

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 11/22/2019

-----X
SECURITIES AND EXCHANGE COMMISSION, :
 :
Plaintiff, :
 :
-against- :
 :
BENJAMIN ALDERSON and :
BRADLEY HAMILTON, :
 :
Defendants. :
-----X

18-CV-4930 (VEC)
ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS Defendants and non-party Brite Advisors USA, Inc. (“DVU”), formerly known as deVere USA, Inc., dispute whether DVU must produce to Defendants unredacted versions of two legal memos drafted by DVU’s General Counsel, Martin Byrne, dated February 20, 2014, and July 9, 2015, Dkt. 93 at 2–3;

WHEREAS Defendants claim that DVU has engaged in a selective waiver of attorney-client privilege;

WHEREAS DVU contends that it has properly engaged in a subject-matter waiver of legal advice pertaining to the matters at issue in the SEC’s Complaint, which, among other things, concerns Defendants’ failure to disclose their receipt of certain fees;

WHEREAS on November 18, 2019, at a status conference, DVU submitted the unredacted memos to the Court for in camera review; and

WHEREAS the Court has reviewed the submissions in camera;

IT IS HEREBY ORDERED that DVU must un-redact certain portions of the memos which, in the Court’s view, fall within the subject matter for which DVU has already waived privilege. For the memo dated February 20, 2014, DVU must un-redact:

- On page 2, the (ii) sub-section heading;
- On page 2, the (iii) sub-section heading;
- On page 2, the last sentence of the first paragraph of sub-section (iii);
- On page 2, the fifth sentence of the last paragraph on the page;
- On page 3, the last complete sentence of the page, i.e., the first sentence of the bottom-most paragraph.

For the memo dated July 9, 2015, DVU must un-redact:


- On page 4, item number one of the three-item list.

DVU must produce the revised version of the redacted memos to the parties no later than

December 3, 2019.

SO ORDERED.

**Date: November 22, 2019
New York, New York**



**VALERIE CAPRONI
United States District Judge**