

From: Darren Indyke <[REDACTED]>

To: Tonja Haddad Coleman <[REDACTED]>

Subject: Privileged and Confidential

Date: Thu, 29 Jun 2017 14:38:11 +0000

Attachments: DKI_Working_Copy_of_TC_6-19-17_Update_to_DKI_Revisions_to_jeffrey_summary_judgement.docx

Tonja,

The attached summary judgment motion now is largely a clean version adopting most of your changes, but reinserting certain aspects that I think are important to convey the story properly. In reviewing the motion to dismiss the federal LM complaint I noted certain claims about the falsehoods in the federal complaint that I don't believe Edwards can refute because they are based on extrinsic evidence and testimony of Brad's own client. I know you want to stay away from testimony regarding underlying claims of misconduct, but I do not see we avoid it entirely, particularly if we want to show that we had probable cause to file against Edwards for abuse of process which requires process filed for ulterior purposes not related to the underlying claims. Moreover, because we rely so heavily on the LM federal complaint to demonstrate a basis for believing that Brad was involved in the Ponzi Scheme when we filed, we need to show how that complaint was filed for no purpose but to serve the ponzi scheme. We cannot directly allege that it was shown to investors. There is no such allegation of which I am aware in the Razorback Complaint. It may have come from Scherer himself, but without extrinsic evidence to establish that it was shown to investors, all we could have at best is JE's affidavit that he got the information from Sherer. That then becomes more a matter of Jeffrey's word than extrinsic evidence. So, I beefed up the facts about the LM complaint using the quote from the motion to dismiss it.

We will need an affidavit for JE today as well. If you have the prior version and want to tweak it, let's do that today as well. If you rather not prepare a new one, we can use the one you filed with the prior SJM, which should be fine. I am hopping to get all of this in order today so that you can just do any clean up you require and file tomorrow.

As we discussed, I also eliminated any discussion anticipating Brad's counterarguments. We will address those in our reply, rather than give Brad a shot at refining his arguments now.

Some citation issues which require your attention still are in bold or red.

Thanks again.

Best,

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**** Please note that my mobile telephone number has changed to the new number provided above. ****

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