

UNITED STATES BANKRUPTCY COURT

District of Delaware

In re AN GLOBAL LLC, et al.
Debtor

Case No. 23-11294

Chapter 11

SUBPOENA FOR RULE 2004 EXAMINATION

To: KPMG LLP, c/o Kevin A. Burke, Foley & Lardner LLP, 90 Park Ave, 37th Floor, New York, NY 10016
(Name of person to whom the subpoena is directed)

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at an examination under Rule 2004, Federal Rules of Bankruptcy Procedure. A copy of the court order authorizing the examination is attached.

PLACE <u>Grant & Eisenhofer P.A.,</u> <u>123 Justison Street, 7th Floor, Wilmington, DE 19801</u>	DATE AND TIME <u>January 10, 2025</u>
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The examination will be recorded by this method: _____

Production: You, or your representatives, must also bring with you to the examination the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material:

See Attachment A

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 12/23/2024

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Frank H. Griffin
Attorney's signature

The name, address, email address, and telephone number of the attorney representing *(name of party)* Plaintiff _____, who issues or requests this subpoena, are:

Frank H. Griffin III, Grant & Eisenhofer P.A., 123 Justison St., Wilmington, DE 19801, fgriffin@gelaw.com Tel: 302-622-7000

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).



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PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) Contempt. The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ATTACHMENT A – KPMG LLP DOCUMENT SUBPOENA

DEFINITIONS

1. “FY2019 Audit Opinion” means KPMG’s “Report of Independent Registered Public Accounting Firm” and “Report of Independent Registered Public Accounting Firm on Internal Control Over Financial Reporting”, related to AN Global Inc.’s and AgileThought, LLC’s financial statements for the fiscal year ended December 31, 2019.

2. “FY2020 Audit Opinion” means KPMG’s “Report of Independent Registered Public Accounting Firm” and “Report of Independent Registered Public Accounting Firm on Internal Control Over Financial Reporting”, related to AgileThought, Inc.’s financial statements for the fiscal year ended December 31, 2020.

3. “FY2021 Audit Opinion” means KPMG’s “Report of Independent Registered Public Accounting Firm” and “Report of Independent Registered Public Accounting Firm on Internal Control Over Financial Reporting”, each incorporated in AgileThought, Inc.’s SEC Form 10-K filing for the fiscal year ended December 31, 2021, and each dated March 31, 2022.

4. “FY2022 Audit Opinion” means KPMG’s “Report of Independent Registered Public Accounting Firm” and “Report of Independent Registered Public Accounting Firm on Internal Control Over Financial Reporting”, each incorporated in AgileThought, Inc.’s SEC Form 10-K filing for the fiscal year ended December 31, 2022, and each dated March 31, 2023.

5. “AgileThought” means AgileThought, Inc. and its subsidiaries, and its officers, directors, employees, partners, corporate parent, direct and indirect subsidiaries or affiliates, predecessors and successors.

6. “Document” or “documents” means any document or tangible thing, including, without limitation, every medium or matter (whether written, printed, electronic, or other) on

which or through which information of any type is expressed, recorded, saved, preserved, or viewable. The term “document” as used herein is synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34(a)(1)(A). A “document” includes, without limitation and by way of example, all recorded, renderable, stored, or retrievable information on any print or electronic media, including handwriting, photographs, film, recordings, Communications, memoranda, books, records, accounts, ledgers, vouchers, invoices, drafts, bills, charge slips, letters, electronic mail, text messages, SMS messages, instant messages, compact discs, CD-ROMs, DVD-ROMs, portable or external hard drives or other widely-used electronic or optical storage media, electronic data magnetic tape, videotape, magnetic or optical disks, floppy disks, Microsoft Office or other spreadsheet, word processing, or presentation software files, telegrams, mailgrams, correspondence, tweets, notes and minutes of meetings, conversations or telephone calls, resolutions, work papers, reports, projects, tabulations, studies, surveys, legal complaints and other pleadings, affidavits, interrogatories or interrogatory responses, legal briefs, legal motions, judgments, designs, drawings, schematics, maps, manuals, models, notebooks, contracts, agreements, diaries, telephone records, desk calendars, appointment books, circulars, charts, transcripts, news releases, trade releases, advertisements, press books, teletype messages, licenses, financial statements, stenographers’ notebooks, punchcards, computer printouts and data, telecopier and facsimile transmissions and printouts, letters of credit, stock certificates, and securities. The term “document” also includes preliminary drafts, revisions, non-identical copies or copies of any such document if the draft, revision, or copy is in any way different from the original.

7. “ESI” means electronically stored information, electronically stored data or electronic data, and is to be interpreted broadly to include all types of information, regardless of the storage media (e.g., hard drive, CD-ROM, DVD, disc, tape, thumb drive, etc.), that requires a computer or other machine to read or process it.

8. “FY2019 Financial Statements” means the consolidated balance sheets of AN Global Inc. and AgileThought, LLC and its subsidiaries for the fiscal year ended December 31, 2019, the related consolidated statements of operations, comprehensive loss, shareholders’ equity, and cash flows for the year ended December 31, 2019 and the related notes and financial statement schedules.

9. “FY2020 Financial Statements” means the consolidated balance sheets of AgileThought and its subsidiaries for the fiscal year ended December 31, 2020, the related consolidated statements of operations, comprehensive loss, shareholders’ equity, and cash flows for the year ended December 31, 2020 and the related notes and financial statement schedules.

10. “FY2021 Financial Statements” means the consolidated balance sheets of AgileThought and its subsidiaries for the fiscal year ended December 31, 2021, the related consolidated statements of operations, comprehensive loss, shareholders’ equity, and cash flows for the year ended December 31, 2021 and the related notes and financial statement schedules.

11. “FY2022 Financial Statements” means the consolidated balance sheets of AgileThought and its subsidiaries for the fiscal year ended December 31, 2022, the related consolidated statements of operations, comprehensive loss, shareholders’ equity, and cash flows for the year ended December 31, 2022 and the related notes and financial statement schedules.

12. “You”, “Your,” or “KPMG” means KPMG LLP, a Delaware limited liability partnership, and its officers, directors, employees, partners, corporate parent, direct and indirect subsidiaries or affiliates, predecessors and successors.

INSTRUCTIONS

1. These Document Requests call for the production of all responsive documents or ESI that are in your possession, custody, or control, wherever located, regardless of whether they are possessed directly by you or your agents, representatives, employees, accountants, attorneys, or other persons acting or purporting to act on your behalf.

2. If any portion of any Document is responsive to any Document Request, the entire document must be produced.

3. For any responsive Documents stored in electronic format, including email, you will produce those Documents in searchable electronic format (*e.g.*, single-page .tiff format with corresponding OCR or full-text files) on CD-ROMs, DVD-ROMs, portable or external hard drives or other widely-used electronic or optical storage media. All Microsoft Excel and PowerPoint documents will be produced in native format, and Plaintiffs reserve the right, as needed, to seek production of additional Documents, or categories of Documents in native format. All responsive electronic Documents will be produced with sufficient metadata to convey where these items begin and end (including attachments), the original file name, and the original timestamps and attributes, including the following metadata fields: “BEGBATES,” “ENDBATES,” “BEGATTACH,” “ENDATTACH,” “to,” “from,” “cc,” “bcc,” “subject,” “custodian,” “creation date,” “last modified,” and “MD5HASH.”

4. All Documents should be produced for copying or inspection as they are kept in the ordinary course of business, or shall be organized and labeled to correspond to the specific Document Request(s) to which they are responsive. You shall produce Documents requested

herein including electronic Documents, in the original file folders, boxes, or other containers or binders in which such items are found, including the title, labels, or other description of each such folder, box, or other container, or attach a copy of the Documents to copies of the file folders from which they came. The integrity and internal sequence of the requested Documents within each folder shall not be disturbed or commingled with the contents of another folder. All Documents should be stored, clipped, stapled, or otherwise arranged in the same form and manner as they were found. If a Document is responsive to more than one Document Request, you are not required to duplicate production.

5. AgileThought reserves the right to view the original of any copy of a Document provided in response to these Document Requests.

6. If any objection is made to any of these Document Requests, the response shall state whether Documents are being withheld from inspection and production on the basis of such objection, or whether inspection or production of the responsive items will occur notwithstanding such objection.

7. If you claim any form of privilege or any other objection, whether based on statute, common law, or otherwise as a ground for not producing any requested Document, state the following information:

- a. Which privilege is claimed;
- b. The following information describing each purportedly privileged document: (i) its nature (*i.e.* email, agreement, letter, memorandum, etc.); (ii) the date that it was prepared; (iii) the date it was sent; (iv) the identity of the person preparing it; (v) the identity of each person to whom it was sent, together with their job titles; and (vi) a statement as to whom each identified person represented or purported to represent at all relevant times; and
- c. The job titles and affiliations for each person who prepared, sent or received each purportedly privileged document.

8. If you claim privilege or any other objection with regard to only part of a Document, produce the part to which there is no objection and please furnish a list identifying each item that is partially withheld based on a claim of privilege or other objection together with the information listed in the preceding paragraph.

9. If you cannot satisfy any Document Request, either in full or in part, you shall produce Documents to the extent possible, specifying the reason for your inability to produce further Documents.

10. You shall produce all Documents that cannot be legibly copied in their original form.

11. If there are no Documents responsive to any particular Document Request or subpart thereof, you shall state so in writing.

12. If any Document was but is no longer in your possession or custody or otherwise subject to your control, please state and specify in detail for each such Document the: date; sender; recipient; persons to whom copies were provided together with their job titles; information contained therein; date upon which it ceased to exist or be in your possession, custody, or control; disposition that was made of it; and the identity of all persons having knowledge of the contents thereof.

DOCUMENT REQUEST

1. KPMG's work papers created in connection with its audit or review of each of the FY2019 Financial Statements, the FY2020 Financial Statements, the FY2021 Financial Statements, and the FY2022 Financial Statements and/or the preparation or issuance of the FY2019 Audit Opinion, the FY2020 Audit Opinion, the FY2021 Audit Opinion, and the FY2022 Audit Opinion.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re

AN GLOBAL LLC, et al.,¹

Debtors.

Chapter 11

Case No. 23-11294 (JKS)

(Jointly Administered)

**NOTICE OF EXAMINATION OF KPMG LLP
PURSUANT TO RULE 2004 OF THE FEDERAL RULES OF
BANKRUPTCY PROCEDURE AND LOCAL BANKRUPTCY RULE 2004-1(C)**

PLEASE TAKE NOTICE THAT, pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rule 2004-1(c), AN Global LLC, and its affiliated debtors and debtors in possession (collectively, the “Debtors”), through its undersigned special counsel will serve the subpoena *duces tecum* (the “Subpoena”) attached as **Exhibit A**, on KPMG LLP.

PLEASE TAKE FURTHER NOTICE THAT, the parties have agreed that compliance with the Subpoena, in the form of KPMG LLP providing written responses as well as the production of any documents responsive to the Subpoena, shall be met by 4 p.m. (EST), on January 10, 2025 at the offices of Grant & Eisenhofer P.A., 123 Justison Street, Wilmington, DE 19801 or such other date or location as may be agreed to by the parties or ordered by the Court.

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number or registration number in the applicable jurisdiction, are: AN Global LLC (5504); AgileThought, Inc. (2509); 4th Source, LLC (7626); AgileThought Brasil Servicos de Consultoria Em Software (01-20); AgileThought Digital Solutions, S.A.P.I. de C.V. (3KR0); AgileThought México S.A. de C.V. (7E46); AgileThought, LLC (7076); AGS Alpama Global Services USA, LLC (0487); AN Extend, S.A. de C.V. (1D80); AN Evolution, S. de R.L. de C.V. (7973); AN UX, S.A. de C.V. (7A42); Cuarto Origen, S. de R.L. de C.V. (0IQ9); Entrepids México, S.A. de C.V. (OCYA); Facultas Analytics, S.A.P.I. de C.V. (6G37); Faktos Inc., S.A.P.I. de C.V. (3LLA); IT Global Holding LLC (8776); Tarnow Investment, S.L. (No Tax ID); and Anzen Soluciones, S.A. de C.V. (No Tax ID). The Debtors’ headquarters are located at 222 W. Las Colinas Boulevard, Suite 1650E, Irving, Texas 75039.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to Local Bankruptcy Rule 2004-1(c)(iii), objections to this examination notice are due within **ten (10) business days** after service of this examination notice. Objections, if any, shall be filed with the Court and served on the undersigned special counsel to the Debtors.

PLEASE TAKE FURTHER NOTICE THAT, pursuant to Local Bankruptcy Rule 2004-1(d), this examination notice will be served upon the following parties and a certificate of service will be filed with the Court: (i) counsel to KPMG LLP, and (ii) the United States Trustee.

Dated December 23, 2024

GRANT & EISENHOFER P.A.

By: /s/ Frank H. Griffin

Frank H. Griffin (Delaware Bar No. 7318)

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Wilmington, DE 19801

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Gordon Z. Novod (*pro hac vice* application to be filed)

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Special Counsel for the Debtors