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*Counsel for Official Committee of
Unsecured Creditors*

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEVADA**

In re:

RED ROSE, INC.

- ☐ Affects Beachhead Roofing and Supply, Inc.
- ☐ Affects California Equipment Leasing Association, Inc.
- ☐ Affects Beachhead Roofing and Supply, 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

Debtors.

Case No.: 20-12814-mkn

Jointly Administered with

Case No. BK-S-20-12815-mkn
Case No. BK-S-20-12816-mkn
Case No. BK-S-20-12818-mkn
Case No. BK-S-20-12819-mkn
Case No. BK-S-20-12820-mkn
Case No. BK-S-20-12821-mkn
Case No. BK-S-20-12822-mkn
Case No. BK-S-20-12823-mkn
Case No. BK-S-20-12824-mkn
Case No. BK-S-20-12825-mkn
Case No. BK-S-20-12826-mkn
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

**NOTICE OF INTENT TO SERVE SUBPOENA
PURSUANT TO FED. R. BANKR. P. 9016 AND FED. R. CIV. P. 45 ON
CUSTODIAN OF RECORDS FOR DJ ROOFING & SOLAR SUPPLY LLC**

Please take notice that a subpoena issued pursuant to Fed. R. Bankr. P. 2004 and 9016 and Fed. R. Civ. P. 45 by Official Committee of Unsecured Creditors, by and through its attorney of record, Schwartz Law, PLLC, will be served on the Custodian of Records of DJ Roofing & Solar Supply, LLC demanding production of the documents listed on **Exhibit A** of the attached subpoena

1 (the “**Subpoena**”). The documents must be produced on or before October 26, 2020 at 10:00 a.m.

2 A copy of the Subpoena is attached hereto as **Exhibit 1**.

3 DATED: October 5, 2020.

4 Respectfully submitted,

5 By: /s/ Samuel A. Schwartz
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18 *Attorneys for the Official Committee*
19 *of Unsecured Creditors*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent electronically via the Court's CM/ECF system on October 5, 2020, to the following:

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5 I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via REGULAR
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1 HILDA RAMOS
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3 50 W. Liberty Street, Suite 700
4 Reno, NV 89501

5 GERRICK M. WARRINGTON
6 Interested Party ZIONS BANCORPORATION, N.A.
7 DBA CALIFORNIA BANK & TRUST
8 1000 WILSHIRE BLVD, 19TH FLOOR
9 LOS ANGELES, CA 90017

10 WHEELS OF JUSTICE
11 52 SECOND ST., 3RD FLOOR
12 SAN FRANCISCO, CA 94105

13 WOODRUFF DISPUTE RESOLUTION CENTER
14 3000 F. DANVILLE BLVD., SUITE #111
15 ALAMO, CA 94507

16 By: /s/ Susan Roman
17 Susan Roman, employee for
18 Schwartz Law, PLLC
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EXHIBIT 1

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT

District of NEVADA

In re Red Rose, Inc., et al.

Debtor

(Complete if issued in an adversary proceeding)

Case No. BK-S-20-12814-mknet al.

Chapter 11

Plaintiff

v.

Adv. Proc. No.

Defendant

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: DJ Roofing and Solar Supply, LLC

(Name of person to whom the subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Exhibit A

PLACE	DATE AND TIME
By electronic transmission to undersigned counsel	10/26/20 10:00 a.m.

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE	DATE AND TIME

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 10/05/20

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party)

Off. Comm. of Unsec. Creditors, who issues or requests this subpoena, are:

Samuel A. Schwartz, Schwartz Law, PLLC, 601 East Bridger Avenue, Las Vegas, NV, 89101, saschwartz@nvfirm.com,

Notice to the person who issues or requests this subpoena

(702 385-5544)

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)*: _____
on *(date)* _____.

☒ I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Exhibit A

DEFINITIONS AND INSTRUCTIONS

1. As used herein, the term “PERSON(S)” shall mean any natural person, artificial person, entity, limited liability company, partnership, corporation, firm, association or any business, legal or governmental agency.

2. As used herein, the terms “YOU,” “YOUR,” “HUDSON” and/or “RESPONDING PARTY” shall refer to Daryl Hudson, DJ Roofing and Solar Supply, LLC, Sherpaport LLC, any other AFFILIATE of Daryl Hudson, and any PERSON acting on Daryl Hudson’s behalf or under his direction or control.

3. As used herein, the term “DEBTOR(S)” shall refer to the above-captioned debtors and debtors-in-possession and any PERSON acting on their behalf or under their direction or control.

4. As used herein, “AFFILIATE” shall have the meaning set forth in 11 U.S.C. § 101(2).

5. As used herein, the term “PETERSEN” shall refer to James P. Petersen, Tricia Yeh Petersen, or any PERSON other than DEBTORS acting on behalf of James P. Petersen or Tricia Yeh Petersen, under their direction or control, or any entity that is an AFFILIATE of James P. Petersen or Tricia Yeh Petersen.

6. As used herein, the term “TD VENTURE” shall refer to Debtor TD Venture Fund, LLC, and any PERSON acting on its behalf or under its direction or control.

7. As used herein, the term “HAWAII PROPERTY” shall refer to that certain property located in the County of Maui, State of Hawaii, more particularly described in the HAWAII MORTGAGE.

8. As used herein, the term “HAWAII MORTGAGE” refer to that certain Mortgage, Assignment of Rents, Security Agreement and Fixture Filing, dated November 15, 2018, granted by TD Venture in favor of ACF.

9. As used herein, the term “ACF” shall refer to ACF Finco I, LP, any direct or indirect AFFILIATE of ACF Finco I, LP, and any PERSON acting on its behalf or under its or its AFFILIATE’S direction or control.

10. As used herein, the term “DOCUMENT(S)” shall mean all forms of writings and other items as set forth in Rule 34 of the Federal Rules of Civil Procedure and shall include all writings, recordings, photographs, originals and duplicates as set forth in Rule 1001 of the Federal Rules of Evidence, whether electronically stored or otherwise. For the avoidance of doubt, DOCUMENT(S) shall include without limitation COMMUNICATION(S) recorded in any tangible or electronic medium.

11. As used herein, the term “COMMUNICATION(S)” shall mean the recording, transmission, sending and/or receipt of information of any kind by and/or through any means, whether by a DOCUMENT, face-to-face or otherwise, including without limitation speech, writings, language (machine, foreign or otherwise), computer electronics of any kind, electronic mail, magnetic tape, videotape, photographs, graphs, symbols, code, signs, magnetic disks, sound, radio and/or video signal, telephone, teletype, text message, telecommunication, telegram, facsimile transmission, microfilm, microfiche, photographic film of any type, any application or internet-based chat program, any social media account including without limitation Facebook, Twitter, Instagram, LinkedIn, and/or Google Plus, and/or other media of any kind.

12. If DOCUMENTS responsive to these requests are withheld on grounds of attorney-client or any other privilege, YOU are to identify each writing by stating its date, author, originator, the date authorized or originated, the name of each person to whom the original or copy was addressed or delivered, a brief description of the type of writing, (e.g., “letters,” “memorandum,” etc.), a brief description of the subject matter of the DOCUMENT and the request to which the DOCUMENT is responsive and the privilege asserted.

13. If any DOCUMENT described herein was in YOUR possession, custody or control but has been disposed of, lost discarded, or destroyed, YOU are to identify such DOCUMENT, specify its author, addressee, date, subject matter, and all persons to whom copies were furnished;

describe the contents of the DOCUMENTS, state when the DOCUMENTS were within YOUR possession custody or control; state the locations of the disposed DOCUMENTS and the locations of any alternative copies of lost, discarded or destroyed DOCUMENTS, the date or approximate time of the disposition, loss or destruction or discarding, the reasons for the disposition, loss, destruction or discarding, and the person responsible therefor.

14. In responding to each of the following requests, YOU are to provide all DOCUMENTS in YOUR possession, custody or control, including any and all DOCUMENTS in YOUR possession or available, to YOU or YOUR attorneys, investigators, agents, accountants, and/or other representatives, as well as any and all other persons acting directly or indirectly on YOUR behalf and/or in YOUR interest. If YOUR response is that the DOCUMENTS requested are not in YOUR possession or custody, YOU are to describe in detail the efforts YOU made to locate the DOCUMENTS. If YOUR response is that the items are not in YOUR control, YOU are to identify the person or entity in control of the DOCUMENTS and the location of the DOCUMENTS.

15. In producing DOCUMENTS, YOU are requested to produce the original of each DOCUMENT requested together with all non-identical copies and drafts of that DOCUMENT.

16. All comments, notes or signatures appearing on any DOCUMENT, and not a part of the original, are to be considered a separate DOCUMENT, and all drafts, preliminary forms or superseded versions of any DOCUMENT are also to be considered a separate DOCUMENT.

17. All DOCUMENTS should be produced in the same order as they are kept or maintained.

18. All DOCUMENTS should be produced in the file, folder, envelope or other container in which the DOCUMENTS are kept or maintained. If for any reason the container cannot be produced, please produce copies of all labels or other identifying markings.

19. DOCUMENTS attached to each other must not be separated.

20. As used herein, the term "RELATING TO" shall mean consisting of, reflecting, referring to, regarding, concerning, involving, evidencing, constituting, or having any legal,

logical, evidentiary, or factual connection with (whether to support or to rebut) the subject matter referenced.

21. As used herein, the singular number and the masculine gender means also the plural, feminine or neuter gender as may be appropriate, and vice versa.

22. As used herein, “and” and “or” are each intended to have conjunctive and disjunctive meanings, so as to be inclusive of any DOCUMENTS which otherwise may be excluded from the production.

23. The use of present tense includes past tense, and the use of past tense includes the present tense, so as to be inclusive of any DOCUMENTS which otherwise might be excluded from production.

24. The term “all” shall be understood to mean “any and all.”

METHOD OF PRODUCTION

25. YOU are requested to produce all DOCUMENTS in multi-page tiff format, unitized for each document and consecutively Bates numbered.

26. ELECTRONICALLY STORED INFORMATION (“ESI”) must be processed for production in its original electronic format, and not after being printed to paper or converted to PDF. All ESI shall be produced in electronic form according to the procedures set forth in ¶¶ 27-31 below.

27. Each document will have its own unique identifier (“Bates number”), which must be consistently formatted across the production, comprising of an alpha prefix and a fixed length number of digits (e.g., “PREFIX0000001”).

28. All ESI will be rendered to single-page, black and white, Group IV tagged image file (“:tif” or “:tiff”) images with a resolution of 300 dpi, wherein the file name for each page is named after its corresponding Bates number. Records in which a color copy is necessary to interpret the document (e.g., photographs, presentations, AUTOCAD, etc.) will be rendered to higher resolution, single-page joint photographic experts group (“.jpg” or “.jpeg”) format. Bates numbers must be stamped on the lower right hand corner of all images. All ESI must be produced

with appropriate data load files, denoting logical document boundaries. All attachments, or child records, should sequentially follow the parent record.

29. The following fields and metadata will be produced: Beginning Bates; Ending Bates; Beginning Bates Attachment; Ending Bates Attachment; Custodian; File Name; From; Recipient; CC; BCC; Subject; Date Sent; Time Sent; Last Modified Date; Last Modified Time; Author; Title; Date Created; Time Created; Document Extension; Page Count; MD5Hash; Text Path; Native File Path; and Confidentiality.

30. All ESI will be produced in a word searchable, text file format (".txt"), at the document level for all records. Such text files may be delivered as multi-page ASCII or, where appropriate, Unicode text files and named after the corresponding Bates number. All records must include: extracted text for all ESI, at the document level, wherein the text files must have page breaks that correspond to the pagination of the image file; and/or optical character recognition ("OCR") text, at the document level, for records where: (1) embedded or extracted text does not exist in the electronic document; (2) the document originated in a hard-copy format; and/or (3) OCR must be run on documents so as not to reveal the contents of any redacted material.

31. ESI that cannot be interpreted in an image format, or any single electronically stored document that may be voluminous and burdensome when printed to image files, may be produced in its native format, with its file name corresponding to its designated Bates number. Such files include Microsoft Excel, PowerPoint and Access file types, multimedia files (e.g., ".avi", ".mpeg", ".wmv", ".mp3", etc.), AUTOCAD files, source code, and other files that may be agreed upon by counsel. All native files produced must contain a corresponding image placeholder with appropriate endorsements, as well as extracted text.

DATE RANGE

32. The time period covered by these requests, unless otherwise specified, is January 1, 2017 through the present.

REQUESTS

REQUEST FOR PRODUCTION NO. 1:

All DOCUMENTS and COMMUNICATIONS RELATING TO any transfer of cash or other property by YOU to TD VENTURE.

REQUEST FOR PRODUCTION NO. 2:

All agreements between YOU and DEBTORS, including without limitation any commission agreements.

REQUEST FOR PRODUCTION NO. 3:

All agreements between YOU and PETERSEN, including without limitation any commission agreements.

REQUEST FOR PRODUCTION NO. 4:

All DOCUMENTS and COMMUNICATIONS RELATING TO any payment, including without limitations commissions, to DEBTORS.

REQUEST FOR PRODUCTION NO. 5:

All agreements between YOU and LS DE LLC, LSQ Funding Group, L.C., or any AFFILIATE of the foregoing.

REQUEST FOR PRODUCTION NO. 6:

All DOCUMENTS and COMMUNICATIONS RELATING TO any payment, including commissions, to PETERSEN.

REQUEST FOR PRODUCTION NO. 7:

All DOCUMENTS and COMMUNICATIONS RELATING TO the HAWAII PROPERTY.

REQUEST FOR PRODUCTION NO. 8:

All DOCUMENTS and COMMUNICATIONS with LS DE LLC, LSQ Funding Group, L.C., or any AFFILIATE of the foregoing.