

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.)	(Jointly Administered)

If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txsb.uscourts.gov/> within twenty-one days from the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk within twenty-one days from the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.

APPLICATION OF CBRE, INC. FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM PURSUANT TO 11 U.S.C. § 503(B)(1)(A)

CBRE, Inc. (“CBRE”) by and through its undersigned counsel, hereby files this *Application for Allowance and Payment of Administrative Expense Claim Pursuant to 11 U.S.C. § 503(b)(1)(A)* (the “Application”). In support thereof, CBRE states as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.

Venue is proper in this Court under 28 U.S.C. §§ 1408 and 1409.

2. This matter is a core proceeding under 28 U.S.C. § 157(b).

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.



BACKGROUND

3. Prior to the Petition Date (as defined below), CBRE provided facility maintenance and integrated facilities management services (hereinafter referred to as “Services”) under the terms of a Master Services Agreement (“MSA”) and a Statement of Work (“SOW”), both of which were entered into on December 31, 2020.² CBRE has not received payment for postpetition Services rendered, amounting to \$177,865.35. As of the date of filing this Application, the sum of \$177,865.35 is due and owed to CBRE by the Debtors for postpetition Services, which is reflected in Exhibit A.

4. On January 31, 2023 (the “Petition Date”), IEH Auto Parts Holding LLC and certain of its affiliates (collectively, the “Debtors”) filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”), which are being jointly administered in this case. Debtors operated their business and managed their affairs as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. This Court entered an order on June 16, 2023 confirming the Debtors’ plan of liquidation. However, the confirmed plan has not gone effective as of this date.

RELIEF REQUESTED

5. CBRE requests, pursuant to 11 U.S.C. § 503(b)(1)(A), that this Court enter an order allowing and granting an administrative expense claim to CBRE in the amount of \$177,865.35 for unpaid amounts due under the CBRE invoices through the date hereof, and other relief requested herein. Amounts reflecting postpetition Services in the amount of \$177,865.35 are attached hereto as Exhibit A.

² The MSA and SOW, which contain commercially sensitive information, are not attached to this Motion. However, the Debtors have copies of both documents.

ARGUMENT

6. Pursuant to 11 U.S.C. § 503(b)(1)(A), a claim qualifies for allowance as an administrative expense if it is an actual and necessary cost or expense of preserving the debtor’s bankruptcy estate. A cost is “actual and necessary” if it: (a) arises postpetition and as a result of actions taken by the debtor in possession; and (b) benefitted the debtor’s bankruptcy estate. *Nabors Offshore Corp. v. Whistler Energy II, L.L.C. (In re Whistler Energy II, L.L.C.)*, 931 F.3d 432, 441 (5th Cir. 2019) (quoting *In re Jack/Wade Drilling, Inc.*, 258 F.3d 385, 387 (5th Cir. 2001)).

7. “Administrative priority serves ‘to encourage third parties to provide necessary goods and services to the debtor-in-possession so that it can continue to conduct its business, thus generating funds from which prepetition creditors can be paid.’” *Whistler Energy*, 931 F.3d at 441 (quoting *Toma Steel Supply, Inc. v. TransAmerican Nat’l Gas Corp (In re TransAmerican Nat’l Gas Corp.)*, 978 F.2d 1409, 1416 (5th Cir. 1992)).

8. The first part of the test requires a showing of “inducement” by the debtor in possession, but an explicit request for services is not required. *Whistler Energy*, 931 F.3d at 441-42. Rather, inducement may also be shown through the “knowing and voluntary post-petition acceptance of desired goods or services.” *Id.* (citation omitted).

9. Here, the Debtors were clearly aware of and voluntarily continued to accept CBRE’s Services. Postpetition, the Debtors continued to request that CBRE continue to provide facility maintenance and integrated facilities management services. As a result of CBRE’s Services, the Debtors have been able to continue to operate their business, which they undoubtedly recognize would be impossible without CBRE’s assistance.

10. As touched upon above, CBRE's Services provided a meaningful benefit to the Debtors' estates and thus also satisfies the second part of the test. "A benefit to the estate can come in different forms." *Whistler Energy*, 931 F.3d at 443. As explained by the Fifth Circuit:

Although the estate receives a benefit that often can be measured by the actual cost of necessary goods or services supplied, the estate also receives other less readily calculable benefits, such as the ability to continue to conduct business as usual. Thus, "actual and necessary costs" should include costs ordinarily incident to operation of a business, and not be limited to costs without which rehabilitation would be impossible. When certain goods or services will benefit the bankruptcy estate, administrative priority enables the debtor-in-possession to transact for that benefit in the same manner as a solvent enterprise. This requires paying the full and ordinary cost of such goods and services, including overhead and incidental expenses. Absent full payment, creditors would have little incentive to do business with the debtor-in-possession. If a debtor-in-possession decides to rent equipment for its business, for example, it cannot later evade those rental payments by asserting that it did not end up needing the equipment after all. Nor can a debtor-in-possession argue that a specific line item expense that goes into providing a service did not directly benefit the estate.

Whistler Energy, 931 F.3d at 443-444 (internal citations and quotation marks omitted).

11. When a non-debtor provides postpetition services that benefit the estate, it is entitled to be compensated. *See id.* at 444 ("[C]onducting business as usual often requires that certain goods or services be available, even if ultimately not used."). Accordingly, "when the debtor-in-possession induces availability and the bankruptcy estate derives a benefit from it, the ordinary cost of ensuring such availability qualifies as an administrative expense." *Id.* For services, the "full and ordinary costs" include "overheard costs and other indirect expenses." *Id.* at 447.

12. CBRE has provided a substantial benefit to the Debtors' estates through its postpetition Services to the Debtors.

13. CBRE is, therefore, entitled to an allowed administrative expense claim in the amount of \$177,865.35, the full amount owing by Debtors to CBRE for postpetition amounts

payable. CBRE asserts that the value provided to the Debtors for the Services provided was fair and reasonable under the MSA and SOW. *See In re Bethlehem Steel Corp.*, 291 B.R. 260, 264 (Bankr. S.D.N.Y. 2003) (“There is an initial assumption that, where a contract exists, the contractual rate is the reasonable value of the goods or services provided to the estate.”).

14. Furthermore, CBRE requests that the Court order Debtors to pay such allowed administrative expense claim within five (5) business days after entry of the Order or at such time as the Court otherwise orders. CBRE requests such other and further relief for which it may show itself justly entitled.

RESERVATION OF RIGHTS

15. CBRE reserves all rights to modify, revise, update and amend this request for payment of administrative claim.

WHEREFORE, CBRE respectfully requests that the Court enter an order (i) allowing and granting CBRE an administrative expense claim of \$177,865.35 under 11 U.S.C. § 503(b)(1)(A); (ii) requiring the Debtors to pay such allowed administrative expense claim within five (5) business days after entry of the Order or at such time as the Court otherwise orders; and (iii) granting such other and further relief as is just and proper.

Dated: September 6, 2023

Respectfully submitted,

/s/ Jorge Garcia
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Attorneys for CBRE, Inc.

CERTIFICATE OF SERVICE

I, Jorge Garcia, certify that on September 6, 2023, I caused a copy of the *Application of CBRE, Inc. for Allowance and Payment of Administrative Expense Claim Pursuant to 11 U.S.C. § 503(B)(1)(A)* to be served by the Court's CM/ECF Notification System on all parties who have subscribed for notice in this case, and via e-mail on counsel to the Debtors.

/s/ Jorge Garcia

SAUL EWING LLP

Jorge Garcia (Texas Bar No. 24135017)

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Miami, Florida 33131

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jorge.garcia@saul.com

Exhibit A

Postpetition Amounts Owed for Services Rendered by CBRE

Batch Number	Amount Owed
AutoPlus_03082023	\$1,493.61
AutoPlus_03272023	\$1,529.00
AutoPlus_04122023	\$742.83
AutoPlus_04262023	\$392.00
AutoPlus_05172023	\$2,816.80
AutoPlus_05292023	\$19,646.04
AutoPlus_06022023	\$5,479.14
AutoPlus_06072023	\$4,717.00
AutoPlus_06092023	\$498.72
AutoPlus_06122023	\$1,525.64
AutoPlus_06162023	\$2,199.55
PEP053123SUBKC	\$2,892.38
PEP062223SUBKC	\$2,884.47
AutoPlus_07282023	\$125,568.16
PEP072823SUBKC	\$2,884.47
AutoPlus_08072023	\$2,595.54
TOTAL	\$177,865.35

**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.)	(Jointly Administered)

**ORDER GRANTING THE APPLICATION OF CBRE, INC. FOR
ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSE
CLAIM PURSUANT TO 11 U.S.C. § 503(B)(1)(A)
(Relates to Docket No. __)**

Upon the Application (the “Application”) of CBRE, Inc. (“CBRE”) for Allowance and Payment of Administrative Expense Claim Pursuant to 11 U.S.C. § 503(b)(1)(A); 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)(2); and the Court finding 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 Application in this district is permissible pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the notice of the Application was appropriate under the circumstances and no other notice need be provided; and this Court having determined that the legal and factual bases set forth in the Application establish just cause for the

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relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:²

1. The Application is GRANTED, and CBRE is hereby granted an allowed administrative expense claim pursuant to 11 U.S.C. § 503(b)(1)(A) in the amount of \$177,865.35.

2. The Debtors shall pay the amount of \$177,865.35 to CBRE no later than five (5) business days following the date of entry of this Order.

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

Signed: _____, 2023

CHRISTOPHER M. LOPEZ
UNITED STATES BANKRUPTCY JUDGE

² Capitalized terms used but not defined herein have the meanings ascribed to such terms in the Application.