Docket #1345 Date Filed: 09/26/2024

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re NU RIDE INC., *et al.*,[1] Reorganized Debtors.	Chapter 11 Case Nos. 23-10831 (MFW), *et seq.* (Jointly Administered)

COHEN RECYCLING, INC.'S REQUEST FOR ABSTENTION IN CONNECTION WITH, AND PRELIMINARY OBJECTION TO, POST-EFFECTIVE DATE DEBTORS' MOTION FOR (A) ENTRY OF AN ORDER ENFORCING THE VEHICLE DECOMMISSION ORDER AND (B) FOR RELATED RELIEF
(relates to Docket No. 1314, 1322)

Cohen Recycling, Inc. ("CRI"), by its undersigned counsel, hereby files this Request for Abstention in connection with, and preliminary objection to, the Motion For (A) Entry Of An Order Enforcing The Vehicle Decommission Order And (B) For Related Relief (Docket No. 1314) (the "Motion") filed by Nu Ride Inc. and its affiliated reorganized debtors in the above-captioned proceeding (the "Debtors" or the "Reorganized Debtors"),[2] and in which Foxconn EV Technology, Inc. and Foxconn EV System LLC (with Foxconn EV Technology, Inc., "Foxconn") joined (Docket No. 1322); in reliance upon the Declaration of Andrew Cohen in Support of Preliminary Objection to Motion For (A) Entry Of An Order

[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] CRI notes that all three Reorganized Debtors have filed the Motion, even though only one of them—the Reorganized Debtor (as defined below)—was the seller of the Vehicles. It is unclear what authority, if any, the other Reorganized Debtors may assert to support their separate right to enforce the terms of the Repurchase Order.

Enforcing The Vehicle Decommission Order And (B) For Related Relief attached hereto as **Exhibit A** (the "Cohen Declaration"), and in support hereof states as follows:

1. The Motion was filed at a very obviously strategic moment on the last day to be noticed for the September 26, 2024 omnibus hearing date beginning at 3:00 p.m., and the Debtors initially rebuffed all requests for voluntary adjournment of the hearing to give the undersigned sufficient time to prepare for it. The hearing date was ultimately adjourned by the Debtors—for reasons apparently unrelated to CRI's request—but as of the date hereof, CRI does not know the new date. Nonetheless, the objection deadline was postponed by only one week, requiring CRI to file this objection without knowing and receiving all of the facts.

2. The Motion is not an emergency, however: the Vehicles in question are being held until these issues are resolved, and an adversary proceeding to resolve all of these issues is already pending.[3] CRI expects to need to introduce at least one witness for several hours of testimony (not including any cross-examination), to take discovery that might lead to the need for other witnesses, and to introduce the testimony of an expert. The Debtors did not serve the Motion on all necessary parties. And, the hearing on the Motion was originally scheduled for a 1-hour omnibus hearing at 3:00 P.M. on a Thursday afternoon.

[3] *Cohen Recycling v. Nu Ride Inc.,* Adversary Proceeding No. 24-50127-MFW (the "Adversary Proceeding")

3. Therefore, this Objection is being filed as a preliminary objection. Movant reserves the right to supplement this response to the Motion upon receiving new facts or authorities from the Reorganized Debtors and/or Foxconn.

INTRODUCTION

4. This is a case in which a Chapter 11 debtor sold an asset to a third party outside of this Court, relying solely on a single, undirected sentence in an order—that was not a sale order—to hook the buyer into the jurisdiction and power of this Court. The Court does not have jurisdiction to "enforce" that order against a non-party, and neither the alleged severity of the Reorganized Debtors' self-created emergency nor their choices in how to get rid of the assets in question change that result.

5. The Court should abstain from adjudicating the relief requested in the Motion. This is a non-core proceeding, not related to the bankruptcy case. Additionally, there is already pending a more procedurally proper proceeding to adjudicate substantially the same relief—the Adversary Proceeding—and the parties should be permitted to take discovery, introduce experts, and perform the other steps appropriate for a lawsuit rather than in treating it as a contested matter. Furthermore, the issues raised in the Motion concerning the order in question are industry-specific, such as the definition and scope of the terms "decommissioned" and "scrapped," the effect of an official form promulgated by the State of

Maryland, and the rights of and limitations upon a licensed Automotive Dismantler and Recycler under Maryland law. None of these issues relate in any way to the Debtors' reorganization under its already-confirmed Plan. While this Court is clearly capable of reviewing any matter, these issues are more appropriate for resolution in the Adversary Proceeding or a Maryland state court of general jurisdiction. Therefore, the Court should abstain from adjudicating the Motion, so that the Court can rule on the issues in the Adversary Proceeding in which the Reorganized Debtors have standing and courts outside of Delaware can rule on the issues in which the Reorganized Debtors do not.

6. The Motion is procedurally improper and should be denied for a number of reasons:

- The relief requested in the Motion is a request for equitable relief, which should be pursued by adversary proceeding, thinly disguised as a motion to compel a preexisting order.
- The Motion was filed when there was already pending an adversary proceeding relating to substantially the same relief. The first-to-file rule should therefore result in the Motion being denied without prejudice.
- According to the Certificate of Service filed in connection with the Motion, at least one party directly affected by the relief requested in the Motion was not served.[4]

[4] The undersigned drew this defect to the attention of counsel for the Reorganized Debtors on or about September 18, 2024, and on that same date, the claims agent served a copy of an Amended Notice of Post-Effective Date Debtors' Motion for Entry of an Order (A) Enforcing the Vehicle Decommission Order and (B) for Related Relief (Docket No. 1320) on the affected party, Michael Ahn, although the addresses are redacted. *See* Certificate of Service (Docket No. 1330). There is still no evidence, however, that the actual Motion was served on Mr. Ahn at any time. This is improper under all circumstances, but given the heavy-handedness of the relief sought in the proposed order, it is a serious denial of Mr. Ahn's due process.

- The individual that signed the declaration in support of the Motion, William Gallagher, does not appear to have personal knowledge of most, if not all, of the material facts relating to the Reorganized Debtor's transactions with CRI.

7. These layers of procedural defects are just the backdrop of this contested matter. In the Motion, the Debtors are seeking to "enforce" an order (i) that was procured by a motion that was never served upon CRI, (ii) at a time when CRI had never been involved in this bankruptcy, (iii) that was not served on or even provided to CRI until long after the transaction between the Debtors and CRI had been concluded, (iv) that had been drafted by the Debtors without CRI's input, (v) that does not direct CRI to do or not to do anything, (vi) using terms which, if applied in accordance with industry standards, have not been violated (at least by CRI), (vii) to which the Debtors hope to assert claims against third parties not even served with a copy of the Motion and that are not otherwise parties to these bankruptcy cases, and (viii) imposing more significant duties upon CRI than any possible interpretation of the order could justify.

8. Although the word "contract" does not appear anywhere in the Motion, central to the relief requested is the apparent attempt to read conditions into a contract between the Reorganized Debtor (as defined below) and CRI for the sale of the uncertificated vehicles. The only contract was an unwritten agreement to sell CRI those vehicles for an agreed purchase price, except for the execution of a single-page Maryland DMV form for each vehicle—which is not a contract at all and was done after the fact. When the Reorganized Debtor found out that CRI had

begun marketing the vehicles as off-road hobby kits/parts kits, the Reorganized Debtor realized that it had not entered into any contract limiting how CRI could use them and demanded that CRI cease and desist on the basis of the above-described order. It threatened to obtain relief against CRI from this Court if the vehicles were not destroyed at CRI's own expense—which was both unjustified under any reading of the original order (even if it were enforceable against CRI) and would have defeated the entire purpose of purchasing them from the Debtors in the first place.

9. There is also a question of standing. The Reorganized Debtors have not shown why they are entitled to enforce the order against third parties, including but not limited to CRI, Inc, for at least two reasons. First, the Reorganized Debtors have made no allegation, much less offered any proof, that they are damaged by CRI, Inc.'s legal use of the vehicles it purchased. Second, this Court should not get involved in how a non-debtor scrapyard uses scrapped vehicles that it lawfully purchases under Maryland law. The privileges and rights of a non-debtor automotive-recycler over off-road vehicles are not within the purview of this Court's function of overseeing a debtor in bankruptcy, especially because (although not limited to the fact that) the Reorganized Debtor had not made CRI a party to the order that allegedly governed such sale. And it is unclear how a seller of vehicles in the State of Maryland has standing to exert dead-hand control over the buyer and the purchased assets once the sale is complete.

10. The Debtors also seek to strong-arm CRI by demanding their attorneys' fees, without any statutory, contractual, or other justification, notwithstanding that they are well aware that the "American Rule" does not allow it. They also seek bombastic "fines" of $10,000 per day without any request for or finding of contempt.

11. In short, the Reorganized Debtors are frustrated that they did not document their transaction with CRI in a manner consistent with what they wanted, and are now seeking this Court's sanction to correct their own errors.

JURISDICTION AND VENUE

12. The Court has jurisdiction over a motion to enforce its own orders 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.

13. This is not a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The subject matter of the Order ceased to be a core proceeding upon the sale of the Vehicles (as defined below).

14. Venue of the Motion is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

FACTS

15. On June 27, 2023 (the "Petition Date"), the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code, commencing the above-referenced cases. On March 6, 2024, the Court confirmed the Fourth Modified First Amended Joint Chapter 11 Plan of Lordstown Motors Corp. and its Affiliated Debtors (Docket No. 1066) (the "Plan") pursuant to the Order confirming the Plan (Docket No. 1069) (the "Confirmation Order"). The Plan went Effective on March 14, 2024.

16. CRI operates a full service auto recycling business serving the Washington, D.C., metropolitan area for over 40 years, as part of a group of companies that sell, repair, and build custom vehicles and harvest parts for resale. Cohen Declaration ¶ 2. Among other things, CRI is a licensed Automotive Dismantler and Recycler under Maryland law. *Id.*

17. As part of its business, CRI sells vehicles (and parts from vehicles), including vehicles that cannot be re-titled and are not intended for use on public roads, and in those instances, it discloses this limitation to purchasers. Cohen Declaration ¶ 3.

18. In fact, the Debtors admit in the Motion that they were well aware that CRI's principal Andrew Cohen is well-known for creatively using scrapped, decommissioned, junked vehicles to build hot-rod projects and that he hosts a

television show for that specific purpose. It is possible that the Debtors specifically chose to approach CRI because of this fact.

19. On or about December 22, 2023, debtor Nu Ride, Inc. (the "Reorganized Debtor") approached CRI with a proposal to sell thirty-one (31) Endurance vehicles (the "Vehicles"). Cohen Declaration ¶ 4. CRI and the Reorganized Debtor agreed that CRI would purchase the Vehicles for $12,400 (the "Purchase Price"), to be towed by CRI to its own facility from Washington, D.C., at CRI's expense. *Id.*

20. It is important to note that all discussions at that time were for CRI to "buy" or "purchase" the Vehicles. Cohen Declaration ¶ 5. At no time did the Reorganized Debtor suggest that it was hiring CRI to destroy, disassemble, decommission, or do anything else to the Vehicles. *Id.* The only other term that the Reorganized Debtor's agents used was "scrapped." *Id.*

21. In accordance with that oral agreement, CRI paid the Purchase Price to the Reorganized Debtor and towed the Vehicles at its expense. Cohen Declaration ¶ 6.

22. At the time of the Purchase, CRI understood orally from the Debtor that the Vehicles were not street-legal and should not be operated on public roads, but CRI did not agree to any conditions or limitations on the use or application of the Vehicles or their parts. Cohen Declaration ¶ 7.

23. At the time of these discussions, the Reorganized Debtor understood that the Vehicles might be dismantled for parts and even made references to potential customers that might be calling for parts. Cohen Declaration ¶ 8. In fact, the Reorganized Debtor facilitated communications between CRI and third parties that might want to get parts from them. *Id.*

24. As noted above, the parties did not execute an agreement of sale for the Vehicles. Cohen Declaration ¶ 9. The parties completed a one-page Maryland Form VR-454 for each of the Vehicles, a sample of which is attached to the declaration of William Gallagher filed by the Debtors in support of their Motion (the "Gallagher Declaration") as Exhibit C.[5] *Id.*

25. The Form VR-454s contain various representations *by the Reorganized Debtor* regarding the purpose of the transfers, specifically "for purposes of dismantling, destroying or scrapping" the respective Vehicles.

26. The Form VR-454s do not contain representations by CRI, other than "affirm[ing] to the best of my knowledge and belief that I have complied with all applicable Federal and State laws."

27. Under Maryland law, an Automotive Dismantler and Recycler that is dismantling, destroying or scrapping a vehicle can legally take various acts, which might include (but is not limited to) removing certain parts and selling them to

[5] Cohen Recycling notes that much of the Gallagher Declaration appears to be impermissible hearsay. In fact, the declarant William Gallagher does not appear to be copied on any of the email correspondence listed in any of the exhibits to that declaration, nor does he appear to have involvement with any of the activities reflected in the text of the declaration. His knowledge of most of the material facts appears to be anecdotal.

third parties. An Automotive Dismantler and Recycler may also sell vehicles to third-parties for the purpose of dismantling, destroying or scrapping it.

28. Subsequent to consummation of the purchase, CRI identified that one legal and profitable method of recycling, scrapping, and/or dismantling them would be to sell them or their parts to third parties as off-road hot rod projects. Cohen Declaration ¶ 11. CRI therefore began the process of marketing them for this purpose. *Id.*

29. Consistent with applicable law, CRI fully disclosed in all marketing that the Vehicles were not titled, were not roadworthy, and should not be operated on public roads. Cohen Declaration ¶ 12.

30. Prior to the Reorganized Debtor's attempted intervention described below, CRI had already sold two (2) of the Vehicles via an individual named Michael Ahn. Mr. Ahn marketed the Vehicles and found a buyer: Ford Automotive. Cohen Declaration ¶ 13. When CRI provided bills of sales to that buyer, they were specific that the Vehicles were being sold "For Parts Only" and that there would be "No Title." Cohen Declaration ¶ 13 and **Exhibit A-1**.

31. The bills of sale also stated that the Vehicles were "Sold As Is" with "No Warranty" and did not suggest that any third parties (such as the Reorganized Debtor) warranted them in any way. Cohen Declaration ¶ 14 and Exhibit A-1.

32. CRI did not suggest in any way that it was selling the Vehicles on behalf of the Reorganized Debtor or as agent for the Reorganized Debtor. Cohen Declaration ¶ 15.

33. Three other Vehicles have been disassembled or are in the process of disassembly. Cohen Declaration ¶ 16. The remaining Vehicles are still secured in CRI's possession, although their batteries are dead and they do not run. *Id.*

34. On or about June 5, 2024, the Reorganized Debtor's counsel sent a letter to CRI and demanded that CRI cease and desist all sales of the Vehicles, threatening legal action if CRI did not comply, a copy of which is attached to the Gallagher Declaration as Exhibit G. The Reorganized Debtor further demanded in that letter that CRI provide it with the contact information of any buyers of Vehicles that CRI had already sold. The Reorganized Debtor further demanded that CRI "destroy" the Vehicles. It was in this communication that CRI first became aware of 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 "Repurchase Order"), which had been entered on November 22, 2023. Cohen Declaration ¶ 18.

35. Thereafter, counsel for CRI and the Reorganized Debtor entered into negotiations, which were ultimately unsuccessful. Cohen Declaration ¶ 18. This left CRI with a pending threat by the Reorganized Debtor of lawsuits if it continued to sell the Vehicles in whole or in part. *Id.* Thus, on September 5,

2024, CRI filed a one-count Complaint for Declaratory Relief in this Court against the Reorganized Debtor, commencing the Adversary Proceeding.

36. On July 26, 2024, CRI filed an amended complaint, which corrected certain mistakes of fact from the original complaint and also named Foxconn as respondents.

ARGUMENT

I. THE MOTION SHOULD BE DENIED FOR FAILURE OF JURISDICTION.

37. The Court does not have jurisdiction over the relief requested in the Motion. The Court's jurisdiction is governed by two statutes:

> Bankruptcy judges may hear and determine all cases under title 11 and all core proceedings arising under title 11, or arising in a case under title 11, referred under subsection (a) of this section, and may enter appropriate orders and judgments, subject to review under section 158 of this title.

28 U.S.C. § 157(b)(1), and

> the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

28 U.S.C. § 1334(b).

38. The relief requested in the Motion is no longer "arising in" or "related to" these bankruptcy cases. On this issue, the case is very similar to the case of *Pacor, Inc. v. Higgins,* 743 F.2d 984 (3rd Cir. 1984), in which the Third Circuit reviewed the attempted removal of a case between an asbestos plaintiff and his non-debtor employer into the Johns-Manville bankruptcy. The Court found that

"the test for determining whether a civil proceeding is related to bankruptcy is whether the outcome of that proceeding could conceivably have any effect on the estate being administered in bankruptcy[,] *Id.* at 994. Applying that test, the *Pacor* court found that it "would have no effect on the Manville bankruptcy estate, and therefore is not 'related to' bankruptcy . . . ." *Id.* at 995. The court further found that "[a]t best, it is a mere precursor to the potential third party claim for indemnification by Pacor against Manville. Yet the outcome of the Higgins-Pacor action would in no way bind Manville, in that it could not determine any rights, liabilities, or course of action of the debtor. Since Manville is not a party to the Higgins-Pacor action, it could not be bound by res judicata or collateral estoppel." *Id.* (citations omitted). *See also Celotex Corp. v. Edwards*, 514 U.S. 300, 308 n.6 (1995) ("The First, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, and Eleventh Circuits have adopted the *Pacor* test with little or no variation. The Second and Seventh Circuits, on the other hand, seem to have adopted a slightly different test. But whatever test is used, these cases make clear that bankruptcy courts have no jurisdiction over proceedings that have no effect on the estate of the debtor") (citations omitted); *In re Federal-Mogul Global, Inc.,* 300 F.3d 368, 381 (3rd Cir. 2002 ("*Pacor* clearly remains good law in this circuit").

39. "As the Third Circuit has noted, the Supreme Court endorsed *Pacor's* conceivability standard with the caveats that 'related to' jurisdiction 'cannot be limitless,' and that the critical component of the *Pacor* test is that 'bankruptcy

courts have no jurisdiction over proceedings that have no effect on the estate of the debtor." *In re Boy Scouts of America and Delaware BSA, LLC,* 650 B.R. 87, 125 (D. Del. 2023) (quoting *Nuveen Mun. Trust ex rel. Nuveen High Yield Bond Fund v. WithumSmith Brown PC,* 692 F.3d 283, 294 (3rd Cir. 2012)) ((quoting *Celotex,* 514 U.S. at 308 & n.6, 115 S.Ct. 1493))).

40. The case at bar is analogous to the facts in *Pacor.* Completely absent from the Motion is any allegation or explanation of how CRI's use of the Vehicles damages the Reorganized Debtors in any way or affects their bankruptcy estates. The Vehicles are no longer property of the estate. There is no evidence that they were sold—or will be sold—on behalf of the Reorganized Debtors, as agents for the Reorganized Debtors, or subject to any kind of warranty by the Reorganized Debtors.[6] In short, the Reorganized Debtors divested themselves of the Vehicles in full. CRI's disposition of the Vehicles does not affect the Reorganized Debtors—and they do not allege anywhere in the Motion that it does or how.

41. Even more important is the fact that this case is now post-confirmation. "[C]ourts routinely find that the bankruptcy courts have no jurisdiction over the affairs of the post-confirmation debtor and its creditors,

[6] In the event of some possibility that a third party nevertheless sues the Reorganized Debtors for alleged claims relating to the Vehicles, the Reorganized Debtors will preserve all of their rights and the Reorganized Debtors "would still be able to relitigate any issue, or adopt any position, in response to a subsequent claim by" such third party. *Id.* Just like in *Pacor,* the mere fact that a third party might assert a claim against the Reorganized Debtors does not overcome the "conceivably have any effect on the estate" test. The Vehicles are no longer owned by the estate and their disposition will have no effect on the administration of the bankruptcy estate. This result makes sense, as this Court could otherwise be dragged into any and every dispute that the Reorganized Debtors have, until the cases close and conceivably beyond.

particularly with respect to claims arising post-confirmation." *In re Continental Airlines, Inc.*, 236 B.R. 318, 324 (Bankr. D.Del. 1999). While it is permissible for the Court to retain some jurisdiction after confirmation of a plan, "neither the bankruptcy court nor the parties can write their own jurisdictional ticket." *In re Resorts Int'l, Inc.*, 372 F.3d 154, 161 (3rd Cir. 2004). This is because "it is impossible for the bankrupt debtor's estate to be affected by a post-confirmation dispute because the debtor's estate ceases to exist once confirmation has occurred." *Id.* (citing *In re Fairfield Cmtys., Inc.*, 142 F.3d 1093, 1095 (8th Cir. 1998) (holding that once a bankrupt debtor's plan has been confirmed the debtor's estate ceases to exist)). The correct formula for post-confirmation jurisdiction is "whether there is a close nexus to the bankruptcy plan or proceeding sufficient to uphold bankruptcy court jurisdiction over the matter." *Resorts*, 372 F.3d at 166-67. In this case, under the Plan, "[o]n and after the Effective Date, subject to the terms and conditions of the Plan, the Post-Effective Date Debtors shall be permitted to conduct new business without supervision by the Bankruptcy Court." Plan Art. V.B. There was no attempt, much less a permissible attempt, to retain jurisdiction over disputes involving assets sold before confirmation.

42. There is also no showing or allegation that post-Effective Date actions, claims, liabilities, or events will affect the Reorganized Debtors' ability to carry out their Plan obligations.

43. The Reorganized Debtors' inclusion of future language in an order of the Court and retention-of-jurisdiction provisions does not cause unlimited jurisdiction over assets mentioned in the order, especially once they are no longer property of the estate.

44. Moreover, the relief requested in the Motion is not a core proceeding. Once the Vehicles were sold to CRI, they were no longer property of the estate. "Core proceedings," which are required in order for this Court to enter a final order, are defined in 28 U.S.C. § 157(b)(2), and there are no subsections of that section relating to the use of assets after they are sold to a non-debtor buyer. The mere fact that the Reorganized Debtors are invoking a prior order of the Court should not revive jurisdiction; otherwise, a party could gain improper jurisdiction for any matter merely by invoking a prior order.

45. For the foregoing reasons, the Court should deny the Motion on these jurisdictional grounds.

II. THE COURT SHOULD ABSTAIN FROM CONSIDERATION OF THE MOTION.

46. The Court should abstain from considering the Motion. Upon doing so, the Court can consider the standing and related issues in the Adversary Proceeding and the rest of the relief can be adjudicated, if needed, under Maryland law in the Maryland courts—subject to considerations of standing.

47. There are two types of abstention, mandatory and permissive. Under 28 U.S.C. § 1334(c)(2), mandatory abstention is required "if an action is

commenced, and can be timely adjudicated, in a State forum of appropriate jurisdiction." In this case, the Motion is a proceeding to limit the scope of what a licensed Automotive Dismantler and Recycler may do under Maryland law with a scrapped vehicle. There are no bankruptcy issues to resolve, no Plan provisions at issue, and no effect on the post-confirmation Debtors' estates. This is the paradigm for mandatory abstention.

48. Federal courts may also abstain from hearing a bankruptcy matter "in the interest of justice, or in the interest of comity with state courts or respect for state law." *Penson Tech. LLC v. Schonfeld Grp. Holdings LLC (In re Penson Worldwide),* 587 B.R. 6, 22 (Bankr. D.Del. 2018) (citing 28 U.S.C. § 1334(c)(1)). The factors considered by courts in determining whether to abstain permissively are: "(1) the effect or lack thereof on the efficient administration of the estate; (2) the extent to which state law issues predominate over bankruptcy issues; (3) the difficulty or unsettled nature of applicable state law; (4) the presence of a related proceeding commenced in state court or other non-bankruptcy court; (5) the jurisdictional basis, if any, other than section 1334; (6) the degree of relatedness or remoteness of the proceeding to the main bankruptcy case; (7) the substance rather than the form of an asserted "core" proceeding; (8) the feasibility of severing state law claims from core bankruptcy matters to allow judgments to be entered in state court with enforcement left to the bankruptcy court; (9) the burden of the court's docket; (10) the likelihood that the commencement of the proceeding in

bankruptcy court involves forum shopping by one of the parties; (11) the existence of a right to a jury trial; and (12) the presence of non-debtor parties." *Id.* "In evaluating these factors, a court does not engage in a mere 'mathematical exercise.' Rather, courts weigh some factors more substantially than others, particularly the effect on the administration of the estate, whether the claim involves only state law issues, and whether the proceeding is 'core' or 'non-core' under 28 U.S.C. § 157. Ultimately, the decision as to whether to permissively abstain is left up to the broad discretion of the bankruptcy court." *In re DBSI, Inc.*, 409 B.R. 720, 729 (Bankr. D.Del. 2009) (citations omitted).

49. Permissive abstention is appropriate in this case for several reasons. First, the Motion is a thinly disguised request for an injunction against CRI in the cloak of a motion to compel compliance with a prior order. As discussed below, the Repurchase Order does not apply to CRI—it does not name CRI, it was not served on CRI, and the sole provision of the Repurchase Order relied upon by the Reorganized Debtors does not order CRI to do anything—it is written in the passive voice. The party-drafted language appears little more than an agreed resolution between disputing parties (i.e., the Debtors and Foxconn) to determine their intended disposition of the Vehicles and is not written as a missive to apply in perpetuity against the rest of the world.

50. Furthermore, pursuant to Fed. R. Bankr. P. 7001(7), a proceeding to "obtain an injunction or other equitable relief" must be brought by adversary

proceeding . . . .” In this case, the requirement for an adversary proceeding is not putting form over substance. The issues in this case, once brought to trial, are substantial. Just the few emails attached to the Gallagher Declaration list at least 5 employees of the Debtors as parties, each of which being potential witnesses in this case. Also, insofar as the Reorganized Debtors are accusing CRI of not “decommissioning” the Vehicles and relying on forms containing terms such as “dismantling,” “destroying,” and “scrapping,” these are industry terms with which the Court is probably not familiar without expert testimony. Fortunately, there is already pending a more procedurally proper proceeding to adjudicate substantially the same relief—the Adversary Proceeding, where the parties can take discovery, introduce experts, and perform the other steps appropriate for a lawsuit rather than in treating it as a contested matter.

51. As noted above, the purely industry-specific terms, such as the definition and scope of the terms “decommissioned” and “scrapped,” the effect of an official form promulgated by the State of Maryland, and the rights of and limitations upon a licensed Automotive Dismantler and Recycler under Maryland law, are not bankruptcy-related at all. None of these issues relate in any way to the Debtors’ reorganization under its confirmed Plan and while clearly capable of reviewing any matter, this Court should find that they are more appropriate for resolution in the Adversary Proceeding or a Maryland state court of general jurisdiction.

52. For all of the foregoing reasons, abstention is appropriate in connection with the Motion.

III. THE MOTION SHOULD BE DENIED FOR TECHNICAL REASONS.

53. Even if the Court does not abstain from consideration of the Motion, there are a number of technical reasons why the Motion should be denied.

54. First, as noted above, the relief requested in the Motion should be brought in the form of an adversary proceeding. The Motion is a request for equitable relief thinly disguised as a motion to compel a preexisting order. While there is authority for the proposition that seeking enforcement of a preexisting order may be an exception to Fed. R. Bankr. P. 7001(7), that exception should not apply here. For example, in *In re Continental Airlines, Inc.,* 236 B.R. 318, 327 (Bankr. D.Del. 1999), the Court found that an adversary proceeding was not needed to "seek[ ] to enforce an injunction already in place." The Court noted that the Rule 7001(7) referred to "obtain" an injunction—harmonizing the exception with the rule. In that case, the movant was seeking to enforce an express injunction in a confirmation order. In the case at bar, however, there is no such injunction. In fact, there is no language directing any person to do anything. The operative language in the Repurchase Order simply states that the Vehicles "will be decommissioned[.]" To the extent that the Reorganized Debtors are seeking an injunction to enforce their view of what that term means, an adversary proceeding is appropriate.

55. Moreover, the Motion was filed when there was already pending an adversary proceeding relating to substantially the same relief. This Court has recognized the "first to file rule." *See In re HQ Global Holdings, Inc.,* 293 BR 839, 846 (Bankr. D.Del. 2003). Under this rule, "where there are two competing lawsuits, the first suit should have priority, absent the showing of balance of convenience . . . or . . . special circumstances giving priority to the second." *Id.* (quoting *First City Nat'l Bank & Trust Co. v. Simmons,* 878 F.2d 76, 79 (2d Cir.1989) ("where there are two competing lawsuits, the first suit should have priority, absent the showing of balance of convenience . . . or . . . special circumstances giving priority to the second")). Although the CRI has not uncovered any case applying (or declining to apply) this rule between an adversary proceeding and a motion in the same bankruptcy case, the rationale is the same. The Reorganized Debtors, who started this dispute with an aggressive cease-and-desist letter after not telling CRI of the existence or terms of the Repurchase Order, should not be able to shortcut their obligations to CRI by ignoring the Adversary Proceeding and filing a motion instead. The Motion should thus be denied in favor of the pending Adversary Proceeding.

56. Another defect in the Motion is the failure to serve an indispensable party. As noted above, the proposed order submitted with the Motion does not target CRI, Inc. only. It refers to the undefined term "Purchasers." In the Motion, the term Purchasers is defined collectively as "CRI Inc. ("CRI") and Mike Ahn

("Ahn"), third-party purchasers of certain Endurance vehicles . . . ." Motion p.1. According to the Certificate of Service filed in connection with the Motion, Mike Ahn was not served with a copy of the Motion, and to the best of CRI's knowledge, Mr. Ahn has not received a copy. Mr. Ahn was a purchaser of Vehicles from CRI, not from the Debtors, and to the best of CRI's knowledge, Mr. Ahn was not otherwise a party to the Debtors' bankruptcy cases at any time. Failure to serve Mr. Ahn with a motion seeking sweeping requirements for disposition of vehicles, payment of the Reorganized Debtors' attorneys' fees, and a steep fine for failure to comply presumably denies him due process.

57. It should be added that William Gallagher, author of the Gallagher Declaration—the sole evidentiary offering in support of the Motion—does not appear to have personal knowledge of most, if any, of the material facts relating to the Reorganized Debtor's transactions with CRI. He does not appear to have been copied on any of the emails attached to his declaration, and his statements of fact are generally qualified by referring to actions of "the Debtors" rather than actions of himself. He refers to himself as being or becoming "aware" of various key facts rather than stating they has personal knowledge of them. *See, e.g.,* Gallagher Declaration ¶¶ 8 ("I am aware that on or around January 24, 2024 the Debtors stated…"), 11 ("the Post-Effective Date Debtors became aware that Cohen has not decommissioned the Subject Vehicles"), and 14 ("I am aware that CRI also sold Subject Vehicles to third parties"); see also ¶¶ 16 & 17 (beginning with "Based on

documents that I was provided," suggesting that they were not documents over which he was a custodian). In fact, upon information and belief, none of the Debtors' employees that participated in the transaction with CRI are still employed and may have to be tracked down. In short, the Gallagher Declaration is insufficient to provide evidentiary support for the relief the Reorganized Debtors are seeking in the Motion.

58. For these various technical reasons, the Motion should be denied.

IV. THE REPURCHASE ORDER SHOULD NOT BE APPLIED TO CRI.

59. As noted above, the Debtors are seeking to "enforce" an order (i) that was procured by a motion that was never served upon CRI, (ii) at a time when CRI had never been involved in this bankruptcy, (iii) that was not served on or even provided to CRI until long after the transaction between the Debtors and CRI had been concluded, (iv) that had been drafted by the Debtors, (v) that does not direct CRI to do or not to do anything, and (vi) using terms which, if applied in accordance with industry standards, have not been violated (at least by CRI). Each of these subsections forms a separate basis for denial of the Motion.

60. First, the Repurchase Order was entered by the Court by motion that was never served upon CRI. This makes sense, as the motion to procure the Repurchase Order was filed and served on November 22, 2023 (Docket No. 731), and the Repurchase Order was entered by the Court on December 7, 2023. The

Reorganized Debtor did not make first contact with CRI, however, until approximately December 18, 2023. It is unclear how the Reorganized Debtors justify enforcement of an order that became final and unappealable months before CRI received notice of it. This profound lack of due process is not addressed in the Motion.

61. Second, CRI had not been previously involved in this case, so it had no reason to be monitoring the docket and aware of the entry of the Repurchase Order by the time the Reorganized Debtor approached it to purchase the Vehicles. It would therefore deny CRI due process to impute it with actual and constructive knowledge of the entry of the Repurchase Order.

62. Third, notwithstanding the entry of the Repurchase Order and the Reorganized Debtor's later attempts to enforce it upon CRI, the Reorganized Debtor never served, provided a copy of, or even mentioned the existence of the Repurchase Order to CRI at any time before the purchase of the Vehicles. The emails attached to the Gallagher Declaration and the screenshots embedded in the Motion itself show some level of awareness of the pendency of the Debtors' bankruptcy, but there is no evidence that the Debtors made CRI aware that the sale of the Vehicles would be allegedly controlled, limited, or affected by the bankruptcy or an order of the Bankruptcy Court. It is not proper for them to seek to impose any alleged limitations under the order against CRI.

63. Fourth, as more fully discussed below, the language of the Repurchase Order that the Reorganized Debtors are seeking to enforce is anything but clear. The provision reads as if it obligates the Debtors and Foxconn, which is intuitive given that the Debtors were the ones seeking the Repurchase Order. It also appears more explanatory and predictive than directive: the term "will be decommissioned" as opposed to "must be decommissioned" or "shall be decommissioned" suggests that this was simply the parties' intention—the parties to the Repurchase Order.

64. If the Debtors had intended the language to be binding upon third parties, it could have drafted it explicitly, but the language suggests the opposite: the Vehicles "will . . . not [be] resold to any third-party that *intends* to use the vehicle for an on-road purpose." Order ¶ 3 (emphasis added). If the Reorganized Debtors' interpretation were correct, the language would have said "and no third-party purchaser shall use the vehicle for an on-road purpose"—this would not have been enforceable against purchasers that were not bound to the order, of course, but at least the meaning would have been clear. By referring to selling to parties that "intend" to use the vehicle for an on-road purpose, however, the drafting of the language suggests that the obligor of these provisions was the Debtors—as initial seller—not third-party purchasers. The fact that the Repurchase Order was not a sale order at all, but rather a remedial measure to address a manufacturing disaster, bolsters this conclusion. This is not to say that *the Debtors* violated the Repurchase Order—their sale of the Vehicles to CRI was perfectly consistent with their

obligations under the operative language in the order, because CRI indicated it was scrapping them and did not intend to operate them on the public roads.

65. Although the Repurchase Order was ultimately entered by the Court, the Debtors were the drafters of it, and they should live with what they created. *See, e.g., In re Lason, Inc.,* 290 B.R. 504, 506 (Bankr. D.Del. 2003) ("Since Lason drafted the Employment Agreement and the Plan of Reorganization, any ambiguities therein must be construed against it") (citation omitted). It is not proper to superimpose a new meaning upon it in hindsight to fulfill their desired result, especially against third parties that were given no input as to the language for which enforcement would eventually be sought against them.

66. As noted above, there is a reason that the Reorganized Debtors so vigorously urge that the Court fit the square peg of the Vehicles sale into the round hole of the Repurchase Order: because they chose to sell the Vehicles instead of paying someone to destroy them, and they sold them without a contract. But they cannot escape the fact that they neither signed a contract that obligated CRI to handle the Vehicles in a particular way nor procured an order—with notice to CRI—for that purpose. The bottom line is, CRI is entitled to use the Vehicles that it purchased from the Reorganized Debtor to the extent permitted under applicable non-bankruptcy law, which is what it has been doing.

V. CRI IS PROPERLY HANDLING THE VEHICLES.

67. Even if the Repurchase Order applies to CRI, CRI is treating the Vehicles correctly in accordance with it and with applicable non-bankruptcy law.

68. The one self-drafted line from the Repurchase Order upon which the Reorganized Debtors hang their hats reads simply: "For the avoidance of doubt, the vehicles will be decommissioned and not resold to any third-party that intends to use the vehicle for an on-road purpose." Repurchase Order ¶ 4. Other than one moment where CRI took one vehicle on the road for a marketing video, there has been no insinuation that CRI or anyone else "intends to use the Vehicles for an on-road purpose." So in essence, the only way the Repurchase Order might be violated (to the extent it is even enforceable against CRI and subsequent purchasers) are the terms "will be" and "decommissioned."

69. To "decommission" a vehicle is an industry term, not a legal term, and it means "to officially stop using (a ship, weapon, dam, etc.): to remove (something) from service." *See* Britannica Dictionary, https://www.britannica.com/dictionary/decommission. Fact and expert testimony will show that a scrapyard decommissions a vehicle when the vehicle is removed from on-road use. Expert testimony will also show that a decommissioned vehicle can still be employed for off-road use. CRI will also introduce fact and expert testimony indicating that "scrapping" a vehicle by a scrapyard does not require full or even partial disassembly, and whole vehicles are sometimes sold directly by a

scrapyard for various reasons. CRI has both decommissioned and scrapped the Vehicles, as they are permanently removed from the public roads and will be sold only for parts or off-road hobby kits. In its marketing and sale of the Vehicles, CRI has properly advised actual and potential buyers that the Vehicles are not titled, are not roadworthy, and should not be operated on public roads.

70. Thus, even if *arguendo* the Repurchase Order were fully enforceable against CRI in the manner suggested by the Reorganized Debtors and Foxconn, CRI has not violated that order and the Motion should be denied.

VI. THE PROPOSED ORDER SUBMITTED WITH THE MOTION SEEKS INAPPROPRIATE RELIEF.

71. Aside from the fact that the relief sought in the Motion is not appropriate, the proposed order submitted with the Motion is rooted in hyperbole. It basically provides for three things as to CRI: (I) that CRI will "decommission and destroy" the Vehicles; (II) that CRI will pay the Reorganized Debtors' attorneys' fees and expenses for prosecuting the Motion; and (III) that CRI will be "fined" an enormous daily penalty for not decommissioning the Vehicles. All three of these are inappropriate.

72. First, as to the "decommission and destroy" language, the Repurchase Order stated only that the Vehicles would be "decommissioned." It is unclear how the Reorganized Debtors justify taking CRI's money for the Vehicles and then demand that they be destroyed—even assuming that the Repurchase Order were

enforceable by the Reorganized Debtors against CRI. The most that they should be entitled to is the alleged limitation in the Repurchase Order.

73. Second, the requirement that CRI pay the Reorganized Debtors' attorneys' fees and expenses is improper. "Under the American rule, each party normally must bear the burden of its own legal expenses, including attorneys' fees." *Mobil Oil Corp. v. Independent Oil Workers Union*, 679 F.2d 299 (3rd Cir. 1982) (citation omitted). Although there are "narrow" exceptions to this rule, *Id.*, the Reorganized Debtors offer no basis for their demand. There was no contract pursuant to which the parties agreed to a fee-shifting arrangement, and there are no statutes giving the Reorganized Debtors standing to limit CRI's use of the Vehicles, much less awarding their attorneys' fees and costs for pursuing it. This relief should be denied, regardless of the Court's decisions in connection with the Vehicles.

74. Finally, the Reorganized Debtors propose that the Court fine CRI "$10,000.00 each day the Endurance vehicles in their possession are not decommissioned . . . ." Proposed order ¶ 5. They propose that this exorbitant fine—relating to assets whose purchase price was only $12,400—be paid to the Clerk of the Court. They do not offer any statutory or other authority for what appears to be unlabeled criminal contempt, without any of the procedural and other protections associated with it.

VII. STANDSTILL AGREEMENT.

75. It should be noted that CRI has agreed that the Vehicles will not be driven on public roads and that their parts will not be sold until this Court resolves CRI's Complaint (as amended) and the Motion in the main bankruptcy case, except with approval of the Bankruptcy Court, or the written consent of the Reorganized Debtor or its counsel. Cohen Declaration ¶ 19. Therefore, there is no emergency required to resolve either the Motion or the Adversary Proceeding, and scheduling can occur in the ordinary course.

WHEREFORE, CRI requests that this Honorable Court:

(A) Abstain from consideration of the Motion; or, in the alternative,
(B) Deny the Motion; and
(C) Grant CRI such further relief as this Court deems just and proper.

Dated: September 26, 2024
Wilmington, Delaware

Respectfully submitted,

HILLER LAW, LLC

/s/ Adam Hiller

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-and-

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Attorneys for Cohen Recycling

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re	Chapter 11
NU RIDE INC., *et al.*,[1]	Case Nos. 23-10831 (MFW), *et seq.*
Reorganized Debtors.	(Jointly Administered)

DECLARATION OF ANDREW COHEN IN SUPPORT OF PRELIMINARY OBJECTION TO MOTION FOR (A) ENTRY OF AN ORDER ENFORCING THE VEHICLE DECOMMISSION ORDER AND (B) FOR RELATED RELIEF

Andrew Cohen, being over the age of eighteen years and having knowledge of the facts set forth herein, declares as follows in accordance with 28 U.S.C. § 1746:

1. I am owner of Cohen Recycling, Inc. ("Cohen Recycling"). This declaration has been executed in support of Cohen Recycling, Inc.'s Request For Abstention In Connection With, And Preliminary Objection To, Post-Effective Date Debtors' Motion For (A) Entry Of An Order Enforcing The Vehicle Decommission Order And (B) For Related Relief, and no other use of this declaration is authorized by me. Except where expressly indicated, the facts set

[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.

EXHIBIT A

forth herein are based upon my personal knowledge and/or my review of Cohen Recycling's books and records, of which I am a custodian.

2. CRI operates a full service auto recycling business serving the Washington, D.C., metropolitan area for over 40 years, as part of a group of companies that sell, repair, and build custom vehicles and harvest parts for resale. Among other things, CRI is a licensed Automotive Dismantler and Recycler under Maryland law.

3. As part of its business, CRI sells vehicles (and parts from vehicles), including vehicles that cannot be re-titled and are not intended for use on public roads, and in those instances, it discloses this limitation to purchasers.

4. On or about December 22, 2023, debtor Nu Ride, Inc. (the "Reorganized Debtor") approached CRI with a proposal to sell thirty-one (31) Endurance vehicles (the "Vehicles"). CRI and the Reorganized Debtor agreed that CRI would purchase the Vehicles for $12,400 (the "Purchase Price"), to be towed by CRI to its own facility from Washington, D.C., at CRI's expense.

5. It is important to note that all discussions at that time were for CRI to "buy" or "purchase" the Vehicles. At no time did the Reorganized Debtor suggest that it was hiring CRI to destroy, disassemble, decommission, or do anything else to the Vehicles. The only other term that the Reorganized Debtor's agents used was "scrapped."

6. In accordance with that oral agreement, CRI paid the Purchase Price to the Reorganized Debtor and towed the Vehicles at its expense.

7. At the time of the Purchase, CRI understood orally from the Debtor that the Vehicles were not street-legal and should not be operated on public roads, but CRI did not agree to any conditions or limitations on the use or application of the Vehicles or their parts.

8. At the time of these discussions, the Reorganized Debtor understood that the Vehicles might be dismantled for parts and even made references to potential customers that might be calling for parts. In fact, the Reorganized Debtor facilitated communications between CRI and third parties that might want to get parts from them.

9. As noted above, the parties did not execute an agreement of sale for the Vehicles. The parties completed a one-page Maryland Form VR-454 for each of the Vehicles, a sample of which is attached to the declaration of William Gallagher filed by the Debtors in support of their Motion (the "Gallagher Declaration") as Exhibit C.

10. The Form VR-454s contain various representations by the Reorganized Debtor regarding the purpose of the transfers, specifically "for purposes of dismantling, destroying or scrapping" the respective Vehicles.

11. Subsequent to consummation of the purchase, CRI identified that one legal and profitable method of recycling, scrapping, and/or dismantling them would be to sell them or their parts to third parties as off-road hot rod projects. CRI therefore began the process of marketing them for this purpose.

12. Consistent with applicable law, CRI fully disclosed in all marketing that the Vehicles were not titled, were not roadworthy, and should not be operated on public roads.

13. Prior to the Reorganized Debtor's attempted intervention described below, CRI had already sold two (2) of the Vehicles via an individual named Michael Ahn. Mr. Ahn marketed the Vehicles and found a buyer: Ford Automotive. When CRI provided bills of sales to that buyer, they were specific that the Vehicles were being sold "For Parts Only" and that there would be "No Title." **Exhibit A-1** to this Declaration is a true and correct bill of sale to that buyer for each of the two Vehicles.

14. The bills of sale also stated that the Vehicles were "Sold As Is" with "No Warranty" and did not suggest that any third parties (such as the Reorganized Debtor) warranted them in any way.

15. CRI did not suggest in any way that it was selling the Vehicles on behalf of the Reorganized Debtor or as agent for the Reorganized Debtor.

16. As of September 25, 2024, the status of the Vehicles was as follows:

(A) Two (VIN Numbers: 7NYLEWFA0PM001056 and 7NYLEWFA3PM001035) were sold on April 10, 2024 (in a transaction arranged by Michael Ahn) to Ford Automotive via Bills of Sale that show that they were sold: "As Is. No Warranty. No Title. For Parts Only."

(B) Two (VIN Numbers: 7NYLEWFA7PM001040 and 7NYLEWFA7PM001042) were used by me and my staff (to test them) on private property that I control in Montgomery County, Maryland (and not on the public road), and then disassembled.

(C) One (VIN Number: 7NYLEWFAXPM001002) has been transported from Cohen Recycling's facility at 26100 Woodfield Road, Damascus, MD 20872 to its facility at 4511 Tanglewood Drive, Bladensburg, MD 20710, where it is being disassembled.

(D) The remaining 27 vehicles remain at Cohen Recycling's facility at 26100 Woodfield Road, Damascus, MD 20872. Their batteries are dead and they do not run.

17. On or about June 5, 2024, the Reorganized Debtor's counsel sent a letter to me demanding, among other things, that CRI cease and desist all sales of the Vehicles. It was in this communication that CRI first became aware of 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 "Repurchase Order"), which had been entered on November 22, 2023.

18. Thereafter, counsel for CRI and the Reorganized Debtor entered into negotiations, which were ultimately unsuccessful. This left CRI with a pending threat by the Reorganized Debtor of lawsuits if it continued to sell the Vehicles in whole or in part. Thus, on September 5, 2024, CRI filed a one-count Complaint for

Declaratory Relief in this Court against the Reorganized Debtor, commencing the Adversary Proceeding.

19. I agree that the Vehicles will not be driven on public roads and that their parts will not be sold until the Bankruptcy Court resolves Cohen Recycling, Inc.'s Adversary Complaint in the bankruptcy case and Nu Ride Inc.'s motion to compel in the main bankruptcy case, except with approval of the Bankruptcy Court, or the written consent of Nu Ride Inc. or its counsel.

20. I reserve the right to supplement, amend, or correct any aspect of this declaration if I later determine it is necessary or appropriate to do so.

I HEREBY DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT ON PERSONAL KNOWLEDGE.

9/26/24
Date

Andrew Cohen

MDOT MARYLAND DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE ADMINISTRATION

VR-181 (03-18)

Bill of Sale

If this form is used to establish the purchase price of your vehicle, a notary is required.

Please describe the vehicle being sold

Year	Make	Model
2023	LORDSTOWN	ENDURANCE

Body Style	Vehicle Identification Number
TRUCK	7NYLEWFA3PM001035

I/We do hereby sell to:

Name of buyer(s) FORD AUTOMOTIVE 2931 RIDGE ROAD 101 - 197, ROCKWALL, TX 75032

For the total sum of $ 24,000.00, which has been received. This sum represents the mutually agreed upon purchase price of the vehicle, between both the buyer(s) and the seller(s). The reason the vehicle may be purchased for a price less than the fair market value is as follows.

THIS VEHICLE IS SOLD AS IS. NO WARRANTY. NO TITLE. FOR PARTS ONLY.

To the best of my knowledge, the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:

odometer reading 931 (no tenths)

☐ 1. The mileage is in excess of its mechanical limits.

☐ 2. The odometer reading is not the actual mileage.

Warning- Odometer Discrepancy

Please notarize your sale. A second space is provided for notarizing an additional party to the transaction who may not be present at the initial notarization. It is not necessary to require two notaries if one will suffice for all parties.

I/we certify under penalty of perjury, that the statements made are true and correct to the best of my/our knowledge, information and belief. I understand that giving a false statement(s) is a misdemeanor and subject to fines not exceeding $500, imprisonment for not more than 2 months, or both.

This 10TH **day of** APRIL **(year)** 2024

Seller(s) signature(s)

Seller(s) printed name(s)

COHEN RECYCLING INC / ANDREW COHEN

Subscribed and sworn to before me:

This _____ **day of** _____ **(year)** _____

Notary Public signature

Notary Public printed name

My Commission Expires _____

Place Seal Here

This 10TH **day of** APRIL **(year)** 2024

Buyer(s) signature(s)

Buyer(s) printed name(s)

Subscribed and sworn to before me:

This _____ **day of** _____ **(year)** _____

Notary Public signature

Notary Public printed name

My Commission Expires _____

Place Seal Here

6601 Ritchie Highway, N.E., Glen Burnie, Maryland 21062
For more information visit our website at **www.mva.maryland.gov**, call **410-768-7000** or TTY for the hearing impaired: **1-800-492-4575**.

EXHIBIT A-1

MDOT MARYLAND DEPARTMENT OF TRANSPORTATION
MOTOR VEHICLE ADMINISTRATION

VR-181 (03-18)

Bill of Sale

If this form is used to establish the purchase price of your vehicle, a notary is required.

Please describe the vehicle being sold

Year	Make	Model
2023	LORDSTOWN	ENDURANCE

Body Style	Vehicle Identification Number
TRUCK	7NYLEWFA0PM001056

I/We do hereby sell to:

Name of buyer(s) FORD AUTOMOTIVE 2931 RIDGE ROAD 101 - 197, ROCKWALL, TX 75032

For the total sum of $ 24,000.00, which has been received. This sum represents the mutually agreed upon purchase price of the vehicle, between both the buyer(s) and the seller(s). The reason the vehicle may be purchased for a price less than the fair market value is as follows.

THIS VEHICLE IS SOLD AS IS. NO WARRANTY. NO TITLE. FOR PARTS ONLY.

To the best of my knowledge, the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:

odometer reading 433 (no tenths)

☐ 1. The mileage is in excess of its mechanical limits.

☐ 2. The odometer reading is not the actual mileage.

Warning- Odometer Discrepancy

Please notarize your sale. A second space is provided for notarizing an additional party to the transaction who may not be present at the initial notarization. It is not necessary to require two notaries if one will suffice for all parties.

I/we certify under penalty of perjury, that the statements made are true and correct to the best of my/our knowledge, information and belief. I understand that giving a false statement(s) is a misdemeanor and subject to fines not exceeding $500, imprisonment for not more than 2 months, or both.

This 10TH **day of** APRIL **(year)** 2024

Seller(s) signature(s)

Seller(s) printed name(s)

COHEN RECYCLING INC / ANDREW COHEN

Subscribed and sworn to before me:

This _____ **day of** _____ **(year)** _____

Notary Public signature

Notary Public printed name

My Commission Expires _____

Place Seal Here

This 10TH **day of** APRIL **(year)** 2024

Buyer(s) signature(s)

Buyer(s) printed name(s)

Subscribed and sworn to before me:

This _____ **day of** _____ **(year)** _____

Notary Public signature

Notary Public printed name

My Commission Expires _____

Place Seal Here

6601 Ritchie Highway, N.E., Glen Burnie, Maryland 21062
For more information visit our website at **www.mva.maryland.gov**, call **410-768-7000** or TTY for the hearing impaired: **1-800-492-4575.**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused copies of the foregoing Request For Abstention In Connection With, And Preliminary Objection To, Post-Effective Date Debtors' Motion For (A) Entry Of An Order Enforcing The Vehicle Decommission Order And (B) For Related Relief to be served via electronic mail upon:

Name	**Email address**
Eric Monzo	EMonzo@morrisjames.com
Tara C. Pakrouh	TPakrouh@morrisjames.com
Robert J. Stark	RStark@brownrudnick.com
Hayden A. Miller	HMiller@brownrudnick.com
Echo Qian	Eqian@morrisnichols.com

Dated: September 26, 2024
Wilmington, Delaware

/s/ Adam Hiller

Adam Hiller (DE No. 4105)
HILLER LAW, LLC
300 Delaware Avenue, Suite 210, #227
Wilmington, Delaware 19801
(302) 442-7677 telephone