



CARLSON, CASPERS, VANDENBURGH & LINDQUIST

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August 16, 2011

VIA EMAIL

Adam S. Huhta, Esq.
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36 S. 9th Street, Suite 200
Minneapolis, MN 55402

Re: Zayed v. Buysse et al., 11-cv-1042 (D. Minn.)

Mr. Huhta,

I write regarding several deficiencies in Ms. Anderson's responses to the Receiver's discovery requests and in response to your email of August 15, 2011 to me.

As you will recall, and as correspondence clearly shows, the Receiver stood ready to produce documents as early as January 2011. Since that time we have continually offered to make available for inspection the hard drives and hard copy files that the Receiver seized from the Receivership individuals and entities. Moreover, when Ms. Anderson served requests for production, the Receiver not only timely provided written responses, but also produced responsive documents the very same week.

By contrast, Ms. Anderson's discovery responses were due on December 16, 2010. Out of consideration for Ms. Anderson's age and health, the Receiver granted several discovery extensions, ultimately agreeing to allow Ms. Anderson to serve her written discovery responses on January 21, 2011. Nonetheless—and despite repeated inquiries from the Receiver—Ms. Anderson did not produce any documents until over three months later. Moreover, our requests for Ms. Anderson to fill the holes in her document production have gone unanswered. Specifically, Ms. Anderson testified at her deposition about another account at TCF Bank through which the \$102,000.00 she received passed. I then asked you off the record to produce the bank records for this account. You have not responded. We again request that Ms. Anderson produce all bank statements for the TCF account number XXXXXX2219 held in Ms. Anderson's name, from June 2009 through the present. Please also produce bank account statements for TCF account number XXXXXX4116 held in Ms. Anderson's name, from March 2011 through

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the present. These documents are directly responsive to the Receiver's Requests for Production Numbers 3 and 5.

I also remind you that you have yet to return the original CD containing our recalled May 25, 2011 production. Under the terms of the Protective Order, you were obligated to return this CD to us by June 7, 2011. In a June 20, 2011 email you stated that you would provide the disk "when I locate it." Please locate and return the CD immediately.

Please advise no later than the close of business tomorrow whether you intend to produce these documents and return the aforementioned CD, and if so, when. If you do not intend to produce and return this material, please provide a date and time in the next three (3) business days when you are available for a telephone call to meet and confer on these issues.

As to the issues raised in your August 15, 2011 and earlier email, I remind you that discovery is ongoing. The Receiver timely served responses to Ms. Anderson's first set of interrogatories on April 25, 2011. We expect to supplement those responses, including additional references to documents under Federal Rule of Civil Procedure 33(d), by the end of the week. We also will continue to produce relevant, responsive, and non-privileged documents as we identify them, as was the case with the documents produced on July 19, 2011.

Your accusations about the identification of who interviewed Ms. Anderson are puzzling. Your client and her son participated in that interview and they were fully advised of the participants from the Receivership team. In other words, this information has been available to you since March 2010 from your own client. Nevertheless, as a professional courtesy, in the letter accompanying our document production of April 29, 2011, we provided a guide for the notes of all Respondents' interviews. We had no obligation whatsoever to do so. If you are complaining that we unintentionally mistakenly identified Mr. Ostrom's notes for Mr. Austrum's, when your client could have provided you this information and we provided a guide for our document production as a professional courtesy, we are happy to meet and confer, but are unclear as to what relief you seek from that exercise.

The relevant notes of Mr. Ostrom's interview with Mr. Gryzbowski were produced on April 29, 2011. The balance of the notes that you requested on August 11, 2011 have nothing whatsoever to do with the money that Mr. Gryzbowski got out for Ms. Anderson, but rather, ongoing Receivership investigations and other Receivership business. The redacted notes are, therefore, beyond the scope of discovery in this case. *See* 09-cv-3333, Docket 380 at 5; 11-cv-1042, Docket 108 at 6. As you know, Mr. Gryzbowski's deposition is scheduled to take place on September 1, 2011¹, at which point you will have an opportunity to question him. However, the

¹ Pending Mr. Grzybowski's confirmation of your request to move the deposition to September 2, 2011.

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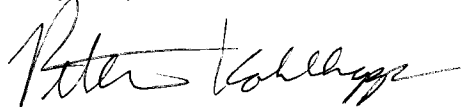
Receiver will not produce irrelevant notes from Mr. Ostrom's earlier interview with Mr. Gryzbowski.

As to the parties' production of privilege logs, given that additional document requests recently have been served, we suggest that the parties agree on a mutual date for the exchange of privilege logs near the close of discovery.

Finally, during the deposition of David Austrum, you asked about tabs that appeared on the right-hand margin of notes authored by either David Austrum or Rick Ostrom. These tabs simply identified the Respondent and consisted of the following text: IR002496 – "Cheney"; IR002516 – "David Buysse"; IR002528 – "Harris"; and IR002540 – "Dot Anderson." Other than these tabs, no additional notes were appended to the pages of handwritten notes that the Receiver has produced.

If you would like to meet and confer on any of the issues raised in your correspondence, please propose a date and time.

Very truly yours,



Peter M. Kohlhepp

Cc: Daniel Gerdts (via email)
Gregory Erickson (via email)