

<b>UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY</b>	
<i>Caption in Compliance with D.N.J. LBR 9004-1(b)</i> OBERMAYER REBMANN MAXWELL & HIPPEL LLP Edmond M. George, Esquire Michael D. Vagnoni, Esquire (pro hac vice) Turner N. Falk, Esquire 1120 Route 73, Suite 420 Mount Laurel, NJ 08054-5108 Telephone: (856) 795-3300 Facsimile: (856) 482-0504 E-mail: edmond.george@obermayer.com michael.vagnoni@obermayer.com turner.falk@obermayer.com  Counsel to the Debtor and Debtor in Possession	
In re:	Chapter 11
ALUMINUM SHAPES, L.L.C.,	Case No. 21-16520 (JNP)
Debtor.	

**DEBTOR’S MOTION FOR ENTRY OF AN ORDER TO EXTEND DEBTOR’S  
EXCLUSIVE TIME TO FILE A PLAN OF REORGANIZATION AND SOLICIT  
ACCEPTANCES**

Debtor Aluminum Shapes, L.L.C. (the “Debtors”), by and through its counsel, Obermayer Rebmann Maxwell & Hippel LLP, hereby moves, pursuant to section 1121 of title 11 of the United States Code, 11 U.S.C. §§ 101 – 1532 (the “Bankruptcy Code”), Rule 9006 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rules 9014-2, 9014-3 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the District of New Jersey (the “Local Rules”) for the entry of an order extending Debtor’s exclusive period within which to file a plan and solicit acceptances (the “Motion”), and states as follows:

## **I. JURISDICTION**

1. This Court has jurisdiction over this Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. §157(b)(2).

2. Venue of this proceeding and this Motion in this District is proper under 28 U.S.C. §§ 1408 and 1409.

3. The statutory bases for the relief requested herein are sections 362(d)(3) and 1121 of the Bankruptcy Code, Bankruptcy Rule 9006, and Local Rule 9013-4.

4. The Debtor consents to the entry of a final order or judgment by the court if it is determined that the court, absent consent of the parties, cannot enter a final order or judgment consistent with Article III of the United States Constitution.

## **II. BACKGROUND**

### **A. General Background**

5. On August 15, 2021 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of New Jersey, Camden Vicinage (the “Court”).

6. No request has been made for the appointment of a trustee or examiner; an official committee of unsecured creditors has been established in this case.

7. The Debtor is an industry leader in the fabrication, processing, and extruding of aluminum metals and operates out of a single facility located at 9000 River Road, Delair, New Jersey (the “Business”), consisting of approximately 500,000 square feet, including a cast house, foundry, and processing area (the “Real Property”). See First Day Declaration of Jordan Meyers of Support of First Day Motions. (Bkr. DI #17)

8. On June 18, 2021, the Debtor engaged Cowen and Company, LLC (“Cowen”) as investment banker to explore a sale of the Debtor’s Business or assets (the “Assets”). Based on

market feedback, the Debtor, in consultation with its advisors, has determined that a continued operation of the Business by the Debtor is not viable or achievable under the current financial circumstances.

**B. Post-Petition Developments**

9. Since the Petition Date, the Debtor has been engaged in negotiations to sell substantially all of its Assets, either to a strategic purchaser or a real estate purchaser. To that end, the Debtor filed a motion to approve bid procedures. This Court approved the bid procedures by a September 30, 2021 order, as modified on November 5, 2021. (DI #122, 229).

10. Pursuant to these bid procedures, the Debtor conducted an auction of its Assets on November 10, 2021.

11. On November 12, 2021, this Court approved the Debtor's request to sell its Assets to the winning bidder VV9000 LLC for \$32 million.

12. The Debtor anticipates that the sale to VV9000 LLC will close on or before November 24, 2021.

13. The Debtor's 120-day exclusive period to file a plan of reorganization will expire on December 13, 2021.

14. The Debtor has devoted the vast majority of its postpetition time to soliciting buyers for the Assets and guiding the sale process to its successful conclusion.

15. With the exception of nine (9) adversary proceedings filed against judgment creditors, the Debtor has not concentrated upon the claims classification and reconciliation process, in favor of ensuring a value-maximizing sale.

16. The claims reconciliation process will materially impact the formulation of the Debtor's plan.

17. The Debtor is already engaged with the Official Committee of Unsecured Creditors in formulating a plan that may potentially be jointly propounded by both the Debtor and Committee.

18. With the amount of sale proceeds now determined, the Debtor is able to negotiate agreeable treatment for numerous parties in interest, minimizing the contested aspects of any proposed plan.

19. Rather than file a “placeholder” plan that would inherently require substantial revisions depending upon the outcome of the reconciliation process and negotiations with creditors, the Debtor moves to extend the exclusivity period to file a plan.

### **III. RELIEF REQUESTED**

#### **A. Debtors’ Exclusive Time to File a Plan Should be Extended**

20. Through this Motion, the Debtor seeks an Order, pursuant to §1121(d) of the Bankruptcy Code, extending the period within which it has the exclusive right to file a plan and solicit acceptances of the plan.

21. In accordance with §1121 of the Bankruptcy Code, the Debtor has the exclusive right for a period of one hundred twenty (120) days after the Petition Date to file a plan and one hundred eighty (180) days after the Petition Date in which they may exclusively solicit acceptances or rejections of a plan. This “exclusivity period” may, however, be increased by a court for “cause” upon the request of any party in interest. 11 U.S.C. §1121(d).

22. Cause is to be determined by the court, but generally first extensions are not disfavored.

23. The Debtor’s exclusive right to file a plan will expire on December 13, 2021 and the Debtor’s exclusive right to solicit acceptances or rejections will expire sixty (60) days later.

24. The Debtor must have its exclusivity periods extended in order to begin the claims reconciliation process, negotiate agreed-on treatment with creditors and formulate a plan acceptable to the Committee.

25. The Debtor requests that the exclusive period to file its plan be extended for a period of sixty (60) days to February 11, 2022, and the exclusive right to solicit acceptances or rejections be extended to April 12, 2022.

26. No harm or prejudice will inure to the creditors of the Debtor if the exclusivity periods are extended.

27. This is the Debtor's first request for an extension.

28. The Debtor is not interposing this requests for extensions in order to unduly prolong their chapter 11 cases or for concessions from a recalcitrant creditor.

29. Substantial benefits will be conferred upon the Debtor's estate if the exclusivity periods are extended in that the Debtor will be afforded a period of time within which to negotiate with their creditors, determine how valid claims should be classified, and formulate a feasible plan of reorganization.

30. The requests for extensions of the periods of exclusivity are also supported by the Debtor's desire not to file a plan that will not be supported by their creditors or to "negotiate by plan" with their creditors. Instead, the Debtor anticipates working collaboratively with the Committee.

31. The Debtor believes that if the exclusivity periods are not extended as requested, the Debtor's efforts to reorganize will be compromised.

Respectfully Submitted,

Dated: November 23, 2021

By: /s/ Edmond M. George

Edmond M. George, Esquire

Michael D. Vagnoni, Esquire (*pro hac vice*)

Turner N. Falk, Esquire

OBERMAYER REBMANN MAXWELL & HIPPEL, LLP

1120 Route 73, Suite 420

Mount Laurel, NJ 08054-5108

Telephone: (856) 795-3300

Facsimile: (856) 482-0504

E-mail: edmond.george@obermayer.com

michael.vagnoni@obermayer.com

turner.falk@obermayer.com

*Counsel to Chapter 11 Debtor*

*Aluminum Shapes, L.L.C.*