

From Ana Bove, Alex Sakirski, Polina Dolginov

TO:

Honorable Ramon E. Reyes, Jr.
United States Magistrate Judge
United States District Court
225 Cadman Plaza East
Brooklyn, NY11201

July 11, 2011

Re: Vadim Mikhlyn, Inga Mikhlyn and ABC All Consulting, Inc. v. Ana Sove, Polina Dolginov, et al; Docket No.: 08 CN. 3367

Dear Judge Reyes:

Defendants file this letter in response to latest motion regarding Rule 37 discovery dispute, filed by Plaintiffs on 07.07.11. In fact, discovery ends on 08.01.11., and Plaintiffs are deliberately preventing pro se Defendants from finalizing it. For this purpose, on 06.10.11 Plaintiffs filed a new lawsuit to Supreme Court, which is very similar to this lawsuit, being reviewed in Federal Court. See Exhibit #1 - Plaintiffs' new complaint. It was filed against Alex Sakirski and his company TradeIndicator, Inc., to cause more problems and prevent Alex from assisting in this case.

Skype Chats

Plaintiffs are now citing Defendants' letters to Mr. Kogan, in an attempt to prove that Defendants withheld some skype chats.

As Defendants declared earlier, they provided to Mr. Kogan absolutely all chats and communications they possess, including Skype messages. The word "removed" in Defendants' letter to Mr. Kogan is somewhat confusing. Via this letter Defendants informed Mr. Kogan that they divided (by Mr. Kogan's request) communications which they believed to be non-privileged, from all the rest. Defendants didn't withhold or delete anything. Defendants declare that in Plaintiffs' Exhibit A there are NO statements or proofs that any emails have been withheld by Defendants. Here Defendants declare, being duly sworn, that they didn't "withhold" any chats and/or emails about which Plaintiffs are stating.

At the same time, Defendants provided Mr. Kogan BOTH privileged and non-privileged communications. Mr. Kogan had to determine the final privileges, and to provide Plaintiffs whatever they were entitled to receive. Defendants didn't know what happened to each specific document afterwards, although now it looks as if some of them were not sent to Plaintiffs.

However, there really was an accident with Skype chats, due to which some of them were lost. This happened without Defendants' will, and because of issues with Skype, with communications that took place after the "breakup" with Mikhlyns. Here is what happened:

The embroidery business was renting some computers and networks from the main business of Alex. In the beginning of 2009 there appeared some serious malfunctioning in network of Alex, which were caused by problems in Skype (the malfunctioning happened also on Ana's and Polina's computers). Being afraid of serious problems and damages, Alex was forced to reinstall Skype. After the reinstallation the malfunctioning and network freezing stopped. Being afraid of the problem to come back, Alex requested Ana and Polina to reinstall Skype as well. At that time Alex, Ana and Polina were sure that Skype stores it's correspondence somewhere on it's servers. But it appeared that it's not so in Skype.

The Skype correspondence is almost entirely an attorney client privilege. It includes almost exclusively communications between Ana, Alex and Polina, while them exchanging attorneys-relating communications, their multiple drafts and their translations from English to Russian and vice versa, performed by Polina via Skype, to help Ana, Alex and the lawyers understand each other. We had many, many drafts of what we prepared for our attorneys, to use to reply in the lawsuit, or communications with the attorneys, and in the Skype written chats drafts were written and re-written and re-written.

The same is true regarding the thousands of documents which Plaintiffs are now trying to call "emails". In reality these were just many many drafts and their translations, to and from our attorneys. These are certainly privileged documents, which Defendants provided to Mr. Kogan in timely manner.

Your Honor recently ordered to pro se Defendants to define privileges, and Defendants have nearly finished doing this. Pro se Defendant Ana Bove has done a huge work, and divided all Skype chats by types. She did the same with emails. Although this work isn't finalized yet, we will be able to provide Plaintiffs most of the prepared materials in the nearest future.

We had thought to give these CDs to Plaintiffs' counsel, but we are concerned that once we do so, all issues of privilege will be waived. Perhaps we could turn over these CDs to Plaintiffs' counsel, if they wouldn't be allowed to use any single document unless it was agreed in advance that it was not subject to attorney client privilege. The only other problem with this is that by turning over Attorney-Client

Privilege documents, we are revealing to Plaintiffs many things which shouldn't be shared with opposing attorneys.

Therefore we have a very serious problem of how to address their complaint. We understand reviewing such a large amount of data for the Court is also burdensome.

Reply to point #3, regarding Tradeindicator, Inc. Subpoena.

- Plaintiffs said that "We received only 4 pages of documents." Alex Sakirski declares that no less than 20 pages were produced to Plaintiffs, which contain complete information for 2008-2009.

- Plaintiffs also incorrectly state that there exist four year commercial landlord tenant relationship. In reality it's less than 3 years.

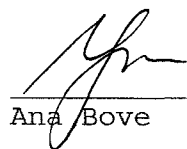
The response for this subpoena was provided up to the date it was demanded, e.g. from 2008 through 2009, like all the other subpoenas and financial documents of Plaintiffs and Defendants in this case. Except of that, Plaintiffs received documents which confirm that financial reports for 2010 aren't ready yet, e.g. it's impossible to provide this information for 2010.

Your Honor, due to the outlined above, we respectfully request to deny Plaintiffs' request for extending their Rule 37 default motion.

Thank you for your consideration!

Respectfully submitted,
Ana Bove, Polina Dolginov, Alex Sakirski.

07.11.2011
Dated



Ana Bove



Alex Sakirski



Polina Dolginov