

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re:

CBRM REALTY INC., *et al.*,

Debtors.¹



Order Filed on September 3, 2025
by Clerk
U.S. Bankruptcy Court
District of New Jersey

Case No. 25-15343-MBK

Chapter 11

Hearing Date: August 21, 2025

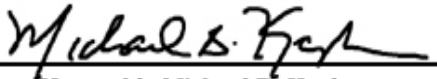
Judge: Hon. Michael B. Kaplan

**ORDER GRANTING IN PART AND DENYING IN PART MOTION OF MOSHE
SILBER FOR AUTHORITY TO ISSUE SUBPOENA PURSUANT TO FEDERAL RULES
OF BANKRUPTCY PROCEDURE 2004 AND 9016**

The relief set forth on the following pages, numbered two (2) through five (5), is

ORDERED.

DATED: September 3, 2025


Honorable Michael B. Kaplan
United States Bankruptcy Judge

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: CBRM Realty Inc. (2420), Crown Capital Holdings LLC (1411), Kelly Hamilton Apts LLC (9071), Kelly Hamilton Apts MM LLC (0765), RH Chenault Creek LLC (8987), RH Copper Creek LLC (0874), RH Lakewind East LLC (6963), RH Windrun LLC (0122), RH New Orleans Holdings LLC (7528), and RH New Orleans Holdings MM LLC (1951). The location of the Debtors' service address in these chapter 11 cases is: In re CBRM Realty Inc., et al., c/o White & Case LLP, 1221 Avenue of the Americas, New York, New York 10020.



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Debtors: CBRM Realty, Inc., *et al.*

Case No. 25-15343 (MBK)

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TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 2004 AND 9016

This matter comes before the Court on the Motion of Moshe (“Mark”) Silber (ECF No. 298) (the “Movant”), seeking the issuance of a subpoena *duces tecum* pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure. The Movant, sole shareholder of CBRM Realty, Inc., asserts that broad discovery is necessary to uncover alleged mismanagement of the Crown Capital Portfolio during his incarceration and to “identify and protect value in the estate.”

The Court has considered the submissions of the parties, including the Debtors’ Limited Objection (ECF No. 375), and the supplemental declaration of Matthew Dundon, incorporated therein. The Court decides this matter without oral argument, consistent with D.N.J. LBR 9013-3(d). For the reasons set forth below, the Motion is **granted in part and denied in part**.

I. Movant’s Arguments

Movant contends that discovery is warranted because Debtors’ fiduciaries have misrepresented the true financial condition of the Crown Capital Portfolio and failed to preserve value. *See* ECF No. 298 at pgs. 3-4. Movant seeks records spanning six broad categories, including management records, complaints or violations, recovery plans, appraisals, pre-petition creditor actions, and all communications among certain of Debtors’ fiduciaries and advisors. *Id.* at 8.

II. Debtors’ Arguments

The Debtors oppose the Motion, arguing that Movant has not met his burden of demonstrating good cause under Rule 2004. They contend that Movant seeks discovery not to benefit the estate, but rather to shift blame for the financial distress which his own guilty plea and mismanagement precipitated. *See* ECF No. 375 at pg. 13. The Debtors further assert that much of the requested information is duplicative of documents already filed on the docket, including operating reports, schedules, and the disclosure statement, thereby defeating any claim of hardship.

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Id. at 15. The Debtors also emphasize that Movant’s sweeping requests for “all communications” and for records of non-debtor subsidiaries far exceed the permissible scope of Rule 2004. *Id.* at 17. Nevertheless, the Debtors state that, in good faith, they are willing to provide financial packages and asset value recovery plan reports for the Kelly Hamilton and NOLA properties, comprising approximately 1,000 documents and 15,000 pages. *Id.* at 18-9.

III. Legal Standard

Rule 2004 authorizes a party in interest to examine the debtor or other entities regarding the “acts, conduct, or property or to the liabilities and financial condition of the debtor.” Fed. R. Bankr. P. 2004(b). Courts recognize the breadth of Rule 2004 discovery, but also emphasize that approval lies within the Court’s discretion. *In re Millennium Lab Holdings II, LLC*, 562 B.R. 614, 626 (Bankr. D. Del. 2016); *In re SunEdison, Inc.*, 572 B.R. 482, 489 (Bankr. S.D.N.Y. 2017). The party seeking discovery bears the burden of showing good cause, and courts must balance the need for discovery with the burden on the estate. *In re Summit Global Logistics, Inc.*, 2008 Bankr. LEXIS 5137, at *9 (Bankr. D.N.J. Apr. 9, 2008); *In re AOG Entm’t, Inc.*, 558 B.R. 98, 108-9 (Bankr. S.D.N.Y. 2016); *In re Waddell*, 2025 WL 957733, at *5 (Bankr. S.D.N.Y. Mar. 28, 2028).

Rule 2004, however, is not boundless. Courts will deny Rule 2004 requests when the examination “is used to abuse or harass” or when such examination would be futile. *See In re East West Resort Dev. V, L.P.*, 2014 Bankr. LEXIS 3930, at *21 (Bankr. D. Del. Sept. 12, 2014) (citation omitted); *In re Mathews*, 2018 U.S. Dist. LEXIS 178364, at *7 (D. Del. Oct. 17, 2018) (“It is clear that Rule 2004 may not be used as a device to launch into a wholesale investigation of a non-debtor’s private business affairs” (citation omitted)); *Summit Global Logistics*, 2008 Bankr. LEXIS 5137, at *9 (“[T]he expansive nature of Rule 2004 should not be permitted to exact prejudice or injustice on the

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Caption of Order: ORDER GRANTING IN PART AND DENYING IN PART MOTION OF MOSHE SILBER FOR AUTHORITY TO ISSUE SUBPOENA PURSUANT TO FEDERAL RULES OF BANKRUPTCY PROCEDURE 2004 AND 9016 subpoenaed party.”). Courts will also deny Rule 2004 requests when the examination is used “in furtherance of party’s own interests rather than the interests of the estate.” *Waddell*, 2025 WL 957733 at *5; *Millennium Lab*, 562 B.R. at 626-27 (Rule 2004 is not a tool for “creditors seeking to use this section to deal with their special problems.”).

IV. Court’s Analysis

The Court finds that Movant has not established good cause for the sweeping discovery requested. Much of the information sought is already publicly available in the Debtors’ schedules, disclosure statement, and prior court filings, and the vague allegations of mismanagement do not justify an expansive fishing expedition, particularly where Movant’s own misconduct contributed to the Debtors’ distress. *Mathews*, 2018 U.S. Dist. LEXIS 178364 at *7. Nor may Rule 2004 be used primarily to shift blame or advance a shareholder’s personal interests. *Millennium Lab*, 562 B.R. at 626–27. Movant’s broader requests—for “all communications,” expansive records from non-debtor subsidiaries, and duplicative public information—are overbroad, burdensome, and unnecessary. Courts routinely deny such overreaching discovery requests under Rule 2004. *See Summit Global Logistics*, 2008 Bankr. LEXIS 5137, at *9; *East West Resort*, 2014 Bankr. LEXIS 3930 at *21.

However, the Court agrees with the Debtors that a limited production is appropriate. The Debtors have offered, in good faith, to provide certain financial packages for the Kelly Hamilton and NOLA properties, as well as asset value recovery plan reports for those properties. These materials will provide Movant with information regarding the estates’ condition without unduly burdening the Debtors or diverting scarce resources. The Court finds this to be a reasonable resolution consistent with Rule 2004’s purpose of illuminating the estate’s financial affairs for the

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benefit of all parties in interest. *See In re Washington Mut., Inc.*, 408 B.R. 45, 50 (Bankr. D. Del.

2009); *Waddell*, 2025 WL 957733 at *22.

V. Conclusion

For the foregoing reasons, and for good cause shown, it is hereby

ORDERED that the Motion (ECF No. 298) is **GRANTED IN PART AND DENIED IN PART**; and it is further

ORDERED that the Debtors shall produce the financial packages and asset value recovery plan reports for the Kelly Hamilton and NOLA properties, consistent with their Limited Objection, within 14 days of the entry of this order; and it is further

ORDERED that the Motion is denied in all other respects.

In re:
CBRM Realty Inc.
Debtor

Case No. 25-15343-MBK
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0312-3
Date Rcvd: Sep 03, 2025

User: admin
Form ID: pdf903

Page 1 of 3
Total Noticed: 1

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Sep 05, 2025:

Recip ID	Recipient Name and Address
db	+ CBRM Realty Inc., c/o Lynd Living, 4499 Pond Hill Road, San Antonio, TX 78231-1292

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Sep 05, 2025

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on September 3, 2025 at the address(es) listed below:

Name	Email Address
Andrew Zatz	on behalf of Plaintiff CBRM Realty Inc. azatz@whitecase.com mco@whitecase.com
Andrew Zatz	on behalf of Debtor RH New Orleans Holdings LLC azatz@whitecase.com mco@whitecase.com
Andrew Zatz	on behalf of Debtor CBRM Realty Inc. azatz@whitecase.com mco@whitecase.com
Andrew Zatz	on behalf of Debtor RH Chenault Creek LLC azatz@whitecase.com mco@whitecase.com
Andrew Zatz	on behalf of Debtor Crown Capital Holdings LLC azatz@whitecase.com mco@whitecase.com
Andrew Zatz	on behalf of Debtor Kelly Hamilton Apts MM LLC azatz@whitecase.com mco@whitecase.com

District/off: 0312-3

User: admin

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Date Rcvd: Sep 03, 2025

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Total Noticed: 1

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Andrew Zatz	on behalf of Debtor RH Lakewind East LLC azatz@whitecase.com mco@whitecase.com
Andrew Zatz	on behalf of Debtor RH New Orleans Holdings MM LLC azatz@whitecase.com mco@whitecase.com
Andrew Zatz	on behalf of Debtor RH Windrun LLC azatz@whitecase.com mco@whitecase.com
Andrew Zatz	on behalf of Debtor Kelly Hamilton Apts LLC azatz@whitecase.com mco@whitecase.com
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Patricia B. Fugee	on behalf of Creditor Cleveland International Fund Patricia.Fugee@FisherBroyles.com ecf@cftechsolutions.com

District/off: 0312-3

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Date Rcvd: Sep 03, 2025

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Total Noticed: 1

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U.S. Trustee

USTPRegion03.NE.ECF@usdoj.gov

TOTAL: 33