

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

In re:)	Chapter 11
)	
Pittsfield Residential II, LLC)	Case No. 11-42072
)	
)	Hon. John H. Squires
Debtor.)	
_____)	

NOTICE OF SUBPOENA FOR RULE 2004 EXAMINATION
SERVED ON AMERICAN ACADEMY OF ART, INC.

To: See attached Service List.

PLEASE TAKE NOTICE that on October 28, 2011, the undersigned caused to be served a Subpoena for Rule 2004 Examination upon American Academy of Art, Inc., a true and correct copy of which is attached hereto and served upon you.

Dated: October 28, 2011.

**PITTSFIELD RESIDENTIAL II, LLC,
Debtor-in-Possession**

By: /s/ Jonathan T. Brand
Jonathan T. Brand
Proposed Counsel for the Debtor

CERTIFICATE OF SERVICE

On October 28, 2011, the undersigned certifies that on this date, she caused a copy of the above document to be served upon each person shown on the within Notice, by United States Mail, with postage prepaid, at Chicago, Illinois. Those marked with an * were served via Court's ECF System.

/s/ Laura Deger
Paralegal

Jonathan T. Brand (ARDC #6294885)
David P. Leibowitz (ARDC # 1612271)
Lakelaw
53 W. Jackson Street, Suite 1610
Chicago, IL 60604
Phone: (312) 360-1505
Facsimile: (312) 360-1502

SERVICE LIST

Debtor

Pittsfield Residential II, LLC
5151 Collins Ave., #1727
Miami Beach, FL 33140

U.S. Trustee for Northern District of Illinois *

Patrick S. Layng, U.S. Trustee
Office of the U.S. Trustee, Region 11
219 S. Dearborn St, Room 873
Chicago, IL 60604

Counsel for Debtor *

Daniel Morman, Esquire
5151 Collins Ave., #1727
Miami Beach, FL 33140

Registered Agent for American Academy of Art, Inc.

Karen Kobialka
Hurwitz & Weinstein
311 W. Superior St, Ste 525
Chicago, IL 60654

Counsel for Debtor *

Joel M. Aresty, Esq.
13499 Biscayne Blvd., T3
Miami, FL 33181

Manager for American Academy of Art, Inc.

Richard H. Otto
332 S. Michigan Ave, 3rd Floor
Chicago, IL 60604

**Counsel for 55 East Washington
Development II, LLC***

Christopher M. Goodsnyder
Perl & Goodsnyder, Ltd.
14 N. Peoria St, Suite 2C
Chicago, IL 60607

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

UNITED STATES BANKRUPTCY COURT

Northern

District of

Illinois

In re PITTSFIELD DEVELOPMENT II, LLC

SUBPOENA FOR RULE 2004 EXAMINATION

Case No.* 11-42072

To: Karen Kobialka
Registered Agent for American Academy of Art, Inc.
Hurwitz & Weinstein
311 W. Superior St, Ste 525
Chicago, IL 60654

Chapter 11

☒ 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

Lakelaw; 53 W. Jackson Blvd, Ste 1610
Chicago, IL 60604

DATE AND TIME

November 8, 2011 at 2:00 p.m.

☒ 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):

See Exhibit "A" attached hereto and incorporated herein by reference.

For your convenience attached hereto is a copy of the Order (Exhibit "B") authorizing Pittsfield Residential II, LLC to issue this subpoena.

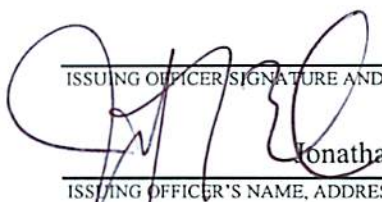
PLACE

Lakelaw; 53 W. Jackson Blvd, Ste 1610
Chicago, IL 60604

DATE AND TIME

November 4, 2011 at 10:00 a.m.

ISSUING OFFICER'S SIGNATURE AND TITLE


Jonathan T. Brand, attorney for Debtor

(ANC # 629485)

DATE

October 28, 2011

ISSUING OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

Lakelaw; 53 W. Jackson Blvd, Ste 1610, Chicago, IL 60604

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

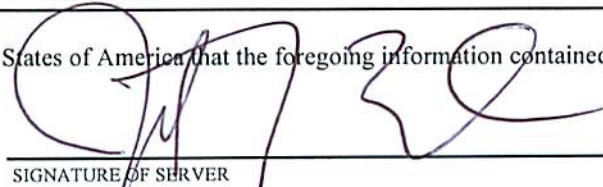
PROOF OF SERVICE

SERVED	DATE	PLACE
	October 28, 2011	Hurwitz & Weinstein; 311 W. Superior St, Ste 525, Chicago, IL 60654
SERVED ON (PRINT NAME)		MANNER OF SERVICE
Karen Kobialka		Email & Federal Express Overnight Service by agreement
SERVED BY (PRINT NAME)		TITLE
Jonathan T. Brand		Attorney for Debtor

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 October 28, 2011
DATE


SIGNATURE OF SERVER

Lakelaw; 53 W. Jackson Blvd, Ste 1610
Chicago, IL 60604

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
AMERICAN ACADEMY OF ART

I. DEFINITIONS

1. The term “you”, “your” and “yourself,” shall mean American Academy of Art, as well as any agents or other third parties acting on behalf of, in concert with, or under your collective control.
2. The term “55 E. Washington II” shall mean 55 East Washington Development II, LLC.
3. The term “Pittsfield Building” means that certain building located at 55 East Washington Street, Chicago, IL.
4. The term “Debtor” shall mean Pittsfield Residential II, LLC.
5. The term “Property” shall mean floors 9-12 of the Pittsfield Building.
6. 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.
7. 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.
8. “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.
9. 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.

10. "Any" means one or more.
11. "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.
12. 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.
13. "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.
14. Unless otherwise specified, "year" means calendar year.
15. 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, 53 W. Jackson Street, Suite 1610, Chicago, IL 60610** within fourteen (14) calendar days of the receipt of this Request.

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 January 1, 2009 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 Debtor or the Property.
2. Any and all leases or subleases to which you a party with respect to the Pittsfield Building.
3. Any and all contracts pertaining to the Pittsfield Building.
4. Any and all correspondence, communications, emails and other documents with, to and from and otherwise related to 55 East Washington Development II, LLC .
5. Any and all correspondence, communications, emails and other documents with, to and from and otherwise related to 55 East Washington Development, LLC .
6. Any and all correspondence, communications, emails and other documents with, to and from and otherwise related to Richard M. Gatto.
7. Any and all correspondence, communications, emails and other documents with, to and from and otherwise related to the Alter Group.
8. All canceled checks, wire transfers, books, records, receipts and other documents reflecting rental payments for housing at the Pittsfield Building.
9. Any and all other documents in your possession that pertain to the Pittsfield Building.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
Eastern Division

In Re:)	BK No.: 11-42072
)	
PITTSFIELD RESIDENTIAL II, LLC)	Chapter: 11
)	Honorable John H. Squires
)	
Debtor(s))	

**ORDER GRANTING DEBTOR'S ROUTINE MOTION FOR RULE 2004
EXAMINATION OF AMERICAN ACADEMY OF ART, INC.**

This matter coming to be heard upon the Debtor's Routine Motion ("Motion") for a Rule 2004 Examination of American Academy of Art, Inc. ("AAA"), due notice having been given and served upon all parties in interest, and the Court having been fully advised in the premises,

IT IS HEREBY ORDERED:

1. The Debtor's Motion is Granted.
2. The Debtor is authorized to issue a Subpoena for a Rule 2004 examination and production of documents pursuant to Fed. R. Bankr. P. 2004(a) to AAA or AAA's corporate representative with the most knowledge of AAA's residential or business affairs located on the real property 55 E. Washington Street, Chicago, IL, commonly known as the Pittsfield Building.

Enter:



Honorable John H. Squires
United States Bankruptcy Judge

Dated: **25 OCT 2011**

Prepared by:

Jonathan T. Brand, Esq., Proposed Counsel for Debtor
Lakelaw
53 W. Jackson Street, Suite 1610, Chicago, IL 60604
Phone: 312-360-1505
Facsimile: 312-360-1502

EXHIBIT B

Rev: 201100318_bko