

ENTERED

November 20, 2023

Nathan Ochsner, Clerk

**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)
)	
Wind-Down Debtors.)	(Jointly Administered)
)	Re: Docket Nos. 734, 831

**STIPULATION AND AGREED ORDER BETWEEN
 THE DEBTORS AND RPT HIALEAH I, LLC**

The above-captioned wind-down debtors (collectively, the “Wind-Down Debtors,” and, prior to the Effective Date (as defined herein) of their Plan, the “Debtors”) in the above-captioned cases and RPT Hialeah I, LLC (the “Landlord” and, together with the Debtors, the “Parties”) hereby enter into this stipulation and order (this “Stipulation and Agreed Order”) as follows:

WHEREAS, on January 31, 2023 (the “Petition Date”), each Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of Texas (the “Court”);

WHEREAS, on the Petition Date, the Court entered an order authorizing the joint administration and procedural consolidation of these chapter 11 cases pursuant to rule 1015(b) of the Federal Rules of Bankruptcy Procedure and rule 1015-1 of the Bankruptcy Local Rules for the Southern District of Texas [Docket No. 25]. The Debtors are operating their businesses and

¹ The Wind-Down 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 Wind-Down Debtors’ service address is: 5330 Caramel Crest Lane, Charlotte, NC 28226.



managing their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, on February 14, 2023, the Office of the United States Trustee for the Southern District of Texas appointed an official committee of unsecured creditors [Docket No. 99] (the "Committee"). No request for the appointment of a trustee or examiner has been made in these chapter 11 cases;

WHEREAS, 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)(2), the Parties confirm their consent to the entry of a final order by the Court, and venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409;

WHEREAS, prior to the Petition Date, A.M.G. Properties, Inc. ("A.M.G."), as landlord (the predecessor in interest to Landlord), and Parts Depot, Inc. ("Parts Depot"), as tenant, entered into that certain Standard Industrial Lease (collectively, as may have been amended, modified, and/or supplemented from time to time, the "Lease"), dated as of March 21, 2005, for the lease of certain non-residential real property premises located at 3510 NW 60th Avenue, Miami, Florida 33142 (the "Premises") known as Store No. 10640/18067, as more particularly described in the Lease. The Lease was later assigned by A.M.G. to the Realty Associates Fund VIII, L.P. and then finally to the current Landlord on or around June 17, 2018. Additionally, Parts Depot, as tenant, assigned the Lease to Uni-Select USA, Inc., which then assigned the Lease to IEH Auto Parts LLC (the "Debtor Tenant");

WHEREAS, pursuant to Section 4 of the Lease and Section 8 of the Fifth Amendment to Standard Industrial Lease, the Landlord holds a \$54,577.00 security deposit (the "Security Deposit");

WHEREAS, on June 16, 2023, the Court entered an order [Docket No. 749] (the “Confirmation Order”) confirming 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* (the “Plan”). The effective date of the Plan occurred on October 6, 2023 [Docket No. 922] (the “Effective Date”);

WHEREAS, on June 16, 2023, the Debtors filed the *Debtors’ Fourth Omnibus Motion for Entry of an Order (I) Authorizing and Approving (A) the Rejection of Certain Unexpired Leases of Non-Residential Real Property, (B) the Rejection of Certain Executory Contracts, and (C) Abandonment of Certain Personal Property, if any, Each Effective as of the Respective Effective Rejection Date, and (II) Granting Related Relief* [Docket No. 734] (the “Rejection Motion”);

WHEREAS, the Rejection Motion seeks to reject the Lease, effective as of July 31, 2023;

WHEREAS, the Debtor Tenant ceased operations on the Premises on or before July 31, 2023;

WHEREAS, on July 26, 2023, the Landlord filed its objection to the Rejection Motion [Docket No. 831] (the “Objection”);

WHEREAS, on August 30, 2023, the Landlord filed Proof of Claim No. 720 as a general unsecured claim in the total amount of \$822,608.63 (the “Proof of Claim”), of which \$580,238.63 was asserted as rejection damages pursuant to 11 U.S.C. § 502(b)(6), and \$242,370.00 was asserted as additional damages for removal of that certain mezzanine and other repairs; and

WHEREAS, by this Stipulation and Agreed Order, the Parties seek to resolve the Rejection Motion solely with respect to the Lease and the Objection on the terms set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into this Stipulation and Agreed Order, the Parties hereby stipulate and agree as follows:

1. Upon execution and Court approval of this Stipulation and Agreed Order, the Parties agree that pursuant to section 365 of the Bankruptcy Code, the Lease is rejected as of July 31, 2023 (the "Effective Rejection Date").

2. The Landlord's Objection is hereby withdrawn without prejudice.

3. The Parties agree that any Personal Property (as defined in the Rejection Motion) not removed from the Premises on or before July 31, 2023 shall be deemed abandoned by the Debtors as of August 1, 2023 free and clear of all liens, claims, encumbrances, interests, and rights of the Debtors and third parties. The Landlord may keep and/or dispose of such Personal Property in its sole and absolute discretion without further notice or liability to any party holding any liens, claims, encumbrances, interests, and rights in such abandoned Personal Property. The automatic stay, to the extent applicable, is modified to allow for such utilization and disposition.

4. The automatic stay provisions of section 362 of the Bankruptcy Code in the above-captioned chapter 11 cases, are hereby modified so as to permit the Landlord to exercise its right to setoff the Security Deposit it is holding against any timely filed Proof of Claim for rejection damages, which such Proof of Claim shall hereby be deemed amended and reduced to reflect such setoff. For the avoidance of doubt, the Debtors, Plan Agent, and GUC Trustee, as those terms are defined in the Plan, reserve all rights with respect to any claim filed by the Landlord, including the Proof of Claim.

5. The Landlord hereby waives and releases any request for allowance and/or payment of administrative expenses or priority claims pursuant to sections 503 and 365(d)(3) of the Bankruptcy Code in these chapter 11 cases.

6. The Debtors claims, noticing, and solicitation agent, Kurtzman Carson Consultants LLC, is authorized and directed to update the claims register maintained in these chapter 11 cases to reflect the relief granted in this Stipulation and Agreed Order.

7. Except as otherwise provided herein, nothing in this Stipulation and Agreed Order, nor any actions taken pursuant hereto, 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 non-bankruptcy 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 Stipulation and Agreed Order or a finding that any particular claim is an administrative expense claim or other priority claim; (e) a request or authorization to assume, assign, 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; or (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.

8. Except as otherwise set forth herein, the Landlord's rights and defenses it may have under the Lease are reserved, and the Landlord does not waive any rights and defenses it may have under the Bankruptcy Code, the Lease and non-bankruptcy law, as applicable, and/or filing any other motions and/or objections.

9. The terms and conditions of this Stipulation and Agreed Order shall be immediately effective and enforceable upon entry by the Court.

10. This Stipulation and Agreed Order is intended by the Parties to be binding upon their successors, agents, assigns, including bankruptcy trustees and estate representatives, and any parent, subsidiary, or affiliated entity of the Parties.

11. The undersigned hereby represent and warrant that they have full authority to execute this Stipulation and Agreed Order on behalf of the respective parties and that the respective parties have full knowledge of, and have consented to, this Stipulation and Agreed Order. This Stipulation and Agreed Order may be executed in counterparts and/or by facsimile or other electronic signature, and each such counterpart together with the others shall constitute one and the same instrument.

12. The Parties agree that each of them has had a full opportunity to participate in the drafting of this Stipulation and Agreed Order and any claimed ambiguity shall be construed neither for nor against either of the Parties.

13. This Stipulation and Agreed Order constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior discussions, agreements, and understandings, both written and oral, among the Parties with respect thereto (other than the Lease itself).

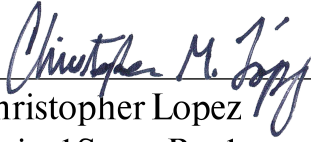
14. This Stipulation and Agreed Order shall not be modified, altered, amended, or supplemented except by a writing executed by the Parties or their authorized representatives.

15. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Stipulation and Agreed Order, and the Parties hereby consent to such

jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation and Agreed Order.

IT IS SO ORDERED.

Signed: November 20, 2023



Christopher Lopez
United States Bankruptcy Judge

IN WITNESS WHEREOF, the Parties executed this Stipulation and Agreed Order as of
the date written below.

Houston, Texas
Dated: November 16, 2023

/s/ Vienna F. Anaya

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