

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)
)		

**VGP HOLDINGS LLC’S MOTION FOR ALLOWANCE AND
PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM PURSUANT
TO SECTION 503(b) OF THE BANKRUPTCY CODE**

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 APPLICATION WAS FILED. OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

VGP Holdings LLC f/k/a Valvoline LLC (“Valvoline”), by and through its undersigned counsel, files this *Motion for Allowance and Payment of Administrative Expense Claim Pursuant to Section 503(b) of the Bankruptcy Code* (the “Motion”) and respectfully states as follows in support thereof:

I. INTRODUCTION

1. Throughout the above captioned Chapter 11 cases, Valvoline has continued to provide goods to and for the benefit of the above captioned debtors and debtors in

¹ A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <https://www.kccllc.net/autoplus>. The location of Debtor IEH Auto Parts Holding LLC’s principal place of business and the Debtors’ service address in these chapter 11 cases is 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.



possession (“Debtors”). Accordingly, Valvoline requests this Court enter an order, substantially in the form attached as Exhibit A (the “Order”), that (a) allows Valvoline an administrative expense claim in an amount (i) not less than \$33,440.20 for the 503 Claim, and (ii) not less than \$113,984.36 for the 20 Day Claim based on the goods provided to the Debtors; (b) directs payment of that administrative expense claim in full in accordance with the terms of the *Third Amended Combined Disclosure Statement and Joint Plan of Liquidation of IEH Auto Parts Holding LLC and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 738] (the “Plan”); and (c) granting Valvoline other relief as may be deemed appropriate by the Court.

II. JURISDICTION, VENUE, AND AUTHORITY

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 matter is a core proceeding within the meaning of 28 U.S.C. § 157(b).

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

4. This Motion is filed pursuant to Sections 105(a) and 503(a)–(b) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9013 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”).

III. Relevant Factual Background

5. The Debtors filed their petitions for relief under Chapter 11 of the Bankruptcy Code on January 31, 2023 (“Petition Date”).

6. Prior to the Petition Date, Valvoline delivered goods to the Debtors that were ordered pursuant to certain purchase orders and underlying agreements (the “Purchase Orders”) validly issued by the Debtors. As of the Petition Date, the Debtors had not paid Valvoline for goods shipped

to the Debtors pursuant to the Purchase Orders, in an amount not less than \$393,461.53 (the “Pre-Petition Claim”). Of the Pre-Petition Claim, \$113,984.36 is the value of goods received by the Debtors within 20 days before the Petition Date and sold to the Debtors in the ordinary course of the Debtors’ business, which are entitled to administrative expense priority pursuant to 11 U.S.C. § 503(b)(9) (the “20 Day Claim”).

7. On April 27, 2023, Valvoline timely filed its *Proof of Claim* (“Proof of Claim”), which asserted its right to the Pre-Petition Claim, including the 20 Day Claim.

8. From and after the Petition Date, Valvoline has continued to provide goods to the Debtors in the ordinary course of business pursuant to certain Purchase Orders validly issued by the Debtors. As of the date of this Motion, however, Valvoline has not been paid for certain of these post-petition goods despite notice to the Debtors, through counsel, and despite the Plan. Specifically, Valvoline is owed not less than \$33,440.20 for goods delivered from and after the Petition Date which remain unpaid (the “503 Claim”). A summary of the unpaid Purchase Orders comprising the 503 Claim is attached hereto as Exhibit B.

IV. Relief Requested and Basis for Relief

The 503 Claim

9. Pursuant to 11 U.S.C. § 503(b)(1)(A), Valvoline respectfully requests that this Court enter the Order allowing the 503 Claim, in an amount not less than \$33,440.20, as an administrative expense claim pursuant to section 503(b) of the Bankruptcy Code and for payment thereof and such other relief requested therein or deemed appropriate by this Court.

10. An entity may timely file a request for payment of an administrative expense” 11 U.S.C. § 503(a). A claim may be allowed as an administrative expense claim if it is determined to be “the actual, necessary costs and expenses of preserving the estate.” 11 U.S.C. § 503(b)(1)(A).

The Bankruptcy Code provides that ‘the actual, necessary costs and expenses of preserving the estate’ are characterized as administrative expenses . . . entitled to priority over the claims of other unsecured creditors” *Texas v. Lowe (In re H.L.S. Energy Co.)*, 151 F.3d 434, 437 (5th Cir. 1998) (citing 11 U.S.C. §§ 503(b)(1)(A), 507(a)(1)) (internal citations omitted).

11. Generally, an actual and necessary cost or expense (1) arises post-petition as a result of actions taken by the debtor, and (2) benefits the 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) (citing *Total Minatome Corp. v. Jack/Wade Drilling, Inc. (In re Jack/Wade Drilling, Inc.)*, 258 F.3d 385, 387 (5th Cir. 2001)). In the first prong of this requirement, courts must determine whether there is a showing of “inducement” by the debtor, such that the debtor knowingly and voluntarily accepted goods or services. *Whistler Energy*, 931 F.3d at 441-42. In the second prong, courts have determined that a benefit to the bankruptcy estate can often be measured by the cost of goods but should also include any incidental expenses so as to ensure the non-debtor is adequately compensated. *Whistler Energy*, 931 F.3d at 443-444.

The 20 Day Claim

12. Additionally, an administrative expense claim may be allowed for “the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor’s business.” 11 U.S.C. § 503(b)(9).

13. Valvoline and the Debtors continued to transact after the Petition Date, and the Debtors assured Valvoline it would receive payment on 7-day terms. Despite this reassurance, the Debtors have not paid Valvoline for certain of these post-petition transactions, but have received substantial benefit from the goods provided by Valvoline from and after the Petition Date.

Primarily, the uninterrupted flow of goods from Valvoline allowed the Debtors to maintain their customer relationships and transition its operations into and out of the Chapter 11 process, which was a primary inducing factor for Valvoline to continue such transactions. The Debtors' use of Valvoline's goods has thus resulted in additional revenue for the benefit of the Debtors' estates, and so the entire amount of the 503 Claim constitutes actual and necessary costs of preserving the Debtors' estates and should be allowed and paid.

14. Valvoline, therefore, is entitled to an allowed administrative expense claim for the 503 Claim, in an amount not less than \$33,440.20, the full amount owing by the Debtors to Valvoline for post-petition amounts payable. Valvoline is also entitled to an allowed administrative expense claim for the 20 Day Claim, in an amount not less than \$113,984.36.

V. Reservation of Rights

15. Valvoline reserves all rights with respect to the goods referenced in this Motion and reserves the right to assert any additional rights it may have under applicable law including with respect to any claim or proof of claim that has been filed or may be filed in the future, any administrative expense claim as may be asserted hereinafter, including without limitation the (A) right to a judicial determination of the amount(s) due and owing with regard to any claim, (B) the right to resolution of all issues implicated by Valvoline's claims and/or contracts between Valvoline and the Debtors, (C) the right to amend, modify or supplement this Motion in response to, or as a result of, any submission by any party-in-interest and (D) the right to adopt any other pleadings filed by any other party related to Valvoline's claims or this Motion.

VI. Conclusion

WHEREFORE, Valvoline requests this Court enter an order, substantially in the form attached, that (a) allows Valvoline an administrative expense claim in an amount not less than

\$33,440.20 for the 503 Claim, and an allowed administrative expense claim for the 20 Day Claim, in an amount not less than \$113,984.36, for goods provided to the Debtors; (b) directs payment of that administrative expense claim in full in accordance with the terms of the Plan; and (c) granting Valvoline other relief as may be deemed appropriate by the Court.

Dated: November 3, 2023

Respectfully submitted,

/s/ Sara A. Johnston (pro hac vice)
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Attorney for VGP Holding LLC

CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2023, a true and correct copy of the foregoing was filed and served electronically via the Court's CM/ECF System upon those who are registered to receive electronic notice. Additionally, in accordance with the *Procedures for Complex Cases in the Southern District of Texas*, those parties listed on the consolidated master service list that have not requested service by CM/ECF have been served by e-mail or regular mail as noted on the master service list.

/s/ Sara A. Johnston
Sara A. Johnston

Exhibit A
(Proposed Order)

**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>		
)	Case No. 23-90054
	(CML)	
Debtors. ¹)	(Jointly Administered)

**ORDER GRANTING VGP HOLDING LLC’S
MOTION FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSE
CLAIM PURSUANT TO SECTION 503(B) OF THE BANKRUPTCY CODE**

Came on before the Court the *Motion for Allowance and Payment of Administrative Expense Claim Pursuant to Section 503(b) of the Bankruptcy Code* (the “Motion”) filed by VGP Holdings LLC (“Valvoline”). Having considered the Motion, and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334 and this Court having found that Valvoline’s 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 related filings and support in the record and this Court having determined that the legal and factual bases set forth in the Motion 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

HEREBY ORDERED THAT:

1. Valvoline shall be allowed an administrative expense claim on account of its 503 Claim in an amount not less than \$33,440.20 for goods provided to the Debtors;
2. Valvoline shall be allowed an administrative expense claim on account of its 20 Day Claim in an amount of \$113,984.36 for goods provided to the Debtors;

3. The Debtors shall remit payment of the administrative expense claims in full in accordance with the terms of the Plan;

4. Valvoline is authorized to take all actions necessary to effectuate the relief granted in this Order; and

5. 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

Exhibit B
(503(b) Summary)*

<u>Account Number</u>	<u>Doc. No.</u>	<u>Doc. Date</u>	<u>Amount</u>
8657	**7741	4/28/2023	\$5,986.76
8657	**8617	4/28/2023	\$1,025.02
8657	**9634	5/01/2023	\$5,469.49
8657	**0282	5/01/2023	\$19,557.40
8657	**1208	5/02/2023	\$88.17
8657	**4928	5/04/2023	\$952.61
8657	**6446	5/05/2023	\$414.90
8657	**5162	8/31/2023	-\$54.15**
<u>TOTAL</u>			33,440.20

*Does not include 20 day claim in the amount of \$113,984.36, previously included with Proof of Claim.

**Residual credit from wire payment.