

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

In Re:

**ProCom America, LLC d/b/a
Beyond Band of Brothers d/b/a
BBOB**

Case No.: 8:20-03522-MGW

Chapter 7 Case

Debtors.

**AMENDED NOTICE OF TAKING
CONTINUED RULE 2004 EXAMINATION DUCES TECUM**

To: Kevin E. Riggs
c/o Matt A. Tornincasa
Shendell & Pollock P.L.
2700 N. Military Trail, Suite 150
Boca Raton, FL 33431

PLEASE TAKE NOTICE that the undersigned, as attorney for Douglas M. Menchise, Chapter 7 Trustee, will take the continued oral examination pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure, of the person or persons named below, at the time, date and location indicated below, and requests the Examinee to produce to the undersigned the documents and records as defined and set forth in **Exhibit A** attached hereto no later than seven (7) days prior to the scheduled examination.

NAME	DATE & TIME	PLACE
Kevin E. Riggs c/o Matt A. Tornincasa Shendell & Pollock P.L. 2700 N. Military Trail, Suite 150 Boca Raton, FL 33431 (561) 241-2323 (561) 241-2330 (fax) matt@shendellpollock.com	December 3, 2021 at 9:00 a.m. (ET) until conclusion	Shumaker, Loop & Kendrick, LLP 101 East Kennedy Blvd. Suite 2800 Tampa, FL 33602

The above-referenced Examinee will be examined before a Court Reporter and Notary Public or before a duly designated representative who is not of counsel to the parties or interested in the events of this case. The examination will be recorded by sound, visual (video) and/or stenographic means, and will continue from day to day until testimony is completed or adjourned. You are hereby invited to attend and participate as your interest may appear. Topics for examination shall be all permissible areas of inquiry pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure. Topics for examination shall relate to (i) 401K Plan Annual Administration and Procedures.

PLEASE BE GOVERNED ACCORDINGLY.

Dated: **November 3, 2021**

SHUMAKER, LOOP & KENDRICK, LLP

By: /s/ Steven M. Berman

Steven M. Berman, Esquire

Florida Bar No.: 856290

101 E. Kennedy Blvd., Suite 2800

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FAX: 813.229.1660

Attorney for Chapter 7 Trustee

FOX ROTHSCHILD, LLP

By: /s/ Robert F. Elgidely

Robert F. Elgidely, Esquire

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Miami, FL 33131

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Special Counsel to the Chapter 7 Trustee

CIMO MAZER MARK, PLLC

By: /s/ David C. Cimo

David C. Cimo, Esquire

Florida Bar No.: 775400

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Miami, FL 33131

PH: 305.374.6482

FAX: 305.374.6488

Special Counsel to the Chapter 7 Trustee

Filer's Attestation: Pursuant to Local Rule 1001-2(e)(3) regarding signatures, Steven M. Berman, Esquire attests that concurrence in the filing of this paper has been obtained.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 3, 2021, the foregoing was furnished by CM/ECF notice to all counsel of record, and additionally served via U.S. Mail per Limited Notice Order (Doc 138) and to the following:

United States Trustee - TPA7/7
Timberlake Annex, Suite 1200
501 E Polk Street
Tampa, FL 33602
Via ECF

Debtor, Procom America, LLC
400 N. Ashley Drive
Suite 1010
Tampa, FL 33602
Via US Mail

**Procom America, LLC dba
Beyond Band of Brothers dba
BOBB**
c/o Alberto F Gomez, Jr.
Johnson Pope Bokor Ruppel & Burns, LLP
401 East Jackson Street, Suite 3100
Tampa, FL 33602
Via ECF

Kevin E. Riggs
Renaissance Consulting & Development,
LLC
23110 State Road 54, Suite 324
Lutz, FL 33549
Via US Mail

Kevin E. Riggs
c/o Matt A. Tornincasa, Esquire
Shendell & Pollock P.L.
2700 N. Military Trail, Suite 150 Boca
Raton, FL 33431
Via US Mail

/s/ Steven M. Berman
Attorney

cc: Court Reporter, U.S. Legal Support (*Via electronic mail*)

EXHIBIT "A"

DEFINITIONS

1. "Mr. Riggs," means "you," and "your" means Kevin Riggs individually and as the former 401K Plan Administrator of Procom America, LLC d/b/a Beyond Band of Brothers d/b/a BBOB and all of their agents, representatives, assigns, and all other persons acting or purporting to act on behalf of the company.

2. "Procom" collectively means Procom America, LLC d/b/a Beyond Band of Brothers d/b/a BBOB and all of its predecessors or successors in interest, agents, representatives, assigns, and all other persons acting or purporting to act on behalf of the company, along with Procom Investments, Procom Consulting, Procom Consulting Utazasi IRODA, Procom Tours, LLC.

3. "Communication" means any oral or written utterance, notation or statement of any nature whatsoever, by and to whomsoever made, including but not limited to, correspondence, conversations, dialogues, discussions, interviews, conference, meetings, consultations, agreements, understandings, and exchanges of information between or among two or more people.

4. "401K Plan" means any retirement benefits plan organized consistent with the ERISA provisions of the United States Code and related Treasury Regulations generally referred to as a 401K Plan."

5. "Document" means any written, typed, printed, recorded, electronic, or graphic matter, however produced, of any type or description, whether sent or received, including when applicable both sides of originals, all non-identical copies, whether different from the original by reasons of any notation made on such copies or otherwise, and drafts, including, but not limited to, any papers, books, letters, correspondence, e-mails, telegrams, bulletins, notices, announcements, instructions, charts, manuals, brochures, pamphlets, prospectuses, schedules, memoranda, notes, notations, working papers, worksheets, transcripts, minutes, agendas, reports, meetings, affidavits, statements, summaries, opinions, studies, analyses, evaluations, contracts, checks, receipts, returns, invoices, agreements, journals, statistical records, desk calendars, appointment books, diaries, lists, tabulations, sound recordings, computer printouts, data processing input and output, microfilms, tapes, cassettes, disks, data files, and recordings of telephone communications, of interviews, of conferences, or of other communications, graphic or aural records, including, but not limited to photographs, videotape, records, and motion pictures, and all alterations, modifications, changes and amendments of any of the foregoing, and any other records or representations of any kind kept by electronic, photographic, electric, mechanical, or other means, including any electronically stored information ("ESI") of any of the foregoing, and things similar to any of the above, however denominated, and any other communications within the meaning of the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure and the Federal Rules of Evidence.

6. The term "all documents or communications" shall mean every document or group of documents as above defined known to you, and every such document or communication which can be located or discovered by reasonable diligent efforts.

7. “Person” means any natural person, firm, association, partnership, joint venture, corporation, or any other legal or informal entity.

8. “Electronically Stored Information” means all materials within the full scope of Rule 34 of the Federal Rules of Civil Procedure including, but not limited to, all electronic, mechanical, magnetic, or optical records or representations of any kind including any and all electronically stored (including, without limitation, computer files and programs, tapes, cassettes, discs, recordings), metadata, and information stored on a computer, laptop, hand-held computer device, disk, CD, DVD, and any mechanical recording or production of any oral material.

9. “Relating to,” “relates to,” or “reflect” means in any way directly or indirectly concerning, pertaining or referring to, discussing, disclosing, constituting, describing, confirming, supporting, evidencing, or representing any information which bears upon that matter.

10. The terms “and” and “or,” as used herein, are both conjunctive and disjunctive.

11. All singular words include the plural, and all plural words include the singular.

12. All words in the present tense include the past, and all words in the past tense include the present.

DOCUMENT REQUESTS

1. All documents and communications shared or delivered by and between you and Procom.

2. All documents and communications relating to 401K Plan administration for Procom.

3. All copies of fiduciary liability insurance and fidelity bonds for the 401K Plan you administered for Procom.

4. All Electronically Stored Information relating to 401K Plan Annual Administration for Procom, for the entire period beginning four years prior to the filing the bankruptcy petition on or about May 1, 2020 and continuing through the present date.

5. All Procom employee Timesheets.

6. All documents evidencing the equity security holder interests held in Procom.

7. All documents evidencing any indebtedness owed by Procom as of the filing of their bankruptcy petition on or about May 1, 2020.

8. All documents including, without limitation, contracts, agreements, addendums, employment agreements, correspondence or communications, ledgers, journals, and check stubs, relating in any way to the costs associated with any payments including the salary, wages, and bonuses paid to managers and owners of Procom for the entirety of the period beginning four years

prior to the filing of the bankruptcy petition on or about May 1, 2020 and continuing through the present date.

9. All documents including, without limitation, contracts, agreements, addenda, employment agreements, correspondence or communications, ledgers, and journals, relating in any way to the costs associated with any payments, including the salary, wages and bonuses paid to Procom non-managers and general staff during the period beginning four years prior to the petition date of May 1, 2020 through the present date.

10. All documents evidencing any perquisites or benefits of the 401K Plan distributed by Procom or any other individual or entity from Procom.

11. All loan or equity security documents involving Procom.

12. All promissory notes or their equivalent executed between Procom and any other party.

13. All documents including, without limitation, proof of damages, contracts, agreements, correspondence or communications related to the claim asserted against Procom beginning with the period four years prior to the filing of your bankruptcy petition on or about May 1, 2020 and continuing through the present date.

14. All documents and communications concerning and interim or hardship payments requested by employees or Procom related to the 401K Plan.