

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF MISSISSIPPI

IN RE: EXPRESS GRAIN TERMINALS, LLC¹
Debtor

CHAPTER 11
CASE NO. 21-11832-SDM

**ANSWER AND RESPONSE TO MOTION FOR PAYMENT
OF ALLOWED ADMINISTRATIVE EXPENSE CLAIM**

COMES NOW Heather Williams, the Liquidating Trustee of Express Grain Terminals, LLC (the "Liquidating Trustee"), and files this her Answer and Response to the *Motion for Payment of Allowed Administrative Expense Claim* (the "Motion") [DK #3151], filed herein by Dr. Michael Coleman ("Dr. Coleman"), and, answering the allegations of the Motion paragraph by paragraph, the Liquidating Trustee answers and alleges as follows, to-wit:

1. Admitted as to what Dr. Coleman seeks; denied as to entitlement thereto.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Denied, in part. The biodiesel operations were not operating in any significant capacity and did not need funds with which to operate.
8. The Liquidating Trustee admits that Dr. Coleman caused monies to be deposited to the Debtor's account. Affirmatively, the Liquidating Trustee understands that the idea for this deposit of funds actually came from a bank because of a concern the bank had with checks which were being presented, both pre- and post-petition, that were drawn upon the Debtor's account. The

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

bank suggested that Dr. Coleman borrow the relevant funds from drawing upon a line of credit Dr. Coleman held with that bank. Further, the Liquidating Trustee denies the remaining allegations, inferences and conclusions contained in Paragraph 8 of the Motion on lack of knowledge, information or belief. In addition, the deposit of monies into the Debtor's account was not authorized or approved by the Bankruptcy Court, and until now, it was never requested to be approved by the Bankruptcy Court. Further, answering in the affirmative, the Liquidating Trustee alleges, on information and belief, that the only reason Dr. Coleman made the loan was the representation he received that he would be immediately repaid from the sale proceeds from the sale of a "train" of grain that had been shipped and for which the Debtor was expecting payment. This would have been, of course, an avoidable post-petition transfer and the funds were stopped in transit and were never paid to Dr. Coleman.

9. The Liquidating Trustee admits the amount of funds deposited was correctly stated in Paragraph 9 of the Motion but denies that the transaction was a "loan".

10. To the extent the Debtor did not have sufficient funds on hand to preserve operations, retain employees and protect/preserve estate assets, the funds advanced may have added value to the estate. The remaining allegations, inferences and conclusions contained in Paragraph 10 of the Motion are denied.

11. Admitted.

12. The Liquidating Trustee admits the request of Dr. Coleman but denies he entitled thereto.

AFFIRMATIVE RESPONSES

1. Dr. Coleman acted as a volunteer in connection with the deposit of funds into the Debtor's account, and, without obtaining Court approval for the advance, it is nothing more than a gift, an equity contribution or an unauthorized transaction.

2. Dr. Coleman lacks standing to bring the Motion.

3. Dr. Coleman was the majority equity security holder in the Debtor and, at all material times, was an insider of the Debtor. Under Dr. Coleman's "watch" (whether direct or indirect), the Debtor committed significant and serious acts of fraud, defalcation, negligence, waste, intentional manipulation and falsification of audits, all of which caused tremendous losses to its creditor body and to farmers whom had sold and delivered grain to the Debtor but for which they did not receive payment.

4. While Dr. Coleman has contended he was an innocent party to the transactions described in the next preceding paragraph, and to those same or similar actions which have been fully documented throughout this Chapter 11 case (and which are incorporated here), he either knew, or in the exercise of any reasonable diligence and fulfillment of his duties and obligations, should have known, that these actions and inactions were being taken by the Debtor, yet he did nothing to investigate, review or stop them.

5. As noted, in the exercise of reasonable (or any for that matter) diligence in the fulfillment of his duties and obligations to the Debtor and its creditors, Dr. Coleman would/should have discovered these actions and inactions which caused millions of dollars of losses to be incurred by innocent third parties, creditors and sellers of grain to the Debtor's grain facilities. The Liquidating Trustee asserts that a counterclaim in response to a motion (and the resulting contested matter that is occurring) is procedurally improper, so she will be forced to initiate an adversary

proceeding against Dr. Coleman to recover damages for his roles in the actions and inactions described in these Affirmative Responses. That adversary proceeding can then be consolidated with this contested matter for discovery, motion practice and trial.

WHEREFORE, PREMISES CONSIDERED, the Liquidating Trustee respectfully prays that upon a hearing hereof the Motion will be dismissed, with prejudice and that once the adversary proceeding is combined with this contested matter, the Court will grant the Liquidating Trustee's request she asserts therein. The Liquidating Trustee prays for general relief.

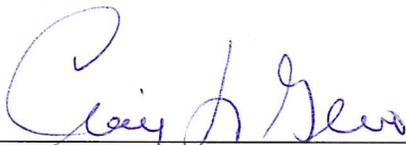
THIS, the 24th day of July, 2023.

Respectfully submitted,

HEATHER WILLIAMS, THE LIQUIDATING
TRUSTEE FOR EXPRESS GRAIN TERMINALS,
LLC

By Her 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

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CERTIFICATE OF SERVICE

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

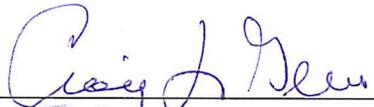
Abigail M. Marbury
Office of the U.S. Trustee
abigail.m.marbury@usdoj.gov

Charles S. Kelley, Esq.
ckelley@mayerbrown.com

H. Scot Spragins, Esq.
sspragins@hickmanlaw.com

Carolina A. Herrera, Esq.
cherrera@mayerbrown.com

THIS, the 24th day of July, 2023.



Craig M. Geno