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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
ELETSON HOLDINGS INC.,[1]	:	Case No. 23-10322 (JPM)
Debtor.	:	

ELETSON HOLDINGS INC.'S LIMITED OBJECTION TO THE MOTION OF SIDLEY AUSTIN LLP TO WITHDRAW AS COUNSEL TO THE FORMER MAJORITY SHAREHOLDERS OF ELETSON HOLDINGS INC. AND THE PREFERRED NOMINEES

Eletson Holdings Inc. ("Holdings"), by and through its undersigned counsel, hereby submits this limited objection (the "Limited Objection") to the *Motion of Sidley Austin LLP to Withdraw as Counsel to the Majority Shareholders of Eletson Holdings Inc. and the Preferred Shareholders* [Docket No. 1525] (the "Motion"), and respectfully states:[2]

[1] Prior to November 19, 2024, the Debtors in these cases were: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. On March 5, 2025, the Court entered a final decree and order closing the chapter 11 cases of Eletson Finance (US) LLC and Agathonissos Finance LLC. Commencing on March 5, 2025, all motions, notices, and other pleadings relating to any of the Debtors shall be filed in the chapter 11 case of Eletson Holdings Inc. The Debtor's mailing address is c/o Togut, Segal & Segal LLP, One Penn Plaza, Suite 3335, New York, New York 10119

[2] Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Motion.

LIMITED OBJECTION

1. On March 21, 2025, the United States District Court for the Southern District of New York (the "District Court") heard a parallel motion filed by Sidley to withdraw as counsel to the Former Majority Shareholders (as defined below) in one of the two appeals that Sidley filed of this Court's orders regarding implementing the Plan. *See Lassia Investment Company v. Reorganized Eletson Holdings Inc.* Case No. 25-cv-01685-LJL (S.D.N.Y.), Docket No 6 (the "District Court Withdrawal Motion"). Hours prior to the hearing on the District Court Withdrawal Motion, Sidley filed a notice substituting Rolnick Kramer Sadighi LLP ("New Counsel").[3] At the hearing, New Counsel requested a one-week extension of the Former Majority Shareholders' upcoming response deadline of March 24, 2025 to March 31, 2025 to Holdings' motion to dismiss the appeal. In response, the District Court granted the extension but held in abeyance the District Court Withdrawal Motion to ensure that there would be no further delays.

2. Like the District Court, the Court should hold the Motion in abeyance until Sidley and New Counsel confirm that there will be no delays in the bankruptcy cases as a result of this substitution. In addition, Holdings reserves all rights against Sidley, including on account of any potential claims and causes of action against Sidley. Finally, Sidley must preserve its client file (including all documents and communications), which must remain within the jurisdiction of the Court.

[3] An hour before the deadline to object to the Motion, Sidley filed a notice of substitution of counsel identifying New Counsel for the Former Majority Shareholders in the bankruptcy case [Docket No. 1556] (the "Substitution Notice"). The Substitution Notice does not specify that New Counsel will be representing the Preferred Nominees (as defined below).

3. Sidley first appeared in these chapter 11 cases on March 21, 2024 on behalf of Fentalon Ltd., Apargo Ltd., and Desimusco Trading Co. (the "Preferred Nominees") [Docket No. 507] (the "Preferred Nominee NOA") and subsequently appeared, the next day on March 22, 2024, on behalf of Lassia Investment Company, Glafkos Trust Company, and Family Unity Trust Company (the "Former Majority Shareholders" and, together with the Preferred Nominees, "Sidley's Clients") [Docket No. 515].[4] Based on disclosures obtained in the bankruptcy case, Sidley's Clients are under a single engagement letter, which further highlights the fraudulent nature in which the Preferred Nominees purport to have acquired the preferred shares in Eletson Gas, and the alter ego relationship between Sidley's Clients. *See Eletson Holdings, Inc. v. Levona Holdings Ltd.*, 731 F. Supp. 3d 531, 595 (S.D.N.Y. 2024) ("[W]hether the election by Eletson that the Preferred Shares go to the Nominees rather than the Company effected a fraud on the creditors of Holdings" is an issue that "remain[s] open for the bankruptcy court to decide."). And while Sidley seeks to withdraw as counsel to all of Sidley's Clients, Sidley is only proposing to substitute New Counsel for the Former Majority Shareholders (and not the Preferred Nominees).

4. In the Motion, Sidley seeks to withdraw as counsel to Sidley's Clients and "reserv[e] all jurisdictional objections." Motion at 1. The District Court Withdrawal Motion did not mention any such jurisdictional objections, which apparently relate solely to the Preferred Nominees. Reserving these alleged "jurisdictional objections" is meritless, as Sidley has appeared in these chapter 11 cases on behalf of ***both*** the Former Majority Shareholders and the Preferred Nominees—a fact

[4] Another law firm, Greenberg Traurig, LLP, has filed pleadings on behalf of Apargo Ltd. in a related proceeding currently pending before the District Court. *In re Eletson Holdings Inc., et al. v. Levona Holdings Ltd.*, Case No. 23-cv-7331 (LJL) (S.D.N.Y.), Docket Nos. 285, 289 & 290.

that Sidley has either forgotten or intentionally omitted since the Motion makes no mention of the Preferred Nominee POA. As the Court may recall, Sidley refused to confirm at the hearing on March 3, 2025 (the "March 3 Hearing") whether or not the Preferred Nominees are subject to the Court's stay relief order regarding the arbitration [Docket No. 48]. *See* March 3, 2025 Tr. of Hr'g at 47:13-16 ("I mean, if Your Honor is asking if my client somehow -- my clients, the preferred nominees, are voluntarily subjecting themselves to an order that they didn't sign, I don't have the authority to tell you that.").

5. Sidley has been extensively involved in these chapter 11 cases, including by opposing motions to appoint a chapter 11 trustee [Docket No. 518], proposing to sponsor multiple iterations of the Debtors' chapter 11 plan [Docket No. 370, 570, 671, 725, 744, 786, 840, 1091 & 1111], opposing the Petitioning Creditors' plans [Docket Nos. 1033 & 1144], opposing various motions for sanctions against themselves and their clients [Docket Nos. 1291, 1144, 1464 & 1506], appealing two orders of the Bankruptcy Court [Docket Nos. 1413 & 1541], and appearing at and/or participating in virtually every hearing. Indeed, Sidley argued at the March 3 Hearing on behalf of the Preferred Nominees.

6. In multiple decisions and orders, the Court has found that Sidley's clients, the Former Majority Shareholders, have violated the Plan, the Bankruptcy Code, and multiple orders of the Bankruptcy Court (including the Confirmation Order), held their clients in contempt, and imposed coercive sanctions [Docket Nos. 1402, 1495 & 1537]. Sidley has appealed three of this Court's orders, but now seeks to withdraw

while those appeals are pending and its clients have still not complied with the Court's sanctions orders.[5]

7. In the Declaration of William E. Curtin attached to the Motion (the "Curtin Declaration"), Sidley asserts that Sidley's Clients have engaged "foreign counsel to assist in various foreign proceedings outside of the United States" (Curtin Decl. ¶ 4), but the Curtin Declaration does not identify whether replacement counsel has been identified for the matters pending in the United States. Furthermore, Sidley asserts, without explanation, that "as a result of certain changes in the ownership of certain of the [Former] Majority Shareholders, which were disclosed in the underlying chapter 11 cases on February 24, 2025, that a potential conflict has arisen among the [Former] Majority Shareholders in terms of direction of next steps in the underlying chapter 11 cases and this Appeal." *Id.* ¶ 5.[6] But again, Sidley has not identified or described what these potential conflicts are or why they justify Sidley's withdrawal as counsel to the Former Majority Shareholders at this time. This disabling conflict assertion is inconsistent with the Former Majority Shareholders' own actions given that

[5] One of these appeals was docketed with the District Court under case number 25-cv-01685 (the "First Appeal"). The other has not yet been docketed. The Former Majority Shareholders also appealed this Court's amended foreign representative order [Docket No. 1551].

On March 10, 2025, Holdings filed a motion to dismiss the First Appeal and also requested that the District Court order the Former Majority Shareholders (and the other appellants, "Provisional Eletson Holdings Inc. and Reed Smith" to pay costs. *See Lassia Investment Company v. Reorganized Eletson Holdings Inc.* Case No. 25-cv-01685-LJL (S.D.N.Y.), Docket No 8.

[6] The reference to February 24, 2025 disclosures apparently relates to the three certifications filed by Sidley on behalf of the Former Majority Shareholders required by the Court following the entry of the Consummation Order [Docket Nos. 1472, 1473 & 1474] that following submission of its certification, Lassia "will no longer be owned or managed by Ms. Laskarina Karastamati (or any of her immediate family members), since it has been agreed for the shares of Lassia to be transferred to Mr. Vasilis Hadjieleftheriadis. *See* Docket No. 1472 ¶ 4. Mr. Hadjielftheriadis is a beneficial owner of another Former Majority Shareholders, Glafkos Trust Company. Given its lack of details, it is unclear why a transfer of an ownership interest among clients creates a conflict of interest warranting withdrawal as their counsel.

foreign counsel appears to continue to be representing all three of the Former Majority Shareholders abroad.[7] At a minimum, Sidley should explain how withdrawal is consistent with the provisions of its engagement letter regarding conflicts of interest among its concurrent clients.

8. Local Rule 2090-1(e) of the Southern District of New York Local Bankruptcy Rules (the "Local Bankruptcy Rules") requires withdrawing attorneys to be replaced "only by order of the Court for cause shown." Local Bankr. Rule 2090-1(e). Courts apply Rule 1.4 of the Local Civil Rules of the United States District Courts for the Southern and Eastern Districts of New York (the "Local Civil Rules") to interpret Local Bankruptcy Rule 2090-1(e). *See Secs. Inv. Prot. Corp. v. Bernard L. Madoff Inv. Secs. LLC*, 657 B.R. 382, 387 (Bankr. S.D.N.Y. 2024) (explaining that the Local Bankruptcy Rule "is an adaptation of Local Civil Rule 1.4"); *In re Weiner*, No. 18-13042 (JLG), 2019 WL 2575012, at *3 (Bankr. S.D.N.Y. June 21, 2019). Moving counsel must make a showing by "affidavit or otherwise of satisfactory reasons for withdrawal or displacement and the posture of the case, including its position, if any, on the calendar[.]" Local Civil Rule 1.4.

9. The Court has broad discretion on motions to withdraw as counsel of record. *See In re Albert*, 277 B.R. 38, 47 (Bankr. S.D.N.Y. 2002). In assessing such motions, courts in this District consider "both the reasons for withdrawal and the impact of the withdrawal on the timing of the proceeding." *City of Almaty v. Sater*, No. 19-CV-2645 (JGK), 2024 WL 1484051, at *1 (S.D.N.Y. Apr. 1, 2024) (citation omitted). Part of this determination includes the question of whether "the prosecution of the suit

[7] Prior to filing this Limited Objection, counsel to Holdings asked Sidley to provide more information on the alleged conflict. Sidley refused to do so on the basis of the attorney-client privilege.

is [likely to be] disrupted by the withdrawal of counsel." *Whiting v. Lacara*, 187 F.3d 317, 320-21 (citing *Brown v. Nat'l Survival Games, Inc.*, No. 91–CV–221, 1994 WL 660533, at *3 (N.D.N.Y. Nov. 18, 1994)). This is particularly important because the Former Majority Shareholders are corporate entities and must be represented by counsel. *See Secs. Inv. Prot. Corp.*, 657 B.R. at 392 ("A corporation cannot appear pro se and 'may appear in the federal courts only through licensed counsel.'") (quoting *Grace v. Bank Leumi Trust Co.*, 443 F.3d 180, 192 (2d Cir. 2006)).

10. Courts deny withdrawal where counsel fails to demonstrate that withdrawal would not disrupt the prosecution of the suit. *See Alladin v. Paramount Mgmt., LLC*, No. 12 CIV. 4309 (JMF), 2013 WL 12618657, at *1 (S.D.N.Y. Oct. 16, 2013) ("[Counsel] not only neglects to address [the disruption of prosecution of the suit] prong of the test, but he also provides no explanation for his failure to seek relief sooner – a consideration that cast strongly against him."). In denying motions to withdraw, "[c]ourts have also considered the fact that withdrawal would leave the opposing party with an intractable litigant who resides overseas and have already shown significant difficulties in communicating.'" *Sec. Inv. Prot. Corp.*, 657 B.R. at 392 (internal citations and quotations omitted).

11. Sidley has not met its burden of demonstrating that its withdrawal at this time, including with New Counsel's engagement, would not disrupt the prosecution / defense of its outstanding matters in this Court. All the Former Majority Shareholders have done is attempt to frustrate and delay implementation of the Plan, including by initiating improper proceedings abroad (or improperly opposing foreign proceedings). The Court should not countenance their ability to do that further through their counsel's attempted withdrawal without first conditioning such withdrawal on identifying substitute counsel and confirmation that no delays will arise as a result. *See,*

e.g., *Secs. Inv. Prot. Corp.*, 657 B.R. at 392 ("The Court has discretion to condition leave to withdraw mitigating the prejudice or disrupting that withdrawal would otherwise cause."); *Oscar de la Renta Ltd. v. Strelitz Ltd.*, No. 92 Civ. 3907, 1993 WL 205150, at *1 (S.D.N.Y. June 7, 1993) ("[c]ounsel may withdraw if the defendant obtains new counsel to respond to plaintiff's motion."). Worse, Sidley seeks to withdraw while sanctions orders are pending and judgments are forthcoming. *Mario Valente Collezioni, Ltd. v. Semeraro*, 2004 WL 1057790, at *1 ("[T]his Court is unwilling to relieve counsel without ensuring that defendants are represented during the procedures for entry of a judgment.") (citations omitted). Indeed, Sidley attempts to use a jurisdictional shield as to the Preferred Nominees despite appearing in these chapter 11 cases for them. And the Motion and Substitution Notice will leave the Preferred Nominees without counsel in these cases despite having appeared.

12. Moreover, Holdings expressly reserves all rights against Sidley, including any potential claims or causes of action against Sidley, whether arising before or after November 19, 2024 (i.e., the Effective Date of the Plan). Sections 5.2(c) and 5.15(a) of the Plan expressly preserved all of Holdings' "Retained Causes of Action," which is defined broadly as "certain Causes of Action of the Debtors or the Estates that are not released or waived pursuant to this Plan or a Final Order of the Bankruptcy Court." *See* Plan §§ 1.128, 5.2(c) & 5.15(a). Neither the Plan nor any orders of this Court released or waived any claims against Sidley. In addition, Holdings may also have claims and causes of action against Sidley on account of its conduct arising after the Effective Date.

13. Sidley should also not be relieved of any of its obligations or liabilities arising from its representation and require preservation of its client file (including all documents and communications and other records) relating to its

representation of Sidley's Clients. Notwithstanding its withdrawal, Sidley and its client file must remain within the jurisdiction of the Court.

CONCLUSION

For the foregoing reasons, Holdings requests that the Court expressly condition Sidley's withdrawal as set forth herein and grant such other and further relief as may be just and proper.

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New York, New York

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