

SERVICE LIST

United States Trustee Patrick S. Layng
Office of the United States Trustee
219 South Dearborn Street, Suite 873
Chicago, IL 60604*

Vyacheslav Yakonskyy
Iryna Yakonska
2830 Blackthorn Road
Ravenswood, IL 60015

David Freydin
Law Offices of David Freydin Ltd
4433 West Touhy Suite 405
Lincolnwood, IL 60712*

B254 (Form 254 – Subpoena for Rule 2004 Examination) (12/07)

UNITED STATES BANKRUPTCY COURT

Northern

District of

Illinois

In re Vyacheslav Yakonskyy
and
Iryna Yakonska

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 11-34325

To: Vyacheslav Yakonskyy
Iryna Yakonska
2830 Blackthorn Road
Ravenswood, IL 60015

Chapter

7

☐ YOU ARE COMMANDED to appear and testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure, at the place, date, and time specified below. A copy of the court order authorizing the examination is attached.

PLACE OF TESTIMONY

DATE AND TIME

☒ 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 documents or objects):

Documents listed on "Exhibit A to Subpoena for Rule 2004 Examination" attached to this form and served contemporaneously herewith.

PLACE

Lakelaw, 420 W. Clayton Street, Waukegan, IL 60085

DATE AND TIME

01/06/2012 at 2:00 p.m.

ISSUING OFFICER SIGNATURE AND TITLE

DATE

Attorney

12/21/2011

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Jonathan T. Brand, 53 W. Jackson Blvd., Suite 1610, Chicago, IL 60604

B254 (Form 254 – Subpoena for Rule 2004 Examination) (12/07)

PROOF OF SERVICE

SERVED	DATE 12/21/2011	PLACE 420 W. Clayton Street, Waukegan, IL 6085
SERVED ON (PRINT NAME) Vyacheslav Yakonsky and Iryna Yakonska, 2830 Blackthorn Road Ravenswood, IL 60015		MANNER OF SERVICE First Class United States Mail, Postage Pre-Paid
SERVED BY (PRINT NAME) Maria Idalia Garcia		TITLE Paralegal

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 12/21/2011
DATE

/s/Maria Idalia Garcia
SIGNATURE OF SERVER

420 W. Clayton Street, Waukegan, IL 60085

ADDRESS OF SERVER

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 also 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 to comply;

(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;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results 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 to 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).

EXHIBIT A
TO SUBPOENA FOR RULE 2004 EXAMINATION TO
DEBTORS VYACHESLAV YAKONSKYY & IRYNA YAKONSKA

I. DEFINITIONS

1. The term “you”, “your”, “yourself” and “debtors” shall mean collectively or individually Iryna Yakonska and Vyacheslav Yakonskyy, as well as any agents or other third parties acting on behalf of, in concert with, or under your collective control.

2. The term “Kot” shall mean Yaroslav Kot a/k/a Jerry Kot, as well as any agents or third parties acting on behalf of, in concert with, or under Kot’s collective control.

3. The term “Building” means that certain building located at 2800 W. North Avenue, Chicago, IL.

4. The term “KVBN” shall mean KVBN, Inc., as well as any agents or other third parties acting on behalf of, in concert with, or under KVBN’s collective control.

5. The term “document” or “documents” has the broadest meaning accorded it under the Federal Rules of Civil Procedure, as incorporated in the Federal Rules of Bankruptcy Procedure, and shall mean, all written, printed, typed, recorded, photographed, photocopied, or other graphic matter of any variety; all mechanical, electrical, and sound recordings and any transcripts thereof; and all computer data files, regardless of their storage medium; including all preliminary drafts and copies or duplicates of such items; along with all labels, dividers, and other markings indicating the manner or order in which such items are organized and maintained in the custodian’s ordinary course of possessing such items.

6. The term “concerning” shall be given the broadest meaning possible, including, but not limited to, relating to, reflecting, and/or demonstrating, proving, and disproving. A request for documents “concerning” a specified subject matter always shall include notes and memoranda (internal or external and whatever prepared) concerning the subject matter of the request.

7. “Communication” means, without limitation, every matter of transmitting, transferring, exchanging or sharing information, facts, opinions or thoughts in any form, whether oral, electronic, or written utterance, notation or statement of any nature whatsoever, by or whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussions, interviews, consultations, agreements, letter, note, mail, telephone, facsimile transmission, telex, telecopy, email and any other understanding(s) between or among two or more persons.

8. The connectives “and” and “or” as used herein are terms of inclusion and not of exclusion, and shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Request for Production of Documents any document or information that might otherwise be construed to be outside its scope.

9. “Any” means one or more.

10. “Describe,” “discuss,” “analyze,” “describing,” “discussing,” or “analyzing” mean any document that, in whole or in part, characterizes, delineates, explicates, deliberates, evaluates, appraises, assesses or provides a general explanation of the specified subject.

11. The term “person” means any natural person, corporation, partnership, company, sole proprietorship, group, association, trust, institute, joint venture, firm, governmental body, or other legal or business entity, whether privately or publicly owned or controlled, for profit or not-for-profit, or partially or fully government owned or controlled, and any representative or employee of the foregoing.

12. “Relate to,” “related to” and “relating to” mean to make a statement about, refer to, concern, contain, comprise, consist, discuss, define, describe, evidence, identify, mention, pertain, reflect, or in any way logically or factually connected with the matter discussed or to which reference is made, in whole or in part, or otherwise to be used, considered, or reviewed in any way in connection with the specified subject. Thus, documents that “relate to” a subject also include those which were specifically rejected and those which were not relied or acted upon.

13. Unless otherwise specified, “year” means calendar year.

14. The singular includes the plural and vice versa: the word “all” means “any and all”; the word “any” means “any and all; the word “including” means “including without limitation.”

II. INSTRUCTIONS

With respect to this Subpoena, the following instructions shall apply:

1. Answers to this Subpoena shall be submitted in a form so that the answer follows the retyped Request for Production to which it applies.

2. This subpoena calls for the production of responsive documents, as limited by the above referenced paragraphs, in your possession, custody or control, or in the possession, custody or control of your employees, accountants, representatives and agents, or other persons acting on your behalf, without regard to the physical location of such documents. Without limiting the term “control,” a document is deemed to be within one’s control if that person or entity has any ownership, possession, or custody of the document, or the right to secure the document or a copy thereof.

3. The singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun, and vice versa. The masculine form of a noun or pronoun shall be considered to include within its meaning the feminine form of the noun or pronoun, and vice versa.

4. Regardless of the tense employed, all verbs shall be read as applying to the past, present and future as is necessary to make any paragraph more, rather than less, inclusive.

5. This is a continuing request for production of documents and the response to this request must be promptly supplemented when appropriate or necessary.

6. You are notified that your duty to respond includes the duty to supply all documents and materials in your physical possession, as well as those which can be obtained from additional sources, pursuant to the applicable Rules of Civil Procedure.

7. Computer stored data including, but not limited to, email, database files, word files, spreadsheets, presentations, and accounting data shall be produced electronically on external hard disks or compact disks. The data should contain all metadata associated with the files. Where data was created and stored by software application that is available to the general public, it should be produced in that same native format. Any documents or data that is in a system not available to the general public, such as legacy or proprietary software applications, it should be provided in a format where it can be accessed by software applications generally available to the public (i.e., .xls, .xlsx, .pdf generated from its source software program and/or .csv format). For any data that is password locked or encrypted, the password or key associated with the data shall be provided.

8. Each page of the documents produced in response to this request should be marked with a unique document identification number.

9. If any document was but is no longer, in your possession, or subject to your control or in existence, in separate paragraphs, identify that document by including a statement providing: (a) a name and description identify the document; (b) any addressor or addressee; (c) where the document is now; (d) how the document became lost or destroyed or was transferred; (e) the document's date, subject matter, number of pages, and attachments or appendices; (f) all persons to whom the document or item was distributed, shown or explained; (g) the date of destruction or discard; (h) the persons authorizing or carrying out such destruction or discard and (i) those responsible for the loss, destruction or transfer of this document from your possession, custody or control.

10. To the extent that you refuse to produce any document because you claim a privilege or immunity, state for each document: the particular privilege or immunity upon which you rely; identify the specific document or item by providing (a) the author(s) and recipient(s), (b) the parties to the communication, (c) the names of all persons who heard, received, or reviewed the document or communication, (d) all persons to whom the document or item was distributed, shown or explained, (e) its present custodian, and (f) all other information necessary to support your assertion of the privilege or immunity. Additionally, if the claim of privilege is limited to a specific portion of text or communication(s) contained within responsive documents or things that also contain discoverable information, you should produce a redacted version of the document or thing containing the discoverable information with a notation on the produced document or thing indicating that it is being produced in redacted form.

11. If any document is withheld, in whole or in part, for any reason, including but not limited to, a claim of privilege, whether work-product or attorney-client or other, confidentiality or trade secret, set forth separately with respect to each document:

- the nature of the privilege or ground of confidentiality claimed;
- each and every fact or basis on which such privilege is claimed or under which the document is withheld;

- the type of document;
- the general subject matter of the document(s);
- the date of the document(s); and
- such other information as is sufficient to identify the document for a subpoena duces tecum.

12. The balance of the documents or things not subject to a claim of privilege which fall within the scope of the request must be produced.

13. The documents requested herein shall be produced at the offices of **Lakelaw, 420 Clayton Street, Waukegan, IL 60085** within fourteen (14) calendar days of the receipt of this Request or such other date as is specified on the face of the Subpoena, which ever date is later in time.

14. Each request for documents seeks production of all documents described, including all drafts and non-identical copies.

15. Each request for a document contemplates production of the document in its entirety, without abbreviation or expurgation, and with any other documents or attachments to which it is attached.

16. If there are any objections to this Request, a written statement containing those objections is to be furnished at the time specified herein for the production of the documents.

17. All documents are to be produced as they are kept in the usual course of business so that the party represented by Lakelaw can ascertain the file in which they are located, the relative order in such files, and how the files are maintained.

18. In the event that an amended pleading is filed in this action after service of this Request, you shall fully respond to this Request as well as any additional requests filed subsequent to service of the amended pleading.

19. Unless otherwise specified in the Request, the documents to be produced pursuant to this Request shall include all documents prepared or used at any time from September 1, 2006 through the present date of this request. Note, you have a continuing obligation after the date of the Subpoena and your production of documents responsive to this Subpoena to comply with Federal Rule of Bankruptcy Procedure 2004.

III. DOCUMENT REQUESTS

1. All documents and communications in your possession relating to the Building.
2. Any and all contracts, documents, agreements, leases or subleases to which KVBVN or the Debtors are a party to which relate to the Building.
3. All bank statements (monthly, quarterly or otherwise produced in the ordinary course of your relationship with any banking entities covered by this), annual reports, receipts, or other documents related to any bank account maintained by you, KVBVN, DIM GC, Inc., DIM Construction, Inc, or DIM Builders, Inc. or any other entity in which you have an interest, with any banking entity, including but not limited to the following financial entities:
 - a. Midwest Bank and Trust Company (now FirstMerit Bank, N.A. as successor by purchase from the FDIC);
 - b. National City Bank (now PNC Bank, N.A. as successor by purchase from the FDIC);
 - c. Selfreliance Ukrainian American Federal Credit Union;
 - d. Ridgestone Bank; and
 - e. MB Financial Bank, N.A.
4. Any and all contracts, documents, amendments, modifications, or agreements relating to any financing or loans received by KVBVN or the Debtor, related to or secured by the Building.
5. Any and all contracts or documents related to any construction performed at the Building, including but not limited to, proof of insurance for every subcontractor or materialman, subcontracting agreements, and expense ledgers related to the Building.
6. Any and all bank statements related to any payment made by KVBVN to DIM GC, Inc., DIM Construction, Inc, or DIM Builders, Inc. CODEX Group, Inc., CODEX Holding, Inc.,

CODEX Electric Co., CODEX Logistic Inc., CODEX Masonry, Inc., CODEX Warehouse, Inc. which relates to any work or services performed related to the Building.

7. Any and all bank statements related to any payment made by KVBVN to you.

8. Any and all licenses or permits received by DIM GC, Inc., DIM Construction, Inc., or DIM Builders, Inc., CODEX Group, Inc., CODEX Holding, Inc., CODEX Electric Co., CODEX Logistic Inc., CODEX Masonry, Inc., CODEX Warehouse, Inc. related to the Building.

9. Any and all operating agreements or articles of incorporation related to any entity which you have an interest, including but not limited to CODEX Group, Inc., CODEX Holding, Inc., CODEX Electric Co., CODEX Logistic Inc., CODEX Masonry, Inc., CODEX Warehouse, Inc.

10. Any and all invoices received by you or KVBVN related to the Building.

11. Any and all waiver of liens or partial waiver of lien received by you or KVBVN from any contractor, subcontractor or materailman which performed work or services related to the Building.

12. Any and all documents related to the level of completion (i.e., certificate of occupancy) obtained from the City of Chicago for the Building.