

From: Peter Kohlhepp
Sent: Tuesday, October 11, 2011 4:58 PM
To: 'Gregory M. Erickson'
Cc: Marlee Jansen; Debbie Rasmussen
Subject: Zayed v Buysse et al, 11-cv-1042 -- Meet and confer held on 10/10/2011 and 10/11/2011

Mr. Erickson,

I write to memorialize our meet and confer regarding the issues raised in my October 5, 2011 letter, held on Monday, October 10, 2011, from 2:15 p.m. to 3:00 p.m. and continued on Tuesday, October 11, 2011, from 2:15 p.m. to 3:15 p.m.

A. Verifications of Respondents' Interrogatory Responses

I noted that to the extent you have provided purported verifications of interrogatory responses, those verifications are improper under Federal Rule of Civil Procedure 33. You stated that you would not amend your verifications.

B. Outstanding Documents

With respect to Document Request No. 7, you agreed to provide the portion of each Respondent's tax returns showing how *each* transfer of funds *he or she* received from the Receivership Entities was claimed. I clarified, and you agreed, that this includes money any Respondent may have received prior to June 22, 2009. I also requested that you provide the signature page for each tax return document produced; you stated that you will let us know tomorrow (Wednesday, October 12, 2011) whether you will produce signature pages.

With respect to Document Requests Nos. 8, 9, and 12, you agreed to produce all responsive documents.

You stated that you would not produce any documents in response to Request No. 10,

With respect to Document Request No. 11, you stated that no responsive documents exist.

After I explained the relevance of Document Requests Nos. 13-16, you initially stated that you would take those Requests under advisement and get back to me by Thursday, October 13, 2011. Then when the meet and confer continued on Tuesday, you stated that Steve Cheney has no documents responsive to Requests Nos. 13-16, other than what has already been provided.

You also agreed to produce documents sufficient to show how the Respondents invested the funds they received from Trevor Cook, and what returns they earned. You agreed to produce these documents by the end of the day today. To the extent any Respondent did not re-invest the funds they received, you refused to produce any documents showing

when the money was spent, the amount spent, and what it was spent on despite our explanation that this information is relevant to the respondents' good faith.

With respect to the documents requested in the second through fifth bullet points on pages 2-3 of my October 5, 2011 letter, you stated that no responsive documents exist.

I informed you that to the extent we do not receive any documents that you have agreed to produce by Friday, October 14, 2011, we will have to file a motion to ensure that we have recourse in the event that you do not produce the documents. You offered to promise to produce the documents in writing, but I explained that because you have previously given us such written promises and then failed to produce any documents, we cannot let the non-dispositive motion deadline pass without protecting ourselves by getting a motion on file.

C. Deficient Interrogatory Responses

You refused to supplement Interrogatories Nos. 2, 3, 4, 5, and 10 to provide answers specific to each Respondent.

With respect to Interrogatories Nos. 3 and 4, you agreed to supplement your answers to identify by bates number, for each Respondent, all documents produced by that Respondent. You also agreed to identify, by bates number, documents produced by the Receiver. You refused to more specifically identify the documents that you purport to rely on in answering Interrogatories Nos. 3 and 4 pursuant to Rule 33(d).

With respect to Interrogatory No. 5, you agreed to provide the specific amount of money each Respondent transferred to and received from the Cook entities, but you refused to provide either the date of each such transfer or the method of the transfer.

You agreed to supplement Interrogatory No. 9 to refer to specific documents by Bates number, as required by Rule 33(d).

With respect to Interrogatory No. 10, you agreed to supplement your answers to identify the facts on which you rely for the defenses asserted in paragraphs 2, 4, 10, 15 and 18. You refused to identify the facts on which you rely for the defenses asserted in paragraphs 1, 6, 7, 8, 9, 11, 17, 19, 20, and 21.

With respect to Interrogatories 11 and 12, your answer appears to rely on a reference to documents under Rule 33(d), but you have not identified any specific documents. You promised to let me know by Wednesday, October 12, 2011 whether you will supplement Interrogatories Nos. 11 and 12 to identify specific documents by bates numbers, as required by Rule 33(d). You also clarified that your assertion in your responses to these interrogatories that "discovery is continuing" refers to your continuing obligation to supplement if new information becomes available. You stated that you are not withholding any responsive information in your possession.

With respect to Interrogatory No. 14, you agreed to supplement your response to identify all facts that support your assertion that each Respondent received funds from Cook or his entities "as provided in his contract." You also agreed to identify documents pursuant to Rule 33(d), but you stated that you would only identify, for each Respondent, all documents produced by that Respondent.

With respect to Interrogatories Nos. 19 and 20, you agreed to supplement your responses to provide the information requested.

You agreed to provide all supplemental responses by Friday, October 14, 2011.

D. Identification of documents produced by each Respondent:

You have provided a letter, dated October 7, 2011, identifying which Respondent produced some the documents you hand-delivered on September 9, 2011. Of those documents, the following ranges remain unidentified: 11748-11899; 11909-11969; and 12094-12095. You agreed to specify who produced these documents.

You also agreed to specify who produced each document for the remainder of your production, bates numbers 00000-11747.

E. Mauzy firm documents

You confirmed that you have not copied any documents from the Mauzy or Thompson law firms. You also confirmed that if you do copy any documents from the Mauzy or Thompson law firm, you will provide copies to us.

Regards,

Peter Kohlhepp



Peter M. Kohlhepp

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