Docket #0881 Date Filed: 10/13/2026

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

BODNER LAW PLLC
55 Cherry Lane, Suite 101
Carle Place, New York 11514
(516) 444-3923
Jonathan Bodner, Esq.
jbodner@bodnerlawpllc.com
Local counsel for RLA Consulting LLC, Creditor Recovery Trustee

-and-

THE LAW OFFICES OF RICHARD J. CORBI PLLC
104 West 40th St., 4th Floor
New York, NY 10018
(646) 571-2033
Richard J. Corbi (*pro hac vice*)
rcorbi@corbilaw.com

Co-counsel for RLA Consulting LLC, Creditor Recovery Trustee

In re:	Chapter 11
CBRM REALTY INC., et al.,	Case No. 25-15343 (MBK)
Debtors.	(Jointly Administered)
	Hearing Date: October 15, 2026 at 10:00 a.m. (ET) (Motion to Compel and FinPro Motion); October 22, 2026 at 10:00 a.m. (ET) (Levon Motion)
	Objection Deadline: October 8, 2026

OMNIBUS REPLY OF THE CREDITOR RECOVERY TRUSTEE (A) IN FURTHER SUPPORT OF ITS MOTION FOR ENTRY OF AN ORDER (I) COMPELLING MIRIAM MIZRACHI TO COMPLY WITH THE RULE 2004 SUBPOENA ISSUED TO HER, (II) OVERRULING HER OBJECTIONS THERETO, AND

25153432610130000000000001

(III) GRANTING RELATED RELIEF, AND (B) IN RESPONSE TO THE OMNIBUS REPLY OF MOSHE SILBER IN FURTHER SUPPORT OF HIS MOTIONS TO QUASH THE FINPRO AND LEVON CAPITAL SUBPOENAS

RLA Consulting LLC, in its capacity as Trustee of the Creditor Recovery Trust for CBRM Realty Inc. and Crown Capital Holdings, LLC (the "**Trustee**"), by and through its undersigned counsel, submits this omnibus reply ("**Reply**") in further support of the Motion and in response to the Opposition, and in response to the Omnibus Reply of Moshe Silber in Further Support of Motions to Quash Third-Party Subpoenas Addressed to FinPro Capital Advisors, Inc. and Levon Capital LLC [Doc. No. 880] (the "**Silber Reply**"), and respectfully states as follows:[1]

PRELIMINARY STATEMENT

The delay tactics must come to an end. This Court should enforce the subpoenas and not countenance the dilatory tactics employed by Mr. Silber and Ms. Mizrachi merely designed to enable them to obtain a back door release in this Chapter 11 Case by preventing the Trustee from acting in its Court approved (and ordered) fiduciary capacity of the Debtors' estates to enhance recoveries to allowed claim holders on account of her husband's fraud.

With respect to Ms. Mizrachi, the Subpoena issued to her was issued on August 20, 2026. Nearly eight (8) weeks later, Ms. Mizrachi has produced nothing. That is not an isolated lapse. It is the same course she followed the last time she was served with a subpoena, and there too she produced nothing until the court told her that, from its perspective, she was in contempt. She moved to quash first in Mr. Silber's Chapter 7 case and then refiled the same motion in this one.

[1]Capitalized terms not defined in this Reply have the meanings given to them in the *Motion of the Creditor Recovery Trustee for Entry of an Order (I) Compelling Miriam Mizrachi to Comply with the Rule 2004 Subpoena Issued to Her, (II) Overruling Her Objections Thereto, and (III) Granting Related Relief* [Doc. No. 857] (the "**Motion**"). The Opposition of Miriam Mizrachi [Docket No. 879] (the "**Opposition**") refers to the movant as the "Liquidation Trustee." The office created by the Plan is that of the Creditor Recovery Trustee. Nothing turns on the label.

Ms. Mizrachi's conduct in *Acquiom Agency Services LLC v. Silber*, Index No. 654386/2024 (Sup. Ct. N.Y. Cnty.) (the "*Acquiom* proceedings"), illustrates this pattern of behavior. The judgment creditor served her with a subpoena duces tecum and restraining notice on December 26, 2024. She neither produced documents nor objected. She did not appear for the deposition noticed for January 29, 2025, and did not respond when counsel wrote to her directly on February 4, 2025. Motion ¶¶ 45–46. She retained counsel only after a contempt application had been filed. She produced documents and sat for a deposition only after the court fixed a schedule, with a contempt hearing to follow if she did not agree to one. Motion ¶ 46; Corbi Decl. Exs. M-1, M-2. A second subpoena served on her in July 2025 drew a further contempt application, which was denied without prejudice only because the action was stayed upon Mr. Silber's chapter 7 filing. Motion ¶ 47; Corbi Decl. Exs. N, O.

The same pattern is repeating here. Ms. Mizrachi has again produced nothing, moved to quash first in a case other than the one in which the Subpoena issued, and added a new procedural objection at each stage. Her objections are directed principally to how and where the Subpoena was served, not to what it asks her to produce. The Court should not allow the pattern to run its course a second time.

The Subpoena was delivered to her on September 30, 2026. Her Opposition now adds a challenge to that delivery, a signature objection, and an adversary proceeding commenced by a different fiduciary in a different bankruptcy proceeding not jointly administered or substantively consolidated with this Chapter 11 Case, on October 2, after this Motion was filed. Each objection serves the same end as the last: delay. The Trustee submits that this Court should resolve each of these objections and order production now.

The Opposition also raises a series of issues, including the June 9 Consent Order in the dismissed adversary proceeding, ownership of the Vecta interests, the automatic stay in Mr. Silber's case, and the Trustee's past statements about intervention, that do not bear on whether Ms. Mizrachi must produce documents.[2] The Motion should be granted, the Subpoena modified to fix a new compliance date, and the relief requested in the Motion to Quash and the Opposition denied.

The Silber Reply takes the same course. Filed shortly before midnight on October 12, 2026, it argues for the first time that the October adversary proceeding requires the Court to quash the subpoenas to FinPro Capital Advisors, Inc. and Levon Capital LLC, and that the Trustee must intervene in the Chapter 7 Trustee's lawsuit and pursue discovery there, "or risk losing such claims." Silber Reply at 2–3, ¶¶ 5–11. The Chapter 7 proceedings do not dictate the timing in these Chapter 11 Cases. Nothing prevents the Trustee from filing its own complaint in these Chapter 11 Cases and then seeking consolidation of any overlapping issues in the Chapter 7 Trustee's lawsuit. The Trustee anticipates that a complaint can be filed in the Chapter 11 proceedings in the near future. Its timing, however, depends on access to the remaining productions, and the records sought hold are among the most important of them. Ms. Mizrachi is the recorded holder of ninety-five percent (95%) of the entity that acquired a bank with $21,196,044.50 of the Debtors' money, and the recipient of other property and funds the Trustee has traced. Motion ¶¶ 17–23, 31–34. . FinPro was the financial advisor to the buyer, Rhodium BA Holdings, LLC (later Vecta Partners LLC), on the original acquisition, and, by Mr. Silber's

[2]The Opposition devotes much of its length to matters that do not bear on whether Ms. Mizrachi must produce documents: the June 9, 2026 Consent Order entered in the voluntarily dismissed Adversary Proceeding No. 26-01178 (MBK) and the Trustee's limited objection to it; the competing claims of the two estates to the Vecta interests and the escrowed sale proceeds; the automatic stay in Mr. Silber's chapter 7 case; the Trustee's past statements that it would seek to intervene; and the description of the estates' competing claims as "a question between the fiduciaries." Opp. ¶¶ 4–7, 10, 26 & nn. 7–10. The Trustee addressed these points in the Motion (Motion ¶¶ 51–58) and does not repeat that response here. None of them is a ground to quash a Rule 2004 subpoena for documents, and the Trustee reserves all rights concerning each of them.

own testimony, Levon was associated with a group seeking to buy the bank and took the deeds to his family's properties in connection with that effort. Doc. No. 874 ¶ 4; Doc. No. 873 ¶¶ 13, 22. Each is therefore relevant to the Trustee's investigation.

Neither FinPro nor Levon has objected to the subpoena directed to it, and the Chapter 7 Trustee, who commenced the October adversary proceeding, has not joined either of Mr. Silber's motions. The claims the Trustee is investigating belong to these estates, and they cannot be lost in a lawsuit to which the Trustee is not a party. Because the Silber Reply raises the October adversary proceeding for the first time, and because the FinPro motion is set for hearing with this Motion on October 15, 2026, the Trustee responds to it in Part IV below, so that the Court may resolve the three motions on a common record. Mr. Silber's motions should be denied, and the subpoenas enforced on the terms the Trustee has offered.

REPLY

I. THE SUBPOENAS AT ISSUE

1. Although the Motion concerns the Subpoena to Ms. Mizrachi, her Motion to Quash and Opposition seek relief as to other third-party subpoenas of the Trustee as well.[3] Mr. Silber separately moves to quash two of them. Those subpoenas, and their status, are as follows:

- **Miriam Mizrachi.** Issued August 20, 2026; returnable September 4, 2026, with the first tranche extended to September 11, 2026. Delivered to Ms. Mizrachi on September 30, 2026. Hollander Cert. ¶ 4. Challenged by the Motion to Quash (Case No. 25-21650,

[3]The relief Ms. Mizrachi seeks is not confined to the subpoena issued to her. Her Motion to Quash asks the Court to quash the Chase subpoena and "any other third-party subpoenas that have been issued and/or served by the Liquidation Trustee . . . seeking records of Ms. Mizrachi," to bar the Trustee from reviewing or using anything produced in response, to require disclosure, notice to recipients and destruction, and to award fees. Doc. No. 861 (notice of motion and proposed order ¶¶ 2–7). The Opposition's proposed order renews that relief. Doc. No. 879-9 ¶¶ 3–11. Three requests appear for the first time in the October papers: to quash the September Subpoena (*id.* ¶ 4), to quash the CNBF Subpoena by name (*id.* ¶ 6), and to direct the Trustee to bear the reasonable costs of any compliance (Opp. at 18–19). By its terms, the requested relief reaches each subpoena listed above to the extent it seeks records concerning Ms. Mizrachi, including the FinPro and Levon Capital subpoenas, which are separately the subject of Mr. Silber's motions to quash [Doc. Nos. 856, 869] and the Trustee's objections [Doc. Nos. 874, 873].

Doc. No. 198, refiled as Doc. No. 861) and the Opposition. Subject of this Motion. No documents have been produced.

- **JPMorgan Chase Bank, N.A.** Issued August 20, 2026; returnable September 4, 2026. A copy was transmitted to Ms. Mizrachi's counsel with the Trustee's letter of the same day. Hollander Cert. Ex. C, Instr. 14; Ex. F at 1. Ms. Mizrachi seeks to quash it in the Motion to Quash. Doc. No. 861.

- **FinPro Capital Advisors, Inc.** Issued August 24, 2026; returnable September 14, 2026, with three priority items requested by September 4, 2026. Subject of Mr. Silber's motion to quash (Doc. No. 856) and the Trustee's objection (Doc. No. 874), and the Silber Reply (Doc. No. 880), set for hearing on October 15, 2026.

- **Levon Capital LLC.** Issued August 26, 2026; returnable September 25, 2026.[4] Subject of Mr. Silber's motion to quash (Doc. No. 869), noticed for hearing on October 22, 2026, and the Trustee's objection (Doc. No. 873), and the Silber Reply (Doc. No. 880).

- **BciCapital, Inc., c/o City National Bank of Florida ("CNBF").** Issued September 17, 2026; returnable October 9, 2026 (the "**CNBF Subpoena**"). Hollander Cert. Ex. D. Her counsel received a copy from CNBF on October 1, 2026. Ms. Mizrachi contends that the Motion to Quash applies to it, and her October proposed order seeks to quash it by name. Opp. ¶ 13 & n.11; Doc. No. 879-9 ¶ 6. Such additional request is procedurally improper and should be overruled.

II. THE OCTOBER ADVERSARY PROCEEDING DOES NOT BAR THIS INVESTIGATION

2. On October 2, 2026, the Chapter 7 Trustee sued Ms. Mizrachi and nine entities in Mr. Silber's chapter 7 case.[5] The Chapter 7 Complaint seeks, for the benefit of Mr. Silber's creditors, to avoid and recover transfers made by Mr. Silber: his interests in Vecta, Mile Estates and Powder Horn Development; the Powder Horn and Haverstraw properties; and funds deposited into accounts in Ms. Mizrachi's name. Chapter 7 Compl. ¶¶ 1–5. The Opposition contends that this lawsuit bars Rule 2004 discovery in these Chapter 11 Cases. Opp. ¶¶ 24–26. The Silber Reply

[4]A companion subpoena of the same date was directed to Avery Weisz, manager of Levon Capital LLC, in his individual capacity. Mr. Silber's motion is directed to the subpoena to Levon Capital LLC. Doc. No. 869-1 ¶ 11.

[5]Adv. Pro. No. 26-01446 (MBK), Docket No. 1 (the "**Chapter 7 Complaint**"). The defendants are Ms. Mizrachi, 41 Powderhorn LLC, Powder Horn Development LLC, Mile Estates LLC, 1070 Haverstraw Holdings, LLC, 1092 Haverstraw Owner LLC, HAV 1070 LLC, HAV 1092 LLC, 14 Enclave Owner LLC and MEDO International LLC. *Id.* at 1–2.

makes the same argument as to the FinPro and Levon subpoenas. Silber Reply ¶¶ 5–11. The Chapter 7 litigation does not bar discovery of the Chapter 11 estate for purposes of completing its own investigation.

3. The Opposition's own authority shows why. In *In re SunEdison, Inc.*, 572 B.R. 482 (Bankr. S.D.N.Y. 2017), the court held that the pending proceeding rule did not apply to debtors who were not parties to the pending state court action: "The Debtors are not parties to the State Court Action, and hence, the rule does not apply to them." *Id.* at 490. The court denied their request on a separate ground: the debtors had not shown good cause to investigate litigation "involving claims [they did] not own." *Id.* at 491. It also recognized that "Rule 2004 unquestionably allows a debtor to take pre-litigation discovery into claims that it owns." *Id.* The Opposition cites *SunEdison* for the proposition that non-party status "is not determinative" (Opp. n.16), but the decision distinguishes the pending proceeding rule from the separate requirement of good cause. The Opposition conflates the two.

4. Applied here, *SunEdison* supports the Trustee on both points. The Trustee is not a party to the October adversary proceeding, as the Opposition concedes. Opp. ¶ 26. The rule exists to stop a litigant from using Rule 2004 to evade the Part VII discovery rules in its own lawsuit. *In re Enron Corp.*, 281 B.R. 836, 840–42 (Bankr. S.D.N.Y. 2002); *In re Bennett Funding Grp., Inc.*, 203 B.R. 24, 28 (Bankr. N.D.N.Y. 1996). The Trustee has no Part VII discovery rights in the Chapter 7 Trustee's lawsuit to evade and arguably must seek to intervene in that proceeding in order to obtain standing to seek such discovery. *See In re Finley, Kumble, Wagner, Heine, Underburg, Manley, Myerson & Casey*, Nos. 90 Civ. 2747 (JMC), 1990 U.S. Dist. LEXIS 10235, at *8-9, n. 3 (Bankr. S.D.N.Y. Aug. 6, 1990) (trustee and malpractice creditor representative had different interests and because it had not intervened in the trustee and thus not a party, it may use

Rule 2004 discovery). And unlike the debtors in *SunEdison*, the Trustee seeks these records to investigate claims its estates own and assigned by bondholders in the Plan: the Debtors' own transfers and potential recoveries. However, those matters and entities that are not affected by an adversary proceeding should not be able to avoid examination under Bankruptcy Rule 2004, even if it is likely that the entity seeking discovery will eventually sue the target. *In re Glitnir banki hf.*, No. 08-14757 (SMB), 2011 Bankr. LEXIS 3296, at *14-15 n.11 (Bankr. S.D.N.Y. Aug. 19, 2011) (citations omitted).

5. The Motion sets out more than enough good cause for that investigation. The Debtors paid $21,196,044.50 toward the acquisition and capitalization of a bank, recorded the resulting interest on their own books as theirs, and no instrument transferring it away has been produced; ninety-five percent of the acquiring entity is now recorded in Ms. Mizrachi's name. Motion ¶¶ 17–22. The residence Mr. Silber had listed as his own was conveyed to an entity in her name for $0; $1,000,000 was deposited into her checking account in August 2022 and $343,000 into an account of an entity she owns in January 2025, from sources Mr. Silber said he did not know; she holds a Schedule K-1 in an affiliate through which the Debtors insurance proceeds moved; and the Debtors and their affiliates made millions of dollars of American Express payments that included payments on card accounts carried in her name on an affiliate's books. Motion ¶¶ 32–33, 39. Each category in the Subpoena is directed to a question that record raises. Motion ¶¶ 35–40.

6. The factual overlap between the two investigations is real. The Chapter 7 Complaint concerns many of the same properties, accounts and transfers, and the bank records, tax returns and transfer records the Subpoena seeks may bear on both. But factual overlap does not make the two estates' claims the same, and it does not eliminate the Trustee's independent need

for the records. The Chapter 7 Trustee sues to recover Mr. Silber's property for Mr. Silber's creditors. The Trustee is investigating whether the Debtors' own money paid for the interests that later moved to Ms. Mizrachi, and claims against Mr. Silber as initial transferee and against Ms. Mizrachi as a subsequent transferee under Section 550(a)(2) of the Bankruptcy Code, or for turnover of property of these estates pursuant to Section 542(a) of the Bankruptcy Code. Motion ¶ 34. The Chapter 7 Trustee cannot assert those claims. Because the two estates may claim the same assets, the Trustee cannot be left to rely on discovery in litigation conducted by another fiduciary, in a case to which it is not a party. *See Finley, Kumble,* 1990 U.S. Dist. LEXIS 10235, at *8-9, n. 3 (trustee and malpractice creditor representative have different interests and because it has not intervened in the trustee and thus not a party, it may use Rule 2004 discovery); *In re Szadkowski*, 198 B.R. 140 (Bankr. D. Md. 1996); *In re Buick*, 174 B.R. 299, 305 (Bankr. D. Colo. 1994).

7. The chronology provides context. The Subpoena issued on August 20, 2026, and this Motion was filed on September 16, 2026, both before the October adversary proceeding was commenced.[6] The chronology shows that the Subpoena was not issued to obtain discovery for a pending lawsuit. The documents produced will be held under the protective order entered in these cases [Doc. No. 791] and used for the administration of these Chapter 11 estates.

[6]The April Adversary Proceeding on which the Opposition relies for the period before October was voluntarily dismissed on June 12, 2026 (Opp. ¶ 7), more than two months before the Subpoena and the Chase subpoena issued on August 20, 2026. The suggestion that the Chase subpoena was served while that proceeding was pending (Opp. n.6) is therefore, mistaken.

III. THE REMAINING OBJECTIONS

A. Delivery and the Compliance Date

8. The Opposition raises two distinct questions about service. The first is whether the Subpoena has been delivered to Ms. Mizrachi under Rule 45(b)(1). It has. On September 30, 2026, the Subpoena was delivered to Ms. Mizrachi herself. Hollander Cert. ¶ 4; Opp. ¶ 12. That is delivery to the named person, which is what Rule 45(b)(1) requires on her own reading of it. Opp. ¶¶ 16–17. The Trustee does not rely on the August 20 transmission to her counsel as service (Motion ¶ 60); that transmission bears on prejudice, and it shows that Ms. Mizrachi has known of the Subpoena and its contents since the day it issued.

9. The second question is what follows from the fact that the original September 4 return date had passed when the Subpoena was delivered. Rule 45(d)(3)(A)(i) directs the Court to quash *or modify* a subpoena that fails to allow a reasonable time to comply. To the extent there has been any prejudice, the Court may simply modify the Subpoena by fixing a new return date, not earlier than fourteen days after entry of the order, consistent with D.N.J. LBR 9016-1(a), on which the Opposition relies. Quashing the Subpoena would only require the Trustee to deliver the same document again, with a new date, and would invite a second round of the same motion practice, which would waste more judicial resources and that of the Creditor Recovery Trust (which has been the subject of extensive practice with certain professional firms of the former debtors).

B. The Signature

10. The Opposition contends that the Subpoena is defective because it was signed by counsel admitted *pro hac vice*. Opp. n.12. Rule 45(a)(3) permits a subpoena to be issued and signed by an attorney "authorized to practice in the issuing court", which includes those attorneys

admitted *pro hac vice*. See Fed. R. Bankr. P. 2004 advisory committee's notes on 2002 amendments (explaining that rule 2004(c) was amended to allow attorneys admitted *pro hac vice* to sign subpoenas). Mr. Corbi is admitted to practice in these cases *pro hac vice*. The local rule the Opposition quotes addresses who may "sign and file papers and receive notices and service of papers." *Id.* A subpoena served on a witness is not a paper filed with the Court. If the Court concludes otherwise, the remedy is straightforward: the Trustee will reissue the Subpoena over local counsel's signature, deliver it to Ms. Mizrachi personally, and fix the compliance date the Court sets. The Trustee asks that the Court resolve Ms. Mizrachi's substantive objections now, so that a reissued Subpoena is not met with the same motion.

C. Notice Under Rule 45(a)(4)

11. Ms. Mizrachi's notice argument is mistaken. Bankruptcy Rule 9016 makes Rule 45 applicable in these cases, but Rule 45(a)(4) requires advance notice to "each party," not to every person whose records are sought from a third-party custodian. Ms. Mizrachi has cited no authority in which a Bankruptcy Rule 2004 subpoena must provide notice to every potential target that has information concerning the acts, conduct or property of the Debtors and any matter that may affect the administration of the Debtor's estates. The clear import of the rule applies to discovery **after** proceedings have been commenced; not to the Trustee's investigation which can be obtained upon subpoenas served without filing a motion with the Court. The distinction is important to the analysis under Rule 45(a)(4). Her Opposition identifies no basis for treating her as a party under the Rule merely because the Trustee is investigating transactions involving her or seeking records of accounts held in her name. The Trustee's investigation concerns potential claims belonging to these estates and does not depend on first commencing an adversary proceeding against her. *See In re Marathe*, 459 B.R. 850, 856–59 (Bankr. M.D. Fla. 2011). Neither her status as an

investigative subject nor her asserted interest in the records, standing alone, establishes an entitlement to advance notice under Rule 45(a)(4).

12. Decisions construing Rule 45's notice provision support this distinction. In *FTC v. Trudeau*, No. 1:12-mc-022, 2012 U.S. Dist. LEXIS (S.D. Ohio Dec. 7, 2012), the court rejected a nonparty account holder's challenge to a subpoena served on its bank, notwithstanding that the account holder learned of the subpoena only after the bank produced its records. The court reasoned that the bank was the subpoena recipient and the account holder was not a party to the underlying action. *See also FTC v. Trudeau*, No. 5:12-mc-35, 2012 U.S. Dist. LEXIS 160545, at *3 (N.D. Ohio Nov. 8, 2012) (rejecting nonparty account holders' contention that they were entitled to service or notice of a bank subpoena). Although those decisions arose in post-judgment discovery, their interpretation of the notice provision is equally pertinent here: an asserted interest in subpoenaed records does not itself confer party status. Ms. Mizrachi's claimed entitlement to advance notice therefore supplies no basis to quash the bank subpoenas or the other third party subpoenas seeking her records.

13. Nor was anything concealed. The Trustee transmitted a copy of the Chase subpoena to Ms. Mizrachi's counsel with its August 20 letter, and the subpoena itself states that a copy was served on her counsel "[c]ontemporaneously with the issuance" of the subpoena. Hollander Cert. Ex. C, Instr. 14; Ex. F at 1. The Trustee does not rely on that contemporaneous transmission as satisfying the advance-notice requirement applicable to parties under Rule 45(a)(4). Rather, the Trustee's position is that Ms. Mizrachi was not entitled to such notice merely because the subpoena sought records concerning her. The transmission shows that Ms. Mizrachi knew of the Chase subpoena from the day it issued and had every opportunity to object, which she did. The CNBF Subpoena is directed to BciCapital, Inc. and contains sixty requests, several of

which, including Request 55, seek records sufficient to identify accounts maintained for Mr. Silber, Ms. Mizrachi and listed entities. Opp. ¶ 13. Her counsel received it on October 1, eight days before its return date, and she contends that her pending Motion to Quash already applies to it, but provides no legal authority for such procedural maneuver to include an additional subpoena objection. Opp. ¶ 13 & n.11.

14. Ms. Mizrachi's asserted personal interest in her own account records does not change the result. Even if that interest gives her standing to challenge a subpoena seeking them, standing is not a ground to quash and not a requirement of advance notice under the Rule. She must still establish a cognizable ground for relief under Rule 45 as to the particular subpoena she challenges. Fed. R. Civ. P. 45(d)(3). She has not done so as to any of them.

D. Blanket Relief Against Unidentified Subpoenas

15. The Motion to Quash asks the Court to quash the Chase subpoena and every other subpoena the Trustee has issued that seeks records concerning Ms. Mizrachi, to bar the Trustee from reviewing or using anything produced, to require the Trustee to disclose the subpoenas and everything received in response, to notify each recipient, and to destroy the productions. Doc. No. 861; Docket No. 879-9 ¶¶ 3–10. That relief should be denied. Beyond the Chase and CNBF Subpoenas, Ms. Mizrachi seeks a blanket bar with respect to any third party subpoena without identifying any ground for relief as to any of them. A subpoena may be quashed or modified only on a showing specific to that subpoena. Fed. R. Civ. P. 45(d)(3). The relief she seeks would instead give the person under investigation a veto over the estates' review of third-party records, and an inventory of the investigation itself. Therefore, effectively supplanting herself as the Creditor Recovery Trustee to pursue (or in Ms. Mizrachi's case, not pursue) claims on behalf of the CBRM Chapter 11 estates as directed by the Plan and Section 1123(a)(5), (a)(7) and (b)(3)(B)

of the Bankruptcy Code. Whatever weight her asserted interest in records concerning her may carry as to a particular subpoena, it does not establish a basis for blanket relief against subpoenas she has not identified.

E. Good Cause and Burden

16. The good cause for the Subpoena is set out in Part II *supra* and in the Motion. Motion, ¶¶ 14–41. Against that showing, Ms. Mizrachi has supplied no declaration quantifying the burden or explaining why particular responsive categories cannot reasonably be produced. Her papers identify Requests 1–4 in connection with the asserted overlap with the October adversary proceeding, and they note the January 1, 2018 start of the relevant period. Opp. ¶¶ 9, 24–26. The overlap is addressed above. The relevant period is tied to the conduct under investigation: closings in March 2019 that underlie Mr. Silber's conviction, a facility originated in December 2020 whose payoff consumed most of the first bond issuance, and a shareholder-loan account that already stood at $4,029,575 at December 31, 2020. Motion ¶ 64. The party resisting a Rule 2004 examination bears the burden of showing good cause for protection. *Bennett Funding*, 203 B.R. at 28; Motion ¶ 65.

17. The Trustee has obtained, from Spano Investor LLC, a copy of what Ms. Mizrachi produced in 2025 in *Acquiom* proceedings. Motion ¶ 47 & n.41. That copy was delivered as more than 1,700 single-page images, with no document-level files. *Id.* It cannot show whether her production was complete when it was made, whether it was ever supplemented, whether attachments were omitted, or what her former counsel retains. That is why the Trustee asked for that material first. The Trustee does not seek a duplicate of what it already holds. If the Trustee furnishes a Bates index of the Acquiom production in its possession, Ms. Mizrachi need not re-produce the documents on that index. She may instead certify whether the documents identified

on the index constitute her complete responsive production in the Acquiom proceedings, including any supplements, and identify and produce any responsive materials omitted from it.

F. Sanctions and Costs

18. The record does not support sanctions. Rule 45(d)(1) requires a party issuing a subpoena to take reasonable steps to avoid imposing undue burden. Before any motion was filed, the Trustee extended the return date for the first tranche, limited that tranche to material already collected, offered to negotiate a rolling schedule for the balance, and sought the Court's assistance when that offer went unanswered. Motion ¶¶ 43–44. Nor is there any basis now to direct the Trustee to bear "the reasonable costs of any compliance." Opp. at 18–19. Ms. Mizrachi has offered no evidence of any cost. If compliance with an order of the Court would impose significant expense on her, Rule 45(d)(2)(B)(ii) provides the mechanism to address it, on a showing she has not attempted to make. Her present request should therefore be denied, without prejudice to a properly supported request under that Rule.

IV. THE SILBER REPLY

A. Standing to Be Heard Is Not a Ground to Quash

19. The Silber Reply opens by defending Mr. Silber's standing. Silber Reply ¶¶ 1–4. The Trustee's objections to his motions [Doc. No. 874] (the "**FinPro Obj.**") and [Doc. No. 873] (the "**Levon Obj.**") did not take the position that he may never be heard. But being heard is not the same as quashing a subpoena directed to someone else. Levon Obj. ¶ 17; FinPro Obj. ¶ 13. That a subpoena's definitions name Mr. Silber does not give him a personal right in the recipient's own records. The FinPro subpoena seeks FinPro's engagement file, its billing records and its analysis of where the purchase price for a bank would come from. The Levon subpoena seeks, among other things, Levon's own formation documents, general ledger, tax returns and dealings

with a federal banking regulator. Levon Obj. ¶ 17. Mr. Silber still identifies no privileged document and no request that reaches a record of his entitled to protection.

20. Nor did the Trustee concede anything by offering a cure. The Silber Reply argues that the Trustee cannot dispute Mr. Silber's right to notice while offering to give him notice and an opportunity to object. Silber Reply ¶ 3. The positions are consistent. The Trustee's position is that Rule 45(a)(4) did not require notice to Mr. Silber. Its offer was an alternative, made in the event the Court disagreed, because modification rather than quashing is the remedy Rule 45(d)(3) contemplates. FinPro Obj. ¶ 25; Levon Obj. ¶ 35. Offering a remedy in the alternative concedes neither the premise nor standing.

B. Notice Under Rule 45(a)(4)

21. The Silber Reply recasts the absence of advance notice as a "failure in due process." Silber Reply ¶ 3. The answer is the one set out in Part III.C above as to Ms. Mizrachi. Rule 45(a)(4) requires advance notice to "each party." Mr. Silber is the Debtors' former principal and a subject of the Trustee's investigation. Whatever his status for other purposes in these cases, the FinPro and Levon subpoenas were not issued in any adversary proceeding or contested matter to which he is a party, and his interest in records concerning transactions to which he was a party does not make him a "party" entitled to advance notice under Rule 45(a)(4). *See supra* ¶¶ 11–14. Nor has he been deprived of any opportunity to be heard. FinPro told him of its subpoena, and he moved to quash it before FinPro produced anything. FinPro Obj. ¶ 24. He moved to quash the Levon subpoena on its return date, and as of the Trustee's objection Levon had produced nothing. Levon Obj. ¶¶ 7–8, 35. He has had the subpoenas, briefed his objections twice, and will be heard on them. That is the opportunity Rule 45(a)(4) exists to protect.

C. The October Adversary Proceeding Does Not Bar Discovery from FinPro or Levon

22. The Silber Reply's principal argument is the Opposition's: that the October adversary proceeding requires the subpoenas to be quashed. Silber Reply ¶¶ 5–11. It fails for the reasons set out in Part II. The Trustee is not a party to the October adversary proceeding, and the pending proceeding rule therefore does not apply to it. *SunEdison*, 572 B.R. at 490. The Silber Reply quotes *Bennett Funding* for the proposition that the discovering party "must look to Fed.R.Bankr.P. 7026 et seq. after an adversary proceeding is commenced." Silber Reply ¶ 9 (quoting 203 B.R. at 29). That direction presupposes a discovering party that can look to Rule 7026: a party to the adversary proceeding. The Trustee is not one, and has no discovery rights in that proceeding to look to.

23. The Silber Reply's answer is that the Trustee should intervene, and that its intervention is "almost a certainty." Silber Reply ¶ 10(ii). Whether to intervene in the Chapter 7 Trustee's lawsuit is the Trustee's decision, to be made on a developed record. Rule 2004 does not require an estate representative to join another fiduciary's lawsuit, on that fiduciary's claims and schedule, in order to investigate claims belonging to its own estates. When the Trustee asked to be included in the resolution of the Chapter 7 Trustee's earlier adversary proceeding, it was excluded. Opp. ¶ 6; Levon Obj. at 5. Mr. Silber cannot now treat the Trustee as a participant in the Chapter 7 litigation for the purpose of cutting off its discovery. Nor are the CBRM estates' claims at "risk" in litigation to which the Trustee is not a party. Silber Reply at 3. A judgment does not bind a stranger to the proceeding. *Taylor v. Sturgell*, 553 U.S. 880, 892–93 (2008); *Martin v. Wilks*, 490 U.S. 755, 761–62 (1989).

24. The Silber Reply also misdescribes the investigation. It says the Trustee's "stated focus" is to challenge the Chapter 7 Trustee's ownership interest in Vecta. Silber Reply at 2, ¶ 5.

The Trustee is investigating what became of the Debtors' own money. A Debtor wired the deposit on Mr. Silber's purchase of 1188 Haverstraw Road and then made payments on the debt secured by it; that property does not appear in the Chapter 7 Complaint. Levon Obj. ¶¶ 10, 23. The source of approximately $1,250,000 of cash to close on 1070 Haverstraw Road, wired days after Debtor funds moved through a construction affiliate to Mr. Silber's personal account, is a question about the Debtors' cash. *Id.* ¶¶ 11–12, 24. And the FinPro subpoena asks a financial advisor what it was told about where the purchase price for a bank would come from, when the Debtors paid $21,196,044.50 toward that purchase. Motion ¶¶ 17–23. The Chapter 7 Trustee does not hold, and cannot assert, the claims those questions concern.

25. The balancing the Silber Reply invokes does not change the result. Silber Reply ¶ 10(iii) (citing *SunEdison*, 572 B.R. at 489–90). *SunEdison* itself recognized that "Rule 2004 unquestionably allows a debtor to take pre-litigation discovery into claims that it owns." 572 B.R. at 491. These are such claims. Neither FinPro nor Levon has asserted any burden. And the duplication the Silber Reply forecasts is answered by scheduling, not quashing: the Trustee has received no production made to the Chapter 7 Trustee, and if either recipient has already collected responsive materials for another requesting party, the Trustee will take them as collected. Levon Obj. ¶ 33.

D. Modification

26. The Silber Reply asks, in the alternative, that the subpoenas be modified to limit production to materials "demonstrably connected to these Debtors," without duplicating discovery "concerning matters within the Chapter 7 Trustee's statutory duties." Silber Reply at 8. The Trustee has already offered targeted narrowing of both subpoenas, and renews those offers. Levon Obj. ¶¶ 37–39; FinPro Obj. ¶¶ 31, 36. A limitation defined by reference to the Chapter 7 Trustee's

duties, however, would exclude the very questions about the Debtors' funds that the factual overlap described in Part II makes it necessary to ask, and should not be adopted.

CONCLUSION

For the reasons set forth above and in the Motion and the Trustee's objections to Mr. Silber's motions [Doc. Nos. 873, 874], the Trustee respectfully requests that the Court enter an order, substantially in the form annexed as Exhibit A: (i) granting the Motion and overruling the objections raised in the Motion to Quash and the Opposition; (ii) modifying the Subpoena, delivered to Ms. Mizrachi on September 30, 2026, to fix new compliance dates; (iii) directing Ms. Mizrachi, within fourteen days after entry of the order, to produce the responsive materials she collected, reviewed or produced in the Acquiom proceedings, or to certify their completeness as described above; (iv) directing her to produce all remaining responsive, non-privileged documents by a date certain fixed by the Court; (v) denying the relief requested in the Motion to Quash and the Opposition as to the Trustee's subpoenas to third parties, including the Chase and CNBF Subpoenas, and the requests for fees and expenses, and denying without prejudice the request that the Trustee bear the costs of compliance; (vi) by separate orders, denying Mr. Silber's motions to quash the FinPro and Levon subpoenas [Doc. Nos. 856, 869] and granting the relief requested in the Trustee's objections [Doc. Nos. 873, 874], including the modifications the Trustee has offered; and (vii) granting such other and further relief as is just.

Dated: October 13, 2026

BODNER LAW PLLC
By: /s/ Jonathan S. Bodner
Jonathan S. Bodner, Esq.
55 Cherry Lane, Suite 101
Carle Place, New York 11514
(516) 444-3923
jbodner@bodnerlawpllc.com

Local counsel for RLA Consulting LLC, as Trustee of the Creditor Recovery Trust

-and-

THE LAW OFFICES OF RICHARD J. CORBI PLLC
By: /s/ Richard J. Corbi
Richard J. Corbi (*pro hac vice*)
104 West 40th St., 4th Floor
New York, NY 10018
(646) 571-2033
rcorbi@corbilaw.com

Co-counsel for RLA Consulting LLC, as Trustee of the Creditor Recovery Trust

EXHIBIT A

Revised Proposed Order

UNITED STATES BANKRUPTCY COURT **DISTRICT OF NEW JERSEY** **Caption in Compliance with D.N.J. LBR 9004-1(b)** **BODNER LAW PLLC** 55 Cherry Lane, Suite 101 Carle Place, New York 11514 (516) 444-3923 Jonathan Bodner, Esq. jbodner@bodnerlawpllc.com *Local counsel for RLA Consulting LLC, Creditor Recovery Trustee* -and- **THE LAW OFFICES OF RICHARD J. CORBI PLLC** 104 West 40th St., 4th Floor New York, NY 10018 (646) 571-2033 Richard J. Corbi (*pro hac vice*) rcorbi@corbilaw.com *Co-counsel for RLA Consulting LLC, Creditor Recovery Trustee*	
In re: **CBRM REALTY INC., et al.,** Debtors.	Chapter 11 Case No. 25-15343 (MBK) (Jointly Administered)

ORDER (I) COMPELLING MIRIAM MIZRACHI TO COMPLY WITH THE RULE 2004 SUBPOENA ISSUED TO HER, AS MODIFIED, (II) OVERRULING HER OBJECTIONS THERETO, AND (III) GRANTING RELATED RELIEF

The relief set forth on the following pages is hereby **ORDERED**.

Upon the motion [Doc. No. 857] (the "**Motion**") of RLA Consulting LLC, in its capacity as Trustee of the Creditor Recovery Trust for CBRM Realty Inc. and Crown Capital Holdings, LLC (the "**Trustee**"), for entry of an order compelling Miriam Mizrachi to comply with the Rule 2004 subpoena dated August 20, 2026 (the "**Subpoena**"); and upon the motion of Ms. Mizrachi to quash the Subpoena and related relief, filed in Case No. 25-21650 (MBK) [Doc. No. 198] and refiled in these cases [Doc. No. 861] (the "**Motion to Quash**"), and her opposition to the Motion [Doc. No. 879] (the "**Opposition**"); the reply of the Trustee; and the Court having jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334; and due and sufficient notice having been given; and the Court having considered the papers and the record of the hearing; and good and sufficient cause appearing therefor; IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED**, as set forth herein.

2. The Motion to Quash is **DENIED**, and the objections to the Subpoena asserted in the Motion to Quash and the Opposition are **OVERRULED**; *provided, however*, that nothing in this Order overrules or waives any claim of attorney-client privilege or work-product protection, which shall be asserted in accordance with paragraph 8 below.

3. The Subpoena, which was delivered to Ms. Mizrachi on September 30, 2026, is modified pursuant to Fed. R. Civ. P. 45(d)(3)(A)(i), made applicable by Fed. R. Bankr. P. 9016, so that the compliance dates set forth in this Order replace the return date stated in the Subpoena.

4. On or before the date that is fourteen (14) days after entry of this Order, Ms. Mizrachi shall produce all responsive, non-privileged documents that she collected, reviewed or produced in *Acquiom Agency Services LLC v. Silber*, Index No. 654386/2024 (Sup. Ct. N.Y. Cnty.); *provided, however*, that if the Trustee has furnished a Bates index of the production from that proceeding in its possession, Ms. Mizrachi need not re-produce the documents listed on that

index, and shall instead certify in writing whether the documents identified on that index constitute her complete responsive production in that proceeding, including any supplements, and shall identify and produce any responsive materials omitted from it.

5. On or before [•], 2026, Ms. Mizrachi shall comply with the Subpoena in all other respects and produce all remaining responsive, non-privileged documents.

6. Together with each production, Ms. Mizrachi shall serve a written statement, signed by her, describing the search and inquiry undertaken to identify responsive documents, and identifying the accounts, devices, locations, custodians and date ranges searched and the person or persons who conducted the search.

7. On or before the date that is fourteen (14) days after entry of this Order, counsel to Ms. Mizrachi shall advise the Trustee in writing whether Berkovitch & Bouskila, PLLC, or any other counsel, continues to hold Ms. Mizrachi's file from the proceeding referenced in paragraph 4 above.

8. Any claim of privilege or work-product protection shall be asserted on a log served with the production to which it relates, identifying each withheld document by date, author, recipients, general subject matter and the basis for the claim.

9. Ms. Mizrachi shall file a certificate of compliance with this Court not later than two (2) business days after completing the productions required by this Order.

10. The relief requested in the Motion to Quash and the Opposition with respect to subpoenas issued by the Trustee to third parties, including JPMorgan Chase Bank, N.A. and BciCapital, Inc., c/o City National Bank of Florida, and the requests for an award of fees and expenses, are **DENIED**. The request that the Trustee bear the costs of compliance is **DENIED**

without prejudice to a properly supported request for protection from significant expense under Fed. R. Civ. P. 45(d)(2)(B)(ii).

11. Documents produced pursuant to this Order shall be subject to the protective order entered in these cases. [Doc. No. 791].

12. The Trustee's rights under Fed. R. Civ. P. 45(g), Bankruptcy Rules 2004 and 9016, and section 105(a) of the Bankruptcy Code, including the right to seek fees, costs and further relief in the event of non-compliance with this Order, are expressly reserved.

13. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation, interpretation and enforcement of this Order.