

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

IN RE:	§	Chapter 11
	§	
AUTO PLUS AUTO SALES LLC,	§	CASE NO. 23-90055 (CML)
	§	
	§	(Formerly Jointly Administered
	§	under Lead Case IEH Auto Parts
Wind-Down Debtor.	§	Holding, LLC, Case No. 23-90054)
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IEH AUTO PARTS HOLDING LLC, <i>et</i>	§	
<i>al.</i>	§	
Plaintiffs,	§	
	§	
v.	§	ADVERSARY NO. 24-03040
	§	
ELLIOTT AUTO SUPPLY CO., INC.	§	
D/B/A FMP,	§	
Defendant.	§	

**DEFENDANT’S ORIGINAL ANSWER
TO PLAINTIFFS’ COMPLAINT FOR DECLARATORY JUDGMENT**

Defendant Elliott Auto Supply Co., Inc. d/b/a FMP (“Defendant” or “FMP”) files this Original Answer to the Original Complaint for Declaratory Judgment (“Complaint”) of Plaintiffs IEH Auto Parts Holding LLC, and its wind-down debtors (“Plaintiffs” or “IEH”). FMP denies each and every allegation contained in the Complaint unless specifically admitted herein. In further response to the specific allegations in the Complaint, FMP responds as follows:

I. PRELIMINARY STATEMENT

1. FMP is without sufficient information to admit or deny the allegations in Paragraph 1 of the Complaint.

2. With regard to Paragraph 2 of the Complaint, FMP admits that IEH was an auto parts supplier and that FMP purchased a portion of IEH’s inventory in conjunction with a Chapter 11 bankruptcy auction sale pursuant to the APA. FMP is not required to respond to the remaining



allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 2 are denied.

3. With regard to Paragraph 3 of the Complaint, FMP admits that the parties disagree over the scope and role of the Independent Accountant. FMP is not required to respond to the remaining allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 3 are denied.

4. With regard to Paragraph 4 of the Complaint, FMP admits that both IEH and FMP provided their respective inventory calculations and that there appears to be a difference of roughly \$8 million. Otherwise, the allegations made in Paragraph 4 are denied.

5. With regard to Paragraph 5 of the Complaint, FMP admits that IEH provided its Statement of Objections and that the parties agreed on an Independent Accountant pursuant to the terms of the APA. Otherwise, the allegations made in Paragraph 5 are denied..

6. With regard to Paragraph 6 of the Complaint, FMP admits that both parties set forth their respective positions in this matter in the referenced exhibits. Otherwise, the allegations made in Paragraph 6 are denied.

7. With regard to Paragraph 7 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 7 are denied.

8. With regard to Paragraph 8 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 8 are denied.

9. With regard to Paragraph 9 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 9 are denied.

10. With regard to Paragraph 10 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 10 are denied.

II. PARTIES

11. Paragraph 11 of the Complaint is admitted.

12. With regard to Paragraph 12 of the Complaint, FMP admits that it is a corporation under the laws of the State of Minnesota and that its registered agent is Cogency Global Inc., which maintains an office at 1601 Elm Street, Suite 4360, Dallas, Texas 75201. FMP denies that it has been properly served in this matter. Even so, FMP intends to proceed with this matter in an effort to reach a resolution.

III. JURISDICTION AND VENUE

13. Paragraph 13 of the Complaint contains legal conclusions for which a response is not required. To the extent a response is required, FMP admits that the Court has jurisdiction over this matter.

14. Paragraph 14 of the Complaint contains legal conclusions for which a response is not required. To the extent a response is required, FMP admits that the Court has jurisdiction over this matter.

15. Paragraph 15 of the Complaint is admitted.

16. Paragraph 16 of the Complaint is admitted.

IV. FACTS

A. IEH's Bankruptcy Petition and Inventory Auction

17. Paragraph 17 of the Complaint is admitted.

18. Paragraph 18 of the Complaint is admitted.

19. FMP denies that Docket #514 was filed on May 15, 2023, as it was filed on May 15, 2023. Otherwise, Paragraph 19 of the Complaint is admitted.

20. Paragraph 20 of the Complaint is admitted.

21. Paragraph 21 of the Complaint is admitted.

B. The Terms of the APA

22. Paragraph 22 of the Complaint is admitted.

23. Paragraph 23 of the Complaint is admitted.

24. Paragraph 24 of the Complaint is admitted.

25. With regard to Paragraph 25 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 25 are denied.

26. With regard to Paragraph 26 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 26 are denied.

27. With regard to Paragraph 27 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 27 are denied.

28. With regard to Paragraph 28 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 28 are denied.

29. With regard to Paragraph 29 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 29 are denied.

30. With regard to Paragraph 30 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 30 are denied.

C. The Parties Exchange Closing Inventory Amount Statements

31. With regard to Paragraph 31 of the Complaint, FMP admits that IEH provided FMP with its Estimated Closing Inventory Amounts on the dates, and in the amounts stated. The remaining allegations made in Paragraph 31 are denied.

32. With regard to Paragraph 32 of the Complaint, FMP admits that FMP provided IEH with its Closing Inventory Amount Statement on the dates, and in the amounts stated. The remaining allegations made in Paragraph 32 are denied.

33. With regard to Paragraph 33 of the Complaint, FMP admits that IEH objected FMP's Closing Inventory Amount Statements. The remaining allegations made in Paragraph 33 are denied.

34. Paragraph 34 of the Complaint is admitted.

35. Paragraph 35 of the Complaint is admitted.

36. With regard to Paragraph 36 of the Complaint, FMP admits that the parties disagree over the scope of the Independent Accountant's duties under the APA. The remaining allegations made in Paragraph 33 are denied.

37. With regard to Paragraph 37 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 37 are denied.

38. With regard to Paragraph 38 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 38 are denied.

D. FMP's Interpretation of the APA is Wrong

39. FMP denies the allegations in Paragraph 39 of the Complaint.

40. With regard to Paragraph 40 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 40 are denied.

41. With regard to Paragraph 41 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 41 are denied.

42. With regard to Paragraph 42 of the Complaint, FMP is not required to respond to the allegations in this paragraph as they are either legal conclusions or recitals of what the APA purports to say. Otherwise, the allegations made in Paragraph 42 are denied.

V. CAUSE OF ACTION DECLARATORY JUDGMENT

43. FMP is not required to response to Paragraph 43 of the Complaint.

44. Paragraph 44 of the Complaint is admitted.

45. Paragraph 45 of the Complaint is admitted.

46. FMP denies the allegations in Paragraph 46 of the Complaint.

VI. PRAYER FOR RELIEF

47. FMP denies the Plaintiff is entitled to relief sought or any relief whatsoever.

WHEREFORE, Defendant Elliott Auto Supply Co., Inc. d/b/a FMP prays that its Answer and Defenses be deemed good and sufficient, and after due proceedings are had, that there be judgment in Defendant's favor, and that the Court award such monetary and equitable relief to which Defendant may be entitled, inclusive of fees and expenses and all other relief warranted.

Dated this 3rd day of May 2024.

Respectfully submitted,

By: /s/ Jim D. Aycock

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of *Defendant's Original Answer to Plaintiffs' Complaint for Declaratory Judgment* has been delivered to all counsel of record listed below pursuant to the Federal Rules of Civil Procedure on May 3, 2024.

Via ECF

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