

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

<p>In re:</p> <p>deeproot Capital Management, LLC, <i>et al.</i>,¹</p> <p style="text-align: center;">Debtors.</p>	<p>Chapter 7</p> <p>Case No. 21-51523 (MMP)</p> <p>(Jointly Administered)</p>
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**MOTION TO (I) EXPEDITE MOTION TO QUASH
BANKRUPTCY RULE 2004 EXAMINATION NOTICES WITH SUBPOENA
DUCES TECUM, AND (II) SHORTEN AND PRESCRIBE NOTICE RELATED THERETO**

Cycladic International, LLC, (“*Cycladic International*”), Cycladic, LLC (“*Cycladic*”), and Thomas N. Andrew (“*Andrew*” and together with Cycladic International and Cycladic, the “*Movants*”) file this *Motion to (I) Expedite Motion to Quash Bankruptcy Rule 2004 Examination Notices with Subpoena Duces Tecum, and (II) Shorten and Prescribe Notice Related Thereto* (this “*Motion*”) seeking entry of an order granting expedited consideration to Movants’ *Expedited Motion to Quash Bankruptcy Rule 2004 Examination Notices with Subpoena Duces Tecum* (the “*Motion to Quash*”), filed contemporaneously herewith, for a hearing to take place on or before September 6, 2022 as more fully described below to accommodate the schedule of counsel for the Chapter 7 Trustee. In further support of this Motion, the Movants state as follows:

RELIEF REQUESTED

1. The Movants seek entry of an order pursuant to Federal Rule of Bankruptcy Procedure 9006(c)(1) and Local Rule 9014(e) for an order (a) shortening and prescribing notice,

¹ The administratively consolidated chapter 7 cases, along with their respective case numbers and the last four digits of each Debtor’s federal tax identification number, are: *In re Policy Services, Inc.*, 21-51513 (2864), *In re Wizard Mode Media, LLC*, 21-51514 (3205), *In re deeproot Pinball LLC*, 21-51515 (0320), *In re deeproot Growth Runs Deep Fund, LLC*, 21-51516 (8046), *In re deeproot 575 Fund, LLC*, 21-51517 (9404), *In re deeproot 3 Year Bonus Income Debenture Fund, LLC*, 21-51518 (7731), *In re deeproot Bonus Growth 5 Year Debenture Fund, LLC*, 21-51519 (9661), *In re deeproot Tech LLC*, 21-51520 (9043), *In re deeproot Funds LLC*, 21-51521 (9404), *In re deeproot Studios LLC*, 21-51522 (6283), and *In re deeproot Capital Management, LLC*, 21-51523 (2638).

and (b) scheduling a hearing on the Motion to Quash on or before September 6, 2022, subject to the Court's availability. Counsel for Movants has conferred with counsel to the Trustee (defined below) about the relief requested herein and Trustee's counsel advised that he does not oppose the relief requested herein and is available for an expedited hearing to occur on September 1, 2022, the afternoon of September 2, 2022, or the morning of September 6, 2022 (collectively, the "***Proposed Hearing Dates***").

2. The Motion to Quash, which has been filed contemporaneously with this Motion, seeks an order quashing certain categories of questioning and requests for production in connection with certain examination notices that John Patrick Lowe, Chapter 7 Trustee (the "***Trustee***") issued to the Movants pursuant to Federal Rule of Bankruptcy Procedure 2004 (the "***Rule 2004 Notices***") along with certain subpoenas *duces tecum* the Trustee issued accompanying the Rule 2004 Notices (the "***Subpoenas***" and together with the Rule 2004 Notices, the "***Discovery***").

3. The Trustee filed his Rule 2004 Notice on the docket in the lead jointly-administered bankruptcy case of the above-captioned debtors on July 26, 2022. *See* Case No. 21-51523 at Dkt. No. 129. Thereafter, the Trustee mailed the Rule 2004 Notice and the Subpoenas to the Movants in Florida.

4. Upon learning of the Discovery, the Movants retained counsel who reached an agreement with Trustee's counsel to extend the deadline for objections to the Discovery until August 23, 2022, and for the Bankruptcy Rule 2004 examination to tentatively occur on September 7, 2022.

5. Upon further review and consideration of the Discovery and the information being sought, Movants have filed the Motion to Quash seeking to limit the Discovery to within the

parameters authorized under Bankruptcy Rule 2004(b). Both this Motion and the Motion to Quash seek relief in accordance with Local Rule 2004(d).

6. Through this Motion, Movants request that the Court set a hearing on the Motion to Quash for one of the Proposed Hearing Dates but in all events a date on or before September 6, 2022, because that is the date prior to the parties' agreed Rule 2004 deposition date of September 7, 2022. This request for expedited relief is made in accordance with Local Rule 2004(d) and 9014(e).

7. Given the limited amount of time that has passed since Movants received the Discovery from the Trustee, and the relatively quick turnaround leading up to the agreed upon September 7, 2022 examination date, expedited consideration of the Motion to Quash is necessary to prevent both sides from incurring unnecessary costs reviewing or producing discovery that the Court might later find to be beyond the bounds of Bankruptcy Rule 2004(b). Consideration of the Motion to Quash in advance of the Rule 2004 examination date will also lead to more streamlined and efficient depositions with the scope of any disputed issues having been narrowed.

8. Finally, to the extent this Motion is granted, Movants request that the Court's order similarly limit Movants' obligations to serve notice of the hearing on the Motion to Quash in accordance with Local Rule 9014(e) to (a) the Trustee; (b) counsel to the Trustee; (c) the lead Debtor; (d) counsel to the Debtors; (e) the U.S. Trustee; and (f) any other party having appeared and requested notice in the lead chapter 7 bankruptcy case. Movants further request that any response filed by the Trustee to the Motion to Quash similarly be limited to the foregoing list of parties.

WHEREFORE the Movants respectfully request entry of the Order granting the relief requested herein, setting a hearing on the Motion to Quash for one of the Proposed Hearing Dates

to occur on or before September 6, 2022, limiting Movants' obligations for serving notice of such hearing to the parties identified herein, and such other and further relief as the Court may deem just and appropriate.

DATED August 24, 2022.

Respectfully Submitted,

/s/ Stephen J. Humeniuk

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***Counsel for Cycladic International, LLC;
Cycladic, LLC; and Thomas N. Andrew***

CERTIFICATE OF CONFERENCE

I hereby certify that on August 23, 2022, I spoke telephonically with Randy Pulman and Drew Mallender, counsel to the Trustee, regarding the relief requested herein and Trustee's counsel advised the relief requested herein is unopposed concerning expediting the hearing to consider the Motion to Quash and limiting notice related thereto. Mr. Pulman further advised as to his availability on the Proposed Hearing dates specified herein.

/s/ Stephen J. Humeniuk

Stephen J. Humeniuk

CERTIFICATE OF SERVICE

The undersigned certifies that on August 24, 2022, true and correct copies of the foregoing were forwarded to all parties receiving electronic notification in this case from the Court's electronic case filing (ECF) system, including the parties identified immediately below:

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