

To: jeevacation@gmail.com[jeevacation@gmail.com]
From: Carolyn Cohen
Sent: Thur 10/1/2009 11:02:25 PM
Subject: Sunday's conversation
JE SUMMARY 10-09.docx

Title: Sunday's conversation

<<...>>

CONFIDENTIAL

October 1, 2009

Dear Jeffrey,

Here is how I propose we should handle our conversation on Sunday. Let's begin with the numbers. I will give you my numbers, which Carolyn and I have come up with based on a thorough review of our records. (I have already given these numbers to Beller.) I am confident that they are correct. I will then give you Beller's numbers, which you can check with him. I think you will see that the differences are relatively small. We should then decide how to resolve these differences.

According to my records, the total fee I have received is: \$3,290,732. According to Beller, the total fee I have received is \$3,335,151. This represents a difference of \$44,419 or about 1 and 1/3 percent.

According to my records, the total hours I have spent come to: 2737.50. According to Beller, the total hours is 2,607.25. Beller's figures do not include my hours between Feb. 5 and Sept. 29, 2009, which come to 67 hours. The difference between us, including that figure, is 63 hours or about 2 and 1/3 percent.

I think you will agree that this is not a significant difference considering the complexity and duration of this case. I would be happy to spend many more hours debating these differences with Beller if you insist, or instead, figuring out some way of splitting the difference. I will let you decide how you want me to spend my time. (I've already put more hours into this billing issue than into your case over the past several weeks. Needless to say, I have not charged you for those hours.)

Dividing the total hours into the three different payments we agreed to produces the following:

175.25 hours @\$885/hour = \$155,096.25

2362.25 hours @\$1150/hour = \$2,716,587.50

200 hours (approximately) @\$1,500/hour = \$300,000 (I am certain that a careful and time consuming review of my travel records will show that I spent closer to 300 than 200 hours on your case in New York and Florida.)

Adding up these different categories of fees produces the following total fee owed exclusively based on the hours: \$3,171,683.75. Were I to be paid solely on the basis of the hours, you would be owed \$119,049 (thus requiring me to send you that amount out of the war chest fund that you sent me near the beginning of the case.) I have not included travel, Lexus-Nexus, Xerox etc. expenses, which come to somewhere between \$5,000 and 10,000. If the latter, this figure is reduced to \$109,049.

In addition to these hours (and expenses), I am owed a guarantee of \$100,000 per month for at least 20 months (I had originally believed that the guarantee extended for 21 months. You originally believed the guarantee started earlier and extended for about 25 months, but I am prepared to accept the 20 months.

There are two possible interpretations of the guarantee. The first, and the most reasonable, is that you guaranteed me a minimum fee of \$100,000 from you for the 20 months, but that if I went over the \$100,000 in any given month you would pay me for my additional hours as well. The second is that during the guarantee period every hour I spent over the guarantee was to be uncompensated even though you asked me to devote those hours to your case. I certainly did not agree to the latter.

Under the first interpretation I am owed: \$453,146 on the guarantee. This would mean that I am currently owed a total of \$334,097 (\$453,146 minus \$119,049 or \$344,097 with the expenses). Under the second interpretation I am owed: \$303,597 on the guarantee. This would mean that I am currently owed a total of: \$184,548 (\$303,597 minus \$119,049 or \$194,548 with the expenses).

These figures are based on my numbers. If one does the same calculation based on Beller's numbers, the difference comes to: \$116,859 (or \$106,859 with the expenses). You would then owe me \$217,238 (or \$227,238) under the first interpretation, and under the second interpretation \$67,689 (or \$77,689). Thus, even under Beller's interpretation he is simply wrong when he says categorically that "I've tried the calculations numerous ways and you have been overpaid". Beller has adamantly refused even to try to do the calculations using my numbers. In failing to do so and in concluding that I have been overpaid by any calculation he has misled you and has caused friction in our friendship.

As you can see, these differences (\$116,859 or \$106,859) while considerable are not nearly as great as Beller has made them seem. I have no idea why Beller has constantly tried to exaggerate the differences.

I am sure that you and I can figure out a way of resolving these differences amicably and constructively without Beller's unproductive and always nasty intrusions. Let's talk about this on Sunday after you've had a chance to review these numbers.

Cordially,

Alan