

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI

IN RE: EXPRESS GRAIN TERMINALS, LLC¹
Debtor

CHAPTER 11
CASE NO. 21-11832-SDM

PLAN OF LIQUIDATION

Unless otherwise defined, the capitalized terms contained in this Plan of Liquidation (the “Plan”) shall have the same meanings as described in the Disclosure Statement. All capitalized terms used in the Plan not defined herein or in the Disclosure Statement, but which are defined in the Bankruptcy Code, shall have the respective meanings ascribed in the Bankruptcy Code. All capitalized terms used but not defined in the Plan, in the Disclosure Statement or in the Bankruptcy Code shall have the respective meanings ascribed in the Bankruptcy Rules.

ARTICLE I

CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

The Plan divides the claims against and interests in the Debtor into various classes pursuant to Bankruptcy Code Section 1122. Set forth below is a description of the general classes of claims against and interests in the Debtor and their treatment under the Plan. A claim or interest is classified in a particular class only to the extent that the claim or interest qualifies within the description of the class and is classified in a different class to the extent that the claim or interest qualifies within the description of that different class.

The Debtor classifies Claims in the following Classes:

Class 1: Administrative Claims

Class 2: Priority Claims

¹Jointly administered with *In re Express Biodiesel, LLC*, Case No. 21-11834-SDM and *In re Express Processing, LLC*, Case No. 21-11835-SDM.

- Class 3: Secured Claims of Bank of the West (“BOTW”)**
- Class 4: Secured Claims of BankPlus (“BankPlus”)**
- Class 5: Secured Claims of CAT Financial (“CAT”)**
- Class 6: Secured Claims of CAT Financial (“CAT”)**
- Class 7: Secured Claims of Chase Auto (“Chase”)**
- Class 8: Purported Secured Claims of Scott Financial Services (“Scott”)**
- Class 9: Secured Claims of UMB Bank, N.A. (“UMB”)**
- Class 10: Unsecured Convenience Creditors**
- Class 11: General Unsecured Creditors**
- Class 12: Equity Security Interest**

ARTICLE II

TREATMENT OF CLAIMS AND INTERESTS

The Claims as classified in Article I shall be satisfied as follows:

Class 1: Administrative Claims

This Class consists of the administrative expenses and claims of professionals and of the United States Trustee under § 503(b) of the Bankruptcy Code and all fees and charges assessed against the Debtor under Title 28 of the United States Code. The compensation of professionals, such as attorneys and accountants, is subject to approval by the Court. The timing of payment to such professionals for compensation for services rendered and reimbursement of expenses will be made as authorized and allowed by the Court. The Court will review all requests for compensation and reimbursement of expenses.

All Class 1 expenses and claims for fees will be paid as provided for in future Court Orders, or as may be agreed upon, except that fees due to the Office of the United States Trustee will be paid as and when due until this Case is closed, converted or dismissed.

Currently, there is not enough cash to pay for the administrative expense claims in full. Payment in full of those claims, especially when considering that substantial cash held by counsel for the Debtor has been carved out and earmarked only for payment of certain claims, and that there are likely a number of administrative expense claims which have not yet been filed and which are not yet known, is not yet firm or a sure thing. Accordingly, the Debtor must provide that allowed administrative expense claims will not necessarily be paid in full, in cash, at confirmation, but will be paid as and when cash is available to pay them.

Class 2: Priority Claims

Priority claims will be paid within sixty (60) months from the Effective Date of the Plan, in equal monthly installments of principal and statutory interest so as to fully pay the priority claims over the sixty (60) month amortization period.

Currently, there is probably not enough cash to pay for the priority claims in full. Payment in full of those claims, especially when considering that substantial cash held by counsel for the Debtor has been carved out and earmarked only for payment of certain claims, there are likely a number of priority claims which have not yet been filed and which are not yet known. Accordingly, the Debtor must provide that allowed priority claims will not necessarily be paid in full, in cash, at confirmation, but will be paid as and when cash is available to pay them.

Class 3: Secured Claims of Bank of the West (“BOTW”)

The Secured Claims of BOTW were secured by a JLG1500SJ4XD8 Articulated Boom Lift. BOTW credit bid on the boom lift at the auction of substantially all of the Debtor’s assets and was

the highest and best bid in connection with the boom lift. An *Agreed Order* [DK #2219] was entered authorizing the sale of the boom lift to BOTW, so its Secured Claims have been paid in full.

Class 4: Secured Claims of BankPlus (“BankPlus”)

The Secured Claims of BankPlus were secured by a 2019 Dodge Ram 1500. An *Agreed Order* [DK #2690] was entered lifting the stay on the vehicle and authorizing BankPlus to foreclose on its collateral, so its Secured Claims have been paid in full.

Class 5: Secured Claims of CAT Financial (“CAT”)

The Secured Claims of CAT were secured by a Caterpillar TL 1055 Telehandler. CAT credit bid on the telehandler at the auction of substantially all of the Debtor’s assets and was the highest and best bid in connection with the telehandler. An *Agreed Order* [DK #2907] was entered authorizing the sale of the telehandler to CAT, so its Secured Claims have been paid in full.

Class 6: Secured Claims of CAT Financial (“CAT”)

The Secured Claims of CAT were secured by a CAT 926M Small Wheel Loader. CAT credit bid on the wheel loader at the auction of substantially all of the Debtor’s assets but the highest and best bid in connection with the telehandler was submitted by Roebuck Landing Grain Terminal, LLC (“Roebuck”). An *Agreed Order* [DK #2218] was entered authorizing the sale of the wheel loader to Roebuck, so the Secured Claims of CAT have been paid in full.

Class 7: Secured Claims of Chase Auto (“Chase”)

The Secured Claims of Chase were secured by a 2019 Chevrolet Silverado. An *Agreed Order* [DK #2636] was entered authorizing the Debtor to sell the truck for at least \$24,000, or Chase would repossess the truck. The truck was sold, so the Secured Claims of Chase have been paid in full.

Class 8: Purported Secured Claims of Scott Financial Services (“Scott”)

Apparently, the purported Secured Claims of Scott were not secured by a 2015 Tadano Crane, and the crane has been sold. Scott’s claim is not secured.

Class 9: Secured Claims of UMB Bank, N.A. (“UMB”)

UMB asserts liens on various proceeds (as outlined in the Settlement Order and the 9019 motion and related papers). There may also be certain assets that are subject to the UMB lien that were not sold as part of the Sale Motion and Sale Order. The Debtor will continue to liquidate those assets, and pay such funds as to which UMB is entitled on or before the Effective Date of the Plan and thereafter as funds become available and are not used otherwise.

Class 10: Unsecured Convenience Creditors

Unsecured claims totaling less than \$2,500 will be paid in full, in cash, upon the Effective Date at the rate of 15% of the allowed amount of those claims. The 15% payment will be in full satisfaction of those claims.

Class 11: General Unsecured Creditors

Unsecured creditors in this case will receive, upon the final distribution in this case, all remaining cash which has not been used to pay prior Classes.

Class 12: Equity Security Interest

The equity security interests will be cancelled, terminated and held for naught upon the Effective Date of the Plan.

ARTICLE III

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Unless expressly assumed or rejected, all remaining executory contracts and unexpired leases shall be deemed rejected as of the Effective Date. Claims, if any, arising from the rejection of

executory contracts or unexpired leases shall be filed with the Bankruptcy Court and served upon the Proponents on or before the date set forth in the Order Approving the Disclosure Statement or such claims will be released and forever barred.

ARTICLE IV

CLOSING DATE

The Closing Date shall be the Effective Date. The Effective Date of the Plan shall be sixty (60) days after the order confirming the Plan becomes final and non-appealable.

ARTICLE V

MEANS FOR EXECUTION OF THE PLAN

A. The Liquidating Trust

As specified in more detail in Article VII herein, the Plan will establish the Express Grain Liquidating Trust for the purpose of receiving and liquidating the Debtor, its property and assets, and distributing funds to holders of claims and interests. On the Effective Date, all property and assets of the Debtor and the Debtor's estate shall constitute trust assets, specifically including all of the Debtor's claims and causes of action retained pursuant to § 1123(b)(3)(B) of the Bankruptcy Code, and shall, without further action on the part of any party be deemed: (a) to be merged with and into the pool of property and assets constituting the trust assets; and (b) to be transferred to and vested in the Liquidating Trust free and clear of all liens, encumbrances, claims and interests, except for those claims and interests specifically provided for under the Plan or the Confirmation Order.

B. The Liquidating Trustee

The Debtor has selected Heather Williams, of CR3, as the Liquidating Trustee.

C. Dissolution of the Debtor

On the Effective Date, (a) all existing equity shall, without further act or action by any party, be cancelled, annulled and extinguished, and any certificates representing such cancelled, annulled and extinguished equity shall be null and void, except as set forth in Article IV; and (b) the Debtor shall be deemed dissolved. As soon following the Effective Date as practicable, on behalf of the Debtor, the Liquidating Trustee shall (i) execute and file, or cause to be executed and filed, such articles or certificates of dissolution, and such other documents as are necessary to effect, complete or evidence the dissolution (of the Debtor/Liquidating Trust) under the applicable laws of the State of Mississippi, and (ii) file any required, final federal, state and local tax returns, and take such other action as shall be necessary or appropriate to effect a final determination of any amounts of federal, state or local taxes owed by the Debtor.

D. Discharge of Officers and Directors

On the Effective Date, any then-currently serving directors, officers, managers or other members of any governing body of the Debtor will be discharged and removed from any office, directorship, position as manager or member or other position held by any such person with the Debtor, and will be relieved of any further duties or obligations with respect to the Debtor, except as specifically provided in the Plan.

E. Effectuating Documents and Further Transactions

The Liquidating Trustee will be authorized to execute, deliver, file and record such contracts, instruments, assignments, conveyances, bills of sale, releases, indentures, certificates and any other agreement or document and take such action reasonably necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan, without the need for further action by the board of directors or other managing body of the Debtor.

F. Exempt from Transfer Taxes

Pursuant to § 1146(c) of the Bankruptcy Code, the issuance, transfer or exchange of a security, or the making or delivery of an instrument of transfer under the Plan will not be taxed under any law imposing a stamp tax or other similar tax.

G. Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, all entities who have held, hold or may hold claims against or interests in the Debtor, are permanently enjoined, on and after the Effective Date, from (a) commencing or continuing in any manner any action or proceeding of any kind with respect to any such claim or interest, (b) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against the Debtor on account of any such claim or interest, (c) creating, perfecting or enforcing any encumbrance of any kind against the Debtor or against property or interests of the Debtor on account of such claim or interest, and (d) asserting any right of setoff, subrogation or recoupment of any kind against the Debtor on account of any such claim or interest. Such injunction shall extend to successors of the Debtor (including, without limitation, the Liquidating Trust) and their respective properties or interests in property.

H. Preservation of Causes of Action

Except as provided in the Plan, as of the Effective Date, pursuant to § 1123(b)(3)(B) of the Bankruptcy Code, any and all claims and causes of action accruing to the Debtor and the Debtor-in-possession, including, without limitation, all avoidance actions described in Chapter 5 of the Bankruptcy Code, will become trust assets, and the Liquidating Trust, as the duly appointed representative of the Debtor's estate for the purpose of retention and enforcement of such claims and causes of action, will have the authority to prosecute, compromise and settle, otherwise resolve,

discontinue, abandon or dismiss all such claims and causes of action without approval of the Bankruptcy Court, for the benefit of the Debtor's estate and the Liquidating Trust's beneficiaries.

ARTICLE VI

RATIFICATION OF THE PLAN

Alterations or modifications of the Plan may be approved by the Court without notice to creditors if the Court finds that such alterations or modifications do not materially or adversely affect the interests of the creditors. If any alterations or modifications of the Plan are proposed which Court finds to materially or adversely effect the interest of creditors, notice and description of such alteration of modification shall be given to all Creditors adversely affected.

ARTICLE VII

INVALIDATION OF LIENS

All liens securing claims which are not Allowed pursuant to the provisions of the Plan or Bankruptcy Code Sections 502 and 506 shall be invalidated and deemed null and void and of no further force and effect. The provisions of the confirmed Plan shall bind all creditors and parties-in-interest, whether or not they accept the Plan and shall discharge the Debtor from all claims that arose prior to Confirmation. The distributions provided under the Plan shall be in exchange for and in complete satisfaction of all claims and interests regarding any of the Debtor's assets or properties, including claims arising after the date of filing of the Petition and prior to Confirmation. Unless otherwise specifically provided to the contrary herein or in the Confirmation Order, on or after Confirmation, all holders of claims or interests shall be precluded from asserting any claim against the Debtor or its assets or properties.

The Debtor may close this Chapter 11 case prior to creditor distributions.

ARTICLE VIII

REVESTING OF PROPERTY

Except as otherwise provided herein, property of the Debtor shall revert in the Reorganized Debtor, then the Liquidating Trustee on the Effective Date. Subsequent to the Effective Date, the Liquidating Trustee may buy, use, acquire, and dispose of property, free of any restrictions contained in the Bankruptcy Code.

ARTICLE IX

UNITED STATES TRUSTEE'S REPORTS & FEES

The Debtor's proposed Plan, pursuant to 28 U.S.C. § 1930(a)(6), provides payment to the United States Trustee of the appropriate sums required for all disbursements made by the Debtor during the Chapter 11 proceeding. In addition, the proposed Plan provides that the Debtor will make payments to the United States Trustee of the appropriate sums required for all disbursements made by the Debtor pursuant to the terms of the proposed Plan, including the payment of post-confirmation quarterly fees as required by 11 U.S.C. § 1129(a)(12) until such time as this case is converted, dismissed or closed by the Court. Additionally, the Debtor shall submit to the U.S. Trustee post-confirmation monthly operating reports in the format prescribed by the U.S. Trustee until such time as this case is converted, dismissed or closed by the Court.

ARTICLE X

JURISDICTION OF THE COURT

Subsequent to Confirmation of the Plan (including after the Chapter 11 Case has been closed), the Court shall have jurisdiction of all matters arising out of, and related to, the Chapter 11 Case and the Plan for, inter alia, the following purposes:

1. To determine any and all proceedings involving the allowance, estimation, classification, priority, payment or subordination of claims or interests;
2. To determine and all applications or motion for allowances of compensation and reimbursement of necessary expenses and any other fees and expenses authorized to be paid or reimbursed under the Bankruptcy Code;
3. To determine any and all applications or motions pending on the Effective Date for the rejection or assumption of executory contracts or unexpired leases or for the assumption and assignment, as the case may be, of executory contracts or unexpired leases to which the Debtor is a party or which the Debtor may be liable, and to hear and determine, and if need be, liquidate, any and all claims arising therefrom including the determination of defaults required to be cured;
4. To determine any and all applications, adversary proceedings and contested or litigated matters initiated or asserted by the Debtor on or prior to the Effective Date and initiated or asserted by the Liquidating Trustee subsequent to the Effective Date and arising under Chapter 11 of the Bankruptcy Code or arising in or related to the Debtor's Chapter 11 Case, including but not limited to, (i) causes of action and other claims to avoid or recover transfers of the Debtor's property, including, but not limited to, all avoidance actions under Chapter 5 of the Bankruptcy Code and actions pursuant to applicable state law, (ii) all claims and causes of action arising from pre-petition activities of the Debtor, whether arising by statute or common law, whether arising under the laws of the United States, Mississippi or any other state having jurisdiction over any claim or controversy, and whether maintainable against third

- parties, affiliates or insiders of the Debtor, and (iii) claims, causes of action and other litigation that may adversely impact or affect the Liquidating Trust's property;
5. To issue orders, determinations and rulings regarding the valuation, recovery, disposition, distribution, operation or use of the Debtor's property, including claims to recover preferences, fraudulent conveyances or damages of any type from any person and whether initiated before or after the Effective Date;
 6. To consider any modifications to the Plan, remedy any defect or omission or reconcile any inconsistency in any order of the Bankruptcy Court, including the Confirmation Order;
 7. To determine all controversies, suits and disputes that may arise in connection with the interpretation, enforcement, implementation or consummation of the Plan or any person's obligation and responsibilities thereunder;
 8. To consider and act on the compromise and settlement of any claim against or claim or cause of action by or against the Debtor or the Liquidating Trust;
 9. To issue such orders in aid of execution of the Plan to the extent authorized by 11 U.S.C. § 1142;
 10. To enter a final decree closing the Debtor's Chapter 11 Case;
 11. To recover all assets of the Debtor, wherever located;
 12. To determine matters concerning state, local and federal taxes in accordance with §§ 346, 546 and 1146 of the Bankruptcy Code; and
 13. To determine all matters (including regulatory matters) relating to the Liquidating Trust.

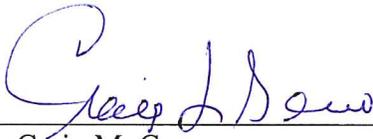
THIS, the 15th day of August, 2022.

Respectfully submitted,

EXPRESS GRAIN TERMINALS, LLC

By Its Attorneys

LAW OFFICES OF CRAIG M. GENO, PLLC

By: 
Craig M. Geno

OF COUNSEL:

Craig M. Geno; MSB No. 4793
LAW OFFICES OF CRAIG M. GENO, PLLC
587 Highland Colony Parkway
Ridgeland, MS 39157
601-427-0048 - Telephone
601-427-0050 - Facsimile
cmgeno@cmgenolaw.com

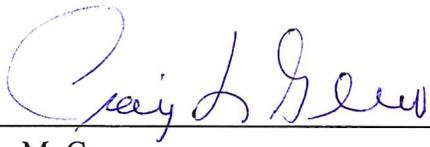
N:\Firm Data\Users\Bankrupt\Express Grain Terminals, LLC\Plan, DS\Plan 8-10-22.wpd

CERTIFICATE OF SERVICE

I, Craig M. Geno, do hereby certify that I have caused to be served this date, via electronic filing transmission, a true and correct copy of the above and foregoing to the following:

Abigail M. Marbury, Esq.
abigail.m.marbury@usdoj.gov

THIS, the 15th day of August, 2022.


Craig M. Geno