

ENTERED

March 27, 2023

Nathan Ochsner, Clerk

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

In re:) Chapter 11
)
IEH AUTO PARTS HOLDING LLC, <i>et al.</i> , ¹) Case No. 23-90054 (CML)
)
Debtors.) (Jointly Administered)
)
) Re: Docket Nos. 26, 41

FINAL ORDER (I) AUTHORIZING THE DEBTORS TO (A) CONTINUE TO OPERATE THEIR CASH MANAGEMENT SYSTEM AND MAINTAIN EXISTING BANK ACCOUNTS, (B) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS, (C) MAINTAIN EXISTING BUSINESS FORMS AND BOOKS AND RECORDS, AND (II) GRANTING RELATED RELIEF

Upon the motion (the "Motion")² of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for the entry of a final order (this "Final Order") (a) authorizing, but not directing, the Debtors to (i) continue to operate their cash management system as set forth on Exhibit 1 attached to the Motion (the "Cash Management System") and maintain their existing bank accounts listed on Exhibit A to this Final Order (the "Bank Accounts"), including honoring certain prepetition obligations related thereto, (ii) continue to perform intercompany transactions with each other and with non-Debtor affiliates (the "Intercompany Transactions") consistent with past practice and authorizing the Debtors to continue to operate and perform under the terms of the Shared Services Agreement and Transition Services Agreement; (iii) maintain existing

¹ The Debtor entities in these chapter 11 cases, along with the last four digits of each Debtor entity's federal tax identification number, are: IEH Auto Parts Holding LLC (6529); AP Acquisition Company Clark LLC (4531); AP Acquisition Company Gordon LLC (5666); AP Acquisition Company Massachusetts LLC (7581); AP Acquisition Company Missouri LLC (7840); AP Acquisition Company New York LLC (7361); AP Acquisition Company North Carolina LLC (N/A); AP Acquisition Company Washington LLC (2773); Auto Plus Auto Sales LLC (6921); IEH AIM LLC (2233); IEH Auto Parts LLC (2066); IEH Auto Parts Puerto Rico, Inc. (4539); and IEH BA LLC (1428). The Debtors' service address is: 112 Townpark Drive NW, Suite 300, Kennesaw, GA 30144.

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



business forms; and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court, if any (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is ORDERED THAT

1. Subject to the limitations of this Final Order, the Debtors are authorized, but not directed, to: (a) continue using the Cash Management System as described in the Motion in the ordinary course of business and honor any prepetition obligations related to the use thereof; (b) designate, maintain, close, and continue to use on a final basis any or all of their existing Bank Accounts, including, but not limited to, the Bank Accounts identified on Exhibit A attached to this Final Order, in the names and with the account numbers existing immediately before the Petition Date; (c) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including checks, electronic fund transfers, ACH transfers, and other debits or electronic means; (d) treat their prepetition Bank Accounts for all purposes as debtor in possession accounts; and (e) open new debtor-in-possession Bank Accounts; *provided* that in the case of each of (a) through

(e), such action is taken in the ordinary course of business and consistent with both the terms of this Final Order and prepetition practices.

2. The Debtors are authorized to maintain the Purchase Card Program and pay prepetition and postpetition amounts incurred on account of the Purchase Card Program pursuant to the terms of the Purchase Card Program.

3. The Debtors are authorized to pay the Courier Fees, including any prepetition amounts, and any ordinary course Courier Fees incurred by the Debtors.

4. The Debtors are authorized, but not directed, to continue using, in their present form, the Business Forms as well as checks and other documents related to the Bank Accounts existing immediately before the Petition Date without reference to the Debtors' status as debtors in possession; *provided* that, once the Debtors have exhausted their existing stock of checks, the Debtors shall ensure that any new Business Forms are clearly labeled "Debtor In Possession"; *provided, further,* that, with respect to any Business Forms that exist or are generated electronically, to the extent reasonably practicable, the Debtors shall ensure that such electronic Business Forms are clearly labeled "Debtor In Possession" within ten business days.

5. Except as otherwise provided in this Final Order and only to the extent funds are available in each applicable Bank Account, all Cash Management Banks at which the Bank Accounts are maintained are directed, at the Debtors' discretion, to continue to service and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course of business, and to receive, process, honor, and pay any and all checks, drafts, electronic fund transfers, and ACH transfers issued, whether before or after the Petition Date, including any transfers drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be. For the avoidance of doubt, all Cash

Management Banks and other payroll check processors are directed, at the Debtors' discretion, to receive, process, honor, and pay, to the extent funds are available in each applicable Bank Account, any and all payroll checks that were issued prior to and remain outstanding as of the Petition Date. For the further avoidance of doubt, the Debtors shall not commingle any of its funds in the Cash Management System with any funds from any non-Debtor insiders or affiliates, as defined in 11 U.S.C. § 101(31) and (2), respectively; *provided, however*, to the extent any commingling occurs despite the Debtors' best efforts, any commingled funds shall be allocated to the appropriate Debtor or non-Debtor entity as soon as reasonably practicable in accordance with paragraph 14 of this Final Order.

6. Those certain prepetition deposit, cash management, and treasury services agreements existing between the Debtors and the Cash Management Banks shall continue to govern the postpetition cash management relationship between the Debtors and the Cash Management Banks and, subject to applicable bankruptcy or other law, all of the provisions of such agreements, including the termination, fee provisions, rights, benefits, offset rights and remedies afforded under such agreements, shall remain in full force and effect absent further order of the Court (including, for the avoidance of doubt, any rights of a Cash Management Bank to use funds from the Bank Accounts to remedy any overdraft of another Bank Account to the extent permitted under the applicable deposit agreement) unless the Debtors and such Cash Management Bank agree otherwise, and any other legal rights and remedies afforded to the Cash Management Banks under applicable law shall be preserved, subject to applicable bankruptcy law.

7. The Cash Management Banks are authorized to charge, and the Debtors are authorized to pay, honor, or allow any Bank Fees or charges associated with the Bank Accounts, and charge back returned items to the Bank Accounts in the ordinary course, including any

prepetition amounts. The automatic stay is modified to the extent necessary to allow the Cash Management Banks to setoff such Bank Fees against amounts on deposit in the Bank Accounts. The Debtors are authorized to continue to pay the Processing Obligations pursuant to the terms of the Payment Agreement. The Debtors are authorized to honor, perform under and otherwise satisfy their obligations in connection with the Confidential Retailer Program Agreement dated January 1, 2020 (the "Program Agreement") with Synchrony Bank ("Synchrony"), whether arising pre- petition or post-petition, including, without limitation, permitting and effecting any rights to net, setoff, or recoup thereunder, provided, however, both the Debtors' and Synchrony's rights to challenge or oppose any attempt to setoff or recoup are fully preserved. Notwithstanding the commencement of the chapter 11 cases, Synchrony shall be permitted to act under and in accordance with the Program Agreement and post-petition returns of merchandise, chargebacks, other adjustments, and in-store payments that are made, received or submitted in accordance with the Program Agreement are accorded priority as an administrative expense.

8. Each Cash Management Bank is authorized to debit the Bank Accounts held at such Cash Management Bank in the ordinary course of business without the need for any further order of this Court for: (a) all checks drawn on the Bank Accounts which are cashed at the applicable Cash Management Bank's counters or exchanged for cashier's checks by the payees thereof prior to or after the Petition Date; (b) all checks or other items deposited in one of the Bank Accounts with such Cash Management Bank prior to or after the Petition Date which have been dishonored or returned unpaid for any reason, including returned items that result from wire transfers, ACH transactions, or other electronic transfers of any kind, together with any fees and costs in connection therewith, to the same extent the Debtor was responsible for such items prior to or after the Petition Date; (c) all undisputed prepetition amounts outstanding as of the date hereof, if any,

owed to any Cash Management Bank for service charges for the maintenance of the Cash Management System, including any Bank Fees incurred in the ordinary course of business; and (d) any postpetition amounts due and owing to the Cash Management Bank as service charges for the maintenance of the Cash Management System, including any Bank Fees incurred in the ordinary course of business.

9. As soon as practicable after entry of this Final Order, the Debtors shall serve a copy of this Final Order on the Cash Management Banks, Payment Processing Company and Citizens.

10. The Debtors are authorized to: (a) pay undisputed prepetition amounts outstanding as of the Petition Date, if any, owed in the ordinary course to the Cash Management Banks as service charges for the maintenance of the Cash Management System; and (b) reimburse the Cash Management Banks for any claims arising before or after the Petition Date in connection with customer checks deposited with the Cash Management Banks that have been dishonored or returned as a result of insufficient funds in the Bank Accounts in the ordinary course of business, to the same extent the Debtors were responsible for such items prior to the Petition Date.

11. The Debtors are authorized to enter into, engage in, and satisfy any payments in connection with the Intercompany Transactions between Debtors. The Debtors are authorized to take any actions related to the foregoing sentence, including netting or setting off mutual obligations between Debtors, in each case on the same terms as, and consistent with, the Debtors' operation of their businesses in the ordinary course during the prepetition period.

12. The Debtors are authorized, but not directed, to continue to operate and perform under the terms of the TSA and Shared Services Agreement, as applicable. Notwithstanding the foregoing and anything otherwise set forth in this Final Order, the statutory committee appointed in these chapter 11 cases (the "Committee") reserves all rights and shall not otherwise be limited

or prejudiced with respect to Intercompany Transactions and/or Intercompany Claims, including without limitation, the Shared Services Agreement, TSA, and leases with any non-Debtor insider or affiliate.

13. The Debtors are authorized to enter into, engage in, and satisfy postpetition obligations in connection with the Intercompany Transactions between Debtors and non-Debtor affiliates relating to intercompany receivables and payables through the Cash Management System in the ordinary course of business consistent with prepetition practices and the terms of this Final Order; *provided that* the Debtors shall provide at least three (3) business days prior notice of any set off or netting between the Debtors and non-Debtor affiliates for such postpetition obligations to: (i) counsel to the DIP Lender, (ii) counsel to Prepetition Lender, and (iii) counsel to the Committee. The Debtors shall continue to maintain accurate, current, and detailed records with respect to all transfers of cash so that Intercompany Transactions with non-Debtor affiliates may be readily ascertained, traced, and recorded properly on applicable intercompany accounts. The Debtors shall make such records available upon request by (i) the U.S. Trustee, (ii) counsel to the DIP Lender, (iii) counsel to Prepetition Lender, and (iv) counsel to the Committee. The Debtors shall provide, on a monthly basis, a report summarizing all Intercompany Claims between the Debtors and non-Debtor affiliates to: (i) the U.S. Trustee, (ii) counsel to the DIP Lender, (iii) counsel to Prepetition Lender, and (iv) counsel to the Committee. The Debtors shall provide a copy of such report within thirty (30) days after each calendar month, beginning with the period from January 31, 2023 through February 28, 2023, which shall be due on April 15, 2023.

14. Notwithstanding anything herein to the contrary, absent further order of the Court, the Debtors are not authorized to satisfy any obligation, including credits, that became due and owing by a Debtor to a non-Debtor affiliate or insider prior to the Petition Date without prior notice

to, among others, the Committee, and obtaining Court approval; *provided, however*, that the foregoing sentence does not apply to the extent that any such obligation was satisfied prior to entry of this Final Order and authorized pursuant to the terms of the Interim Order.³ The Interim Order shall govern any such obligations (if any) satisfied pursuant to the Interim Order. For the avoidance of doubt, nothing within this paragraph modifies, limits, or otherwise impairs the rights and obligations of the Debtors and any non-Debtor affiliate or insider under the Bankruptcy Code, including, without limitation, after notice and hearing (to the extent required by the Bankruptcy Code), rights and obligations under sections 363, 364, 365, 502, and 553. To the extent the Debtors receive payments on account of a non-Debtor affiliates' accounts receivable in their lockbox accounts, the Debtors are authorized, but not directed, to wire such funds to the appropriate non-Debtor affiliate after 3 business days' prior written notice to: (i) the U.S. Trustee, (ii) counsel to the DIP Lender, (iii) counsel to Prepetition Lender, and (iv) counsel to the Committee. For the avoidance of doubt, such funds, to the extent validly and properly constituting the property of such non-Debtor affiliate, shall not be considered property of the Debtors' estates nor disbursements for purposes of calculating quarterly fees under 28 U.S.C. § 1930(a)(6).

15. Subject to paragraph 28 below, pursuant to section 503(b)(1) of the Bankruptcy Code, all postpetition payments on account of any Intercompany Transaction made by a Debtor to another Debtor, shall in each case be accorded administrative expense status, except to the extent such Intercompany Transactions are on account of antecedent debts (including with respect to "netting" or setoffs), and the priority of any claims on account of such Intercompany Transactions shall be subject to the DIP Order (as defined below) and the priorities set forth therein.

³ *Interim Order (I) Authorizing the Debtors to (A) Continue to Operate their Cash management System and Maintain Existing Bank Accounts, (B) Continue to Perform Intercompany Transactions, (C) Maintain Existing Business Forms and Books and Records, and (II) Granting Related Relief*, at Docket No. 41 (the "Interim Order").

Notwithstanding the foregoing or any other provision in this Final Order, the Committee reserves the right and shall not be limited or prejudiced by the terms of this Final Order to challenge the treatment of any Intercompany Transactions and/or Intercompany Claims arising from postpetition transactions, including without limitation, the administrative claim status of any Intercompany Transaction or Intercompany Claim.

16. For the avoidance of doubt, the relief granted in this Final Order with respect to the postpetition Intercompany Transactions, Intercompany Claims and the balances resulting therefrom shall not constitute a finding as to the validity, priority, amount or status of any prepetition Intercompany Claim or any Intercompany Transaction from which such Intercompany Claim may have arisen, and the Debtors and the Committee expressly reserve any and all rights and shall not be prejudiced or limited with regard to the validity, priority, amount or status of any prepetition Intercompany Claim or any Intercompany Transaction from which such Intercompany Balance may have arisen. The Debtors and Committee also expressly reserve any and all rights to contest the validity, priority, or status of any prepetition Intercompany Claim or any Intercompany Transaction from which such Intercompany Claim may have arisen.

17. The Debtors will not be required to establish separate bank accounts for cash collateral and/or tax payments.

18. Except as otherwise set forth herein, the Debtors and the Cash Management Banks may, without further order of the Court, agree and implement changes to the Cash Management Banks' policies and procedures related to the Cash Management System in the ordinary course of business; *provided* that the Debtors or the Cash Management Banks shall provide reasonable prior written notice to (i) the U.S. Trustee, (ii) counsel to the DIP Lender, (iii) counsel to Prepetition Lender, and (iv) counsel to the Committee.

19. The Debtors are authorized to open new bank accounts so long as (a) any such new account is with one of the Debtors' existing Cash Management Banks or with a bank that (i) is insured with the FDIC or the Federal Savings and Loan Insurance Corporation, (ii) is designated as an authorized depository by the U.S. Trustee, and (iii) agrees to be bound by the terms of this Final Order, and (b) the Debtors provide reasonable prior written notice to (i) the U.S. Trustee, (ii) counsel to the DIP Lender, (iii) counsel to Prepetition Lender, and (iv) counsel to the Committee; *provided* that all accounts opened by any of the Debtors on or after the Petition Date at any bank shall, for purposes of this Final Order, be deemed a Bank Account as if it had been listed on **Exhibit A** attached to this Final Order.

20. The relief granted in this Final Order is extended to any new bank account opened by the Debtors after the date hereof, which account shall be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be deemed a Cash Management Bank. The Debtors shall provide notice of the opening of a new bank account in accordance with paragraph 19 of this Final Order.

21. The Debtors are authorized, in the ordinary course of business, to enter into any ancillary agreements, including new deposit control agreements (each, an "Ancillary Agreement"), related to the Bank Accounts as they may deem necessary and appropriate. Within fifteen (15) days after entering into any Ancillary Agreement that impacts the Debtors' businesses or otherwise involves over \$100,000, the Debtors shall provide the Committee with a copy of such Ancillary Agreement.

22. Notwithstanding any other provision of this Final Order, should a Cash Management Bank honor a prepetition check or other item drawn on any account that is the subject of this Final Order (a) at the direction of the Debtors to honor such prepetition check or item,

including the Debtors' failure to stop payment on any such check or item, (b) in a good faith belief that the Court has authorized such prepetition check or item to be honored, or (c) as the result of an innocent mistake made despite implementation of customary item handling procedures, the Cash Management Bank shall not be deemed to be nor shall be liable to the Debtors or their estates or otherwise be in violation of this Final Order. Without limiting the foregoing, any of the Cash Management Banks may rely on the representations of the Debtors with respect to whether any check or other payment order drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to this or any other order of the Court, and such Cash Management Bank shall not have any liability to any party for relying on such representations by the Debtors as provided for herein. Any banks, including the Cash Management Banks, are authorized, subject to applicable deposit, cash management, and treasury services agreements, to honor the Debtors' instructions to accept or hold funds. Notwithstanding the above, the Debtors shall not authorize any Cash Management Banks to honor prepetition checks or other item drawn on the Debtors' Bank Accounts that is made payable to any non-Debtor affiliate or insider of the Debtors that is not expressly authorized by this Final Order.

23. Except with respect to payment of obligations owed to non-Debtor affiliates or insiders of the Debtors to the extent not expressly authorized by this Final Order, the Debtors are authorized, but not directed, to issue postpetition checks or to effect postpetition fund transfer requests in replacement of any checks or fund transfer requests that are dishonored as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection with the relief granted herein.

24. Nothing contained herein shall prevent the Debtors from closing any Bank Accounts as they may deem necessary and appropriate, to the extent consistent with any orders of

this Court relating thereto, any relevant bank is authorized to honor the Debtors' requests to close such Bank Accounts, and the Debtors shall provide reasonable prior written notice of the closure of any account to: (i) the U.S. Trustee, (ii) counsel to the proposed DIP Lender, (iii) counsel to Prepetition Lender, and (iv) counsel to the Committee.

25. Notwithstanding entry of this Final Order, nothing herein shall create, or is intended to (a) create, any rights in favor of or enhance the status of any claim held by any party or (b) alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date.

26. Notwithstanding anything else contained herein, (a) any relief granted herein, including any payment to be made or authorization contained hereunder, shall be subject in all respects to the terms and conditions of, including all requirements imposed upon the Debtors under, any interim or final order of the Court in these chapter 11 cases approving the postpetition secured financing facility and authorizing the use of cash collateral (as may be modified, amended or supplemented, the "DIP Orders") (including, without limitation, the budget required in connection therewith)) the DIP Term Sheet, and the DIP Documents (each as defined in the DIP Orders) approved therein and (b) to the extent there is any inconsistency between the terms and conditions of such DIP Orders or DIP Documents and any action taken or proposed to be taken hereunder, the terms and conditions of such DIP Orders, the DIP Term Sheet, or DIP Documents shall control.

27. All time periods set forth in this Final Order shall be calculated in accordance with Bankruptcy Rule 9006(a).

28. Notwithstanding any provision in this Final Order to the contrary, any the relief granted herein and any actions taken pursuant to such relief, including without limitation relating

to Intercompany Transactions and Intercompany Claims, nothing in this Final Order shall be:

- (a) an admission by any party in interest as to the amount of, basis for, priority or validity of any claim against a Debtor entity under the Bankruptcy Code or other applicable nonbankruptcy law;
- (b) a waiver of the Debtors' or any other party in interest's right to dispute and object to any claim on any grounds;
- (c) a promise or requirement to pay any claim;
- (d) an implication, admission or approval that any particular claim is of a type specified or defined in the Motion, otherwise in this Final Order or any order granting the relief requested by the Motion or a finding that any particular claim is an allowed administrative expense claim or other priority claim and all parties' rights to challenge or otherwise dispute such purported administrative or priority claim is expressly reserved for all purposes;
- (e) a request or authorization to assume, adopt, approve, or reject any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code;
- (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates;
- (g) a waiver or limitation of the Debtors', or any other party in interest's, rights under the Bankruptcy Code or any other applicable law;
- (h) a concession by the Debtors or any party in interest that any liens (contractual, common law, statutory, or otherwise) that may be satisfied pursuant to the relief requested in the Motion are valid, and the rights of all parties in interest are expressly reserved to contest the extent, validity, or perfection or seek avoidance of all such liens;
- (i) deemed to alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date or that arises after the Petition Date;
- (j) deemed to create, any rights in favor of or enhance the status of any claim held by any party; or
- (k) deemed to impact or prejudice the ability of any party to challenge, avoid, unwind, recharacterize, subordinate or assert any claims or causes of action whatsoever relating directly or indirectly to any Intercompany Transactions and Intercompany

Claims, including without limitation, the Shared Services Agreement, TSA and leases with non-debtor affiliates and insiders of the Debtors.

29. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

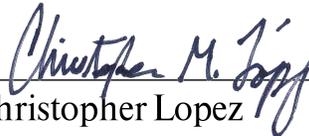
30. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Bankruptcy Local Rules are satisfied by such notice.

31. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Final Order are immediately effective and enforceable upon its entry.

32. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Final Order in accordance with the Motion.

33. This Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Final Order.

Signed: March 27, 2023



Christopher Lopez
United States Bankruptcy Judge

Exhibit A**Bank Accounts**

Bank	Debtor Entity Name	Account Number	Account Designation
Bank of America	IEH Auto Parts LLC	3495	Concentration Account
Bank of America	IEH Auto Parts LLC	0909	ZBA for Credit Card Fees
Bank of America	IEH Auto Parts LLC	0454	ZBA Credit Card Merchant Account
Bank of America	IEH Auto Parts LLC	1076	ZBA Store Cash Deposits
Bank of America	IEH Auto Parts LLC	1576	ZBA Lockbox Account
Bank of America	IEH Auto Parts LLC	6233	ZBA Disbursement Operating Account for ACH
Bank of America	IEH Auto Parts LLC	6246	ZBA Disbursement Operating Account for Auto Debit Out
Bank of America	IEH Auto Parts LLC	9322	ZBA Disbursement Operating Account for Checks
Signature Bank	AP Acquisition Company Clark LLC	3495	Checking Account
Wells Fargo Bank, N.A.	IEH Auto Parts LLC	1148	Store Deposits with Manual Sweep
Regions Bank, N.A.	IEH Auto Parts LLC	1094	Store Deposits with Manual Sweep
Truist Bank	IEH Auto Parts Holding LLC/DBA IEH AIM LLC	6445	Utility Adequate Assurance Account
Truist Bank	IEH Auto Parts Holding LLC/DBA IEH AIM LLC	6437	Rebate (AIM) (Checking Account)