

## **STIPULATION**

This Stipulation, made on November 8, 2021, (the “Stipulation”) is entered into as of the last date executed below, by and among Aluminum Shapes, L.L.C. as bankruptcy debtor-in-possession (“Debtor”) and the Official Committee of Unsecured Creditors of Aluminum Shapes, L.L.C. (the “UCC”, collectively with the Debtor, the “Parties”).

## **BACKGROUND**

On August 15, 2021 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the District of New Jersey, Camden Vicinage, commencing bankruptcy case No. 21-16520-JNP (the “Main Case”).

The Debtor has employed professionals to market and sell its business and/or assets pursuant to a motion to sell, free and clear pursuant to 11 U.S.C. §363(f).

On September 1, 2021 the UCC was appointed in the Main Case.

Prior to the Petition Date, a number of creditors obtained judgments (the “Judgments”) against the Debtor, which resulted in liens against the Debtor’s real property. Some of the creditors holding the Judgments have filed proofs of claim against the Debtor. Further, certain Judgments were entered in favor of creditors within ninety (90) days of the Petition Date on account of an antecedent debt and purportedly allow the holder to obtain more than they would in a chapter 7 liquidation.

In order to ensure that claims subject to a bona fide dispute are paid consistent with the priorities of the Bankruptcy Code, the Parties will initiate adversary proceedings seeking lien avoidance of the Judgment liens and disallowance or determination of the underlying claims and related relief.

The Parties intend to file nine (9) adversary complaints (the “Adversary Complaints”) on account of the Judgments and shall be handled as follows; four (4) by the Debtor itself, two (2) by the Debtor’s special counsel, Kurtzman Steady, LLC., and three (3) by the UCC.

The Debtor seeks to grant the UCC derivative standing by consent to pursue three (3) of these adversary complaints.

### **THE PARTIES THEREFORE AGREE AS FOLLOWS:**

#### **Section 1. Basis for Grant of Derivative Standing.**

The Parties agree that:

- (a) The liens on the Debtor’s real estate created by the Judgments, and certain liens purportedly attached to the personal property of the Debtor may be avoided pursuant to 11 U.S.C. §§ 544 and/or 547.

- (b) The proofs of claim of the filed by certain of the Judgment creditors are subject to claim objection, determinations of secured status and voiding of the associated liens pursuant to 11 U.S.C. §§ 502 and/or 506.
- (c) the grant of derivative standing to the UCC is in the best interest of the estate, as it will allow the Parties to seek avoidance and recovery for the estate in order to maximize the amount paid to valid creditors without overburdening either Party. The Parties further agree that the grant of derivative standing to the UCC is beneficial to the fair and efficient resolution of the bankruptcy estate, as the interests of the UCC and estate are not in conflict, the equality of distribution to creditors will not be prejudiced and the grant of derivative standing will permit the Debtor to focus on the sale of its assets and the remaining post-sale aspects of its orderly liquidation.

**Section 2. Grant of Derivative Standing.**

- (a) The Debtor consensually grants the UCC derivative standing to pursue any claim, avoidance action, claims objection, determination of secured status, or other request for relief arising under chapter 5 of the Bankruptcy Code against:
  - 1. Equipment Depot Pennsylvania, Inc.
  - 2. Combined Metal Industries, Inc.
  - 3. Euler Hermes North America Insurance Company, subrogee of Northeast Metal Traders, Incorporated
- (b) For the avoidance of doubt, the Debtor retains the right to pursue any claim, avoidance action, claims objection, determination of secured status, or other request for relief arising under chapter 5 of the Bankruptcy Code against any other creditor.

**Section 3. Consultation Rights.**

Neither the Debtor nor the UCC shall compromise, settle or dismiss any claim, avoidance action, claims objection, determination of secured status, or other request for relief arising under chapter 5 of the Bankruptcy Code against any of the judgment creditors that are subject to the Adversary Complaints without prior consultation between the Parties.

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**IN WITNESS WHEREOF**, the Parties hereto have executed this Stipulation as of the date last signed below.

**OBERMAYER REBMANN  
MAXWELL & HIPPEL LLP  
COUNSEL FOR ALUMINUM SHAPES, L.L.C.**

By: *Edmond M. George*  
Name: EDMOND M. GEORGE, ESQ.

Dated: **November 8, 2021**

**FOX ROTHSCHILD, LLP  
COUNSEL FOR THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS**

By: *Joseph J. DiPasquale*  
Name: JOSEPH J. DIPASQUALE, ESQ.

Dated: **November 8, 2021**