

ORDERED.

Dated: November 11, 2022



Catherine Peek McEwen
United States Bankruptcy Judge

**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.

**ORDER GRANTING TRUSTEE'S MOTION
FOR CIVIL CONTEMPT AND SANCTIONS (DOC. 427)**

THIS CASE came before this Court for hearing on October 5, 2022, on the Motion for Civil Contempt and Sanctions (Doc. 427) (the "Motion") filed by Douglas N. Menchise, Chapter 7 Trustee (the "Trustee") and the response in opposition (Doc. No. 435) (the "Gaal Response") filed by Peter Gaal ("Mr. Gaal) and the response in opposition (Doc. No. 436) (together with the Gaal Response, the "Responses in Opposition") filed by Procom Consulting KFT a/k/a Procom Consulting Utuzasi Iroda KFT and Procom Investments KFT (collectively, the "Hungarian Companies"). The Motion requests, *inter alia*, that this Court find Mr. Gaal, along with Procom America, LLC; Procom Tours, LLC; Procom Consulting Utazasi IRODA, KFT; Procom Investments, KFT; and Procom Consulting, KFT (collectively, the "Procom Entities"), in civil contempt for failure to comply with this Court's orders regarding Rule 2004 discovery sought from

these parties by the Trustee, including this Court’s July 29, 2022 oral ruling and subsequent written Order Granting in Part Trustee’s Expedited Motion to Compel Rule 2004 Examinations (Doc. 426) (the “Order Granting Motion to Compel”), and other orders described therein (i.e. Doc. 265, 354, 357, 385) (“collectively, the “Prior Discovery Orders”). This Court reviewed the Motion and the Responses in Opposition, heard argument of counsel for the Trustee, counsel for Gaal, and counsel for the Hungarian Companies, and is otherwise familiar with the papers and pleadings in this case. For the reasons stated in open court, which shall be the decision of this Court, it is

ORDERED:

1. The Motion is hereby **GRANTED**, as set forth herein.
2. Gaal and the Procom Entities are hereby found to be in civil contempt for failure to comply with this Court’s discovery orders, including the Order Granting Motion to Compel and the Prior Discovery Orders.
3. Gaal is hereby ordered to sit for and give testimony at a Bankruptcy Rule 2004 examination as noticed by the Trustee, and produce all documents that are the subject of the Prior Discovery Orders, subject to the pending proceeding rule.
4. A Fed. R. Civ. P. 30(b)(6) corporate representative of each of the Procom Entities is hereby ordered to sit for and give testimony at a Bankruptcy Rule 2004 examination as noticed by the Trustee, and each of the Procom Entities shall produce all documents that are the subject of the Prior Discovery Orders directed to such entity, subject to the pending proceeding rule. Gaal is further ordered to cause the Procom Entities to designate such corporate representatives and to produce all such documents. Gaal is further ordered to cause the Hungarian Companies to produce the Fed. R. Civ. P. 30(b)(6) corporate representative(s) to give testimony on the areas set forth in the Trustee’s subpoena(s).

5. As to the pending proceeding rule objections raised by Gaal and the Hungarian Companies, facts that are framed in the pleadings of the adversary proceeding styled *Menchise v. Gaal*, Adv. Pro. No. 8:22-ap-00041 (the “Adversary Proceeding”), shall be discovered using the discovery tools that apply to the Adversary Proceeding. The Rule 2004 examinations of Gaal and the Hungarian Companies shall proceed, and the areas of inquiry will be those that are outside the issues framed in the Adversary Proceeding.

6. This Court declines to impose any monetary sanctions against the Procom Entities at this time, but reserves jurisdiction to consider further sanctions.

7. As to Mr. Gaal, for each and every day that Mr. Gaal fails to appear for his individual Bankruptcy Rule 2004 examination by the Trustee, he shall be fined \$500 per day, beginning as of October 6, 2022, the day after this Court’s oral ruling.

8. Additionally, if Mr. Gaal shall appear on any air, land or sea travel manifest bound for travel to the United States, or at any time or place in which Mr. Gaal falls into the legal jurisdiction of the United States, the United States Marshalls are hereby authorized and directed to serve a Subpoena for Rule 2004 Examination upon him both individually and on behalf of all the Procom Entities, in a manner that is least intrusive to Mr. Gaal.

9. Mr. Gaal and the Procom Entities’ contempt may be purged by and through their respective appearances at a Bankruptcy Rule 2004 Examination, testimony thereon, and production of documents as set forth in paragraph 3 of this Order as to Gaal, individually, and paragraph 4 of this Order as to each of the Procom Entities.

10. In open Court, the Trustee stated that he was not seeking sanctions against counsel for Gaal and counsel for the Hungarian Companies; therefore, any such request in the Motion is DENIED as moot.

11. This Court reserves continuing jurisdiction to consider further civil contempt sanctions, including those permitted by Rule 37(a)(5)(A) of the Federal Rules of Civil Procedure, made applicable by Local Rule 2004-1(h).

Attorney Steven M. Berman is directed to serve a copy of this Order on all interested parties who do not receive service by CM/ECF and file a proof of service within three days of entry of this Order.