

Proposed Hearing Date and Time: January 8, 2018 at 10:00 a.m. (Eastern Time)

SAUL EWING ARNSTEIN & LEHR LLP

Sharon L. Levine
Jeffrey C. Hampton
Stephen B. Ravin
Dipesh Patel
Aaron S. Applebaum
1037 Raymond Boulevard
Suite 1520
Newark, NJ 07102
Telephone: (973) 286-6713
Facsimile: (973) 286-6821

-and-

555 Fifth Avenue
Suite 1700
New York, NY 10017
Telephone: (212) 980-7200

Attorneys for the Debtors

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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	:	
In re	:	Chapter 11
	:	
EZRA HOLDINGS LIMITED <i>et al.</i> , ¹	:	Case No. 17 – 22405 (RDD)
	:	
Debtors.	:	Jointly Administered
-----X		

**DEBTORS’ MOTION FOR APPROVAL OF USE OF
PROPERTY OUTSIDE THE ORDINARY COURSE OF BUSINESS**

The above-captioned debtors and debtors-in-possession (collectively, the “Debtors”), through their undersigned counsel, hereby move this Court (the “Motion”) for entry of an order approving the use of property outside the ordinary course of business pursuant to section 363(b)

¹ The Debtors in these chapter 11 cases, along with the last five characters of each Debtor’s registration identification number, include: Ezra Holdings Ltd. (1411N) (“Ezra”); Ezra Marine Services Pte. Ltd. (7685G); and EMAS IT Solutions Pte. Ltd (5414W). The location of the Debtors’ U.S. office is 75 South Broadway, Fourth Floor, Office Number 489, White Plains, NY 10601.

of title 11 of the United States Code (the “Bankruptcy Code”). In support of this Motion, the Debtors respectfully represent as follows:

BACKGROUND

1. On March 18, 2017 (the “Petition Date”), each of the Debtors filed with the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”).

2. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee of unsecured creditors has been appointed in these chapter 11 cases (the “Chapter 11 Cases”).

3. The Debtors’ Chapter 11 Cases are being jointly administered for procedural purposes only pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

4. The Bankruptcy Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Motion is a core proceeding pursuant to 28 U.S.C. § 157(b).

5. The statutory predicate for the relief requested herein is section 363(b) of the Bankruptcy Code and Rules 6004 and 9013 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

6. Facts relating to the Debtors’ business operations and factors leading to the filing of these bankruptcy cases are set forth in the *Declaration of Robin Chiu in Support of Chapter 11 Petitions* (the “Chiu Declaration”) [ECF No. 2], which the Debtors incorporate herein by reference.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

EZRA'S JOINT VENTURE INTEREST IN EMINENT OFFSHORE LOGISTICS

8. Ezra is an investment holding company for a group of companies (the "Ezra Group") which collectively provide integrated offshore solutions for the oil and gas industries. See, Chiu Declaration, ¶ 4.

9. One of the companies in which Ezra holds an ownership interest is Eminent Offshore Logistics Pte. Ltd. ("Eminent Offshore"). Eminent Offshore is a joint venture between Ezra and Ezion Holdings Limited ("Ezion"). Eminent Offshore owns six vessels, currently located either in Indonesia or the UAE, none of which are currently in service and which have been kept out of service in order to minimize operating expenses.

10. On November 28, 2017, Eminent Offshore's board of directors issued a Notice of Extraordinary General Meeting (the "EGM Notice") to Ezra and Ezion, a copy of which is attached hereto as **Exhibit A**, detailing Eminent Offshore's precarious financial position and recommended course of action. The proposed Extraordinary General Meeting (the "EGM") described therein has not yet taken place, and has been adjourned pending Ezra's obtaining bankruptcy court approval to vote its interest therein.

11. The EGM Notice sets forth the following general background with regard to Eminent Offshore's current status:

- Eminent Offshore has been unable to secure work for its vessels for a number of reasons, including, that the vessels' conditions are unfit for work. Moreover, Eminent Offshore faces significant costs to render the vessels suitable for work, including costs of repair, engaging shallow draft/assist tugs to shift the vessels from their current yard, and port due during such repairs.
- In addition to the general status of the vessels, Eminent Offshore has experienced difficulty securing work for these vessels due to poor market conditions. Even when potential charterers inquired, the vessels did not meet most charterers' requirements because they are not ballastable.

- Further, with respect to the vessels located in the UAE, such vessels now must clear UAE waters before entering to comply with UAE regulations. Such compliance would result in substantial additional cost.
- Eminent Offshore is currently insolvent, holding cash of approximately \$33,000 and facing liabilities in excess of \$2.3 million (excluding shareholder loans). The company incurs at least \$2,000 per day related to berthing and port dues in connection with the vessels.
- Under the circumstances, Eminent Offshore's board of directors recommends selling the vessels for purposes of scrap at fair market value.

12. Eminent Offshore's board of directors has also advised that, if they cannot obtain the requisite approval to sell their vessels, they intend to file an application with the Singapore High Court to wind-up Eminent Offshore.

13. Ezra, as a fifty percent joint venture owner of Eminent Offshore, agrees with the board of directors' recommendation and believes a sale of the vessels is in the best interest of Eminent Offshore.

14. Because Ezra's ownership interest in Eminent Offshore constitutes property of Ezra's bankruptcy estate, and because Ezra is asked to vote its ownership interest at an extraordinary general meeting, Ezra's decision to vote its shares in favor of the transaction may constitute a use of property outside the ordinary course of business as contemplated by section 363(b) of the Bankruptcy Code.

15. Accordingly, the Debtors respectfully seek entry of an order, in substantially the form attached hereto, authorizing Ezra to vote its interest in Eminent Offshore to approve the board of directors' recommendation, and for such other authority as may reasonably relate thereto.

BASIS FOR RELIEF

16. Section 363(b) of the Bankruptcy Code provides, in pertinent part, that a debtor-in-possession “after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate . . .” 11 U.S.C. § 363(b).

17. Bankruptcy Rule 6004 provides, in pertinent part, that “Notice of a proposed use, sale, or lease of property, other than cash collateral, not in the ordinary course of business shall be given pursuant to Rule 2002(a)(2), (c)(1), (i) and (k) and, if applicable, in accordance with § 363(b)(2) of the Code.”

18. Ezra’s ownership interest in Eminent Offshore constitutes property of Ezra’s bankruptcy estate, and voting such interest at the extraordinary meeting may constitute the use of such property other than in the ordinary course of business.

19. Pursuant to section 363(b) of the Bankruptcy Code, “[a] Chapter 11 debtor in possession’s transactions other than those in the ordinary course of business must be authorized by the court after notice and a hearing.” In re Crystal Apparel, Inc., 220 B.R. 816, 829 (Bankr. S.D.N.Y. 1998). “The purpose of requiring notice and a hearing if a transaction is other than in the ordinary course of business is so that creditors, who have a vital interest in maximizing realization from assets of the estate, have an opportunity to review the terms of the proposed transaction and to object if they deem the terms and conditions are not in their best interest.” Id. at 830; see also In re Caldor, Inc., 193 B.R. 182, 186 (Bankr. S.D.N.Y. 1996).

20. “The debtor’s sale or use of property of the estate outside the ordinary course of business should be approved by this Court if there is a sound business justification for the proposed transaction.” In re Residential Capital, LLC, 2013 WL 3286198, *18, Case No. 12-12020 (Bankr. S.D.N.Y. June 27, 2013); see also In re Iridium Operating LLC, 478 F.3d 452,

466 (2d Cir. 2007) (“In this Circuit, the sale of an asset of the estate under § 363(b) is permissible if the ‘judge determining [the] § 363(b) application expressly find[s] from the evidence presented before [him or her] at the hearing [that there is] a good business reason to grant such an application.’”); see also, Caldor, 193 B.R. at 187 (noting the standard for approval of a transaction outside the ordinary course of business is whether such transaction is a sound exercise of the debtor-in-possession’s business judgment.

21. “Once a debtor has articulated a valid business justification under section 363, a presumption arises that the debtor’s decision was made on an informed basis, in good faith, and in the honest belief that the action was in the best interest of the Debtors.” Residential Capital, at *18; see also Official Comm. of Sub. Bondholders v. Integrated Res., Inc. (In re Integrated Res., Inc.), 147 B.R. 650, 656 (S.D.N.Y. 1992). “Once ‘the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.’” Residential Capital, at *18, quoting Comm. of Asbestos Related Litigants v. Johns Manville Corp. (In re John-Manville Corp.), 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986).

22. Here, the Debtors have shown a sound business justification for Ezra to vote its interest to approve the board of directors’ recommendation to sell the vessels. Eminent Offshore is insolvent, and adopting the board’s proposal prevents the incurrence of additional liabilities. While the sale may not result in surplus proceeds to Ezra on account of its ownership interest, Ezra has concluded that non-approval of the transaction would leave Eminent Offshore with no alternative but to seek a winding up of its affairs, which could have an even more detrimental impact on Ezra’s ownership value, thus constituting a sound business justification to approve the transaction.

23. Accordingly, the Debtors respectfully request entry of an order, in substantially the form submitted herewith, authorizing Ezra to vote its interest in Eminent Offshore to approve the board of directors' recommendation to sell its vessels, and to take such other actions as may be necessary in connection therewith, and finding that such action constitutes a sound exercise of the Debtors' business judgment.

RELIEF FROM RULE 6004(h)

24. Bankruptcy Rule 6004(h) provides that "an order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h).

25. Due to the limited nature of the "use" of property sought herein, the voting of shares to approve a non-debtor entity's business dealings, the Debtors respectfully suggest no purpose is served by a 14-day stay of the order approving this motion, and respectfully request relief from the stay provided in Bankruptcy Rule 6004(h).

NOTICE

26. Notice of this Motion is being provided in accordance with the *Order Pursuant to 11 U.S.C. § 105(a) and Fed. R. Bankr. P. 1015(c), 2002(m) and 9007 Implementing Certain Notice and Case Management Procedures, dated April 25, 2017* [Docket No. 58]. The Debtors submit that, in view of the facts and circumstances, such notice is sufficient and no other or further notice need be given.

NO PRIOR REQUEST

27. No prior request for the relief requested herein has been made to this Court or to any other court in connection with the Bankruptcy Cases.

WHEREFORE, the Debtors respectfully request that the Court enter the proposed order submitted herewith, granting the relief requested herein and such other and further relief as is just and proper.

Dated: December 27, 2017

Respectfully submitted,

SAUL EWING ARNSTEIN & LEHR LLP

By: /s/Aaron S. Applebaum
Sharon L. Levine
Jeffrey C. Hampton
Stephen B. Ravin
Dipesh Patel
Aaron S. Applebaum
1037 Raymond Boulevard
Suite 1520
Newark, NJ 07102
Telephone: (973) 286-6713
Facsimile: (973) 286-6821
Sharon.Levine@saul.com
Jeffrey.Hampton@saul.com
Stephen.Ravin@saul.com
Dipesh.Patel@saul.com
Aaron.Applebaum@saul.com

-and-

555 Fifth Avenue
Suite 1700
New York, NY 10017
Telephone: (212) 980-7200

Attorneys for the Debtors

EXHIBIT A

EMINENT OFFSHORE LOGISTICS PTE. LTD.
(Co. Reg. No.: 200715762D)
(the "Company")
(Incorporated In Singapore)

NOTICE OF EXTRAORDINARY GENERAL MEETING

Notice is hereby given that an Extraordinary General Meeting ("EGM") of the Company will be held:

PLACE : at 15 Hoe Chiang Road #12-05, Tower Fifteen, Singapore 089316

DATE : on 13 December 2017

TIME : at 10.00 a.m.

for the purpose of considering and if thought fit, passing the following Ordinary Resolutions:

SALE OF THE COMPANY'S VESSELS

WHEREAS

A. *The Company has been operating in tough market conditions for the past years. The Company's vessels (set out below) (the "Vessels") are currently not working and have been laid-up in order to reduce the operating expenses (e.g. manning, annual certification and insurance) to the furthest extent possible:*

Vessel	Status	Location	Re-delivery date of last charter
"Armoured 3"	Laid-up	Batam, Indonesia	July 2014
"Armoured 4"	Laid-up	Batam, Indonesia	September 2014
"Armoured 5"	Laid-up	Jebel Ali, UAE	3 April 2017
"Armoured 6"	Laid-up	Jebel Ali, UAE	3 April 2017
"Armoured 7"	Laid-up	Jebel Ali, UAE	3 April 2017
"Armoured 8"	Laid-up	Jebel Ali, UAE	3 April 2017

B. *The Company has not been able to secure work for the Vessels due to various reasons, including, inter alia, the following:*

- (1) *The Vessels are not in a state fit for work due to cracks and dents in their structures and/or presence of rock aggregates on their deck.*
- (2) *In order to for the Vessels to be suitable for work, the Company is expected to be required to incur costs and expenses estimated at US\$580,000 (at least) to repair and rectify the deficiencies and defects of the respective Vessels and/or carry out classification and other related surveys before the Vessels. Such costs and expenses include engaging shallow draft/assist tugs to shift the Vessels out of current yard, and to the repair yard. Assuming that the aforesaid is proceeded with, during the period of such works and services, it is estimated that approximately US\$742,356 will be incurred in respect of port dues.*
- (3) *The poor market conditions have rendered it difficult to secure work for the Vessels. Further, even when there were potential charterers who inquired about and/or inspected*

the Vessels, the Vessels do not meet most charterers' requirements because they are non-ballastable.

- C. *Further, the "Armoured 6", "Armoured 7" and "Armoured 8" are now required to clear out of UAE waters before entering in order to comply with UAE regulations. The moves contemplated will translate to substantial costs and expenses which the Company is not in a position to pay for.*
- D. *The Company is currently insolvent. As at the date hereof, the Company has an estimated cash balance of US\$33,000 and estimated outstanding payables of US\$2.3 million (excluding outstanding shareholders' loan of US\$8.0 million). The Company continues to incur approximately US\$2,000 per day in respect of berthing and port dues relating to the Vessels.*
- E. *With no operating income for the past six months, the Company is not able to service its outstanding debts and obligations and is facing immense pressure from creditors. It bears highlighting that:*
 - (1) *International Ship Repair has issued a statutory demand on 22 September 2017 for the sum of US\$66,951 incurred in relation to services provided to the "Armoured 7". In addition to threats of potentially winding-up the Company, the said vendor has also threatened to proceed with legal proceedings to arrest "Armoured 7".*
 - (2) *ASL Shipyard Pte Ltd has issued a letter of demand on 12 October 2017 for the sum of S\$1,150,000 incurred in relation to repairs and berthing costs for all the Vessels. ASL Shipyard Pte Ltd may take steps to arrest and proceed with judicial sale of the Vessels.*
- F. *Whilst there is an outstanding accounts receivables from Actimar Shipping SA in the sum of US\$179,700, being unpaid charter-hire in respect of the vessels "Armoured 5", "Armoured 6", "Armoured 7" and "Armoured 8" for the period May 2016 to April 2017, there are little prospects of recovery. The Company has engaged a debt collector, the TCM Group, to recover the aforesaid. However, there has been no success to date. The Company is not able to proceed to commence legal proceedings against Actimar Shipping SA because it has no funds to pay for the required legal costs.*
- G. *It is estimated that the Company requires US\$2.7 million for the next 6 months for purposes of settling outstanding liabilities and working capital, as summarized below:*

Items	USD (or equivalent)
<i>ASL Shipyard</i>	<i>850,000</i>
<i>Teras Offshore Pte Ltd</i>	<i>485,000</i>
<i>PT Internusa Bahtera</i>	<i>230,000</i>
<i>Ezra Marine Services Pte Ltd</i>	<i>190,000</i>
<i>International Ship Repair FZE</i>	<i>67,000</i>
<i>LCH Lockton Pte Ltd</i>	<i>59,000</i>
<i>Inter Ocean Ship Repairs LLC</i>	<i>53,000</i>
<i>American Bureau of Shipping</i>	<i>49,000</i>
<i>Express Offshore Solutions Pte Ltd</i>	<i>38,000</i>
<i>Albwardy Marine Engineering LLC</i>	<i>25,000</i>
<i>Other vendors</i>	<i>40,000</i>
<i>Other Trade accruals</i>	<i>295,000</i>
<i>Working capital for next 6 months</i>	<i>360,000</i>

- H. *In the circumstances, it is the opinion of this Board of Directors that it is in the best interests of this Company that the Vessels be sold for purposes of scrap at fair market value (the "Proposed Sales").*

- I. *The Directors of the Company have disclosed all their interests in the Proposed Sale in accordance with the Companies Act (Cap. 50) and the Constitution of the Company.*

IT IS HEREBY RESOLVED:-

1. *That the Proposed Sales are in the best interests of the Company and be carried out.*
2. *That the Company enters into and is hereby authorised to enter into sale and purchase agreements(s) in relation to the Proposed Sales (the "Agreements") and all documents referred to therein, including such other instruments and documents necessary and proper to consummate the closing of the transaction contemplated in the Agreements (the "Transaction Documents").*
3. *That any Director of the Company be and is hereby authorised to do the following things in the Company's name and for and on behalf of the Company in his absolute discretion:-*
 - (i) *to negotiate the terms of (including the price of the respective Vessels), accept, sign, seal, execute, and deliver the Transaction Documents;*
 - (ii) *to negotiate and accept any future amendment, variation or supplement of the Transaction Documents and do all other acts and things relating to or required pursuant to or in connection with the Transaction Documents as may be required by any purchaser of the Vessels from time to time (which acceptance shall be conclusively evidenced by the signature of a Director);*
 - (iii) *to sign any certificates, notices and any other documents to be executed under hand or seal and to be given pursuant to or ancillary to the Transaction Documents; and*
 - (iv) *to sign all documents, notices and communications required or permitted to be given under or for the purposes of or in connection with the Transaction Documents.*
4. *That the Common Seal of the Company be affixed to the Transaction Documents and any relevant and ancillary documents in relation to or in connection with the transactions contemplated thereunder as may be required. For the avoidance of doubt and in favour of any person bona fide dealing with the Company, such signatures shall be conclusive evidence of the fact that the seal has been properly affixed.*
5. *That any Director be and is hereby authorised to do any and all other acts and things as such Director may in his absolute discretion deem necessary or desirable in connection with any of the matters contemplated by the foregoing resolutions and the Transaction Documents, and all actions heretofore or hereafter taken by any Director of the Company in connection with the Transaction Documents, the transactions contemplated thereby, or otherwise within or in connection with the terms of the foregoing recitals and/or resolutions, be and are hereby ratified, approved and confirmed in their entirety.*

On Behalf of the Board



Cheah Boon Pin
Director

Date: 28 November 2017

A member entitled to attend and vote at this meeting is entitled to appoint a proxy or proxies to attend and vote instead of him. A proxy need not be a member of the company.

Pursuant to Section 177(3)(b) of the Companies Act, Cap. 50, shareholders will be asked to consent to the transaction of the business as detailed in the Notice, notwithstanding that less than the full prescribed notice has been given.

Personal data privacy:

By submitting an instrument appointing a proxy(ies) and/or representative(s) to attend, speak and vote at the EGM and/or any adjournment thereof, a member of the Company (i) consents to the collection, use and disclosure of the member's personal data by the Company (or its agents) for the purpose of the processing and administration by the Company (or its agents) of proxies and representatives appointed for the EGM (including any adjournment thereof) and the preparation and compilation of the attendance lists, minutes and other documents relating to the EGM (including any adjournment thereof), and in order for the Company (or its agents) to comply with any applicable laws, listing rules, regulations and/or guidelines (collectively, the "**Purposes**"), (ii) warrants that where the member discloses the personal data of the member's proxy(ies) and/or representative(s) to the Company (or its agents), the member has obtained the prior consent of such proxy(ies) and/or representative(s) for the collection, use and disclosure by the Company (or its agents) of the personal data of such proxy(ies) and/or representative(s) for the Purposes, and (iii) agrees that the member will indemnify the Company in respect of any penalties, liabilities, claims, demands, losses and damages as a result of the member's breach of warranty.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re : Chapter 11
Ezra Holdings Limited *et al.*,¹ : Case No. 17 – 22405 (RDD)
Debtors. : Jointly Administered

**ORDER APPROVING DEBTORS' USE OF PROPERTY
OUTSIDE THE ORDINARY COURSE OF BUSINESS**

Upon the motion (the “Motion”) of the above-captioned debtors (collectively, the “Debtors”) for the entry of an order (this “Order”), pursuant to section 363(b) of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), for approval of use of property outside the ordinary course of business, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and Amended Standing Order of Reference M-431, dated January 31, 2012 (Preska, C.J.); and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties-in-interest, and that just cause exists for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby

¹ The Debtors in these chapter 11 cases, along with the last five characters of each Debtor’s registration identification number, include: Ezra Holdings Ltd. (1411N); Ezra Marine Services Pte. Ltd. (7685G); and EMAS IT Solutions Pte. Ltd (5414W). The location of the Debtors’ U.S. office is 75 South Broadway, Fourth Floor, Office Number 489, White Plains, NY 10601.

ORDERED, ADJUDGED AND DECREED that:

1. The Motion is GRANTED as set forth herein.
2. Pursuant to section 363(b) of the Bankruptcy Code, debtor Ezra Holdings Limited (“Ezra”) is hereby authorized to vote its interest in Eminent Offshore Logistics Pte. Ltd. (“Eminent Offshore”) to approve Eminent Offshore’s board of directors’ recommendation to sell its vessels, and to take such other actions reasonably related thereto.
3. Ezra’s decision to vote its interest in support of the recommendation of the board of directors of Eminent Offshore constitutes the sound exercise of Ezra’s business judgment.
4. Notwithstanding Bankruptcy Rule 6004(h) or otherwise, this Order shall be immediately effective and enforceable upon entry.
5. This Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: _____, 2018
White Plains, New York

Honorable Robert D. Drain
United States Bankruptcy Judge