

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

**IN RE:** ) **CASE NO. 13-62588-MGD**  
 )  
**TRADE AM INTERNATIONAL, INC.,** ) **CHAPTER 7**  
 )  
**Debtor.** )  
\_\_\_\_\_ )

**TRUSTEE'S MOTION FOR EXAMINATION OF  
AND DOCUMENT PRODUCTION BY DEUTSCHE BANK  
AG CAYMAN ISLANDS BRANCH BY  
AND THROUGH ITS DESIGNATED REPRESENTATIVE**

S. Gregory Hays ("Trustee"), the Chapter 7 Trustee for the bankruptcy estate of Trade Am International, Inc. ("Debtor") files this *Trustee's Motion For Examination of and Document Production by Deutsche Bank AG Cayman Islands Branch By and Through Its Designated Representative* (the "Motion") for an order authorizing the examination of and document production by the designated representative of Deutsche Bank AG Cayman Islands Branch AG Cayman Islands Branch ("Deutsche Bank") pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and in support thereof, shows this Court as follows:

1. On June 6, 2013 (the "Petition Date"), certain creditors of Debtor commenced the above-captioned bankruptcy case (the "Case") by the filing of an involuntary Chapter 7 petition for relief against the Debtor.

2. On August 6, 2013, the Court entered an Order for Relief in the Case [Docket No. 35] (the "Order"). Among other things, the Order directs the Debtor to comply with Rules 1007(a)(2), (b)(1), and (c) of the Bankruptcy Rules by filing the requisite documents.

3. On August 7, 2013, the United States Trustee filed notice of appointment of Trustee as interim trustee and scheduled the Section 341(a) meeting of creditors on September 4, 2013 [Docket No. 37].

4. On August 29, 2013, several parties filed notice of their intention to elect a trustee at the Section 341 meeting [Docket No. 41].

5. No one appeared on behalf of the Debtor at the Section 341 meeting.

6. The United States Trustee was unable to convene the Section 341 meeting or conduct the requested election because the Debtor has not filed a list of creditors, as required by Rule 1007(a)(2) of the Bankruptcy Rules and as ordered by the Court. Accordingly, the Debtor's creditors, other than those involved in filing the involuntary petition in this Case, have not received notice of the commencement of the Case and notice of the Section 341 meeting, and have not had an opportunity to file a proof of claim and otherwise qualify to vote for a candidate for a permanent trustee.

7. The administration of this Case has been severely hampered by the Debtor's failure to fulfill its duties under the Bankruptcy Code and the Bankruptcy Rules, and the Debtor's failure to obey an order of this Court.

8. On October 10, 2013, the Court entered its *Order Designating Person Responsible for Preparing Creditor List, Schedules, and Statements* [Docket No. 58] (the "Designation Order"), which designated Trustee as the responsible person to file Debtor's list of creditors, schedules, and statements of financial affairs.

9. In the third or fourth quarter of 2010, L R Resources, Inc. ("LRRI") purchased certain business operations, assets, and intellectual property of the Debtor. In connection with that transaction, at least \$255,000 was paid or payable to Debtor.

10. During 2010, Great American Liquidators (“GAL”) sold certain assets of the Debtor.

11. On or about September 21, 2010, Jupiter IL, LLC (“Jupiter”) entered into that certain *Assignment and Assumption* agreement with Deutsche Bank whereby, among other things, Deutsche Bank assigned an interest in Deutsche Bank’s loan and related loan documents with the Debtor to Jupiter in consideration for \$284,118.93 (the “Deutsche Bank Assignment”). On or about September 21, 2010, Jupiter entered into that certain *Assignment and Assumption* agreement with Cratos CLO I Ltd. (“Cratos”) whereby, among other things, Cratos assigned it rights and obligations as agent under Debtor’s various loan agreements with Deutsche Bank to Jupiter in consideration for \$15,881.07 (the “Cratos Assignment”; together with the Deutsche Bank Assignment, the “Assignments”).

12. Due to these circumstances, the Trustee requests the examination of Deutsche Bank, in order to assist him in satisfying his obligations under the Designation Order, and to investigate Deutsche Bank’s role in the above-referenced transactions and its business dealings with the Debtor, Jupiter, LRRI, and GAL in order to determine, among other things, what proceeds were paid to Deutsche Bank and Cratos directly from the liquidation of the Debtor’s assets.

13. The Trustee requests the examination of Deutsche Bank commence on November 26, 2013, at 1:30 p.m., or at such other mutually agreeable time, at the offices of Arnall Golden Gregory LLP 171 17th Street, N.W., Suite 2100, Atlanta, Georgia 30363-1031 (the “Offices of the Trustee’s Counsel”) and continue from day to day thereafter until complete.

14. The Trustee also seeks to have Deutsche Bank produce all of the records and documents more fully described on Exhibit "A," attached to this Motion, on or before November 15, 2013, at 11:00 a.m. at the Offices of the Trustee's Counsel.

WHEREFORE, the Trustee respectfully requests that this Court:

- (a) issue an order authorizing the Trustee to conduct the examination of Deutsche Bank, and directing Deutsche Bank to produce the records and documents requested in this Motion specifically identified on Exhibit A; and
- (b) grant the Trustee such other and further relief as the Court may deem just and proper.

Respectfully submitted,

ARNALL GOLDEN GREGORY, LLP

By: /s/ Neil C. Gordon

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*Attorneys for Chapter 7 Trustee*

## EXHIBIT A

### DEFINITIONS

- A. As used herein, the word “document” is intended to have the broadest permissible meaning under the Federal Rules of Civil Procedure and shall mean any written, printed, recorded, taped, electromagnetically recorded or encoded, electronically stored, graphic or other matter of every type and description that is or has been in the possession, custody, or control of you or any of your agents and attorneys, or of which you have knowledge, and shall include without limitation, the following: letters, correspondence, books, articles, reprints, resolutions, minutes, communications, messages, e-mails, electronic communications, electronically stored information, notes, loan documents, collateral documents, stenographic or handwritten notes, memoranda, diaries, contracts, subcontracts, bids, worksheets, drafts, agreements, records, resumes, invoices, receipts, bills, cancelled checks, financial statements, audit reports, tax returns, calendars, schedules, affidavits, statements, summaries, studies, calculations, estimates, diagrams, sketches, drawings, plans, photographs, tapes, videotapes, movies, recordings, transcriptions, work orders, computer print-outs, computer disks, data processing cards, data storage cards, and the like; and where originals of such documents are not available or are not in your possession, custody or control, every copy of every such document; and every copy of every such document where such copy is not an identical copy of the original or where such copy contains any commentary or notation whatsoever which does not appear on the original.
- B. As used herein, “Assignments” shall mean that certain *Assignment and Assumption* agreement dated or about September 21, 2010, between Deutsche Bank and Jupiter, and that certain *Assignment and Assumption* agreement dated September 21, 2010 between Cratos and Jupiter.
- C. As used herein, “Bankruptcy Code” shall mean title 11 of the United States Code.
- D. As used herein, “Corporate Attorneys” shall refer to Margaret Holland and Howard John Schwartz & Penny, LP.

- E. As used herein, "Cratos" shall mean Cratos CLO I Ltd and/or Cratos Capital Management, LLC, and their officers, employees, authorized agents, and representatives.
- F. As used herein, "Debtor" refers to Trade Am International, Inc., and its employees, authorized agents, attorneys, representatives, and to any other person that is or has ever acted for or on behalf of it.
- G. As used herein, "Deutsche Bank" shall refer to Deutsche Bank AG Cayman Islands Branch and its officers, employees, authorized agents, and representatives.
- H. As used herein, "GAL" refers to Great American Liquidators and its officers, employees, authorized agents, and representatives.
- I. As used herein, "GAL Sales" shall refer to the sale of any of the Debtor's property or assets, whether real or personal, by GAL in calendar year 2010.
- J. As used herein, "Jupiter" shall refer to Jupiter IL, LLC and its officers, employees, authorized agents, and representatives.
- K. As used herein, "LRRI" shall refer to L R. Resources, Inc. and its officers, employees, authorized agents, and representatives.
- L. As used herein, "Petition Date" refers to June 6, 2013, the date when certain creditors of the Debtor commenced an involuntary bankruptcy proceeding against the Debtor initiating (Case No. 13-62588-MGD) under Chapter 7 of the Bankruptcy Code.
- M. As used herein, "Purchase" shall refer to the purchase of the Debtor's business operations, assets, and intellectual property by L R Resources, Inc. in the third or fourth quarter of 2010.
- N. As used herein, "Trustee" shall refer to S. Gregory Hays, Chapter 7 Trustee for the Debtor.

1. Any and all documents which evidence or relate to the Purchase including but not limited to any sales contract or asset purchase agreement, financial statements, credit reports, appraisals, loan applications, electronic and hard correspondence to the Debtor, brokers, bankers, and/or the Corporate Attorneys regarding loans, payments, Promissory Notes, assignments, deposits or the Purchase, and any correspondence between Debtor and LRRI or the Corporate Attorneys regarding the Purchase.

2. Any and all documents which evidence or relate to the GAL Sales, including, but not limited to, any sales contract, asset purchase agreement, bill of sale, and electronic

and hard correspondence to the Debtor regarding the GAL Sales, and any correspondence between the Debtor and or GAL or the Corporate Attorneys regarding the GAL Sales.

3. Any and all documents which evidence or relate to payments made by LRRI or GAL to the Debtor or to any other entity or individuals on behalf of the Debtor for the Purchase, the GAL Sales, or any other purchase of the Debtor's property or assets, including but not limited to cancelled checks, cashier's checks, wire transfers, and any and all correspondence and communications related thereto.

4. Any and all documents which evidence or relate to the Assignments, including, but not limited to, loan documents related to the interests assigned under the Assignments, management agreements related to interests assigned under the Assignments, the sales contracts, financial statements, credit reports, appraisals, loan applications, electronic and hard correspondence to the Debtor, Jupiter, brokers, bankers, and/or the Corporate Attorneys regarding loans, payments, Promissory Notes, assignments, and deposits.

5. All correspondence and communications between Deutsche Bank, Cratos, Jupiter, GAL, or LRRI and the Debtor from June 6, 2009 through the Petition Date.

6. All correspondence and communications between Deutsche Bank, Cratos, GAL, or Jupiter and LRRI from June 6, 2009 through the Petition Date.

7. All correspondence and communications between Deutsche Bank, Cratos, Jupiter, GAL, or LRRI and Ashutosh Ladha June 6, 2009 through the Petition Date.

8. All correspondence and communications between Deutsche Bank or Cratos and Jupiter or the Corporate Attorneys related to the Debtor or the Assignments.

9. All correspondence and communications between Deutsche Bank or Cratos and LRRI, GAL, or any other purchaser of assets of the Debtor related to the GAL Sales or any other the sale or purchase of any assets or property of the Debtor from June 6, 2009 through the Petition Date.

10. Any and all documents after the Debtor's sale to LRRI, which evidence or relate to the collection of account receivables by the Debtor on behalf of LRRI, and any documents evidencing any fees earned by the Debtor for the collection of such account receivables.

11. Any and all documents which evidence or relate to any security interest or UCC filings provided by the Debtor to Deutsche Bank, Cratos, or Jupiter, and any and all correspondence and communications related thereto.

12. Any and all documents which evidence or relate to the sale or assignment of any lien or security interest of Deutsche Bank or Cratos in the Debtor's property or assets to Jupiter, and any and all correspondence and communications related thereto.



**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the following parties with a true and correct copy of the foregoing *Trustee's Motion For Examination of and Document Production by Deutsche Bank AG Cayman Islands Branch By and Through Its Designated Representative* by depositing same in the United States Mail, postage prepaid, addressed to:

R. Jeneane Treace  
Office of the United States Trustee  
362 Richard B. Russell Building  
75 Spring Street, S.W.  
Atlanta, Georgia 30303

S. Gregory Hays  
Chapter 7 Trustee  
Hays Financial Consulting  
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3343 Peachtree Street, NE  
Atlanta, Georgia 30325-1420

Deutsche Bank AG Cayman Islands Branch  
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Ogier, Rothschild & Rosenfeld, PC  
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Atlanta, Georgia 30303-4000

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This 22<sup>nd</sup> day of October, 2013.

/s/ Neil C. Gordon  
Neil C. Gordon