

IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OKLAHOMA

IN RE: ) Case No. 10-12185-R  
 ) Chapter 7  
RC SOONER HOLDINGS, LLC, et al., )  
 )  
Debtors. ) (Jointly Administered)

**MOTION FOR RULE 2004 EXAMINATION OF  
REPRESENTATIVE OF DEBTOR, RC SOONER HOLDINGS, LLC, AND  
FOR ORDER COMPELLING PRODUCTION OF DOCUMENTS WITH BRIEF  
AND NOTICE OF OPPORTUNITY FOR HEARING**

Oklahoma Energy Source, LLC (hereinafter "OKES" or "Movant"), pursuant to Fed. R. Bankr. P. 2004, moves the Court (the "Motion") for entry of an order directing the examination of a representative of Debtor, RC Sooner Holdings, LLC, in connection with the failure to pay monies set aside in trust for payment to OKES pursuant to the Court-approved Stipulation Between the Debtors and Oklahoma Energy Source Resolving Oklahoma Energy Source, LLC's Informal Objections to the Utility Motion issued on March 22, 2010 (the "Stipulation") in *In Re RC Sooner Holdings, LLC, et al.*, Case No. 10-10528 (BLS), in the United States Bankruptcy Court for the District of Delaware [Delaware Dkt. #81]. This Motion also seeks production of documents, as described on the attached Exhibit "A", from Debtor with respect to the Utility Deposit Account established at Capital One Bank (the "Account") pursuant to the Stipulation into which monies were placed solely for the payment of OKES or other utility bills. In support of this Motion, Movant states:

1. Fed. R. Bankr. P. 2004(b) provides that a party in interest may examine any entity regarding the acts, conducts, property, liabilities and financial condition of the debtor as well as other matters which may affect the administration of a debtor's estate.

2. An Order Approving Amended Motion of Oklahoma Energy Source, LLC for an Order Compelling Debtors' Compliance With the Stipulation for Distribution of Trust Fund for Payment of Utilities and Notice of Opportunity for Hearing (Doc # 134) was entered on September 30, 2010, directing Debtor to pay the monies from the Account to OKES and Debtor failed to respond or to pay the monies.

3. At the time of the Stipulation, Debtor's counsel provided counsel for OKES with confirmation that the Account had been opened at Capital One Bank and provided the account number thereof.

4. OKES issued a subpoena to Capital One Bank for documents with respect to the Account but Capital One Bank failed to respond.

5. Pursuant to Fed. R. Bankr. P. 2004(b), OKES seeks discovery of information from Debtor through a representative as to the Account and the current status of those funds. On information and belief, Debtor is in possession of information concerning the Account and the actions of Debtor with respect thereto.

6. Additionally, on or prior to said examination, Debtor should be required to produce at the offices of OKES' counsel all documents with respect to the Account as more particularly set forth on Exhibit "A" hereto.

7. Pursuant to Local Rule 2004(C), counsel for OKES called and e-mailed Debtor's counsel on January 12, 2011 to arrange an agreeable date. On January 13,

2011, counsel for Debtor responded he would check with his client and that was the last communication.

### **BRIEF IN SUPPORT**

The purpose of Rule 2004 is to allow broad inquiry into the nature of the estate and “to assist . . . in revealing the nature and extent of the estate.” *In re Bennett Funding Group, Inc.*, 203 B.R. 24, 28 (Bankr. S.D.N.Y. 1991). An examination pursuant to Rule 2004 may be granted by the Court if good cause is shown for requesting such an examination and production of the documents requested. *See In re Express One Intern., Inc.*, 217 B.R. 215, 217 (Bankr. E.D. Tex. 1998). Rule 2004(c) provides for the discovery of documents.

Debtor filed its Petition under Chapter 11 in the United States Bankruptcy Court for the District of Delaware on February 22, 2010 and prior to providing gas to the Debtor affiliated apartment complexes, OKES obtained the Stipulation which provided for an account to be established to ensure payment to OKES. Debtor provided information that the Account had been opened and OKES supplied gas to the Debtor entities. Debtor possesses information that bears upon the Account. This examination is necessary to obtain information about the Account and Debtor’s failure to pay pursuant to the Stipulation. OKES has shown good cause for seeking this examination and production of documents.

### **NOTICE OF OPPORTUNITY FOR HEARING**

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. **If you do not want the Court to grant the requested relief, or you wish to have your views**

**considered, you must file a written response or objection to the requested relief with the Clerk of the United States Bankruptcy Court for the Northern District of Oklahoma, 224 South Boulder, Tulsa, Oklahoma 74103 no later than 14 days from the date of filing of this request for relief.**

WHEREFORE, Oklahoma Energy Source, LLC requests the Court to enter an order pursuant to Fed. R. Bankr. P. 2004 directing the examination of Debtor's representative at a specific time at the offices of Fellers, Snider, Blankenship, Bailey & Tippens, 321 South Boston, Suite 700, Tulsa, Oklahoma, and directing Debtor's representative to produce all documents identified on the attached Exhibit "A" prior to the Rule 2004 examination, and for such other relief as is just and proper.

s/ Doneen Douglas Jones  
Doneen Douglas Jones, OBA # 4762  
FELLERS, SNIDER, BLANKENSHIP,  
BAILEY & TIPPENS  
100 N. Broadway, Suite 1700  
Oklahoma City, OK 73102-8820  
Telephone: (405) 232-0621  
Telecopy: (405) 232-9659  
E-Mail: djones@fellerssnider.com

Attorneys for Oklahoma Energy Source, LLC

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on January 20, 2011, a true and correct copy of the foregoing motion was served electronically on participants in the CM/ECF system according to local procedures.

s/ Doneen Douglas Jones  
Doneen Douglas Jones

**EXHIBIT "A"**

**DEFINITIONS**

The term "document" or "documents" means any written, typed, recorded, pictorial, graphic or printed matter, or electronically-stored matter, in its entirety, including any addenda, supplements, amendments, revisions, exhibits and appendices thereto, in its original form and copies thereof bearing notations and all earlier drafts, memoranda or other written information not on the original including, but not limited to, books, pamphlets, notebooks, correspondence, memoranda, telegrams, notes, tape or sound recordings of any type, minutes of meetings, interoffice and intraoffice communications, studies, analyses, results of investigations, reviews, contracts, licenses, agreements, ledgers, books of account, journals, vouchers, bank checks and drafts, invoices, charge slips, telephone bills, hotel charges, receipts, freight bills, working papers, statistical records, reserve studies, costs sheets, stenographer's notebooks, desk calendars, appointment books, diaries, time sheets, logs, maps, computer input data, computer output data, computer programs, computer runs, computer-stored information (whether printed or not and computer programs necessary therefor), computer hard drives with stored information, work sheets or work papers or other materials, including all such defined Documents submitted to your accountants or attorneys or others, or submitted by your accountants or attorneys or others to you, or matter or things similar to any of the foregoing.

**DOCUMENTS REQUESTED**

All documents and internal memoranda in connection with the Account established at Capital One Bank including, but not limited to, monthly statements, documents opening account, borrower authorizations and signature cards and all e-mail and other correspondence or documentation with respect to the Account between the bank and any of the Debtors or between the Debtors and/or any management company.