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May 8, 2020

**VIA HAND DELIVERY AND FILE & SERVEXPRESS**

The Honorable Morgan T. Zurn  
Court of Chancery  
Leonard L. Williams Justice Center  
500 North King Street, Suite 11400  
Wilmington, Delaware 19801

Re: *IMO: Schuff Int'l Inc. S'holders Litig.*  
Consol. C.A. No. 10323-VCZ

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Dear Vice Chancellor Zurn:

I am writing on behalf of the Parties in the above-referenced action (the “Action”) to submit the Parties’ revised settlement agreement.<sup>1</sup>

Negotiation of a Revised Settlement Framework

On February 13, 2020, the Court held a settlement hearing to consider, pursuant to Court of Chancery Rule 23, the originally proposed settlement memorialized in a November 15, 2019 settlement stipulation (the “Original Settlement”). Two Objectors currently holding shares of DBMG common stock

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings provided in the Stipulation and Agreement of Compromise, Settlement, and Release filed today.

(i.e., two Non-Tendered Stockholders) challenged various aspects of the Original Settlement.

At the settlement hearing, the Court expressed several concerns about the Original Settlement's potential effects on DBMG and the Non-Tendered Stockholders. Among other things, the Court expressed concerns about (1) the proposed direct funding of certain portions of the Original Settlement by DBMG, while HC2 would fund these payments indirectly through its insurance and 92.5% ownership of DBMG; and (2) whether the Settlement Tender Offer would provide the Non-Tendered Stockholders with sufficient consideration for the proposed release of claims.<sup>2</sup> The Revised Settlement Framework memorialized in the enclosed Stipulation is the result of substantial negotiations and is intended to address these and other concerns that the Court expressed regarding the Original Settlement.

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<sup>2</sup> The Parties' settlement briefs will address the Court's other concerns stated at the settlement hearing, the benefits of the Revised Settlement Framework to the Tendered Stockholders and the Non-Tendered Stockholders in the plaintiff class, and the benefits of the of the Revised Settlement Framework to DBMG and its public stockholders.

Proposed Settlement Payments to the Tendered Stockholders

No Tendered Stockholders objected to the Original Settlement and the Court expressed no concerns regarding the adequacy of the proposed \$20.4 million payment to the Tendered Stockholders under the Original Settlement. Accordingly, the Revised Settlement Framework maintains the same proposed settlement payment to the Tendered Stockholders as the Original Settlement—\$35.95 per share, less the amount of the fee and expense award to plaintiff’s counsel allocated to the Tendered Stockholders. Consistent with the Original Settlement, the Revised Settlement Framework provides that DBMG will contribute approximately \$8.055 million (expected to be funded by a borrowing from a third party lender) and HC2 (through its D&O insurers) will contribute approximately \$12.4 million to create the approximately \$20.4 million settlement fund to settle the claims on behalf of the Tendered Stockholders.<sup>3</sup>

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<sup>3</sup> HC2’s settlement brief will explain that DBMG is contributing approximately \$8.055 million to fund the Revised Settlement Structure because HC2’s free cash flow is entirely earmarked for operations and debt service and substantial restrictions in HC2’s debt agreements make it impracticable for HC2 to make directly the settlement payment to the Tendered Stockholders.

Proposed Settlement Payments to the Non-Tendered Stockholders

In response to the concerns expressed by Your Honor at the hearing on the Original Settlement, the Revised Settlement Framework includes major changes to the settlement consideration for the Non-Tendered Stockholders. First, the Revised Settlement Framework does not include the originally proposed Settlement Tender Offer. Second, the Revised Settlement Framework requires HC2 to fund directly two payments to the Non-Tendered Stockholders.

Under the Revised Settlement Framework, HC2 will fund one payment to offset the arguable indirect financial impact on the Non-Tendered Stockholders of a borrowing by DBMG from a third party lender to fund its approximately \$8.055 million contribution to the Settlement in light of the Non-Tendered Stockholders' *pro rata* ownership of DBMG. The Non-Tendered Stockholders' 7.52% ownership of DBMG arguably makes them indirectly responsible for 7.52% of the principal amount of such a borrowing—or \$605,648. The Non-Tendered Stockholders arguably also will be indirectly responsible for 7.52% of the interest and bank fees DBMG would incur for such a borrowing prior to the expected loan maturity on October 1, 2021—or \$120,510. The Stipulation requires HC2 to fund directly a \$726,158 payment to the Non-Tendered Stockholders—or \$2.51 per

share—to offset these potential indirect burdens on the Non-Tendered Stockholders (the “HC2 Offset Payment”).

The Stipulation also requires HC2 to fund directly a second payment to the Non-Tendered Stockholders in exchange for their release of the Released Plaintiff Claims (the “HC2 Release Payment”). The HC2 Release Payment totals \$289,902—or \$1.00 per share. At the hearing on the Original Settlement, neither Objector contended that the claim by the Non-Tendered Stockholders had any real merits or damages value. The recent negotiations between Plaintiff and HC2 over the HC2 Release Payment were extremely difficult and HC2 regards the \$1.00 per share HC2 Release Payment as generous.

Thus, in response to the Court’s concerns, the Stipulation now requires HC2 directly to fund payments totaling \$1,016,060—or \$3.51 per share—to the Non-Tendered Stockholders.<sup>4</sup> The Stipulation also requires HC2 to transfer approximately \$12.4 million from HC2’s D&O insurers to DBMG’s paying agent for the settlement payment to the Tendered Stockholders. Taking together HC2’s 92.5% equity interest in DBMG, the HC2 Offset Payment, and the HC2 Release

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<sup>4</sup> The Stipulation provides that the HC2 Offset and Release Payments will not be reduced by any fee award to Plaintiff’s Counsel.

The Honorable Morgan T. Zurn  
May 8, 2020  
Page 6

Payment, HC2 directly or indirectly is funding all settlement payments and the Non-Tendered Stockholders will not bear an indirect burden for any payments under the Revised Settlement Framework.

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The Parties request that Your Honor approve the enclosed scheduling order to set a settlement hearing date on or about August 7, 2020 and an accompanying briefing schedule.

As always, counsel for the Parties are available at the convenience of the Court in the event Your Honor has any questions.

Respectfully,

*/s/ J. Peter Shindel, Jr.*

J. Peter Shindel, Jr. (#5825)

Words: 924

JPSjr

cc: Register in Chancery (via File & ServeXpress)  
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