

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	:	CASE NO. 09-68035-JB
	:	
	:	
R&D Contractors, Inc.,	:	
	:	CHAPTER 7
Debtor.	:	
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MY KID'S WORLD, L.L.C.,	:	CONTESTED MATTER
	:	
Movant,	:	
	:	
v.	:	
	:	
STACY DAWSON	:	
	:	
Respondent.	:	

ORDER

This case came before the Court on November 19, 2009 on movant My Kid's World, L.L.C.'s motion to hold Stacy Dawson, chief executive officer of debtor R&D Contractors, Inc., in contempt for violating the Court's August 4, 2009 Order to appear at a Rule 2004 examination (Docket No. 16). William Matthew Roberts appeared for My Kid's World, L.L.C., counsel for the debtor, William Payne, appeared by telephone, and David Weidenbaum appeared for the United States Trustee. Stacy Dawson failed to appear. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A).

On August 4, 2009, the Court entered an order directing Stacy Dawson to appear for a Rule 2004 examination at the offices of counsel for movant, Smith, Welch & Brittain, L.L.P., 2200 Keys Ferry Court, McDonough, GA 30253, on September 10, 2009 at 10:00 a.m., and to

provide certain documents to counsel for movant no later than August 31, 2009 (Docket No. 14). The docket reflects that the Clerk mailed the August 4, 2009 Order to Mr. Dawson at 1112 Reynolds Court, Morrow, Georgia, 30260-1063.

On October 23, 2009, movant filed the instant motion for contempt. The docket shows that movant served a copy of the motion on Stacy Dawson at 1112 Reynolds Court, Morrow, Georgia, 30260, and noticed a hearing on the motion for November 19, 2009 at 10:00 a.m. At the November 19, 2009 hearing, counsel for movant stated that Mr. Dawson did not appear at the Rule 2004 examination on September 10, 2009, that Mr. Dawson did not turn over to movant any of the required documents, and that Mr. Dawson had not corresponded with movant at all. Counsel for debtor indicated that he had been unsuccessful in locating or communicating with Mr. Dawson and announced that counsel did not oppose the motion.

Because of his failure to appear at the September 10, 2009 examination or otherwise comply with the August 4, 2009 Order, Mr. Dawson is in violation of the August 4, 2009 Order. Movant's motion for contempt asks for an award of attorney's fees against the debtor. However, at the November 19, 2009 hearing, movant asked for the attorney fee award against Mr. Dawson personally in the amount of \$1,861.00. Mr. Dawson will be given an opportunity to appear and show cause on **January 27, 2010 at 11:00 a.m.** in Courtroom 1402, Richard Russell Building, 75 Spring Street, Atlanta, Georgia, why a judgment should not be entered against him in the amount of \$1,861.00 for his failure to comply with the August 4, 2009 Order. If good cause is not shown, a judgment will be entered against Mr. Dawson in the amount of \$1,861.00.


Mr. Dawson is further ORDERED, again, to appear at the offices of Smith, Welch & Brittain, L.L.P., 2200 Keys Ferry Court, McDonough, Georgia, 30253, on **January 21, 2010 at 10:00 a.m.** for a Rule 2004 examination. Mr. Dawson is also ORDERED to provide all documents described in Exhibit A to the Rule 2004 examination motion, which is attached to this Order, and

those documents must be produced to counsel for My Kid's World, L.L.C. on or before **January 6, 2010**. Counsel for debtor is directed to provide any and all information concerning Mr. Dawson's whereabouts and any location for service to movant's counsel.

If a debtor wilfully disobeys an order to attend an examination, under Rule 2005 of the Federal Rules of Bankruptcy Procedure, the Court may issue an order directing the United States Marshal to bring the debtor before the Court. Fed. R. Bankr. P. 2005(a). "Debtor" is defined in Rule 9001, which states that "when it is necessary to compel attendance of a debtor for examination. . . if debtor is a corporation, 'debtor' includes, if designated by the court, any or all officers" of the debtor. Fed. R. Bankr. P. 9001(5). In the instant case, debtor is a corporation, and Mr. Dawson is debtor's chief executive officer. Mr. Dawson is the appointed representative of debtor, and as such, if Mr. Dawson refuses to appear at a Rule 2004 examination, Rule 2005 grants the Court authority to direct the United States Marshal to bring Mr. Dawson before the Court. Fed. R. Bankr. P. 2005(a).

Accordingly, it is further ORDERED that if Mr. Dawson fails to appear at the January 21, 2010 examination, movant may submit a motion to compel testimony, pursuant to Rule 2005, supported by an affidavit alleging that an order of the Court is required to compel Mr. Dawson's attendance in a Rule 2004 examination because Mr. Dawson has willfully disobeyed this Order. Fed. R. Bankr. P. 2005(a). Upon proper submission of such motion, the Court may issue an order to the United States Marshal directing the Marshal to bring Mr. Dawson before the Court whereupon other sanctions may be imposed.

IT IS SO ORDERED, this 1st day of December, 2009.


JOYCE BIHARY
UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF MAILING

A copy of the foregoing Order was mailed to the following:

Stacy Dawson

1112 Reynolds Court
Morrow, Georgia 30260

R&D Contractors, Inc.

1112 Reynolds Court
Morrow, Georgia 30260

Jason L. Pettie

150 E. Ponce de Leon Avenue, Suite 150
Decatur, Georgia 30030

William T. Payne

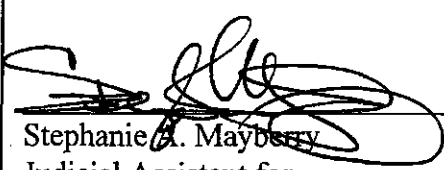
150 E. Ponce de Leon Avenue, Suite 200
Decatur, Georgia 30030

William Matthew Roberts

Timothy W. Haley
Smith, Welch & Brittain
2200 Keys Ferry Court, P.O. Box 10
McDonough, Georgia 30253

David Weidenbaum

Office of the United States Trustee
Suite 362
75 Spring Street, SW
Atlanta, GA 30303



Stephanie A. Mayberry
Judicial Assistant for
Chief Judge Bihary

Mailed: 12/1/09