

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

IN RE: )  
 )  
TRADE AM INTERNATIONAL, INC., )  
 )  
Debtor. )  
\_\_\_\_\_ )

CASE NO. 13-62588-MGD  
CHAPTER 7

**TRUSTEE'S MOTION FOR DOCUMENT PRODUCTION BY, AND IF NECESSARY,  
AN EXAMINATION OF, HSBC BANK USA, N.A.  
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 Document Production by, and if Necessary, an Examination of, HSBC Bank USA, N.A. by and Through Its Designated Representative* (the "Motion") for an order authorizing the document production by, and if necessary, an examination of, the designated representative of HSBC Bank USA, N.A. ("HSBC") pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and in support thereof, shows the Court as follows:

**BACKGROUND**

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 in the Case 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. Since the Petition Date and the entry of the Designation Order, the Trustee has moved the Debtor's accounting servers and some of the most recent business records from the residence of the former President of the Debtor, Mr. Ajay Loiwal ("Loiwal") to the Trustee's

offices. In addition, the Trustee has sent Rule 2004 document production requests to several parties in interest, including Deutsche Bank AG Cayman Islands Branch AG Cayman Islands Branch (“Deutsche Bank”), Jupiter IL, LLC (“Jupiter”), L R Resources, Inc. (“LRRRI”), Great American Liquidators (“GAL”), and Cratos CLO I Ltd and/or Cratos Capital Management, LLC n/k/a JMP Credit Advisors CLO I LTD (“Cratos”), as well as letters to former law firms of the Debtor waiving the attorney client privilege and requesting the turnover of documents from those professionals. The Trustee is still awaiting many of the requested documents.

10. Accordingly, as of the undersigned date, the Trustee has been unable to file the Debtor’s list of creditors, schedules, and statements of financial affairs.

11. The Trustee is currently in possession of some, but not all, of the Debtor’s bank records.

12. Upon information and belief, the Debtor owned and controlled, at least, one bank account with HSBC, as more particularly described in **EXHIBIT A** attached hereto.

**REQUESTED RELIEF**

13. Due to the above circumstances, the Trustee requests the production of documents by HSBC in order to: (i) assist him in satisfying his obligations under the Designation Order, and (ii) determine what deposits were made into and payments were made from Debtor’s accounts at HSBC during the four years preceding the Petition Date.

14. The Trustee seeks to have HSBC produce all of the records and documents more fully described on Exhibit “A,” attached to this Motion, on or before April 21, 2014, at 11:00 a.m. at the offices of Arnall Golden Gregory LLP 171 17th Street, N.W., Suite 2100, Atlanta, Georgia 30363-103(the “Offices of the Trustee’s Counsel”).

15. The Trustee also requests authority, if necessary, to examine HSBC at a mutually agreeable time, at the Offices of the Trustee's Counsel.

WHEREFORE, the Trustee respectfully requests that this Court:

(a) issue an order directing HSBC to produce the records and documents requested in this Motion specifically identified on Exhibit A and authorizing the Trustee, if necessary, to conduct the examination of HSBC; and

(b) grant the Trustee such other and further relief as the Court may deem just and proper.

Dated: March 27, 2014.

Respectfully submitted,

ARNALL GOLDEN GREGORY, LLP

By: /s/ Sean C. Kulka  
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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, “Debtor” shall mean Trade Am International, Inc.
- C. As used herein, “HSBC” refers to HSBC Bank USA, N.A. and its authorized agents, attorneys, representatives, subsidiaries, affiliates, entities, and to any other person that is or has ever acted for or on behalf of them.
- D. 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.

REQUESTS

1. All documents which evidence or relate to the HSBC Bank Account in the name of Debtor ending in Account No.XXX-XX921-3 for the four year period preceding the Petition Date inclusive of, but not limited to, any white book governing the account, signature cards, and monthly statements.

2. All documents which evidence or relate to any other HSBC bank or brokerage account owned or controlled by the Debtor for the four years preceding the Petition Date.

3. Any and all financial statements and loan applications provided to HSBC by the Debtor and statements for all credit and loan statements within four years prior to the Petition Date.

4. Copies of any and all cancelled checks, wire advice or evidence of wire transfers that were made from any HSBC bank account in the name of Debtor during the four years preceding the Petition Date.

**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 Document Production by, and if Necessary, an Examination of, HSBC Bank USA, N.A. by and Through Its Designated Representative* by depositing same in the United States Mail, postage prepaid, addressed to:

Roger K. McGregor, CEO  
HSBC Bank USA, N.A.  
1800 Tysons Boulevard  
Suite 50  
McLean, VA 22101

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  
Suite 200  
3343 Peachtree Street, NE  
Atlanta, Georgia 30325-1420

Deutsche Bank AG Cayman Islands Branch  
c/o Andrew N. Capezzuto  
Greenberg Traurig, LLP  
3333 Piedmont Road NE  
Terminus 200, Suite 2500  
Atlanta, Georgia 30305

Deutsche Bank AG Cayman Islands Branch  
c/o John D. Elrod  
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Trade AM International, Inc.  
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Atlanta, Georgia 30327

William L. Rothschild  
Ogier, Rothschild & Rosenfeld, PC  
170 Mitchell Street, SW  
Atlanta, Georgia 30303-4000

John M. McGovern  
McGovern Law Firm  
7000 Miller Court East  
Norcross, Georgia 30071

AmericasMart Real Estate, LLC  
c/o Neal G. Patton, Esq.  
240 Peachtree St., NW Suite 2200  
Atlanta, Georgia 30303

Emdee International, Inc.  
c/o Deepa Dharamup  
3595 Clearview Pkwy.  
Atlanta, Georgia 30340

IHE, Inc.  
c/o Sharad Mittel  
2522 Bentley Ridge Drive  
San Jose, California 95138

Tianjin Longxing (Group) Ltd.  
c/o Po Chu  
33-00 Northern Boulevard

Long Island, New York 11101

LIT/Hodges Industrial Trust  
c/o Matthew R. Brooks  
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Bank of America Plaza  
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Jupiter IL, LLC  
c/o William R. Joiner  
Mitchell and Shapiro, LLP  
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Edwin K. Palmer  
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Decatur, GA 30031

Jeremy Phipps  
Director-JMP Credit  
3440 Preston Ridge Rd., Suite 350  
Alpharetta, GA 30005

This 27<sup>th</sup> day of March, 2013.

/s/ Sean C. Kulka  
Sean C. Kulka, Ga. Bar No. 648919