

## Global Capital, Local Law: Navigating the Risks of U.S. Bankruptcy

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When raising capital in the U.S., owners and directors of foreign companies have to be cognizant of how restructuring can be used by creditors to displace management and shareholders.

A recent decision by the U.S. District Court for the Southern District of New York, which upheld a bankruptcy court's order imposing sanctions on former owners and directors of Eletson Holdings Inc. ("Eletson"), underscores the importance for company leadership, particularly those facing financial distress, to fully understand the scope of obligations under U.S. bankruptcy law.

Eletson was the parent of a Greek-based international gas shipping enterprise operating a fleet of 18 medium- and long-range oil and gas tanker vessels carrying a wide range of refined petroleum products and crude oil. The business was operated through companies that were closely held by several related Greek family groups, each holding equity through offshore trusts.

The three majority shareholders of Eletson, each holding a 30.7% interest, included the family of Laskarina Karastamati, controlled Lassia Investment Company ("Lassia"), the family of Vassilis Kertsikoff, controlled Family Unity Trust Company ("Family Unity"), and the family of Vassilis Hadjieleftheriadis, controlled Glafkos Trust Company ("Glafkos"). Each was organized under the laws of Liberia. The minority shareholders of Eletson were Elafonissos Shipping Corp. and Keros Shipping Corp. During the Chapter 11 proceedings, the board of directors of Eletson consisted of 1) Vassilis Hadjieleftheriadis, 2) Konstantinos Hadjieleftheriadis, 3) Ioannis Zilakos, 4) Emmanuel Andreoulakis, 5) Vassilis Kertsikoff, 6) Eleni Giannakopoulou, 7) Panagiotis Konstantaras, and 8) Laskarina Karastamati.

Eletson was forced into bankruptcy in March 2023 when three creditors (the "Petitioning Creditors") commenced involuntary Chapter 7 proceedings against the company and two affiliates (Eletson Finance (US) LLC and Agathononissos Finance LLC) (the "Debtors"). *In re Eletson Holdings Inc. et al.* ("Bankruptcy Proceeding"), No. 23-10322 (Bankr. S.D.N.Y.) In September 2023, the case was converted to a voluntary Chapter 11 proceeding.

The Petitioning Creditors and the Debtors submitted competing reorganization plans. Under the plan proposed by the Debtors, the Greek families who held a majority interest in Eletson prior to bankruptcy, committed to provide funds to the entity in exchange for their continued control. The creditors, by contrast, promised to contribute \$53.5 million in cash to Eletson through an offering of equity rights to holders of unsecured claims, which would be backed up by a commitment amount by one of the Petitioning Creditors of the same value.

After contentious fights and lengthy hearings, the bankruptcy court found that the plan proposed by the Debtors was unconfirmable and not feasible and approved the creditors' recapitalization plan. The Debtor's plan was unconfirmable because it did not contribute new value: (1) the supposed new value contribution was not new because it came from inside the

Debtors' capital structure, (2) the contribution was contingent upon a final award in pending arbitration proceedings, and (3) there was no adequate proof that the funds committed by the majority shareholders would be available over such a long-time horizon. The \$37 million in new shareholder value proposed, even if available, did not provide sufficient funding to make all required payments on the effective date of the plan. The Bankruptcy Court ruled in favor of the creditors' plan of reorganization (the "Plan") because it provided sufficient funding to meet all effective date obligations, and because the creditors had escrowed \$43.5 million in cash to fund the plan.

On October 25, 2024, the Bankruptcy Court confirmed the Plan proposed by Petitioning Creditors (the "Confirmation Order"). The Confirmation Order vested control of Eletson in the Petitioning Creditors rather than the three Greek families that had previously controlled the company. On the date the Plan was to become effective, "all property in each estate" vested "in Reorganized Holdings, free and clear of all liens, claims, charges or other encumbrances." Plan § 5.2(c). Section 5.4 of the Plan provided that all notes and stock and other documents evidencing or giving rise to claims against an interest in debtors were canceled and the obligations of the debtors thereunder or in any way related thereto were released, terminated, extinguished, and discharged. Plan § 5.4. The members of the board of directors of each Debtor, prior to the date the Plan went into effect, were "deemed to have resigned or otherwise ceased to be a director or manager of the applicable Debtor." Plan § 5.10(c). Eletson Holdings was deemed to be Reorganized Holdings, and the equity of the old Eletson Holdings was vested in its new owners. Reorganized Holdings was to be managed by a new board consisting of three directors: (i) one director selected by the Plan Proponents, (ii) one selected by the Plan Proponents but subject to the consent of the Unsecured Creditors' Committee, and (iii) an independent director selected by the Unsecured Creditors Committee. The Confirmation Order provided: "The Debtors and the Petitioning Creditors and each of their respective Related Parties were directed to cooperate in good faith to implement and consummate the Plan." Confirmation Order ¶¶ 5(i). Furthermore, the Confirmation Order mandated: "Upon entry of this Confirmation Order, all Holders of Claims or Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan or interfering with any distributions and payments contemplated by the Plan."

The Plan became effective on November 19, 2024 (the "Effective Date"), 14 days after it was entered. Thus, on the Effective Date, the board members of the former Debtors were deemed to have resigned, the new board of directors was deemed appointed, the equity interest in the former holders was extinguished, and the equity interest was vested in the new holders.

Following the Bankruptcy Court's confirmation of the Plan, but before the Plan was effective, Elafonissos Shipping Corporation and Keros Shipping Company, the former minority shareholders of Eletson, sought relief from a court in Greece to appoint a temporary board to manage the company while the Confirmation Order was being appealed and with the specific mandate to obtain judicial protection, to support an appeal already filed against another order of the United States Bankruptcy Court for the Southern District of New York, and to seek other remedies and means provided by law, before the Greek Courts, in order to challenge the Confirmation Order.

On November 12, 2024, the Greek Court issued an *ex parte* interim order replacing certain resigning directors of Eletson Holdings and appointing "Provisional Appointees" in their stead to join the remaining directors to form a provisional board of Eletson Holdings.

On November 25, 2024, reorganized Eletson Holdings filed an emergency motion seeking an order imposing sanctions on Eletson's former shareholders, officers, directors, and counsel because their actions outside of the United States frustrated the ability of the new owners of Reorganized Holdings to conduct business as contemplated by the confirmed plan. *See In re Eletson Holdings Inc.*, Case No. 23-10322, Dkt. 1268. The Bankruptcy Court held a trial on the sanctions motion on January 6, 2025, which resulted in an oral decision granting the sanctions motion, followed by an accompanying order on January 29, 2025. Dkt. 11396, 1402. Notwithstanding that order, Eletson's former management continued to fail to comply with their obligations under the Plan. The Bankruptcy Court had to issue orders enforcing the Plan and directing Eletson's former shareholders and management to cooperate.

In March 2025, the Bankruptcy Court found the legacy Eletson board of directors in contempt and ordered a \$5,000 per day fine until they obeyed the Plan's requirements. *Id.*, Dkt. 1536, 1537. On July 2, 2025, the reorganized Eletson debtors

obtained a court order granting a motion for attorneys' fees and costs after asserting that Eletson's former majority and minority shareholders, among others, treated the Bankruptcy Court's authority and the confirmed Plan with contempt and "inflicted direct and measurable harm" by, among other things, forcing the reorganized company to seek enforcement of the confirmation order in Liberia and Greece. Dkt. 1712. The Bankruptcy Court increased the sanctions with respect to certain persons to \$10,000 per day. Dkt. 1716.

The former majority and minority shareholders appealed the orders imposing sanctions. In its September 26 decision, the U.S. District Court affirmed the Bankruptcy Court's order.

The Eletson Holdings illustrates how U.S. bankruptcy law empowers creditors with robust tools to restructure distressed entities, even to the point of displacing entrenched management and shareholders. The court's willingness to enforce its orders across borders, impose sanctions, and penalize noncompliance underscores the importance of understanding the full scope of creditor rights and judicial authority in U.S. insolvency proceedings. For international businesses, especially those with complex ownership structures, the lesson is clear: cross-border capital raising demands not only financial sophistication but also a deep appreciation of the legal landscape and the risks of losing control.