from the auto-debit account (BOA x6246) every Monday for amounts charged for the prior week from

⁶ American Entertainment Properties Corp on behalf of Icahn Automotive Group and its subsidiaries, the Debtors’ Prepetition Lender under the Prepetition Loan Agreement (both as defined in the First Day Declaration), posted a \$5 million letter of credit on behalf of both the Debtors and The Pep Boys – Manny, Moe & Jack, as collateral for the obligations under the P-Card Agreement. The letter of credit expires on or around August 13, 2023. The Debtors’ allocated portion of the letter of credit is \$2,055,000 and is encompassed in the letter of credit facility obligations set forth in the Prepetition Loan Agreement.

Monday through Sunday. Although a non-Debtor affiliate is part of the P-Card Agreement, the P-Card Obligations relate to purchase cards issued to the Debtors only. As of the Petition Date, the Debtors estimate that approximately \$145,000 in expenses have accrued and remain unpaid P-Card Obligations.

23. The Debtors seek authority to continue the Purchase Card Program, subject to any terms and conditions thereof, and to pay any amounts due and owing thereunder as of the Petition Date and on a postpetition basis.

E. Merchant Services Agreement.

24. In connection with their Cash Management System, the Debtors are party to a Merchant Services Agreement (the "Payment Agreement") with BOA and Banc of America Merchant Services, LLC as its credit card processor (the "Payment Processing Company"). In the ordinary course of business, the Debtors accept, among other payment methods, American Express, Visa, MasterCard, and Discover from customers. To process the credit card payment transactions, the Debtors are party to certain agreements with the Payment Processing Company, who in turn charges the Debtors a processing fee (collectively, the "Processing Fees"). The Processing Fees charged by BOA vary but are in the range of 1%- 3% of gross sales. In addition, when customers return merchandise to the Debtors following a purchase made by non-cash payment or otherwise dispute such payments, the Debtors may subsequently be obligated to refund the Payment Processing Company the purchase price of the returned or disputed merchandise, subject to certain adjustments (collectively, the "Chargebacks," and collectively with the Processing Fees, the "Processing Obligations"). Some of the Processing Obligations owing to the Payment Processing Company are set off from the sale proceeds that are distributed by the

Payment Processing Company on a daily basis, while other Processing Obligations are debited directly from the Credit Card Settlement Account at various times of the month.

25. The Debtors incur approximately \$330,000 on average in Processing Obligations per month. The Debtors estimate that they owe approximately \$11,000 in Processing Obligations as of the Petition Date. Payment of any prepetition fees is in the best interests of the Debtors and all parties in interest in these chapter 11 cases, as it will prevent unnecessary disruptions to the Cash Management System and ensure that the Debtors' receipt of funds is not delayed. Further, because the Payment Processing Companies likely have setoff rights for the outstanding charges, payment of prepetition charges should not alter the rights of unsecured creditors in these chapter 11 cases.

F. The Debtors' Existing Business Forms.

26. The Debtors use a variety of preprinted business forms (including checks, letterhead, correspondence forms, invoices, and other business forms in the ordinary course of business (collectively, the "Business Forms")). To avoid the distraction and delay to the Debtors' business operations that would result from a disruption of the Cash Management System and to avoid unnecessary expense, the Debtors request authorization to continue using all of the Business Forms in existence before the Petition Date, without reference to the Debtors' status as chapter 11 debtors in possession, rather than requiring the Debtors to incur the expense and delay of ordering new Business Forms as required by the Guidelines.

27. Notwithstanding the foregoing, to the extent the Debtors purchase or print any new checks, such checks will include the designation "Debtor in Possession" and with respect to any checks that exist or are generated electronically, to the extent reasonably practicable, the Debtors shall ensure that such electronic checks are clearly labeled "Debtor in Possession."

G. The Debtors' Intercompany Transactions.

28. The Debtors maintain business relationships with each other and also with their non-Debtor (a) affiliates operating under the Pep Boys brand (collectively, "Pep Boys"), (b) their direct parent entity, Icahn Automotive Group LLC ("IAG"); and (c) affiliates of the Debtors' ultimate parent entity, Icahn Enterprises L.P. ("IEP") (the "Intercompany Transactions").⁷ As a result, there are numerous intercompany claims that reflect intercompany receivables and payments made in the ordinary course of the Debtors' businesses (the "Intercompany Claims"),⁸ including, but not limited to:

- a. *Debtors' Use of the Cash Management System.* All of the Bank Accounts (other than Truist Bank Accounts and Signature Bank Account) are held in Debtor IEH Auto Parts LLC's name, which is the main operating Debtor. The Debtors estimate that approximately 97% of their operations are conducted by IEH Auto Parts, and that that entity accounts for nearly all of the Debtors' accounts receivable and payable. However, certain Debtors have ordinary course obligations (e.g., taxing authorities, landlords) that are *de minimis*. Payment for these obligations is funded from the Concentration Account.
- b. *Vendor Relationship with Pep Boys.* Pep Boys is a longstanding customer. The Debtors estimate that Pep Boys accounts for approximately 2% of their revenue. The Debtors intend to continue to provide goods to Pep Boys during the pendency of these cases in the ordinary course of business, and honoring any prepetition credits for goods that the Debtors will ship postpetition.

⁷ Certain of the Debtors are also party to the Prepetition Loan Agreement (as defined in the First Day Declaration) with AEP (as lender). A summary of the Prepetition Loan Agreement is included in the First Day Declaration.

⁸ Because the Debtors engage in Intercompany Transactions on a regular basis and such transactions are common among enterprises similar to the Debtors, the Debtors believe the Intercompany Transactions are ordinary course transactions within the meaning of section 363(c)(1) of the Bankruptcy Code and, thus, do not require the Court's approval. Nonetheless, out of an abundance of caution, the Debtors seek express authority to engage in such transactions on a postpetition basis. Moreover, the continued performance of the ordinary course Intercompany Transactions is integral to ensure the Debtors' ability to operate their businesses as debtors in possession. Were the Debtors to obtain the services they currently receive pursuant to the Intercompany Transactions on an isolated per-company basis, aside from incurring excessive financial burdens in identifying appropriate providers of these services and entering into individual agreements for providing these services, the Debtors would be required to divert their attention from their chapter 11 efforts and the smooth transition into operating as debtors in possession.

- c. Leasing Relationship with Pep Boys. The Debtors lease from Pep Boys retail space at Pep Boys' locations throughout the United States. As part of the transformation plan (discussed in the First Day Declaration), the Debtors and Pep Boys terminated most of the leases. As of the Petition Date, the Debtors operate approximately 53 stores inside Pep Boys locations. The Debtors intend to continue honoring the leasing obligations in the ordinary course of business and as required under the Bankruptcy Code.
- d. Leasing Relationship with IEP Affiliates. The Debtors and Pep Boys collectively lease warehousing space at four distribution centers. The landlords for each of these four locations are entities affiliated with IEP. The Debtors intend to continue honoring the leasing obligations in the ordinary course of business and as required under the Bankruptcy Code.
- e. Services Agreements. The Debtors are party to (i) that certain Amended and Restated Services Agreement between IAG, Pep Boys, and themselves, (as amended, the "Shared Services Agreement"), and (ii) that certain Transition Services Agreement⁹ by and between the Debtors and Pep Boys (the "TSA", and together with the Shared Services Agreement, the "Services Agreements").
- (1) Pursuant to the TSA, Pep Boys and the Debtors provide each other services and reimburse the other party for the transition services. The scope of the transition services includes, without limitation: (a) human resource / employee benefits; (b) information technology, (c) risk management; and (d) supply chain and inventory planning and control. On average, the Debtors have a net payable to Pep Boys of approximately \$900,000 per month that may be offset against the net payable due from Pep Boys to the Debtors, which is approximately \$1,300,000 per month. The Debtors intend to continue to receive and to provide services under the TSA and make any applicable payments due thereunder.
 - (2) Pursuant to the terms of the Shared Services Agreement not superseded by the TSA, IAG, Pep Boys and the Debtors agreed to provide each other services, including, without limitation: (a) real estate and property management, (b) legal; (c) visual presentation, (d) communications; (e) loss prevention; (f) finance and accounting (terminated in 2022); and (g) environmental, health & safety.

⁹ As part of a transformation plan, in 2021, the businesses of Pep Boys and the Debtors were separated into two distinct operations, and in furtherance thereof, Pep Boys and the Debtors continued to provide certain transition services for which each is compensated. Unless stated otherwise in the TSA, the provisions of the TSA supersede those in the Shared Services Agreement to the extent they relate to the services addressed in the TSA.

- f. Collection of Accounts Receivables. In limited instances, the Debtors receive payments on account of Pep Boys' accounts receivables in their lockbox account, which then get swept into the Concentration Account; while Pep Boys receive payments on account of the Debtors' accounts receivables. The Debtors and Pep Boys routinely wire to each other the deposited amounts of the other parties' accounts receivable, and then undertake a monthly reconciliation.

The foregoing are examples of the business relationships between and among the Debtors and their non-debtor affiliates (the "Intercompany Agreements").

29. At any given time, there may be Intercompany Claims owing by one Debtor or non-Debtor Affiliate to another Debtor or non-Debtor Affiliate. With respect to Intercompany Transactions occurring between the Debtors, IEH Auto Parts conducts substantially all of the Debtors' operations. As such, almost all transfers made out of the Cash Management System are to pay for IEH Auto Parts' liabilities.¹⁰ In limited circumstances, transfers are made out of the Cash Management System to pay for liabilities of the other Debtors, which are mostly *de minimis*. The Debtors maintain records of such fund transfers in the ordinary course and can, if necessary, ascertain, trace, and account for Intercompany Transactions between themselves.

30. With respect to the Debtors' Intercompany Agreements with their non-Debtor affiliates, the Debtors maintain records of all fund transfers and can ascertain, trace and account for such Intercompany Transactions. The Debtors will continue to maintain records of Intercompany Transactions with their non-Debtor affiliates. As part of a transformation plan, in 2021 the businesses of Pep Boys and the Debtors were separated into two distinct operations. Pep Boys, the Debtors, and IAG provided and continue to provide each other certain transition services for which each are compensated in order to continue to conduct of each their businesses smoothly.

¹⁰ The foregoing discussion does not apply to the transfers made of the Truist Accounts for the AIM business of operating a buying group. As noted above, the Truist Accounts are largely inactive as AIM has wound down its operations. Further, the Signature Account is also largely inactive.

31. As set forth in the TSA, the Debtors and Pep Boys complete various Intercompany Transactions in the ordinary course of business, which includes providing each other services related to (a) human resource / employee benefits; (b) information technology, (c) risk management; and (d) supply chain and inventory planning and control; and (e) assortment support. As set forth in the Shared Services Agreement, the Debtors, Pep Boys, and IAG complete various Intercompany Transactions, which include providing each other services related to: (a) real estate and property management, (b) legal; (c) visual presentation, (d) communications; (e) loss prevention; and (f) environmental, health & safety. The cost of these services is allocated among the Debtors, Pep Boys, and/or IAG and invoiced by each of the parties based on end of month reconciliations as dictated by the TSA and Shared Services Agreement. The amounts accrued and invoiced by Debtors and payable to the non-Debtor affiliates may be offset against the amounts accrued and invoiced by the non-Debtor affiliates, and vice versa, or paid as invoiced by each of the respective parties.

32. These Intercompany Transactions are made between and among the Debtors and Debtors and non-Debtor affiliates in the ordinary course of the Debtors' businesses as part of their Cash Management System. If the Intercompany Transactions were to be discontinued, the Debtors' operations, Cash Management System, and related administrative controls would be disrupted to the Debtors' detriment because such discontinuance would affect the Debtors' ability to fund operations necessary to providing services to their customers and likely would result in decreased revenue.

33. The Debtors request pursuant to sections 503(b) of the Bankruptcy Code, that all valid postpetition Intercompany Claims, including between the Debtors and their non-Debtor affiliates, be accorded administrative expense status. This relief will ensure that each entity

receiving payments from a Debtor will continue to bear ultimate repayment responsibility for such ordinary course transactions, thereby reducing the risk that these transactions would jeopardize the recoveries available to each Debtor's respective creditors. Additionally, the Debtors request authority, but not direction, to continue performing and operating under the Intercompany Agreements, including the TSA and Shared Services Agreement, in the ordinary course of business.

Basis for Relief

A. Maintaining the Existing Cash Management System is Necessary to the Debtors' Ongoing Business Operations and Restructuring Efforts.

34. The Guidelines require debtors in possession to, among other things: (a) close all existing bank accounts and open new debtor in possession bank accounts; (b) establish one debtor in possession account for all estate monies required for payment of taxes including payroll taxes; (c) physically set aside all monies required by law to be withheld from employees or collected from others for taxes; (d) open a new set of books and records as of the commencement date of the case; (e) use new business forms indicating the debtor in possession status of the chapter 11 debtor; and (f) make all disbursements of estate funds by check with a notation representing the reason for the disbursement. These requirements are intended to provide a clear distinction between prepetition and postpetition transactions and operations and to prevent inadvertent payment of prepetition claims.

35. Allowing the Debtors to continue using their Cash Management System is consistent with applicable provisions of the Bankruptcy Code. Section 363(c)(1) authorizes a debtor in possession to "use property of the estate in the ordinary course of business without notice

or a hearing.”¹¹ 11 U.S.C. § 363(c)(1). The purpose of section 363(c)(1) is to provide a debtor in possession with the flexibility to engage in the ordinary transactions required to operate its business without unneeded oversight by its creditors or the court.¹² In granting such relief, courts recognize that an integrated cash management system allows a debtor “to administer more efficiently and effectively its financial operations and assets.”¹³

36. Requiring the Debtors to adopt a new, segmented cash management system during these chapter 11 cases would be expensive, burdensome, and unnecessarily disruptive to the Debtors’ operations. Importantly, the Cash Management System provides the Debtors with the ability to quickly create status reports on the location and amount of funds, which, in turn, allows management to track and control such funds, ensure cash availability, and reduce administrative costs through a centralized method of coordinating the collection and movement of funds. As a result, any disruption of the Cash Management System would have a severe and adverse effect on the Debtors’ value-maximizing sale process; absent the relief requested, the Debtors would be required to adopt a new, segmented cash management system, which would cause the Debtors’ operations to grind to a halt, reducing the value of the Debtors’ business enterprise. Maintaining the current Cash Management System will allow the Debtors’ treasury and accounting employees to focus on their daily responsibilities.¹⁴

¹¹ 11 U.S.C. § 363(c)(1).

¹² See *In re HLC Props., Inc.*, 55 B.R. 685, 686 (Bankr. N.D. Tex. 1985) (finding “no need to further burden the docket or the staff of the Court with a superfluous order” when a transaction is in the ordinary course of business).

¹³ *In re Southmark Corp.*, 49 F.3d 1111, 1114 (5th Cir. 1995); see also *In re Columbia Gas Sys., Inc.*, 136 B.R. 930, 1061 (Bankr. D. Del. 1992), *aff’d in relevant part*, 997 F.2d 1039, 1061 (3d Cir. 1993) (stating that requirement to maintain all accounts separately “would be a huge administrative burden and economically inefficient.”).

¹⁴ Notwithstanding the Debtors’ use of a consolidated cash management system, the Debtors intend to calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor; provided that any funds received and/or disbursed by the Debtors to Pep Boys for Pep Boys’ accounts receivable will not be included.

37. Parties in interest will not be harmed by the Debtors' maintenance of their existing Cash Management System, including maintenance of the Bank Accounts and the Intercompany Transactions, because the Debtors have implemented appropriate mechanisms to ensure that unauthorized payments will not be made on account of prepetition obligations except as authorized by the Court. The Debtors will continue to work closely with the Cash Management Banks to ensure that appropriate procedures are in place to prevent checks that were issued prepetition from being honored without the Court's approval. Maintaining the Cash Management System is in the best interests of the Debtors' estates and creditors.

38. For these reasons, the Debtors request that the Court authorize the Cash Management Banks to continue to maintain, service, and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course of business. The Debtors further request that the Court order the Cash Management Banks to receive, process, honor and pay any and all checks, wire transfers, credit card payments and other instructions, and drafts payable through, or drawn or directed on, such Bank Accounts after the Petition Date by holders, makers or other parties entitled to issue instructions with respect thereto, irrespective of whether such checks, drafts, wires or credit card payments are dated prior to or subsequent to the Petition Date.

39. The Debtors also request that, to the extent a Cash Management Bank honors a prepetition check or other item drawn on any account that is the subject of this Motion, either at the direction of the Debtors or on a good-faith belief that the Court has authorized such prepetition check or item to be honored, such Cash Management Bank will not be deemed to be liable to the Debtors or to their estates on account of such prepetition check or other item honored postpetition. Such relief is reasonable and appropriate because the Cash Management Banks are not in a position

to independently verify or audit whether the Debtors may pay a particular item in accordance with a Court order or otherwise.

40. Finally, the Debtors request that the Court authorize the Debtors to continue to maintain the Purchase Card Program.

B. Payment of Bank Fees, Courier Fees, P-Card Obligations, and Processing Obligations related to the Bank Accounts, Purchase Card Program, and Merchant Services Agreement Will Facilitate a Smooth Transition Into Chapter 11 and Benefit the Estates.

41. The Debtors request authority to pay prepetition Bank Fees, Courier Fees, P-Card Obligations, and Processing Obligations and continue satisfying Bank Fees, Courier Fees, P-Card Obligations, and Processing Obligations as they arise during these chapter 11 cases because such payments are ordinary course¹⁵ out of an abundance of caution to the extent that payment of these obligations is not considered ordinary course.

42. Section 363(b) of the Bankruptcy Code permits a debtor to, subject to court approval, pay prepetition obligations where a sound business purpose exists for doing so.¹⁶ In addition, under section 1107(a) of the Bankruptcy Code, a debtor in possession has, among other things, the “implied duty of the debtor-in-possession to ‘protect and preserve the estate, including an operating business’ going-concern value.”¹⁷

¹⁵ See 11 U.S.C. § 363(c) (“If the business of the debtor is authorized to be operated under section . . . 1108 . . . and unless the court orders otherwise, the trustee may enter into transactions, including the sale or lease of property of the estate, in the ordinary course of business, without notice or a hearing, and may use property of the estate in the ordinary course of business without notice or a hearing.”).

¹⁶ See *In re Ionosphere Clubs*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (noting that section 363(b) of the Bankruptcy Code provides “broad flexibility” to authorize a debtor to honor prepetition claims where supported by an appropriate business justification).

¹⁷ See *In re CEI Roofing, Inc.*, 315 B.R. 50, 59 (Bankr. N.D. Tex. 2004) (quoting *In re CoServ*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002)); see also *In re Equalnet Commc’ns Corp.*, 258 B.R. 368, 369 (Bankr. S.D. Tex. 2000) (noting that courts authorize debtors to pay, outside of a plan, prepetition claims from “business transactions which are at once individually minute but collectively immense and critical to the survival of the business of the

43. Under section 105(a) of the Bankruptcy Code, “the Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of the Bankruptcy Code.”¹⁸ The above-referenced sections of the Bankruptcy Code have been interpreted to authorize the postpetition payment of prepetition claims when the payments are critical to preserving the going-concern value of the debtor’s estate, as is the case here.¹⁹

44. The Debtors request authority to pay prepetition Bank Fees, Courier Fees, P-Card Obligations, and Processing Obligations as they become due in the ordinary course. Authority to make such payments is necessary to the Debtors’ operations, which are predicated on an uninterrupted flow of funds between Bank Accounts. If the Debtors do not pay their Bank Fees, Courier Fees, P-Card Obligations, and Processing Obligations, then their relationships with the Cash Management Banks, Payment Processing Company, and Citizens, which are crucial to their ongoing business operations, may be materially damaged. Further, the Debtors’ management and advisors may be forced to spend time and resources on unnecessary disputes with the Cash Management Banks, the Payment Processing Company, and Citizens at this critical juncture. The Debtors believe that any interference or delay in any of these programs is unnecessary and unduly burdensome.

debtor”).

¹⁸ 11 U.S.C. § 105(a); *see also In re CoServ*, 273 B.R. at 497 (finding that sections 105 and 1107 of the Bankruptcy Code provide the authority for a debtor in possession to pay pre-petition claims); *In re Mirant Corp.*, 296 B.R. 427, 429 (Bankr. N.D. Tex. 2003) (noting that non-payment of prepetition claims may seriously damage a debtor’s business).

¹⁹ *See, e.g., In re CoServ*, 273 B.R. at 497 (“[I]t is only logical that the bankruptcy court be able to use [s]ection 105(a) of the [Bankruptcy] Code to authorize satisfaction of the pre-petition claim in aid of preservation or enhancement of the estate.”).

C. The Debtors Should Be Granted Authority to Use Existing Business Forms.

45. To avoid disruption of the Cash Management System and unnecessary expense, the Debtors request authority to continue using its Business Forms, substantially in the form existing immediately before the Petition Date, without reference to their status as a debtors in possession. Given the limited nature of the preprinted Business Forms, parties in interest will not be prejudiced if the Debtors are authorized to continue to use the Business Forms substantially in the forms existing immediately before the Petition Date. Parties doing business with the Debtors will be aware of this case and of the Debtors' status as a debtors in possession, and, thus, changing forms such as letterhead would be an unnecessary additional expense.

D. The Court Should Authorize the Debtors to Continue Conducting Intercompany Transactions in the Ordinary Course and Grant Administrative Expense Status to Postpetition Intercompany Claims.

46. Allowing the Debtors to engage in postpetition Intercompany Transactions is in the best interest of the Debtors' estates and their creditors, and the Debtors seek authority to enter into such Intercompany Transactions in the ordinary course of business. The Debtors have and will continue to track all fund transfers in their accounting system and will be able to ascertain, trace, and account for all Intercompany Transactions between the Debtors and non-Debtor Affiliates. The Debtors, moreover, will continue to maintain records of such Intercompany Transactions with non-Debtor affiliates. If the Intercompany Transactions were to be discontinued, the Cash Management System and related administrative controls would be disrupted to the Debtors' and their estates' detriment. In addition, a number of critical services currently provided to Debtor and non-Debtor entities and received from non-Debtor entities on an intercompany basis would be interrupted.

47. As to Intercompany Transactions between the Debtors, the Debtors' funds are integrated in the Cash Management System with that of the other Debtors. If the Intercompany Transactions were to be discontinued, the Cash Management System and related administrative controls would be disrupted to the Debtors' detriment. On the other hand, preserving the "business as usual" atmosphere and avoiding the unnecessary distractions that inevitably would be associated with any substantial disruption in the Cash Management System will facilitate the Debtors' efforts in these chapter 11 cases. The Debtors therefore seek to continue the Intercompany Transactions among themselves in the ordinary course of business and without disruption.

48. Furthermore, granting the Debtors relief to continue Intercompany Transactions between Debtors and Non-Debtor affiliates is warranted under the circumstances as the Debtors rely on services provided by their non-Debtor affiliates to sustain their operations. If the Intercompany Transactions with their non-Debtor affiliates were to be discontinued, the Debtors' operations will be significantly impaired at a time when they are pursuing a value-maximizing sale process. This needless disruption would cause the Debtors and their professionals to exhaust significant time and money to stabilize the Debtors' business. On the other hand, allowing the Debtors to continue to operate in the ordinary course with their non-Debtor affiliates would ensure continuity in the Debtors' operations. The Debtors anticipate that postpetition Intercompany Transactions with non-Debtor affiliates will be consistent with those that occurred prepetition in accordance with the TSA and Shared Services Agreement. The Debtors request authority to continue conducting the Intercompany Transactions and operating under the TSA and Shared Services Agreement in the ordinary course of business without need for further Court order.

49. To ensure each individual Debtor will not fund, at the expense of its creditors, the operations of another entity, out of an abundance of caution the Debtors respectfully request that

all Intercompany Claims against a Debtor by another Debtor or non-Debtor affiliates arising after the Petition Date, as a result of ordinary course Intercompany Transactions, be accorded administrative expense status pursuant to sections 503(b) of the Bankruptcy Code.²⁰ If Intercompany Claims are accorded administrative expense status, each entity utilizing funds flowing through the Cash Management System should continue to bear ultimate repayment responsibility for such ordinary course transactions.

Processing of Checks and Electronic Fund Transfers Should Be Authorized

50. The Debtors have sufficient funds to pay the amounts described in this motion in the ordinary course of business by virtue of expected cash flows from ongoing business operations and anticipated access to cash collateral and debtor in possession financing. In addition, under the Debtors' existing cash management system, the Debtors can readily identify checks or wire transfer requests as relating to an authorized payment in respect of the relief requested herein. Accordingly, the Debtors believe there is minimal risk that checks or wire transfer requests that the Court has not authorized will be honored inadvertently. Therefore, the Debtors request that the Court authorize and direct all applicable financial institutions at the Debtors' request to receive, process, honor, and pay any and all checks or wire transfer requests in respect of the relief requested in this motion.

Emergency Consideration

51. The Debtors request emergency consideration of this Motion pursuant to Bankruptcy Rule 6003, which empowers a court to grant relief within the first 21 days after the

²⁰ Notwithstanding the administrative expense status requested for the Intercompany Transactions between and among Debtors, each Debtor reserves the right to dispute any Intercompany Transaction (or payment made on account of an Intercompany Transaction) on any ground, including the methodology for calculation of such transaction or payment, and to claw back or avoid such transactions and/or payments.

commencement of a chapter 11 case “to the extent that relief is necessary to avoid immediate and irreparable harm,” and Bankruptcy Local Rule 9013-1(i). An immediate and orderly transition into chapter 11 is critical to the viability of their operations and that any delay in granting the relief requested could hinder the Debtors’ operations and cause irreparable harm. The relief requested herein is essential to the Debtors’ ability to operate their businesses in the ordinary course, preserve going concern value, and maximize such value of their estates for the benefit of all stakeholders. Failure to receive such relief during the first twenty-one days of these chapter 11 cases would severely disrupt the Debtors’ operations at this critical juncture and imperil the Debtors’ value-maximizing sale process. The Debtors have satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 and request that the Court approve the relief requested in this Motion on an emergency basis.

Waiver of Bankruptcy Rules 6004(a) and 6004(h)

52. The Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rule 6004(a) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rule 6004(h).

Reservation of Rights

53. Nothing contained herein or any actions taken pursuant to such relief requested is intended or shall be construed as: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors’ or any other party in interest’s right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Motion or any order granting the relief requested by this Motion or a finding that any particular claim is an administrative expense claim

or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; or (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in this Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens. If the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

Notice

54. The Debtors will provide notice of this Motion to the following parties or their respective counsel: (a) the U.S. Trustee for the Southern District of Texas; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) counsel to the Prepetition Lender; (d) counsel to the proposed DIP Lender; (e) the Office of the United States Attorney for the Southern District of Texas; (f) the state attorneys general for states in which the Debtors conduct business; (g) the Internal Revenue Service; (h) the Securities and Exchange Commission; (i) the Environmental Protection Agency; (j) other governmental agencies having a regulatory or statutory interest in these cases; (k) the Cash Management Banks; (l) Citizens; (m) the Payment Processing Company; (n) Pep Boys; (o) Icahn Automotive Group LLC; and

(p) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, no other or further notice need be given.

The Debtors request that the Court enter the Interim Order and Final Order granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

Houston, Texas
Dated: February 1, 2023

/s/ Veronica A. Polnick

JACKSON WALKER LLP

Matthew D. Cavanaugh (TX Bar No. 24062656)

Veronica A. Polnick (TX Bar No. 24079148)

Vienna Anaya (TX Bar No. 24091225)

Emily Meraia (TX Bar No. 24129307)

1401 McKinney Street, Suite 1900

Houston, TX 77010

Telephone: (713) 752-4200

Facsimile: (713) 752-4221

Email: mcavanaugh@jw.com

vpolnick@jw.com

vanaya@jw.com

emeraia@jw.com

*Proposed Counsel to the Debtors
and Debtors in Possession*

Certificate of Accuracy

I certify that the foregoing statements are true and accurate to the best of my knowledge. This statement is being made pursuant to Bankruptcy Local Rule 9013-1(i).

/s/ Veronica A. Polnick

Veronica A. Polnick

Certificate of Service

I certify that, on February 1, 2023, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Veronica A. Polnick

Veronica A. Polnick

EXHIBIT 1

CASH MANAGEMENT SYSTEM

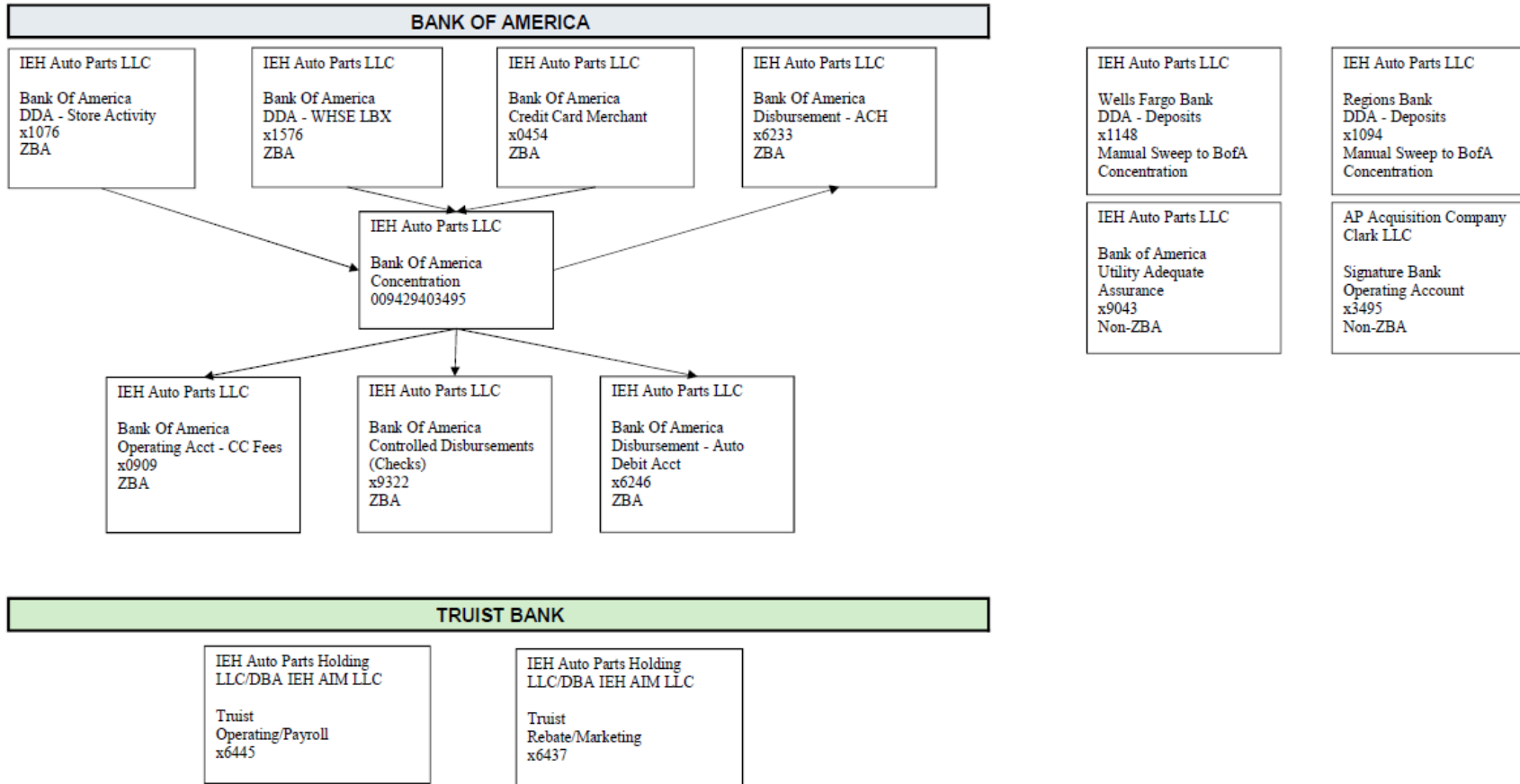


EXHIBIT 2**CASH MANAGEMENT BANKS**

Bank	Debtor Entity Name	Account Number	Account Designation	Account Balance
Bank of America	IEH Auto Parts LLC	3495	Concentration Account	\$4,026,939.00
Bank of America	IEH Auto Parts LLC	0909	ZBA for Credit Card Fees	\$0.00
Bank of America	IEH Auto Parts LLC	0454	ZBA Credit Card Merchant Account	\$0.00
Bank of America	IEH Auto Parts LLC	1076	ZBA Store Cash Deposits	\$0.00
Bank of America	IEH Auto Parts LLC	1576	ZBA Lockbox Account	\$0.00
Bank of America	IEH Auto Parts LLC	6233	ZBA Disbursement Operating Account for ACH	\$0.00
Bank of America	IEH Auto Parts LLC	6246	ZBA Disbursement Operating Account for Auto Debit Out	\$0.00
Bank of America	IEH Auto Parts LLC	9322	ZBA Disbursement Operating Account for Checks	\$0.00
Bank of America	IEH Auto Parts LLC	9043	Utility Adequate Assurance Account	\$386,480.00
Signature Bank	AP Acquisition Company Clark LLC	3495	Checking Account	\$50,000.00
Wells Fargo Bank, N.A.	IEH Auto Parts LLC	1148	Store Deposits with Manual Sweep	\$146,261.00
Regions Bank, N.A.	IEH Auto Parts LLC	1094	Store Deposits with Manual Sweep	\$19,731.00
Truist Bank	IEH Auto Parts Holding LLC/DBA IEH AIM LLC	6445	Operating/Payroll (AIM) (Checking Account)	\$32,975.00
Truist Bank	IEH Auto Parts Holding LLC/DBA IEH AIM LLC	6437	Rebate (AIM) (Checking Account)	\$138,750.00
TOTAL BANK ACCOUNT BALANCE				\$4,801,136.00

Purchase Card Programs			
Citizens Bank	IEH Auto Parts LLC	5359	Finish Order P-Card Program
Citizens Bank	IEH Auto Parts LLC	2393	T&E P-Card Program

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

)	Chapter 11
In re:)	
)	Case No. 23-90054 (CML)
IEH AUTO PARTS HOLDING LLC, <i>et al.</i> , ¹)	
)	
Debtors.)	
)	Re: Docket No. _____

INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THEIR CASH MANAGEMENT SYSTEM AND MAINTAIN EXISTING BANK ACCOUNTS, (B) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS, (C) MAINTAIN EXISTING BUSINESS FORMS AND BOOKS AND RECORDS, AND (II) GRANTING RELATED RELIEF

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”), (a) authorizing, but not directing, the Debtors to (i) continue to operate their cash management system as set forth on Exhibit 1 attached to the Motion (the “Cash Management System”) and maintain their existing bank accounts, including honoring certain prepetition obligations related thereto, (ii) continue to perform intercompany transactions with each other and with non-Debtor affiliates (the “Intercompany Transactions”) consistent with past practice and authorizing the Debtors to continue to operate and perform under the terms of the Shared Services Agreement and Transition Services Agreement; (iii) maintain existing business forms; and (b) granting related relief, all as

¹ The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity’s federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors’ service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court, if any (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is ORDERED THAT:

1. The final hearing (the "Final Hearing") on the Motion shall be held on _____, **2023, at : .m., prevailing Central Time**. Any objections or responses to entry of a final order on the Motion shall be filed **on or before 4:00 p.m., prevailing Central Time, on _____, 2023**. In the event no objections to entry of a final order on the Motion are timely received, the Court may enter such final order without need for the final hearing.

2. Subject to the limitations of this Interim Order, the Debtors are authorized, but not directed, to: (a) continue using the Cash Management System as described in the Motion in the ordinary course of business and honor any prepetition obligations related to the use thereof; (b) designate, maintain, close, and continue to use on an interim basis any or all of their existing

Bank Accounts, including, but not limited to, the Bank Accounts identified on Exhibit 2 attached to the Motion, in the names and with the account numbers existing immediately before the Petition Date; (c) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including checks, electronic fund transfers, ACH transfers, and other debits or electronic means; (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts; and (e) open new debtor-in-possession Bank Accounts; *provided* that in the case of each of (a) through (e), such action is taken in the ordinary course of business and consistent with prepetition practices.

3. The Debtors are authorized to maintain the Purchase Card Program and pay prepetition and postpetition amounts incurred on account of the Purchase Card Program pursuant to the terms of the Purchase Card Program.

4. The Debtors are authorized to pay the Courier Fees, including any prepetition amounts, and any ordinary course Courier Fees incurred by the Debtors.

5. The Debtors are authorized, but not directed, to continue using, in their present form, the Business Forms as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date without reference to the Debtors' status as debtors in possession; *provided* that, once the Debtors have exhausted their existing stock of checks, the Debtors shall ensure that any new Business Forms are clearly labeled "Debtor In Possession"; *provided, further,* that, with respect to any Business Forms that exist or are generated electronically, to the extent reasonably practicable, the Debtors shall ensure that such electronic Business Forms are clearly labeled "Debtor In Possession" within ten business days.

6. Except as otherwise provided in this Interim Order and only to the extent funds are available in each applicable Bank Account, all Cash Management Banks at which the Bank Accounts are maintained are authorized to continue to service and administer the Bank Accounts

as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course of business, and to receive, process, honor, and pay any and all checks, drafts, electronic fund transfers, and ACH transfers issued, whether before or after the Petition Date, including any transfers drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be. For the avoidance of doubt, all Cash Management Banks and other payroll check processors are authorized to receive, process, honor, and pay, to the extent funds are available in each applicable Bank Account, any and all payroll checks that were issued prior to and remain outstanding as of the Petition Date.

7. Those certain prepetition deposit, cash management, and treasury services agreements existing between the Debtors and the Cash Management Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Cash Management Banks and, subject to applicable bankruptcy or other law, all of the provisions of such agreements, including the termination, fee provisions, rights, benefits, offset rights and remedies afforded under such agreements, shall remain in full force and effect absent further order of the Court (including, for the avoidance of doubt, any rights of a Cash Management Bank to use funds from the Bank Accounts to remedy any overdraft of another Bank Account to the extent permitted under the applicable deposit agreement) unless the Debtors and such Cash Management Bank agree otherwise, and any other legal rights and remedies afforded to the Cash Management Banks under applicable law shall be preserved, subject to applicable bankruptcy law.

8. The Cash Management Banks are authorized to charge, and the Debtors are authorized to pay, honor, or allow any Bank Fees or charges associated with the Bank Accounts, and charge back returned items to the Bank Accounts in the ordinary course, including any prepetition amounts. The automatic stay is modified to the extent necessary to allow the Cash

Management Banks to setoff such Bank Fees against amounts on deposit in the Bank Accounts. The Debtors are authorized to continue to pay the Processing Obligations pursuant to the terms of the Payment Agreement.

9. Each Cash Management Bank is authorized to debit the Bank Accounts held at such Cash Management Bank in the ordinary course of business without the need for any further order of this Court for: (a) all checks drawn on the Bank Accounts which are cashed at the applicable Cash Management Bank's counters or exchanged for cashier's checks by the payees thereof prior to or after the Petition Date; (b) all checks or other items deposited in one of the Bank Accounts with such Cash Management Bank prior to or after the Petition Date which have been dishonored or returned unpaid for any reason, including returned items that result from wire transfers, ACH transactions, or other electronic transfers of any kind, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such items prior to or after the Petition Date; (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Cash Management Bank as service charges for the maintenance of the Cash Management System, including any Bank Fees incurred in the ordinary course of business; and (d) any postpetition amounts due and owing to the Cash Management Bank as service charges for the maintenance of the Cash Management System, including any Bank Fees incurred in the ordinary course of business.

10. As soon as practicable after entry of this Interim Order, the Debtors shall serve a copy of this Interim Order on the Cash Management Banks, Payment Processing Company, and Citizens.

11. The Debtors are authorized to: (a) pay undisputed prepetition amounts outstanding as of the Petition Date, if any, owed in the ordinary course to the Cash Management Banks as

service charges for the maintenance of the Cash Management System; and (b) reimburse the Cash Management Banks for any claims arising before or after the Petition Date in connection with customer checks deposited with the Cash Management Banks that have been dishonored or returned as a result of insufficient funds in the Bank Accounts in the ordinary course of business, to the same extent the Debtors were responsible for such items prior to the Petition Date.

12. The Debtors are authorized to enter into, engage in, and satisfy any payments in connection with the Intercompany Transactions, including Intercompany Transactions with Debtor and non-Debtor affiliates, and to take any actions related thereto, in each case on the same terms as, and materially consistent with, the Debtors' operation of the businesses in the ordinary course during the prepetition period.

13. The Debtors are authorized, but not directed, to continue to operate and perform under the terms of the TSA and Shared Services Agreement, as applicable.

14. The Debtors are authorized to set off mutual postpetition obligations relating to intercompany receivables and payables through the Cash Management System in the ordinary course of business consistent with prepetition practices. The Debtors shall continue to maintain accurate, current, and detailed records with respect to all transfers of cash so that Intercompany Transactions with non-Debtor affiliates, may be readily ascertained, traced, and recorded properly on applicable intercompany accounts. The Debtors shall make such records available upon request by (i) the U.S. Trustee, (ii) counsel to the proposed DIP Lender, (iii) counsel to Prepetition Lender, or (iv) any statutory committee appointed in these chapter 11 cases.

15. Pursuant to section 503(b)(1) of the Bankruptcy Code, all postpetition payments on account of any Intercompany Transaction made by (a) a Debtor to another Debtor or (b) a Non-Debtor Affiliate to a Debtor, shall in each case be accorded administrative expense status, except

to the extent such Intercompany Transactions are on account of antecedent debts (including with respect to “netting” or setoffs), and the priority of any claims on account of such Intercompany Transactions shall be subject to the DIP Order (as defined below) and the priorities set forth therein.

16. For the avoidance of doubt, the relief granted in this Interim Order with respect to the postpetition Intercompany Transactions and the balances resulting therefrom shall not constitute a finding as to the validity, priority, or status of any prepetition Intercompany Claim or any Intercompany Transaction from which such Intercompany Claim may have arisen, and the Debtors expressly reserve any and all rights with regard to the validity, priority, or status of any prepetition Intercompany Claim or any Intercompany Transaction from which such Intercompany Balance may have arisen. The Debtors also expressly reserve any and all rights to contest the validity, priority, or status of any prepetition Intercompany Claim or any Intercompany Transaction from which such Intercompany Claim may have arisen.

17. The Debtors will not be required to establish separate bank accounts for cash collateral and/or tax payments.

18. Except as otherwise set forth herein, the Debtors and the Cash Management Banks may, without further order of the Court, agree and implement changes to the policies and procedures related to the Cash Management System in the ordinary course of business; *provided* that the Debtors or the Cash Management Banks shall provide reasonable prior written notice to (i) the U.S. Trustee, (ii) counsel to the proposed DIP Lender, (iii) counsel to Prepetition Lender, or (iv) any statutory committee appointed in these chapter 11 cases.

19. The Debtors are authorized to open new bank accounts so long as (a) any such new account is with one of the Debtors’ existing Cash Management Banks or with a bank that (i) is

insured with the FDIC or the Federal Savings and Loan Insurance Corporation, (ii) is designated as an authorized depository by the U.S. Trustee, and (iii) agrees to be bound by the terms of this Interim Order, and (b) the Debtors provide reasonable prior written notice to (i) the U.S. Trustee, (ii) counsel to the proposed DIP Lender, (iii) counsel to Prepetition Lender, or (iv) any statutory committee appointed in these chapter 11 cases; *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Interim Order, be deemed a Bank Account as if it had been listed on Exhibit 2 attached to the Motion.

20. The relief granted in this Interim Order is extended to any new bank account opened by the Debtors after the date hereof, which account shall be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be deemed a Cash Management Bank. The Debtors shall provide notice of the opening of a new bank account in accordance with the terms of this Interim Order.

21. Notwithstanding any other provision of this Interim Order, should a Cash Management Bank honor a prepetition check or other item drawn on any account that is the subject of this Interim Order (a) at the direction of the Debtors to honor such prepetition check or item, including the Debtors' failure to stop payment on any such check or item, (b) in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) as the result of an innocent mistake made despite implementation of customary item handling procedures, the Cash Management Bank shall not be deemed to be nor shall be liable to the Debtors or their estates or otherwise be in violation of this Interim Order. Without limiting the foregoing, any of the Cash Management Banks may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this or any other order of the Court, and such Cash Management Bank shall

not have any liability to any party for relying on such representations by the Debtors as provided for herein.

22. The Debtors are authorized, but not directed, to issue postpetition checks or to effect postpetition fund transfer requests in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

23. Nothing contained herein shall prevent the Debtors from closing any Bank Accounts as they may deem necessary and appropriate, to the extent consistent with any orders of this Court relating thereto, any relevant bank is authorized to honor the Debtors' requests to close such Bank Accounts, and the Debtors shall provide reasonable prior written notice of the closure of any account (i) the U.S. Trustee, (ii) counsel to the proposed DIP Lender, (iii) counsel to Prepetition Lender, or (iv) any statutory committee appointed in these chapter 11 cases.

24. Notwithstanding entry of this Interim Order, nothing herein shall create, or is intended to (a) create, any rights in favor of or enhance the status of any claim held by any party or (b) alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date.

25. Notwithstanding anything else contained herein, (a) any relief granted herein, including any payment to be made or authorization contained hereunder, shall be subject in all respects to the terms and conditions of, including all requirements imposed upon the Debtors under, any interim or final order of the Court in these chapter 11 cases approving the postpetition secured financing facility and authorizing the use of cash collateral (as may be modified, amended or supplemented, the "DIP Orders") (including, without limitation, the budget required in connection therewith)) the DIP Term Sheet, and the DIP Documents (each as defined in the DIP

Orders) approved therein and (b) to the extent there is any inconsistency between the terms and conditions of such DIP Orders or DIP Documents and any action taken or proposed to be taken hereunder, the terms and conditions of such DIP Orders, the DIP Term Sheet, or DIP Documents shall control.

26. All time periods set forth in this Interim Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

27. Notwithstanding the relief granted herein and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens; (i) to alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date or that arises after the Petition

Date; (j) create, any rights in favor of or enhance the status of any claim held by any party; or (k) impact or prejudice the ability of any party to challenge, avoid, unwind, recharacterize, or assert any other claim or cause of action with respect to any Intercompany Transactions.

28. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

29. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

30. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

31. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

32. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Dated: _____, 2023

CHRISTOPHER M. LOPEZ
UNITED STATES BANKRUPTCY JUDGE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:)	Chapter 11
)	
IEH AUTO PARTS HOLDING LLC, <i>et al.</i> , ¹)	Case No. 23-90054 (CML)
)	
Debtors.)	
)	Re: Docket No. _____

FINAL ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THEIR CASH MANAGEMENT SYSTEM AND MAINTAIN EXISTING BANK ACCOUNTS, (B) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS, (C) MAINTAIN EXISTING BUSINESS FORMS AND BOOKS AND RECORDS, AND (II) GRANTING RELATED RELIEF

Upon the motion (the “Motion”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for the entry of a final order (this “Final Order”) (a) authorizing, but not directing, the Debtors to (i) continue to operate their cash management system as set forth on Exhibit 1 attached to the Motion (the “Cash Management System”) and maintain their existing bank accounts, including honoring certain prepetition obligations related thereto, (ii) continue to perform intercompany transactions with each other and with non-Debtor affiliates (the “Intercompany Transactions”) consistent with past practice and authorizing the Debtors to continue to operate and perform under the terms of the Shared Services Agreement and Transition Services Agreement; (iii) maintain existing business forms; and (b) granting related relief, all as

¹ The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity’s federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors’ service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.

more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court, if any (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is ORDERED THAT

1. Subject to the limitations of this Final Order, the Debtors are authorized, but not directed, to: (a) continue using the Cash Management System as described in the Motion in the ordinary course of business and honor any prepetition obligations related to the use thereof; (b) designate, maintain, close, and continue to use on a final basis any or all of their existing Bank Accounts, including, but not limited to, the Bank Accounts identified on Exhibit 1 attached to the Motion, in the names and with the account numbers existing immediately before the Petition Date; (c) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including checks, electronic fund transfers, ACH transfers, and other debits or electronic means; (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts; and (e) open new debtor-in-possession Bank Accounts; *provided* that in the case of each of (a) through (e), such

action is taken in the ordinary course of business and consistent with prepetition practices.

2. The Debtors are authorized to maintain the Purchase Card Program and pay prepetition and postpetition amounts incurred on account of the Purchase Card Program pursuant to the terms of the Purchase Card Program.

3. The Debtors are authorized to pay the Courier Fees, including any prepetition amounts, and any ordinary course Courier Fees incurred by the Debtors.

4. The Debtors are authorized, but not directed, to continue using, in their present form, the Business Forms as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date without reference to the Debtors' status as debtors in possession; *provided* that, once the Debtors have exhausted their existing stock of checks, the Debtors shall ensure that any new Business Forms are clearly labeled "Debtor In Possession"; *provided, further*, that, with respect to any Business Forms that exist or are generated electronically, to the extent reasonably practicable, the Debtors shall ensure that such electronic Business Forms are clearly labeled "Debtor In Possession" within ten business days.

5. Except as otherwise provided in this Final Order and only to the extent funds are available in each applicable Bank Account, all Cash Management Banks at which the Bank Accounts are maintained are directed, at the Debtors' discretion, to continue to service and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course of business, and to receive, process, honor, and pay any and all checks, drafts, electronic fund transfers, and ACH transfers issued, whether before or after the Petition Date, including any transfers drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be. For the avoidance of doubt, all Cash Management Banks and other payroll check processors are directed, at the Debtors' discretion, to

receive, process, honor, and pay, to the extent funds are available in each applicable Bank Account, any and all payroll checks that were issued prior to and remain outstanding as of the Petition Date.

6. Those certain prepetition deposit, cash management, and treasury services agreements existing between the Debtors and the Cash Management Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Cash Management Banks and, subject to applicable bankruptcy or other law, all of the provisions of such agreements, including the termination, fee provisions, rights, benefits, offset rights and remedies afforded under such agreements, shall remain in full force and effect absent further order of the Court (including, for the avoidance of doubt, any rights of a Cash Management Bank to use funds from the Bank Accounts to remedy any overdraft of another Bank Account to the extent permitted under the applicable deposit agreement) unless the Debtors and such Cash Management Bank agree otherwise, and any other legal rights and remedies afforded to the Cash Management Banks under applicable law shall be preserved, subject to applicable bankruptcy law.

7. The Cash Management Banks are authorized to charge, and the Debtors are authorized to pay, honor, or allow any Bank Fees or charges associated with the Bank Accounts, and charge back returned items to the Bank Accounts in the ordinary course, including any prepetition amounts. The automatic stay is modified to the extent necessary to allow the Cash Management Banks to setoff such Bank Fees against amounts on deposit in the Bank Accounts. The Debtors are authorized to continue to pay the Processing Obligations pursuant to the terms of the Payment Agreement.

8. Each Cash Management Bank is authorized to debit the Bank Accounts held at such Cash Management Bank in the ordinary course of business without the need for any further order of this Court for: (a) all checks drawn on the Bank Accounts which are cashed at the applicable

Cash Management Bank's counters or exchanged for cashier's checks by the payees thereof prior to or after the Petition Date; (b) all checks or other items deposited in one of the Bank Accounts with such Cash Management Bank prior to or after the Petition Date which have been dishonored or returned unpaid for any reason, including returned items that result from wire transfers, ACH transactions, or other electronic transfers of any kind, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such items prior to or after the Petition Date; (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any Cash Management Bank as service charges for the maintenance of the Cash Management System, including any Bank Fees incurred in the ordinary course of business; and (d) any postpetition amounts due and owing to the Cash Management Bank as service charges for the maintenance of the Cash Management System, including any Bank Fees incurred in the ordinary course of business.

9. As soon as practicable after entry of this Final Order, the Debtors shall serve a copy of this Final Order on the Cash Management Banks, Payment Processing Company and Citizens.

10. The Debtors are authorized to: (a) pay undisputed prepetition amounts outstanding as of the Petition Date, if any, owed in the ordinary course to the Cash Management Banks as service charges for the maintenance of the Cash Management System; and (b) reimburse the Cash Management Banks for any claims arising before or after the Petition Date in connection with customer checks deposited with the Cash Management Banks that have been dishonored or returned as a result of insufficient funds in the Bank Accounts in the ordinary course of business, to the same extent the Debtors were responsible for such items prior to the Petition Date.

11. The Debtors are authorized to enter into, engage in, and satisfy any payments in connection with the Intercompany Transactions, including Intercompany Transactions with Debtor

and non-Debtor affiliates, and to take any actions related thereto, in each case on the same terms as, and materially consistent with, the Debtors' operation of the businesses in the ordinary course during the prepetition period.

12. The Debtors are authorized, but not directed, to continue to operate and perform under the terms of the TSA and Shared Services Agreement, as applicable.

13. The Debtors are authorized to set off mutual postpetition obligations relating to intercompany receivables and payables through the Cash Management System in the ordinary course of business consistent with prepetition practices. The Debtors shall continue to maintain accurate, current, and detailed records with respect to all transfers of cash so that Intercompany Transactions with non-Debtor affiliates, may be readily ascertained, traced, and recorded properly on applicable intercompany accounts. The Debtors shall make such records available upon request by (i) the U.S. Trustee, (ii) counsel to the proposed DIP Lender, (iii) counsel to Prepetition Lender, or (iv) any statutory committee appointed in these chapter 11 cases.

14. Pursuant to section 503(b)(1) of the Bankruptcy Code, all postpetition payments on account of any Intercompany Transaction made by (a) a Debtor to another Debtor or (b) a Non-Debtor Affiliate to a Debtor, shall in each case be accorded administrative expense status, except to the extent such Intercompany Transactions are on account of antecedent debts (including with respect to "netting" or setoffs), and the priority of any claims on account of such Intercompany Transactions shall be subject to the DIP Order (as defined below) and the priorities set forth therein.

15. For the avoidance of doubt, the relief granted in this Final Order with respect to the postpetition Intercompany Transactions and the balances resulting therefrom shall not constitute a finding as to the validity, priority, or status of any prepetition Intercompany Claim or any

Intercompany Transaction from which such Intercompany Claim may have arisen, and the Debtors expressly reserve any and all rights with regard to the validity, priority, or status of any prepetition Intercompany Claim or any Intercompany Transaction from which such Intercompany Balance may have arisen. The Debtors also expressly reserve any and all rights to contest the validity, priority, or status of any prepetition Intercompany Claim or any Intercompany Transaction from which such Intercompany Claim may have arisen.

16. The Debtors will not be required to establish separate bank accounts for cash collateral and/or tax payments.

17. Except as otherwise set forth herein, the Debtors and the Cash Management Banks may, without further order of the Court, agree and implement changes to the policies and procedures related to the Cash Management System in the ordinary course of business; *provided* that the Debtors or the Cash Management Banks shall provide reasonable prior written notice to (i) the U.S. Trustee, (ii) counsel to the proposed DIP Lender, (iii) counsel to Prepetition Lender, or (iv) any statutory committee appointed in these chapter 11 cases.

18. The Debtors are authorized to open new bank accounts so long as (a) any such new account is with one of the Debtors' existing Cash Management Banks or with a bank that (i) is insured with the FDIC or the Federal Savings and Loan Insurance Corporation, (ii) is designated as an authorized depository by the U.S. Trustee, and (iii) agrees to be bound by the terms of this Final Order, and (b) the Debtors provide reasonable prior written notice to (i) the U.S. Trustee, (ii) counsel to the proposed DIP Lender, (iii) counsel to Prepetition Lender, or (iv) any statutory committee appointed in these chapter 11 cases; *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Final Order, be deemed a Bank Account as if it had been listed on Exhibit 2 attached to the Motion.

19. The relief granted in this Final Order is extended to any new bank account opened by the Debtors after the date hereof, which account shall be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be deemed a Cash Management Bank. The Debtors shall provide notice of the opening of a new bank account in accordance with the terms of this Final Order.

20. Notwithstanding any other provision of this Final Order, should a Cash Management Bank honor a prepetition check or other item drawn on any account that is the subject of this Final Order (a) at the direction of the Debtors to honor such prepetition check or item, including the Debtors' failure to stop payment on any such check or item, (b) in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) as the result of an innocent mistake made despite implementation of customary item handling procedures, the Cash Management Bank shall not be deemed to be nor shall be liable to the Debtors or their estates or otherwise be in violation of this Final Order. Without limiting the foregoing, any of the Cash Management Banks may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this or any other order of the Court, and such Cash Management Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein.

21. The Debtors are authorized, but not directed, to issue postpetition checks or to effect postpetition fund transfer requests in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

22. Nothing contained herein shall prevent the Debtors from closing any Bank

Accounts as they may deem necessary and appropriate, to the extent consistent with any orders of this Court relating thereto, any relevant bank is authorized to honor the Debtors' requests to close such Bank Accounts, and the Debtors shall provide reasonable prior written notice of the closure of any account (i) the U.S. Trustee, (ii) counsel to the proposed DIP Lender, (iii) counsel to Prepetition Lender, or (iv) any statutory committee appointed in these chapter 11 cases.

23. Notwithstanding entry of this Final Order, nothing herein shall create, or is intended to (a) create, any rights in favor of or enhance the status of any claim held by any party or (b) alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date.

24. Notwithstanding anything else contained herein, (a) any relief granted herein, including any payment to be made or authorization contained hereunder, shall be subject in all respects to the terms and conditions of, including all requirements imposed upon the Debtors under, any interim or final order of the Court in these chapter 11 cases approving the postpetition secured financing facility and authorizing the use of cash collateral (as may be modified, amended or supplemented, the "DIP Orders") (including, without limitation, the budget required in connection therewith)) the DIP Term Sheet, and the DIP Documents (each as defined in the DIP Orders) approved therein and (b) to the extent there is any inconsistency between the terms and conditions of such DIP Orders or DIP Documents and any action taken or proposed to be taken hereunder, the terms and conditions of such DIP Orders, the DIP Term Sheet, or DIP Documents shall control.

25. All time periods set forth in this Final Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

26. Notwithstanding the relief granted herein and any actions taken pursuant to such

relief, nothing in this Final Order shall be deemed: (a) an admission as to the amount of, basis for, or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law; (b) a waiver of the Debtors' or any other party in interest's right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) an implication or admission that any particular claim is of a type specified or defined in the Motion or any order granting the relief requested by the Motion or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, adopt, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates; (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law; (h) a concession by the Debtors that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens; (i) to alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date or that arises after the Petition Date; (j) create, any rights in favor of or enhance the status of any claim held by any party; or (k) impact or prejudice the ability of any party to challenge, avoid, unwind, recharacterize, or assert any other claim or cause of action with respect to any Intercompany Transactions.

27. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

28. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

29. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

30. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

31. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

Dated: _____, 2023

CHRISTOPHER M. LOPEZ
UNITED STATES BANKRUPTCY JUDGE