

LEVISOHN BERGER LLP

11 BROADWAY, SUITE 615
NEW YORK, NEW YORK 10004

TEL: (212) 486-7272

FAX: (212) 486-0323

WEBSITE: WWW.LLBL.COM

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E-MAIL TO ATTORNEY:
FIRST INITIAL AND
LAST NAME OF
ATTORNEY@LLBL.COM

PETER L. BERGER
JANE B. LINOWITZ
JONATHAN BERGER
TUVIA ROTBERG

DAVID COWAN
TECHNICAL CONSULTANT

September 23, 2011

Via ECF

Judge Ramon E. Reyes
United States District Court,
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Mikhlyn et al v. Bove et al., 08-3367

Dear Judge Reyes,

I am in receipt of Plaintiff's latest motion for sanctions (D.E. 241).

When Plaintiff sent its letter on August 22, 2011, I along with Jonathan Berger were on vacation (D.E. 241, Exhibit B). Jonathan and I assumed that Plaintiffs provided this letter to the Pro Se Defendants. It was not until after Jonathan Berger returned from vacation that we became aware that Plaintiffs never provided this letter containing serious accusations to the Pro Se Defendants (See Exhibit A). Jonathan then forwarded the letter to the Pro Se Defendants. When I read the August 22, 2011 letter, I assumed that Plaintiff's counsel was talking about the financial information and did not understand their claims to mean that the Audit Function may have revealed customer data (D.E. 241, see my emails to Plaintiffs' counsel in Exh B).

Plaintiffs provided a CD containing the redacted materials to Defendants. This CD was the result of Plaintiffs allegedly having spent many months redacting customer information (D.E. 241, See Exhibit A). Furthermore, given that Plaintiffs have identified themselves as an accountant/bookkeeper (Inga Mikhlyn) and a computer programmer (Vadim Mikhlyn) in their papers throughout this case, this made me even more convinced that the customer data would have been properly redacted.

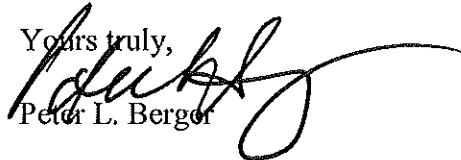
I am not familiar with the QuickBooks software and was not involved reviewing this data. The Pro Se Defendants were intimately involved with the QuickBook investigation. To the extent that the Pro Se Defendants showed me data, I was focusing on the changes

made by Plaintiffs to the financial data to try to determine issues relating to changes in the books as well as other financial information (D.E. 241, Exh. A).

I was not aware of any customer confidential data included in the CD. To the extent any such data was included in what Plaintiffs sent in the CD, Plaintiffs should have removed it.

To the extent Plaintiffs redacted vendor and employee information, that itself violates your order. (D.E. 241, Exhibit B, see August 22, 2011 letter from Plaintiff's counsel, Par. 3(a)). Defendants cannot analyze changes in the books if the names of vendors and employees are hidden because one would not be able to identify whether or not those payments were legitimate. On the other hand, redacted data was to only have been customer data.

Thank you for your consideration.

Yours truly,

Peter L. Berger

Encl.

Exhibit A

Jonathan Berger

From: Eric Wertheim [ew@valmandelpc.net]
Sent: Thursday, August 25, 2011 2:31 PM
To: Jonathan Berger; Daniel Akselrod
Subject: Re: Ana

I think you're right. We have done a fair amount of communicating, both ways, just between the firms. Do you want everyone to be on every email and letter?

Are you saying I should call Peter? Is he in?

Shoul On 8/25/2011 2:26 PM, Jonathan Berger wrote:

> Eric,

>
> You would need to speak with Peter regarding your below request.

>
> Also, it appears that Daniel Akselrod sent an email to us on August 22, 2011. I do not see any indication that the letter and its attachments were sent to the pro se defendants.

> Please confirm if that is correct.

>
> Jonathan

> -----Original Message-----

> From: Eric Wertheim [mailto:ew@valmandelpc.net]
> Sent: Thursday, August 25, 2011 2:04 PM
> To: Peter Berger; Jonathan Berger; Daniel Akselrod
> Subject: Ana

> Guys:

> Since we are filing our response to your objections to the sanctions ruling on Wednesday, our preference would be to push Ana's dep to Thursday or Friday. Please let me know.

> Eric