

**Transasia Commodities Inv. Ltd. v Oppenheim Holdings (UK) Ltd.**

2025 NY Slip Op 33839(U)

October 7, 2025

Supreme Court, New York County

Docket Number: Index No. 154015/2025

Judge: Phaedra F. Perry-Bond

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. PHAEDRA F. PERRY-BOND

PART 35

Justice

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INDEX NO. 154015/2025

TRANSASIA COMMODITIES INVESTMENT LIMITED,
Petitioner,

MOTION DATE 09/05/2025

- v -

MOTION SEQ. NO. 002

OPPENHEIM HOLDINGS (UK) LTD., OPPENHEIM CAPITAL LTD., OPPNEHEIM CAPITAL LTD., OPPENHEIM RESEARCH LLP, ALPHA SERVICES AND HOLDINGS S.A., ANESTIS TRECHAS, ANTONIOS BERTSOS, APOSTOLOS TSITSIRAKIS, AROMATOLOGIC A.E., BANCA COMERCIALA ROMANA, BANQUE PICTET & CIE., BOGDAN IVANESCU, BOGI INVESTMENTS INC., CHEYENNE HOLDINGS LTD., CHRYSANTHI GIARA, COMMODITY & TRADING CO., CREDIT SUISSE AG, DIMITRIOS TSOUVELEKAKIS, EUROBANK ERGASIAS, F&S CAPITAL PARTNERS LTD., F&S CAPITAL PARTNERS USA LLC., F&S PARTNERS S.A., FILIMON ANTONOPOULOS, GUY CYNG OPPENHEIM, JULIUS BAER & CO. LTD., KENDRA SECURITIES HOUSE S.A., KNOTSTONE CUSTODY LIMITED, KNOTSTONE FINANCIAL LIMITED, KNOTSTONE HOLDINGS LIMITED, LABROY SHIPTRADE LIMITED, LIBRA INTERNET BANK, MALKO GLOBAL LOGISTICS SRL, MALKO GLOBAL TRADING SRL, MALKO LTD., MALKO TRADING AG, M&F CHARTERING S.A. (LIBERIA), M&F CHARTERING S.A. (GREECE), MICHAEL BLAZINA, MICHAEL ZOLOTAS, MIHAIL FOLE, NATIONAL BANK OF GREECE, NATIXIS BANK, NEREUS MARINE SERVICES S.A. (LIBERIA), NEREUS MARINE SERVICES S.A. (GREECE), NEWLEAD HOLDINGS LTD., NM DAUPHIN & COMPANY LIMITED (DUBAI), NM DAUPHIN & COMPANY LIMITED (MARSHALL ISLANDS), PANORMOS MARITIME, INC., PIRAEUS BANK A.E., PPRO FINANCIAL LTD., RAY CAPITAL INC., SEA BUNKERS INC. (MARSHALL ISLANDS), SENTRADE HOLDING S.A. (LUXEMBOURG), SENTRADE S.A., STAVROS FAFALIOS, TALLON COMMODITIES LTD., TALLON GROUP S.A.R.L. (LUXEMBOURG), TALLON PTE. LTD., TALLON TRADING AG, TASSOS TRECHAS, TIGER CAPITAL PARTNERS LTD., TIGER EQUITY PARTNERS LTD., TIGER MARITIME HOLDINGS LTD., TIM MARTIN, TSOFLI ENTERPRISES S.A., UBS AG, SWITZERLAND, VOULA TSEVDOS
Respondent.

DECISION + ORDER ON MOTION

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The following e-filed documents, listed by NYSCEF document number (Motion 002) 1, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94 and 95

were read on this motion to/for

ALTERNATE SERVICE

On September 5, 2025, petitioner filed a proposed *ex parte* order, together with supporting papers, seeking alternate service, pursuant to Civil Practice Law and Rules (CPLR) § 308 [5], for the following respondents: M&F Chartering S.A. (Greece), Stavros Fafalios, National Bank of Greece, PPRO Financial Ltd., Banca Comerciala Romana, F&S Capital Partners USA LLC, Malko Trading AG, Malko Ltd. a/k/a Transnational Trading Corporation Ltd. (UK), Malko Global Trading SRL, Tallon Trading AG, Mihail Fole, Newlead Holdings Ltd., Oppenheim Capital Ltd. (BVI), Tiger Capital Partners Ltd., Tiger Equity Partners Ltd., Knotstone Custody Limited, Oppenheim Holdings (UK) Ltd., NM Dauphin & Company Limited (Dubai), Credit Suisse AG, Eurobank Ergasias f/k/a EFG Eurobank, Filimon Antonopoulos, Natixis Bank, Tallon Commodities Ltd., and Tallon Pte Ltd. (NYSCEF Doc. Nos. ). Petitioner stated service of these parties, pursuant to CPLR § 308 [1] was “impractical” (NYSCEF Doc. No. 77; and NYSCEF Doc. No. 78, ¶2).

On September 12 and 16, 2025, by joint letter of petitioner and a majority of respondents who appeared, the parties sought a logistical solution for responding to the petition and filing pre-answer motions to dismiss (NYSCEF Doc. Nos. 84, 85, 86, 87, 88 and 89).

Subsequent to petitioner’s filing for alternate service, on September 22, 2025, proof of service on the Bermuda Attorney General and Insolvency Manager with the Bermuda Registrar of Companies for respondent Newlead Holdings Ltd. were filed (NYSCEF Doc. Nos. 90 and 91). On September 29, 2025, a proof of service was filed for respondents Stayros Faflios and M&F Chartering (Greece) (NYSCEF Doc. Nos. 92 and 93). On September 30, 2025, proof of service was filed for respondent Tallon Commodities LTD (NYSCFE Doc. No. 95).

### Legal Standard

Section 308 of the CPLR pertain to service upon a natural person, and CPLR § 308 [5] allows for service on a natural person “in such manner as the court, upon motion without notice, directs, if service is impracticable under paragraphs one, two and four of this section.”

The First Department outlined in *Liebskind v Liebeskind*, 86 AD2d 207, 210-211 [1st Dept 1982] there is no due diligence requirement before requesting alternate service under CPLR § 308 [5], and “the drafters of this section envisioned a scenario where service under other sections would be ‘futile’.” (*see also Franklin v Winard*, 189 AD2d 717, 717 [1st Dept 1993] “[a] showing of impracticability under CPLR 308 (5) does not require proof of actual prior attempts to serve a party under the methods outlined pursuant to subdivisions (1), (2) or (4) of CPLR 308” [citation omitted].) The alternate service should be “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action” *Mullane v Cent. Hannover Bank & Trus Co.*, 339 US 306, 314 [1950]. (*see also MTGLQ Invs., L.P. V Shay*, 190 AD3d 527, 529-530 [1st Dept 2021].)

### Discussion

At the outset, the Court notes the supporting “affirmations” by counsel and petitioner’s chief executive officer, Serge Turko (Mr. Turko) do not conform to CPLR 2106, nor do they meet CPLR § 2309 (NYSCEF Doc. Nos. 78 and 83). (*see Grandsard v Hutchison*, 227 AD3d 491, [1st Dept 2024] (affirming Supreme Court determination an attorney affirmation in support of a petition, which did not comply with new requirements of CPLR 2106, rendered the petition unverified.) For the sake of reaching the substance of petitioner’s *ex parte* request, the Court will consider these defects waived, pursuant to CPLR 2101 [f].

Since petitioner's request to serve 24 respondents by alternate service was filed, four of the requests are moot, as service has been made on Newlead Holdings Ltd. (NYSCEF Doc. Nos. 80 and 81), Stayros Faflios (NYSCEF Doc. No. 80), M&F Chartering (Greece) (NYSCEF Doc. No. 93), and Tallon Commodities LTD (NYSCEF Doc. No. 95). Thus, petitioner's request for these four respondents is moot.

As to National Bank of Greece, PPRO Financial Ltd., Banca Comerciala Romana, F&S Capital Partners USA LLC, Malko Trading AG, Malko Ltd. a/k/a Transnational Trading Corporation Ltd. (UK), Malko Global Trading SRL, Tallon Trading AG, Oppenheim Capital Ltd. (BVI), Tiger Capital Partners Ltd., Tiger Equity Partners Ltd., Knotstone Custody Limited, Oppenheim Holdings (UK) Ltd., NM Dauphin & Company Limited (Dubai), Credit Suisse AG, Eurobank Ergasias f/k/a EFG Eurobank, Natixis Bank, and Tallon Pte Ltd., based on petitioner's papers these respondents are not natural persons, rendering CPLR § 308 [5] inapplicable (NYSCEF Doc. No. 1). Thus, the Court does not grant alternate service on these respondents.

The only remaining respondents who appear to be natural persons are Mihail Fole and Filimon Antonopoulos, whom petitioner admits to having served via the Hague Convention (NYSCEF Doc. No. 83, ¶¶13 and 19-20). Petitioner admits to having hired local counsel to assist with service in Romania on Mihail Fole (NYSCEF Doc. No. 83, ¶19). These facts do not suggest impracticability or futility, absent a statement from local counsel or someone with direct knowledge of the current service attempts. Thus, the Court does not grant alternate service on these respondents.

Accordingly, it is hereby:

ORDERED that petitioner's request for alternate service, pursuant to CPLR 308 [5], on respondents Newlead Holdings Ltd., Stayros Faflios, M&F Chartering (Greece), and Tallon Commodities LTD is denied as moot; and it is further

ORDERED that petitioner's request for alternate service, pursuant to CPLR 308 [5], as to respondents National Bank of Greece, PPRO Financial Ltd., Banca Comerciala Romana, F&S Capital Partners USA LLC, Malko Trading AG, Malko Ltd. a/k/a Transnational Trading Corporation Ltd. (UK), Malko Global Trading SRL, Tallon Trading AG, Oppenheim Capital Ltd. (BVI), Tiger Capital Partners Ltd., Tiger Equity Partners Ltd., Knotstone Custody Limited, Oppenheim Holdings (UK) Ltd., NM Dauphin & Company Limited (Dubai), Credit Suisse AG, Eurobank Ergasias f/k/a EFG Eurobank, Natixis Bank, and Tallon Pte Ltd. is denied as these entities are not natural persons; and it is further

ORDERED that petitioner's request for alternate service, pursuant to CPLR 308 [5], on respondents Mihail Fole and Filimon Antonopoulos is denied, without prejudice, as petitioner failed to establish impracticability of service; and it is further

ORDERED that petitioner's time to complete service on respondents, or file a motion for alternate service under the appropriate section of the CPLR, together with proper supporting evidence for same, is adjourned from September 5, 2025, to October 24, 2025; and it is further

ORDERED that the return date for the petition is adjourned from October 18, 2025, to 9:30 a.m. on March 9, 2026; and it is further

ORDERED that all respondents are to serve and file an answer or pre-answer motion on or before December 5, 2025; and it is further

ORDERED that respondents may file a joint pre-answer motion to dismiss and memorandum of law, limited to 7,500 words (Omnibus Memo). The Omnibus Memo may be incorporated into an individual respondent’s affirmation/affidavit and/or memorandum of law, which address their specific facts. Each individual respondent’s papers are limited to 3,750 words per affirmation/affidavit and memorandum of law; and it is further

ORDERED that petitioner’s opposition papers are to be served and filed on or before January 20, 2026, and petitioner’s response to the Omnibus Memo is limited to 7,500 words, and responses to individual respondent’s affidavits/affirmations and/or memorandum of law are limited to 3,750 words; and it is further

ORDERED that respondents reply papers are to be served and filed on or before March 6, 2026. Respondents may file a joint reply memorandum of law, limited to 3,750 words (Omnibus Reply). Respondents may incorporate the Omnibus Reply into their individual reply memorandum of law and/or affirmation/affidavit, which shall be limited to 2,500 words per affirmation/affidavit and memorandum of law; and it is further

ORDERED that all petitions/motions referenced herein are returnable on submission and no appearance is required on the return date.; and it is further

ORDERED that this Order is in no way determinative of the tolling of the statute of limitations or other issues of repose, should such issues arise.

10/7/2025  
DATE

  
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PHAEDRA F. PERRY-BOND, J.S.C.

CHECK ONE:

CASE DISPOSED  
GRANTED  DENIED  
SETTLE ORDER  
INCLUDES TRANSFER/REASSIGN

NON-FINAL DISPOSITION  
GRANTED IN PART  
SUBMIT ORDER  
FIDUCIARY APPOINTMENT

OTHER

REFERENCE