

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

In re)	Chapter 7
)	
TRADE AM INTERNATIONAL, INC.,)	Case No. 13-62588-MGD
)	
Debtor.)	Judge Diehl
_____)	
)	
JUPITER IL, LLC and DEUTSCHE BANK)	
AG, CAYMAN ISLANDS BRANCH,)	
)	
Movants,)	
)	
v.)	
S. GREGORY HAYS, as Interim Trustee,)	
)	
Respondent.)	
_____)	

DEUTSCHE BANK AG, CAYMAN ISLANDS BRANCH’S (I) JOINDER TO JUPITER IL, LLC’S MOTION FOR CLARIFICATION OR RECONSIDERATION AND NOTICE CONCERNING CASH COLLATERAL AND (II) MOTION FOR CLARIFICATION OR RECONSIDERATION OF ORDERS GRANTING MOTIONS FOR RULE 2004 EXAMINATIONS

COMES NOW, Deutsche Bank AG, Cayman Islands Branch (“Deutsche Bank”), and hereby joins in the Motion for Clarification or Reconsideration and Notice Concerning Cash Collateral (the “Jupiter Motion”) filed by Jupiter IL, LLC (“Jupiter”) and moves the Court for clarification or reconsideration of its Orders granting the chapter 7 trustee’s motions for Rule 2004 examinations. In support hereof, Deutsche Bank respectfully states as follows:

I. FACTUAL AND PROCEDURAL BACKGROUND

1. On June 6, 2013 (the “Petition Date”), an involuntary chapter 7 case was filed against Debtor Trade AM International, Inc. (the “Debtor”) [Docket No. 1].

2. On August 7, 2013, S. Gregory Hays was appointed interim chapter 7 trustee (the “Trustee”) in the Debtor’s bankruptcy case.

3. On October 10, 2013, the Court entered an Order Approving Application for Authority to Incur and Pay Administrative Expense [Docket No. 57] (the “Administrative Expense Order”).

4. On October 22, 2013, the Trustee filed motions seeking the Rule 2004 examinations of Deutsche Bank and L R Resources, Inc. [Docket Nos. 63 & 64] (the “2004 Motions”).

5. On October 23 and 25, 2013, the Court entered Orders granting the 2004 Motions [Docket Nos. 65 & 66] (the “2004 Orders”).

II. REQUEST FOR RELIEF

6. Deutsche Bank joins in the relief requested in the Jupiter Motion. For the reasons stated in the Jupiter Motion, Deutsche Bank does not consent to the use of its cash collateral by the Trustee or any other party in interest.

7. Additionally, Deutsche Bank requests that the Court clarify or reconsider the 2004 Orders. Each of the 2004 Orders contains a provision stating that the Trustee:

is hereby authorized to pay witness fees and mileage in connection with the service of any subpoena, a reasonable court reporting fee and any other actual and necessary expenses incurred in connection with the examination ...

Deutsche Bank respectfully requests that the Court clarify the 2004 Orders to provide that the Trustee may not spend Deutsche Bank’s cash collateral for these matters.

8. Section 363(c) of the Bankruptcy Code provides, in relevant part, that:

(2) The trustee may not use, sell, or lease cash collateral under paragraph (1) of this subsection unless—

(A) each entity that has an interest in such cash collateral consents; or

(B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.

9. All cash in the bankruptcy estate is subject to the first priority, properly perfected liens of Deutsche Bank and Jupiter. Because of the existence of these liens, and the lack of consent by Deutsche Bank and Jupiter or a Court order authorizing the use of this cash collateral (or notice and a hearing on any proposed use), Deutsche Bank respectfully requests that the Court reconsider and clarify the 2004 Orders to provide that the Trustee cannot spend cash collateral.

10. Due to the lack of consent or a Court order authorizing the use of cash collateral, good cause exists for the relief requested herein and in the Jupiter Motion.

11. Deutsche Bank reserves the right to seek additional relief with respect to its cash collateral.

WHEREFORE, Deutsche Bank respectfully requests that the Court grant the Jupiter Motion, clarify the 2004 Orders to provide that the Trustee cannot spend the cash collateral of Deutsche Bank and Jupiter, and provide such additional relief as is just and proper.

Respectfully submitted this 30th day of October, 2013.

Greenberg Traurig, LLP

/s/ John D. Elrod
Michael J. King
Georgia Bar No. 421160
John D. Elrod
Georgia Bar No. 246604
3333 Piedmont Road NE, Suite 2500
Atlanta, Georgia 30305
Telephone - (678) 553-2100
Facsimile - (678) 553-2122
kingm@gtlaw.com
elrodj@gtlaw.com
*Attorneys for Deutsche Bank AG, Cayman Islands
Branch*

CERTIFICATE OF SERVICE

I hereby certify that today I served the document to which this certificate is attached by causing a copy to be deposited in the United States mail, postage prepaid, to:

S. Gregory Hays
Hays Financial Consulting, LLC
3343 Peachtree Road NE, Ste. 200
Atlanta, GA 30326

Neil C. Gordon, Esq.
Arnall Golden Gregory LLP
171 17th Street, N.W., Suite 2100
Atlanta, GA 30363

William L. Rothschild, Esq.
170 Mitchell Street, SW
Atlanta, GA 30303

Respectfully submitted this 30th day of October, 2013.

/s/ John D. Elrod
John D. Elrod