

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:) Chapter 11
)
GULF PACKAGING, INC.,) Case No. 15-15249
)
Debtor.) Hon. Pamela S. Hollis
)
) Hearing Date: July 30, 2015 at 10:30 a.m.
)

NOTICE OF MOTION

PLEASE TAKE NOTICE that on July 30, 2015 at 10:30 a.m., the undersigned shall appear before the Honorable Pamela S. Hollis in Courtroom 644, or whomever may be sitting in her place and stead, at the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division, 219 S. Dearborn Street, Chicago, Illinois and will then and there present the *Motion of Official Committee of Unsecured Creditors for Leave to Issue Subpoenas to Debtor's Affiliates Pursuant to Fed. R. Bankr. P. 2004* a copy of which is attached hereto and herewith served upon you.

Dated: July 27, 2015

**OFFICIAL COMMITTEE OF UNSECURED
CREDITORS OF GULF PACKAGING, INC.**

By: /s/ Shelly A. DeRousse
One of Its Proposed Attorneys

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CERTIFICATE OF SERVICE

I, Shelly A DeRousse, an attorney, hereby certify that on July 27, 2015, I caused a true and correct copy of the foregoing *Notice of Motion* and *Motion of Official Committee of Unsecured Creditors for Leave to Issue Subpoenas to Debtor's Affiliates Pursuant to Fed. R. Bankr. P. 2004*, to be filed with the Court and served upon the following parties by the manner listed.

/s/ Shelly A. DeRousse

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**MOTION OF OFFICIAL COMMITTEE OF UNSECURED
CREDITORS FOR LEAVE TO ISSUE SUBPOENAS TO
DEBTOR’S AFFILIATES PURSUANT TO FED. R. BANKR. P. 2004**

The Official Committee of Unsecured Creditors (the “Committee”) of Gulf Packaging, Inc. (the “Debtor”), by and through its undersigned counsel, hereby moves this Court (the “Motion”) pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for leave to issue subpoenas to certain of the Debtor’s affiliates for (i) production of certain documents, and (ii) examination of the Affiliates (as defined herein). In support hereof, the Committee states as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. § 1334.
2. Venue for this chapter 11 case and this Motion is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409. This Motion constitutes a core proceeding pursuant to 28 U.S.C. § 157(b).

BACKGROUND

3. On April 29, 2015, (the “*Petition Date*”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois (the “*Court*”).

4. The Debtor is operating its businesses and managing its property as debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

5. No trustee or examiner has been appointed in this chapter 11 bankruptcy case.

6. On May 11, 2015, the Office of the United States Trustee filed a notice of appointment of the Committee as an official committee to represent the interests of unsecured creditors of the Debtor pursuant to section 1102 of the Bankruptcy Code.

7. The Debtor’s Statement of Financial Affairs (the “*SOFAs*”) reflect that the Debtor made transfers to the following insiders in the one year prior to the *Petition Date*:¹ (i) Carolina-Gulf Packaging, LLC (ii) Colorado Gulf Packaging Inc., (iii) Florida Gulf Packaging, Inc., (iv) Gulf Arizona Packaging Corp, (v) Gulf-Great Lakes Packaging Corporation, (vi) Gulf-Midwest Packaging Corp., (vii) Gulf Pacific Packaging Corporation, (viii) Gulf Packaging Equipment Services, LLC, (ix) Gulf Packaging National Service and Equipment, (x) Gulf Systems, Inc., (xi) Arman Sarkisian, (xii) William Cutshall, (xiii) Carol Cutshall, (xiv) Jeff Cutshall, (xv) Carl Fleck, (xvi) Joseph Fleck, (xvii) Maggie Fleck, and (xviii) Charles Foster (the “*Transferees*”).

8. The Committee believes other affiliated individuals and entities hold information pertinent to the Debtor’s assets, liabilities and financial condition, including Gulf Packaging – Sacramento, LLC, Florida Gulf Properties, LLC, Gulf Atlantic Packaging, Corp., Paul Albert, Paul Corley, Donald House, Bobby Atkinson, Robert McCormick, Bruce McCririe, Xsys, Inc.,

¹ The *SOFAs* use slightly different names, and some of the entities listed on the *SOFAs* could not be located based upon the Committee’s independent research. The Committee reserves the right to seek approval for the issuance of additional 2004 discovery.

Robert Lange, III, FCC, LLC, Melissa Sarkisian, Merchants & Manufacturers Bank, and Renovo Capital, LLC (collectively and together with the Transferees, the “*Affiliates*”).

RELIEF REQUESTED

9. The Committee respectfully requests, pursuant to Bankruptcy Rule 2004, entry of an order allowing the Committee to issue the proposed Bankruptcy Rule 2004 subpoenas (the “*Subpoenas*”) in substantially the same form attached hereto as Group Exhibit A, which: (i) requests that the Affiliates produce for examination the documents requested in the riders attached to the Subpoenas, and (ii) request the examination of the Affiliates (collectively, the “*Requested Discovery*”).

BASIS FOR RELIEF REQUESTED

10. The Committee respectfully submits that it is appropriate for the Court to authorize it to take the Requested Discovery of the Affiliates pursuant to Bankruptcy Rule 2004, which provides in relevant part, “on motion of a party in interest, the court may order the examination of any entity.” Fed. R. Bankr. P. 2004(a). Moreover, the scope of the examination may relate to “the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate.” Fed. R. Bankr. P. 2004(b).

11. In this District, courts generally agree that “the scope of inquiry under Bankruptcy Rule 2004 is very broad. Great latitude of inquiry is ordinarily permitted.” *In re Handy Andy Home Imp. Centers, Inc.*, 199 B.R. 376, 379 (Bankr. N.D. Ill. 1996) (quotation omitted). Additionally, courts have reasoned that “[t]he scope of examination allowed under Bankruptcy Rule 2004 is larger than that allowed under the Federal Rules of Civil Procedure and can legitimately be in the nature of a ‘fishing expedition.’” *In re Wilcher*, 56 B.R. 428, 433 (Bankr. N.D. Ill. 1985). Moreover, the court in *Wilcher* noted, “the primary purpose of a Rule 2004

examination is to permit the trustee to quickly ascertain the extent and location of the estate's assets." *Id.*

12. The Committee seeks to investigate transfers between the Debtor and its Affiliates, debts owed as between the Debtor and its Affiliates, and the general business transactions between the Debtor and its Affiliates.

13. The information the Committee seeks is relevant to the Debtor's chapter 11 case because the Committee believes it will yield information that may lead to the discovery of additional assets of the estate and potentially other causes of action that may be brought in this bankruptcy case and is therefore discoverable under Bankruptcy Rule 2004.

WHEREFORE, the Committee respectfully requests that the Court enter an order: (a) authorizing the Committee, pursuant to Bankruptcy Rule 2004, to issue the Subpoenas for document requests and deposition testimony, consistent with the request set forth in this Motion; and (b) granting such other and further relief as the Court deems just and proper.

Dated: July 27, 2015

OFFICIAL COMMITTEE OF UNSECURED CREDITORS OF GULF PACKAGING, INC.

By: /s/ Shelly A. DeRousse
One of Its Attorneys

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