

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
www.flmb.uscourts.gov

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.

**SECOND AMENDED CHAPTER 7 TRUSTEE, DOUGLAS N. MENCHISE'S, OMNIBUS
FOURTH NOTICE OF TAKING RULE 2004 EXAMINATIONS *DUCES TECUM*¹**

PLEASE TAKE NOTICE that DOUGLAS N. MENCHISE (the "Trustee"), as Chapter 7 Trustee of the bankruptcy estate of PROCOM AMERICA, LLC (the "Debtor"), by counsel, will examine the following person(s), under oath, on the date(s) and at the time(s) and location(s) set forth below pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure:

DEPONENT	DATE/TIME	PLACE
Mr. Peter Gaal, individually c/o Lynn W. Sherman, Esq. Trenam Kemker Law Firm 200 Central Avenue, Suite 1600 St. Petersburg, FL 33701	July 11-12, 2022 At 8:30am EST each day	Baker & McKenzie Budapest, Hungary
Fed. R. Civ. P. 30(b)(6) Corporate representative(s) of Procom Tours, LLC , who is designated to provide binding testimony on its behalf with respect to the subject matters set forth on Schedule A(II) attached hereto. c/o Lynn W. Sherman, Esq.	July 11-12, 2022 Immediately Following Examination of Peter Gaal	Baker & McKenzie Budapest, Hungary

¹ Amended to clarify the new address.

<p>Fed. R. Civ. P. 30(b)(6) Corporate representative(s) of Procom America, LLC who is designated to provide binding testimony on its behalf with respect to the subject matters set forth on Schedule A(II) attached hereto. c/o Lynn W. Sherman, Esq.</p>	<p>July 11-12, 2022 Immediately Following Examination of Corporate representative(s) of Procom Tours, LLC</p>	<p>Baker & McKenzie Budapest, Hungary</p>
--	---	--

The Rule 2004 Examinations will be in held in person for Peter Gaal, Corporate Representative(s) for Procom America, LLC and Corporate Representative(s) for Procom Tours, at Baker McKenzie² and via Zoom for all others.

To join a Zoom meeting from a Laptop / Mobile Phone please click here:

Meeting URL: <https://bakermckenzie.zoom.us/j/91224114013?pwd=cjlzVitxSTZySIREVm9ubWZNRGE1UT09>

Meeting ID: 912 2411 4013

Password: 890636

The Rule 2004 Examinations may continue from day to day until completed. If the Examinee receives this Notice less than seven (7) days prior to the scheduled Rule 2004 Examination date (or less than ten (10) days if the Rule 2004 Examination is taking place outside the State of Florida), the Trustee's Rule 2004 Examination will be rescheduled to a mutually agreeable time upon timely request.

The Rule 2004 Examinations are being taken pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure. The Rule 2004 Examinations will be taken before an officer authorized to record the testimony. The scope of the Rule 2004 Examinations shall be as described in Rule 2004 of the Federal Rules of Bankruptcy Procedure. It is the Examinee's responsibility to provide and pay for a translator, if one is needed at the Rule 2004 Examination.

² The building is called "Palazzo Dorottya" and has several entrances. The public entrance which the deponents should use is located at: Apáczai Csere János utca 15/2 and is marked with the letter board of "Baker & McKenzie". Please contact the undersigned for further directions if needed.

Pursuant to the 2004 Examination Order, the witnesses are required to produce all documents responsive to the Trustee's *duces tecum* requests attached hereto at Schedule A(III) to undersigned counsel on or before **July 4, 2022.**

Respectfully submitted,

Date: July 8, 2022

SHUMAKER, LOOP & KENDRICK, LLP

/s/ Steven M Berman _____

STEVEN M. BERMAN, ESQUIRE

Florida Bar No.: 856290

Primary E-Mail: sberman@shumaker.com

101 E. Kennedy Blvd., Suite 2800

Tampa, Florida 33602

Phone (813) 229-7600

Facsimile (813) 229-1660

*Counsel for Trustee Douglas N. Menchise,
Ch. 7 Trustee*

-AND-

FOX ROTHSCHILD, LLP

By: */s/ Robert F. Elgidely* _____

Robert F. Elgidely, Esq.

Florida Bar No. 111856

relgidely@foxrothschild.com

2 South Biscayne Blvd., Suite 2750

Miami, FL 33131

Phone: (305) 442-6543

Fax: (305) 442-6541

Counsel for Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 8, 2022, the foregoing was furnished by CM/ECF notice to all counsel of record, or by United States mail postage prepaid per Limited Notice Order, [ECF No. 138]

/s/ Steven M Berman _____

Attorney

SCHEDULE A

I. DEFINITIONS AND INSTRUCTIONS

Unless otherwise specified, the following definitions apply to this Amended Notice of Taking Rule 2004 Examination *Duces Tecum* and are deemed to be incorporated into each subject listed below:

1. The term "**Communication(s)**" means any written or oral statement, dialogue, colloquialism, discussion, conversation or agreement of any kind or character, including, by way of example and without limitation, any act or instance whereby messages, facts, data or any other information is transmitted orally, visually, in writing, electronically or by any other means or media from natural person or firm to another (e.g., personal conversations, telephone conversations, letters, e-mails, meetings, memoranda, telegraphic and telex communications or transmittals of documents), any manner or form of information, memorandum or notes or message transmission, however produced or reproduced, whether by "document" as herein defined or orally or otherwise, which was distributed or circulated between or among persons, or data storage or processing units and any and all documents containing, consisting of, or relating or referring, in any way, either directly or indirectly to, a communication.

2. The terms "**concern**" or "**concerning**" means relating to, referring to, connected with, commenting on, responding to, supporting, mentioning, containing, evidencing, showing, memorializing, describing, analyzing, reflecting, comprising or constituting.

3. The term "**Debtor**" means Procom America, LLC.

4. The phrase "**Debtor Representative(s)**" means:

- (i) Peter Gaal;
- (ii) Nikoletta "Nikki" Montgomery;
- (iii) Debra Watkins; and
- (iv) any of the Debtor's officer(s), director(s), manager(s), employee(s), agent(s), or other person(s) acting or authorized to act on its behalf (past or present).

5. The term "**Document(s)**" shall have a synonymous meaning equal in scope to the usage of the term in Rule 34(a) of the Federal Rules of Civil Procedure and shall include, but shall not be limited to, the original and all drafts of all written and graphic matter, however produced or reproduced, of any kind or description, whether or not approved, signed, sent, received, re-drafted or executed, and all copies thereof which are different in any way from the original (whether by interlineation, date-stamp, notation, indication of copies sent or received, or otherwise), including, without limitation, any E-mails, paper, letter, correspondence, memoranda (including interoffice and intraoffice memoranda), notes, memoranda for files, memoranda of telephone or other conversation, announcement, bulletin, press release, newspaper or magazine article, pamphlet, circulars, advertising material, studies, analysis, statistics, surveys, drawing, sketch, schematic, chart, graph, investigation, study, working paper, summary, report, opinion, table, schedule, extract,

blueprint, portfolio, ledger, worksheet, prospectus, financial projection, financial statement, financial schedule, book, note, notation, message slip, telegram, telex and telecopier message, agreement, contract, object, record, transcript, hearing, meeting, diary, or other communication, chronological data, minutes, agendas, transcriptions, record, report, invoice, receipt, return, computer printout or other computer derived data, schedule, affidavit, cancelled check, check stub, delivery ticket, bill of lading, graph or aural records or representations of any kind, including without limitation, photographic matter, microfiche, microfilm, video-tape, motion picture and electronic, all mechanical or electronic sound recordings or transcripts thereof (including without limitation tapes, cassettes, discs and recordings) in your possession, custody, and/or control, or your agents, representatives or attorneys, unless privileged, or of which you have knowledge.

6. The phrase "**Electronic Data**" or the term "**Data**" means the original (or identical duplicate when the original is not available) and any non-identical copies (whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, or highlighting of any kind) of writings of every kind and description whether inscribed by mechanical, facsimile, electronic, magnetic, digital, or other means. Electronic Data includes, by way of example only, computer programs (whether private, commercial, or work-in-progress), programming notes or instructions, activity listings of electronic mail receipts and/or transmittals, output resulting from the use of any software program, including word processing documents, spreadsheets, Database files, charts, graphs and outlines, electronic mail, operating systems, source code of all types, peripheral drivers, TIF files, batch files, ASCII files, .pdf (portable document format) files, and any and all miscellaneous files and/or file fragments, regardless of the media on which they reside and regardless of whether said electronic data consists in an active file, deleted file or file fragment. Electronic Data includes any and all items stored on computer memories, hard disks, floppy disks, CD-ROMs, removable media such as Zip disks, Jaz cartridges, Bernoulli Boxes and their equivalent, magnetic tapes of all types, microfiche, punched cards, punched tape, computer chips, including, but not limited to EPROM, PROM, RAM and ROM, on or in any other vehicle for digital data storage and/or transmittal. The term Electronic Data also includes the file, folder tabs and/or containers and labels appended to, or associated with, any physical storage device associated with each original and/or copy.

7. The acronym "**ESI**" means data including writings, drawings, emails, graphs, charts, photographs, sound recordings, images, and other data or data compilations — stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form.

8. The term "**Person**" includes natural persons, proprietorships, partnerships, firms, corporations, institutions, bodies, joint ventures, estates, trusts, receivers, public corporations, other forms of legal entity, municipal corporations, federal, state and local governments, all departments and agencies thereof, and any other governmental agencies, political subdivisions, groups, associations or organizations, and any other group or combination acting as an entity.

9. The phrase "**Petition Date**" means May 1, 2020.

10. The phrase "**Procom Entities**" means (i) Procom America, LLC; (ii) Procom Investments KFT; (iii) Procom Consulting KFT; (iv) Procom Consulting Utazasi IRODA KFT; and (v) Procom Tours, LLC, as well as any of its/their predecessors, successors, parents, subsidiaries (direct or indirect), affiliates, divisions, groups and other operational or functional units thereof.

11. The phrase "**Procom Entity Representative(s)**" means:

- (i) Peter Gaal;
- (ii) Nikoletta "Nikki" Montgomery;
- (iii) Debra Watkins; and
- (iv) any of the Procom Entities' officer(s), director(s), manager(s), employee(s), agent(s), or other person(s) acting or authorized to act on its/their behalf (past or present).

12. The phrase "**Related to**" means directly or indirectly, concerning, referring to, reflecting, describing, evidencing, constituting, pertaining to, arising out of or in connection with, or in any way legally, logically or factually connected with the matter discussed.

13. Unless otherwise stated, the "**Relevant Period**" for each of the below topics and document requests is May 1, 2016 through and including May 1, 2020.

II. DEPOSITION TOPICS

IMPORTANT-(REFER TO ABOVE DEFINITIONS FOR MEANING OF TERMS).

Each of the Procom Entities shall designate and produce for deposition one or more of their officers, directors, managing agents, or other persons who are knowledgeable about and consent to testify on their behalf concerning the following subject matters:

1. The Debtor's acts, conduct, property, assets, liabilities and financial condition.
2. The Debtor's payments to creditors in the ninety day period preceding the Petition Date including, but not limited to, those identified on the attachment to the voluntary petition filed in the above-captioned bankruptcy case at Doc. 70, CM/ECF pp. 311-321.
3. The Debtor's payments or transfers to any of the Debtor Representative(s) in the four year period preceding the Petition Date including, but not limited to, those identified on the attachment to the voluntary petition filed in the above-captioned bankruptcy case at Doc. 70, CM/ECF pp. 322-324.
4. The Debtor's payments or transfers to any of the Procom Entities in the four year period preceding the Petition Date.
5. The Debtor's payments or transfers to any of the Procom Entity Representative(s) in the four year period preceding the Petition Date.

6. The relationship, communications, and transactions between the Debtor or the Debtor Representative(s) and each of the Procom Entities or the Procom Entity Representative(s).

7. The relationship, communications, and transactions by and between the Debtor Entity Representative(s).

8. The relationship, communications, and transactions by and between the Procom Entity Representative(s).

9. The relationship, communications, and transactions between the Debtor or the Debtor Representative(s) and Dennis Ross, individually, and doing business as World War II Tours of Europe and Custom Euro Tours, and Cheryl Ross, individually and doing business as MRG Design.

10. The relationship, communications, and transactions between the Debtor or the Debtor Representative(s) and TravelX.

11. The relationship, communications, and transactions between the Debtor or the Debtor Representative(s) and Berkshire Hathaway Insurance Company.

12. The relationship, communications, and transactions between the Debtor or the Debtor Representative(s) and Viking Bond Service, Inc. (CA), Viking Bond Service, Inc. (FL), Viking Bond Service, Inc. (HI), Viking Bond Service, Inc. (IA), and Viking Bond Service, Inc. (WA).

13. The relationship, communications, and transactions between the Debtor or the Debtor Representative(s) and Forever Young, Inc.

III. DOCUMENTS REQUESTED

IMPORTANT-(REFER TO ABOVE DEFINITIONS FOR MEANING OF TERMS).

1. Any and all Communications, Documents, Electronic Data, and ESI concerning, referring to, relating to, and/or evidencing any assignment, transfer, or sale of any property (cash, real property, personal property, tangible property, intangible property, etc.) by the Debtor (directly or indirectly) to any of the Debtor Representative(s) in the Relevant Period.

2. Any and all Communications, Documents, Electronic Data, and ESI concerning, referring to, relating to, and/or evidencing any assignment, transfer, or sale of any property (cash, real property, personal property, tangible property, intangible property, etc.) by the Debtor (directly or indirectly) to any of the Procom Entities in the Relevant Period.

3. Any and all Communications, Documents, Electronic Data, and ESI concerning, referring to, relating to, and/or evidencing any assignment, transfer, or sale of any property (cash, real property, personal property, tangible property, intangible property, etc.) by the Debtor (directly or indirectly) to any of the Procom Entity Representative(s) in the Relevant Period.

4. Any and all Communications, Documents, Electronic Data, and/or ESI by and between any of the Debtor Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing the Debtor during the Relevant Period.

5. Any and all Communications, Documents, Electronic Data, and/or ESI by and between any of the Debtor Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities during the Relevant Period.

6. Any and all Communications, Documents, Electronic Data, and/or ESI by and between any of the Procom Entity Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing the Debtor during the Relevant Period.

7. Any and all Communications, Documents, Electronic Data, and/or ESI by and between any of the Procom Entity Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities during the Relevant Period.

8. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing Peter Gaal during the Relevant Period.

9. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing Nikoletta "Nikki" Montgomery during the Relevant Period.

10. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing Debra Watkins during the Relevant Period.

11. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing Peter Gaal during the Relevant Period.

12. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing Nikoletta "Nikki" Montgomery during the Relevant Period.

13. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing Debra Watkins during the Relevant Period.

14. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) and Renaissance Consulting & Development LLC or Kevin Riggs concerning, referring to, relating to, reflecting, and/or evidencing the Debtor in the Relevant Period.

15. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) and Renaissance Consulting &

Development LLC or Kevin Riggs concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities in the Relevant Period.

16. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) and Renaissance Consulting & Development LLC or Kevin Riggs concerning, referring to, relating to, reflecting, and/or evidencing the Debtor in the Relevant Period.

17. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) and Renaissance Consulting & Development LLC or Kevin Riggs concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities in the Relevant Period.

18. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) and Forever Young, Inc. (or any of its owners, officers, directors, managers, employees, independent contractors, agents, or other individual(s) acting or purporting to act on its behalf) concerning, referring to, relating to, reflecting, and/or evidencing the Debtor in the Relevant Period.

19. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) and Forever Young, Inc. (or any of its owners, officers, directors, managers, employees, independent contractors, agents, or other individual(s) acting or purporting to act on its behalf) concerning, referring to, relating to, reflecting, and/or evidencing the Debtor in the Relevant Period.

20. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) and Forever Young, Inc. (or any of its owners, officers, directors, managers, employees, independent contractors, agents, or other individual(s) acting or purporting to act on its behalf) concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities in the Relevant Period.

21. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) and Forever Young, Inc. (or any of its owners, officers, directors, managers, employees, independent contractors, agents, or other individual(s) acting or purporting to act on its behalf) concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities in the Relevant Period.

22. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) and TravelX concerning, referring to, relating to, reflecting, and/or evidencing the Debtor in the Relevant Period.

23. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) and TravelX concerning, referring to, relating to, reflecting, and/or evidencing the Debtor in the Relevant Period.

24. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) and TravelX concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities in the Relevant Period.

25. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) and TravelX concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities in the Relevant Period.

26. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) and Berkshire Hathaway Insurance Company concerning, referring to, relating to, reflecting, and/or evidencing the Debtor in the Relevant Period.

27. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) and Berkshire Hathaway Insurance Company concerning, referring to, relating to, reflecting, and/or evidencing the Debtor in the Relevant Period.

28. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) and Berkshire Hathaway Insurance Company concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities in the Relevant Period.

29. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) and Berkshire Hathaway Insurance Company concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities in the Relevant Period.

30. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) and Viking Bond Service, Inc. (CA), Viking Bond Service, Inc. (FL), Viking Bond Service, Inc. (HI), Viking Bond Service, Inc. (IA), and Viking Bond Service, Inc. (WA) concerning, referring to, relating to, reflecting, and/or evidencing the Debtor in the Relevant Period.

31. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) and Viking Bond Service, Inc. (CA), Viking Bond Service, Inc. (FL), Viking Bond Service, Inc. (HI), Viking Bond Service, Inc. (IA), and Viking Bond Service, Inc. (WA) concerning, referring to, relating to, reflecting, and/or evidencing the Debtor in the Relevant Period.

32. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) and Viking Bond Service, Inc. (CA), Viking Bond Service, Inc. (FL), Viking Bond Service, Inc. (HI), Viking Bond Service, Inc. (IA), and Viking Bond Service, Inc. (WA) concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities in the Relevant Period.

33. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) and Viking Bond Service, Inc. (CA), Viking Bond Service, Inc. (FL), Viking Bond Service, Inc. (HI), Viking Bond

Service, Inc. (IA), and Viking Bond Service, Inc. (WA) concerning, referring to, relating to, reflecting, and/or evidencing the Procom Entities in the Relevant Period.

34. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing that certain Asset Purchase Agreement by and between the Debtor and Dennis Ross, individually, and doing business as World War II Tours of Europe and Custom Euro Tours and Cheryl Ross, individually and doing business as MRG Design.

35. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing that certain Asset Purchase Agreement by and between the Debtor and Dennis Ross, individually, and doing business as World War II Tours of Europe and Custom Euro Tours and Cheryl Ross, individually and doing business as MRG Design.

36. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Debtor or any of the Debtor Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing the Procom America 401(k) Plan.

37. Any and all Communications, Documents, Electronic Data, and/or ESI by and between the Procom Entities or any of the Procom Entity Representative(s) concerning, referring to, relating to, reflecting, and/or evidencing the Procom America 401(k) Plan.

38. All documents reviewed by the witness in preparation for the 2004 examination.