

Re: 2007 Offshore Wire Transfers to Northern Beef Packers LP

On April 20, 2010, Rory King, Bantz, Gosch & Cremer – attorneys for Northern Beef Packers LP¹, corresponded with Roger Novotny, South Dakota Director of Banking, noting that “Epoch Star Limited, a British Virgin Island Company, was created solely for the purposes of providing a one-time lending facility of foreign investors to Northern Beef Packers Limited Partnership for the purposes of bailing out the current EB-5 investors (69) of Northern Beef Packers, LP.” **Ex. 1.** The memorandum also noted that the loan to Northern Beef was an “isolated transaction” and “Epoch is not in the business of lending money.” *Id.*

In a memorandum dated May 10, 2010, Mr. King informed Richard Benda, South Dakota Governor’s Office of Economic Development, that he had requested determinations from the appropriate agencies on the loan from Epoch Star. *Id.*

On May 12, 2010, Mr. Roger Novotny concluded as follows:

From the facts presented, it is my position that Epoch Star Limited is not in the business of lending money nor does it hold itself out to the public as a lender. The partnership completes one transaction and no others. The program is controlled by the State of South Dakota with the partnership only acting as a conduit for the investment, which is required by the Department of Immigration.

Id.

On June 9, 2010, Mr. King petitioned for a declaratory ruling that Epoch did not have to be licensed to make a secured loan to Northern Beef Packers LP. **Ex.** Therein, Mr. King declared that Epoch Star “is wholly owned by Pine Street Special Opportunity Fund 1 (“PSSOF1”), a fund incorporated in the Cayman Islands. *Id.* Epoch and PSSOF1 are both managed by Anvil Asia Partners (“AAP”). *Id.* In support of the request for declaratory relief, Wai Yee Christine Ma, a resident of Hong Kong and a director of AAP filed her June 29, 2010 Affidavit (**Ex. 3**) with the South Dakota Banking Commission where she represented:

1. Epoch Star Limited is a special purpose entity incorporated in the British Virgin Islands where its only office is located;
2. Epoch is wholly owned by PSSOF1 who is incorporated in the Cayman Islands where its only office is located;
3. Epoch and PSSOF1 are both managed by AAP who is incorporated in the Cayman Islands;
4. Epoch’s sole business purpose and reason for formation was to provide approximately \$30 million in bridge financing to Northern Beef Packers LP.
5. Epoch, PSSOF1 and AAP do not have business offices in the United States;
6. Pine Street has less than 10 investors; and
7. A “second wave” of EB-5 investors has been obtained and other incentives have been assembled, including those from the State of South Dakota.

¹ Cadwell Sanford Deibert & Garry LLP are South Dakota counsel for Epoch.

On July 1, 2010, the South Dakota Banking Commission concluded that Pine Street is not regularly engaged in the business of lending money and Epoch is not required to obtain a license.
Ex. 4

The loan transaction from Epoch Star was not approved by the Banking Commission until July 1, 2010, and yet as early as December 2007, Northern Beef was making the following off shore wire transfers:

1. December 6, 2007, in the amount of \$504,350;
2. January 3, 2008, in the amount of \$308, 500; and
3. April 21, 2008, in the amount of \$687,225.

Ex. 5

All of the foregoing off shore transfers were to Ultra Care Holdings, Limited – a company organized under the laws of Cyprus.

Ultra Care Holdings Limited – Intermediary Holding Company²

According records on file with the government of Cyprus, Ultra Care Holdings was first registered on September 25, 2008 – 5 months after Northern Beef made the last transfer to same. Globaltrans, current owner of Ultra Care, declares that the company was formed as an intermediary holding company. As you may know, an intermediary holding company is a company that is interposed between one company and another, ideally an ultimate holding company and operating subsidiaries. Thus, it is both a subsidiary and a holding company in relation to different companies. It is a legal entity separate and distinct from its members. The capital of the company is raised by the issue of shares and the liability of the shareholders of a company is limited to the amount which each shareholder has paid for his or her shares. In other words, a holding is a company which usually does not produce goods or services itself, rather its purpose is to own shares in other companies. It is a company that owns part, all, or a majority of other companies' outstanding stock. The primary functions of an intermediary holding company are limited and focused as opposed to those of holding companies in general. The primary functions of an intermediary holding company are to acquire, manage and sell investments in group companies, mainly its subsidiaries and, in general, to provide transactional and organizational flexibility in a group of companies.

According to the Complaint filed in captioned *Zhen et al v. SDRC, Inc. et al*, 4:11-cv-04148-KES, United States District Court, District of South Dakota, Northern Beef was in the process of obtaining EB-5 funding on or about October, 2007. A mere two months later, the first off shore transfer was made to Ultra Care in the amount of \$504,350.00. In 2009 Ultra Care was 90% owned by Ingulana Holdings Limited, a corporation registered with Cyprus on July 29, 2009. The remaining 10% of Ultra Care was held by BaltTransServis, LLC (“BTS”)³. In turn, Ingulana Holdings held a 90% share and a majority controlling interest in BTS.

² All information in this section was obtained from the annual reports of Globaltrans.

³ BaltTransServis (“BTS”) is one of Russia’s leading freight rail operators specializing in the rail transportation of oil products and oil. BTS focuses on operating rail tank cars. BTS was one of

In December 2009, Transportation Investments Holding Limited contributed its 55.56% shareholding in Ingulana Holdings Limited to Globaltrans for the consideration of 29,411,764 ordinary shares of Globaltrans. The total consideration for the acquisition amounted to 250 million.

Further, in December 2009 Ingulana Holdings transferred its 90% share in BTS to its 90% subsidiary, Ultracare Holdings. At the same time the 10% minority shareholder of BTS also transferred its 10% share in BTS to UltraCare. Following the transaction and as at 31 December 2009, Globaltrans held an effective 50% controlling stake in BTS.

Today, Ultracare Holdings and BaltTransServis are controlled by Globaltrans via majority shareholding held by the Company in Ingulana Holdings Limited, the parent entity of Ultracare Holdings Limited which in turn is the 100% shareholder of LLC BaltTransServis.

GlobalTrans

Based upon the annual and financial reports of Globaltrans, it does not appear they are involved in the beef industry in any manner. In fact, their business is entirely centered on the provision of railway services in Russia. As of March 2013, Globaltrans was owned by the following:

1. Maple Valley Investments	11.5%
2. Onyx Investments	11.5%
3. Marigold Investments	11.5%
4. Envesta Investments Ltd.	8.8%
5. Other entities controlled by Globaltrans	2.2%
6. Free Float ⁴	54.5%

Conclusion

At this point in the investigation, it appears that Northern Beef, upon receiving the initial EB-5 funding turned around and invested in one of the companies affiliated with Ultra Care. However, in its bankruptcy case, Northern Beef asserts that it only owns shares in Epoch Star.

[Notes: Globaltrans is registered with the London Stock Exchange. However, as a non-registered user, I was unable to locate investor information. If we can determine who or what entity comprises the “free float”, our connection to EB-5 may be made.]

the first private companies in Russia to focus on this market. It specializes in shipping oil products and oil, notably fuel oil, diesel and gasoline, and provides various logistics services and distribution to shipping terminals.

⁴ Public float or free float represents the portion of shares of a corporation that are in the hands of public investors and not locked-in by for example promoters, company officers, controlling-interest investors and government.