

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

IN RE: CASE NO. 08-11955)	
)	
DFI PROCEEDS, INC.)	
)	
Debtor)	
)	
)	
DRIGGS FARMS OF INDIANA, INC.)	
)	
Plaintiff)	
)	
vs.)	PROC. NO. 08-1226
)	
DRIGGS FARMS INVESTORS, LLC)	
HOWARD DRIGGS, JR.)	
)	
Defendants)	

DECISION AND ORDER DENYING MOTION FOR 2004 EXAMINATION

At Fort Wayne, Indiana, on July 22, 2009.

On July 20, 2009, the plaintiff filed a motion asking the court to authorize it to conduct an examination of the defendants, Howard Driggs, Jr. and a representative of Driggs Farms Investors, pursuant to Bankruptcy Rule 2004. The court notes that this adversary proceeding was commenced on December 1, 2008, when the plaintiff filed its complaint. Doing so specifically made all of the traditional discovery rules and procedures (Bankruptcy Rules 7026-7037) freely available to the parties without the requirement of court authorization through a Rule 2004 examination.

Examinations pursuant to Rule 2004 are not a substitute for discovery authorized in an adversary proceeding or in a contested matter. See, Fed. R. Bankr. P. Rule 2004, Editor's Comment (b). Because the plaintiff has other discovery tools readily available to it in the context of its dispute with the defendants, there is no need for the court to authorize an examination pursuant to Rule

2004. The motion is DENIED.

SO ORDERED.

/s/ Robert E. Grant
Judge, United States Bankruptcy Court

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