

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

NU RIDE INC., *et al.*,²

Reorganized Debtors.

Chapter 11

Case No. 23-10831 (MFW)

(Jointly Administered)

Obj. Deadline: September 19, 2024 at 4:00 p.m. (ET)

Hearing Date: September 26, 2024 at 3:00 p.m. (ET)

**POST-EFFECTIVE DATE DEBTORS' MOTION FOR (A) ENTRY OF
AN ORDER ENFORCING THE VEHICLE DECOMMISSION ORDER
AND (B) FOR RELATED RELIEF**

Nu Ride Inc. and its affiliated reorganized debtors in the above-captioned proceeding (the “Post-Effective Date Debtors” and, prior to confirmation, the “Debtors”) hereby submit this motion (the “Motion”) requesting that the Court (i) direct Cohen Recycling Inc. (“CRI”) and Mike Ahn (“Ahn”), third-party purchasers of certain Endurance vehicles (collectively, the “Purchasers”)³ to immediately decommission the Endurance vehicles as required under this Court’s *Order (I) Authorizing, But Not Directing, the Debtors to Repurchase Endurance Trucks from Customers, and (II) Granting Related Relief* [Docket No. 731] (the “Vehicle Decommission Order”); and (ii) grant related relief. The facts and circumstances supporting this Motion are set forth in the *Declaration of William Gallagher in Support of the Post-Effective Date Debtors’ Motion for (A) Entry of an Order Enforcing the Vehicle Decommission Order and (B) for Related*

² The Reorganized Debtors and the last four digits of their respective taxpayer identification numbers are: Lordstown Motors Corp. (3239); Lordstown EV Corporation (2250); and Lordstown EV Sales LLC (9101). The Reorganized Debtors’ service address is: Nu Ride Inc. c/o William Gallagher, CEO, M 3 Partners, 1700 Broadway, 19th Floor, New York, NY 10019.

³ Prior to the Petition Date, the Debtors were in the business of developing, manufacturing, and selling electric vehicles. The Debtors’ flagship vehicle was the “Endurance,” a full-size, all-electric pickup truck.



Relief (the “Gallagher Declaration”), filed contemporaneously herewith. In further support of the Motion, the Post-Effective Date Debtors respectfully state as follows:

PRELIMINARY STATEMENT⁴

1. As the Court is aware, prior to its Chapter 11 filing, Lordstown Motors produced an electric motor vehicle called the Endurance. During the Chapter 11 Cases, the Debtors filed a motion asking this Court for permission to repurchase Endurance vehicles previously sold. *See* Docket No. 731 (the “Decommission Motion”). As set forth in the Decommission Motion, “the Debtors will be unable to comply with their warranty, recall, and other regulatory obligations after the Effective Date of the Plan. This may give rise to claims against the estate and, even now, could constitute unliquidated and undefined contingent liabilities of the Debtors.” *Id.* at ¶ 24.

2. On December 7, 2023, the Court granted the Decommission Motion. *See* Docket No. 790 (defined above as the “Vehicle Decommission Order”). In Paragraph 4 of the Vehicle Decommission Order, the Court directed the Debtors to reclaim the vehicles and, thereafter, that “the vehicles will be decommissioned.”

3. Beginning in or around December 2023, the Debtors and a company called Cohen Recycling Inc. (defined above as CRI) engaged in discussions for the “decommissioning” of vehicles. CRI was told that the Debtors were in bankruptcy and that it would be receiving these vehicles with strict limitations on what it can do with them once in its possession. This is proven by, among other things, emails between the Debtor employees and CRI attached as Exhibit A to the Gallagher Declaration. In fact, as early as December 19, 2023, CRI’s founder and owner Andrew Cohen acknowledged the existence of the bankruptcy and need to scrap the vehicles placed in his possession. He was directly told by Debtors that, “due to the bankruptcy [the Debtors]

⁴ Capitalized terms used but not defined herein shall have the meanings ascribed to such terms below.

no longer have service, warranty support, or liability insurance *so they need to be scrapped.*” See Gallagher Declaration ¶ A; Ex. A (emphasis added). CRI was, in sum, aware of what it was supposed to do (destroy), and what it was not supposed to do (resell, as drivable moving vehicles), when it took possession of 31 Endurance vehicles.

4. While consummating this transaction, Debtors ensured that the vehicle transfer forms reflected the limited purposes for which CRI was taking possession. For each transferred vehicle, CRI prepared an “Affidavit of Lawful Possession for Transfer of a Vehicle to an Automotive Dismantler and Recycler or Scrap Processor” (“VR-454 Form”). On the very first page of this document, it stated that “A vehicle may not be retitled or assigned using this document; it may only be dismantled, destroyed or scrapped.” A copy of a sample VR-454 Form is attached as Exhibit C to the Gallagher Declaration.

5. CRI did not, however, do what it was supposed to do. It designed a “work around” for the Court-Ordered and VR-454-stipulated limitations. Instead of scrapping the vehicles, it planned to sell the Endurance trucks to consumers for driving purposes. It even explained to potential buyers how they could conceal the fact that these cars (with restricted titles) were an Endurance by, for example, taking the Endurance chassis and placing a Ford Explorer body on top of it as a “cool hot rod” project. This “cool hot rod” project served to conceal the presence of these cars on public roads to enrich CRI. This is not a hypothetical concern. CRI has already sold at least four Endurance vehicles, including several to Mr. Ahn, in a manner inconsistent with the Vehicle Decommission Order and potentially undermining the purpose of the Decommission Motion. The Post-Effective Date Debtors sent CRI “cease and desist” letters and the parties engaged in weeks of discussions, but those discussions did not culminate in any agreement.

6. More to the point, despite numerous requests, CRI will not agree to honor the

limitations of the VR-454 and Vehicle Decommission Order. It insists that it can market these cars for whatever purpose it deems proper, despite the limitation that the cars “may only be dismantled, destroyed, or scrapped.” Indeed, as a consequence of their disregard for their obligations, both Mr. Cohen and Mr. Ahn have driven Endurance trucks on public roads.

7. On September 5, 2024, CRI filed an adversary proceeding against the Post-Effective Date Debtors, seeking a declaratory judgment that it can do as it pleases with the Endurance vehicles that the Debtors sold to it. Much of the complaint is based on the oft-repeated representation that it had no idea that Lordstown was in bankruptcy and that there were legal limitations when it took title.⁵ This is untrue, as emails sent by CRI easily establish.

8. But there is other evidence showing CRI’s lack of candor. On February 9, 2024, Cohen made a video—and put it in the public domain—about his newly purchased Endurance vehicles. In that video, Cohen admits, among other things, that he knows the company is in bankruptcy, he took title knowing that he is limited on what he can do with the vehicles, and that he has conjured up his “repurpose” workaround for public resale of the vehicles. The Court can see this video through the following hyperlink: <https://www.youtube.com/watch?v=GmQqC8OsAt0&t=4s>. For the Court’s convenience, several snapshot video admissions are provided below:⁶

⁵ See, e.g., *Cohen Recycling Inc. v. Nu Ride, Inc.*, Adv. Pro. No. 24-50127-(MFW), at ¶ 1 (“The Debtor sold uncertificated vehicles to Plaintiff without advising Plaintiff that it was a debtor in bankruptcy[.]”); ¶ 2 (alleging “the Debtor had not disclosed its bankruptcy to Plaintiff at the time of the sale”); ¶ 22 (“At no time before this transaction was complete did the Debtor make Plaintiff aware that the Debtor was a debtor in bankruptcy.”); ¶ 48 (“[T]he Reorganized Debtor did not disclose to Plaintiff that it was a debtor in bankruptcy[.]”).

⁶ The text in the screenshots contained herein were generated via closed captioning.



See id. (refusing to provide details on bankruptcy purchase: “not only do I have this truck, I got 31 of them. So I’m not going to go into details on how I got them”).

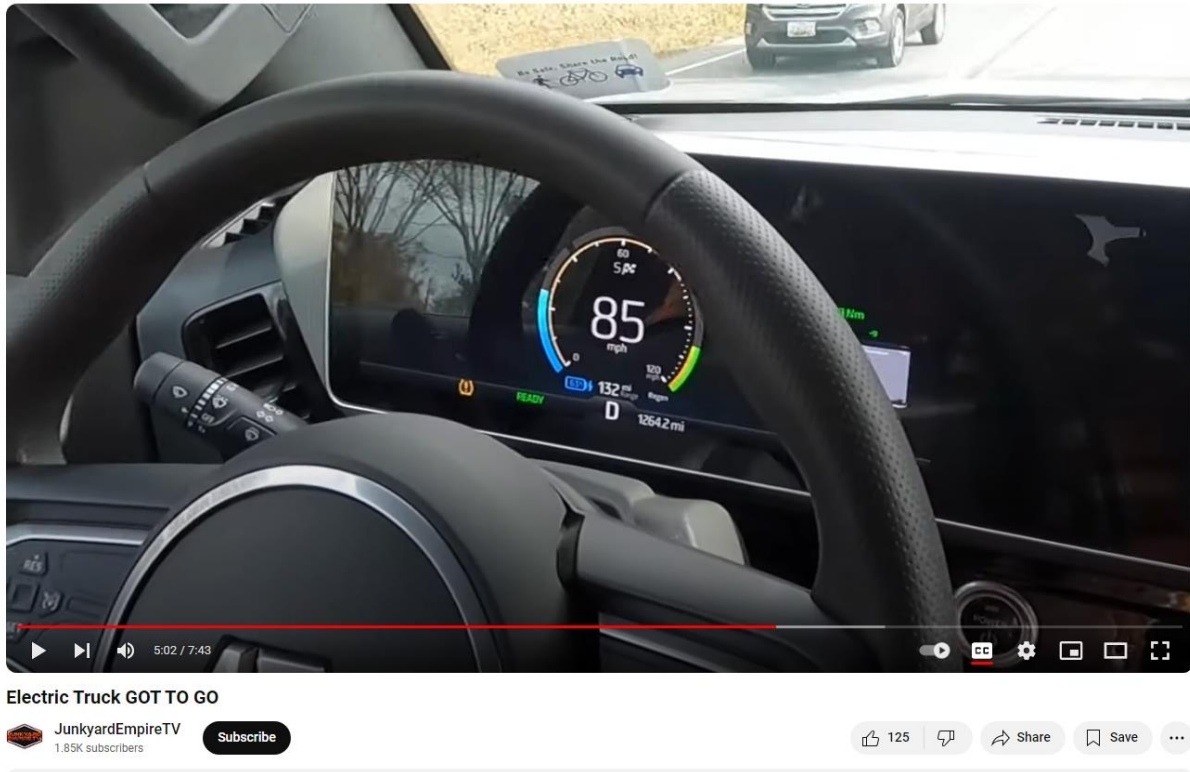




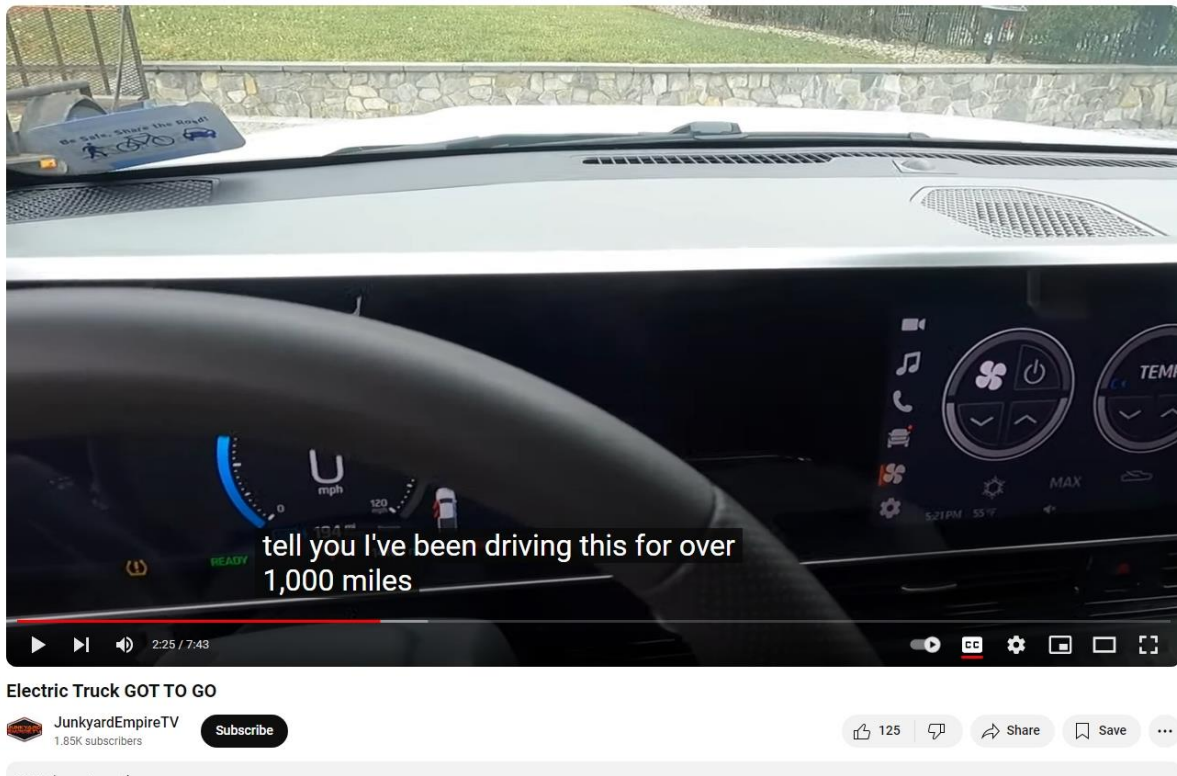
See id. (admitting to title limitation: “I cannot sell them as whole vehicles. I have to sell them as a parts vehicle”).



See id. (admitting to a repurpose workaround for public resale of the vehicles: “So my thought is to market these as an awesome rebodied four-wheel drive”).



See id. (depicting Cohen driving the Subject Vehicle on the road while demonstrating its features, reaching 85 miles per hour on the video).



See id. (admitting to road use, despite title limitation: “I can tell you I’ve been driving this for over 1,000 miles and I have been pleasantly surprised”).

9. It is worth adding that this video is not the only information CRI has put about itself in the public domain. Cohen and his operations are the subject of a television program called “Junkyard Empire” that ran for two seasons and is readily available online for review. *See Junkyard Empire*, IMDb, <https://www.imdb.com/title/tt7017362/> (last visited Sept. 6, 2024). These episodes show that CRI has utmost sophistication about cars, their manufacturers, and how they profit by “repurposing” vehicles like the Endurance. Despite what he alleges in his complaint, Cohen is no “babe in the woods.” He always knew exactly what he was supposed to do with the Endurance vehicles once they were placed in his care. His continuing and staunch refusal to comply is wrongful.

10. By this Motion, the Post-Effective Date Debtors respectfully request an Order in

aid of the Court’s previous Section 363 Order [*see* Docket No. 589] compelling CRI to deliver on its promise to the Debtors, reclaim the vehicles it put back into the public sphere, and comply with its obligation to “dismantle[], destroy[], or scrap[]” the 31 Endurance trucks—per the Vehicle Decommission Order and the VR-454 limitations. The Post-Effective Date Debtors have tried to secure this without resorting to litigation but, as CRI’s adversary proceeding makes clear, a Court Order has now become necessary. In connection with these discussions, this Motion, and the adversary proceeding, the Post-Effective Date Debtors have expended considerable sums and will continue spending more trying to bring this matter to conclusion.

JURISDICTION AND VENUE

11. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012. Moreover, in the Vehicle Decommission Order, the Court retained jurisdiction “to hear and determine all matters arising from or related to the implementation, interpretation, and enforcement of this Order.” *See* Docket No. 790 at ¶ 9.

12. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). According to Local Rule 9013-1(f), the Post-Effective Date Debtors consent to entry of a final Order by the Court in connection with this Motion to the extent it is later determined that the Court, absent consent of the parties, cannot enter final Orders or judgments in connection herewith. This is consistent with Article III of the United States Constitution.

13. Venue is proper in the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

14. Through its complaint against the Post-Effective Date Debtors, CRI has already consented to this Court’s jurisdiction over it without limitation and “to the entry of final orders or judgments by this Court if it is determined that the Court, absent consent of the parties, cannot

enter final orders or judgments consistent with Article III of the United States Constitution.” Docket No. 1303 ¶¶ 5, 7; *see also Sprint Nextel Corp. v. iPCS, Inc.*, No. CIV.A. 3746-VCP, 2008 WL 2737409, at *6 (Del. Ch. July 14, 2008) (“[A] court may assert personal jurisdiction over a party on the ground that the party consented to jurisdiction by submitting itself to a court’s jurisdiction by instituting another, related suit.”) (quoting *Foster Wheeler Energy Co. v. Metallgesellschaft AG*, 1993 WL 669447 (D. Del. Jan. 4, 1993)). CRI’s spurious contention over the Court’s jurisdiction in this matter is mooted by its own admission. Docket No. 1303 ¶ 2.

15. The legal predicates for the relief sought herein are the Vehicle Decommission Order and Sections 105(a) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”).

BACKGROUND

A. General Background.

16. On June 27, 2023 (the “Petition Date”), the Debtors each commenced with this Court a voluntary case under chapter 11 of the Bankruptcy Code (collectively, the “Chapter 11 Cases”). These Chapter 11 Cases are being jointly administered for procedural purposes only pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1. On July 11, 2023, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed the official committee of unsecured creditors pursuant to Section 1102 of the Bankruptcy Code. [Docket No. 99]. On September 7, 2023, the U.S. Trustee appointed the official committee of equity security holders pursuant to Section 1102 of the Bankruptcy Code. [Docket No. 375]. No trustee or examiner has been appointed in these Chapter 11 Cases.

17. Additional factual background and information regarding the Debtors, including their business operations, their corporate and capital structure, and the events leading to the

commencement of these Chapter 11 Cases, is set forth in detail in the *Declaration of Adam Kroll in Support of the Debtors' Chapter 11 Petitions and First Day Motions*. [Docket No. 15].

18. On March 6, 2024, the Court confirmed the *Fourth Modified First Amended Joint Chapter 11 Plan of Lordstown Motors Corp. and its Affiliated Debtors* [D.I. 1066] (the “Plan,” and the Order confirming the Plan [Docket No. 1069], the “Confirmation Order”). The Plan went Effective on March 14, 2024.⁷

B. The Debtors Developed and Produced the Endurance Vehicles, Which the Court Ultimately Ordered Be Decommissioned.

19. As the Court is aware, prior to filing its Chapter 11 bankruptcy, Lordstown Motors produced a line of electric motor vehicles (“EVs”) called the “Endurance.”

20. As set forth in the Decommission Motion, the Debtors asked the Court for permission to go into the market and repurchase every Endurance, get those vehicles off the road, and remove them from the public sphere. To accomplish this initiative, the Debtors filed their Decommission Motion.

21. In the Decommission Motion, the Debtors provided that they determined in their reasonable business judgment, based on several factors such as the loss of key personnel, that they would not have the means to fulfill their obligations to customers and/or the National Highway Traffic and Safety Administration’s (“NHTSA”) regulations.

22. On December 7, 2023, the Court granted the Decommission Motion. *See* Docket No 790. In the Vehicle Decommission Order, the Court directed the Debtors to reclaim the vehicles and, instructed that: “For the avoidance of doubt, the vehicles will be decommissioned . . .” *See id.* ¶ 4.

⁷ *See* Notice of Effective Date [Docket No. 1096].

23. The Debtors complied with the Vehicle Decommission Order, spending approximately \$31,000 to repurchase and reclaim possession of all Endurance vehicles not previously destroyed.

C. Debtors Purchase the Endurance Vehicles, Sell Them to CRI for Destruction, and Cohen Markets Them for Resale.

24. After repurchasing the Endurance vehicles, beginning in December 2023, the Debtors engaged in discussions with CRI's chief executive officer, Andrew Cohen ("Cohen"), to sell the Endurance vehicles to CRI for the vehicles' "decommissioning and destruction" to be accomplished. CRI was informed that the Debtors were in bankruptcy and that CRI would be receiving these vehicles with strict limitations on what it can do with them. This is proven by, among other things, emails between Lordstown employees and CRI. *See* Gallagher Declaration ¶ 7; Ex. A. Cohen was not only aware of the Debtors' bankruptcy, but he expressed concern about the vehicles' resale potential: "I don't know anyone in the industry who will touch them being a bankruptcy company." *See id.* Cohen offered to price them for scrap value as a result: "want me to price them as far as scrap value." *Id.* The December 19, 2023 email from Cohen shows CRI negotiating price by specific reference to the "scrap" value of the Endurance vehicles including the lithium batteries. *See id.* CRI was thus aware of its obligation to destroy the vehicles, and that it was not supposed to resell the Subject Vehicles as drivable moving vehicles, when it took possession of them.

25. The Debtors informed CRI that they would "oversee[] the documentation for the vehicles [CRI] picked up from the City of Washington DC and [was] destroying," and the Debtors asked that Cohen "provide [Debtors] the necessary documentation to confirm they all have been destroyed." *See* Gallagher Declaration ¶ 8; Ex. B.

26. Two days later, Cohen’s assistant prepared the forms confirming destruction: “My name is Andi, I am Andy Cohen’s assistant, I have attached the MVA form VR-454 we need one filled out and signed for each of the vehicles.” *Id.* The VR-454 forms are each titled: *Affidavit of Lawful Possession for Transfer of a Vehicle to an Automotive Dismantler and Recycler or Scrap Processor for each Subject Vehicle* (the “Affidavits”). See Gallagher Declaration ¶ 9; Ex. C. The Affidavits specifically limited the purpose of sale of the Subject Vehicles to being “dismantled, destroyed or scrapped.” The Affidavits were consistent with the parties’ initial deal, which was to destroy the vehicles. Cohen signed 31 Affidavits corresponding to 31 different Subject Vehicles on January 26, 2024. Each Affidavit memorialized the limited purposes for which CRI could lawfully possess the Subject Vehicles, none of which permit the operation of cars on public roads or the resale of cars for on-road purposes.

27. In February 2024, the Debtors subsequently sold the Endurance vehicles (individually each a “Subject Vehicle” and collectively, the “Subject Vehicles”) to CRI. Cohen Recycling did not, however, do what it was supposed to do. It designed a “work around” for the Court-Ordered and VR-454-stipulated limitations. Instead of destroying the vehicles, CRI operated the cars on public roads and marketed the cars to the public as drivable machines. Its actions run contrary to the purpose of the Decommission Order and have wasted the Court’s and Debtors’ resources in order to enrich CRI. CRI sold at least four “repurposed” vehicles.

28. Cohen admits that he has not decommissioned the Subject Vehicles and instead marketed them as “a cool hot rod project.” See Gallagher Declaration ¶ 11; Ex. D. Cohen even published a YouTube video on February 9, 2024, advertising the Subject Vehicles, coyly stating “I won’t go into details of how I got ‘em.” Junkyard EmpireTV, *Electric Truck GOT to Go*, YouTube, (February 9, 2024) <https://www.youtube.com/watch?v=GmQqC8OsAt0&t=4s>; see also Gallagher

Declaration ¶ 12. Cohen does, however, acknowledge the Debtors' bankruptcy in the video: "I hear the owner has bought the company out of bankruptcy and he's restarting the company."⁸ *See id.* at 00:30-00:33. In the video, Cohen markets the trucks for the purpose of "tak[ing] an old body" and "put[ting] [it] on top of this [wheel base]." *See Id.* at 01:18-01:28; Gallagher Declaration ¶¶ 12-13.

29. In the video, Cohen also shows the inside of the Subject Vehicle "because [the purchaser] is going to get what's inside." *Id.* at 2:11-2:13. Cohen admits to driving the Subject Vehicles on the road "for over 1000 miles." *Id.* at 2:25; Gallagher Declaration ¶¶ 12-13. Cohen then drives the Subject Vehicle on the road while demonstrating its features and capabilities for the viewer. For example, Cohen advertises the Subject Vehicle's rear-view camera, acceleration speed (reaching 85 miles per hour on the video), and its towing capacity. *Id.* at 4:11-5:13; Gallagher Declaration ¶¶ 12-13.

D. CRI Sells Endurance Vehicles to Third Parties, Including Ahn Who Relists Them.

30. CRI also sold Subject Vehicles to third parties, including at least two fully operating vehicles to Ahn in violation of the Vehicle Decommission Order and contrary to the signed Affidavits. CRI's *Bill of Sale* to Ahn for at least one of the Subject Vehicles provided: "This vehicle is sold as is. No warranty. No title. For parts only." *See* Gallagher Declaration ¶ 14; Ex. E. Nevertheless, Ahn subsequently listed one of the Subject Vehicles for resale on the website Carsandbids.com and represented the car was "extremely fun to drive." *See* Gallagher Declaration

⁸ While it is true that the Debtors' historical shareholder bought certain miscellaneous equipment from the Debtors, [see Docket No. 737], it is untrue that he "bought the company out of bankruptcy and he's restarting the company." On the date this statement was made, the Debtors were actively soliciting a plan of reorganization, with a Court-approved disclosure statement that said the Debtors' production of the Endurance vehicles would cease [see Docket No. at p. 25] and the Debtors would emerge from bankruptcy as a reorganized company [*id.* at p. 59-60]. To the extent that, in making this statement, Cohen intended to suggest or imply to potential buyers of "repurposed" Endurance vehicles that the reorganized Debtors would be ready and able to assist such buyers on a go-forward basis, that was an incorrect public assertion.

¶ 15; Ex. F. As soon as the Post-Effective Date Debtors became aware of the resale auction, they expended significant resources to cause Carsandbids.com to terminate the improper auction. *See* Gallagher Declaration ¶ 16; Ex. F & G. On June 3, 2024, another Subject Vehicle was listed for auction on the website Copart.com—this time directly by Mr. Cohen—and, again forced Debtors to expend significant resources to halt the auction.

31. Ahn also uploaded at least one video of himself driving and marketing one of the Subject Vehicles at <https://www.youtube.com/watch?v=mTMSfB3m1iI>. *See* Gallagher Declaration ¶ 18; Mike Ahn, *Drive Video*, YouTube, (April 27, 2024), <https://www.youtube.com/watch?v=mTMSfB3m1iI>. In the video, posted on April 27, 2024, Ahn exhibits certain features of the Subject Vehicle and its driving capabilities while also providing commentary. Ahn makes several statements praising the Subject Vehicle’s on-road capabilities including: “it’s so surreal how quiet this vehicle is”; “[the drive] is so solid and smooth. The only thing you hear is the A/C system”;⁹ “it’s a rocket ship when it accelerates”;¹⁰ “all four wheels drive all the time”;¹¹ “it drives beautifully”;¹² and “it’s amazing how it drives.”¹³ Ahn also demonstrates the Subject Vehicle’s acceleration speed and turning radius as well as its dashboard and navigation system. *Id.*

E. CRI Refuses to Decommission the Endurance Vehicles as Required and Commences an Adversary Proceeding Seeking Declaratory Relief to Continue Selling Them.

32. On June 5, 2024, counsel for Post-Effective Date Debtors sent a letter to CRI, informing it of the Vehicle Decommission Order and demanding that CRI and Cohen cease and

⁹ *Id.* at 0:13-0:15.

¹⁰ *Id.* at 0:48-0:53.

¹¹ *Id.* at 1:05.

¹² *Id.* at 1:11-1:13.

¹³ *Id.* at 1:55-1:59.

desist from any further efforts to market or otherwise transfer possession of the Endurance vehicles to any third party and to provide the contact information of any purchasers of the Endurance vehicles. *See* Gallagher Declaration ¶ 19; Ex. G. Despite ongoing negotiations, CRI has refused to dismantle the Subject Vehicles and dispose of their batteries.

33. Rather than adhere to the Vehicle Decommission Order and the Post-Effective Date Debtors' demands for compliance to decommission the vehicles, on September 5, 2024, CRI initiated an adversary proceeding, styled as *Cohen Recycling, Inc. v Nu Ride Inc.* [Docket No. 1303] (the "Complaint"), seeking declaratory relief that CRI can do as it pleases with the Subject Vehicles. Much of the Complaint is based on the oft-repeated representation that it had no idea that the Debtors were in bankruptcy nor that there were legal limitations when it took title. This is untrue, as the email correspondence and video published by Cohen easily establish.

34. Notwithstanding the Complaint, based on the above information, Debtors believe that CRI has violated and is continuing to violate the Vehicle Decommission Order by not decommissioning the Subject Vehicles and directly or indirectly marketing the Subject Vehicles in a manner consistent with on-road purposes. The Complaint's allegations are in flagrant disregard of this Court's Vehicle Decommission Order and entirely inconsistent with the facts. CRI's Complaint requesting declaratory relief to continue its misconduct reflects a brazen attempt to cure its egregious behavior and disregard this Court's Order.

35. Ahn has also violated the Decommission Order. Ahn should be required to appear before this Court to explain why he has continued to drive the Subject Vehicles despite the mandate for decommissioning and destruction.

36. Cohen and CRI were on notice of the Vehicle Decommission Order at least as early as their receipt of the June 5, 2024, letter from Post-Effective Date Debtors. *See* Gallagher

Declaration ¶ 19; Ex. H. Prior to June 5, 2024, Cohen and CRI were aware of at least the destruction requirement through negotiations with Post-Effective Date Debtors and the limitations in the bill of sale and Affidavit.

37. Post-Effective Date Debtors and CRI engaged in weeks of discussions, but those discussions did not culminate in any agreement. Worse yet, despite numerous requests, CRI will not agree to decommission and destroy the vehicles, including the two that it put back into the public sphere.

38. If Cohen, CRI and Ahn continue to violate the Court's Vehicle Decommission Order, they should be sanctioned until such time as they comply. Moreover, the Purchasers should be required to pay the Post-Effective Date Debtors' attorneys' fees and expenses for being forced to prosecute the Motion.

RELIEF REQUESTED

39. By this Motion, the Post-Effective Date Debtors respectfully request entry of an Order, in substantially the form of the proposed Order attached hereto as **Exhibit A** (the "**Proposed Order**") to compel enforcement of the Court's Vehicle Decommission Order by requiring the Purchasers to decommission the Endurance vehicles at their own expense.

BASIS FOR RELIEF

40. Section 105(a) of the Bankruptcy Code provides that the Court "may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of the Bankruptcy Code," and that "[n]o provision of [the Bankruptcy Code] providing for the raising of an issue by a party in interest shall be construed to preclude the court from, *sua sponte*, taking any action or making any determination necessary or appropriate to enforce or implement court orders or rules" 11 U.S.C. § 105(a). Although "there are some significant limits to a bankruptcy

court's ability to use section 105(a) of the Code . . . [it] plainly may be used 'to enforce and implement' earlier orders." *In re River Ctr. Holdings, LLC*, 394 B.R. 704, 711 (Bankr. S.D.N.Y. 2008); *see Also In re Ames Dep't Stores, Inc.*, 317 B.R. 260, 273–74 (Bankr. S.D.N.Y. 2004).

41. A bankruptcy court plainly has jurisdiction to interpret and enforce its own orders. *See e.g., Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 138 (2009); *In re Insilco Techs., Inc.*, 351 B.R.A. 313, 319 (Bankr. D. Del. 2006) (citing *In re Allegheny Health, Edu. And Res. Found.*, 383 F.3d 169, 175-176 (3d Cir. 2004)). In connection with enforcing its earlier orders, a bankruptcy court has the inherent judicial authority to hold a party in contempt for violating such orders and to impose appropriate sanctions for such contempt. *See, e.g., In re Cont'l Airlines, Inc.*, 236 B.R. 318, 325-26 (Bankr. D. Del. 1999) ("It is axiomatic that a court possesses the inherent authority to enforce its own orders."); *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991) ("Courts of justice are universally acknowledged to be vested, by their very creation, with power to impose . . . submission to their lawful mandates").

42. Here, the Post-Effective Date Debtors seek relief enforcing the Decommission Order. The Vehicle Decommission Order mandated that all Endurance vehicles "be decommissioned[.]" *See id.* ¶ 4. After repurchasing the vehicles from the public domain, the Post-Effective Date Debtors sold the Subject Vehicles to CRI with the express intention to "destroy" them in keeping with the Vehicle Decommission Order. *See* Gallagher Declaration ¶ 8; Ex. B. CRI neither held up its end of the bargain nor complied with the Affidavits further requiring the vehicle destruction. *See* Gallagher Declaration ¶ 10; Ex. C (stating that "[a] vehicle may not be retitled or assigned using [VR-454 form]; it may only be dismantle[ed], destroy[ed] or scrapp[ed]"). Rather, CRI marketed the Subject Vehicles for resale, illegally drove them on public roads, and resold two fully functional vehicles to Ahn. *See* Junkyard EmpireTV, *Electric Truck*

GOT to Go, YouTube, (February 9, 2024) <https://www.youtube.com/watch?v=GmQqC8OsAt0&t=4s>; *see* Gallagher Declaration ¶ 12.

43. Ahn has since marketed and attempted to resell the same vehicles, despite its bill of sale restricting use for parts and the Vehicle Decommission Order. *See* Mike Ahn, *Drive Video*, YouTube, (April 27, 2024), <https://www.youtube.com/watch?v=mTMSfB3m1iI>; *see* Gallagher Declaration ¶ 18.

44. The Debtors developed a program specifically intended to remove the Subject Vehicles from the roads. *See* Docket No. 731. The Debtors sought relief from the Court to execute that program, resulting with the Vehicle Decommission Order. *See* Docket No. 790. The Debtors sold the Subject Vehicles to CRI for the express purpose of destruction in accordance with the Vehicle Decommission Order. The Purchasers have failed to destroy the vehicles, despite the agreement to do so.

45. The Post-Effective Date Debtors believe the Purchasers have violated and are continuing to violate the Decommission Order. CRI's Complaint requesting declaratory relief does not absolve CRI of its misconduct and should be mooted given the foregoing. Accordingly, the Post-Effective Date Debtors respectfully request that the Court instruct the Purchasers to immediately decommission the Endurance vehicles pursuant to the Vehicle Decommission Order and provide a certification and evidence of same. The Post-Effective Date Debtors further request that the Purchasers be required to pay the Post-Effective Date Debtors' attorneys' fees and expenses for being forced to prosecute the Motion.

46. Through this Motion, the Post-Effective Date Debtors respectfully request an Order in aid of the Court's previous Section 363 Order [Docket No. 589] compelling CRI to deliver on its promise to the Debtors, reclaim the vehicles it put back into the public sphere, and complete

the “decommissioning and destruction” that it agreed to do—per the Vehicle Decommissioning Order. The Post-Effective Date Debtors have tried to secure this without resorting to litigation but, as CRI’s adversary proceeding makes clear, a Court Order has now become necessary. In connection with these discussions, this motion, and the adversary proceeding, the Post-Effective Date Debtors have expended considerable sums (tens of thousands of dollars) and will continue spending more trying to bring this matter to conclusion; while we do not now request monetary sanctions as part of this Motion, we reserve the right to do so at a later date. The Post-Effective Date Debtors do, however, request payment of their attorneys’ fees and expenses for being forced to prosecute the Motion.

NOTICE

47. Notice of this Motion will be provided to (i) the Office of the United States Trustee for the District of Delaware; (ii) the Purchasers; and (iii) all parties who, as of the filing of the Motion, have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002. A copy of this Motion is also available on the Post-Effective Date Debtors’ case website at <https://veritaglobal.net/lordstown>. In light of the procedural nature of the post-confirmation relief requested herein, the Movants submit that such notice is sufficient under the circumstances and that no other or further notice is required.

CONCLUSION

For the foregoing reasons, the Post-Effective Date Debtors respectfully request that the Court enter the Proposed Order, attached hereto as **Exhibit A**, granting the Motion and such other and further relief as the Court deems is just and proper.

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Dated: September 12, 2024
Wilmington, Delaware

MORRIS JAMES LLP

/s/ Eric J. Monzo

Eric J. Monzo (DE Bar No. 5214)
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Counsel to the Post-Effective Date Debtors

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

NU RIDE INC., *et al.*,¹

Reorganized Debtors.

Chapter 11

Case No. 23-10831 (MFW)

(Jointly Administered)

Obj. Deadline: September 19, 2024 at 4:00 p.m. (ET)

Hearing Date: September 26, 2024 at 3:00 p.m. (ET)

**NOTICE OF POST-EFFECTIVE DATE DEBTORS' MOTION FOR ENTRY OF AN
ORDER (A) ENFORCING THE VEHICLE DECOMMISSION
ORDER AND (B) FOR RELATED RELIEF**

PLEASE TAKE NOTICE that on September 12, 2024, Nu Ride Inc. and its affiliated reorganized debtors in the above-captioned proceeding (the "Post-Effective Date Debtors") filed the *Post-Effective Date Debtors' Motion for Entry of an Order (A) Enforcing the Vehicle Decommission Order and for (B) Related Relief* ("Motion") with the United States Bankruptcy Court for the District of Delaware ("Bankruptcy Court").

PLEASE TAKE FURTHER NOTICE that responses, if any, to the Motion must be in writing, in conformity with the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, and filed with the Bankruptcy Court, so as to be received on or before **September 19, 2024 at 4:00 p.m. (ET)** ("**Objection Deadline**"). At the same time, you must also serve a copy of the response upon the Movant's undersigned counsel.

PLEASE TAKE FURTHER NOTICE THAT a hearing on the Motion will be held on **September 26, 2024 at 3:00 p.m. (ET)** (the "**Hearing Date**") before the Honorable Mary F. Walrath, United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 5th Floor, Courtroom #4, Wilmington, Delaware 19801.

IF NO OBJECTIONS ARE TIMELY FILED, SERVED, AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN CONNECTION WITH SUCH PLEADINGS WITHOUT FURTHER NOTICE OR HEARING.

[Signature Page to Follow]

¹ The Reorganized Debtors and the last four digits of their respective taxpayer identification numbers are: Lordstown Motors Corp. (3239); Lordstown EV Corporation (2250); and Lordstown EV Sales LLC (9101). The Reorganized Debtors' service address is: Nu Ride Inc. c/o William Gallagher, CEO, M 3 Partners, 1700 Broadway, 19th Floor, New York, NY 10019.

Dated: September 12, 2024
Wilmington, Delaware

MORRIS JAMES LLP

/s/ Eric J. Monzo

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Counsel to the Post-Effective Date Debtors

EXHIBIT A

Proposed Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

NU RIDE INC., *et al.*,¹

Reorganized Debtors.

Chapter 11

Case No. 23-10831 (MFW)

(Jointly Administered)

Ref. Docket No. _____

**ORDER (A) ENFORCING THE VEHICLE DECOMMISSION ORDER
AND (B) FOR RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the Post-Effective Date Debtors for the entry of an order (this “Order”), *inter alia*, enforcing the Vehicle Decommission Order in connection with the purchase, marketing, and resale of certain Endurance vehicles in violation of the Vehicle Decommission Order; and upon consideration of the objections filed by the Purchasers and the Post-Effective Date Debtors’ responses thereto; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334, and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012; and it appearing that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and it appearing that venue of this proceeding and the Motion is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion and the relief provided for herein having been given; and it appearing that no other or further notice of the same need be provided; and it appearing that the relief requested in the Motion and provided for herein is in the best interest of the Post-Effective Date Debtors and their estates; and the Court having

¹ The Reorganized Debtors and the last four digits of their respective taxpayer identification numbers are: Lordstown Motors Corp. (3239); Lordstown EV Corporation (2250); and Lordstown EV Sales LLC (9101). The Reorganized Debtors’ service address is: Nu Ride Inc. c/o William Gallagher, CEO, M 3 Partners, 1700 Broadway, 19th Floor, New York, NY 10019.

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

determined that the Purchasers have has violated the Vehicle Decommission Order and after due deliberation, and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. That the Motion is GRANTED as set forth herein.
2. The Purchasers shall decommission and destroy the Endurance vehicles in their possession pursuant to the Vehicle Decommission Order, such that they cannot be used for an on-road purpose.
3. The Purchasers shall pay the Post-Effective Date Debtors' attorneys' fees and expenses for prosecuting the Motion.
4. As soon as reasonably practical, but in no event later than thirty (30) business days after the entry of this Order, the Purchasers shall decommission the Endurance vehicles in their possession consistent with the Vehicle Decommission Order and provide a certification and evidence of same.
5. To the extent Purchasers fail to comply with the terms of this Order, they will be fined \$10,000.00 each day the Endurance vehicles in their possession are not decommissioned. These monetary sanctions shall begin on the thirty-first (31st) day after entry this Order and shall accrue each day thereafter until (i) CRI and Ahn confirm the Endurance vehicles in their possession are decommissioned; and (ii) all fines which have been accrued are paid to the Clerk of the Bankruptcy Court in cash or certified funds.
6. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation or interpretation of this Order.