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COMMONWEALTH OF KENTUCKY
DAVIESS CIRCUIT COURT
CIVIL ACTION NO. 24-CI-01426

OWENSBOROTIMES

MATTHEW HAYDEN, and ESTATE OF JACK T. WELLS,
individually and derivatively on behalf of
DAVIS AUTO GROUP, LLC

PLAINTIFFS

v.

JERALD RAY DAVIS, JR., EQ BUSINESS SERVICES, LLC,
EQ REINSURANCE, INC.

DEFENDANTS,

DAVIS AUTO GROUP, LLC

NOMINAL DEFENDANT

PLAINTIFFS' MOTION FOR TEMPORARY INJUNCTION

Come now the Plaintiffs, Matthew Hayden and Estate of Jack T. Wells, by and through counsel, and move the Court, pursuant to Kentucky Civil Rule 65, to issue a temporary injunction and as grounds therefore states as follows:

1. On October 30, 2024, Plaintiffs filed their Complaint and Demand for Trial by Jury (the "Complaint") seeking monetary and injunctive relief, both individually and derivatively on behalf of Davis Auto Group, LLC ("Davis Auto"). Plaintiffs are seeking relief based upon Defendant Jerald Ray Davis, Jr.'s ("Davis"): 1) breach of fiduciary duties; 2) breach of K.R.S. § 275.170; 3) breach of the Covenant of Good Faith and Fair Dealing; and 4) Unjust Enrichment. Further, Plaintiffs are seeking a judicial order pursuant to K.R.S. § 275.172 expelling Davis as a member of Davis Auto.

2. Davis has been served with a summons and a copy of the Complaint.

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3. As stated in the Complaint, and further illustrated in Plaintiffs' Memorandum of Law in Support of Their Motion for Temporary Injunction, Davis, as manager of Davis Auto is continuing to engage in gross and reckless misconduct, which amounts to breaches of fiduciary duty, unlawful self-dealing, ignoring clear conflicts of interest, waste of corporate assets, and unjust enrichment. For example, Davis has continually used Davis Auto funds for his personal benefit, directed Davis Auto funds to other entities in which Davis is the sole owner, and failed in his duty of insuring that Davis Auto timely fulfill its tax obligations. Therefore, movant's position presents a substantial question on the underlying merits of the case.

4. Accordingly, Plaintiffs seek a temporary injunction: 1) removing Davis as manager of Davis Auto; 2) enjoining Davis from taking any action on behalf of Davis Auto; and 3) expelling Davis as a member of Davis Auto pursuant to K.R.S. § 275.172.

5. Plaintiffs and Davis Auto will suffer irreparable injury if the requested relief is not ordered. Specifically, Davis's gross, reckless, and willful misconduct places Davis Auto in serious jeopardy of having its dealership status with Chrysler Dodge Jeep Ram revoked. Moreover, a temporary injunction is necessary to enjoin further waste of Davis Auto assets by Davis.

6. Finally, the requested injunctive relief will not unduly harm any other party or disserve the public.

7. Consistent with CR 65.05, Plaintiffs will post bond in such sum as the Court deems proper.

WHEREFORE, the Plaintiffs respectfully request that a temporary injunction be issued against Davis, removing him as Manager of Davis Auto, enjoining Davis from taking any action on behalf of Davis Auto, and expelling Davis as a member of Davis Auto pursuant to K.R.S. § 275.172.

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Respectfully submitted this the 31st day of October, 2024,

Respectfully submitted,

Ziemer, Stayman, Weitzel & Shoulders, LLP

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