

Andrew Winton

From: Jeff C. Hopkins <jhopkins@grosman.com>
Sent: February-12-15 4:27 PM
To: Andrew Winton; 'Brendan Van Niejenhuis'; Rocco DiPucchio; Justin Tetreault
Cc: 'Naomi Greckol-Herlich'; Theresa (Terry) Vandervoort
Subject: RE: Conference call request [IWOV-CLIENT.FID45653]

Andrew:

After further consideration of Catalyst's requests our position remains the same.

As we outlined on the call, the information Catalyst seeks is work product, which it is explicitly excluded from receiving by the terms of the DRP. Providing Catalyst with data such as "hits" is not informative or helpful to the process given the fact that the ISS has reviewed the results of the hits and made the determination of what documents contained Catalyst's confidential information. Furthermore, the DRP does not require the ISS to explain why he did not consider certain documents to be confidential. In fact, to do so would reveal documents that are personal to Moyse and protected by the terms of the DRP.

Catalyst's requests seem to stem, not from the belief that any specific document has been inadvertently excluded but from Catalyst's belief that the ISS must have missed documents generally or mistakenly concluded that documents were not confidential. In fairness, rather than seeking clarification or clearing up a misunderstanding, these requests are better described as challenging the accuracy and / or completeness of the report. We have no reason to doubt that the ISS has properly fulfilled his mandate and cannot agree to any of Catalyst's requests. Accordingly, pursuant to paragraph 11 of the DRP Catalyst's recourse is to bring the appropriate motion.

Jeff.

Jeff C. Hopkins
 Partner

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From: Andrew Winton [mailto:awinton@counsel-toronto.com]
Sent: Wednesday, February 11, 2015 2:21 PM
To: 'Brendan Van Niejenhuis'; Rocco DiPucchio; Justin Tetreault; Jeff C. Hopkins
Cc: 'Naomi Greckol-Herlich'
Subject: RE: Conference call request [IWOV-CLIENT.FID45653]

Brendan,

I will try to clear this up. We would like to hold a conference call with you and counsel for Mr. Moyse to discuss the possibility that certain files were mistakenly classified as not containing Catalyst's confidential information.

We think that a brief conversation will go a long way towards helping us understand why certain decisions were made and to possibly identify a misunderstanding as to facts that led to documents being excluded in error.

We asked that Jim Riley of Catalyst participate to help explain, if necessary, why Catalyst would consider certain documents, which appear to have been omitted from the report, to be confidential.

We acknowledge that the Document Review Protocol ("DRP") does not expressly provide for this opportunity. It states at paragraph 11 that if Catalyst believes a document was improperly excluded, it may bring a motion for production of that document.

The goal of our request is to avoid the need for a motion if a short call is all it will take to clear up a misunderstanding that led to documents being excluded. We are trying to do things as efficiently as possible.

We would like to know if you and Naomi are willing to participate in such a call.

Thanks,

Andrew

Andrew Winton
Lax O'Sullivan Scott Lisus LLP

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From: Brendan Van Niejenhuis [<mailto:BrendanVN@stockwoods.ca>]
Sent: February-11-15 1:39 PM
To: Rocco DiPucchio; Justin Tetreault; Jeff C. Hopkins; Andrew Winton
Cc: Naomi Greckol-Herlich
Subject: RE: Conference call request [IWOV-CLIENT.FID45653]

All,

I'm not sure what response I can usefully give at this point. If there are concerns about the process that has been employed on our end, and there is room within the Protocol to address them, then I will do so when and if I know what they are. If there is no room for me to respond to them while remaining within the bounds of the Protocol, then depending on what they are I suppose I would either decline to do anything, or potentially seek direction on my own initiative from Justice Lederer. Beyond that I don't have anything to add for the moment.

Brendan.

Brendan van Niejenhuis
STOCKWOODS LLP
T: 416.593.2487
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From: Rocco DiPucchio [<mailto:rdipucchio@counsel-toronto.com>]
Sent: Wednesday, February 11, 2015 10:31 AM
To: Justin Tetreault; Jeff C. Hopkins; Andrew Winton; Brendan Van Niejenhuis
Subject: Re: Conference call request [IWOV-CLIENT.FID45653]

Respond to what? I'm not aware of any restrictions on our ability to correspond with the ISS.

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: Justin Tetreault <jtetreault@grosman.com>

Date: 02-11-2015 10:21 AM (GMT-05:00)

To: Rocco DiPucchio <rdipucchio@counsel-toronto.com>, "Jeff C. Hopkins" <jhopkins@grosman.com>, Andrew Winton <awinton@counsel-toronto.com>, 'Brendan Van Niejenhuis' <BrendanVN@stockwoods.ca>

Cc:

Subject: RE: Conference call request [IWOV-CLIENT.FID45653]

Rocco,

We would appreciate if you would give Brendan an opportunity to respond before you write to him with Catalyst's concerns.

Justin Tetreault



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From: Rocco DiPucchio [<mailto:rdipucchio@counsel-toronto.com>]

Sent: Wednesday, February 11, 2015 10:12 AM

To: Jeff C. Hopkins; Andrew Winton; 'Brendan Van Niejenhuis'; Justin Tetreault

Subject: Re: Conference call request [IWOV-CLIENT.FID45653]

Jeff, we don't agree that our client would have no opportunity to discuss the report with the ISS, especially since your client is involved in any discussions. If you don't want to participate in a conference call, then we will likely write to the ISS and copy you.

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: "Jeff C. Hopkins" <jhopkins@grosman.com>

Date: 02-11-2015 10:07 AM (GMT-05:00)

To: Rocco DiPucchio <rdipucchio@counsel-toronto.com>, Andrew Winton <awinton@counsel-toronto.com>, 'Brendan Van Niejenhuis' <BrendanVN@stockwoods.ca>, Justin Tetreault <jtetreault@grosman.com>
Cc:
Subject: RE: Conference call request [IWOV-CLIENT.FID45653]

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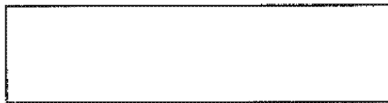
Rocco:

All we are saying is that the terms of the DRP are clear, and those terms don't give Catalyst the right to make what we view as essentially an objection to the findings of the draft report.

Moreover, since all parties are eager to conclude this process, this will only serve to further delay the final report. There is also the issue of Catalyst not being permitted to receive any work product from the ISS, which would make any discussion about what may be contained in the Image, or excluded from the report, difficult if not practically impossible.

Accordingly, subject to Brendon's thoughts, we simply feel that given the stated purpose below, a call for this purpose would not be proper or meaningful in the circumstances.

Jeff C. Hopkins
Partner



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From: Rocco DiPucchio [<mailto:rdipucchio@counsel-toronto.com>]
Sent: Tuesday, February 10, 2015 10:24 AM
To: Jeff C. Hopkins; Andrew Winton; 'Brendan Van Niejenhuis'; Justin Tetreault
Subject: Re: Conference call request [IWOV-CLIENT.FID45653]

Jeff. Are you suggesting that we are not entitled to follow up at all with the ISS about the contents of his draft report and legitimate concerns we may have or even his final report for that matter? Please let me know whether that is the case as I would like to rely on your client's response for the record.

If you continue to object to a simple call which you can participate in, we will attend before Justice Lederer with the draft report in hand and seek his direction on the matter, with the ISS in attendance. I suggest that would be a waste of everyone's time. 273

Sent from my Samsung Galaxy smartphone.

----- Original message -----

From: "Jeff C. Hopkins" <jhopkins@grosman.com>
Date: 02-10-2015 9:59 AM (GMT-05:00)
To: Andrew Winton <awinton@counsel-toronto.com>, 'Brendan Van Niejenhuis' <BrendanVN@stockwoods.ca>, Justin Tetreault <jtetreault@grosman.com>
Cc: Rocco DiPucchio <rdipucchio@counsel-toronto.com>
Subject: RE: Conference call request [IWOV-CLIENT.FID45653]

Brendan, Rocco and Andrew:

We cannot provide an update on the status of Mr. Moyse's objections beyond stating that we will be objecting to certain documents, we are continuing to work on the objections, and we intend to comply with the timeline contained in the DRP.

With regard to your second point, we are unsure of the basis upon which Catalyst asserts that Confidential Information may have been excluded from the Draft Report. Catalyst has no access to the Images and thus no knowledge of the information contained within. The results contained in the Draft Report were based on the dozens of search terms provided by Catalyst to the ISS, who engaged in a comprehensive and exhaustive process to locate and identify Catalyst's Confidential Information. We have no reason to doubt that he has properly fulfilled his mandate and exercised his discretion to include documents that he believes contain Catalyst Confidential Information (subject to Mr. Moyse's objections). Finally, and most importantly, while the DRP provides an opportunity for Mr. Moyse to object to information that has been included in the Draft Report, Catalyst is not provided with a similar opportunity to object and, particularly, has no right to suggest that information has been improperly excluded.

As such, we do not think a conference call is necessary or appropriate at this time.

Jeff.

Jeff C. Hopkins
Partner



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From: Andrew Winton [<mailto:awinton@counsel-toronto.com>]
Sent: Monday, February 09, 2015 6:48 PM
To: 'Brendan Van Niejenhuis'; Jeff C. Hopkins; Justin Tetreault
Cc: Rocco DiPucchio
Subject: Conference call request [IWOV-CLIENT.FID45653]

Brendan, Jeff and Justin,

We would like to schedule a conference call for tomorrow to discuss two issues:

- 1) The status of Mr. Moyses' review of the draft report and/or intention to object to the inclusion of documents referred to in the draft report;
- 2) The possible exclusion of Catalyst Confidential Information from the draft report.

A call on these issues would be much more efficient than communicating via email or letter.

Also, if you all agree, Jim Riley from Catalyst would like to sit in on the call. Mr. Riley may be able to assist with the discussion as to why Catalyst believes confidential information may have been inadvertently excluded from the draft report.

Please let me know if you are available tomorrow and agree that we can speak.

Regards,

Andrew

Andrew Winton

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