

B256 (Form 256 - Subpoena in a Case under the Bankruptcy Code) (12/07)

**United States Bankruptcy Court**

Northern DISTRICT OF Oklahoma

In re ) **SUBPOENA IN A CASE UNDER**  
 RC SOONER HOLDINGS, LLC, et al., ) **THE BANKRUPTCY CODE**  
 )  
 Debtors. ) Case No. 10-12185-R  
 (Jointly Administered)

To: **Capital One Bank** Chapter 11  
**P.O. Box 4199**  
**Houston, TX 77210-4199**

YOU ARE COMMANDED to appear in the United States Bankruptcy Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
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YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list of documents or objects):


**All documents and internal memoranda in connection with account no. \_\_\_\_\_ at Capital One Bank including, but not limited to, monthly statements, documents opening account, borrower authorizations and signature cards.**

PLACE	DATE AND TIME
<b>Fellers, Snider, Blankenship, Bailey &amp; Tippens 100 N. Broadway, Suite 1700 Oklahoma City, OK 73102-8820</b>	<b>November 15, 2010 at 1:30 p.m. CST</b>

YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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Any organization not a party to this proceeding that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify, Rule 30(b)(6), Federal Rules of Civil Procedure, made applicable in bankruptcy cases and proceedings by Rules 1018, 7030, and 9014, Federal Rules of Bankruptcy Procedure.

ISSUING OFFICER SIGNATURE AND TITLE	DATE
	<u>10/22/2010</u>
ISSUING OFFICER'S NAME AND ADDRESS	
<b>Doneen Douglas Jones, QBA # 4762 Fellers, Snider, Blankenship, Bailey &amp; Tippens 100 N. Broadway, Suite 1700 Oklahoma City, OK 73102-8820 Phone: (405) 232-0621</b>	

\* If the bankruptcy case is pending in a district other than the district in which the subpoena is issued, state the district under the case number.

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## PROOF OF SERVICE

<b>SERVED</b>	DATE 10/25/10	PLACE P.O. Box 4199, Houston, TX 77210-4199
SERVED ON (PRINT NAME) Capitol One Bank	MANNER OF SERVICE Certified Mail, Return Receipt Requested	
SERVED BY (PRINT NAME) Doneen Douglas Jones	TITLE Attorney at Law	

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 11/03/10  
DATE

  
SIGNATURE OF SERVER  
Doneen Douglas Jones, OBA #4762  
Fellers, Snider, Blankenship, Bailey & Tippens

ADDRESS OF SERVER

100 N. Broadway, Suite 1700  
Oklahoma City, OK 73102-8820  
(405) 232-0621

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d) and (e), as amended on December 1, 2007, made applicable in cases under the Bankruptcy Code by Rule 9016, Federal Rules of Bankruptcy Procedure:

## (c) Protecting a Person Subject to a Subpoena.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction -- which may include lost earnings and reasonable attorney's fees -- on a party or attorney who fails to comply.

## (2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises -- or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

## (3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time for compliance;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed or regularly transacts business in person -- except that, subject to Rule 45 (c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies, or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and resulting from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

## (d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond with the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

## (2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

## (e) Contempt.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

545780.1:74907

**Certified Article Number**

7160 3901 9849 0963 0500

**SENDERS RECORD**

7160 3901 9849 0963 0500

Capitol One Bank

**TO:** P.O. Box 4199  
Houston, TX 77210-4199

Capitol One Bank  
P.O. Box 4199  
Houston, TX 77210-4199

DDJ

**SENDER:** 74907/RC Sooner/DDJ:nv

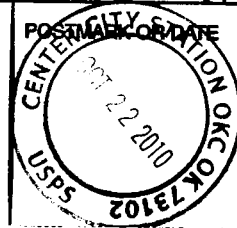
**REFERENCE:**



PS Form 3800, January 2005

RETURN RECEIPT SERVICE	Postage	88
	Certified Fee	80
	Return Receipt Fee	30
	Restricted Delivery	
	Total Postage & Fees	e.98

US Postal Service  
**Receipt for  
Certified Mail**  
No Insurance Coverage Provided  
Do Not Use for International Mail



2. Article Number



7160 3901 9849 0963 0500

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

Capitol One Bank  
Article Addressed to:  
P.O. Box 4199  
Houston, TX 77210-4199

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly) B. Date of Delivery

C. Signature *[Signature]* **OCT 25 2010**

Agent  
 Addressee

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

**Reference Information**

74907/RC Sooner/DDJ:nv

DDJ