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August 5, 2025

VIA ECF AND EMAIL

The Honorable John P. Mastando III
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., Case No. 23-10322 (JPM)*

Dear Judge Mastando:

We write on behalf of Eletson Holdings, Inc. ("Holdings"), to request a pre-motion discovery conference regarding Holdings' dispute with Lassia Investment Company, Glafkos Trust Company, and Family Unity Trust Company (together, the "Former Majority Shareholders") concerning the Rule 2004 subpoenas authorized on June 16, 2025. [Dkt No. 1698].

On June 20, 2025, Holdings served Rule 2004 subpoenas (in the form approved by the Court) on the Former Majority Shareholders by both FedEx and email to their counsel in this matter, Rolnick Kramer Sadighi. The Former Majority Shareholders responded to those subpoenas (the "Subpoenas") by letter dated July 7, 2025. Despite appearing through New York counsel and actively participating in this case for more than a year, the Former Majority Shareholders argue that the Subpoenas fail to comply with Rule 45 of the Federal Rules of Civil Procedure and thus are invalid. The parties have met and conferred on this issue and remain at an impasse.

The Former Majority Shareholders' core argument is that, as foreign nationals residing overseas, service upon them is prohibited by Rule 45(b) of the Federal Rules of Civil Procedures. This is incorrect. First, the Former Majority Shareholders agreed to service by email. *See Notice of Appearance and Request for Service* [Dkt No. 515]; *see also Notice of Substitution of Counsel and Demand for Service of Papers* [Dkt No. 1556] (stating that Former Majority Shareholders request service upon their counsel by, *inter alia*, email and that such request for service upon counsel applies to "all notices and papers of any kind relating to any application, motion, pleading, request, order, complaint, or demand"). Second, as Judge Glenn explained in *In re Three Arrows Cap., Ltd.*, Rule 45(b)(2) authorizes service on alien non-residents *within the United States*, including by serving the non-resident's United States based lawyers. 647 B.R. 440, 449 (Bankr. S.D.N.Y. 2022); *see also In re Procom Am., LLC*, 638 B.R. 634, 644 (Bankr. M.D. Fla. 2022) (service proper where subpoena was served on Florida counsel of a non-resident

foreign national who, through that same counsel, appeared and actively participated in the bankruptcy case).

The Former Majority Shareholders also argue that the Subpoenas improperly require production of documents in New York, in purported violation of the 100-mile rule stated in Rule 45. That is incorrect. Rule 45 is designed to protect third parties. *See* Wright & Miller, 9A Fed. Prac. & Proc. Civ. § 2452, at n. 9 (3d ed. 2002). The Former Majority Shareholders are not third parties; they are parties-in-interest that have actively participated in this case. Rules 26 and 34 should therefore govern this dispute. But even under Rule 45, the Former Majority Shareholders' 100-mile argument is wrong. Electronic document production, which Holdings is requesting, occurs in the office of the producing party, simply by uploading documents. *See Mackey v. IDT Energy, Inc.*, No. 19 MISC. 29(PAE), 2019 WL 2004280, at *4 (S.D.N.Y. May 7, 2019) (Rule 45 not violated where subpoena called for electronic production of documents, reasoning that "[f]ederal courts have universally upheld, as consistent with the Rule [45], this production mode [electronic production]—in which the subpoenaed entity, at all times acting within 100 miles of its office, uploads documents for retrieval by counsel for the party who issued the subpoena."); *see also Black v. Boomsourcing, LLC*, No. 2:22-MC-696 RJS DBP, 2023 WL 372160, at *2 (D. Utah Jan. 24, 2023) ("The production would be electronic, negating the concerns behind the 100-mile limitation in Rule 45, and making the prohibition against production inapplicable."). The Former Majority Shareholders can easily produce their own documents within 100 miles of their offices by uploading such files from those very offices in Piraeus, Greece. Moreover, Holdings is willing to accept the production of any non-electronic, hard-copy documents at a location within 100 miles of the Former Majority Shareholders' offices. Simply put, the Subpoenas comply with Rule 45. *See Mackey*, 2019 WL 2004280 at *4.

Accordingly, Holdings requests a discovery conference at the Court's earliest convenience.

Respectfully submitted,

/s/ *Brian F. Shaughnessy*

Brian F. Shaughnessy
Partner