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Hearing Date: February 16, 2012
Hearing Time: 10:00 a.m.
Objection Deadline: February 9, 2012

*Counsel for the Trustees of the Local
813 Pension Trust Fund, the Local 813
Insurance Trust Fund and the Local
813 and Local 1034 Severance and
Retirement Trust Fund*

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

)	
In re)	
)	Chapter 11
MR. T CARTING CORP.,)	
)	Case No. 11-42725 (JF)
)	
Debtor.)	
)	

**NOTICE OF MOTION OF TRUSTEES OF THE LOCAL 813 PENSION TRUST FUND,
THE LOCAL 813 INSURANCE TRUST FUND AND THE LOCAL 813 AND
LOCAL 1034 SEVERANCE AND RETIREMENT TRUST FUND
FOR ENTRY OF AN ORDER PURSUANT TO BANKRUPTCY RULE 2004**

PLEASE TAKE NOTICE that on January 30, 2012, the Trustees of the Local 813 Pension Trust Fund (the “Pension Fund”), the Local 813 Insurance Trust Fund (the “Insurance Fund”), and the Local 813 and Local 1034 Severance and Retirement Trust Fund (the “Severance Fund” and together with the Pension Fund and the Insurance Fund, collectively, the “Funds”), filed the annexed Motion (the “Motion”) seeking the issuance and entry of an order pursuant to Fed.R.Bankr.P. 2004, inter alia, directing the examination of, and production of

documents by Debtor, its affiliated entities, and individuals related to any shareholder of Debtor (whether by blood or marriage) (collectively “Debtor Related Parties”).

PLEASE TAKE FURTHER NOTICE that the Funds will move before the Honorable Jerome Feller in the United States Bankruptcy Court for the Eastern District of New York, Conrad B. Duberstein U.S. Courthouse, 271 Cadman Plaza East, Room 3554 on February 16, 2012 at 10:00 a.m., or as soon thereafter as counsel may be heard, seeking the relief requested in the Motion.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the relief sought in the Motion must be in writing, state with particularity the reasons underlying such objection, and be served on the undersigned counsel to the Funds by February 9, 2012, in accordance with the form, and substance requirements of the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court for the Eastern District of New York.

Dated: January 30, 2012
New York, New York

PROSKAUER ROSE LLP
Counsel to the Funds

By: /s/ Scott K. Rutsky _____
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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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MR. T CARTING CORP.,)	Case No. 11-42725 (JF)
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**MOTION OF TRUSTEES OF THE LOCAL 813 PENSION TRUST FUND,
THE LOCAL 813 INSURANCE TRUST FUND AND THE LOCAL 813 AND
LOCAL 1034 SEVERANCE AND RETIREMENT TRUST FUND
FOR ENTRY OF AN ORDER PURSUANT TO BANKRUPTCY RULE 2004**

The Trustees of the Local 813 Pension Trust Fund (the “Pension Fund”), the Local 813 Insurance Trust Fund (the “Insurance Fund”), and the Local 813 and Local 1034 Severance and Retirement Trust Fund (the “Severance Fund” and together with the Pension Fund and the Insurance Fund, collectively, the “Funds”), by and through their undersigned counsel, hereby move (the “Motion”) for entry of an order, substantially in the form attached hereto as Exhibit A, directing the examination of, and production of documents by, Debtor, Debtor’s shareholders, and Debtor’s affiliated entities and individuals related to any shareholder of Debtor (whether by blood or marriage), identified in Exhibit A-2, and to be identified through discovery (collectively “Debtor Related Parties”), pursuant to Rule 2004 (“Rule 2004”) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). In support of this Motion, the Funds represent as follows:

Preliminary Statement

1. The Debtor, Mr. T Carting Corp. (“Mr. T” or the “Debtor”), is a waste management company that was a party to collective bargaining agreements with Local 813, I.B.T. (“Local 813”). Those agreements required contributions to the Funds on behalf of Mr. T’s employees. Although Mr. T withdrew from the Funds in June 2009 (when Mr. T’s employees voted to decertify Local 813), pursuant to Section 4203(a) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), Mr. T is liable to the Funds for more than \$1.8 million in withdrawal liability, and is also liable for more than \$33,000 in delinquent, pre-withdrawal contributions.

2. Mr. T admits that it filed its petition in this matter on March 31, 2011 to avoid its obligations to the Funds. Mr. T stated, “In filing this proceeding, it is the Debtor’s intent to negotiate a resolution with Local 813 Pension Fund so that it may continue to operate for the benefit of its creditors and its employees.” The Funds are, in essence, the only unsecured creditor.

3. In the months since it commenced this proceeding, Debtor has failed to provide full disclosure of its true financial position and the intertwined web of insider transactions and affiliated entities that Debtor relies upon in its everyday business.

4. From just the limited information produced to date, the Funds have uncovered, for example, that (a) Debtor paid undisclosed dividends to its shareholders (who are all members of two families) during the same period where, in its Statement of Financial Affairs (“SOFA”) filed in this Court, Debtor said none were paid, (b) Debtor made loans to its shareholders and to affiliated entities (directly owned by Debtor’s shareholders – *i.e.* family members), none of which were disclosed in the Debtor’s SOFA, and (c) that Debtor also made disbursements to still

more family members of Debtor's shareholders. More fundamentally, the Funds' review of the information provided to date indicates that Debtor is operating at a profit (and has been for years prior to its chapter 11 filing), and is in a position to pay its debts, including those owed to the Funds, as an ongoing concern.

5. Notwithstanding these findings, and despite the Funds' good faith proposals to Debtor to provide it with significant flexibility in satisfying its outstanding obligations, Debtor recently filed a proposed reorganization plan that would enable Debtor's shareholders to retain all of their equity in Mr. T through a so-called "contribution" of \$800,000 (in the form of a loan) and require creditors (of which the Funds represent more than 90% of all non-insider claims) to release Mr. T and Debtor Related Parties from all claims in exchange for receiving a roughly 40% recovery over a five year period. Coincidentally, to date, the Funds have identified what appear to be roughly \$800,000 of potential avoidance claims arising out of payments or transfers to Debtor Related Parties.¹ Debtor, in its disclosure statement, brushes aside any potential avoidance claims stating that it conducted a "preliminary investigation" and will not pursue any such claims. Of course, any such "investigation" by Debtor would be of affiliated entities controlled entirely by Debtor's own shareholders. Thus, Debtor's proposed plan appears to be a shell game in which its transfers to related parties are relabeled in a manner that allows the shareholders to retain 100% of Mr. T's equity, at the expense of the Funds, who have received no payment whatsoever on their claims in more than two years.²

¹ Debtor's material non-disclosure of several hundred thousand of these (and other) insider transfers alone justifies a comprehensive investigation of all transactions and transfers made to, or for the benefit of, Debtor and Debtor Related Parties.

² Debtor filed its proposed plan and disclosure statement on December 27, 2011. At present, Debtor has not filed a motion seeking approval of its disclosure statement.

6. In these circumstances, and in the absence of any credible investigation of Debtor and Debtor Related Parties by a non-conflicted estate fiduciary, – as the Court is aware, no creditors’ committee was appointed in this case - by this Motion, the Funds (bound by their fiduciary duties to their participants) seek Rule 2004 discovery to fully investigate, among other things: the numerous red flags that have emerged as to the location and distribution of Debtor’s assets; the interaction between and among Debtor and Debtor Related Parties, including the potential for additional preference and fraudulent conveyance claims; the value of Debtor’s assets and operations; the extent of Debtor’s efforts to explore viable alternatives to its insider-friendly reorganization plan; and the very legitimacy of Debtor’s claimed financial distress in seeking bankruptcy protection and proposing its plan.³

Facts

7. Mr. T is a privately held S-Corporation existing under the laws of the State of New York. Debtor’s shares are 100 percent owned by members of two families: the Toscano family and the Zambrotta family.

8. The shares of Mr. T are allocated among the family members as follows: Peter Toscano, 18%; Thomas N. Toscano, 17%; John Toscano Sr., 17%; Peter Toscano Jr., 16%; Vincent Zambrotta, 17%; and Paul Zambrotta, 16%.

9. On March 31, 2011 (the “Petition Date”), Debtor filed for chapter 11 protection. By its own admission, it did so to avoid its obligations to pay almost \$2 million in withdrawal liability and delinquent contributions owed to the Funds under the respective trust agreements of the Funds, applicable collective bargaining agreements, the Taft-Hartley Act, and ERISA.

³ The Funds reserve all of their rights including, without limitation, the right to seek appointment of a trustee or examiner in this case.

Debtor essentially stated that it intended to use the bankruptcy process as a means to gain leverage to negotiate a resolution with the Funds. *Affidavit of Thomas N. Toscano Pursuant to Local Rule 1007-4 and in Support of “First Day” Orders*, April 1, 2011, ¶ 27.⁴

10. Since the Petition Date, the Funds have attempted to engage informally with Debtor. To that end, the Funds requested relevant information and documents from Debtor to assess Debtor’s purported financial distress and claimed inability to make the Funds whole on Debtor’s obligations.

11. The Funds’ examination of the information produced by Debtor and filed with the Court since the Petition Date raises significant concern about Debtor’s web of affiliated entities and related individuals who received payments from Debtor and who have business relationships with Debtor. Debtor’s productions and disclosures to the Court pertain only to the operations of Mr. T. Though the Funds have requested that Debtor provide additional information about Debtor Related Parties – entities owned and controlled by Debtor’s shareholders – Debtor’s counsel has responded that he is not in a position to produce such information. Moreover, through Debtor’s production of information about Mr. T’s operations, the Funds have uncovered evidence that raises serious questions as to Debtor’s purported financial distress and inability to pay its debts, and perhaps, its entire basis for filing for protection.

⁴ The Funds originally filed a complaint in November 2010 (amended in January 2011) in the United States District Court for the Eastern District of New York, 10-cv-5320 (FB) (CLP), for injunctive and other equitable relief, for breach of contract and to compel Mr. T to pay its withdrawal liability to the Funds. And although Mr. T admitted (in its answers to the initial complaint and the amended complaint) that it withdrew from the Funds and was liable for withdrawal liability, prior to the filing of the suit, Mr. T engaged in months-long delay tactics and failed to make any payments notwithstanding its statutory obligation to do so. The action has been stayed since Mr. T’s filing on March 31, 2011.

12. Information revealed about Mr. T's operations evidence an intricate flow of funds between and among numerous affiliated entities and family members, as well as payments directly to shareholders that were never disclosed by Debtor in its filing. Indeed, while only some of Debtor's equity holders appear on Mr. T's payroll, others are apparently on the payroll of affiliated entities within Debtor's vast network of related parties. Debtor's lack of transparency and the falsities that have emerged in its bankruptcy disclosures precipitates the Funds' need for full discovery.

13. For example, in its SOFA filed with this Court on April 29, 2011, Debtor made various representations about its finances that the Funds later learned – after asking for more information – were patently untrue. A true and correct copy of the SOFA filed by Debtor on April 29, 2011 is attached hereto as Exhibit B.

14. In responding to Question 23 on the SOFA, requiring a listing of all distributions by a corporation to, or for the benefit of, insiders within one year preceding the bankruptcy filing, Debtor indicated there were no such distributions. The Funds have since received Mr. T's financial statements for the years ended December 31, 2009 and 2010 which expressly show "Distributions to Stockholders" of \$75,000 in 2010. Indeed, the financial statements show such dividends being paid out of accumulated earnings, despite Mr. T's stated operating loss for 2010. Further discovery into the timing, approval, and reasoning for such dividends is necessary to understanding Debtor's true financial position.

15. Also revealed in the footnotes to Mr. T's 2010 year-end financial statements, are multiple "Related Party Transactions," including substantial loans to shareholders in 2010 –

monies that, again, could have been but were not paid to the Funds.⁵ No disclosure of these transfers was made in Debtor's SOFA.

16. The "Related Party Transactions" footnote also discloses non-interest bearing loans to "affiliated entities" amounting to \$167,098 in 2010.⁶ Again, Debtor's SOFA fails to disclose payments to any such "affiliated entities," much less identify the names of these "affiliated entities" addressed in its financial statements.

<u>Debtor's Disclosures Per SOFA</u>	<u>Information Wrongly Omitted</u>
<p>Question 23 – Withdrawals from a partnership or distribution by a corporation.</p> <p>"If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during one year immediately preceding the commencement of this case."</p> <ul style="list-style-type: none"> • Debtor checks "None" 	<ul style="list-style-type: none"> • 2010 Distribution to Stockholders: \$75,000 • 2010 Company loans to Stockholders: \$47,960 • 2010 Company loans to affiliated entities: \$167,098

17. Debtor's financial statements for 2009 also identify \$100,000 of dividends to stockholders, loans to stockholders of \$101,862, and loans to affiliated entities of \$235,396.

⁵ The Funds have now received Mr. T's financial statements for each year going back to 2005 and have discovered that similar "advanced funds to the stockholders" have been recorded in excess of \$200,000 each year.

⁶ The Funds' review of Mr. T's financial statements going back to 2005 show similar non-interest bearing loans to affiliated entities each year, amounting to nearly \$1 million in 2006.

18. Debtor's responses to Question 3 of the SOFA omit a plethora of payments that Mr. T made to, or for the benefit of, insiders (including affiliated entities, related parties, and shareholders' family members).

19. As discussed above, \$175,000 in dividends were paid to Mr. T's shareholders in 2010 and 2009 – a time when Mr. T's was not paying its obligations to the Funds. Mr. T also made purported loans to shareholders and affiliated entities. None of these disbursements are identified in Debtor's answer to 3(c).

20. Notwithstanding Debtor's lack of transparency, the Funds have been able to identify some (though certainly not all) of the numerous entities that received funds from Mr. T within the year preceding bankruptcy filing. Many of these affiliated entities are among the payees in Debtor's list of payments made within 90 days of its filing.

21. For example, in the months just prior to its filing, Mr. T paid approximately \$789,000 to a company called Hi-Tech Resource Recovery, Inc. ("Hi-Tech"); \$227,000 of that was paid in three installments just one week preceding Debtor's bankruptcy filing. Upon information and belief, Hi-Tech is a company owned by Vincent Zambrotta, Peter Toscano, and John Toscano. Debtor listed Hi-Tech as a purported creditor in its filing, while excluding payments to Hi-Tech from the list of amounts paid to, or for the benefit of, insiders. Debtor's monthly operating reports filed since April 2011 identify repeated large payments to Hi-Tech each month.

22. Similarly, included in Mr. T's payments within 90 days of filing are various amounts (totaling at least in excess of \$80,000) to at least seven entities that are owned by, and registered with New York State in the name of, members of the Toscano and Zambrotta families. Many of these entities are listed as purported creditors of Mr. T, and some are identified as

having leases of property with Mr. T. Despite the familial ownership (including many by the named shareholders of Mr. T) none of these payments are identified by Debtor in the listing of payments made to or for the benefit of insiders in its response to question 3(c) on the SOFA.

<u>Debtor's Disclosure Per SOFA</u>	<u>Information Wrongly Omitted</u>
<p>Question 3(c) – List all payments made within one year immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders.</p> <p>Debtor lists:</p> <ul style="list-style-type: none"> • Salary payments to John Toscano, Peter Toscano Jr., Paul Zambrotta, and Peter Toscano • Expense reimbursements to John Toscano • Repair reimbursements to Peter Toscano Jr. • Tax and expense reimbursements to Thomas N. Toscano • Tax and expense reimbursements to Paul Zambrotta 	<ul style="list-style-type: none"> • Payments to more than 15 affiliated entities owned by Debtor's stockholders • Payments to Debtor's family members • Dividends to Shareholders • Loans to Shareholders and affiliated entities

23. On the surface (which is all the Funds have been able to see) Debtor's dealings within its web of related entities provide an environment ripe for potential significant avoidance claims. Under the "Related Party Transactions" footnote to Mr. T's financial statements, Mr. T states that it leases its "office, storage and operating facility from several affiliated entities on a month-to-month basis." The Funds have learned that Mr. T's financials dating back to 2005 indicate the existence of such an arrangement, and the fact that such "leases" are handled on a

month-to-month basis, though in existence for years. The bona fides of these arrangements, among others (and any other questionable transactions that may be identified through discovery), need to be fully investigated.

24. At this time, based on the limited information they have received, the Funds believe there are at least fifteen (15) affiliated entities that Debtor failed to identify as having received payments from Mr. T within the year preceding its bankruptcy filing. That amount does not include family members who also received payments from Mr. T in an individual capacity in the same timeframe. Notably, Debtor's operating reports filed with the Court since April 2011 evidence ongoing payments to these affiliated entities and individual family members, despite Debtor's claim of financial distress necessitating its bankruptcy filing.

25. Debtor's list of payments within 90 days of filing identifies amounts repeatedly paid to John Toscano, Jamie Toscano, Matt Camarata, and Frank Stemberga, among others. None of these payments are identified by Debtor as to, or for the benefit of, insiders on the SOFA. Again, Debtor's monthly operating reports filed since April 2011 identify repeated payments to many of these same individuals and other members of the Toscano and Zambrotta families. The Funds believe that further discovery will likely identify payments made by Debtor to, or on behalf of, various members of the Toscano and Zambrotta families for reasons unrelated to Mr. T's carting business.

26. Mr. T's payments within 90 days of filing also evidence a noticeable increase in amounts paid to American Express as Debtor approached its filing. In January 2011, Debtor indicates expenditures of approximately \$48,000 to American Express. That amount rises to approximately \$68,000 in February 2011, and jumps to \$114,000 in March 2011, including more than \$30,000 in the week preceding filing. This trend (and the sizeable purchases shortly before

filing) not only raises suspicion into Debtor’s true cash flow, it begs the question as to whether such sizeable expenditures – generically designated by Debtor as “American Express Payments” – in the days leading up to bankruptcy, were even legitimate business expenses of Mr. T. Further discovery into this activity is necessary to answer these questions.

27. Another blatant inaccuracy in Debtor’s SOFA is its response to Question 25, where it indicates it has made no contributions to any pension funds in the six years preceding the bankruptcy filing – *i.e.* since 2005. Of course, Debtor was subject to contributions to the Funds in that period, and became delinquent on its obligations beginning in 2006 and has not paid its withdrawal liability to the Funds which arose following Mr. T’s employees’ vote to decertify the Local 813 union in June 2009.

<u>Debtor’s Disclosure Per SOFA</u>	<u>Information Wrongly Omitted</u>
<p>Question 25 – Pension Funds.</p> <p>“If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within six years immediately preceding the commencement of the case.”</p> <ul style="list-style-type: none"> • Debtor checks “None” 	<ul style="list-style-type: none"> • Contribution obligations and withdrawal liability to the Funds

28. In addition to the questions raised by Debtor’s lack of transparency, Mr. T’s financial statements paint the picture of a healthy company, with steady operating revenues, and the ability to meet its obligations as they come due. For 2009, Mr. T’s financials show operating income in excess of \$1 million. For 2010, Mr. T’s financials show an operating loss of \$609,000, despite no material decrease in revenues. The operating loss is driven by purported

bad debt expense of \$1.3 million, which represents a 1,329 % increase from the \$91,000 of bad debt expense reported by Mr. T in 2009. This rise in purported write-offs in 2010 leading up to Debtor's bankruptcy filing is astounding and certainly warrants further inquiry, particularly given Mr. T's apparent knowing and strategic use of its filing to try to avoid and/or force through a reduction in its obligations to the Funds..

29. Review of Mr. T's financial statements for 2009 and 2010 also demonstrates that the Company maintained adequate current assets to pay its obligations as they came due. Indeed, the Company appears to have possessed a strong working capital position throughout 2009-2010 and steady revenues, raising questions about Debtor's true ability to satisfy its obligations to the Funds.

30. Given the substantial inaccuracies and omissions in Debtor's filing and Court disclosures, the lack of voluntary transparency the Funds have received from Debtor over the past 10 months, and the increasingly questionable legitimacy of Debtor's financial distress, the Funds' Trustees – faced with discharging their fiduciary duties with respect to the Funds' claim – require the Court's assistance to compel Debtor's full and prompt disclosure of relevant information underlying Debtor's financial position and the existence of potential preference claims.

31. Under Debtor's recently filed proposed plan of reorganization, shareholders would retain 100% of their equity in Mr. T through a contribution of \$800,000, while requiring creditors (who would receive roughly 40% of their claims over a five year period) to release Debtor and Debtor Related Parties from all remaining claims. On its face, this proposal seems nothing more than Debtor's tacit recognition that at least \$800,000 of avoidance claims have been exposed, and its effort to recast \$800,000 of insider transfers as a "contribution," thereby

enabling Debtor's shareholders to retain 100% of the equity of Mr. T. Absent a legitimate investigation of Debtor's suspect payment activity prior to filing, the proposed plan amounts to a mere shell game.

32. In its disclosure statement, Debtor comments in a footnote that it has performed a "preliminary investigation" of payments made to creditors in the 90 days preceding its filing, and that most were made in the ordinary course of Debtor's business. But, any investigation Debtor purports to have conducted on its own into potential avoidance claims lacks credibility on its face, because the very subjects of such investigation are affiliated entities owned and controlled by Debtor's shareholders, and individuals related by blood or marriage to Debtor's shareholders, *i.e.* Debtor Related Parties. To reach any credible conclusion as to potential avoidance claims, there needs to be non-conflicted discovery and examination into Debtor's operations and the operations underlying the web of Debtor Related Parties that receive disbursements from Debtor.

33. In light of the issues raised in this Motion, the Funds submit that Rule 2004 discovery is the prudent and reasonable approach, at this time, to further investigate Debtor's status. Pending such discovery, the Funds retain the right to request that the Court appoint an independent Examiner and/or Trustee to take additional steps to protect the creditors.

Jurisdiction and Venue

34. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The relief requested by the Motion is predicated upon sections 105(a) and 1103(c) of the Bankruptcy Code and Rule 2004 of the Federal Rules of Bankruptcy Procedure.

Relief Requested

35. By this Motion, the Funds seek an order directing the Debtor, Debtor's shareholders, and Debtor Related Parties (those identified on Exhibit A-2, and to be identified through further discovery) to produce to the Funds (a) documents and communications in the following categories (as set forth in detail on Exhibit A-1 attached to the proposed Order, attached as Exhibit A hereto): (i) the identity, ownership, and nature and basis for any business relationship with any Related Parties; (ii) payments, distributions or loans by Debtor to shareholders preceding filing; (iii) payments, distributions or loans by Debtor to Debtor Related Parties; (iv) any commingling of Debtor's assets with those of Debtor Related Parties; (v) the value of Debtor's assets and operations; (vi) the extent of Debtor's efforts to explore viable alternatives to its insider-friendly reorganization plan; and (vii) Debtor's investigation of potential avoidance claims; and (b) witnesses who can address these subjects.

Basis for Relief

36. Bankruptcy Rule 2004(a) provides, in relevant part, that "[o]n motion of any party in interest, the court may order the examination of any entity." Fed. R. Bankr. P. 2004(a). Rule 2004(c) provides that "the production of documentary evidence may be compelled in the manner provided in Rule 9016," which permits the issuance of a subpoena. *See* Fed. R. Bankr. P. 2004(c).

37. The scope of a Rule 2004 examination is "unfettered and broad." *In re Bakalis*, 199 B.R. 443, 447 (Bankr. E.D.N.Y. 1996); *see also, e.g.* 9 Collier on Bankruptcy ¶ 2004.02[1] at 2004-6 (15th ed. rev'd 2004). Examinations under Rule 2004 include within their scope, among other things, any matter that may relate to the property and assets of the estate, the

liabilities of the debtor, and any other matter that may affect the administration of a debtor's estate. *See* Fed. R. Bankr. P. 2004(b).

38. Rule 2004 discovery permits a “fishing expedition” to assist “in revealing the nature and extent of the estate; ascertaining assets; and discovering whether any wrongdoing has occurred.” *In re Corso*, 328 B.R. 375, 383 (Bankr. E.D.N.Y. 2005); *In re Bakalis*, 199 B.R. 443, 447 (Bankr. E.D.N.Y. 1996); *In re Coffee Cupboard, Inc.*, 128 B.R. 509, 514 (Bankr. E.D.N.Y. 1991) (“The scope of a Rule 2004 examination is very broad and can be in the nature of a fishing expedition...[and] may be conducted by any party in interest, not just the trustee.” (internal citations omitted); *see also*, *Martin v. Schaap Moving Systems, Inc.*, 97-cv-5042, 152 F.3d 919, 1998 WL 405966, *2 (2d Cir. 1998) (“The scope of examination authorized by Rule 2004 is exceptionally broad. Its purpose is to assist the trustee in revealing the nature and extent of the estate, and to discover assets of the debtor which may have been intentionally or unintentionally concealed.”(internal citations and quotations omitted).

39. To that end, courts permit Rule 2004 discovery that is considerably broader than the scope of discovery permissible under Rule 26 of the Federal Rules of Civil Procedure. *In re Corso*, 328 B.R. at 383; *In re Bakalis*, 199 B.R. 443 at 447 (“[Rule 2004 examinations] are subject to few of the procedural safeguards normally applicable to discovery under the Federal Rules of Civil Procedure.”); *In re Altamis B.V.*, 10-12308, 2010 WL 4877868, *4 (Bankr. S.D.N.Y. 2010) (same); *In re Hughes*, 281 B.R. 224, 226 (Bankr. S.D.N.Y. 2002) (“[I]t is well settled that the scope of examination allowed under Rule 2004 is broader than discovery allowed under the Federal Rules of Civil Procedure and may be in the nature of a ‘fishing expedition.’”)

40. Rule 2004 discovery is particularly appropriate where, as here, questions arise as to the nature of related party transactions and the existence of entities affiliated with the debtor. *Cf. In re JNL Funding Corp.*, 10-73724, 2011 WL 608605, *7 (Bankr. E.D.N.Y. 2011) (discovery by Examiner under Rule 2004 into pre-petition transfers by debtor with affiliated, controlled, and related entities); *In re American Preferred Prescription, Inc., et al. v. American Preferred Prescription Inc.*, 893-84170-478, 1997 WL 158401, * 30, n. 11 (Bankr. E.D.N.Y. 1997) (“Related party transactions require close scrutiny...[as] a way in which perpetrators of financial statement fraud have crafted their work at the expense of unsuspecting creditors and shareholders. While related party transactions are not inherently bad, they have proven to be an easy and effective way for perpetrators of fraud and money laundering schemes to misstate the economic substance and reality of financial transactions.”) Indeed, third parties who have a relationship with the Debtor may be subject to a Rule 2004 examination to aid in discovery of assets. *In re Hughes*, 281 B.R. 224 at 226.

41. By this Motion, the Funds are making specific requests (identified in Exhibit A-1) from the Debtor and Debtor Related Parties relating to: (i) undisclosed distributions or loans by Debtor to shareholders preceding filing; (ii) payments or loans by Debtor to Debtor Related Parties; (iii) any commingling of Debtor’s assets with those of Debtor Related Parties and (iv) Debtor’s investigation into potential avoidance claims.

42. Because of the complexity of these issues, and the materially incomplete and/or delayed disclosures by Debtor, it is important that the Funds’ review and analysis of the information sought herein commence quickly to allow the Funds and its advisors sufficient time to study these issues. Delay will create additional costs, not only for the Funds, but for the

Debtor's estate. It is vital that the Funds be provided with access to the documents and an opportunity to examine witnesses regarding the subjects of the documents.

43. The Funds reserve the right to supplement these requests for additional information, documents, and witnesses as appropriate and as may become needed as discovery proceeds. Additionally, as stated above, the Funds reserve the right to seek the appointment of an Examiner and/or Trustee to independently investigate or monitor the issues identified herein.

WHEREFORE, the Funds request that the Court enter an order in form attached as Exhibit A requiring Debtor, Debtor's shareholders, and Debtor Related Parties (those identified on Exhibit A-2, and to be identified through further discovery) to produce documents responsive to the requests, including, but not limited to, those set forth in Exhibit A-1, requiring Debtor, Debtor's shareholders, and Debtor Related Parties, to produce to the Funds witnesses who can address the subjects of the documents, and granting the Funds such other and further relief as this Court finds just, proper, and equitable.

Dated: January 30, 2012
New York, New York

PROSKAUER ROSE LLP

Counsel to the Funds

By: /s/ Scott K. Rutsky

Scott K. Rutsky

Jennifer R. Scullion (*Pro Hac Vice pending*)

Sally L. Schneider

Seth D. Fier

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EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

In re)	
)	
)	Chapter 11
MR. T CARTING CORP.,)	
)	Case No. 11-42725 (JF)
)	
Debtor.)	
)	

**ORDER REQUIRING RULE 2004
EXAMINATION AND PRODUCTION OF DOCUMENTS**

Upon the Motion for an Order Directing Examination and Production of Documents Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure 2004 (the “Motion”) filed by the Trustees of the Local 813 Pension Trust Fund (the “Pension Fund”), the Local 813 Insurance Trust Fund (the “Insurance Fund”), and the Local 813 and Local 1034 Severance and Retirement Trust Fund (the “Severance Fund” and together with the Pension Fund and the Insurance Fund, collectively, the “Funds”); it appearing that the Court has jurisdiction over this matter pursuant to 11 U.S.C. §§ 157 and 1334; it appearing that this is a core proceeding pursuant to 28 U.S.C. §157(b)(2); it appearing that venue is proper pursuant to 28 U.S.C. §§1408 and 1409; notice of this Motion and the opportunity for a hearing on this Motion was appropriate under the particular circumstances; and upon due deliberation and sufficient cause appearing therefore, it is hereby **ORDERED** that:

1. The Motion is granted in its entirety; and
2. Debtor, Debtor’s shareholders, and its affiliated entities and individuals related to any shareholder of Debtor (whether by blood or marriage) identified in Exhibit A-2, and to be

identified through discovery (collectively “Debtor Related Parties”), shall produce to the Funds documents requested by the Motion, listed in Exhibit A-1 thereto at a time and place and in a manner and format to be agreed upon between the Debtor and the Funds (but, unless otherwise agreed, commencing no later than one week following the date of this Order), and shall, at a time to be agreed upon between the Debtor and the Funds, produce to the Funds witnesses to address the subjects relating to the documents (with respect to any entity or individual other than Debtor and its shareholders, such discovery shall be provided upon service by the Funds of subpoenas calling for testimony and documents).

Dated: _____

United States Bankruptcy Judge

EXHIBIT A-1

EXHIBIT A-1

The Fund seeks authorization to obtain from the Debtor and Debtor Related Parties the following:

1. Documents identifying all affiliated entities and individuals related to any shareholder of Debtor (whether by blood or marriage) (collectively “Debtor Related Parties”) that have received payment (whether in money funds or in-kind services) from Debtor since January 1, 2009 (“Related Party Payments”), including, but not limited to all “Related Parties” as that term is used in Debtor’s footnotes to its financial statements.
2. Any and all documents evidencing or concerning any payment or disbursement made by or for the benefit of Debtor since January 1, 2009, including, but not limited to, Debtor and Debtor Related Parties general ledgers, sub-account ledgers, cash journals, disbursement journals, check registers, and payroll registers.
3. Any and all documents evidencing or concerning payments or in-kind services received by Debtor from or for the benefit of any Debtor Related Parties since January 1, 2009.
4. Any and all documents evidencing or concerning dividends paid by Debtor to shareholders since January 1, 2009.
5. Any and all documents evidencing or concerning loans made by, or for the benefit of, Debtor to any Debtor Related Parties since January 1, 2009, including, but not limited to all “advanced funds” to “stockholders” or “other affiliated entities” as those terms are used in Debtor’s footnotes to its financial statements.
6. Any and all documents evidencing or concerning leases (whether for office, storage, operating facilities, or otherwise) to which Debtor has been a party or guarantor since January 1, 2009.
7. All statements for accounts held or maintained by, or for the benefit of, Debtor or Debtor Related Parties at any bank or financial institution, whether in Debtor’s name or in the name of another entity or individual.
8. All statements for credit accounts held or maintained by, or for the benefit of, Debtor, whether in Debtor’s name or in the name of another entity or individual, including, but not limited to accounts with American Express, Capital One Bank, Direct Capital Corp., First Financial Credit Inc., and Citibank.
9. Documents sufficient to show any approval, consideration of fairness, and accounting treatment, of all transactions between Debtor and any Debtor Related Parties, including, but not limited to, any independent appraisals of property leased by Debtor and any minutes, resolutions, written proxies of the Board of Directors of Debtor concerning any such transaction.

10. All financial statements prepared by, or for the benefit of, Debtor since January 1, 2009, to the extent not already produced to the Funds.

11. All documents constituting or concerning communications of Debtor's financial position made to any shareholder or third party (including, but not limited to financial institutions, lending sources, and city, state, or federal agencies).

12. Any and all documents constituting or concerning any investigation of potential avoidance claims.

13. Any and all documents evidencing or concerning any guarantees by Debtor of any debts of any Debtor Related Parties since January 1, 2009.

14. Any and all documents evidencing or concerning any guarantees by Debtor Related Parties of any obligations of Debtor since January 1, 2009.

15. Documents sufficient to identify all shareholders and holdings of Debtor Related Parties.

16. Any and all documents evidencing or concerning any leases, contracts, or agreements Debtor has entered into with any Debtor Related Party.

17. Any and all documents evidencing or concerning acts of Debtor's Board of Directors, including, but not limited to notices of any meetings, minutes of any meetings, resolutions of the Board, and communications by the Board.

18. Any and all documents evidencing or concerning payments by, or for the benefit of, any Debtor Related Party to any family member of Debtor's shareholders, including but not limited to, any records of employment of family members and payroll records of Debtor Related Parties.

19. Any and all documents evidencing or concerning any perquisites received by Debtor's shareholders or employees.

20. Any and all documents evidencing or concerning Debtor's decision to write off \$1.3 million of Accounts Receivable in 2010.

21. Any and all documents evidencing or concerning Debtor's communications with any third party about its bankruptcy petition or the claims of the Funds.

22. Any and all documents evidencing or concerning valuation of Debtor's business or estate, including, but not limited to, any appraisals of Debtor's assets.

23. Any and all documents evidencing or concerning financial projections of Debtor's business, whether prepared in connection with Debtor's filed plan of reorganization, or otherwise.

24. Any and all documents evidencing or concerning the \$800,000 loan to be made by Debtor's equity owners under the proposed plan of reorganization, including, but not limited to, any communications between Debtor and Debtor Related Parties about such loan.

25. Any and all documents evidencing or concerning published rates for non-Debtor customer use of Debtor Related Parties' recycling and material recovery facilities since January 1, 2009.

26. Any and all documents evidencing or concerning cardboard sales by or to Debtor and Debtor Related Parties since January 1, 2009, including, but not limited to, descriptions of cardboard sales, sources of Debtor's cardboard, allocation of cardboard received among Debtor and Debtor's Related Parties, and volume and amount per unit of cardboard received by Debtor for cardboard sales.

27. Documents sufficient to identify all employees of Debtor and Debtor Related Parties, job descriptions of such employees, hours worked by each employee by month, amounts paid to each employee broken out between salary, benefits (including, but not limited to, health plans, profit sharing, 401k, pension, life insurance, other insurance), and expense reimbursements (by category of expense), since January 1, 2009.

EXHIBIT A-2

EXHIBIT A-2

The Fund seeks authorization to obtain discovery from the following Debtor Related Parties, as well as additional Debtor Related Parties the Funds may identify through discovery:

1. Hi-Tech Resource Recovery Inc.
2. Scholes Street Recycling Corp.
3. Mr. T Carting LLC
4. 69-80 73rd Place LLC
5. Gundoff Realty Corp.
6. Lucy's Realty LLC
7. Station Realty Corp.
8. TAZ Leasing Corp.
9. Toscano Realty Corp.
10. Cacama Realty LLC
11. Thomas N. Toscano & Associates PLLC
12. Jamie Toscano
13. John Toscano
14. Amanda Toscano
15. Karina Toscano

EXHIBIT B

**United States Bankruptcy Court
Eastern District of New York**

IN RE:

Case No. 1-11-42725Mr. T Carting Corp.Chapter 11

Debtor(s)

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. To indicate payments, transfers and the like to minor children, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. **If the answer to an applicable question is "None," mark the box labeled "None."** If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

- None State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the **two years** immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT SOURCE

3,745,005.00 Gross income for 2011

15,031,690.00 Gross Income for 2010

15,363,729.00 Gross income for 2009

2. Income other than from employment or operation of business

- None State the amount of income received by the debtor other than from employment, trade, profession, operation of the debtor's business during the **two years** immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

3. Payments to creditors

Complete a. or b., as appropriate, and c.

- None *a. Individual or joint debtor(s) with primarily consumer debts:* List all payments on loans, installment purchases of goods or services, and other debts to any creditor made within **90 days** immediately preceding the commencement of this case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$600. Indicate with an asterisk (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and credit counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

None b. Debtor whose debts are not primarily consumer debts: List each payment or other transfer to any creditor made within **90 days** immediately preceding the commencement of the case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$5,850. * If the debtor is an individual, indicate with an asterisk (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and credit counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments and other transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

* Amount subject to adjustment on 4/01/13, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

NAME AND ADDRESS OF CREDITOR List Supplied	DATE OF PAYMENTS/TRANSFERS Various	AMOUNT PAID OR VALUE OF TRANSFERS 0.00	AMOUNT STILL OWING 0.00
------------------------------------------------------	----------------------------------------------	--------------------------------------------------------	--------------------------------------

None c. All debtors: List all payments made within **one year** immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING
John Toscano	Various payroll checks in the ordinary course	102,079.03	0.00
(Net Salary)			
Peter Toscano Jr	Various payroll checks in the ordinary course	111,328.18	0.00
(Net Salary)			
Paul Zambrotta	Various payroll checks in the ordinary course	119,031.43	0.00
(Net Salary)			
Peter Toscano	Various payroll checks in the ordinary course	54,005.26	0.00
(Net Salary)			
John Toscano	Various	6,558.38	0.00
Various expense reimbursements			
Peter Toscano Jr	Various	611.58	0.00
Repair Reimbursements			
Thomas N. Toscano	Various	2,201.00	0.00
Tax and Expense Reimbursement			
Paul Zambrotta	Various	4,552.00	0.00
Tax and Expense Reimbursements			

4. Suits and administrative proceedings, executions, garnishments and attachments

None a. List all suits and administrative proceedings to which the debtor is or was a party within **one year** immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
TRUSTEES of the LOCAL 813 PENSION TRUST FUND et al.	Contract	UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK	Pending (Stayed)
v. MR. T CARTING CORP. Case No.: 10-CV-5320 (FB)(CLP)			

None b. Describe all property that has been attached, garnished or seized under any legal or equitable process within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

5. Repossessions, foreclosures and returns

None List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

6. Assignments and receiverships

None a. Describe any assignment of property for the benefit of creditors made within **120 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and joint petition is not filed.)

None b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

7. Gifts

None List all gifts or charitable contributions made within **one year** immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

8. Losses

None List all losses from fire, theft, other casualty or gambling within **one year** immediately preceding the commencement of this case **or since the commencement of this case**. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

9. Payments related to debt counseling or bankruptcy

None List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under bankruptcy law or preparation of a petition in bankruptcy within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
Ravin Greenberg, LLC	March 27, 2011	25,000.00
Ravin Greenberg, LLC 101 Eisenhower Parkway Roseland, NJ 07068	9/28/2010	3,000.00

10. Other transfers

None a. List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **two years** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

None b. List all property transferred by the debtor within **ten years** immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

11. Closed financial accounts

None List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within **one year** immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

12. Safe deposit boxes

None List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

13. Setoffs

None List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within **90 days** preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

14. Property held for another person

None List all property owned by another person that the debtor holds or controls.

15. Prior address of debtor

None If debtor has moved within **three years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

16. Spouses and Former Spouses

None If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within **eight years** immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

17. Environmental Information

For the purpose of this question, the following definitions apply:

“Environmental Law” means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes or material.

“Site” means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

“Hazardous Material” means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law.

None a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law.

None b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

None c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

18. Nature, location and name of business

None a. *If the debtor is an individual*, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full- or part-time within **six years** immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within **six years** immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

None b. Identify any business listed in response to subdivision a., above, that is “single asset real estate” as defined in 11 U.S.C. § 101.

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within six years immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership, a sole proprietor, or self-employed in a trade, profession, or other activity, either full- or part-time.

(An individual or joint debtor should complete this portion of the statement **only** if the debtor is or has been in business, as defined above, within the six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)

19. Books, records and financial statements

- None a. List all bookkeepers and accountants who within the **two years** immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS

Thomas N. Toscano
7304 Edsall Avenue
Glendale, NY 11385

DATES SERVICES RENDERED

June 2010 (audit and financial statement)
June 2009 (audit and financial statement)

Posses & Chasan

100 Merrick Road, Suite 400
Rockville Center, NY 11570

- None b. List all firms or individuals who within the **two years** immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME AND ADDRESS

Posses & Chasan
100 Merrick Road, Suite 400
Rockville Center, NY 11570

DATES SERVICES RENDERED

June 2010
June 2009

Thomas N. Toscano

7304 Edsall Avenue
Glendale, NY 11385

- None c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME AND ADDRESS

Thomas N. Toscano
7304 Edsall Avenue
Glendale, NY 11385

- None d. List all financial institutions, creditors, and other parties, including mercantile and trade agencies, to whom a financial statement was issued within the **two years** immediately preceding the commencement of the case by the debtor.

NAME AND ADDRESS

Business Integrity Commission
100 Church Street, 20th Floor
New York, NY 10007

DATE ISSUED

Annually

Capital One Bank

20. Inventories

- None a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

- None b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

21. Current Partners, Officers, Directors and Shareholders

- None a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

- None b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS	TITLE	NATURE AND PERCENTAGE OF STOCK OWNERSHIP
Peter Toscano	VP of Sales	18%
Peter Toscano, Jr.	Chief Operating Office	16%
John Toscano Sr.	Manager of Rolloff Division/Sales	17%
Vincent Zambrotta	President	17%
Thomas N. Toscano	CFO	16%
Paul Zambrotta	Risk Management	16%

22. Former partners, officers, directors and shareholders

None a. If the debtor is a partnership, list each member who withdrew from the partnership within **one year** immediately preceding the commencement of this case.

None b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within **one year** immediately preceding the commencement of this case.

23. Withdrawals from a partnership or distributions by a corporation

None If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

24. Tax Consolidation Group

None If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within **six years** immediately preceding the commencement of the case.

25. Pension Funds.

None If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within **six years** immediately preceding the commencement of the case.

[If completed on behalf of a partnership or corporation]

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct to the best of my knowledge, information, and belief.

Date: **April 29, 2011** Signature: **/s/ Thomas N. Toscano**

Thomas N. Toscano, Chief Financial Officer

Print Name and Title

[An individual signing on behalf of a partnership or corporation must indicate position or relationship to debtor.]

0 continuation pages attached

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years or both. 18 U.S.C. § 152 and 3571.