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April 10, 2025

Via ECF

Honorable John P. Mastando
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, New York 10004

Re: *In re Eletson Holdings, Inc., et al.*, Bankr. S.D.N.Y. 1:23-bk-10322 (JPM)

Dear Judge Mastando:

As authorized by Your Honor (4/3/25 Hr'g Tr. at 31:18), we write on behalf of Reed Smith LLP ("Reed Smith") in response to Levona Holdings Ltd.'s ("Levona") now third supplemental submission, filed April 2, 2025 (Dkt. 1575), to *Levona's Motion to Enforce the Stay Relief Order and for Sanctions* (Dkt. 1367) (the "Motion") brought against Reed Smith and the Preferred Nominees.

Reed Smith is compelled to correct Levona's misrepresentations and inaccuracies given that the Motion seeks to assess liabilities against Reed Smith (*see* Dkt. 1367-1 ¶¶ 6-7 (requesting sanctions of "$1,000 per day . . . until the Violating Parties take all steps to restore the status quo" and seeking further compensatory sanctions payable to Levona); Dkt. 1476-1 ¶ 8), and Levona has already once asserted that Reed Smith somehow failed to respond to allegations not directed towards Reed Smith (*see* Dkt. 1476 ¶ 8; Dkt. 1487 ¶ 5).

Levona misleads this Court by citing to filings in a Texas action as purported evidence of harm to Levona. What Levona fails to disclose is that ***Levona*** and its affiliates have manufactured this purported harm as they are directly responsible for filing the multiple actions in Texas (Dkt. 1575-1 at 2 n.1; Ex. A (Complaint); Ex. B (Purported Gas Verification); Ex. C (Plaintiffs' Opp. To Mot. To Vacate Arrest)). The verified Complaint in Texas was signed without authorization purportedly on behalf of Gas by Leonard J. Hoskinson as "CEO" of Eletson Gas LLC ("Gas")—an officer position invalidly appointed ***by or with the permission of Levona*** (in violation of the Arbitration's status quo injunction as further discussed below). Levona is no stranger unlawfully to arresting vessels to create turmoil at Gas—exactly as Justice Belen condemned (*see* Dkt. 371-3 ("Final Award") at 97 (finding "Levona breached its LLCA and related obligations" by actively "causing the arrest of five of [Gas's] vessels"); *id.* at 54 (detailing unlawful arrests); *id.* at 64 ("directly calculable losses arising from Levona's conduct that led to the vessel arrests" in the amount of $21,777,378.50)).

The truth about Levona's unclean hands is clear: The Texas actions seek the arrest and possession of multiple Gas vessels. It is those actions that are creating substantial "adverse impact[s] on Gas' business." Levona's improperly filed actions are taking vessels out of trade, preventing them from engaging in any commercial activity—from which Gas derives its revenues—and interfering with third-

party and vendor contracts, thereby subjecting Gas to potential liability. The actions are wholly improper. They are part of the abuse of this Court's Bankruptcy Confirmation Order by Murchinson and its shell company alter-egos, ***including Levona***, which we have raised with Your Honor multiple times. They are also abusing this Court's orders by falsely asserting in those and other courts that, as a result of the Plan, ***the creditors obtained complete control of Gas, including "the [Gas-owned] Vessel[s]"*** (Ex. C at 1, 9 (emphasis added)). As Your Honor knows and has discussed in orders previously, Gas is not and has never been a subsidiary of Holdings and is not part of the Debtors' estate. This Court should put an end to this abuse.

With respect to the underlying question of who controls Gas, we need to set forth, again, the relevant facts. As Your Honor knows, and what is dispositive here, the Third Amended and Restated Limited Liability Company Agreement, dated August 16, 2019 (Dkt. 1588-1) ("LLCA"), and its April 16, 2020 Amendment (Dkt. 1588-2) ("LLCA Amendment") govern Gas' ownership structure and management. Gas's membership interests are made up of common unit holders (the "Common Shares") and preferred unit holders (the "Preferred Shares") (LLCA § 2.1). At all relevant times, Holdings has held only the *Common Shares* of Gas, while, since March 11, 2022, the Preferred Nominees have held the Preferred Shares. Indeed, as this Court has itself previously recognized, "as the Arbitrator found (and the District Court confirmed), the transfer of the Preferred Shares occurred on March 11, 2022, which was nearly a year before the involuntary cases were filed" (Dkt. 721 at 36). Levona can point to no ruling or any court or tribunal modifying or vacating the Final Award's determination that the Preferred Nominees are the rightful holders of the Preferred Shares as of March 11, 2022. There is simply no basis for Levona's claims that it has any authority with respect to the Preferred Shares.

The fact that Levona does not own the Preferred Shares means that none of its purported recent changes to the management and control of Gas (or any of its subsidiaries) has been effective. Pursuant to the LLCA, the owners of the Preferred Shares have the right to appoint four directors to Gas' board, and the approval of at least one of those Preferred-appointed directors is required in order to terminate an officer of Gas (LLCA Amendment § 3.3(a); LLCA § 3.1). Since long before Levona purported to became involved with Gas in 2021 (and we assume arguendo that Levona's initial purchase of preferred shares from Blackstone was not illegal, invalid, and void), the officers of Gas have been Vassilis Kertsikoff (Chairman, President, Treasurer) and Laskarina Karastamati (Secretary). None of the Gas board members appointed by the owners of the Preferred Shares has ever approved the termination or replacement of either of those officers. Thus, even assuming Levona's affiliate otherwise had properly acquired control of the Common Shares, it could not have terminated or replaced the officers of Gas.

Moreover, any effort by Levona to assert control or management over Gas constitutes a violation of the Status Quo Injunction imposed in the JAMS arbitration, which remains in effect "until the later of the final court judgment being entered on any Award or any further order of this Arbitrator" (Final Award at 96). That injunction provided that "[t]he parties hereto shall maintain the status quo" with respect to the management of Gas, which at that time was being managed by its officers Mr. Kertsikoff and Ms. Karastamati.

Levona's claim that the "status quo" in question means a return of the Preferred Shares to Levona so that it can "exercise control over Eletson Gas assets" (Dkt. 1575 at 2) is recently fabricated and wholly incorrect. As Justice Belen ruled:

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> The phrase "status quo" refers to, *inter alia*, the value of the Company [Eletson Gas], its assets, ***its current management and operations, and its relationship with the ships' crews***. Levona's argument that the "status quo" means that it is the preferred holder until a ruling otherwise—and accordingly, it can do as it wishes with respect to the Company's assets or other assets in dispute . . . is flawed . . . . Thus, preserving the "status quo" is not about who is the preferred holder, but concerns the rights each party has, and the current value of the Company [Eletson Gas] that must be preserved until I issue a Final Award in this arbitration.

(Dkt. 7-3 at 24 (emphasis added)). Given that no judgment has yet been entered on the Final Award, Levona has no basis upon which to assert that it has any authority to manage or direct the affairs of Gas.

The so-called "Purported Governance Changes" that Levona complains of (Dkt. 1367 at 14) were not "changes" at all, but ministerial acts to reflect the Status Quo Injunction's mandate regarding "the current management and operations." As Justice Belen explicitly found, and as this Court and the District Court recognized, regardless of the registry, Levona ceased to hold the preferred shares as of March 11, 2022 (Final Award at 45) ("Levona, however, ceased being the beneficial owner of the preferred since March 11, 2022, and no longer had the right to vote those preferred shares.").

Levona misrepresents Judge Liman's March 24, 2025 ruling. Judge Liman never stated that updates to the registry were "improper," as Levona claims (Dkt. 1575 at 1 n.1)—nor was the issue even before him. Instead, he merely stated that a stay of that action was not warranted given the Preferred Nominees' exercise of their rights under the Final Award and Confirmation Order to update the share registry. Levona indisputably knew about the ministerial change in the share registry eight months ago. It did nothing then or since—until Murchinson decided to take another run at improperly interfering the Gas business in exactly the same way that Justice Belen already found out and condemned. Levona is now attempting to run the very same playbook in this Court, hoping Your Honor will simply overlook it. Your Honor should condemn such actions now.

At bottom, Levona seeks to have this Court broaden the Stay Relief Order well beyond its original scope and in a manner that would be totally inconsistent with the Status Quo Injunction. As its title indicates, the Stay Relief Order was intended to provide relief from the automatic bankruptcy stay to permit the JAMS arbitration hearing to proceed. To the extent that it limited that *permission*, it did not also *broaden* the automatic stay to reach parties or claims not otherwise subject to that stay. This limitation on the scope of the Stay Relief Order has been recognized by Justice Belen (Final Award at 16), by this Court (Dkt. 721 ("as discussed above, the BOL expressly provided the Debtors the ability to designate nominees, and the Creditors recognized this at the time that the Court entered the Stay Relief Stipulation."; *see also* Dkt. 348 (denying modification to Stay Relief Order)), and by Judge Liman, who specifically ruled that "with respect to the Lift Stay Order, that order, by its terms, does not purport to 'expand the scope' of the automatic stay." *Eletson Holdings, Inc. et al. v. Levona Holdings Ltd.*, Case No. 1:23-cv-07331, Dkt. 104 ("Confirmation Order") at 104 (citing *Picard v. Fairfield Greenwich Ltd.*, 762 F.3d 199, 207 (2d Cir. 2014)). "Section 362 of the Bankruptcy Code provides that the filing of a bankruptcy petition creates an automatic stay against 'the commencement or continuation . . . of a judicial, administrative, or other action or proceeding ***against the debtor*** that was or could have been commenced before the commencement of the case.'" *Id.* at 83 (citing *Rexnord Holdings, Inc. v. Bidermann*, 21 F.3d 522, 527 (2d Cir. 1994)).

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Moreover, Judge Liman expressly held that Eletson's litigation of claims against Levona *do not* violate the automatic stay and thus cannot violate the Stay Relief Order: "The automatic stay itself did not prohibit Eletson from litigating its claims against Levona or from asking the arbitrator to find that the Preferred Interests ***had been transferred*** to the Nominees" (Confirmation Order at 85; *see also id.* at 83 (Judge Liman ruling explicitly: "neither the arbitration nor the [Arbitration Confirmation] proceeding infringed upon the automatic stay or the Lift Stay Order.")). This holding applies equally to the English Confirmation Proceeding, which seeks the exact same kind of relief as the Arbitration Confirmation proceeding. And to the extent that the arbitration confirmation did not violate the automatic stay or the Lift Stay Order, Gas' (a nonparty to that Order) conduct consistent with the Status Quo Injunction and the Arbitration Confirmation could not violate the Lift Stay Order either.

Other than the illegal and bad faith interference by Murchinson and its alter-egos, the status quo has been maintained at Gas for years prior to the Lift Stay Order and since. Nothing has changed (again except as perpetrated by Murchinson). The Court should reject Levona's untimely, bad-faith arguments as to harm to Gas that it is directly responsible for causing and deny its Motion.

Respectfully submitted,

Louis M. Solomon

cc. Counsel of Record

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

KITHNOS SPECIAL MARITIME ENTERPRISE, ELETSON HOLDINGS INC, ELETSON CORPORATION, ELETSON GAS LLC,	§	**CIVIL ACTION NO.**
	§	**25-cv-_____**
Plaintiffs,	§	**ADMIRALTY RULE 9(h)**
M/V KITHNOS (IMO 9711523), her engines, tackle, equipment, and appurtenances, *in rem*,	§	
and	§	
FAMILY UNITY TRUST COMPANY, GLAFKOS TRUST COMPANY, LASSIA INVESTMENT COMPANY, ELAFONISSOS SHIPPING CORPORATION, KEROS SHIPPING CORPORATION, VASSILIS HADJIELEFTHERIADIS, LASKARINA KARASTAMATI, VASSILIS E. KERTSIKOFF, VASILEIOS CHATZIELEFTHERIADIS, KONSTANTINOS CHATZIELEFTHERIADIS, IOANNIS ZILAKOS, ELENI KARASTAMATI, PANAGIOTIS KONSTANTARAS, EMMANOUIL ANDREOULAKIS, ELENI VANDOROU, *in personam*	§	
Defendants.	§	

VERIFIED COMPLAINT

Plaintiffs KITHNOS SPECIAL MARITIME ENTERPRISE ("Kithnos SME", "Owners"), ELETSON HOLDINGS, INC. ("Eletson Holdings"), ELETSON CORPORATION ("Eletson Corp."), and ELETSON GAS LLC ("Eletson Gas") (collectively, "Plaintiffs") file this Verified Complaint *in rem* against Defendant M/V KITHNOS ("Vessel") and *in personam* against the other Defendants captioned above, stating admiralty and maritime claims within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and Rule D of

the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure ("Rule D"), and allege as follows:

PARTIES

1. Plaintiff Kithnos SME is a Greek entity with the registered address in Piraeus, Greece.

2. Plaintiff Eletson Holdings is a Liberian entity with the registered address at 80 Broad Street, Monrovia, Liberia

3. Plaintiff Eletson Corp is a Liberian entity with the registered address at 80 Broad Street, Monrovia, Liberia.

4. Plaintiff Eletson Gas is a Marshall Islands entity with the registered address at Trust Company Complex, Ajeltake Road, Ajeltake Island, Majuro, Marshall Islands.

5. On information and belief, the Vessel is a liquefied petroleum gas tanker currently present in or around the area of the port of Corpus Christi.

6. On information and belief, the *in personam* Defendants are **former** shareholders, directors, and officers in Plaintiffs and other Eletson entities.

7. On information and belief, Defendants Family Unity Trust Company, Glafkos Trust Company, Lassia Investment Company, Elafonissos Shipping Corporation, and Keros Shipping Corporation are Liberian entities with their registered addresses at 80 Broad Street, Monrovia, Liberia.

8. On information and belief, Defendants Vassilis Hadjieleftheriadis, Laskarina Karastamati, Vassilis E. Kertsikoff, Vasileios Chatzieleftheriadis, Konstantinos Chatzieleftheriadis, Ioannis Zilakos, Eleni Karastamati, Panagiotis Konstantaras, Emmanouil Andreoulakis, Eleni Vandorou are individuals who reside or are domiciled in Greece.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1333(1) because this is a petitory and possessory action under Rule D.

10. Petitory and possessory actions may be used to determine possession of seagoing vessels and are within the admiralty jurisdiction of the Court. *Hunt v. A Cargo of Petroleum Prod. Laden on Steam Tanker Hilda*, 378 F. Supp. 701, 703 (E.D. Pa. 1974), aff'd 515 F.2d 506 (3d Cir. 1975).

11. This Court also has subject matter jurisdiction because this action asserts admiralty and maritime tort claims within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

12. Such claims are based on the tort of conversion of maritime property (namely, the Vessel). This maritime action is to recover possession of the Vessel, with which the *in personam* Defendants have been and are unlawfully interfering.

13. This Court also has the power to declare rights and liabilities pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §2201.

14. This Court has the power to issue all writs necessary or appropriate in aid of its respective jurisdiction and agreeable to the usages and principles of law under the All Writs Act, 28 U.S.C. §1651. This includes issuing a writ enjoining any pilots from assisting the Vessel to leave the berth and sail through and out of the port.

15. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) and Supplemental Rule C(2)(c)[1], as the Vessel which is the subject of this action is currently or is believed soon to be within the District.

[1] Rule D provides in relevant part that "the process shall be by a warrant of arrest of the vessel, cargo, or other property, and by notice in the manner provided by Rule B(2) to the adverse party or parties." In turn, arrest is governed by Rule C.

FACTS

A. The Parties and Contracts Involved

16. Plaintiff Kithnos SME is a bareboat charterer and pro hac vice owner of the Vessel, pursuant to a bareboat charterparty[2] with OCM Maritime Gas 4 LLC ("OCM Maritime") dated February 23, 2022 ("Bareboat Charter").

17. The Bareboat Charter provides at Clause 10 that "during the Charter Period the Vessel shall be in the full possession and at the absolute disposal for all purposes of the Charterers and under their complete control in every respect" and also that "[t]he Master, officers and crew of the Vessel shall be the servants of the Charterers for all purposes whatsoever, even if for any reason appointed by the Owners". A copy of the Bareboat Charter is attached hereto as Exhibit 1.

18. All shares of Plaintiff Kithnos SME are owned by Plaintiff Eletson Gas.

19. All common shares of Plaintiff Eletson Gas are, in turn, owned by Plaintiff Eletson Holdings.

20. On information and belief, the immediate shareholders in Plaintiff Eletson Holdings used to be five of the *in personam* Liberian Defendants, namely, the entities called Family Unity Trust Company, Glafkos Trust Company, Lassia Investment Company, Elafonissos Shipping Corporation and Keros Shipping Corporation.

21. On information and belief, these five Defendants used to be ultimately owned by five principal families, which include the families of other *in personam* Defendants, namely, the families of Laskarina Karastamati, Vassilis Kertsikoff, and Vasilis Hadjieleftheriadis, each of whom together with further individual Defendants also held various director and officer positions in the Eletson entities (collectively "Former Shareholders, Directors & Officers").

[2] A bareboat charterparty is essentially the lease of a ship, usually on a long-term contract, often associated with a special finance or purchase arrangement. Under a bareboat charterparty, the command and possession of the vessel is turned over to the charterer. The charterer is considered the temporary owner, or commonly termed the owner pro hac vice.

22. Plaintiff Eletson Holdings also owns all shares of Plaintiff Eletson Corp.

23. Eletson Corp. is a manager of the Vessel, pursuant to the ship management agreement it has with Plaintiff Kithnos SME dated January 21, 2016 ("Management Agreement"). A copy of the Management Agreement is attached hereto as Exhibit 2.

24. Under the Management Agreement, Plaintiff Eletson Corp. is required to carry out, as agents for and on behalf of Kithnos SME, an array of services, including provision of crews and personnel for technical maintenance and operation of the Vessel, procurement of fuel, and other services.

25. The current position as regards ownership of the Eletson group is discussed in more detail below. To summarize, in breach of multiple U.S. Bankruptcy Court orders, the Defendants who are Former Shareholders, Directors & Officers of Plaintiff Eletson Holdings are obstructing the court-ordered transfer of ownership in Plaintiff Eletson Holdings (and by extension of other Eletson subsidiaries, such as Plaintiff Kithnos SME, Plaintiff Eletson Gas LLC, and Plaintiff Eletson Corp.) to the new shareholders and management, as well as interfering with the management and ownership of the Vessel.

B. The Bankruptcy of Plaintiff Eletson Holdings and Termination of Its Old Management

26. On March 7, 2023, a number of creditors petitioned for involuntary bankruptcy of Plaintiff Eletson Holdings (case number 23-10322-jpm pending in the U.S. Bankruptcy Court for the Southern District of New York) ("U.S. Bankruptcy Court"). On September 25, 2024, the U.S. Bankruptcy Court entered an order granting the request by Plaintiff Eletson Holdings to convert the involuntary bankruptcy to a voluntary proceeding under Chapter 11 of the Bankruptcy Code.

27. On October 25 and November 4, 2024, the U.S. Bankruptcy Court issued its decision and order confirming the Chapter 11 plan proposed by the creditors ("Chapter 11

Decision", "Chapter 11 Order", and "Chapter 11 Plan", respectively). True and correct copies thereof are attached as Exhibits 3, 4 and 5, respectively.

28. The Chapter 11 orders provided for funding of Plaintiff Eletson Holdings through a US$53.5 million equity rights offering. Exhibit 3 at 39-41 § K.1; Exhibit 5 at 14, ¶1.129.

29. In accordance with this rights offering, holders of general unsecured claims received subscription rights to purchase up to 75% of the shares in the reorganized Plaintiff Eletson Holdings. *Id.*

30. These shares were extremely valuable, as Plaintiff Eletson Holdings is an entity which ultimately owns and/or controls a fleet of at least sixteen (16) vessels, through structures similar to that for Kithnos SME and the Vessel in the present action.

31. The effect of the Chapter 11 Plan, Chapter 11 Decision, and Chapter 11 Order is that the Defendants ceased being shareholders, directors or officers in Plaintiff Eletson Holdings and, by extension, in Plaintiffs Kithnos SME, Eletson Corp and Eletson Gas.

32. This is the combined result of:

a. Section 10.1 of the Chapter 11 Plan making the plan binding on all parties on the Effective Date, which occurred on November 19, 2024. Exhibit 5 at 45, §10.1; Exhibit 6 (Notice of Occurrence of the Effective Date).

b. Section 5.4 of the Chapter 11 Plan mandating that on the Effective Date, all existing stock would be cancelled. Exhibit 5 at 28-29, §5.4.

c. Section 5.8 providing for the issuance of new shares in accordance with the terms of the Chapter 11 Plan. *Id* at 30-31, §5.8.

d. Section 5.10(c) mandating that all existing members of the governing bodies of each "Debtor" (which includes Plaintiff Eletson Holdings) would be "deemed

to have resigned or shall otherwise cease to be a director or manager of the applicable Debtor on the Effective Date." *Id* at 32, §5.10(c).

e. Section 5.10(a) providing for the appointment of the new board of directors. *Id*, §5.10(a).

f. Crucially, Section 5.2(c) providing that "on the Effective Date, all property in each Estate, including all Retained Causes of Action, and any property acquired by any of the Debtors, **including interests held by the Debtors in their respective non-Debtor direct and indirect subsidiaries and Affiliates shall vest in Reorganized Holdings…**" *Id* at 28, §5.2(c) (emphasis added).

g. "Reorganized Holdings" is defined in the Chapter 11 Plan as Plaintiff Eletson Holdings after it emerged from the Chapter 11 reorganization, with the new shareholders, directors, and officers. *Id.* at 14, §1.126.

h. Section 5.2(c) further providing that "[o]n and after the Effective Date, except as otherwise provided in this Plan, Reorganized Holdings may operate its business and may use, acquire, or dispose of property and maintain, prosecute, abandon, compromise or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court . . ." *Id* at 28, §5.2(c)

i. The Chapter 11 Order is the order of the U.S. Bankruptcy Court which confirms the Chapter 11 Plan and makes it operative in all respects, including with regard to vesting of assets (paragraph 7) and its immediate binding effect (paragraph 19). Exhibit 4 at 22, ¶7 and at 27-28, ¶19.

j. The U.S. Bankruptcy Court recognizing that under the Chapter 11 Plan, "all of the SME revenues will also be given to creditors under both the PC Plan and the PC Alternative Plan, because Pach Shemen itself is a creditor, and Pach Shemen will obtain the equity of the Debtors under either Petitioning Creditor plan."

Exhibit 3 at 75; *In re Eletson Holdings Inc*., 664 B.R. 569, 624 (Bankr. S.D.N.Y 2024).

33. On or about the Effective Date—November 19, 2024— consistent with the Chapter 11 Plan confirmed by the U.S. Bankruptcy Court, the following actions were taken to implement it:

a. Reorganized Plaintiff Eletson Holdings issued shares to the new holders.

b. The shares of the Defendants who were former shareholders were cancelled.

c. The new shareholders in Plaintiff Eletson Holdings removed all former directors of that Plaintiff entity and appointed new directors. Copies of the shareholders' and the new board's consent are attached as Exhibits 7 and 8, respectively.

d. Plaintiff Eletson Holdings, being the sole shareholder in Plaintiff Eletson Corp, removed all former directors in that entity and appointed a new board. Copies of the stockholders' and the new board's consent are attached as Exhibits 9 and 10, respectively.

34. On November 29, 2024, Plaintiff Eletson Holdings as the sole common shareholder in Plaintiff Eletson Gas removed all of its former appointee directors in that Plaintiff entity and appointed new directors.

35. Further, on December 6, 2024, the board of directors of Kithnos SME was likewise reconstituted. Copies of the relevant shareholders' consents and minutes are attached as Exhibit 11.

36. Both the Bankruptcy Court and the United States District Court for the Southern District of New York (the "S.D.N.Y. Court") have recognized the new management of Plaintiff Eletson Holdings.

37. Similarly, when considering the appeal against an order of the U.S. Bankruptcy Court, the S.D.N.Y. Court (case number 1:23-cv-07331-LJL, *Eletson Holdings, Inc. et al. v*

Levona Holdings Ltd.) also ruled that the new board of directors of Plaintiff Eletson Holdings is to be recognized and has the ability to act on behalf of Eletson Holdings, under section 5.2 of the Chapter 11 Plan. A copy of the bench ruling is attached at Exhibit 12 at [31:9-19] and the copy of the relevant stipulation and agreement to dismiss the appeal is attached at Exhibit 13.

C. Refusal of Old Management of Eletson Holdings to Comply with U.S. Court Orders

38. However, in brazen defiance of the Chapter 11 Order, Chapter 11 Decision, and Chapter 11 Plan (as well as subsequent rulings of the U.S. Bankruptcy Court and S.D.N.Y. Court), the Defendants are refusing to comply with these U.S. court orders and implement the transfer of ownership in Plaintiff Eletson Holdings and, by extension, in Plaintiffs Kithnos SME, Eletson Gas, and Eletson Corp.

39. There was currently pending before the U.S. Bankruptcy Court an emergency motion for sanctions against such Defendants as were Former Shareholders, Directors & Officers in Eletson entities and against their counsel. A copy of the sanctions motion is attached at Exhibit 14. This has now been granted in modified form.

40. Among other instances of clear and intentional defiance of the U.S. Bankruptcy Court orders, such Defendants:

a. continue to obstruct the registration of the cancellation of shares of the older shareholders and issuance of shares to the new shareholders and appointment of the board of Plaintiff Eletson Holdings and completion of many other associated formalities in Liberia;

b. continue to represent themselves as and act as purported shareholders, directors and officers of Plaintiff Eletson Holdings and other Eletson subsidiaries;

c. appointed a "provisional" board of directors in Greece for Plaintiff Eletson Holdings, despite the fact that pursuant to the Chapter 11 Plan, on the Effective

Date, each member of the "provisional" board was deemed to resign—post-Effective Date, this "provisional board" has taken unauthorized actions in the U.S., Liberia, and Greece; and

d. continue to unlawfully insist that the U.S. Bankruptcy Court orders must be recognized in Liberia and Greece through a separate procedure through vexatious proceedings in those countries before the relevant Defendants would agree to comply with the U.S. Bankruptcy Court's orders (which already have binding power).

41. Such actions by Defendants in breach of the U.S. Bankruptcy Court's Orders result in Plaintiffs being deprived of any possession and use of the Vessel and blatantly interfere with Plaintiffs' proprietary rights in the Vessel.

42. As a result of such actions, Plaintiffs and their new shareholders and directors have to date been unable to receive any income from the use of the Vessel (or indeed any other ships in the Eletson-controlled fleet), replace the crews, or exercise any of their rights as, among others, bareboat charterers, pro hac vice owners, and managers of the Vessel.

43. It is clear that Defendants who are Former Shareholders, Directors & Officers of Eletson entities actively seek to undermine the U.S. Bankruptcy Court orders by obstructing the implementation of such orders.

44. This is despite sections 1141 and 1142 of the Bankruptcy Code, as well as section 5.4 of the Chapter 11 Plan, which requires cancellation of the old shareholdings without further notice to or order of the Court, and section 7.2 of the Chapter 11 Order, which vests into Eletson Holdings all interests in its subsidiaries, together with section 19 providing for immediate binding effect of the Chapter 11 Plan.

45. Indeed, this flies in the face of the express words of the Chapter 11 Plan itself, which provides again as follows in its section 5.2(c):

all property in each Estate, including all Retained Causes of Action, and any property acquired by any of the Debtors, **including interests held by the Debtors in their respective non-Debtor direct and indirect subsidiaries and Affiliates shall vest in Reorganized Holdings**, free and clear of all Liens, Claims, charges, or other encumbrances…

Exhibit 5, at 28, § 5.2.(c) (emphasis added).

46. Indeed, on January 24, 2025, the U.S. Bankruptcy Court held a hearing in which it granted reorganized Eletson Holdings' motion for sanctions against various allegedly violating parties - including Eletson's former counsel and former shareholders, directors and officers - for actively working to obstruct the Chapter 11 Plan, which went effective on November 19, 2024. A true copy of the court transcript from the U.S. Bankruptcy Court hearing on January 24, 2025 is attached as Exhibit 15.

47. The U.S. Bankruptcy Court further held that under the Chapter 11 Plan and Order, the creditors validly obtained control of Plaintiff Eletson Holdings, the former Eletson Holdings board ceased to exist, and the Chapter 11 Order recognizes the new board of reorganized Plaintiff Eletson Holdings (as contemplated under the Chapter 11 Plan documents) and gives it authority to act on behalf of reorganized Plaintiff Eletson Holdings. *Id.* at 26:5-25, 27:1-5, 43:10-15.

48. The U.S. Bankruptcy Court further directed the former shareholders, directors and officers, as well as their counsel and their related parties and affiliates to comply with the Chapter 11 Plan and the Chapter 11 Order and "take all steps reasonably necessary" in implementing the Plan, including by updating the relevant corporate governance documents in Liberia within 7 days of entry of the order to be issued following the ruling. *Id.* at 43:16-25, 44:1.

49. On January 29, 2025, the U.S. Bankruptcy Court issued its formal order granting the motion for sanctions and directing the violating parties to take steps as described above, no later than 7 days after service of that order. A true copy of the order is attached as Exhibit 16. The order was served on January 29 and 30, 2025, and so far has not been complied with.

D. Old Eletson Management's Evasive Action

50. Shortly after the approved Chapter 11 Plan became effective, Defendants took various dissipatory steps, including redirecting time charter hire payments in relation to at least the vessels called M/V FOURNI and KASTOS away from a bank account owned by a treasury company called EMC Investment Corporation.

51. On information and belief, such bank account is held with Berenberg Bank, which placed on informal freeze on that account following the entry into effect of the Chapter 11 Plan.

52. Further, under threat of withdrawal of the two above ships made to their time charterers, Defendants siphoned the hire funds away on or about January 10, 2025.

53. As set forth below in more detail, Defendants also changed the management of several other vessels in the Eletson fleet, such as M/V ANAFI, NISYROS and TILOS, from Plaintiff Eletson Corp, which is now under control of the new management following the Chapter 11 Plan.

E. Old Eletson Management's Evasion of Arrest of M/V KINAROS

54. On January 7, 2025 at a12:46 PM CST, consistently with the implementation of the U.S. Bankruptcy Court's Chapter 11 orders, Plaintiffs – including a related entity called Kinaros Special Maritime Enterprise – filed an action to arrest another vessel from the Eletson fleet called M/V KINAROS (case 1:25-cv-00004, currently pending before the U.S. District Court for the Southern District of Texas, Brownsville Division).

55. At the time, M/V KINAROS was scheduled to load 300,000 barrels of oil / petroleum products at the liquid cargo dock in Brownsville, Texas. A true copy of the Port of Brownsville vessel arrival chart dated January 6, 2025 is attached as Exhibit 17.

56. However, at 20:37 GMT (or 13:37 CST) and less than one hour after the arrest action was filed on the Court's docket, M/V KINAROS suddenly stopped steaming towards Brownsville and started drifting outside of the Port of Brownsville and critically, outside of the jurisdictional boundaries of the Southern District of Texas. True and correct copies of screenshots showing M/V KINAROS's movements at the time are attached as Exhibit 18.

57. On the same day, Judge Rolando Olvera granted the Plaintiffs' Emergency *Ex Parte* Motion for Issuance of a Warrant of Arrest, issued an order authorizing the arrest of the Vessel and an arrest warrant was issued by the District Clerk. True copies of the order and the warrant are attached as Exhibits 19 and 20.

58. M/V KINAROS never arrived at its original destination in the Port of Brownsville, and after a period of drifting in the Gulf of Mexico off of the U.S. and Mexican coastline, the vessel sailed towards Jamaica. This was despite the messages sent by Plaintiffs to the Master and some of the individual Defendants ordering the Vessel to proceed to Brownsville. True copies of the relevant messages are attached at Exhibit 21.

59. On information and belief, Defendants who are Former Shareholders, Directors & Officers became aware of the arrest action filed by Plaintiffs against M/V KINAROS and ordered the master of M/V KINAROS to avoid entering the Port of Brownsville and/or the Southern District of Texas, generally.

60. These steps are a clear evasion of the arrest order issued in case 1:25-cv-00004, currently pending before the U.S. District Court for the Southern District of Texas, Brownsville Division.

61. The relevant Defendants are evading legal process in the U.S. where they know they will be subject to the reality of the decisions of the U.S. Bankruptcy Court, as well as the arrest warrant issued against M/V KINAROS.

62. Further, these actions violate the injunction on interference with implementation and consummation of the Chapter 11 Plan, under paragraph 12 of the Chapter 11 Order, and also the injunction on "interfering with any distributions and payments contemplated by the Plan" under that same paragraph, as issued by the U.S. Bankruptcy Court. Exhibit 4 at 25, ¶12.

63. This is because as the U.S. Bankruptcy Court recognized in its Chapter 11 Decision: "all of the SME revenues will also be given to creditors under both the PC Plan and the PC Alternative Plan, because Pach Shemen itself is a creditor, and Pach Shemen will obtain the equity of the Debtors under either Petitioning Creditor plan." Exhibit 3 at 75; *In re Eletson Holdings Inc*., 664 B.R. 569, 624 (Bankr. S.D.N.Y 2024).

64. "PC Plan" is the Chapter 11 Plan which the U.S. Bankruptcy Court confirmed; "Pach Shemen" is one of the new shareholders in Plaintiff Eletson Holdings, while "SME revenues" refers to hire or freight that should be received by entities like Kinaros SME and Plaintiff Kithnos SME in the Eletson group who are bareboat charterers of vessels.

65. The evasion of arrest by M/V KINAROS, which was on information and belief orchestrated by Defendants who are Former Shareholders, Directors & Officers of Eletson Entities, has been brought to the attention of the U.S. Bankruptcy Court.

F. Old Eletson Management's Attempted Evasion of Arrest of M/V KIMOLOS

66. The M/V KIMOLOS was arrested by Plaintiffs Eletson Holdings and Eletson Corp, as well as Kimolos II Special Maritime Enterprise at Bahia Las Minas, Panama, at about 3am on Monday, February 3, 2025.

67. On information and belief, as the M/V KIMOLOS was approaching Panama, the Defendants took multiple steps to avoid arrest and mislead the plaintiffs in the Panamanian proceedings.

68. On information and belief, on or about January 31, 2025, the Defendants deliberately spoofed the publicly available website for vessel tracking www.marinetraffic.com and/or otherwise interfered with the AIS reporting[3] system of the M/V KIMOLOS, in order to misrepresent the M/V KIMOLOS as being at the Balboa anchorage on the Pacific side of the Panama Canal, when in reality the M/V KIMOLOS was on that day still sailing through the Caribbean Sea towards Panama. True and correct copies of screenshots from Marine Traffic dated January 31, 2025, are attached as Exhibit 22.

69. On information and belief, the Defendants turned off or otherwise interfered with the AIS reporting of the M/V KIMOLOS on its voyage to Panama. *Id*, at 4 (indicating that that vessel's position has not been reported for over 11 hours).

70. On information and belief, in the days leading up to the arrest, the Defendants misrepresented the estimated time of arrival of the M/V KIMOLOS to the Panama Canal Authority and/or other authorities in Panama, stating that that vessel would arrive at the Canal at or about 20:00 on February 2, 2025 and also indicating that the M/V KIMOLOS would transit the Canal. A copy of the arrival chart dated February 2, 2025 is attached at Exhibit 23.

71. On information and belief, the Defendants did not intend the M/V KIMOLOS to transit the Panama Canal at all.

72. In fact, at or about 22:00 on February 2, 2025, the Vessel arrived with a gas cargo at Bahia Las Minas, Panama (which is a port on the Atlantic coast of Panama that can be accessed without transiting the Canal and is not part of the Canal zone).

[3] The automatic identification system (AIS) is an automatic tracking system that uses transceivers on ships and is used by vessel traffic services (VTS) to report the vessels' location in real time.

73. On information and belief, the Defendants misrepresented the position of the M/V KIMOLOS, its destination and its ETA, in order to avoid arrest of the M/V KIMOLOS by Plaintiffs in Panama.

74. These actions too violate the injunction on interference with implementation and consummation of the Chapter 11 Plan, under paragraph 12 of the Chapter 11 Order, and also the injunction on "interfering with any distributions and payments contemplated by the Plan" under that same paragraph, as issued by the U.S. Bankruptcy Court. Exhibit 4 at 25, ¶12. These actions also violate the January 29 Decision and accompanying order requiring the very parties taking these actions to cooperate on effectuating the Plan.

G. The Stay Regarding the Preferred Shares in Plaintiff Eletson Gas and the Defendants' Blatant Violations of That Stay

75. As Plaintiffs discovered recently, Defendants took more brazen steps to violate further orders of the U.S. Bankruptcy Court, which directly relate to the ownership and management of the Vessels in issue here and also affect other ships in the Eletson fleet.

76. On April 17, 2023, the U.S. Bankruptcy Court issued a stay concerning the preferred shares in Plaintiff Eletson Gas, which had been subject of an arbitration and a JAMS arbitration award between Levona Holdings, Ltd (one of the creditors in the bankruptcy who held these preferred shares) and Plaintiffs Eletson Holdings and Eletson Corp. (common shareholders in Eletson Gas who were both then under the control of Former Shareholders, Directors & Officers), as well as other related parties (the "Stay Order"). A true copy of the Stay Order is attached as Exhibit 24.

77. The Stay Order provided in the relevant part:

> "Any Arbitration Award, whether in favor of any Arbitration Party, shall be stayed pending further order of the Bankruptcy Court on a motion noticed following the issuance of the Arbitration Award. For avoidance of doubt, no Arbitration Party shall transfer, dispose of, transact in, hypothecate, encumber,

impair or otherwise use any such Arbitration Award or any asset or property related thereto absent a further order of this Court."

Id at ¶ 4.

78. The Stay Order sought to preserve the status quo in relation to the preferred shares in Plaintiff Eletson Gas, the arbitration award concerning them, and also ownership and management of ships owned through Plaintiff Eletson Gas (including the Vessel in this action).

79. However, the Defendants in this action, purporting to act for or on behalf of Plaintiffs Eletson Holdings, Eletson Corp. and Eletson Gas even after the U.S. Bankruptcy Court confirmed the Chapter 11 Plan, blatantly violated the Stay Order:

a. By purporting to replace Plaintiff Eletson Corp. as the manager of a large number of Eletson fleet ships owned through Plaintiff Eletson Gas during the fall of 2024 and most recently in January 2025 (including M/V ANAFI, NISYROS and TILOS), and depriving Plaintiff Eletson Corp. of the relevant income under its management agreements. Copies of Equasis reports showing the changes of managers are attached as Exhibit 25.[4]

b. By purporting to change Eletson Gas's share registry and board of director composition to reflect the relief Defendants believe was granted in the award concerning the preferred shares. They made those purported changes on February 26, 2024, but concealed their actions from the U.S. Bankruptcy Court for nearly a year, during which they dissembled in response to more than twenty requests for confirmation that no such violations had occurred. The U.S. Bankruptcy Court learned about this issue for the first time on January 16, 2025. A true copy of the motion to enforce the stay and impose sanctions filed before

[4] Equasis, or the "Electronic Quality Shipping Information System" is an online database which compiles management, insurance, and safety related information on ships from public and private sources and makes them available on the Internet. *See, https://www.equasis.org/EquasisWeb/public/About?fs=HomePage&P_ABOUT=MainConcern.html*

the U.S. Bankruptcy Court against many of the Defendants is attached as Exhibit 26. This has now been granted.

c. By filing a new litigation in England on December 16, 2024, in which the Defendants purporting to act on behalf of Plaintiffs Eletson Holdings and Eletson Corp., are explicitly seeking enforcement of the preferred shares award. Again, the existence of these English proceedings was first made known to the U.S. Bankruptcy Court on January 16, 2025. *Id.*

80. In light of these obvious and flagrant breaches of the U.S. Bankruptcy Court's orders, Plaintiffs bring the present action under Rule D in order to preserve the status quo under the Stay Order and other orders, and ensure that Plaintiff Eletson Corp remains acting as a manager of the Vessel, Plaintiff Kithnos SME remains its lawful bareboat charterer, while the revenues generated by Plaintiff Kithnos SME are given to the new and lawful shareholders of Plaintiff Eletson Holdings, as the Chapter 11 Decision provides, and possession of the Vessel itself is returned to Plaintiffs.

81. To the extent any of the Defendants may seek to argue that the Plaintiffs are somehow in breach of the Stay Order, the Plaintiffs are not undertaking any of the following: "transfer, dispose of, transact in, hypothecate, encumber, impair or otherwise use" the Arbitration Award or any asset/property related thereto, in bringing the present action.

82. The present action is one for possession under Supplemental Rule D and is not one to enforce a maritime lien or seek security. It is therefore consistent with the Stay Order.

83. On information and belief, the Vessel is currently in or near the Port of Corpus Christi. More specifically, on information and belief, the Vessel is scheduled to arrive at the Port of Corpus Christi on or about today February 5, 2025 and there is a real risk that it may depart shortly thereafter—perhaps in as few as twenty-four hours--to an unknown destination.

COUNT I
Rule D Possessory and Petitory Claim for the Vessel

84. Paragraphs 1 through 83 of this Verified Complaint are repeated and realleged as if the same were set forth her at length.

85. A controversy has arisen regarding Plaintiffs' immediate right to possession of the Vessel and exercise of other rights granted to Plaintiffs by the Bareboat Charter and the Management Agreement.

86. Plaintiffs are the lawful bareboat charterers, *pro hac vice* owners and managers of the Vessel.

87. However, the Vessel is currently in the de facto possession and control of Defendants purporting to act through and on behalf of the Eletson entities and in clear and intentional violation of the U.S. Bankruptcy Court orders.

88. Defendants purporting to act through and on behalf of the Eletson entities continue to deprive Plaintiffs of any possession and use of the Vessel and blatantly interfere with Plaintiffs' proprietary rights in the Vessel.

89. As a result, Plaintiffs are unable to exercise any of their rights as bareboat charterers, *pro hac vice* owners, and managers of the Vessel.

90. On information and belief, the Vessel is currently present or will soon be present in or around the area of the Port of Corpus Christi.

91. On information and belief, the Vessel is scheduled to arrive at the Port of Corpus Christi on or about today February 5, 2025 and is capable of departing shortly thereafter to an unknown destination.

92. Pursuant to Rule D, Plaintiffs are entitled to bring an action for possession of the Vessel.

93. Defendants continue to possess the Vessel unlawfully, to the detriment of Plaintiffs, causing damage to Plaintiffs.

94. Defendants purporting to act through and on behalf of the Eletson entities do not hold either legal title or a legal possessory interest in the Vessel.

95. Plaintiffs therefore request a warrant for the arrest of the Vessel pursuant to Rule D, as well as immediate orders from this Court (i) declaring their right to recover possession of the Vessel, (ii) ordering that Defendants deliver the Vessel into Plaintiffs' possession and (iii) ordering that Defendants in all respects refrain from interfering with the use and possession by Plaintiffs of the Vessel (including by an injunction barring Defendants from interfering with Plaintiffs' management and operation of the Vessel).

COUNT II
Conversion of Maritime Property

96. Paragraphs 1 through 83 of this Verified Complaint are repeated and realleged as if the same were set forth here at length.

97. Plaintiffs are the lawful bareboat charterers, *pro hac vice owners* and managers of the Vessel and have the unconditional right to take possession of the Vessel.

98. Defendants purporting to act through and on behalf of the Eletson entities have unlawfully and intentionally exercised dominion and control over the Vessel on navigable waters without authorization and inconsistently with Plaintiffs' rights.

99. Defendants purporting to act through and on behalf of the Eletson entities appropriated the Vessel on navigable waters for their own use and gain.

100. As a result of the foregoing, Plaintiffs have suffered damages in excess of $1,400,000 due to the inability to use the Vessel.

WHEREFORE, Plaintiffs pray for relief as follows:

A. That a Warrant of Arrest be issued in due form of law and according to the practice of this Honorable Court in cases of admiralty and maritime jurisdiction against the Vessel in or near the Port of Corpus Christi, pursuant to Rule D for Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure;

B. That the Vessel be seized when found within this District pursuant to Rule D of the Admiralty or Maritime Claims and Asset Forfeiture Actions of the Federal Rules of Civil Procedure;

C. That process in due form of law according to the practices of this Honorable Court in causes of admiralty and maritime jurisdiction be issued against Defendants;

D. That an order be issued that Plaintiffs are entitled to legal title and possessory rights of the Vessel and a commensurate order compelling Defendants to release the Vessel to Plaintiffs, respectively;

E. That the Court enter judgment in favor of Plaintiffs and enter an order confirming Plaintiffs' right to possession of the Vessel;

F. That judgment be entered in Plaintiffs' favor and against Defendants, jointly and severally, in an amount to be proven in these proceedings, plus costs, expenses and interest;

G. That an injunction be issued prohibiting Defendants from interfering with Plaintiffs' possession, management and operation of the Vessel;

H. That Plaintiffs have such other and further relief as in law and justice they may be entitled to receive, including attorneys' fees.

Date: February 5, 2025

Respectfully submitted,

PHELPS DUNBAR LLP

By: */s/Andrew R. Nash*

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PENDING PRO HAC VICE ADMISSION

VERIFICATION

Pursuant to 28 U.S.C. § 1746, Leonard J Hoskinson declares as follows:

I am an authorized representative of Plaintiff Kithnos Special Maritime Enterprise.

I have read the foregoing Verified Complaint and know the contents thereof.

I verify that I believe the allegations contained therein to be true to my own knowledge, except as to matters stated to be upon information and belief, and as to those matters I believe them to be true.

The grounds for my belief are based upon my personal knowledge gained during the course of my professional duties as an authorized representative of Plaintiff and my review of and familiarity with correspondence and other relevant documents, including the exhibits to the foregoing Verified Complaint.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 5th day of February 2025 in Florida, United States.

Leonard J Hoskinson

VERIFICATION

Pursuant to 28 U.S.C. § 1746, Leonard J Hoskinson declares as follows:

I am a director of Plaintiff Eletson Holdings Inc.

I have read the foregoing Verified Complaint and know the contents thereof.

I verify that I believe the allegations contained therein to be true to my own knowledge, except as to matters stated to be upon information and belief, and as to those matters I believe them to be true.

The grounds for my belief are based upon my personal knowledge gained during the course of my professional duties as director of Plaintiff and my review of and familiarity with correspondence and other relevant documents, including the exhibits to the foregoing Verified Complaint.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 5th day of February 2025 in Florida, United States.

LJ Hoskinson

Leonard J Hoskinson

VERIFICATION

Pursuant to 28 U.S.C. § 1746, Leonard J Hoskinson declares as follows:

I am CEO of Plaintiff Eletson Corporation.

I have read the foregoing Verified Complaint and know the contents thereof.

I verify that I believe the allegations contained therein to be true to my own knowledge, except as to matters stated to be upon information and belief, and as to those matters I believe them to be true.

The grounds for my belief are based upon my personal knowledge gained during the course of my professional duties as CEO of Plaintiff and my review of and familiarity with correspondence and other relevant documents, including the exhibits to the foregoing Verified Complaint.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 5th day of February 2025 in Florida, United States.

Leonard J Hoskinson

EXHIBIT B

phelps

Phelps Dunbar LLP
910 Louisiana Street
Suite 4300
Houston, TX 77002
713 626 1386

February 6, 2025

Kenderick M. Jordan
kenderick.jordan@phelps.com
Direct 713 877 5531

Re: Sealed Case – *Kithnos Special Maritime Enterprise, et al. v. M/V KITHNOS (IMO 9711523), her engines, tackle, equipment, and appurtenances, in rem, et al.*; Case No. 2:25-mc-00019 – Plaintiffs' Letter to Court.

TO THIS HONORABLE COURT:

On February 5, 2025, Plaintiffs, Kithnos Special Maritime Enterprise, Eletson Holdings Inc., Eletson Corporation, and Eletson Gas LLC, filed their Emergency Ex Parte Motion to Proceed with Case Under Seal (Dkt. No. 1, the "Motion") and Sealed Complaint (Dkt. No. 2, "Complaint") against the M/V KITHNOS, *in rem* (the "Vessel"), and several other defendants, in personam. This Court granted Plaintiffs' Motion to seal the case (Dkt. No. 5).

As set out more fully in Plaintiffs' Motion and Complaint, due to the Defendants' evasive conduct, Plaintiffs were forced to file their pleadings with the Court under seal and only when the Vessel was undoubtedly steaming into the Port of Corpus Christi. The Vessel began her maneuver into Corpus Christi just before 12:00 p.m. CST, February 5, 2025. This necessitated swift action by Plaintiffs' Counsel to file all pleadings under seal and have before the reviewing judge prior to the close of business on February 5, 2025. Due to the *in extremis* nature of the case and filings, Plaintiff Eletson Gas LLC's verification to the Complaint was inadvertently omitted from the filed document, which has just come to Counsel's attention. To rectify the matter, filed herewith this notice is Plaintiff Eletson Gas LLC's signed verification from February 5, 2025. Plaintiffs will coordinate to have this verification delivered to the Vessel, as it has been successfully arrested at the Corpus Christi Inner Harbor, Bulk Dock No. 1.

If you have any questions or inquires for Counsel, please do not hesitate to contact the undersigned.

Very Truly Yours,

Kenderick M. Jordan

KMJKMJ

Attachments:
Exhibit 1 – February 5, 2025, Signed Verification of Eletson Gas LLC

Cc:
Ivan M. Rodriguez, Esq.

February 6, 2025
Page 2

Andrew R. Nash, Esq.
Luke F. Zadkovich, Esq.
Edward W. Floyd, Esq.
Philip A. Vagin, Esq.

VERIFICATION

Pursuant to 28 U.S.C. § 1746, Leonard J Hoskinson declares are follows:

I am CEO of Plaintiff Eletson Gas LLC.

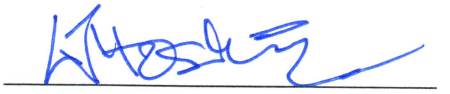
I have read the foregoing Verified Complaint and know the contents thereof.

I verify that I believe the allegations contained therein to be true to my own knowledge, except as to matters stated to be upon information and belief, and as to those matters I believe them to be true.

The grounds for my belief are based upon my personal knowledge gained during the course of my professional duties as CEO of Plaintiff and my review of and familiarity with correspondence and other relevant documents, including the exhibits to the foregoing Verified Complaint.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 5th day of February 2025 in Florida, United States.



Leonard J Hoskinson

EXHIBIT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

KITHNOS SPECIAL MARITIME ENTERPRISE, ELETSON HOLDINGS, INC, ELETSON CORPORATION, ELETSON GAS LLC,	§	**CIVIL ACTION NO.**
	§	**25-cv-00042**
Plaintiffs,	§	**ADMIRALTY RULE 9(h)**
M/V KITHNOS (IMO 9711523), her engines, tackle, equipment, and appurtenances, *in rem*,	§	
and	§	
FAMILY UNITY TRUST COMPANY, GLAFKOS TRUST COMPANY, LASSIA INVESTMENT COMPANY, ELAFONISSOS SHIPPING CORPORATION, KEROS SHIPPING CORPORATION, VASSILIS HADJIELEFTHERIADIS, LASKARINA KARASTAMATI, VASSILIS E. KERTSIKOFF, VASILEIOS CHATZIELEFTHERIADIS, KONSTANTINOS CHATZIELEFTHERIADIS, IOANNIS ZILAKOS, ELENI KARASTAMATI, PANAGIOTIS KONSTANTARAS, EMMANOUIL ANDREOULAKIS, ELENI VANDOROU, *in personam*	§	
Defendants.	§	

PLAINTIFFS' RESPONSE IN OPPOSITION TO
MOTION TO VACATE ARREST

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Plaintiffs Kithnos Special Maritime Enterprise ("Kithnos SME"), Eletson Holdings, Inc. ("Eletson Holdings"), Eletson Corporation ("Eletson Corp") and Eletson Gas LLC ("Eletson Gas") (jointly "Plaintiffs") submit this Response to the Motion to Vacate the Arrest [Dkt. 51] filed by "Kithnos Special Maritime Enterprise, on the authority of its lawful board of directors", and in turn, "acting under the ultimate authority of the Cypriot Nominees" ("Purported Kithnos SME"). *Id*, at 3, fn 3. The motion by this Purported Kithnos SME seeks vacatur of the arrest of M/V KITHNOS (the "Vessel"). It should be denied for the reasons which follow, including that the relief sought would contradict other judicial orders and undermine the relevant protections of Eletson Holdings' bankruptcy estate.

I. INTRODUCTION & SUMMARY OF ARGUMENT

This action for Vessel possession is brought to assist in the enforcement of the clear outcome of a voluntary Chapter 11 reorganization of Plaintiff Eletson Holdings in New York (the "Bankruptcy Proceedings"). As a result of that reorganization, the old Greek directors, officers, and ultimate shareholders of Eletson Holdings and other subsidiaries ("Old Eletson", defined further below) lost their positions and the right to control the Eletson fleet of ships. Creditors of Eletson Holdings obtained ownership of Eletson entities through that voluntary Chapter 11 reorganization, which Old Eletson contested, and lost.

Under the reorganization plan ("Chapter 11 Plan"), certain creditors were required to, and did, inject $53.5 million to pay old debts of Eletson Holdings and the costs of the bankruptcy process, which Old Eletson could not satisfy. This is in addition to spending millions on the reorganization itself. In exchange, the creditors were to get control of Eletson Holdings and its subsidiaries. To facilitate the reorganization, the confirmation order (the "Confirmation Order") of the Bankruptcy Court required "the Debtors and their Related Parties"—including Old Eletson—to cooperate in good faith to implement the Chapter 11 Plan (the "Chapter 11 Plan") and enjoined them from taking any steps to interfere with the Plan.

The creditors honored their side of the Chapter 11 Plan, but Old Eletson have not. Instead, they still cannot accept the outcome of the reorganization and refuse to release possession of a single ship to the investors, who have received zero revenue from the Eletson fleet. Instead, Old Eletson is obstructing the creditors' reorganization efforts at every step, both in this country and overseas. As a result, the U.S. Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") found most Old Eletson individuals and their purported "Provisional Eletson Holdings" entity, through which they tried wrongfully to assert continued ownership, in contempt and imposed sanctions. The creditors are now rightfully in control of the Plaintiffs Eletson companies, including the bareboat charterer of the Vessel, Kithnos SME. They arrested the Vessel and seek possession of it. To sow confusion, Old Eletson appears before this Court under a contorted label – Purported Kithnos SME "on the authority of its lawful board of directors" "acting under the ultimate authority of the Cypriot Nominees." This is a recycled argument already rejected by the Bankruptcy Court in relation to Eletson Holdings and contrary to Old Eletson's obligations under Bankruptcy Court's orders.

In their motion to vacate the arrest, Old Eletson through Purported Kithnos SME argue: (1) that this Court has no power to award possession of the Vessel to Plaintiffs, because it is allegedly a "shareholder dispute" and not a maritime action; and (2) that Plaintiffs have no authority to seek possession of the Vessel. Their groundless claim is that Old Eletson—now acting under the cloak of three shell Cypriot Nominee companies and using a disputed and stayed arbitral award ("JAMS Award") as justification—was allegedly entitled to declare themselves owners of the preferred shares in Plaintiff Eletson Gas owned by Levona Holdings Ltd ("Levona").

This Court should see through this scheme. As to jurisdiction, Plaintiffs' possessory action is not a mere "shareholder dispute." Plaintiffs are entitled to possession of the sea-going Vessel under the bareboat charter. Solely because Old Eletson attempts to dispute the Plaintiffs'

authority to bring this action does not take the case away from this Court's admiralty jurisdiction and Supplemental Rule D. More fundamentally, Old Eletson were not entitled to declare themselves owners of the preferred shares in Plaintiff Eletson Gas. Doing so is a violation of, or at the very least contrary to, several binding orders of U.S. courts. This includes the Chapter 11 reorganization plan itself, and several further orders of the Bankruptcy Court, including the stay order entered by Judge Mastando concerning these preferred shares (the "Stay Relief Order"). It also includes the order of Judge Liman in the U.S. District Court for the Southern District of New York (the "District Court"). Judge Liman's order purposefully held that the JAMS Award is not fully confirmed and is subject to challenge based on Old Eletson's fraudulent non-disclosure of documents to the JAMS arbitrator, among others.

Purported Kithnos SME is a mere front for Old Eletson. Most of the Old Eletson individuals are already in contempt of court in this country. Yet, they still try to violate and circumvent even more U.S. court orders. Their motion to vacate the arrest should be denied.

II. FACTUAL BACKGROUND

a. The Parties

To the extent relevant to the present action concerning M/V KITHNOS, the facts of this protracted and multifaceted dispute are as follows. Plaintiff Kithnos SME is the bareboat charterer and *pro hac vice* owner of the Vessel entitled to possession of that Vessel pursuant to the charterparty dated February 23, 2022 ("Bareboat Charter") with the registered owners, OCM Maritime 4 LLC. Kithnos SME is a fully owned subsidiary of Plaintiff Eletson Gas, which is in turn a subsidiary of Plaintiff Eletson Holdings. Plaintiff Eletson Corp is the manager of the Vessel, under the ship management agreement dated January 21, 2016 ("Management Agreement"), and is fully owned by Eletson Holdings. Eletson Gas is an intermediate holding company which fully owns Eletson subsidiaries like Plaintiff Kithnos SME and other similar companies that are long-term charterers and operators of the Eletson LPG ships. Eletson Gas' shareholders are: (1) Plaintiff Eletson Holdings, which owns all common shares and has two

seats on the board of directors; (2) Plaintiff Eletson Corp, which owns one special share unit, and (3) Levona, which is an investor in Eletson Gas. Levona owns preferred shares in Eletson Gas and has four directors on Gas' board - Adam Spears, Joshua Fenttiman, Mark Lichtenstein, and Eliyahu Hassett.

In early 2022, the Eletson group was still under the management and ownership of several Greek families, primarily the Chatzieleftheriadis, Kertsikoff, and Karastamati families. They used to own Plaintiff Eletson Holdings through five Liberian companies.[1] Members of these Greek families also used to serve as directors and officers in the Eletson companies.

At the top of Eletson Holdings, the directors then **were** (1) Laskarina Karastamati; (2) Eleni Karastamati; (3) Vasileios Chatzieleftheriadis; (4) Konstantinos Chatzieleftheriadis; (5) Vassilis Kertsikoff; (6) Ioannis Zilakos; (7) Emmanouil Andreoulakis; and (8) Panagiotis Konstantaras. In turn, the same Laskarina Karastamati, Vasileios Chatzieleftheriadis, and Vassilis Kertsikoff were then directors in Eletson Corporation.

At the Eletson Gas level, the Greek families through Eletson Holdings had two common directors – once again, Laskarina Karastamati and Vassilis Kertsikoff (while the remaining four preferred directors were and still are appointed by Levona). Lastly, the board of directors of Kithnos SME at that time included the same Laskarina Karastamati, Vasileios Chatzieleftheriadis and Vassilis Kertsikoff. Together, all of the above Greek individuals and Liberian companies are referred to here as "Old Eletson".

b. The JAMS Arbitration and the Bankruptcy Stay Relief Order

In early 2022, a dispute arose between Levona, on the one hand, and Eletson Holdings and Eletson Corp (then under old Old Eletson's control), on the other. That dispute concerned whether Levona's preferred shares in Eletson Gas were bought out. The dispute between

[1] Namely, Family Unity Trust Company, Glafkos Trust Company, Lassia Investment Company, Elafonissos Shipping Corporation, and Keros Shipping Corporation. Each of these entities is an *in personam* defendant on Plaintiffs' maritime conversion claim in this action.

Eletson Holdings, Eletson Corp, and Levona was submitted to a sole arbitrator under the JAMS Rules in New York ("JAMS Arbitration"). Initially, Old Eletson claimed that, through Eletson Holdings and Eletson Corp, they had validly exercised a purchase option and bought Levona out of Eletson Gas. Levona denied this.

In March 2023, while the JAMS Arbitration progressed, several creditors of Eletson Holdings, including a company called Pach Shemen LLC, commenced involuntary bankruptcy proceedings against Eletson Holdings in the Bankruptcy Proceedings.[2] At Eletson Holdings' request, the case was converted into a voluntary Chapter 11 reorganization. Eletson Holdings and Old Eletson individuals voluntarily submitted to the jurisdiction of the Bankruptcy Court.

On April 17, 2023, to allow the JAMS Arbitration between Eletson Holdings, Eletson Corp, and Levona to progress in light of the Bankruptcy Proceedings, the Bankruptcy Court entered a so-called Stay Relief Order [Bnkr. Dkt. 48]. This order was requested by Old Eletson, heavily negotiated by the parties, and approved by the Bankruptcy Court. At all times then, Old Eletson argued in the JAMS Arbitration that Levona's preferred shares in Eletson Gas must go to Eletson Holdings and Eletson Corp. The Stay Relief Order is a binding order of the Bankruptcy Court and stays the JAMS Award.

Seeking to preserve control over the preferred shares in Eletson Gas (and thus control over the gas-carrying ships in the Eletson fleet), on April 25, 2023, Old Eletson changed its claims in the JAMS Arbitration. Whereas before they argued that the preferred shares must be transferred to Eletson Holdings and Eletson Corp, Old Eletson claimed that the shares should go to three previously unknown Cypriot nominee entities called Fentalon Ltd, Apargo Ltd, and Desimusco Ltd ("Cypriot Nominees").

[2] References in the form: [Bnkr. Dkt, X] are to filings submitted in the Bankruptcy Proceedings, case 23-10322-jpm, pending in the U.S. Bankruptcy Court for the Southern District of New York before Judge Mastando.

Notably, the Cypriot Nominees are owned by much the same Old Eletson individuals as were directors and officers of Eletson Holdings and Eletson Corp. The shareholders in Apargo are the Kertsikoff family, including Vassilis Kertsikoff. In turn, Desimusco is owned by the Chatzieleftheriadis family, including Vassileios and Konstantinos Chatzieleftheriadis. Lastly, the owners of Fentalon are the Karastamati family, including Eleni and Laskariona Karastamati. Copies of extracts from the Cypriot companies registry are attached as *Exhibit* 1.

On September 29, 2023, the arbitrator in the JAMS Arbitration issued the final JAMS Award. As part of the relief granted, the JAMS Award provided that Eletson Holdings and Eletson Corp had exercised the purchase option as of March 11, 2022. It also provided that Levona no longer held the preferred shares, which had been transferred to the Cypriot Nominees (who agreed to be bound by the JAMS Award and any judgment on it). However, no changes were ever made to the share register and the preferred directors in Eletson Gas.[3] In addition, **no one modified the Stay Relief Order**.

c. The District Court Vacatur Proceedings & Old Eletson's Attempt to Exclude Levona from Eletson Gas

Eletson Holdings and Eletson Corp (still under the old management) petitioned to confirm the JAMS Award in the U.S. District Court for the Southern District of New York before Judge Liman while Levona moved to vacate it ("Vacatur Proceedings").[4] Initially, in early 2024, Judge Liman issued a decision which agreed with some of Old Eletson's arguments but vacated portions of the JAMS Award [Dstr. Dkt. 68, 104, 105]. Judge Liman did not enter judgment then due to additional issues that needed to be resolved concerning the decision.

However, Levona subsequently discovered that Old Eletson withheld documents from the JAMS arbitrator that go to the central issue of whether the preferred shares were validly purchased. In June 2024, Levona moved for leave to amend its vacatur petition for the purpose

[3] [Dkt. 51-3, ¶133] (confirming that Eletson Gas' share register was not updated in 2022).
[4] References in the form: [Dstr. Dkt., X] are to the filings made in the Vacatur Proceedings, 1:23-cv-07331-LJL, pending in the U.S. District Court for the Southern District of New York before Judge Liman.

of asserting fraud on the arbitrator as a basis for vacating the JAMS Award [Dstr. Dkt. 123, 138, 162]. Discovery in those proceedings is ongoing.

As became clear on or about February 26, 2024, Old Eletson individuals, through the Cypriot Nominees, attempted to change Eletson Gas' share register and board to effectuate the relief they (wrongly) believed Judge Liman had granted. This occurred despite the Stay Relief Order being in place and remaining in place even after the JAMS Award became subject to the fraud challenge. As it transpired, Old Eletson, under the guise of the Cypriot Nominees, attempted to (a) write Levona out of the Eletson Gas' share register as the preferred shareholder and replace it with the Cypriot Nominees; (2) remove Levona's preferred directors in Eletson Gas; (3) appoint members of the same Greek families as new directors and officers of Eletson Gas (including Vassilis and Konstantinos Kertsikoff, Eleni Chatzieleftheriadi, Laskarina Karastamati and Adrianos Psomadakis-Karastamatis) [Bankr. Dkt. 1367 at 14].

The documents generated in this February 2024 attempt to write Levona out of Eletson Gas specifically state that they were issued in reliance on the JAMS Award and indeed that the new alleged "directors" of Eletson Gas are authorized to enforce that Award. *Id.* Again, these changes were made despite the Stay Relief Order of the Bankruptcy Court. Relevantly, the "Notice of Removal and Appointment of New Directors to Eletson Gas LLC", on which Old Eletson rely as the basis for its motion to vacate the arrest of the Vessel, was one of these clandestinely generated documents [Dkt. 51-9].

Old Eletson's interference with Levona's preferred shares and preferred directors in Eletson Gas is currently before the Bankruptcy Court. *See generally* [Bankr. Dkt. 1367, 1387, 1434, 1437, 1476]. Levona and Plaintiff Eletson Holdings seek sanctions for violations of the Stay Relief Order and rescission of Old Eletson's attempted changes to Eletson Gas.

Old Eletson's attempts to write Levona out were also notified to Judge Liman in the Vacatur Proceedings. On February 14, 2025, he *sua sponte* amended his prior order which had

partially confirmed the JAMS Award [Dstr. Dkt. 104]. He made this *sua sponte* amendment in a bench ruling on February 14, 2025,[5] after learning that Old Eletson, through the Cypriot Nominees, had been falsely asserting that he had confirmed the JAMS Award and attempting to enforce that Award. He stated: "In fact, as things stand, Eletson Gas and the Cypriot nominees are attempting to enforce the award. Docket number 248-1 at 21-24." *Exh. 2*, [111:8-10]. The docket number Judge Liman references is Levona's sanctions motion in the Bankruptcy Court against Old Eletson for violations of the Stay Relief Order. Judge Liman stated, *Id.* [115:9-116:1] (with emphasis added):

> The amendment should clarify what should already have been clear from the record, which is that the Court only ruled on the issues that were then in front of it, that there is a question whether the award will be vacated, **that until that issue is resolved the Court cannot finally confirm the award,** and that when and if the confirmation/vacatur proceedings go to the Second Circuit, they should go in a single package. **That's the ruling of the court**."

Most recently, in the March 24, 2025 order, Judge Liman expressed skepticism over Old Eletson's attempts to rewrite Eletson Gas' corporate documents in reliance on the JAMS Award [Dstr. Dkt. 295, 15-16, 35] (emphasis added):[6]

> [Levona's] injury is actual and imminent: the risk of enforcement proceedings is not merely hypothetical. Enforcement proceedings already have been commenced against Levona in several jurisdictions. Those proceedings could lead to substantial financial damages. … **The alleged Cypriot nominees issued formal board resolutions and corporate records in February 2024, in reliance on the Court's February 9, 2024, confirmation/vacatur decision, purporting to change the share registry and board of directors of Eletson Gas to reflect the relief they believe they obtained through the Award and to authorize themselves to enforce it.** … Reed Smith and others have been asserting that the Award has been "confirmed" and runs against Levona. … The creditors have argued in the bankruptcy court that the efforts of the purported Preferred Nominees and Reed Smith violate the terms of that Court's Stay Relief Order, which prohibited any efforts to enforce or effectuate the arbitration award absent further order of that court. …
>
> Proceedings attempting to enforce the award against Levona have been initiated in England and Greece. … There are ongoing disputes in Greece and Liberia regarding which entity has the capacity to speak for Eletson Holdings in those courts. … These disputes exist despite the orders of the bankruptcy court clearly stating that the new board has authority to act on behalf of Eletson Holdings and that "Reorganized Eletson

[5] A true copy of the transcript of the February 14, 2025 hearing in the District Court is attached as *Exhibit* 2.
[6] A true copy of Judge Liman's order dated March 24, 2025 is attached hereto at *Exhibit* 3.

> Holdings Inc.'s former shareholders, officers, directors, counsel, and others, as defined in section 1.124 of the plan, are directed to comply with the plan and the confirmation order to assist in effectuating the Chapter 11 plan." … **This Court's orders have been repeatedly cited (frequently misleadingly) in the foreign proceedings**.

d. The Chapter 11 Plan Goes Effective

Meanwhile, on October 25, 2024, the Bankruptcy Court entered its confirmation decision regarding the creditors' Chapter 11 Plan and rejected Old Eletson's proposed plan. [Bankr. Dkt. 1212]. On November 4, 2024, the Bankruptcy Court confirmed the Plan. No parties sought a stay, and the Plan went effective on November 19, 2024 [Bankr. Dkt. 1223].

One ground for preferring the investors' Chapter 11 Plan was that Old Eletson's plan could not inject any new value into the Eletson group to pay off debts. By contrast, the creditors' Chapter 11 Plan provided for $53.5 million to satisfy such debts [Bankr. Dkt. 1212 at 39]. Under the terms of that Plan, Old Eletson shareholders, directors & officers were removed, and new management stepped in [Bankr. Dkt. 1132, ¶5.10]. In exchange for the substantial investment, all interests that Eletson Holdings had in all its direct and indirect subsidiaries were to vest in Eletson Holdings, under the new management [Bankr. Dkt. 1132, ¶ 5.2, 1223, ¶7]. This included Eletson Corporation, Eletson Gas, and Kithnos SME. It also meant control over the Eletson fleet of ships, including the Vessel at issue here.

The Chapter 11 Plan and the Bankruptcy Court's Confirmation Order also (1) required the Debtors and their "Related Parties" (which includes Old Eletson as former directors and officers of Eletson Holdings) to cooperate in good faith in the implementation of the Plan[7] and (2) enjoined any parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, from taking any actions to interfere with the implementation or consummation of the Plan. [Bankr. Dkt. 1223, ¶12]. The Confirmation

[7] [Bankr. Dkt. 1223, ¶5.1; 1132, ¶1.124] (defining "Related Parties" in section 1.124 as including any entity's owners, subsidiaries, affiliates, managers; current and former officers, directors, principals, equity holders (regardless of whether such interests are held directly or indirectly), members, partners, employees, agents, attorneys, representatives, management companies, other professionals)

Order also stated that Plaintiff Eletson Holdings may operate its business, use its property and maintain any actions "without supervision or approval by the Bankruptcy Court." *Id.,* at ¶7.

Crucially, the Chapter 11 Plan deals with the preferred shares in Eletson Gas. The Plan recognizes that the right to claim the preferred shares from the Cypriot Nominees as "insiders" forms part of the bankruptcy estate and vested in Holdings. Section 5.2(c) of the Plan provides that all property of Holdings' estate, including "Retained Causes of Action", vests in Holdings [Bankr. Dkt. 1132, ¶5.2(c)]. In turn, section 1.128 defines "Retained Causes of Action" as including avoidance actions related to the Eletson Gas Transfer. *Id.,* at ¶1.128. Section 5.15(a) states that such causes of action are preserved for Eletson Holdings. *Id.,* at ¶5.15(a). Meanwhile, the "Eletson Gas Transfer" is defined in section 1.65 as "any purported transfer of preferred shares in Eletson Gas LLC." *Id.,* at ¶1.65. In turn, "Eletson Insiders" under section 1.67 are as defined in section 101(31) of the Bankruptcy Code, which includes directors, officers, persons in control of the debtor and their relatives (such as Old Eletson). 11 U.S.C. §101(31)(B).

e. Implementation of the Chapter 11 Plan

After the Chapter 11 Plan went effective on November 19, 2024, Old Eletson directors, officers and shareholders were removed from Eletson Holdings. Likewise, Pach Shemen LLC and Mulberry Street Ltd stepped in as shareholders in Plaintiff Eletson Holdings and appointed directors and officers there. The creditors injected $53.5 million to Eletson Holdings according to the Chapter 11 Plan.

Further, under the Plan's provisions concerning ownership of all direct and indirect subsidiaries, in November and December 2024, Plaintiff Eletson Holdings (1) replaced Old Eletson directors in Eletson Corporation (appointing Leonard J. Hoskinson as director); (2) replaced the common Old Eletson directors in Eletson Gas (likewise appointing Mr. Hoskinson as the sole common director), and (3) removed the directors in Kithnos SME as the

fully owned subsidiary of Eletson Gas (appointing three Greek entities as corporate directors and Mr. Hoskinson as the authorized representative for Eletson Gas). [Dkt. 56-12].

Plaintiff Eletson Holdings was not required, nor was there any need, to remove Eletson Gas' four **preferred** directors. In November-December 2024 and today, Levona was and still is the preferred shareholder in Eletson Gas, with its appointed directors Adam Spears, Joshua Fenttiman, Mark Lichtenstein, and Eliyahu Hassett. *Supra,* 4. Levona's directors did not object to the changes of the boards in Kithnos SME [Dkt. 56-12]. As matters stood then and now, the JAMS Award was not fully confirmed and is subject to Levona's fraud challenge. The Bankruptcy Court's Stay Relief Order was and is in place, and it stayed the Award. There is thus no basis to contend that anyone except Levona held and still holds the preferred shares.

Old Eletson's surreptitious attempt in February 2024 (uncovered only in late December 2024) to write Levona out of Plaintiff Eletson Gas and write the Cypriot Nominees in using the JAMS Award is invalid. That attempt is contrary to the Bankruptcy Court's Stay Relief Order, which stays the JAMS Award. *Infra,* 19-23. Further, if this Court validates such clandestine actions by Old Eletson, it will undermine the protections of Plaintiff Eletson Holdings' bankruptcy estate contained in the Chapter 11 Plan, as confirmed by the Bankruptcy Court. *Infra,* 23-25. Lastly, approving Old Eletson's actions purportedly taken in reliance on the JAMS Award will be inconsistent with Judge Liman's order, where he stated that the JAMS Award is not fully confirmed and is subject to Levona's fraud challenge. *Infra,* 25-26.

Old Eletson's argument that Plaintiffs lack authority to seek possession of the Vessel, because back in February 2024 Old Eletson, through the Cypriot Nominees, declared themselves owners of the preferred shares in Plaintiff Eletson Gas, is a distraction. It is contrary to several orders of other U.S. courts. Old Eletson only make it to portray Plaintiffs' maritime possessory action as a "shareholder dispute" and take the matter out of this Court's jurisdiction.

f. Old Eletson's Continuing Obstruction of the Chapter 11 Plan

Despite the Chapter 11 Plan and the changes made to Eletson entities under the Plan, Old Eletson continues to obstruct the Plan. This includes the Bankruptcy Proceedings, where many Old Eletson individuals and entities are now twice in contempt of court.[8] To the extent Old Eletson argue before this Court that they may act on behalf of Plaintiff Eletson Gas, a similar argument has already been rejected by the Bankruptcy Court. On March 25, 2025[9], Judge Mastando stated that such actions brought by Old Eletson in the name of Eletson Gas in Greece are inconsistent with his Foreign Oppositions Contempt Order. *Exh.* 6 [9:9-22] (emphasis added):

> **Thus, the Court finds to the to the extent that Eletson Gas is acting without the consent of Reorganized Holdings, because the interests in the subsidiaries, including Eletson Gas, vested in Reorganized Holdings**. The Greek arbitration proceeding violates the plan, the confirmation order, the January 29th order, and the March 13th order, and that proceeding is properly included in the March 13th order."

Old Eletson has also sought to obstruct vessel arrests in this District and in Panama[10] (also arguing in Panama that they represent Eletson Holdings and Corp).[11]

In the District Court, Old Eletson's former counsel Reed Smith was displaced by order of Judge Liman, who held that: "reorganized Eletson Holdings is the only Eletson Holdings Inc." [*Exh*. 2 at 96:21–22]; that Old Eletson individuals who are part of the alleged "provisional board" of Eletson Holdings and Reed Smith are not entitled to speak for Eletson Holdings, likening counsel to "interloper[s];" and, striking filings that the "provisional board's" counsel purported to file on Holdings' behalf. *Id*. at 105:17-106:24, 95:8- 22, 92:15-93:3. On March 24, 2025, Judge Liman declined to stay this order [Dstr. Dkt 295, 22-23, 35-36].[12]

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[8] See [Bankr. Dkt. 1495] and [Bankr. Dkt. 1537]. True copies of these two contempt orders against various Old Eletson parties are attached hereto as *Exhibits 4 and 5*.
[9] A true copy of the transcript from the March 25, 2025 hearing is attached hereto as *Exhibit* 6.
[10] Case 4:25-cv-00755, U.S. District Court for the Southern District of Texas (Houston) before Judge Ellison; case 6:25-cv-00016, U.S. District Court for the Southern District of Texas (Victoria) before Judge Morales; case *Kimolos II Special Maritime Enterprise, Eletson Holdings, Inc, Eletson Corporation v. M/V KIMOLOS and Capt. Evangelos* pending in the First Maritime Court of Panama before Judge Ciniglio.
[11] Copies of the powers of attorney issued by Old Eletson in Panama are attached hereto as *Exhibit* 7.
[12] A true copy of the District Court's order dated March 24, 2025 is attached hereto as *Exhibit* 8.

III. STANDARD OF REVIEW

In deciding whether to vacate the arrest under Rule E(4)(f), courts apply the reasonable grounds / probable cause standard. *Naftomar Shipping & Trading Co. v. KMA Int'l S.A.*, 2011 WL 888951, at *3 (S.D. Tex. Mar. 10, 2011). Plaintiffs' Verified Complaint, the record, and this response satisfy that standard by a long margin, both as regards admiralty jurisdiction over Plaintiffs' claims and Plaintiffs' authority to bring this action under Rule D.

IV. THIS COURT HAS JURISDICTION OVER PLAINTIFFS' CLAIMS FOR POSSESSION OF THE VESSEL

a. This Action Is for Possession of a Sea-Going Vessel

Plaintiffs seek an order for possession of a seagoing Vessel from the hands of Old Eletson parties who have no right to issue orders to the Vessel. This action is plainly within the confines of Rule D, which was designed to be used in possessory disputes in relation to ships. Plaintiff Kithnos SME is the lawful bareboat charterer of the Vessel [Dkt. 56-2]. It is a subsidiary of Plaintiff Eletson Holdings, through Plaintiff Eletson Gas. In turn, Plaintiff Eletson Corp is the lawful manager of the Vessel, under the Management Agreement. [Dkt. 56-3]. After the Chapter 11 reorganization of Eletson Holdings, which vested in it all rights in its subsidiaries (direct and indirect), Eletson Holdings replaced the Old Eletson directors and officers in Eletson Corp, Eletson Gas[13] and Kithnos SME. The purpose of the subsidiary vesting provision was to get actual control of the Eletson fleet of ships. Despite the outcome of the Chapter 11 reorganization, the Vessel remains in the actual possession of Old Eletson individuals, who issue orders to the Vessel. However, under the Bareboat Charter, the Vessel shall be in Kithnos SME's possession [Dkt. 56-2, 5]. A bareboat charterer is entitled to possession of the ship. *See Reed v. S. S. Yaka*, 373 U.S. 410, 412 (1963) (bareboat charterer has full possession and is owner pro hac vice); *Guzman v. Pichirilo*, 369 U.S. 698, 699-700

[13] For reasons explained below at 8-13, Old Eletson's argument that the Cypriot Nominees under their control took the preferred shares in Plaintiff Eletson Gas and replaced the preferred directors of Levona is incorrect and, in any event, not dispositive.

(1962). Likewise, a plaintiff entitled to possession of a ship may seek removal of unauthorized persons from the ship [Dkt. 3, 8-9]. Here, the Master and crew are on board without authorization and are not following Plaintiffs' orders. Plaintiffs seek their removal, which is consistent with seeking possession of the Vessel under Rule D.

b. This is Not a "Shareholder" Dispute and Old Eletson's Objections to Authority Do Not Take Jurisdiction Away from This Court

Old Eletson seek to recast Plaintiffs' claims as a non-maritime "shareholder dispute". This argument is a distraction designed to conflate Plaintiffs' claims for possession with a non-maritime "shareholder" claim. But, the claims here are still in admiralty jurisdiction.

First, Plaintiffs do not claim under shareholder or similar agreements or seek an accounting. Instead, Plaintiffs seek possession of the Vessel. The cases Old Eletson cite are inapposite. They all concern accounting disputes between partners, co-owners or joint venturers, or claims under ship sale or repair contracts. [Dkt. 51, 12-15].[14] The relief sought by Plaintiffs is possession of the Vessel. Plaintiffs are not in any partnership with Old Eletson. Their claims are not contractual but seek possession, plus assert a maritime tort of conversion.

Second, Plaintiffs' action is by itself within Rule D and in the admiralty jurisdiction. *Hunt v. A Cargo of Petroleum Prod. Laden on Steam Tanker Hilda*, 378 F. Supp. 701, 703 (E.D. Pa. 1974), *aff'd* 515 F.2d 506 (3d Cir. 1975) ("A suit to try title to or possession of a ship

[14] *Stathos v. The Maro*, 134 F. Supp. 330 (E.D. Va. 1955) concerned claims between two joint venturers / co-owners of the vessel where plaintiffs sought accounting and specific performance of an agreement to purchase stock in the shipowning company. The short decision in *The Managua*, 42 F. Supp. 381 (S.D.N.Y. 1941) was a claim by one partner against the other to reverse a fraudulent sale of vessels by the defendant partner in the name of the partnership. *The Detroit*, 63 U.S. 330 (1859) is similarly an accounting dispute between partners. *Coutsodontis v. M/V ATHENA*, 2008 WL 4330236 (E.D. La. Sept. 16, 2008) was a dispute between co-owners of a ship about division of profits, and the plaintiff asserted no maritime tort claims. *Economu v. Bates*, 222 F. Supp. 988 (S.D.N.Y. 1963) involved a similar dispute where the "principal relief sought is an accounting of profits arising out of the [joint venture] enterprise". In *Vandewater v. Mills, Claimant of Yankee Blade*, 60 U.S. 82, 92 (1856), relief sought was under a special partnership agreement to operate the vessel, which the court refused recharacterize as a charterparty. *Richard Bertram & Co., v. The Yacht Wanda*, 447 F. 2d 966 (5th Cir. 1971) concerned a contract to construct a vessel. The court declined jurisdiction there based on the "well established general rule that admiralty will not entertain suits where the substantive rights of the parties flow from a contract to sell or construct a vessel." *Mullane v. Chambers*, 333 F.3d 322, 328 (1st Cir. 2003). *J.A.R., Inc. v. M/V Lady Lucille*, 963 F.2d 96, 99– 100 (5th Cir. 1992) similarly involved a shipbuilding dispute. *Turner v. Beacham*, 24 F. Cas. 346, 348 (C.C.D. Md. 1858) dealt with a contract to form a partnership to purchase a vessel and claims adjust the accounts and liabilities of the different partners, and so is inapposite for both reasons above.

wrongfully taken has long been considered within the jurisdiction of admiralty courts regardless of whether the claim to the ship is based on the breach of a maritime contract or the commission of a maritime tort"; Thomas Schoenbaum, 2 ADMIRALTY & MAR. LAW § 21:5 (6th ed.) ("The court has admiralty jurisdiction over such an action regardless of contract or tort jurisdictional factors").

Old Eletson rely on statements in *Cary Marine, Inc. v. Motorvessel Papillion*, 872 F. 2d 751, 754 (6th Cir. 1989) to claim that even though Plaintiffs' action under Rule D concerns a ship, Plaintiffs must show the dispute arises out of a maritime tort or contract. If *Papillion* is argued to represent a general rule, it is against long-standing lines of authority cited in *Hunt* that date back to the 1800s. In any event, *Papillion* concerned a ship sale contract, and the plaintiff there sold its right to possess the ship. Here, no sale is involved and Plaintiffs never gave up their right to possession. Also, if a maritime tort is required, Plaintiffs assert maritime conversion claims against Old Eletson as *in personam* defendants [Dkt. 56].

Third, the mere fact that Old Eletson tries to dispute the corporate authority of certain Plaintiffs does not take Plaintiffs' action outside admiralty. Admiralty courts can consider non-maritime issues in admiralty actions. *Swift & Co. Packers v. Compania Colombiana Del Caribe, S.A.*, 339 U.S. 684, 691 (1950) (admiralty courts can consider subsidiary non-maritime disputes like fraud and award equitable relief in maritime actions like attachment of assets). Admiralty courts often address non-maritime issues, including authority. *Kawa Kawa Leasing, Ltd. v. Yacht Sequoia*, 544 F. Supp. 1050, 1067-68 (D. Md. 1982) (deciding issues of apparent authority in a Rule D action; "no matter how the scope of a petitory action is limited, plaintiffs' within prayers for relief would appear petitory in nature, which in turn means that admiralty

jurisdiction is present"). Old Eletson cannot put this case outside of this Court's jurisdiction merely by disputing Plaintiffs' authority.[15]

Lastly, Old Eletson's objection to authority is an attack on the merits of Plaintiffs' Rule D claims. This objection is incompatible with the Stay Relief Order, the Chapter 11 Plan, and orders of Judge Liman. *Infra*, 18-25. When deciding a motion to vacate under Rule E(4)(f), courts apply the probable cause / reasonable grounds threshold and determine whether it is likely that the alleged facts are true. *Supra,* 13. Plaintiffs have met this threshold. The Court should deny Old Eletson's motion and can leave the question of authority to be decided later. *See Santiago v. Evans*, 2012 WL 3231025, at *7 (M.D. Fla. June 21, 2012).

c. Plaintiffs Are Entitled to Possession of the Vessel, While This Court Can and Should Award It Under Rule D

Old Eletson argue that (1) Plaintiffs cannot assert legal title to the Vessel and (2) Plaintiffs never had possession of the Vessel. However, in a Rule D action, the party seeking possession must allege "legal title **or** a legal claim to possession." *Richmond Materials Co. v. Dredge La Concha*, 2009 WL 10705198, at *4 (S.D. Tex. Mar. 2, 2009). It is incorrect to argue that Plaintiffs must allege "legal title" in the sense of absolute ownership of the Vessel. A bareboat charterer is a *pro hac vice* owner entitled to possession. *Supra,* 13-14. A bareboat charterer can thus invoke Rule D. Old Eletson admit as much at [Dkt. 51, 18-19, fn 26].[16]

Old Eletson's argument that prior possession of the Vessel is necessary for a possessory action under Rule D is equally amiss. Kithnos SME was in possession before the Chapter 11 reorganization and subsequent changes in management. After these changes, Plaintiff Kithnos SME lost effective possession of the Vessel, as the Master and crew do not follow its orders but still comply with orders of Old Eletson. As a result, Plaintiffs – including Plaintiffs Kithnos

[15] To the extent Old Eletson argue that their authority objections have allegedly been submitted to (unspecified) arbitration, this in any event does not prevent Plaintiffs from commencing the present action under Rule D and arresting the Vessel. *See* 9 U.S.C. § 8.
[16] Notably, *The Nellie T* concerned the right of a mere time charterer of a ship, not a bareboat charterer.

SME – were compelled to bring this action for possession. Further, Old Eletson's argument implies there are two Kithnos SMEs, one controlled by Old Eletson and with effective possession of the Vessel, and one controlled by Plaintiffs who allegedly never had possession. However, there is only one entity – Kithnos SME. It has the right to possession under the Bareboat Charter, was in prior possession, and now brings this action under Rule D because Old Eletson still de facto possesses the Vessel by orders to the disobedient Master and crew.

Third, Plaintiffs also had constructive possession, based on the Bareboat Charter. *Offshore Exp., Inc. v. Bergeron Boats, Inc.*, 1977 WL 6476159 (E.D. La. Oct. 5, 1977) (contractual powers to exercise control "resulted in an exercise of constructive possession, *Hale v. U.S.*, 410 F.2d 147, 150 (5 Cir. 1969), which we deem … prior possession. Additionally, complainant's right of possession, derived from its author in title, adhered to a maritime entity").[17]

Fourth, denying Rule D relief here will create an absurd outcome where the bareboat charterer whose management changed but who is denied access to the Vessel would never be able to arrest and possess the Vessel. On Old Eletson's theory, such a charterer's action will always fail due to the lack of prior possession.[18] For all the reasons above, this Court has jurisdiction to consider Plaintiffs' claims.

V. OLD ELETSON'S MOTION TO VACATE IS CONTRARY TO SEVERAL BINDING U.S. COURT ORDERS

Old Eletson argue Plaintiffs brought this action without authority. It presupposes that Old Eletson under the cloak of its Cypriot Nominees validly removed Levona and its preferred

[17] *See also IncredibleBank v. Provocative*, 710 F. Supp. 3d 103, 114 (D.R.I. 2024) ("Contemporary admiralty decisions make clear that prior actual possession is not necessary for a Rule D claimant as long as there was a right of possession (constructive possession) that preceded the bringing of the Rule D action").

[18] This is inconsistent with the scope of Rule D. *See* Fed. R. Civ. P., Suppl. Rule D, Advisory Committee Notes ("This carries forward the substance of Admiralty Rule 19. Rule 19 provided the remedy of arrest in controversies involving title and possession in general.") and with the Court's broad equitable power to fashion an appropriate remedy to meet the equities of the case. *See Maersk Tankers MR K/S v. M/T SWIFT WINCHESTER*, 2023 WL 2645537, at *4 (S.D. Tex. Mar. 27, 2023) ("while the Admiralty Rules "eliminated some of the court's equitable discretion, the court retain[s] considerable latitude to fashion an appropriate equitable remedy in each case." *Am. Milling Co. v. Brennan Marine, Inc.*, 623 F.3d 1221, 1226 (8th Cir. 2010)").

directors from Eletson Gas in reliance on findings in the JAMS Award. However, this argument (a) is contrary to the Bankruptcy Court's orders, including the Chapter 11 Plan and the Stay Relief Order; (b) undermines the protections of Plaintiff Eletson Holdings' bankruptcy estate in the Chapter 11 Plan, and (c) is inconsistent with Judge Liman's order in the Vacatur Proceedings that the JAMS Award is not fully confirmed and is subject to Levona's fraud challenge in any event.

a. The Motion to Vacate is Contrary to the Chapter 11 Plan and the Bankruptcy Court's Orders

To the extent Old Eletson argue that they are entitled to act on behalf of Plaintiff Eletson Gas or its subsidiaries, including making filings with this Court and in other proceedings, this is contrary to the Chapter 11 Plan. Section 5.2 of the Plan vests in Plaintiff Eletson Holdings all interests it has in Plaintiff Eletson Gas, including all common shares and the right to appoint directors by virtue of those shares. The Bankruptcy Court has already rejected Old Eletson's similar attempt to conduct proceedings on behalf of Plaintiff Eletson Gas as being in violation of the Plan. In a bench ruling on March 25, 2025[19] Judge Mastando stated that such actions are against his Foreign Oppositions Contempt Order. *Exh.* 6 [9:9-22] (emphasis added):

> **Thus, the Court finds to the to the extent that Eletson Gas is acting without the consent of Reorganized Holdings, because the interests in the subsidiaries, including Eletson Gas, vested in Reorganized Holdings**. The Greek arbitration proceeding violates the plan, the confirmation order, the January 29th order, and the March 13th order, and that proceeding is properly included in the March 13th order."

The same Greek action brought by Old Eletson in the name of Plaintiff Eletson Gas in Greece was also criticized by Judge Liman in the District Court as being contrary to the Chapter 11 Plan. *Exh. 8* [Dstr. Dkt. 295, 35]:

> These disputes exist despite the orders of the bankruptcy court clearly stating that the new board has authority to act on behalf of Eletson Holdings and that "Reorganized Eletson Holdings Inc.'s former shareholders, officers, directors, counsel, and others, as defined in section 1.124 of the plan, are directed to comply with the plan and the confirmation order to assist in effectuating the Chapter 11 plan.

[19] A true copy of the transcript from the March 25, 2025 hearing is attached hereto as *Exhibit* 6.

As the motion to vacate argues that Old Eletson control Eletson Gas, it is directly contrary to the above U.S. court orders and should therefore be dismissed on this ground alone.

b. The Motion to Vacate is Contrary to the Bankruptcy Court's Stay Relief Order

Old Eletson's violations of the Stay Relief Order by interfering with Levona's preferred shares and preferred directors in Eletson Gas are currently the subject of motion practice before the Bankruptcy Court. *See* [Bankr. Dkt. 1367, 1387, 1434, 1437, 1476]. Levona and Plaintiff Eletson Holdings seek rescission of Old Eletson's attempt to change the governance of Eletson Gas. In this action, Plaintiffs incorporate by reference all arguments made by Levona and Eletson Holdings in the Bankruptcy Proceedings but restate several key points below.

i. The Stay Relief Order Prohibits Old Eletson from Unilaterally Appropriating the Preferred Shares in Plaintiff Eletson Gas

The Stay Relief Order modified the automatic stay in the Bankruptcy Proceedings to allow the JAMS arbitration to proceed, but only as follows [Bankr. Dkt. 48, 3]:

> with respect to the Arbitration[20] solely to the extent necessary and for the sole purpose of permitting a trial, any related pre-trial proceedings (including any remaining discovery), any related post-trial proceedings or briefing, and a final determination or award to be made by the Arbitrator, including any appeals, with respect to the claims currently pending in the Arbitration (the "Arbitration Award").

The Stay Relief Order does **not** therefore permit Old Eletson to (1) judicially enforce or execute upon the JAMS Award or to (2) use self-help to take Levona's preferred shares in Eletson Gas in reliance on the JAMS Award, without a separate order of the Bankruptcy Court (which is not issued). Old Eletson themselves recognized the need for such a separate order.[21]

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[20] The "Arbitration" is defined as the JAMS arbitration proceeding entitled, *Eletson Holdings, Inc., et al. v. Levona Holdings Ltd.*, JAMS Ref. No. 5425000511 (the "Arbitration"), originally commenced on July 29, 2022, and pending before the Honorable Ariel Belen (the "Arbitrator"). [Bankr. Dkt 48, D].

[21] [Dkt. 56-27, ¶14]: "The Violating Parties and others have repeatedly acknowledged that the Stay Relief Order prohibits enforcement of the Award. In November 2023, Eletson Holdings and Eletson Corp. moved for sanctions against Levona on the stated basis that no party may "alter … the status quo of [Eletson] Gas" and that the Stay Relief Order had been "designed specifically to permit the Arbitration through Final Award and confirmation …, at which point the parties … would return to this Court." ECF 289 ¶¶ 3, 21; see also, e.g., Nesser Decl. Ex. 2, Dist. ECF 77 (1/2/2024 Hr'g Tr.) at 78 (acknowledging that Eletson must "go back to the Bankruptcy Court after confirmation … before any enforcement," prior to which it cannot seek "enforcement of the award"); Nesser Decl.

To make this point doubly clear, the Stay Relief Order states [Bnkr. Dkt. 48, ¶4]:

> "Any Arbitration Award, whether in favor of any Arbitration Party, shall be stayed pending further order of the Bankruptcy Court on a motion noticed following the issuance of the Arbitration Award."

Thus, the JAMS Award is stayed pending a further order of the Bankruptcy Court. This is regardless of whether the JAMS Award confers any benefit on Levona, Eletson Holdings, Eletson Corp, or indeed on the Cypriot Nominees. The phrase "**[a]ny** Arbitration Award" is not limited by the phrase "whether in favor of any Arbitration Party." Therefore, the JAMS Award is stayed even if it purports to confer benefits on a non-party (e.g. the Cypriot Nominees). Further, the Stay Relief Order stays the **whole** JAMS Award and has no exceptions to any separate "findings" in the Award. *Accord In re Cole*, 552 B.R. 903, 909 (Bankr. N.D. Ga. 2016) ("judicial proceedings in violation of the automatic stay are void ab initio which could render **entire** proceedings or trials void upon a later determination that the automatic stay was applicable"); *In re Johnson*, 479 B.R. 159, 174 (Bankr. N.D. Ga. 2012) ("The automatic stay means nothing in the context of a garnishment action if it does not operate to stay the proceeding **in its entirety**") (emphasis added).

Yet, Old Eletson's whole argument is that by relying on a finding in the JAMS Award and through the Cypriot Nominees, they were entitled to declare themselves owners of these shares, instruct the Marshall Islands corporate registry to remove Levona as the preferred shareholder, write the Cypriot Nominees into the share register of Eletson Gas, and replace Levona's preferred directors with Old Eletson's [22] [Dkt. 51, 4-10]. This Court should not condone this argument. It is contrary to the Bankruptcy Court's binding Stay Relief Order.

Ex. 6, Dist. ECF 86 at 11 (acknowledging that "were Eletson seeking to enforce the judgment when entered, it would need to first secure the Bankruptcy Court's approval"); Nesser Decl. Ex. 1, Dist. ECF 91 (2/15/2024 Hr'g Tr.) at 4–5 ("[W]e have some obligation to back to the bankruptcy court before enforcement …. [O]nce the judgment is entered … we [will] return to the bankruptcy court and seek its permission to go ahead and enforce the award.").

[22] The steps taken in relation to the Marshall Islands Registry and the documents filed by Old Eletson through the Cypriot Nominees in the Marshall Islands Registry are detailed at [Bankr. Dkt 1367, ¶30].

ii. The Stay Relief Order Binds the Cypriot Nominee Entities

Old Eletson argue that since the Cypriot Nominees who claim to own the preferred shares in Eletson Gas are not technically "Arbitration Parties" as defined in the Stay Relief Order, then that Order allegedly does not apply to the Cypriot Nominees [Dkt. 51, 11]. This argument is similarly misplaced. If accepted, it would facilitate circumvention of the Bankruptcy Court's Stay Relief Order.

First, the Stay Relief Order binds Eletson Holdings and Eletson Corp. Thus, it also applies to those Old Eletson individuals who were directors and officers of Eletson Holdings and Eletson Corp when the Stay Relief Order was issued, but also were the shareholders in the Cypriot Nominees. These individuals are in any event bound by the Stay Relief Order because they had notice of it and acted in concert with the Arbitration Parties, Eletson Holdings and Eletson Corp (then under the old management). *See* FED. R. CIV. P. 65(d)(2) (attorneys and other persons who are in active concert or participation with parties are bound by injunctions); *NML Cap., Ltd. v. Republic of Argentina*, 699 F.3d 246, 255 (2d Cir. 2012) ("Under Rule 65(d)(2) … attorneys, as well as other persons who are in active concert … are bound …."); *Doctor's Assocs., Inc. v. Stuart*, 11 F. Supp. 2d 221, 225 (D. Conn. 1998) ("[T]he corporation that Defendants control … can be bound by injunction without the necessity of joining it as a party defendant"); *ADT LLC v. NorthStar Alarm Servs.*, LLC, 853 F.3d 1348, 1352 (11th Cir. 2017) (holding that an injunction binds "parties who aid and abet the party bound by the injunction in carrying out prohibited acts" but also nonparties "otherwise 'legally identified' with the enjoined party"); *Brunswick Corp. v. Chrysler Corp.*, 408 F.2d 335, 338 (7th Cir. 1969) (a party is privy and is bound by a consent decree to the extent it "succeeded in interest to the subject matter of the prior decree"). It would be a circumvention of the Stay Relief Order if the same Greek families (the Karastamatis, Kertsikoffs and Chatzieleftheriadises) who

controlled Eletson Holdings and Eletson Corp were bound by the Stay Relief Order when wearing their Holdings and Corp hats but not when putting on their Cypriot Nominee hats.[23]

Third, the Stay Relief Order was entered by the Bankruptcy Court on April 17, 2023. At that point, Eletson Holdings and Eletson Corp (under old management) argued in the JAMS Arbitration that the preferred shares must be transferred to Eletson Holdings and Eletson Corp. [Distr. Dkt. 104, 20-21]. Yet on April 25, 2023, merely eight days after the Stay Relief Order, they started arguing that the shares must now be transferred to the Cypriot Nominees. [Dstr. Dkt. 83 at 20 (Liman, J.) ("April 25, 2023 … was the first time that [Old] Eletson asserted in the arbitration that the Preferred Interests [the preferred shares] were transferred to a nominee"). This timing shows that the use by Old Eletson of the Cypriot Nominees entities to claim the shares is an attempt to circumvent the Stay Relief Order.

Fourth, if the Stay Relief Order only applied to "Arbitration Parties" and not the Cypriot Nominees, this would render the Order ineffectual – precisely because non-parties like the Cypriot Nominees could then dispose of the JAMS Award without the Bankruptcy Court's oversight (as is now occurring). This would be contrary to the object of the Stay Relief Order.

iii. Old Eletson's Argument is an Impermissible Collateral Attack on the Stay Relief Order and Undermines the Protections of Plaintiff Eletson Holdings' Bankruptcy Estate

In addition to claiming that the Stay Relief Order has no teeth against the Cypriot Nominees, Old Eletson argue the preferred shares in Eletson Gas do not form part of the Plaintiff Eletson Holdings' bankruptcy estate, because the preferred shares were allegedly not owned by Eletson Holdings when its bankruptcy commenced [Dkt. 51, 9-10]. This argument implies that the Bankruptcy Court had no power to issue the Stay Relief Order concerning the

[23] The Stay Relief Order states on its first page that it is: "entered into by and among (a) Eletson Holdings, Inc. ("Eletson Holdings"), Eletson Finance (US) LLC ("Eletson Finance"), and Agathonissos Finance LLC ("Eletson MI", and together with Eletson Holdings, and Eletson Finance, collectively, the "Alleged Debtors," and, together with their controlled affiliates and subsidiaries, "Eletson")." It therefore was meant to extend to the "controlled affiliates and subsidiaries" of Eletson Holdings, then under Old Eletson's management. As substantially the same Old Eletson individuals who used to be directors and ultimate shareholders own the Cypriot Nominees, the Cypriot Nominees are clearly "affiliates" of Holdings.

preferred shares and could not protect Eletson Holdings' bankruptcy estate from attempts to syphon off these shares. It is an impermissible collateral attack on the binding Stay Relief Order. Further, if Old Eletson's argument is accepted, it will undermine the protections that the Order and the Chapter 11 Plan give to Eletson Holdings' bankruptcy estate.

First, the preferred shares were owned by **Levona** at the time of the Stay Relief Order and are still so owned. Old Eletson do not rely on any corporate documents, other than those generated in their February 2024 invalid attempt to write Levona out of Plaintiff Eletson Gas, that state otherwise. The Stay Relief Order therefore protects the status quo where Levona is the owner of the preferred shares.

Second, when the Stay Relief Order was issued on April 17, 2023, Eletson Holdings as a debtor in the Bankruptcy Proceedings had a right to set aside any transfer of the preferred Eletson Gas shares as a transaction to defraud creditors in the bankruptcy. This right formed part of Eletson Holdings' estate, and the Bankruptcy Court had the power to issue the Stay Relief Order to protect that right from being lost or devalued.

Third, this position did not change on April 25, 2023, after Eletson Holdings (under the old management) started arguing in the JAMS Arbitration that the preferred shares now suddenly must go to the Cypriot Nominees. Neither did it change when the JAMS Award was issued on September 28, 2023. Eletson Holdings as a debtor in the Bankruptcy Proceedings had and still has the right to set aside a transfer of these shares.

A transfer of the preferred shares to the Cypriot Nominees would be a transaction to defraud creditors of Eletson Holdings, which can be avoided. Permitting such a transfer will deprive the bankruptcy estate of reorganized Eletson Holdings of the very valuable right to those shares. This would be a transfer to "insiders" of Old Eletson made for zero consideration being paid to the bankruptcy estate of Eletson Holdings. Meanwhile, the preferred shares would

still remain under the control of the Old Eletson individuals who controlled both Eletson Holdings before reorganization and now hide under the cloak of the Cypriot Nominees.

The position is set out in the motion of the creditors' committee for an order appointing a Chapter 11 trustee in the Bankruptcy Proceedings [Bankr. Dkt 394, ¶¶39-40] (with emphasis):

> "39. As detailed at length in prior pleadings (ECF 181, 239), which are incorporated herein by reference, Eletson Holdings and Eletson Corporation initiated an arbitration in July 2022 seeking a ruling that Eletson Gas had exercised its option to purchase Preferred Shares in Eletson Gas from Levona Ltd. ("Levona"). **After these bankruptcy cases were commenced, however, the Debtors for the first time asserted that the Preferred Shares had been transferred to Cypriot Nominees (the "Nominees") that are owned by the Principal Families. The Debtors' counsel explained that the purpose of asserting this claim was to prevent creditors of Eletson Holdings from obtaining the value of the Preferred Shares:**
>
> > "As soon as they said, . . . if we win in this proceeding, they're going to take that asset and they are–it goes back into Holdings and so, lo and behold, the bankruptcy allows them to take it . . . and that's when we said, well, wait a minute, **I went back to my client and it says these nominees, why don't we just transfer it to the nominees and they said, we don't have to, we have already done it.**"
>
> (Ex. R at 153:2-16.) **The Debtors requested that the arbitrator "structure the relief" in any award he issued to ensure that the assets remained outside the reach of their creditors. (Id. At 6:19-7:6.)**
>
> 40. According to the Debtors, the Preferred Shares were transferred to the Nominees in return for a promise to pay €3 million—about 13% of the $23 million that Gas paid to purchase the shares from Levona at or around that same time, or 1.6% of the $187 million the Debtors claim those shares are worth today—and they concede that the €3 million was not ever paid. … The purported transfer was supposedly authorized at a "family meeting," was not memorialized in any formal documentation, and was not approved by the boards of either Eletson Gas or Eletson Holdings."[24]

Further, the Chapter 11 Plan itself recognizes that the right to claim the preferred shares in Eletson Gas from the Cypriot Nominees as "insiders" forms part of Eletson Holdings' bankruptcy estate and vests in Eletson Holdings. As described above at 14-15, sections 5.2(c) and 5.15 of the Plan provided that the right to set aside any transfer of preferred shares in Eletson Gas to the Cypriot Nominees was retained by the estate.

[24] A true copy of the creditors' committee motion is attached hereto at *Exhibit* 9.

It is therefore misleading for Old Eletson to say that Eletson Holdings has no right to the preferred shares worthy of being protected by the Stay Relief Order. It clearly has, and this right has been preserved at all stages. If this Court allows Old Eletson to argue that the Cypriot Nominees are the owners of Eletson Gas' preferred shares (which shares were supposed to benefit the estate of Plaintiff Eletson Holdings), this Court will be undermining the protections that the Stay Relief Order and the Chapter 11 Plan give to Eletson Holdings' bankruptcy estate.

c. The Motion to Vacate is Contrary to Judge Liman's Order in the S.D.N.Y. Vacatur Proceedings

Old Eletson's argument that through the Cypriot Nominees they were entitled to declare themselves owners of the preferred shares in Eletson Gas in February 2024 relying on the JAMS Award is also plainly inconsistent with Judge Liman's order in the District Court. First, the JAMS Award may not be enforced, by virtue of the Bankruptcy Court's Stay Relief Order. This includes any "findings" in the JAMS Award – the whole decision is stayed. *Supra*, 20. Second, Judge Liman *sua sponte* amended his previous order concerning the JAMS Award, stating that the Award is not fully confirmed and remains subject to challenge. *Supra*, 7-9.

Old Eletson's argument that in reliance on findings in the JAMS Award, the Cypriot Nominees could claim Levona's preferred shares flies into the face of Judge Liman's order. The Cypriot Nominees' self-help attempt to write Levona out as preferred shareholder in February 2024 is no different than trying to enforce the Award.

VI. CONCLUSION

For all the reasons stated above, this Court should therefore deny the motion to vacate the arrest of the Vessel filed by Purported Kithnos SME "on the authority of its lawful board of directors" "acting under the ultimate authority of the Cypriot Nominees".

Dated: April 1, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been served on all known counsel of record on April 1, 2025.

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