UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
FORMAN HOLT 365 West Passaic Street, Suite 400 Rochelle Park, NJ 07662 Telephone: (201) 845-1000 Facsimile: (201) 655-6650 Michael E. Holt mholt@formanlaw.com Counsel for Charles M. Forman, Plan Administrator	
In Re: CTE 1 LLC, *(d/b/a Lexus of Englewood)* Debtor.	Chapter 11 Case No. 19-30256 (VFP)
CHARLES M. FORMAN, in his capacity as PLAN ADMINISTRATOR FOR CTE 1 LLC, Plaintiff, - v – PSE&G Defendant.	Adv. Pro. No. 21-

COMPLAINT TO AVOID AND RECOVER TRANSFERS OF PROPERTY PURSUANT TO 11 U.S.C. §§ 547, 548 AND 550

Charles M. Forman, in his capacity as Plan Administrator for CTE 1 LLC, the plaintiff herein (the "Plaintiff"), by and through his attorneys Forman Holt, files this complaint (the "Complaint") to avoid and recover transfers against PSE&G (the "Defendant"), and to disallow any claims held by the Defendant. In support of the Complaint, the Plaintiff states and alleges up information and belief that:

NATURE OF THE ACTION

1. The Plaintiff seeks to avoid and recover from the Defendant all preferential transfers of property that were made to or for the benefit of the Defendant during the ninety (90)

day period prior to the commencement of the Debtor's bankruptcy case. Specifically, the Plaintiff seeks entry of a judgment against the Defendant: (1) pursuant to section 547(b) of title 11 of the United States Code (the "Bankruptcy Code") avoiding the Transfers (as defined herein) during the Preference Period (as defined herein); (2) pursuant to section 550(a) of the Bankruptcy Code, directing the Defendant to pay the Plaintiff an amount to be determined at trial that is not less than the amount of the Transfers (as defined herein), plus interest and costs; and (3) pursuant to section 502(d) and (j) of the Bankruptcy Code, disallowing any claim of the Defendant against the Debtor until the Defendant pays in full the amount determined.

2. Plaintiff does not waive, but hereby reserves all of his rights to object to any claim filed or scheduled relating to the Defendant for any reason, including, but not limited to, any reason set forth in sections 502(a) through (j) of the Bankruptcy Code.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334.

4. This adversary proceeding is a "core" proceeding pursuant to 28 U.S.C. § 157(b)(2)(B), (F) and (H). Pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), Plaintiff confirms its consent to the entry of a final order or judgment by the Court in connection with this Complaint to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

5. Venue in this District is proper pursuant to 28 U.S.C. § 1409(a).

6. This Court has personal jurisdiction over the Defendant pursuant to Rule 7004 of the Bankruptcy Rules, and because the Defendant transacted and did business with the Debtor prior to the Petition Date (as defined herein).

7. The statutory and legal predicates for the relief sought herein are sections 544, 547, 550, and 551 of the Bankruptcy Code, N.J.S.A. 25:2-25, *et seq.*, and Rules 3007 and 7001 of the Bankruptcy Rules.

PARTIES

8. Charles M. Forman, the Plaintiff herein, is the duly appointed Plan Administrator for the Debtor.

9. Upon information and belief, the Defendant is a utility company with an address of 80 Park Place, Newark, NJ 07102.

BACKGROUND

10. On October 27, 2019 (the "Petition Date"), the Debtor filed a voluntary petition with this Court for relief under chapter 11 of the Bankruptcy Code, commencing the above-captioned bankruptcy case (the "Bankruptcy Case") in the United States Bankruptcy Court for the District of New Jersey. Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtor operated its business and managed its properties as a debtor-in-possession.

11. As of the Petition Date and continuing post-petition through the sale of the Debtor's assets, which closed on February 28, 2020, the Debtor owned and operated an automotive dealership known as Lexus of Englewood. The Debtor sold, serviced, and provided new and used motor vehicle products to its customers.

12. On November 24, 2020, an order [Dkt. 570] (the "Confirmation Order") confirming the Official Committee of Unsecured Creditors' third amended combined disclosure statement and plan of liquidation (as may be modified, the "Plan"), was entered by the Honorable Vincent F. Papalia, United States Bankruptcy Judge, and docketed by the Clerk of the United States Bankruptcy Court for the District of New Jersey. The Plan became effective on March 31, 2021. [Dkt. 638].

13. The Plaintiff, who previously served as the Independent Manager of the Debtor, was appointed as Plan Administrator, pursuant to Article VIII through X of the Plan, to liquidate and wind down the Debtor's estate. *See* Plan at Article VIII; *see also* Plan Administrator Agreement at Article V. The rights and duties of the Plaintiff are governed by the Confirmation Order, Plan and Plan Administrator Agreement.

FACTS GIVING RISE TO PLAINTIFF'S CLAIMS

14. The Plaintiff has completed an analysis of all readily available information of the Debtor and is seeking to avoid all of the transfers of an interest of the Debtor's property made by the Debtor to the Defendant on or within ninety (90) days prior to the Petition Date, that is between July 29, 2019 and October 27, 2019 (the "Preference Period").

15. The Plaintiff has determined that the Debtor made transfers of an interest in its property to or for the benefit of the Defendant during the Preference Period totaling not less than the amounts set for in **Exhibit A**, attached hereto, (the "Transfers") or $40,732.62 in the aggregate. The details of the Transfers are set forth in **Exhibit A** attached hereto and incorporated by reference herein.

16. **Exhibit A** reflects the Plaintiff's present knowledge as to the Transfers made to the Defendant by the Debtor during the Preference Period. During the course of this proceeding, the Plaintiff may learn (through discovery or otherwise) of additional Transfers made by the Debtor to the Defendant during the Preference Period. By virtue of the Complaint, Plaintiff is seeking to avoid and recover all Transfers made by the Debtor during the Preference Period, whether such Transfers are reflected on **Exhibit A** or not. The Plaintiff reserves the right to amend or supplement this original Complaint to include: (i) further information regarding the Transfers; (ii) additional transfers; (iii) modifications of and/or revision to the Defendant's names; (iv) additional defendants; and/or (v) additional causes of action, if applicable (collectively, the "Amendments"),

that may become known to the Plaintiff at any time during this adversary proceeding, through formal discovery or otherwise, and for the Amendments to relate back to this original Complaint.

17. On or about September 17, 2021, Plaintiff, through his counsel, sent a demand letter (the "Demand Letter") to the Defendant, seeking a return of the Transfer(s). The Demand Letter indicated the potential statutory defenses available to the Defendant pursuant to 11 U.S.C. § 547(c) and requested that if the Defendant had evidence to support any affirmative defenses, it provide any such evidence to Plaintiff could review the same. Plaintiff has also performed its own due diligence evaluation of the reasonably known affirmative defenses available to the Defendant.

18. Based upon Plaintiff's review of the information, if any, provided by the Defendant prior to filing this Complaint, and after performing its own due diligence evaluation of the reasonably known affirmative defenses to avoidance to the Transfer(s), Plaintiff has determined that Plaintiff may avoid some or all of the Transfer(s) even after taking into account the Defendant's alleged affirmative defenses, if any.

CLAIMS FOR RELIEF

COUNT I

(Avoidance of Preferential Transfers – 11 U.S.C. §§ 547(b), 550, and 551)

19. The Plaintiff realleges and incorporates all preceding paragraphs as if fully set forth at length herein.

20. Section 547(b) of the Bankruptcy Code empowers the trustee or debtor-in-possession, for the benefit of the estate, to avoid a transfer to or for the benefit of a creditor if the requirements set forth therein are met.

21. Pursuant to section 547(b) of the Bankruptcy Code, the Plaintiff may avoid any transfer of an interest of the Debtor in property (a) to of for the benefit of a creditor, (b) for or on account of an antecedent debt owed by the Debtor before such transfer was made, (c) made while

the Debtor was insolvent, (d) made on or within ninety (90) days, or in certain circumstances not applicable here on or within one (1) year, before the filing of the petition, and (e) that enables such creditor to receive more in satisfaction of its claim than it would receive in a case under chapter 7 of the Bankruptcy Code if the transfer has not been made and the creditor had received payment of such debt to the extent provided by the provisions of the Bankruptcy Code.

22. During the Preference Period and as more particularly described in **Exhibit A**, the Debtor made the Transfers to or for the benefit of the Defendant in an aggregate amount not less than the amount set forth in **Exhibit A** hereto.

23. The Debtor was insolvent, and pursuant to section 547(f) of the Bankruptcy Code, is presumed insolvent, during the ninety (90) day period prior to the Petition Date, and on the dates on which it made each Transfer to the Defendant.

24. Each of the Transfers was made from the Debtor, and constituted transfers of an interest of the Debtor's property.

25. The Defendant was a creditor of the Debtor at the time of each Transfer by virtue of supplying services and/or goods for which the Debtor was obligated to pay or by virtue of otherwise holding a debt owed by the Debtor.

26. Each Transfer was to or for the benefit of a creditor within the meaning of section 547(b)(1) of the Bankruptcy Code because each Transfer either reduced or fully satisfied a debt or debts then owed by the Debtor to the Defendant, as set forth in **Exhibit A**.

27. Each Transfer was made on account of antecedent debts owed by the Debtor to the Defendant. The antecedent nature of the debt is evidenced by the documents supporting the Transfers as set forth in **Exhibit A** hereto.

28. As a result of each Transfer, the Defendant received more on their antecedent debts than they would have received if (a) the Transfer(s) had not been made, (b) the Debtor's

bankruptcy case was a case under chapter 7 of the Bankruptcy Code, and (c) the Defendant received payment of their antecedent debt to the extent provided by the provisions of the Bankruptcy Code. As evidenced by the Bankruptcy Case, the proofs of claim that were filed against the Debtor, the Plan, and the Confirmation Order, the Debtor's liabilities exceed its assets such that the Debtor's unsecured creditors will not receive payment of their claims in full in this matter.

29. At the date hereof, the Defendant has not returned any of the Transfers to the Debtor's estate.

30. Pursuant to 11 U.S.C. § 550(a), the Plaintiff is entitled to recover from the Defendant the Transfers, plus interest thereon to the date of payment and the costs of this action.

COUNT II

(Avoidance of Fraudulent Transfers Pursuant to 11 U.S.C. §§ 548(a)(1)(B), 550(a), 551)

31. Plaintiff realleges and incorporates all preceding paragraphs as if fully set forth at length herein.

32. To the extent that any one or more of the Transfers, including but not limited to, those identified on Exhibit A were not on account of an antecedent debt owed by the Debtor, then the Debtor received less than reasonably equivalent value in exchange for such Transfers.

33. When the Transfers were made, the Debtor:

a. was insolvent on the date the Transfers were made or became insolvent as a result of the Transfer(s); or

b. was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the Debtor was an unreasonably small capital; or

c. intended to incur, or believed that it would incur, debts that would be beyond its ability to pay as the debts matured.

34. The Transfers are avoidable pursuant to 11 U.S.C. § 548(a)(1)(B).

35. Pursuant to 11 U.S.C. § 550(a), the Plaintiff is entitled to recover from the Defendant the Transfers, plus interest thereon to the date of payment and the costs of this action.

COUNT III

(Disallowance of Defendant's Proof of Claim or Scheduled Claim – 11 U.S.C. § 503(d) and (j))

36. The Plaintiff realleges and incorporates all preceding paragraphs as if fully set forth at length herein.

37. The Defendant is a person from which property is recoverable under section 550(a) of the Bankruptcy Code and are transferees of one or more transfers avoidable under sections 544, 547of the Bankruptcy Code.

38. The Defendant has not paid the amount, or turned over the Transfers, for which the Defendant is liable under section 550(a) of the Bankruptcy Code.

39. Pursuant to section 502(d) of the Bankruptcy Code, any and all filed or scheduled claims the Defendant currently possess against the Debtor's estate (the "Claims") must be disallowed unless and until the Defendant repay in full to the Plaintiff, pursuant to a judgment or otherwise, an amount equal to the aggregate amount of the Transfers, plus interest thereon and costs.

40. Pursuant to section 502(j), any and all Claims of the Defendant and/or their assignees, against the Debtor's estate previously allowed, must be reconsidered and disallowed until such time as the Defendant pays to the Plaintiff an amount equal to the aggregate amount of the Transfers.

RESERVATION OF RIGHTS

41. The Plaintiff reserves the right to bring all other claims or causes of action that the Plaintiff might have against the Defendant, on any and all grounds, as allowed under the law or in equity.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff demands judgment in its favor and against the Defendant:

(a) declaring that the Transfers to the Defendant constitute avoidable transfers pursuant to sections 547(b) or 548(a) of the Bankruptcy Code;

(b) avoiding the Transfers, and directing and ordering that the Defendant pay the Plaintiff, pursuant to section 550(a) of the Bankruptcy Code, the aggregate amount of the Transfers, plus interest from the date of demand at the maximum legal rate and to the fullest extent allowed by applicable law, together with costs and expenses of this action including, but not limited to, attorneys' fees;

(c) pursuant to sections 502(d) and (j) of the Bankruptcy Code, disallowing any claim held or filed by the Defendant against the Debtor's estate until the Defendant returns the Transfers to the Plaintiff; and

(d) granting the Plaintiff such other and further relief as the Court deems equitable and proper.

FORMAN HOLT
Attorneys for Charles M. Forman.
Plan Administrator

By: */s/Michael E. Holt*
Michael E. Holt

Dated: October 26, 2021

EXHIBIT A

Payee	Check No.	Check Date	Clearing Date	Amount
PSE&G	54330	7/31/2019	8/30/2019	676.80
PSE&G	54331	7/31/2019	8/30/2019	291.37
PSE&G	54332	7/31/2019	8/30/2019	78.54
PSE&G	10604	9/18/2019	9/24/2019	5,052.66
PSE&G	10605	9/19/2019	9/24/2019	92.74
PSE&G	10606	9/19/2019	9/24/2019	665.88
PSE&G	10607	9/19/2019	9/24/2019	7,311.75
PSE&G	10608	9/19/2019	9/24/2019	1,803.45
PSE&G	10609	9/19/2019	9/24/2019	206.83
PSE&G	10610	9/19/2019	9/24/2019	1,045.04
PSE&G	10611	9/19/2019	9/24/2019	3,181.47
PSE&G	10612	9/19/2019	9/24/2019	375.82
PSE&G	10613	9/19/2019	9/24/2019	1,044.62
PSE&G	10623	9/19/2019	9/24/2019	4,441.34
PSE&G	10624	9/19/2019	9/24/2019	629.62
PSE&G	10625	9/19/2019	9/24/2019	6,910.52
PSE&G	10626	9/19/2019	9/24/2019	204.83
PSE&G	10627	9/19/2019	9/24/2019	1,013.30
PSE&G	10628	9/19/2019	9/24/2019	1,668.18
PSE&G	10629	9/18/2019	9/24/2019	78.47
PSE&G	10684	9/24/2019	10/2/2019	2,963.11
PSE&G	10685	9/24/2019	10/2/2019	84.61
PSE&G	10686	9/24/2019	10/2/2019	269.13
PSE&G	10687	9/24/2019	10/2/2019	642.54
PSE&G Total				**40,732.62**

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re

Case No. 19-30256 (VFP)

CTE 1 LLC, (*d/b/a Lexus of Englewood)*

CHARLES M. FORMAN, in his capacity as PLAN ADMINISTRATOR FOR CTE 1 LLC,

Plaintiff,

against - Adv. Pro. No.

PSE&G **Defendant.**

SUMMONS AND NOTICE OF TRIAL CONFERENCE IN AN ADVERSARY PROCEEDING

TO: THE ABOVE NAMED DEFENDANT

YOU ARE SUMMONED and required to submit a motion or answer to the complaint which is attached to this summons to the clerk of the bankruptcy court within 30 days after the date of issuance of this summons, except that the United States and its offices and agencies shall submit a motion or answer to the complaint within 35 days.

Address	Clerk, United States Bankruptcy Court 50 Walnut Street Newark, New Jersey 07102

At the same time, you must also serve a copy of the motion or answer upon the Plaintiff's attorney.

Name and Address of Plaintiff's Attorney: Forman Holt, Attn: Michael E, Holt 365 West Passaic Street, Suite 400 Rochelle Park, New Jersey 07662

If you make a motion, your time to answer is governed by Bankruptcy Rule 7012.

YOU ARE NOTIFIED that trial of the proceeding commenced by the filing of the complaint will be held at the following time and place.

Address	United States Bankruptcy Court 50 Walnut Street Newark, New Jersey 07102	Room: 3B Date and Time:

IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

Jeanne A. Naughton, Clerk

Dated Deputy Clerk

Pursuant to D.N.J. LBR 9019-2, Mediation Procedures, there is a presumption of mediation in all adversary proceedings. For more information regarding the mediation program see the related Local Rules and forms on the court's website: njb.uscourts.gov/mediation.