

Gianluca Morello

From: John Chapman [JChapman@nhslaw.com]
Sent: Tuesday, August 17, 2010 5:39 PM
To: Gianluca Morello; Michael Lamont
Cc: John Lopez; Phil Hammersley
Subject: RE: SEC v. Nadel - Motion for Ex Parte Hearing

Gianluca, I've disclosed the information I feel comfortable disclosing in the motion. As you know, there are instances where even the identity of the client is itself privileged. If the court determines you are entitled to the information then you'll have it soon enough.

I believe this will all turn out to be much ado about nothing, but based on Mr. Wiand's prior motion and his aggressive position regarding same, we felt we needed to be proactive in taking this action.

I presume that the court will set the motion for hearing on it's own accord. If you believe the procedure to be otherwise, please let me know.


John W. Chapman, Jr.
Board Certified - Business Litigation

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From: Gianluca Morello [mailto:GMorello@wiandlaw.com]
Sent: Tuesday, August 17, 2010 5:34 PM
To: John Chapman; Michael Lamont
Cc: John Lopez; Phil Hammersley
Subject: RE: SEC v. Nadel - Motion for Ex Parte Hearing

John,

Thanks for your prompt response. However, I do not see how your claim that the information we requested "would defeat the purpose of the motion" provides a basis for not disclosing it to us. What matters is whether we are entitled to the information. If the information is not privileged and it relates to the Receivership, then we are entitled to it. Of course, this is particularly true if it involves in any way proceeds of the scheme which underlies the SEC enforcement action. Please let me know whether proceeds of the scheme are involved.

Also, as I am sure you know, the identity of the parties to the communication and a brief description of the nature of the communication (i.e., the same information that would be disclosed in a privilege log) involve information that is not subject to privilege. And, at a minimum, you have no basis not to disclose the identity of the person who purportedly holds the privilege. Have you sought the "client's" consent to disclose the information to the Receiver ?

:::

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From: John Chapman [<mailto:JChapman@nhslaw.com>]
Sent: Tuesday, August 17, 2010 5:04 PM
To: Michael Lamont
Cc: Gianluca Morello; John Lopez; Phil Hammersley
Subject: RE: SEC v. Nadel - Motion for Ex Parte Hearing

Michael,

That's the whole idea of the motion. To provide the information you seek would defeat the purpose of the motion.

I'll let the court decide what we need to do.


John W. Chapman, Jr.
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From: Michael Lamont [<mailto:MLamont@wiandlaw.com>]
Sent: Tuesday, August 17, 2010 4:43 PM
To: John Chapman
Cc: Gianluca Morello
Subject: SEC v. Nadel - Motion for Ex Parte Hearing

John:

We are in receipt of the motion for ex parte hearing. First, I note that you failed to confer with the SEC or the Receiver concerning this motion. In any event, please promptly email to me and Gianluca Morello the information concerning the "communication" that underlies your motion that would be disclosed in a privileged log along with the identity of the "client" who may assert such privilege.

Sincerely,

Michael

:::

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