

**TO THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In Re:

JOURNAL REGISTER COMPANY, et al.,  
Debtors,

Case No. 09-10769 (ALG)

Jointly Administered

Chapter 11  
-----X

**MOTION FOR ENTRY OF AN ORDER PURSUANT TO  
FED. R. BANKR. P. 2004 AUTHORIZING AND DIRECTING  
THE EXAMINATION OF THE DEBTORS**

Richard M. Freeman, “FREEMAN”, as a common stock shareholder, a party in interest, hereby moves (the “Motion”) the Court for entry of an order pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the proposed form of which is attached hereto as Exhibit 1, authorizing and directing the examination of the debtors in these bankruptcy cases (the “Debtors”).

In support of this Motion, FREEMAN submits as follows:

**I. Background**

1. On February 21, 2009 (the “Petition Date”), each of the Debtors filed with the Court their respective voluntary petitions for relief under the Bankruptcy Code commencing the above-captioned chapter 11 cases. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the

Bankruptcy Code. The Court has entered an Order authorizing the joint administration of these chapter 11 cases.

2. No committee, trustee or examiner has been appointed in these cases.

3. On the Petition Date, the Debtors filed with the Petitions an affidavit in support thereof executed under oath by James Hall, debtors' CEO. The affidavit was executed on February 20, 2009.

4. Debtor has submitted its Proposed Disclosure Statement for interested party review. Said disclosure statement is available on the Epic Solutions website section under the folder marked KEY DOCUMENTS and the subfolder "Disclosure Statement and Plan of Reorganization".

5. On Page 210 of said Disclosure Statement, as a part of the TERMS SHEET for the secured lenders, there is a reference to a separation and termination agreement, and payments made pursuant thereto, dated January 20, 2009, between debtor and its CEO, James Hall.

6. The debtor's motion to employ special experts, the Conway DeGriese restructuring firm, refers to Robert Conway as Interim CEO of Debtor. This position of employment with debtors has, also, not been filed with the Securities and Exchange Commission.

7. Debtors continue to file documents, however, alleging that debtors' CEO is James Hall.

8. Freeman is is the beneficial direct owner of 45,000 shares of common stock of the debtor , the indirect beneficial owner of an additional 2,366,975 shares of common stock of the debtor. and has recently purchased an additional 1,000,000 shares of common stock of the debtor, (a total of 3,411,975 shares), and is concerned about some of the Debtors' long-term

business decisions that are being made, including the proposed Plan of Reorganization, and the various motions that have been presented to the court.

The firing of key personnel in the Debtors' operations, and other significant decisions that are being made that have the potential to damage the business and impact the willingness of key personnel to remain with the companies. The need for Freeman to conduct an examination of the Debtors on these issues is made particularly acute because there is no creditors committee which normally would monitor such matters and have access to the information needed to understand whether action is necessary to avoid the creation of unnecessary claims or damage to the estates.

## **II. Jurisdiction and Venue**

9. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334(b).

Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. § 157 (b)(2).

10. The statutory predicates for the relief requested herein is Bankruptcy Rule 2004.

## **III. Relief Requested**

11. By this Motion, Freeman respectfully request the entry of an order, pursuant to Bankruptcy Rule 2004, directing the Debtors (i) to designate an appropriate representative or representatives to submit to an examination by Freeman (the "Rule 2004 Examination"), beginning at a mutually convenient time and place and continuing from day to day thereafter until completed, but absent the consent of Freeman no later than 10 days after entry of an Order granting this Motion, and (ii) to produce copies of the Termination and Separation Agreement

dated January 20, 2009 described in Said Disclosure Statement at 220 Linden St Ste 901, Scranton PA 18503, or at such other place as the parties may agree, such that said documents are received by Freeman no later than two (2) business days prior to the Rule 2004 Examination.

#### **IV. Basis for Relief Requested**

12. Bankruptcy Rule 2004 provides, in relevant part:

(a) Examination on Motion. On motion of any party in interest, the court may order the examination of any entity.

(b) Scope of Examination. The examination of an entity under this rule or of the debtor under § 343 of the Code may relate only to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge....

(c) Compelling Attendance and Production of Documentary Evidence. The attendance of an entity for examination and the production of documentary evidence may be compelled in the manner provided in Rule 9016 for the attendance of witnesses at a hearing or trial.

13. The scope of examination pursuant to Bankruptcy Rule 2004 is largely unfettered. Indeed, the examination can "legitimately be in the nature of a 'fishing expedition.'" *In re M4 Enterprises, Inc.*, 190 B.R. 471, 474 (Bankr. N.D. Ga. 1995); *see also In re Valley Forge Plaza Associates*, 109 B.R. 669, 674 (Bankr. E.D. Pa. 1990) (Bankruptcy Rule 2004 "permits a party

invoking it to undertake a broad inquiry of the examiner”); *In re Fearn*, 96 B.R. 135, 137-38 (Bankr. S.D. Ohio 1989) (“It is well-established that the scope of a Rule 2004 examination is very broad and great latitude of inquiry is ordinarily permitted.”).

14. The scope of the examination requested by Freeman, however, is narrowly tailored to assist Freeman in determining whether his shareholder interest is being unfairly discriminated against, in violation of and in regard to the cramdown provision established under the Absolute Priority Rule, and to the detriment of his equity ownership (which may represent as much as 8% of debtors common stock equity).

15. Whether alleged former CEO James Hall is, in fact the former CEO and the terms and conditions of his departure, and whether Robert Conway is the Interim CEO, and the terms and conditions of his employment, are relevant to the plan of reorganization.

## **V. Notice**

16. Notice of this Motion has been provided to: (a) the U.S. Trustee; (b) counsel to the Debtors; and (c) those parties that have filed a notice of appearance in these cases. Freeman submits that no other or further notice need be provided.

## **VI. No Prior Request**

17. No prior motion for the relief requested herein has been made to this or any other court.

WHEREFORE, Freeman respectfully requests that the Court (a) enter an order substantially in the form annexed hereto as Exhibit 1, granting the relief requested herein and in

the Motion, and (b) grant to Freeman such other and further relief as the Court may deem proper.

Dated: March 2<sup>nd</sup>, 2009

By:

Richard M. Freeman  
220 Linden St Ste 901  
Scranton PA 18503  
Tel: 570.342.4752  
Fax: 888.619.0033  
Email: [misterric@comcast.net](mailto:misterric@comcast.net)

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JOURNAL REGISTER COMPANY, et al.,  
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**ORDER PURSUANT TO FED. R. BANKR. P. 2004  
AUTHORIZING AND DIRECTING THE  
EXAMINATION OF THE DEBTORS**

Upon the motion (the “Motion”) of Richard M. Freeman, for entry of an order pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) authorizing and directing the examination of the Debtors, the Court finds that (i) it has jurisdiction over the matters raised in the Motion pursuant to 28 U.S.C. §§ 157 and 1334(b); (ii) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); (iii) the relief requested in the Motion is in the best interest of the estates, their creditors and other parties-in-interest; (iv) proper and adequate notice of the Motion and the hearing thereon has been given and no other or further notice is necessary; and (v) upon the record herein after due deliberation thereon, good and sufficient cause exists for the granting of the relief as set forth herein.

Therefore,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is **GRANTED**.

2. The Debtors are directed (i) to designate an appropriate representative or representatives to submit to an examination by Richard M. Freeman beginning at a mutually convenient time and place and continuing from day to day thereafter until completed, but absent the consent of Freeman no later than 10 days after entry of an Order granting this Motion, and (ii) to produce copies of the documents described herein at 220 Linden St Ste 901, Scranton PA 18503, or at such other place as the parties may agree, such that said documents are received by Freeman no later than two (2) business days prior to the Rule 2004 Examination.

3. Freeman is authorized and empowered to take all actions necessary to implement the relief granted in this Order, including but not limited to issuing and servicing subpoenas for production of documents and for examination of witnesses.

4. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: New York, NY, March \_\_\_\_, 2009

BY THE COURT:

US BANKRUPTCY JUDGE



CERTIFICATION OF SERVICE

I hereby certify that on this 2<sup>nd</sup> day of March, 2009, a copy of the foregoing MOTION was served via overnight courier (Federal Express) on those attorneys registered to receive notice, postage pre-paid, to:

Attorneys For The Debtors

Marc Abrams, Esq.  
Rachel C. Strickland, Esq.  
Willkie Farr & Gallagher, LLP  
787 Seventh Avenue  
New York, NY 10019-6099

United States Trustee

Office of the U.S. Trustee  
33 Whitehall Street  
21st Floor  
New York, NY 10004

Attorneys for JPMorgan ChaseBank. N.A.

Dennis F. Dunne, Esq.  
Dennis C. O'Donnell, Esq.  
MILBANK, TWEED, HADLEY  
& McCLOY LLP  
1 Chase Manhattan Plaza  
New York, NY 10005

Denise Mondell

Assistant Attorney General  
P.O. Box 120  
55 Elm Street, Fourth Floor  
Hartford, CT 06141-0120  
Tel.: (860) 808-5150  
Fax: (860) 808-5383

Jack T. Spinella, Esq.

Nicoll Davis & Spinella LLP  
250 Park Ave Ste 1500  
New York, NY 10177  
Email: [jspinella@ndslaw.com](mailto:jspinella@ndslaw.com)