

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**  
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In re:

Procom America, LLC,  
  
Debtor.

Case No.: 8:20-bk-03522-MGW  
Chapter 7

**APPELLANT PETER GAAL’S STATEMENT OF THE ISSUES  
PRESENTED ON APPEAL AND DESIGNATION OF RECORD**

Peter Gaal (“Gaal” and/or “Appellant”), a citizen and resident of Hungary, by and through his undersigned counsel and pursuant to Fed. R. Bankr. P. 8009(a)(1), hereby files his statement of the issues to be presented and designation of items to be included in the record in connection with his appeal to the United States District Court, Middle District of Florida, Case No. 8:22-cv-00820-TPB, of the Bankruptcy Court’s Order Granting Chapter 7 Trustee, Douglas N. Menchise’s Motion to Compel Rule 2004 Examinations Duces Tecum (Doc. No. 265) entered June 10, 2021; Memorandum Opinion on Service of a Subpoena on a Foreign National (Doc. No. 354) entered March 21, 2022; and Order Denying Peter Gaal’s Expedited Motion for Reconsideration of the Order Granting Chapter 7 Trustee, Douglas N. Menchise’s, Motion to Compel Rule 2004 Examinations Duces Tecum (Doc. No. 357) entered March 22, 2022:

**STATEMENT OF ISSUES TO BE PRESENTED ON APPEAL**

1. Whether the Bankruptcy Court erred in holding that Fed. R. Civ. P. 45(b)(1) does not require service of the Rule 2004 Subpoena on Gaal by personal delivery?
2. Whether the Bankruptcy Court erred in holding that service of the Rule 2004 Subpoena on Gaal’s counsel by email is a permissible form of substitute service on Gaal under Fed. R. Civ. P. 45(b)(1)?

3. Whether the Bankruptcy Court erred in holding that Gaal (a non-party foreign national living abroad) is subject to the Bankruptcy Court's subpoena power, absent personal service of the subpoena on Gaal within the United States?

4. Whether the Bankruptcy Court erred in holding that the Trustee is not required to comply with the Hague Evidence Convention in order to obtain discovery from Gaal (a non-party foreign national living abroad)?

**DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellant hereby designates the following items to be included in the record on appeal, including all exhibits and attachments thereto:

**Documents Filed in Bankruptcy Case No: 8:20-bk-03522-MGW**

<b>Docket No.</b>	<b>Filing Date</b>	<b>Description</b>
260	04/29/2021	Chapter 7 Trustee, Douglas N. Menchise's, Omnibus Notice of Taking Rule 2004 Examinations <i>Duces Tecum</i>
263	06/01/2021	Chapter 7 Trustee, Douglas N. Menchise's, Motion to Compel Rule 2004 Examinations <i>Duces Tecum</i>
265	06/10/2021	Order Granting Chapter 7 Trustee, Douglas N. Menchise's, Motion to Compel Rule 2004 Examinations <i>Duces Tecum</i>
269	06/21/2021	Chapter 7 Trustee, Douglas N. Menchise's, Omnibus Re-Notice of Taking Rule 2004 Examinations <i>Duces Tecum</i>
272	06/21/2021	Expedited Motion for Reconsideration of the Order Granting Chapter 7 Trustee, Douglas N. Menchise's, Motion to Compel Rule 2004 Examinations <i>Duces Tecum</i>
274	06/29/2021	Notice of Preliminary Hearing on the Expedited Motion for Reconsideration of the Order Granting Chapter 7 Trustee, Douglas N. Menchise's, Motion to Compel Rule 2004 Examinations <i>Duces Tecum</i>
275	06/29/2021	Response to Peter Gaal's Expedited Motion for Reconsideration of the Order Granting Chapter 7 Trustee, Douglas N. Menchise's, Motion to Compel Rule 2004 Examinations <i>Duces Tecum</i>
279	07/05/2021	Notice of Supplemental Authority
280	07/06/2021	Pro Memo
282	07/09/2021	Gaal's Response to Trustee's Notice of Filing Supplement Authority Regarding Expedited Motion for Reconsideration of the Order Granting Chapter 7 Trustee, Douglas N. Menchise's, Motion to Compel Rule 2004 Examinations <i>Duces Tecum</i>

283	07/12/2021	Notice of Filing Proposed Memorandum Decision and Order
284	07/14/2021	Notice of Filing Proposed Order
286	07/15/2021	Order Granting Amended Motion for Leave to Withdraw as Counsel for Debtor
354	03/21/2022	Memorandum Opinion on Service of a Subpoena on a Foreign National
357	03/22/2022	Order Denying Peter Gaal's Expedited Motion for Reconsideration of the Order Granting Chapter 7 Trustee, Douglas N. Menchise's, Motion to Compel Rule 2004 Examinations <i>Duces Tecum</i>
362	04/04/2022	Notice of Appeal
363	04/04/2022	Motion for Leave to Appeal
379	04/14/2022	Transcript Regarding Hearing Held July 6, 2021 (on order with reporter pursuant to Fed. R. Bankr. P. 8009(b)(1))

Dated: April 18, 2022.

/s/ Lynn Welter Sherman

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*Counsel for Peter Gaal*

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on April 18, 2022 a true and correct copy of the above and foregoing has been electronically filed with the Clerk of Court by using the CM/ECF system, which will send notice of electronic filing to all CM/ECF registered recipients.

/s/ Lynn Welter Sherman

Lynn Welter Sherman