

EXHIBIT 4

From: Thompson, Rod (27) x4445
Sent: Friday, December 23, 2011 12:59 PM
To: Pozza, Duane; Platzer, Luke C
Cc: Fabrizio, Steven B; Engstrom, Evan (27) x4945; Schoenberg, Tony (28) x4963; Leibnitz, Andrew (21) x4932;
jmunnn@rascoklock.com
Subject: FW: document clawback motion
Importance: High

Duane and Luke, in responding to the motion filed regarding Exh. 27 we have determined that the document at issue (HF02866338) was in fact recalled as inadvertently produced on November 28 in the forwarded email below from Tony to Duane.

Paragraph 20 of the protective order says that "A party may move the Court for an order compelling production of [an inadvertently produced] document, and may present the document to the Court under seal **within five (5) court days** of receiving a request to return the document." This motion was filed more than five court days after we requested the claw back.

We assume that you overlooked Tony's notice of the inadvertent production (as I had) and that is why you filed the motion late and did not apprise the court. Please confirm that in light of this new information, you will withdraw the motion so that we need not file an opposition. Obviously, if the motion is not withdrawn, we will point out the violation of a court order as part of our opposition.

Our opposition is due 12/27. So we ask that you respond today. Thanks.

Rod

From: Schoenberg, Tony (28) x4963
Sent: Monday, November 28, 2011 2:21 PM
To: 'Pozza, Duane'
Subject: document clawback

Duane-

We hereby request the destruction of 27 documents pursuant to paragraph 20 of the protective order. These documents, HF02159263, HF02835468, HF02835472, HF02860466, HF02860550, HF02860552, HF02861582, HF02861720, HF02861721, HF02861723, HF02863352, HF02863353, HF02863354, HF02863445, HF02863466, HF02863467, HF02865736, HF02865737, HF02865738, HF02866338, HF02866339, HF02866670, HF02866671, HF02866672, HF02867217, HF02867218, and HF02867647, were inadvertently produced. Each of the documents is

protected by the attorney-client privilege and/or constitute protected work product. Please confirm that you have destroyed all copies of these documents.

Regards,

Tony

Anthony P. Schoenberg
Attorney at Law

Farella Braun + Martel LLP
RUSS BUILDING
235 MONTGOMERY STREET
SAN FRANCISCO / CA 94104

T 415.954.4400
D 415.954.4963
F 415.954.4480
www.fbm.com