Michael S. Amato
Danielle B. Gatto
FORCHELLI DEEGAN TERRANA LLP
333 Earle Ovington Blvd., Suite 1010
Uniondale, New York 11553
Phone: 516-248-1700
mamato@forchellilaw.com
dgatto@forchellilaw.com

Counsel to Vassilis Kertsikoff, limited appearance

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
Eletson Holdings Inc., [1]	Case No. 23-10322 (JPM)
Debtors.	

REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT OF NON-PARTY VASSILIS KERTSIKOFF'S[2] MOTION: (I) TO VACATE THE DEFAULT ORDERS AND JUDGMENTS; AND (II) FOR A TEMPORARY RESTRAINING ORDER STAYING FURTHER ENFORCEMENT OF THE DEFAULT ORDERS AND JUDGMENTS AND ORDERING ANY ENTITY IN POSSESSION OF THE SUBJECT FUNDS TO HOLD SAME IN ESCROW[3]

[1] The mailing address for debtor Eletson Holdings Inc. ("**Eletson**") is c/o Herbert Smith Freehills Kramer (US) LLP, 1177 Avenue of the Americas, New York, New York 10036. In March 2023, three creditors of Eletson commenced involuntary bankruptcy proceedings against Eletson and two affiliates (Eletson Finance (US) LLC and Agathononissos Finance LLC) ("**Debtors**"). However, the only entity currently in bankruptcy is Eletson.

[2] For the avoidance of any doubt, Vassilis Kertsikoff is appearing in this matter in a special and limited capacity to contest the Court's personal jurisdiction over him because he was never properly served with any of the Underlying Papers.

[3] The remaining relief sought in the initial motion papers has been rendered moot.

TABLE OF CONTENTS

TABLE OF AUTHORITIES ii

PRELIMINARY STATEMENT 1

ARGUMENT 1

I. The Default Orders and Judgments Should Be Vacated Pursuant to Fed. R. Civ. P. 60(b)(4) ... 1

A. Kertsikoff Was Never Properly Served with the Underlying Papers 3

B. Even If Service Was Proper, The Exercise of Jurisdiction Over Kertsikoff Would Be Unreasonable 7

II. The Default Orders and Judgments Should Be Vacated Pursuant to Fed. R. Civ. P. 55(c) and 60(b) 9

A. Kertsikoff Could Not Act in Contempt of Orders That Did Not Apply to Him 10

i. Kertsikoff Was Not in Violation of the Aug. 2025 Order 10

ii. Kertsikoff Was Not in Violation of the Confirmation Order 12

B. Kertsikoff Purged Any Purported Contempt 14

III. A Temporary Restraining Order Should be Entered Precluding Further Enforcement of the Default Orders and Judgments 14

CONCLUSION 15

TABLE OF AUTHORITIES

Cases

Burda Media, Inc. v. Viertel, 417 F.3d 292 (2d Cir. 2005) 2

CBS Broad. Inc. v. FilmOn.com, Inc., 814 F.3d 91 (2d Cir. 2016) 11

Coney Island Auto Parts Unlimited, Inc. v. Burton Tr. for Vista-Pro Auto., LLC, 607 U.S. 155 (2026) 2

Daval Steel Prods., a Div. of Francosteel Corp. v. M/V Fakredine, 951 F.2d 1357 (2d Cir. 1991) 10

Eletson Holdings & Eletson Corp. v. Levona Holdings, Ltd., No. 23-CV-7331 (LJL), 2026 WL 84510 (S.D.N.Y. Jan. 12, 2026) 13

Eletson Holdings Inc. v. Levona Holdings Ltd., No. 23-CV-7331 (LJL), 2025 WL 1558380 (S.D.N.Y. June 2, 2025) 12

Enron Oil Corp. v. Diakuhara, 10 F.3d 90 (2d Cir. 1993) 9

Fox Corp. v. Media Deportes Mexico, S. de R.L. de C.V., 820 F. Supp. 3d 299 (S.D.N.Y. 2026) 6

Henry v. Oluwole, 108 F.4th 45 (2d Cir. 2024) 9

In re Bernard L. Madoff Inv. Sec. LLC, 525 B.R. 871, 889 (Bankr. S.D.N.Y. 2015) 5

In re Bozel S.A., 434 B.R. 86 (Bankr. S.D.N.Y. 2010) 7

In re Firestar Diamond, Inc., 654 B.R. 836 (Bankr. S.D.N.Y. 2023) 3

In re Motors Liquidation Co., 565 B.R. 275 (Bankr. S.D.N.Y. 2017) 8

In re Navigator Gas Transp. PLC, 358 B.R. 80 (Bankr. S.D.N.Y. 2006) 8

In re Petrie Retail, Inc., 304 F.3d 223 (2d Cir. 2002) 8

In re Richardson Foods, Inc., 667 B.R. 500 (Bankr. S.D.N.Y. 2025) 2

Knox v. The Palestine Liberation Org., 248 F.R.D. 420 (S.D.N.Y. 2008) 9

Lu v. Nisen Sushi of Commack, LLC, No. 18CV7177RJDST, 2022 WL 4597436 (E.D.N.Y. Sept. 30, 2022) 9

New York Indep. Sys. Operator, Inc. v. Fulton Cogeneration Assocs., L.P., No. 06-CV-1033, 2007 WL 1299398 (N.D.N.Y. May 3, 2007) 9

Rowe Ent. v. William Morris Agency Inc., No. 98 CV 8272 RPP, 2012 WL 5464611 (S.D.N.Y. Nov. 8, 2012) 3

Smart Study Co., Ltd v. Shenzhenshixindajixieyouxiangongsi, 164 F.4th 164 (2d Cir. 2025) 5

Sulzer Mixpac AG v. Medenstar Indus. Co. Ltd., 312 F.R.D. 329 (S.D.N.Y. 2015) 5

Todtman, Nachamie, Spizz & Johns, P.C. v. Ashraf, 241 F.R.D. 451 (S.D.N.Y. 2007), *aff'd,* 316 F. App'x 51 (2d Cir. 2009) 10

Triad Energy Corp. v. McNell, 110 F.R.D. 382 (S.D.N.Y. 1986) 2

U.S. Bank Nat'l Ass'n v. Bank of Am. N.A., 916 F.3d 143 (2d Cir. 2019) 5

White v. Uhler, No. 9:14-CV-1400 (LEK/ATB), 2017 WL 923345 (N.D.N.Y. Mar. 8, 2017) ... 10

Rules

Fed. R. Bankr. P. 7004(a) 6

Fed. R. Bankr. P. 9010 5

Fed. R. Bankr. P. 9014 6

Fed. R. Bankr. P. 9020 6

Fed. R. Bankr. P. 9024 1

Fed. R. Civ. P. 4(f) 3, 6

Fed. R. Civ. P. 55(c) 1, 9

Fed. R. Civ. P. 60(b) 1, 9

Fed. R. Civ. P. 60(b)(1) 9

Fed. R. Civ. P. 60(b)(4) 3, 9

Fed. R. Civ. P. 60(b)(6) 9

PRELIMINARY STATEMENT

Non-party Kertsikoff[4], by and through the special and limited appearance of his attorneys, respectfully submits this reply memorandum of law in further support of this Motion,

(i) pursuant to Fed. R. Civ. P. 60(b), or alternatively Fed. R. Civ. P. 55(c) , as well as Bankruptcy Rule 9024, to vacate the Default Orders and Judgments[5], as well as (to the extent necessary to provide full and complete relief) the earlier orders that culminated in the Default Orders and Judgments;

(ii) for a TRO staying further enforcement of the Default Orders and Judgments and ordering any entity in possession of the funds turned over by NFS pursuant to the Turnover Order to be held in escrow pending hearing and determination of the Motion; and

(iii) such other and further relief as this Court deems just and proper.

This reply memorandum also responds to Reorganized Holdings' Memorandum of Law in Opposition (Dkt. 2083) ("Opp. Mem.") and its Declaration of Counsel in Opposition (Dkt. 2084) ("Opp. Dec.").

ARGUMENT

I. The Default Orders and Judgments Should Be Vacated Pursuant to Fed. R. Civ. P. 60(b)(4)

As set forth in the Moving Mem., the Underlying Papers were never properly served on Kertsikoff and, as a result, the Court lacks personal jurisdiction over him. Thus, the Default Orders and Judgments must be vacated.[6]

[4] All abbreviations utilized in the Memorandum of Law in Support (Dkt. 2077) ("Moving Mem.") shall be continued herein.

[5] This includes the Oct. 2025 Order, Nov. 2025 Order, the Initial Judgment, the May 2026 Orders, the Supplemental Judgment, the Turnover Order and the June 2026 Order.

[6] It also bears noting that Reorganized Holdings' motion papers in opposition to this subject motion were never served on undersigned counsel Danielle Gatto (Dkt. 2085), despite her appearance in the matter on July 2, 2026.

Reorganized Holdings argues that it is Kertsikoff's burden to prove a lack of jurisdiction. *See* Opp. Mem. 13. However, "[w]hen either subject matter or personal jurisdiction is contested under Rule 60(b)(4), the burden of proof is properly placed on the party asserting that jurisdiction existed." *Triad Energy Corp. v. McNell*, 110 F.R.D. 382, 385 (S.D.N.Y. 1986) (citations omitted); *cf. In re Richardson Foods, Inc.*, 667 B.R. 500, 512 (Bankr. S.D.N.Y. 2025) (cited in Opp. Mem. 13) (addressing standard on motion to vacate based upon newly-discovered evidence or intervening change in law); *Burda Media, Inc. v. Viertel*, 417 F.3d 292, 297 (2d Cir. 2005) (cited in Opp. Mem. 13) (holding defendant had burden of proof because he had been served pursuant to the Hague Convention and delayed for two years in bringing the motion to vacate the default judgment).

Irrespective of who bears the burden, it is undisputed that Reorganized Holdings never served Kertsikoff in accordance with the Hague Convention and, instead, only purported to serv him via email (or, at best, email and mail, although Reorganized Holdings never references the purported mailed attempts), which is insufficient as a matter of law. *See infra*.

In a passing footnote, Reorganized Holdings also claims that it "is not clear that Mr. Kertsikoff's 60(b)(4) motion was filed within a reasonable time." *See* Opp. Mem. 13 n. 8. However, Kertsikoff filed this motion within weeks after learning about Reorganized Holdings' enforcement of the Default Orders and Judgments (*see* Kertsikoff Dec. ¶¶ 13-15).[7] It was reasonable to file the motion at this time. *See Coney Island Auto Parts Unlimited, Inc. v. Burton Tr. for Vista-Pro Auto., LLC*, 607 U.S. 155, 160 (2026) (acknowledging reasonable to wait to file motion until after "learning about a plaintiff's attempted enforcement") (cited in Opp. Mem. 13 n. 8). In any event, "[i]n this Circuit, a reasonable time is within eighteen months of the entry of

[7] Indeed, the Turnover Order was only issued on May 28, 2026 and the Arrest Motion was only granted on June 11, 2026.

judgment . . .." *Rowe Ent. v. William Morris Agency Inc.*, No. 98 CV 8272 RPP, 2012 WL 5464611, at *2 (S.D.N.Y. Nov. 8, 2012). This Motion was filed well within eighteen months of entry of all of the subject Default Orders and Judgment and, thus, is being made within a reasonable time as a matter of law.

A. Kertsikoff Was Never Properly Served with the Underlying Papers

In order to hold Kertsikoff – a foreign individual – in contempt, the Underlying Papers needed to be properly served through the Greek Central Authority pursuant to Article 5 of the Hague Convention – which ultimately requires physical delivery of the papers (service via postal channels is expressly prohibited). *See* Moving Mem. 2-4. Reorganized Holdings failed to do so.

Instead, Reorganized Holdings only purportedly served Kertsikoff with the Underlying Papers via email (or email and regular mail). This is wholly insufficient as a matter of law under Fed. R. Civ. P. 4(f) and renders the Default Orders and Judgments void for lack of personal jurisdiction over him. *See* Moving Mem. 3-4 (citing *Smart Study Co., Ltd v. Shenzhenshixindajixieyouxiangongsi*, 164 F.4th 164, 170 (2d Cir. 2025); *Mut. Benefits Offshore Fund v. Zeltser,* 140 A.D.3d 444 (1st Dep't 2016); *In re Teknek, LLC,* 512 F.3d 342, 344 (7th Cir. 2007)); *see also In re Firestar Diamond, Inc.*, 654 B.R. 836, 898 (Bankr. S.D.N.Y. 2023) (cited in Opp. Mem. 14) (recognizing that a court can only have personal jurisdiction over a defendant if "service of process has been made in accordance with Bankruptcy Rule 7004 or Civil Rule 4" (citing 10 *Collier on Bankruptcy* ¶ 7004.07 (16th ed. 2023)). Accordingly, the Default Orders and Judgments should be vacated pursuant to Fed. R. Civ. P. 60(b)(4).

Reorganized Holdings argues that it never had to serve Kertsikoff because he "voluntarily appeared in these cases." *See* Opp. Mem. 2 (point 4); *see also id.* 14-15. However, the only purported "appearances" were in a corporate capacity on behalf of the Debtors. *See* Opp. Mem.

4-5.[8] Reorganized Holdings also claims that the appearance by Family Unity Trust Company somehow equated to an appearance by Kertsikoff. *See id.* Again, though, the referenced appearance is by counsel for Family Unity Trust Company (*see* Dkt. 1794); Kertsikoff never appeared in an individual capacity.[9]

Reorganized Holdings does not cite cases that hold that Kertsikoff waived his personal jurisdiction defense through his corporate actions. Instead, Reorganized Holdings offers cases that hold that an individual waives personal jurisdiction defenses by filing a general appearance in the case and/or not timely objecting to personal jurisdiction. *See* Opp. Mem. 14 (citing *Ins. Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 703 (1982); *Creighton v. Kerr*, 87 U.S. 8, 12 (1873); *Pollard v. Dwight*, 8 U.S. 421, 428–29 (1808)); *see also* Opp. Mem. 2 n. 2 and at 13 (citing *Sec. & Exch. Comm'n v. Romeril*, 15 F.4th 166, 171-72 (2d Cir. 2021) (holding party waived jurisdictional defenses by acknowledging service, entering "a general appearance", and admitting to "the Court's jurisdiction over him and over the subject matter of this action."); Opp. Mem. 15 (citing *In re Deak & Co., Inc.*, 63 B.R. 422, 426 (Bankr. S.D.N.Y. 1986) (holding individual "consented and submitted to this court's exercise of personal jurisdiction over him by filing a general notice of appearance in the bankruptcy case and by appearing [in his individual capacity]…at various hearings held before this court").

[8] Reorganized Holdings claims that Kertsikoff was "advancing his own" interests during a hearing, Opp. Mem. 5 ¶ 14, but then cites to testimony where Kertsikoff explained his director and officer position in Eletson Corporation and Eletson Gas, as well as his "ownership stake in one of Eletson Holdings majority shareholders." Thus, Kertsikoff was only testifying in a corporate capacity about his various "*corporate* hats".

[9] While Reorganized Holdings argues that Kertsikoff confirming the "address of Faily Unity" and his "eletson.com" email address should have some impact on Kertsikoff's arguments (Opp. Mem. 5 ¶ 15), the fact is that the referenced address was not his address and his use of the Prior Business Email Address diminished significantly by November 2024 (upon Kertsikoff's resignation from Eletson) and ceased entirely no later than October 23, 2025 (upon his resignation from Eletson Gas and its subsidiaries). *See* Kertsikoff Dec. ¶ 7.

Moreover, as Family Unity Trust certified on February 24, 2025, "it is *not owned nor managed by Mr. Vassilis Kertsikoff* . . .." *See* Dkt. 1473 ¶ 4 (emphasis added); *see also* Opp. Mem. 25 ¶ 70 (citing, *inter alia*, Dkt. 1473).

These cases are all inapposite as Kertsikoff ***never*** appeared in this bankruptcy case in his individual capacity.[10] Indeed, he is only appearing now in a limited capacity to challenge the Court's personal jurisdiction over him. His mere relationship with other corporate entities, "standing alone, is an insufficient basis for jurisdiction." *U.S. Bank Nat'l Ass'n v. Bank of Am. N.A.*, 916 F.3d 143, 150 (2d Cir. 2019); *see also In re Bernard L. Madoff Inv. Sec. LLC*, 525 B.R. 871, 889 (Bankr. S.D.N.Y. 2015) (in distinguishing *In re Deak & Co.*, holding that French residents that "did not file a notice of appearance or participate in the case (aside from filing customer claims with the Trustee)" were not subject to personal jurisdiction based upon their purported participation in adversary proceeding).[11]

Reorganized Holdings also downplays the Second Circuit's decision in *Smart Study* by arguing that, prior to this decision, "a number of courts had held that (absent an express ban) email service of process in foreign countries was appropriate under Federal Rule of Civil Procedure 4(f)(3)" and, thus, there was an "arguable basis for email service under Rule 4(f)(3)." Opp. Mem. 16 ¶ 44.[12] However, these cases were clearly abrogated and/or overruled when the Second Circuit in *Smart Study* expressly held that email service was prohibited by the Hague Convention (particularly when the country at issue has objected to service by "postal channels" under Article 10 of the Hague Convention). *Id.* at 170; *cf.* Opp. Mem. 17.

[10] Reorganized Holdings also argues that a formal notice of appearance is not required to establish jurisdiction (Opp. Mem. 15 n. 9), but relies on Rule 9010, which provides that a party can appear either *pro se* or through an attorney. Because Kertsikoff never previously appeared in his individual capacity in this Bankruptcy case (either *pro se* or through an attorney), this argument is entirely misplaced.

[11] Relatedly, Kertsikoff filed a motion in the adversary proceeding (Adv. Pro. No. 25-01120) challenging the Court's personal jurisdiction over him based upon improper service. *See also* Opp. Mem. 25-26 (acknowledging that he filed this motion to dismiss). Reorganized Holdings effectively conceded the prior lack of proper service by subsequently personally serving him pursuant to the Hague Convention. *See* Dkt. 112 in Adversary Proceeding.

[12] Reorganized Holdings cites to the Court's July 2, 2025 Transcript (Dkt. 1713), which references cases decided before *Smart Study* including *Sulzer Mixpac AG v. Medenstar Indus. Co. Ltd.*, 312 F.R.D. 329 (S.D.N.Y. 2015) – which was expressly rejected in *Smart Study*. *See Smart Study*, 164 F.4th at 170.

Reorganized Holdings, relying on *Fox Corp. v. Media Deportes Mexico, S. de R.L. de C.V.*, 820 F. Supp. 3d 299 (S.D.N.Y. 2026), argues that "Hague service is inapplicable to motions for provisional or protective relief (like contempt and sanctions)." Opp. Mem. 2 (point 4); *see also* Opp. Mem. 17. However, Bankruptcy Rule 9014(b)(1) and 9020 are clear: in order to hold an individual in contempt, the underlying motion papers needed to be served on that individual "in the manner for serving a summons and complaint provided by Rule 7004." Bankruptcy Rule 7004(a), in turn, requires that a person in a foreign country must be served pursuant to Fed. R. Civ. P. 4(f), which in turn requires service pursuant to the Hague Convention.

Moreover, *Fox Corp.* is distinguishable. In that case, the court permitted email service of a motion seeking a temporary restraining order and a preliminary injunction because of the urgency involved. No such urgency was present here (and, thus, there was no prior motion for such temporary relief implicating Kertsikoff in any way). Moreover, the plaintiffs in *Fox Corp.* had already initiated service pursuant to the Hague Convention, but during this period of attempted service, the defendant "engaged in ongoing, affirmative acts of contempt" in violation of the temporary restraining order and preliminary injunction. *Id.* at 312. Conversely, Reorganized Holdings never attempted to properly serve the Underlying Papers on Kertsikoff in accordance with the Hague Convention.

Reorganized Holdings' counsel claims that, "for months prior to the May Turnover Order", he "expressly discussed the Kertsikoff Sanctions Orders and Judgments, the accrual of sanctions, the JWROS Account at NFS, and the potential turnover motion with" Kertsikoff's "counsel of record in the adversary proceeding . . .." Opp. Dec. ¶ 7. However, none of this changes the fact that Kertsikoff was never properly served with the Underlying Papers.

Moreover, as set forth in the Moving Mem., even if Kertsikoff had actual notice of the Underlying Papers and/or this proceeding, "notice, constructive or actual, does not render a void

judgment valid." Moving Mem. 4 (quoting *Luo v. Kaiyi Inc.*, No. 18-CV-3101 (JMF), 2024 WL 4904644, at *5 (S.D.N.Y. Nov. 27, 2024); citing *Weingeist v. Tropix Media & Ent.*, No. 20 CIV. 275 (ER), 2022 WL 970589, at *4 (S.D.N.Y. Mar. 30, 2022)).[13]

B. Even If Service Was Proper, The Exercise of Jurisdiction Over Kertsikoff Would Be Unreasonable

As set forth in the Moving Mem., Kertsikoff lacks sufficient 'minimum contacts' with the forum state. *See* Moving Mem. 4-5. In addition, exercising jurisdiction over him in his personal capacity is unreasonable because it would impose a significant burden in terms of travel, expense, and time. His appearance in this forum in the past on behalf of the Debtors does not negate the burden and hardship imposed on him *individually* in this proceeding. *See* Moving Mem. 5 (citing *In re CIL Ltd.*, 582 B.R. 46, 80 (Bankr. S.D.N.Y. 2018); *Sherwin-Williams Co. v. C.V.*, 2016 WL 354898, at *7 (S.D.N.Y. Jan. 28, 2016)).

Reorganized Holdings argues that, because of his connection to Eletson (as the debtor), the Court can properly exercise jurisdiction over Kertsikoff. *See* Opp. Mem. 15. However, Reorganized Holdings then cites case law that relied on significantly more than an individual's relationship to the debtor to establish a basis for personal jurisdiction. *See, e.g., In re Bozel S.A.*, 434 B.R. 86, 98 (Bankr. S.D.N.Y. 2010) (cited in Opp. Mem. 15) (holding court had general jurisdiction over individual because of his contacts with the United States as a whole, including that he "is listed as the registered agent, director or managing member of three corporate entities in Florida", an address in Florida is listed as his address in a proceeding in Luxembourg and a "governance agreement", he conducts meetings in New York "eighty-five percent of the time", opened a bank account in New York, ***and*** signed the Chapter 11 petition on behalf of the debtor);

[13] Reorganized Holdings goes so far as to request discovery as to Kertsikoff's "actual or constructive knowledge" of the Default Orders and Judgments (Opp. Mem. 17 n. 12), which must be denied. Such discovery (which is only being sought to distract the Court from Reorganized Holdings' failure to properly serve Kertsikoff in the first place) would itself be an improper exercise of personal jurisdiction over Kertsikoff.

In re Petrie Retail, Inc., 304 F.3d 223, 231 (2d Cir. 2002) (cited in Opp. Mem. 15) (holding bankruptcy court had personal jurisdiction over creditor that filed proof of claim, "appeared in the debtors' bankruptcy proceeding, filed a motion with the bankruptcy court . . . [,] submitted objections to the debtors' motion seeking approval of the assumption and assignment of unexpired leases as well as the debtors' plan of reorganization [and] did not object to the personal jurisdiction of the bankruptcy court with regard to any proceedings related to its claim for additional rent"); *see also* *In re Navigator Gas Transp. PLC*, 358 B.R. 80, 87 (Bankr. S.D.N.Y. 2006) (cited in Opp. Mem. 15) (holding court had personal jurisdiction over foreign corporation that "filed an objection to the Committee's Plan as the holder of $8 million in First Notes").[14] Certainly, acting as an officer or board member in connection with a corporate decision is not the equivalent of a personal, individual submission to the jurisdiction of a Court.

Similarly, Reorganized Holdings argues that minimum contacts exist because the bank account "that was the subject of the May Turnover Order is a U.S.-based account." Opp. Mem. 19 n. 13. However, not only does Reorganized Holdings fail to provide an evidentiary basis for this statement (it only cites to the Order to Show Cause – which never states that the account is a U.S.-based account), but the sole case cited (*In re Motors Liquidation Co.*, 565 B.R. 275 (Bankr. S.D.N.Y. 2017)) did not hold that this alone was a sufficient basis to establish minimum contacts. Rather, in *Motors Liquidation Co.*, not only was the subject of the adversary proceeding the clawback of money located in a New York-based bank account paid pursuant to a loan, but also all of the payments under the subject loan were to be made from one New York-based account to another New York-based account, the parties to the loan "agreed New York law governed the

[14] Reorganized Holdings also cites to the transcript at Dkt. 1713 in claiming that this Court "rul[ed] that Elafonissos consented to jurisdiction through its litigation-related conduct". Opp. Mem. 15. Unlike Kerstikoff, however, Elafonissos submitted a ballot on its own behalf "in connection with the Chapter 11 plan confirmation proceedings", "voted to accept the former debtors' Chapter 11 plan", "certified that it had 'received the disclosure statements and associated notices'", and petitioned "for the appointment of a provisional board . . . to challenge the confirmation order". *See* Dkt. 1713 31:24-32:19.

transaction, and also consented to jurisdiction in a state or federal court in New York." *Id.* at 288. None of these facts are applicable here.

II. The Default Orders and Judgments Should Be Vacated Pursuant to Fed. R. Civ. P. 55(c) and 60(b)

As set forth in the Moving Mem., the Default Orders and Judgments should also be vacated pursuant to Fed. R. Civ. P. 55(c) and Fed. R. Civ. P. 60(b)[15] because the default was not willful (as Kertsikoff was never properly served, *see Enron Oil Corp.*, 10 F.3d at 98; s*ee also Lu v. Nisen Sushi of Commack, LLC*, No. 18CV7177RJDST, 2022 WL 4597436, at *2 (E.D.N.Y. Sept. 30, 2022)) and Kertsikoff has meritorious defenses to the Underlying Papers, including that the initial orders that culminated in the Oct. 2025 Order did not apply to him (and, thus, he could not be in contempt) and that any purported contempt was purged.

In addition, there is no prejudice to Reorganized Holdings if the Default Orders and Judgments are vacated, particularly since "delay standing alone does not establish prejudice." *Enron Oil Corp.*, 10 F.3d at 98 (citation omitted). *Cf.* Opp. Mem. 3 (relying solely on the delay as the basis for claiming prejudice). Reorganized Holdings also argues that it would be prejudiced if the sanctions orders were vacated because it "would cost Holdings millions." Opp. Mem. 22. However, as summarized *infra*, these sanctions orders should not have been granted in the first place and, thus, Reorganized Holdings has never been entitled to judgments based on the sanctions

[15] This includes Fed. R. Civ. P. 60(b)(1), (4) and/or (6).

While Reorganized Holdings claims the standard for vacatur is not set forth in the Moving Mem. (*see* Opp. Mem. 3), that is incorrect. As set forth in the Moving Mem., a judgment granted on default can be vacated for good cause shown, which depends on: (1) whether the default was willful; (2) whether the defaulting party has a meritorious defense; and (3) whether vacating the default would prejudice the non-defaulting party. *See* Moving Mem. 5 (citing *Enron Oil Corp. v. Diakuhara*, 10 F.3d 90 (2d Cir. 1993)); *see also Henry v. Oluwole*, 108 F.4th 45, 52 (2d Cir. 2024) (citing to the three factors enumerated in *Enron* and holding "[w]illfulness 'is the most significant factor' but is not dispositive").

This same three-factor test applies to vacate a judgment pursuant to Fed. R. Civ. P. 60(b)(1) and (b)(6). *See Knox v. The Palestine Liberation Org.*, 248 F.R.D. 420, 425 (S.D.N.Y. 2008) (holding same "three factors" are used to "determin[e] whether Rule 60(b)(6) relief is appropriate"); *New York Indep. Sys. Operator, Inc. v. Fulton Cogeneration Assocs., L.P.*, No. 06-CV-1033, 2007 WL 1299398, at *2 (N.D.N.Y. May 3, 2007) ("This criteria is identical to those used to determine whether to vacate a default judgment under the Rule 60(b)(1) standard of mistake, inadvertence, surprise, or excusable neglect . . ." (citation and internal quotation marks omitted)).

orders. Certainly, this is matter is not analogous to *Todtman, Nachamie, Spizz & Johns, P.C. v. Ashraf*, 241 F.R.D. 451 (S.D.N.Y. 2007), *aff'd,* 316 F. App'x 51 (2d Cir. 2009) (cited in Opp. Mem. 22) because there is no contention that Kertsikoff "wrongfully diverted" any money "in violation of a temporary restraining order, and that defendants were held in contempt of court." *Id*. at 455.

A. Kertsikoff Coult Not Act in Contempt of Orders That Did Not Apply to Him

As set forth in the Amato Dec., Kertsikoff's purported contempt arises from orders that never expressly applied to him. *See* Moving Mem. 7 (citing *Daval Steel Prods., a Div. of Francosteel Corp. v. M/V Fakredine*, 951 F.2d 1357, 1364 (2d Cir. 1991); *White v. Uhler*, No. 9:14-CV-1400 (LEK/ATB), 2017 WL 923345, at *4 (N.D.N.Y. Mar. 8, 2017)). The case law is clear that a party must be identified in a prior court order (and that party must be directed to do something or not do something) in order to be held in contempt of it. *See Daval Steel Prods.*, 951 F.2d at 1364 ("The court order resulting from the July 11, 1991 hearing was directed only to Ekco . . .. There was no prior order directed to Ekinciler. For this reason, the imposition of sanctions was improper as to Ekinciler, and we therefore reverse the award of sanctions as to it."); *White*, 2017 WL 923345, at *4 ("While the Court has issued several orders related to Plaintiff's requests for legal supplies, those orders do not compel nonparties, or any individual at Southport C.F., to take any action. Accordingly, the nonparties cannot be found to have violated the terms of any order.").

i. Kertsikoff Was Not in Violation of the Aug. 2025 Order

Kertsikoff's purported contempt was first raised by Reorganized Holdings and Levona in the Joint Sanctions Motion filed on September 8, 2025, wherein they claimed that Kertsikoff had violated the Aug. 2025 Order by "acting or purporting to act as officers of Eletson Gas." Dkt. 1809 ¶ 24.

However, the Aug. 2025 Order applied solely to the "Cypriot Nominees", which were defined as "Desimusco Trading Co., Apargo Ltd., and Fentalon Ltd." *See* Dkt. 1759 pp. 2, 29. It did not include any of these entities' "officers, directors, agents, servants and employees." *Cf.* *CBS Broad. Inc. v. FilmOn.com, Inc.*, 814 F.3d 91, 100 (2d Cir. 2016) (cited in Opp. Mem. 23) (holding CEO was in contempt of court-ordered injunction that expressly prohibited defendant and "all of its officers, directors, agents, servants and employees" from using certain technology to distribute plaintiffs' copyrighted television programs).

Faced with the fact that Kertsikoff was not identified in the Aug. 2025 Order, Reorganized Holdings argues that "the company which he controls (Apargo) was specially [sic] named and sanctioned[, and] [t]hat is enough." Opp. Mem. 22-23; *see also id.* 17 n. 12. However, Reorganized Holdings fails to reference any evidence to show that Kertsikoff controlled Apargo Ltd. ("Apargo") – and instead cites to two affidavits of service (Dkt. 1370 and Dkt. 1824).[16] Moreover, the purported contempt by Apargo (and the other "Cypriot Nominees") was that it was listed as the recipient of shares in Eletson Gas and it was attempting "to reconstitute Eletson Gas's board by . . . attempting to replace" the existing board. Dkt. 1367 ¶¶ 5, 30. Kertsikoff was not the purported recipient of said shares nor was he designated to be on the new board. Thus, Reorganized Holdings fails to explain how Kertsikoff purportedly violated the Aug. 2025 Order. *See generally* Opp. Mem. 7-9 ¶¶ 23, 25. Indeed, it previously acknowledged that Kertsikoff was ***not*** subject to the Aug. 2025 Order because the movants only requested sanctions against Kertsikoff "effective as of one day after the hearing on this Motion." Dkt. 1809 at ¶ 24.

[16] This is because Kertsikoff never controlled Apargo; he was never an officer and only had, at best, a one-third interest.

In addition, the purported contemnor needed to first be served with the Underlying Papers. *See supra.* However, Kertsikoff was never properly served – he was not even emailed or mailed a copy of these papers. *See* Amato Dec. ¶ 20 (citing affidavit of service filed at Dkt. 1370).

Reorganized Holdings also relies on the District Court's statement in dicta that "[t]he Court anticipates little difficulty in concluding that" various individuals and entities, including Kertsikoff, "are sufficiently 'in privity' with, in 'active concert' with, 'aiding,' or 'abetting' Intervenors to bring them within range of the Court's contempt power." *Eletson Holdings Inc. v. Levona Holdings Ltd.*, No. 23-CV-7331 (LJL), 2025 WL 1558380, at *10 (S.D.N.Y. June 2, 2025). However, the Court did not find that privity had been established; it remained subject to a showing of proof. Reorganized Holdings has never presented such proof.

ii. Kertsikoff Was Not in Violation of the Confirmation Order

Reorganized Holdings next sought to hold Kertsikoff in contempt of the Feb. 2025[17] Order, March 2025 Order and July 2025 Orders via the Second Sanctions Motion, which was granted on October 31, 2025. Opp Mem. 8 ¶ 24. However, these Orders never identified Kertsikoff in the relief granted. Instead, they applied to "the purported Provisional Board, Vasilis Hadjieleftheriadis, and the Former Majority Shareholders", the "Former Minority Shareholders" and Laskarina Karastamati – and Kertsikoff was neither a former "majority shareholder" nor a former "minority shareholder". *See* Amato Dec. ¶¶ 14, 16, 18, 19.

In the Opp. Mem., Reorganized Holdings claims that the Second Sanctions Motion was based on Kertsikoff's "refus[al] to 'acknowledge the corporate governance changes prescribed in

[17] In the Opp. Mem., Reorganized Holdings appears to claim that Motion 2 (filed on February 6, 2025 and relating to updating or amending the AOR) implicated Kertsikoff. Opp. Mem. 7 ¶ 22. However, Reorganized Holdings never identified Kertsikoff as being subject to Motion 2 (and only purportedly served him by email) (*see* Dkt. 1427, 1438, 1429, 1455, 1457, 1501) – and the Court did not hold Kertsikoff in contempt in the resulting Feb. 2025 Order (Dkt. 1495).

Moreover, as Kertsikoff certified on February 24, 2025, he resigned from Eletson on November 8, 2024 and thus had no knowledge of the identity of, or control over, the AOR in any event. *See* Dkt. 1482-3. Accordingly, he could not have taken any action in contempt of court. *See also* Opp. Mem. 7 ¶ 22 (acknowledging this certification).

the Confirmation Order' with respect to conduct relating to Eletson Corp." Opp. Mem. 8 ¶ 24 (quoting Dkt. 1843 ¶ 15).[18] However, Reorganized Holdings fails to particularize how Kertsikoff "refused" to do so – whether at Dkt. 1843 ¶ 15 or in the Opp. Mem – or how he purportedly violated ***any*** prior Order. It is also important to note that the Court had already recognized that Kertsikoff was in *compliance* with the Confirmation Order because he resigned from Eletson on November 8, 2024. *See* Dkt. 1402-1 22:19-23, 23:19-21 (recognizing that the Plan required Kertsikoff to resign from Eletson, which he did); *see also* *Eletson Holdings & Eletson Corp. v. Levona Holdings, Ltd.*, No. 23-CV-7331 (LJL), 2026 WL 84510, at *18 (S.D.N.Y. Jan. 12, 2026) (same).

Again, by failing to identify any contemptuous conduct undertaken by Kertsikoff, it would be impossible for him to ever "prove to this Court that he has purged his contemptuous behavior" (and yet he was subject to daily sanctions until he could prove same). Dkt. 1843 ¶ 14.

Thus, Kertsikoff should never have been held in contempt of the Aug. 2025 Order or the Confirmation Order. Without those initial findings of contempt, the Default Orders and Judgments similarly cannot stand and must be vacated. *Cf.* Opp. Mem. 9-11, 23 (recognizing that the Initial Judgment on December 30, 2025, the May 2026 Orders, the Turnover Order, the Supplemental Judgment, and, ultimately, the June 2026 Order granting the Bench Warrant, "all flow from either the" Oct. 2025 Order or the Nov. 2025 Order holding Kertsikoff in contempt).[19]

[18] Dkt. 1843 at ¶ 15 does not reference "conduct relating to Eletson Corp." Instead, the sentence states, "The Violating Parties [collectively] have refused to acknowledge the corporate governance changes prescribed in the Confirmation Order" and then proceeds to particularize conduct by Mr. Andreoulakis only.

[19] Reorganized Holdings argues that Kertsikoff had no meritorious defense to the subsequent May 2026 Orders, the Turnover Order and the June 2026 Order because he did not comply with the subpoenas and failed to appear for a deposition. *See* Opp. Mem. 24. However, these subpoenas and depositions were all in an effort to enforce the judgments entered on default based upon Kertsikoff's purported prior contempt. Thus, without those original determinations of contempt, all of these subsequent orders and judgments must similarly be vacated.

B. Kertsikoff Purged Any Purported Contempt[20]

In the Underlying Papers that resulted in the Oct. 2025 Order and Nov. 2025 Order (i.e., the initial contempt orders naming Kertsikoff), Reorganized Holdings and Levona claimed that Kertsikoff was in contempt of prior orders because he purportedly was still acting on behalf of Eletson Corporation and/or Eletson Gas. *See* Dkt. 1809 ¶ 24; Dkt. 1843 ¶¶ 12, 13; Dkt. 1863 ¶ 18.

However, as set forth in the Moving Mem., even if, *arguendo*, any of the prior orders applied to Kertsikoff, such purported contempt was purged no later than when Kertsikoff was removed and/or resigned as an officer and member of the board of Eletson (on November 8, 2024), of all of its subsidiaries, including Eletson Corporation (on January 9, 2025), and Eletson Gas and all of its subsidiaries (no later than October 23, 2025). *See* Kertsikoff Dec. ¶ 7; *see also id.* n. 3-4. Reorganized Holdings fails to address, much less rebut, these indisputable facts and instead continues to insist that Kertsikoff was, and remains, in contempt of the Aug. 2025 Order and Confirmation Order. *See generally* Opp. Mem. ¶ 67.

III. A Temporary Restraining Order Should be Entered Precluding Further Enforcement of the Default Orders and Judgments

As set forth in the Moving Mem., the Court should grant a temporary restraining order precluding further enforcement of the Default Orders and Judgments because:

- Kertsikoff is likely to succeed in vacating the Default Orders and Judgments because (i) the Court does not have personal jurisdiction over Kertsikoff, (ii) he was not subject to the earlier Aug. 2025 Order and/or was never in contempt of the Aug. 2025 Order or the Confirmation Order, and (iii) he purged any purported contempt by no later than October 2025;

- Kertsikoff will be irreparably harmed if he is incarcerated for purportedly violating the Default Orders and Judgments; and

- the balance of hardships tips decidedly in Kertsikoff's favor, both because the relief is temporary in nature and will only prevent Reorganized Holdings from enforcing the

[20] This purging of any contempt also defeats Reorganized Holdings' argument that vacating these Default Orders and Judgments would "embolden Mr. Kertsikoff and his related parties to continue their bad acts across the globe." *See* Opp. Mem. 22.

Default Orders and Judgments for a matter of weeks pending resolution of this motion; and because, in the absence of the TRO, Kertsikoff is at risk of being incarcerated.

Accordingly, this Court should enter the requested TRO enjoining and staying any further enforcement of the Default Orders and Judgments while this Motion is pending. In addition, the Court should order that any entity in possession of the funds turned over by NFS pursuant to the Turnover Order should hold said funds in escrow during the pendency of this Motion.

Reorganized Holdings has failed to address this relief.

CONCLUSION

WHEREFORE, for the reasons set forth above, Kertsikoff respectfully requests that this Court grant the Motion.

Dated: Uniondale, New York
July 23, 2026

By: */s/ Danielle B. Gatto*

DANIELLE B. GATTO
MICHAEL S. AMATO
FORCHELLI DEEGAN TERRANA LLP
333 Earle Ovington Blvd., Suite 1010
Uniondale, New York 11553
(516) 248-1700