

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

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	)	
In re:	)	
	)	Case No. 21-11833-SDM
JOHN COLEMAN,	)	
	)	Chapter 11
Debtor.	)	
	)	

**EXAMINER ALBERT ALTRO’S MOTION  
TO CLARIFY ORDER APPOINTING EXAMINER [94]**

COMES NOW Albert Altro, CPA, CIRA, Managing Director of Traverse LLC, and court-appointed examiner (the “Examiner”) in the above-captioned bankruptcy case, and files this motion (the “Motion to Clarify”) seeking entry of an order clarifying the Court’s order appointing a chapter 11 examiner pursuant to 11 U.S.C. § 1104(c) (the “Appointment Order”) and confirming the scope of documents relevant to the Examiner’s investigation of assets and causes of action owned by John Coleman’s bankruptcy estate. In support thereof, the Examiner respectfully represents the following:

1. This case was commenced on September 29, 2021 by John Coleman (the “Debtor”).<sup>1</sup>
2. On January 12, 2022, the Court entered an order denying the Debtor’s Motion to Dismiss<sup>2</sup> and the Appointment Order.<sup>3</sup> The Appointment Order contemplates

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<sup>1</sup> Dkt. # 1.

<sup>2</sup> Dkt. # 66.

<sup>3</sup> Dkt. # 94.

the Examiner conducting an “investigation pursuant to § 1104(c) of [John Coleman], his assets, any and all payments made on behalf of [John Coleman] prepetition, and any other potential transfer of assets by [John Coleman] or on his behalf. Further, the examiner shall conduct an investigation as is appropriate considering the actions and conduct of [John Coleman] prepetition and postpetition.”<sup>4</sup>

3. On January 31, 2022, the United States Trustee selected Albert Altro, CPA, CIRA and founding member of Traverse, LLC, to serve as the examiner in the Coleman Case.<sup>5</sup> On February 2, 2022, the Court entered an order approving the appointment of the Examiner.<sup>6</sup>

4. On February 24, 2022, the Federal Bureau of Investigations (the “FBI”), among other law enforcement agencies, executed search warrants at Express Grain Terminals, LLC’s offices as well as the home of John Coleman.<sup>7</sup> On April 6, 2022, the Examiner, via informal document requests, requested certain documents related to the Examiner’s investigation from Dennis Gerrard, the Chief Restructuring Officer in *In re Express Grain Terminals, LLC*, No. 21-11832 (Bankr. N.D. Miss.). Mr. Gerrard informed that the Examiner’s requests encompassing paper records from Express Grain Terminals, LLC would not be possible to accommodate in light of the FBI’s seizure of those records.

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<sup>4</sup> Dkt. # 94 at 7.

<sup>5</sup> Dkt. # 101.

<sup>6</sup> Dkt. #106.

<sup>7</sup> See Kevin Edwards, FBI, State Agents Raid Express Grain, President’s Home, Greenwood Commonwealth (Feb. 24, 2022) (last visited April 18, 2022), <https://www.pressregister.com/fbi-state-agents-raid-express-grain-presidents-home6217c90f45eae#sthash.ATfjUBXR.dpbs>

5. The Examiner has also been in contact with the office of the United States Attorney for the Northern District of Mississippi (the "USAO") in an attempt to obtain from the FBI and/or the USAO copies of the files seized by the FBI on February 24, 2022. The USAO has expressed its willingness to share copies of the files with the Examiner for purposes of his investigation in this case if the files are within the authority given to the Examiner by this Court and provided that it is approved by the United States Magistrate Judge who issued the search warrants.

6. Accordingly, the USAO is seeking clarification on the extent of the Examiner's authority to review the records that were seized by the government in the execution of the search warrants.

7. In his capacity as the Examiner in this case, Mr. Altro is not employed by or acting on behalf of any law enforcement agency or prosecutorial entity; therefore, the Examiner submits that his request for files seized by the FBI does not implicate John Coleman's rights against unreasonable searches and seizures as guaranteed by the Fourth Amendment.

8. Even so, in the interest of fulfilling his duties pursuant to the Appointment Order and 11 U.S.C. § 1104(c) to investigate John Coleman, his assets, any and all payments made on behalf of John Coleman prepetition, and any other transfer of assets by John Coleman or on his behalf and compile and submit to the Court a report on related findings, the Examiner respectfully requests that the Court enter an order clarifying the scope of the Examiner's duties under the Appointment Order. Specifically, the Examiner requests that the Court confirm that information contained in documents seized by the

FBI from John Coleman and Express Grain Terminals, LLC, including paper records maintained by John Coleman and Express Grain Terminals, LLC, are relevant to the Examiner's investigation of potential assets of and/or causes of action owned by John Coleman.

9. The Bankruptcy Code supports the Examiner's request. Indeed, "[u]nless limited by the court, an examiner enjoys flexibility in how to carry out the investigation."<sup>8</sup> Further, 11 U.S.C. § 1106(b) "provides that an examiner . . . is required to 'conduct such an investigation of the debtor as is appropriate, including an investigation of any allegations of fraud, dishonestly, incompetence, misconduct, mismanagement or irregularity in the management of the affairs of the debtor' by past or current management."<sup>9</sup>

10. Good cause exists for granting the relief sought by the Examiner herein, with such relief sought in good faith and without detriment to any parties in interest in this case.

WHEREFORE, PREMISES CONSIDERED, the Examiner respectfully requests entry of an order clarifying the Appointment Order and confirming that documents seized by the FBI from John Coleman and Express Grain Terminals, LLC are documents of the type that would be relevant to the Examiner's investigation in this case. The Examiner further requests general relief.

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<sup>8</sup> 7 Collier on Bankruptcy ¶ 1104.03 (16th Ed. 2022) (citing *Gordon Props., LLC .v. First Owners' Ass'n of Forty Six Hundred Condo., Inc. (In re Gordon Props., LLC)*, 514 B.R. 449, 463 (Bankr. E.D. Va. 2013)).

<sup>9</sup> 7 Collier on Bankruptcy ¶ 1106.05 (16th Ed. 2022).

THIS the 21st day of April, 2022.

Respectfully submitted,

**ALBERT ALTRO**

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this date a complete and correct copy of the foregoing filing was provided to all parties receiving notices and filings herein pursuant to the Court's ECF noticing system.

This the 21st day of April, 2022.

/s/ Garrett A. Anderson  
Of Counsel