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*Attorneys for Silfab Solar USA Inc.*

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

In re:

RED ROSE, INC.,

- ☐ Affects Beachhead Roofing and Supply, Inc.
- ☐ Affects Affects California Equipment Leasing Association, Inc.
- ☐ Affects Fences 4 America, Inc.
- ☐ Affects James Petersen Industries, Inc.
- ☐ Affects PD Solar, Inc.
- ☐ Affects Petersen Roofing and Solar LLC
- ☒ Affects Petersen-Dean, Inc.
- ☐ Affects PetersenDean Hawaii LLC
- ☐ Affects PetersenDean Roofing and Solar Systems, Inc.
- ☐ Affects PetersenDean Texas, Inc.
- ☐ Affects Red Rose, Inc.
- ☐ Affects Roofs 4 America, Inc.
- ☐ Affects Solar 4 America, Inc.
- ☐ Affects Sonoma Roofing Services, Inc.
- ☐ Affects TD Venture Fund, LLC
- ☐ Affects Tri-Valley Supply, Inc.
- ☐ Affects All Debtors

Case No. BK-20-12814-mkn

Jointly Administered with

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Case No. BK-S-20-12816-mkn  
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Case No. BK-S-20-12827-mkn  
Case No. BK-S-20-12829-mkn  
Case No. BK-S-20-12831-mkn  
Case No. BK-S-20-12833-mkn

Chapter 11

**EX PARTE MOTION FOR AN ORDER DIRECTING EXAMINATION PURSUANT TO  
FED. R. BANKR. P. 2004 OF PETERSON-DEAN, INC.**

Silfab Solar USA Inc. ("Silfab"), by and through its undersigned counsel, respectfully moves this Court, pursuant Rule 2004 of the Federal Rules of Bankruptcy Procedure and Rule 2004 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the

District of Nevada,<sup>1</sup> for the entry of an order directing **PETERSON-DEAN, INC.** to appear, as set forth in a subpoena to be issued pursuant to Fed. R. Bankr. P. 9016, at a time, place, and date to be mutually agreed upon by the parties or, if no such agreement is reached, **on no less than fourteen (14) days' notice**. In support of this motion (the "Motion"), Silfab respectfully states:

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are Section 105, Bankruptcy Rule 2004, and Local Rule 2004.

### **CASE STATUS AND BACKGROUND**

2. On June 11, 2020 (the "Petition Date"), the above-captioned debtors Beachhead Roofing & Supply, Inc., California Equipment Leasing Association, Inc., Fences 4 America, Inc., James Petersen Industries, Inc., PD Solar, Inc., Petersen Roofing and Solar LLC, Petersen-Dean, Inc., PetersenDean Hawaii LLC, PetersenDean Roofing and Solar Systems, Inc., PetersenDean Texas, Inc., Red Rose, Inc., Roofs 4 America, Inc., Solar 4 America, Inc., Sonoma Roofing Services, Inc., TD Venture Fund, LLC, and Tri-Valley Supply, Inc. (collectively, "Debtors") filed chapter 11 petitions, commencing these jointly administered chapter 11 cases.

3. Prior to the Petition Date, Silfab delivered goods and materials to Debtors Peterson-Dean, Inc. and PD Solar, Inc. for which Silfab has asserted and served a reclamation demand pursuant to Section 546(c) [ECF No. 208]. To date, Peterson-Dean, Inc. and PD Solar, Inc. have failed to identify the location or status of such goods and materials or to otherwise respond to Silfab's reclamation demand.

### **ARGUMENT**

4. An examination pursuant to Bankruptcy Rule 2004 "can be ordered 'on motion of any party in interest.'" *In re Stasz*, 387 B.R. 271, 273, n.3 (9th Cir. 2008); *see also In re Lifeco Inv.*

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<sup>1</sup> Unless otherwise stated, all "Chapter" and "Section" references are to Title 11 of the U.S. Code (the "Bankruptcy Code"), all "Bankruptcy Rule" references are to the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and all references to "Local Rules" are to the Local Rules of Bankruptcy Practice for the U.S. District Court for the District of Nevada (the "Local Rules").

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Group, Inc., 173 B.R. 478, 480 (Bankr. D. Del. 1994) (quoting Fed. R. Bankr. P. 2004(a)). Bankruptcy Rule 2004 further provides that the Court may order the examination and the production of documentary evidence concerning any matter that relates “to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate, or . . . any matter relevant to the case or the formulation of a plan.” Fed. R. Bankr. P. 2004(b); *In re Dinubilo*, 177 B.R. 932, 935 (E.D. Cal. 1993) (noting “[u]nder Rule 2004, a court may order the examination of any person or motion of any party in interest.”). Generally, the purpose of a Bankruptcy Rule 2004 examination is to “discover assets, examine transactions, and determine whether wrongdoing has occurred.” *In re North Plaza, LLC*, 395 B.R. 113, 122 n.9 (S.D. Cal. 2008) (citing *In re Rafsky*, 300 B.R. 152, 153, n.2 (D. Conn. 2003)); see also *In re Enron Corp.*, 281 B.R. 836, 840 (Bankr. S.D.N.Y. 2002).

5. The scope of a Bankruptcy Rule 2004 examination is “unfettered and broad,” as the plain language of the rule indicates. See 9 *Collier on Bankruptcy* ¶ 2004.02[1] at 2004-6 (15th ed. Rev. 1997); *In re Dinubilo*, 177 B.R. 932, 939 (E.D. Cal. 1993) (quoting *In re GHR Energy Corp., Inc.*, 33 B.R. 451, 453 (Bankr. D. Mass. 1983). The broad latitude of Bankruptcy Rule 2004 examinations furthers the purpose of the rule, which is “to allow the court to gain a clear picture of the condition and the whereabouts of the bankrupt’s estate.” *In re Int’l Fibercom, Inc.*, 283 B.R. 290, 292 (Bankr. D. Ariz. 2002) (permitted Bankruptcy Rule 2004 examination aimed at “obtaining information that will . . . potentially uncover additional claims that may exist for the benefit of the estate”); *In re W&S Invs.*, 1993 U.S. App. LEXIS 2231, at \*5 (9th Cir. 1993) (“Bankruptcy Rule 2004 is a broadly construed discovery device.”); *In re French*, 145 B.R. at 992 (“Bankruptcy Rule 2004 . . . does not offer the procedural safeguards available under Rule 26 of the Federal Rules of Civil Procedure.”).

6. The information that Silfab seeks through this Motion relate to matters that are clearly within the permitted scope of Rule 2004, including, but not limited to, information related to Debtors’ assets, liabilities, and business operations.

7. Local Rule 2004(b) further provides, in part, “[t]he clerk may sign orders for examination if the date set for examination is more than fourteen (14) days from the date the motion

1 is filed.” This Motion is being filed more than fourteen (14) prior to the date set for the examination.  
2 Accordingly, the clerk is authorized to sign an order granting this Motion.

3 **CONCLUSION**

4 For the reasons stated above, Silfab respectfully requests that the Court enter an order  
5 directing Peterson-Dean, Inc. to appear for an examination pursuant to Bankruptcy Rule 2004 at a  
6 time, place, and date to be mutually agreed upon by the parties or, if no such agreement is reached,  
7 on no less than fourteen (14) days’ notice. A proposed order is attached hereto as Exhibit 1.

8 Dated this 24th day of August 2020.

9 **SHEA LARSEN**

10 /s/ Bart K. Larsen, Esq.

11 Bart K. Larsen, Esq.

12 Nevada Bar No. 8538

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14 Las Vegas, Nevada 89134

15 *Attorneys for Silfab Solar USA Inc.*

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 24, 2020, I electronically transmitted the foregoing Motion FOR AN ORDER DIRECTING EXAMINATION PURSUANT TO FED. R. BANKR. P. 2004 OF PETERSON-DEAN, INC. to the Office of the Clerk of the Bankruptcy Court, using the CM/ECF System, for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants listed for this matter.

By: /s/ Bart K. Larsen, Esq.

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# **EXHIBIT 1**

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Chapter 11

**ORDER GRANTING EX PARTE  
 MOTION FOR AN ORDER  
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 PURSUANT TO FED. R. BANKR. P.  
 2004 OF PETERSON-DEAN, INC.**

**ORDER GRANTING EX PARTE MOTION FOR AN ORDER DIRECTING  
EXAMINATION PURSUANT TO FED. R. BANKR. P. 2004 OF PETERSON-DEAN, INC.**

This Court having reviewed the *Ex Parte Motion for Order Directing Examination Pursuant to Fed. R. Bankr. P. 2004 of Peterson-Dean, Inc.* [ECF No. \_\_\_\_] (the “Motion”) filed by Silfab Solar USA Inc. (“Silfab”) and for good cause appearing:

IT IS HEREBY ORDERED that the Motion is GRANTED.

IT IS FURTHER ORDERED that Peterson-Dean, Inc. shall appear for an examination under oath before a certified court reporter at a time, place, and date to be mutually agreed upon by the parties, or if no such agreement is reached, upon no less than fourteen (14) calendar days’ written notice by Silfab, as to any matter permitted by Fed. R. Bankr. P. 2004, including but not limited to the matters specifically enumerated in the Motion.

IT IS SO ORDERED.

Submitted by:

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