

Ewan Rose

From: Tbvancepdx@aol.com
Sent: Friday, January 23, 2009 9:39 AM
To: Kevin Padrick; anniebuell@gmail.com
Cc: susanf@sussmanshank.com; Tom@sussmanshank.com; JThomas@perkinscoie.com; SHedberg@perkinscoie.com; Ewan Rose; Patty Whittington
Subject: Re: Summit concerns

Kevin,

Thank you for your detailed response. My concern is duplication of effort. We have multiple attorneys at Sussman Shank working on variations of a preliminary distribution plan and closing exchanges as quickly as possible. IE: moving forward as soon as reasonably possible to mitigate damages and eliminate others altogether by completing exchanges. For the past two days I have been in some form of court action that has questioned every piece of this case and the financial aspects of it. It is my name on the agreement between Obsidian and Summit. Numerous questions have been posed re: your companies involvement, particularly cost vs benefit which I have had to answer. Another concern is funding your work, we do not have a court approved order for your employment and the Judge has taken a stringent view of the funds currently in the estate, with repeated statements that those funds will not be used for professional fees. So if I am a little sensitive about the commitments of the limited funds of the estate, I hope you will understand. I was lead to believe that your meeting with the creditors committee yesterday was to determine a potential plan for the real estate, with an identifiable fee structure and then Susan, Tom and I would meet with the committee to finalize how we would proceed. It is certainly not my intent to slow down the process toward the goal, I do have be responsible to the creditors and the Court for maximum return for every dollar spent. I agree that no one is intentionally moving in an adverse direction, we may need to discuss how we can all better communicate. With the 341A finished and the opportunity to start to really focus on productive work on the case, rather than production of documents, we can provide the information and results that the creditors would like to see being completed.

Best regards,
Terry

Tyrell B. Vance LLC
503-804-3144

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In a message dated 1/22/2009 10:22:45 P.M. Pacific Standard Time, kpadrick@obsidianfinance.com writes:

Terry, I am sorry if there is a misunderstanding. I don't believe the committee asked us to do anything that we did not understand the debtor to have authorized.

The majority of our meeting was to discuss how to handle the LLC interests. We discussed this with Susan in advance of the meeting and the committee informed us they executed a confidentiality agreement approved by the counsel for the company (presumably Susan or Tom). The only other matter that was discussed was the potential distribution to mitigate exchange damages. One of the issues is the amount of any reserve that would need to be retained to protect against unknown and future claims. Steve Hedberg indicated that he had discussed this with Susan and Susan indicated that Obsidian was the appropriate party to complete this analysis. In my subsequent conversation with Susan I also understood that you wanted us to complete this analysis. As far as I know Ewan was only asking questions that were necessary for us to complete our proposal to the committee on the LLC interests and complete the distribution analysis.

Last week following our meeting we worked on exchange damage mitigation strategies (as discussed at the meeting). I spoke with Susan and Steve about our potential strategy. I followed up with a call with one of Steve's tax partners and Steve to explain the concept. I encouraged Patty to try to reach one of Susan's tax partners to discuss our efforts and Patty attempted to contact him. Patty indicated that she received a couple calls back from one of Susan's colleagues that she assumed was an insolvency expert and not a tax expert. He requested we send the exchange files to him, which we are in the process of coordinating.

Other than these matters I am not aware of anything else we are doing on behalf of the company. If there is some part of what is outlined above that you do not want us to engage in, please let us know.

Once again, I assume that there is a misunderstanding. We perceive that everyone is trying to achieve the same objective of maximizing the return to creditors. Communication problems always seem to be at the root of all issues. Because there are so many matters that require attention from many different people, perhaps a communications gap developed. However, I do not think anyone intentionally is moving in a different direction.

Kevin D. Padrick

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From: Tbvancepdx@aol.com [mailto:Tbvancepdx@aol.com]

Sent: Thursday, January 22, 2009 9:28 PM

To: anniebuell@gmail.com

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SHedberg@perkinscoie.com; Kevin Padrick; Ewan Rose; Patty Whittington; Tbvancepdx@aol.com

Subject: Summit concerns

Annie,

After the meeting today I received a telephone call from Ewan Rose with Obsidian Financial Services. This has caused significant concern from multiple perspectives. Did the committee provide specific direction to Obsidian to perform any further work on exchanges or any approach to exchanges? Did the committee direct Obsidian to perform any other type of work? If so, I must respectfully insist that Obsidian cease any further work that will be billed from their retainer, until such time we can meet and determine who will pay for the services requested. Obsidian Financial Services does not work for the creditors committee. While I appreciate everyone's desire to achieve the maximum and best efforts for the creditors we simply cannot have assets of the estate being committed without our knowledge and agreement. This is extremely disappointing that Obsidian would accept any assignment without my prior knowledge and that the committee has moved beyond it's intended role. Please contact me as soon as possible to coordinate a meeting with you, as committee chair, and your legal counsel.

Best regards,

Terry

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503-804-3144

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