



2. When a foreign business is located in a country that has not signed the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents (“Hague Convention”), then letters rogatory are needed to achieve service of process. *See* FED. R. CIV. P. 4(f)(2)(B) (authorizing service upon foreign individuals “as directed by the foreign authority in response to a letter rogatory or letter of request”); FED. R. CIV. P. 4(h)(2) (adopting that method of service for foreign corporations as well). Vanuatu and India are not currently signatories to the Hague Convention.<sup>1</sup> Accordingly, the Receiver must serve the parties located there through letters rogatory under Rule 4(f)(2)(B) and Rule 4(h)(2).

3. Letters rogatory are formal letters from this Court that proceed through diplomatic channels to invoke the help of a foreign court in serving a resident of that country. CHARLES ALAN WRIGHT & ARTHUR R. MILLER, 4B FED. PRAC. & P. § 1134 at 323 (3d ed. 2002). Traditionally, letters rogatory are transmitted through the U.S. State Department and take a great deal of time to complete. *Id.* at 324, 326.

4. In this case, the Court issued three Requests for International Judicial Assistance on April 17, 2007 [Dkt. Nos. 34-36]. The Receiver retained Process Forwarding International (“PFI”) as his agent to help effect service upon the Defendants through letters rogatory. PFI states that, on May 11, 2007, the Requests for International Judicial Assistance were given to the U.S. State Department for official presentation to the authorities in Vanuatu and India. A judge in each of those countries will then review those requests and typically oversee service according to local law. PFI expects that this process may take up to a year to complete.

5. The Receiver currently believes that maintaining suit against these Defendants is in the receivership estate’s best interests. According to the website for Defendant Hawkes Law,

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<sup>1</sup> *See* U.S. Dep’t of State, *Hague Convention on the Service Abroad of Judicial and Extra-Judicial Documents in Civil and Commercial Matters*, at [http://travel.state.gov/law/info/judicial/judicial\\_686.html](http://travel.state.gov/law/info/judicial/judicial_686.html).

that company is still doing business in Vanuatu and appears to be related to Defendant KPMG Vanuatu.<sup>2</sup> While the Receiver knows less about Defendant Mohan & Associates, his preliminary investigation indicates that the address probably exists. If the Receiver learns that any of these entities do not exist or cannot be served, he will promptly dismiss those claims to conserve receivership estate assets and help bring this case to a conclusion.

Respectfully submitted,

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ATTORNEYS FOR RECEIVER

### CERTIFICATE OF SERVICE

A true and correct copy of this pleading shall be served on all interested parties through the Court's electronic filing system.

/s/ Brent J. Rodine

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<sup>2</sup> See Hawkes Law Chartered Accountants at <http://www.hawkeslaw.com.vu/> (billing itself as a "KPMG correspondent firm" with three partners and twenty-seven employees).