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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: ELETSON HOLDINGS INC. *et al.*, Debtors.[1]	Chapter 11 Case No. 23-10322 (JPM) (Jointly Administered) Hearing: 1/12/2025 at 9:00 AM ET

LASSIA INVESTMENT COMPANY'S, GLAFKOS TRUST COMPANY'S, FAMILY UNIT TRUST COMPANY'S, AND ELAFONISSOS SHIPPING CORPORATION'S OPPOSITION TO REORGANIZED ELETSON HOLDINGS INC.'S MOTION TO COMPEL THE ENTITY JUDGMENT DEBTORS' DEPOSITIONS IN AID OF JUDGMENT ENFORCEMENT

[1] Prior to November 19, 2024, the Debtors in these cases were: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. On [March 5, 2025], the Court entered a final decree and order closing the chapter 11 cases of Eletson Finance (US) LLC and Agathonissos Finance LLC. Commencing on [March 5, 2025], all motions, notices, and other pleadings relating to any of the Debtors shall be filed in the chapter 11 case of Eletson Holdings Inc. The Debtor's mailing address is c/o Herbert Smith Freehills Kramer, 1177 Avenue of the Americas, New York, NY 10036.

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PRELIMINARY STATEMENT

Lassia Investment Company, Glafkos Trust Company, Family Unit Trust Company (the "Majority Shareholders"), and Elafonissos Shipping Corporation ("Elafonissos," and together with the Majority Shareholders, the "Foreign Shareholders") submit the following opposition ("Opposition" or "Opp.") to reorganized Eletson Holdings Inc.'s ("REH" and with its affiliated parties, the "Murchinson Parties") motion to compel their depositions (the "Motion" or "Mot.," Dkt. No. 1910). The Majority Shareholders oppose the Motion on every ground laid out herein, while Elafonissos currently opposes it purely based on lack of personal jurisdiction—an issue already raised and on appeal to the district court—and, only if personal jurisdiction is ultimately found, on the other grounds too.

REH's Motion reflects a fundamental misunderstanding of—or disregard for—the way to properly seek discovery here. Rather than taking the steps the Federal Rules of Civil Procedure require, REH assumes that its status as a judgment creditor entitles it to shortcuts. It issued deposition notices as if ordinary party discovery applied, ignoring the clear mandates of Rule 45 and the geographic limits that protect non-parties from undue burden. These omissions are not minor technicalities; they underscore REH's failure to do the work necessary to properly and lawfully obtain discovery.

The Rules provide a straightforward path: Seek leave of Court to obtain the number of depositions necessary, issue subpoenas that comply with Rule 45, and follow the international procedures governing service. REH chose not to take that path. Its Motion asks the Court to excuse these failures and grant relief it has not earned. Doing so would erode the structure of post-judgment discovery and reward convenience over compliance. REH can obviate this motion (and

future ones) by simply withdrawing the improper discovery and following the proper process. Until then, the Foreign Shareholders respectfully submit that the Motion should be denied.

RELEVANT BACKGROUND

` On September 22, 2025, the Court issued a judgment ("September Judgment"), which ordered fourteen entities—the four Foreign Shareholders, Keros Shipping Corporation, the eight individuals on unreorganized Eletson Holdings' Provisional Board, and Laskarina Karastamati (the "Judgment Debtors")—to pay REH amounts ranging from $150,000 to $873,000. (Dkt. No. 1836 at 2-4.) The September Judgment did not include any express factual findings. Instead, the Court calculated the sums based on assumption that each of the Judgment Debtors had continuously failed to comply with its orders, entered on February 27, 2025 (Dkt. No. 1495), March 13, 2025 (Dkt. No. 1537), and July 8, 2025 (Dkt. No. 1716) (together, the "Sanctions Orders"), imposing or increased sanctions for each passing day of noncompliance. (Dkt. No. 1836 at 6-8.)

On October 21, 2025, the Court issued a second judgment (the "October Judgment" and, together with the September Judgment, the "Judgments") requiring payments to REH. (Dkt. No. 1862.) The October Judgment ordered thirteen of the Judgment Debtors (all but Laskarina Karastamati), lumped together using the term "Violating Parties, to pay REH either $1,462,548.12 and $1,931,548.12 in attorneys' fees and costs related to, among other things, the Sanctions Orders. (*Id.* at 2-3.) The October Judgment was predicated on the Court's September 24, 2024 fee order and accompanying oral decision (*id.* at 1), which found the fees and costs REH requested "reasonable" without substantively addressing the points Judgment Debtors raised in opposition (*see* Dkt. No. 1797 at 22:17-23:4; Dkt. No. 1840 at 2). The Court summarily disregarded the Foreign Shareholders' objection that REH improperly grouped the entities and their conduct

together, instead of allocating the fees to entities responsible for incurring them. (Dkt. No. 1797 at 17:1-18.)

Many parties have appealed the Judgments and the underlying Sanctions Orders.[2] Also, Elafonissos has appealed the Court's July 7, 2025 denial of Elafonissos's motion for relief from, among other things, the March 13 Sanctions Order. (Dkt. No. 1725.) All of the Foreign Shareholders' appeals of these orders remain pending before the district court or Second Circuit. *See* 1:25-cv-02789-LJL (S.D.N.Y.) (Majority Shareholders' appeal of February 27 order); 25-2672 (2d Cir.) (Majority Shareholders' appeal of the March 13 order); 1:25-cv-06240-LJL (S.D.N.Y.) (Elafonissos's appeal of the March 13 order); 1:25-cv-06182-LJL (S.D.N.Y.) (Elafonissos's appeal of order denying relief from *inter alia* the March 13 order); 1:25-cv-06220-LJL (S.D.N.Y.) (Foreign Shareholders' appeal of the July 8 order); 1:25-cv-08519-LJL (S.D.N.Y.) (Foreign Shareholders' appeal of the September Judgment); 1:25-cv-09376-LJL (S.D.N.Y.) (Foreign Shareholders' appeal of the October Judgment).

REH began to seek discovery related to the September Judgment by serving information subpoenas on law firms representing Judgment Debtors in appeals of the September Judgment and underlying orders. (Dkt. No. 1889 ¶ 3.) Next, REH mailed discovery requests intended for the Foreign Shareholders to their counsel, Rolnick Kramer Sadighi LLP ("RKS"), which received the requests on October 29, 2025. (Harris Decl. ¶ 3;[3] *accord* Dkt. No. 1911-2 at (Certificate of Service).) Among the requests were "Notice[s] of Rule 30(b)(6) Deposition[s]" for each of the

[2] The Majority Shareholders appealed the February 27 order (Dkt. No. 1541); the Foreign Shareholders, Provisional Holdings, and the Daniolos Law Firm all appealed the March 13 order (Dkt. Nos. 1558, 1562, 1563, 1727); the Foreign Shareholders and Provisional Holdings appealed the July 8 order (Dkt. Nos. 1726, 1738); and the Foreign Shareholders appealed both Judgments (Dkt. Nos. 1849, 1872).

[3] "Harris Decl." refers to the declaration accompanying this brief, and "Exhibit" and "Ex." refer to one or both of the exhibits attached thereto.

four Foreign Shareholders. (*E.g.*, Dkt. No. 1911-1 at 2.) The deposition notices stated that REH would take their depositions "pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure" and that the recipient had to designate a deponent "[p]ursuant to Rule 30(b)(6)." (*Id.*) The notices did not mention Rule 45. (*Id.* at 2-7.) Nor did REH ever issue Rule 45 subpoenas to any of the Foreign Shareholders. (Harris Decl. ¶ 3; *accord* Dkt. No. 1911-2 (Certificate of Service).)

In response, on November 7, 2025, the Foreign Shareholders' counsel emailed REH's counsel. (Harris Decl. ¶ 4; *id.,* Ex. A.) In that email, the former informed the latter that the Foreign Shareholders "ha[d] not been served" and "w[ould] not sit for depositions" on the noticed dates, while noting that they "w[ould] revisit dates for depositions" if they were "properly served discovery directly." (*Id.,* Ex. A.)

REH also issued deposition notices for each of the nine individuals among the Judgment Debtors. (Dkt. No. 1907 ¶ 4.) Like the notices to the Foreign Shareholders, the notices to the individuals purported to be issued pursuant to "Rule 30 of the Federal Rules of Civil Procedure," without any mention of Rule 45 or any accompanying subpoena. (*See generally* Dkt. No. 1907-1.) REH began all nine depositions. (Dkt. No. 1907 ¶ 7.)

RKS and REH met and conferred about the deposition notices on November 12, 2025. (Harris Decl. ¶ 5.) After they did not reach an agreement, on December 8, 2025, REH filed the instant motion to compel the Foreign Shareholders' depositions. (Dkt. No. 1910.)

ARGUMENT

I. LEGAL STANDARD

Pursuant to "Rules 7069 and 9014(c) of the Federal Rules of Bankruptcy Procedure," Rule 69 of the Federal Rules of Civil Procedure ("Rules" or "FRCP") governs post-judgment discovery here. *In re Navigator Gas Transp. PLC*, 358 B.R. 80, 85 (Bankr. S.D.N.Y. 2006). Under Rule 69, "the judgment creditor may obtain post-judgment discovery in aid of execution, ***as provided***

under either the Federal Rules of Civil Procedure or by the procedure of the state in which the court sits." *Soundkillers LLC v. Young Money Ent., LLC*, No. 14CV7980 (KBF) (DF), 2016 WL 4990257, at *3 (S.D.N.Y. Aug. 2, 2016) (emphasis added) (quoting Fed. R. Civ. P. 69(a)(2)), *report and recommendation adopted*, No. 14-CV-7980 (KBF), 2016 WL 4926198 (S.D.N.Y. Sept. 15, 2016). Should the judgment creditor pursue discovery under the FRCP, "Rule 45 applies." *Putnam At Tinton Falls, LLC v. Annunziata*, No. 20-MC-281 (NSR), 2021 WL 5919418, at *1 (S.D.N.Y. Dec. 15, 2021) (citing *Universitas Educ., LLC v. Nova Grp.*, No. 11 CIV. 1590 LTS HBP, 2013 WL 57892, at *2 (S.D.N.Y. Jan. 4, 2013)). So too does Rule 30. *See Gesualdi v. Rockwala Inc.*, No. 18-CV-5470-JBW-SJB, 2019 WL 4306349, at *1 (E.D.N.Y. Sept. 11, 2019) (denying motion for post-judgment discovery because the movant's notices of deposition did not comply with Rule 30). Noncompliance with the applicable rules is fatal to a motion to compel post-judgment discovery.

II. BECAUSE REH's NOTICES OF DEPOSITIONS FAILED TO COMPLY WITH THE FEDERAL RULES OF CIVIL PROCEDURE, REH CANNOT COMPEL THE FOREIGN SHAREHOLDERs' DEPOSITIONS

A. The Notices Violated Rule 45

REH's deposition notices completely ignore Rule 45, as if only Rule 30 applies here; however, because the Foreign Shareholders are *not parties* to any underlying action, REH can only compel their representatives to sit for depositions through discovery devices that comply with Rule 45. The notices do not. They lack subpoenas and do not abide by Rule 45's geographic requirements. Either defect, by itself, is dispositive and fatal to REH's Motion.

Deposition notices issued pursuant to Rule 30 grant authority to compel depositions with respect to a party—but "only a party." *Chevron Corp. v. Salazar*, 275 F.R.D. 422, 426 (S.D.N.Y. 2011). "[N]onparties . . . are not subject to deposition merely by the service of a notice. Service of a subpoena would be ***necessary***." *Id.* (emphasis added) (citation omitted); *see also, e.g.*, *Sec. &*

Exch. Comm'n v. Laura, No. 18CIV5075NGGVMS, 2020 WL 5097239, at *3 (E.D.N.Y. Aug. 30, 2020) ("The general rule is that a non-party's deposition may only be compelled through the issuance of compulsory process, including a subpoena issued pursuant to Rule 45 . . . , if the deposition is to be conducted domestically, or following available international protocol if it is to be taken abroad." (quoting *Rensselaer*, 2014 WL 12586845, at *2)); *Farmers & Merchants State Bank (In re Eaton)*, 359 B.R. 661, 664 (Bankr. N.D. Ohio 2007) ("[M]ere notice of the deposition is insufficient to compel the attendance of a person not a party; a subpoena is required." (collecting cases)); 8A Wright and Miller's Federal Practice and Procedure § 2106 (3d ed. 2011) ("[I]f the deponent is not a party, he or she must be subpoenaed."). Absent a subpoena compliant with Rule 45, the Court lacks the "authority" to compel non-party testimony. *Forefront Machining Techs., Inc. v. SARIX SA*, No. 3:19-CV-383, 2021 WL 3615725, at *8-9 (S.D. Ohio Aug. 16, 2021).

Here, the Court lacks that authority because REH did not subpoena the Foreign Shareholders (Harris Decl. ¶ 3; *accord* Dkt. No. 1911-2 (Certificate of Service)) and they are not parties. They are not plaintiffs, defendants, or intervenors. *Palisades Tickets, Inc. v. Daffner (In re Daffner)*, 612 B.R. 630, 655 n.10 (Bankr. E.D.N.Y. 2020) (judgment debtors accused of misconduct to prevent the judgment creditor from collecting their debts were "not parties" to a proceeding where only the transferee was an actual defendant); *Forefront Machining Techs., Inc.*, 2021 WL 3615725, at *1, *9 (S.D. Ohio Aug. 16, 2021) (holding even a former "interested-party defendant" could not be deposed absent a subpoena). They have not been named in a summons. *See* Fed. R. Civ. P. 4(a)(1) ("A summons must: (A) name . . . the parties . . . .").

Other than Elafonissos,[4] the Foreign Shareholders do have known and non-fleeting ties to the bankruptcy matter, but those ties do not make them parties. They are "not" parties or "party

[4] Elafonissos has participated in this bankruptcy matter primarily to dispute the Court's personal jurisdiction over it.

opponent[s] simply because [they] w[ere] partial owners" of Debtor Eletson Holdings, the one named party in this matter. *See Eclipse Grp. v. Target Corp.*, No. 15CV1411-JLS (BLM), 2017 WL 2103573, at *6 (S.D. Cal. May 12, 2017) (denying motion to compel compliance with a deposition notice, as the plaintiff's ex-owner was "not a party[, so] his deposition must be subpoenaed in accordance with Fed. Civ. R. P. 45"); *Cent. States, Se. & Sw. Areas Pension Fund v. J.W. Cartage Co.*, No. 92 C 1695, 1994 WL 416978, at *2 (N.D. Ill. Aug. 8, 1994) (denying motion to compel deposition of party's former president and sole shareholder for same reason). Nor are the Foreign Shareholders parties because their purported involvement in misconduct affected the reorganization and the Court's orders consummating it. *See Salazar*, 275 F.R.D. at 426 (holding a deposition notice insufficient to compel the deposition of an association allegedly responsible for the fraudulent scheme central to all plaintiff's claims, since the association was "not a party").

In an attempt to make a square peg fit in a round hole, REH may argue the Foreign Shareholders are "parties in interest" under 11 U.S. Code § 1109 and thus "parties" under Rule 30. This is wrong. *First*, under the Court's orders (which have been appealed, but on which REH relies, and certainly takes the position are correct), the Foreign Shareholders' shares in the Debtor have been canceled, such that they may no longer qualify as a "equity security holder[s]" and, therefore, as parties in interest. 11 U.S. Code § 1109(b). If REH's position is that the Foreign Shareholders are still hold shares in Eletson, that position cannot be squared with positions taken in other litigation. And as the movant here, REH should be held to its position.

Second, Rules 17 to 25, sit under the heading "Parties," and there is *no* provision in Rules 17 to 25—*anywhere*—that treats generic "parties in interest" as "Parties" to an action under the rules. To treat entities or persons who have a *potential* interest in a matter as "parties" under the

Rules would do violence to the entire set of rules. For example, were being a "party in interest" equivalent to being a party to a lawsuit, Rule 17's requirements to join the real party in interest would be surplusage as the real party in interest would already be a "Party." Rule 7.1 would also be left adrift; it would require a "Party" to identify any parent corporation, which would *already* be a "Party" because it would have 'an interest' in the litigation. And, bizarrely, every shareholder of that company might well be a "Party" under this tortured reading. And every creditor. But that's not anywhere in the Rules. Because "Party" and "party in interest" are not the same thing.

Other rules also rely on "Party" meaning more than an entity with a stake "interest" in the matter. Interpleader (Rule 22), class actions (Rule 23), and intervention (Rule 24) rules make no sense using REH's reading of "Party." That's because the Federal Rules of Civil Procedure simply do not contemplate having *some* interest in a litigation automatically conferring "Party" status and subjecting one to discovery under Rules 26, 30, 33, and 34.

The Rules' context tells us what "Party" means: plaintiff and defendant in a lawsuit (in all their various iterations) and potentially intervenors (who seek to *become* a "Party" by proving *their* specific interest). This does not fit the Foreign Shareholders and thus the Foreign Shareholders are non-parties. As such, REH's failure to subpoena their testimony under Rule 45 leaves the court without authority or basis to compel their deposition.

The Court need look no further: no subpoenas, no compliance with Rule 45, no power to compel. Nevertheless, the deposition notices also violate Rule 45's geographic limits. Under Rule 45, subpoenas "may direct a person to sit for a deposition or produce documents only if the site of the deposition or the place where the documents must be produced is 'within 100 miles of where the person resides, is employed, or regularly transacts business in person.'" *Chevron Corp. v. Donziger*, No. 11 CIV. 0691 (LAK), 2020 WL 635556, at *5 (S.D.N.Y. Feb. 11, 2020) (quoting

Fed. R. Civ. P. 45(c) (1)(A), (2)(A)). This limit is "unambiguous[] and without exception," *id.* (citation omitted), and applies even where the target deponent could provide "testimony via teleconference," *Broumand v. Joseph*, 522 F. Supp. 3d 8, 23 (S.D.N.Y. 2021) (citation omitted). Here, however, the deposition notices expressly direct the Foreign Shareholders, which are in Greece, to sit for depositions thousands of miles away, "at the offices of Goulston & Storrs P.C., located at 730 Third Avenue, New York, NY 10017" or at another place to which REH agrees. (Dkt. No. 1911-1 No. 2, 8, 14, 20.) For this violation too, the Court should deny the motion.[5]

B. The Notices Violated Rule 30

Even if the Foreign Shareholders were somehow—contrary to logic and any relevant authorities—parties, such that Rule 45 does not apply, the deposition notices would still violate the Federal Rules of Civil Procedure—specifically, Rule 30.

As the depositions notices repeatedly state, including in their titles, REH issued them pursuant to Rule 30. (Dkt. No. 1911-1 No. 2, 8, 14, 20.) That rule "presumptively limit[s] to ten the number of depositions that each side may conduct." *Oakley v. MSG Networks, Inc.*, No. 17-CV-6903 (RJS), 2024 WL 5056111, at *2 (S.D.N.Y. Dec. 10, 2024) (quotation omitted). Unless the sides stipulate to a deposition, those seeking more "***must*** obtain leave of court." Fed. R. Civ. P. 30(a)(2) (emphasis added). The Foreign Shareholders did not stipulate to the deposition, and leave was never sought.

Leave is not simply asking. The entity seeking leave bears the "burden of demonstrating cause to exceed [that] limit." *Oakley*, 2024 WL 5056111, at *2 (S.D.N.Y. Dec. 10, 2024) (quoting

[5] Even if the Court determines that the Foreign Shareholders are parties and, as such, not subject to Rule 45, the depositions should take place where the Foreign Shareholders reside—in Greece, rather than in New York. *See JB Aviation, LLC v. R Aviation Charter Servs., LLC*, No. CV145175DRHAKT, 2016 WL 4444794, at *4 (E.D.N.Y. Aug. 23, 2016) ("[T]here is a general presumption that a non-resident defendant's deposition will be held where he or she resides or works." (collecting cases).)

Ritchie Risk-Linked Strategies Trading (Ir.), Ltd. v. Coventry First LLC, 273 F.R.D. 367, 368 (S.D.N.Y. 2010)); *see also Marseet v. Rochester Inst. of Tech.*, No. 20-CV-7096FPG, 2023 WL 533288, at *11 (W.D.N.Y. Jan. 27, 2023) ("The mere fact that an individual might have relevant information does not entitle a party to depose that individual." (citing *Commodity Futures Trading Comm'n v. Commodity Inv. Grp.*, 2005 WL 3030816, at *1 (S.D.N.Y. Nov. 10, 2005)). And had leave been sought, it may have been opposed, depending on the showing REH attempted to bring forth. But it was not sought, and that is indisputable.

Here, REH has issued ***at least thirteen*** deposition notices under Rule 30, including one to each of the Judgment Debtors aside from Keros Shipping Corporation. ((Dkt. No. 1907 ¶ 4 (listing the nine individual Judgment Debtors noticed); Dkt. No. 1911 ¶ 4 (listing the four company Judgment Debtors noticed).) And of those depositions, REH has already begun the nine for the individual Judgment Debtors. (Dkt. No. 1907 ¶ 7.) The next four put REH well over the limit. But REH did not secure a stipulation or leave of Court—or even request it. Instead, REH jumped the gun and filed a motion to compel compliance with depositions it did not—and still does not—have the right to take. As a result, the Court must deny this Motion.

III. REH FAILED TO SERVE THE FOREIGN SHAREHOLDERS

REH's attempts to serve the Foreign Shareholders violates the Rules' strict requirements for non-party discovery. As REH itself admits, it has only ever tried to serve the deposition notices as party discovery, by first-class mail and email to the Foreign Shareholders' counsel, in accordance with Rule 30. (Mot. at 2.) However, under the Rule 45 restrictions that apply to the Foreign Shareholders—which are properly construed as non-parties (*see supra* II.A)—REH's efforts were improper and insufficient.

A. Rule 45 Prohibits Service on Foreign Entities Overseas

REH did not serve the Foreign Shareholders for one simple and indisputable reason: Rule 45 does not permit service on foreign entities located overseas. *See In re Three Arrows Cap., Ltd.*, 647 B.R. 440, 448-49 (Bankr. S.D.N.Y. 2022) (holding that Rule 45 does not permit service of

subpoenas on foreign nationals or foreign business entities located overseas); *see also SiteLock, LLC v. GoDaddy.com, LLC*, 338 F.R.D. 146, 148 (D. Or. 2021) ("[A] foreign corporation is not a United States national or resident and therefore cannot be served with a subpoena under Rule 45.'" (quoting *Viscat, Inc. v. Space Sys./Loral, LLC*, 2014 WL 12577593, at *5 (C.D. Cal. June 30, 2014)). While Rule 45 allows for service of a U.S. "national or resident who is in a foreign country," it contains no mechanism for serving a subpoena on a foreign national or entity overseas. Fed. R. Civ. P. 45(b). As numerous courts, including this one, have held, "Rule 45 is not just 'silent' on foreign service of non-nationals and non-residents, but it provides an explicit limit on such service." *Three Arrows Cap.*, 647 B.R. at 448; *see also Aristocrat Leisure Ltd. v. Deutsche Bank Tr. Co. Americas*, 262 F.R.D. 293, 305 (S.D.N.Y. 2009) ("[C]ourts faced with similar circumstances have found that foreign nationals living abroad are not subject to subpoena service outside the United States.").

REH need only abide by the Rules and "available international protocol." *Rensselaer Polytechnic Inst. v. Apple Inc.*, No. 1:13-CV-0633 (DEP), 2014 WL 12586845, at *2 (N.D.N.Y. Apr. 21, 2014) (citing *Chevron Corp. v. Salazar*, 275 F.R.D. 422, 425 n.17 (S.D.N.Y. 2011)). But it did not. That is fatal to its motion to compel.

B. REH Cannot Circumvent the Limitations of Rule 45 by Mailing and Emailing the Deposition Notices to the Foreign SHAREHOLDERS' COUNSEL

In arguing REH successfully served the Foreign Shareholders, REH asserts the Court "approved the propriety" of its method—namely, mail and email to counsel—while citing to a transcript of the Court's February 20, 2025 hearing on sanctions. (Mot. at 6 (quoting Dkt. No. 1505 at 92:3-6 (finding "service by direct mail and email to former directors, shareholders, and their respective attorneys to be sufficient notice")).) This argument fails. Such service was not permitted, nor could it have been.

First, in contrast to Rule 4 which governs service of process, Rule 45 does not allow for a court to allow "alternative service" of a foreign entity overseas. *See Three Arrows*, 647 B.R. at 450 (explaining that the court cannot order alternative service of a subpoena on a foreign entity because Rule 45 does not allow for even standard service). Thus, REH argument that the Court's statement in the sanctions oral decision trumps the FRCP and bestows upon Reorganized Holdings worldwide subpoena power over foreign entities overseas fails. *See Bank of Nova Scotia v. U.S.*, 487 U.S. 250, 255 (1988) ("[F]ederal courts have no more discretion to disregard the [Federal Rules of Civil Procedure's] mandate[s] than they do to disregard constitutional or statutory provisions.").

Second, REH is simply wrong to state that the Court's sanctions decision approved mail and email to counsel, done here, as a means of service. The ***very excerpt*** the Motion quotes clarifies that the Court found—in the particular instance before the Court—that "service by direct mail and email to former directors, *shareholders*, ***and*** *their respective attorneys* to be sufficient." (Dkt. No. 1505 at 92:3-6 (all emphasis added).) The Court said nothing of mail and email to ***counsel alone***. Indeed, the purported service at issue there involved direct mail to Foreign Shareholders that did not occur here. (*See* Dkt. No. 1408 at 12 (showing papers mailed to Elafonissos at 118, Kolokotroni Street, Piraeus Athens); Dkt. No. 1429 at 12 (same).) Furthermore, it is black-letter law that "even a party to a civil case who is represented by counsel must be served personally with a subpoena. Service on a party's lawyer is not sufficient." *U.S. v. Brennerman*, 2017 WL 4513563, at *1 (S.D.N.Y. Sept. 1, 2017) (collecting cases); *see also* Wright & Miller, 9A Fed. Prac. & Proc. Civ. § 2454 (3d ed. 2025) ("[U]nlike service of most litigation papers after the summons and complaint, service [of a subpoena] on a person's lawyer will not suffice.").

Third, the Court did not rule that mail and email to the Foreign Shareholders and their counsel would always be sufficient—or even that it would be sufficient in circumstances present here. Rather, the Court found that type of notice acceptable given the flexibility caselaw permits with respect to the issues of contempt and sanctions then before the Court. (Dkt. No. 1505 at 93:8-23 (quoting *In re Longoria*, 400 B.R. 543, 553 (Bankr. W.D. Tex. 2009) ("Even when the Rules governing contempt proceedings are not strictly followed, so long as the Constitutional requirement of due process is satisfied, contempt sanctions will not be set aside.")).)

Simply put, nothing in Rule 45, Second Circuit precedent, or this Court's orders allows service on local counsel as a means to skirt Rule 45's prohibition against the issuance of subpoenas to foreign entities located overseas. As a result, REH's failed to effect service, and its notices of deposition are unenforceable.

CONCLUSION

For the foregoing reasons, the Court should deny Reorganized Holdings' motion to compel the depositions of the Foreign Shareholders.

Dated: December 22, 2025
New York, New York

Respectfully submitted,

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