

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

JUDGE PETER J. WALSH

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Claybrook, Chapter 7 Trustee
of Discovery Zone, Inc., et
al.

Re: Discovery Zone, Inc., et al.
Case No. 99-941 (PJW)

Dear Counsel:

This is my ruling on the motion (Doc. # 1176) of DuPont
Flooring Systems, Inc. ("DuPont") to compel production of
documents and the examination of the Chapter 7 Trustee.

I have two observations at the outset: (1) It strikes
me as an unusual request to examine a Chapter 7 Trustee whose

statutory duty is to act as a fiduciary for the estates' creditors, including DuPont. (2) In general, the document production request is unduly broad and burdensome.

I will deny the motion and suggest that DuPont pursue a two-step process. First, it should seek a Rule 2004 order which will allow it to propose interrogatories (as suggested below) and at the same time consult the public record regarding available information. Second, after assimilating those two sources of information, seek a further Rule 2004 order to depose the Trustee if needed to clarify and/or supplement the information theretofore obtained.

My specific comments on the 16 document requests are as follows:

Items 1, 12, 13, 14 and 16: These are matter of public record in this bankruptcy case.

Item 2: As to the preference actions filed those are a matter of public record. As to contemplated actions, the request is inappropriate for a number of reasons, not the least of which is the attorney-client privilege and/or the work product doctrine. It would be appropriate to ask if anyone, including the Trustee, has done an analysis of potential preference actions.

Item 3: Too broad. DuPont can pose interrogatories asking as to Griffin Bacal, Inc. what amounts were paid, when and

for what purpose.

Items 4 - 10: Each of these can be separate interrogatories as to what was paid for what reason and when.

Items 11 and 15: These requests appear to relate to the New York litigation and should be pursued there, if appropriate.

In summary, the motion (Doc. # 1176) is DENIED but without prejudice to filing of a Rule 2004 motion with respect to interrogatories as indicated above and without prejudice to filing a Rule 2004 motion to depose the Trustee at a later date.

Very truly yours,

Peter J. Walsh

PJW:ipm