From: Krueger, George J.

To: <u>Mitchell Stein</u>

Cc: Berkley, Brian A.; Sobol, Alexandra L.

Subject: RE: replies to your emails re: discovery and settlement - response sought

Date: Tuesday, May 2, 2017 9:41:28 AM

Mitch:

Read the email...it will only take a minute...The best thing that can happen for Dickens is a quick settlement. It can't do any better than what is now offered. We both know that. I am free before noon today to discuss it.

----Original Message----

From: Mitchell Stein

Sent: Tuesday, May 02, 2017 9:36 AM

To: Krueger, George J. < GKrueger@foxrothschild.com>

Cc: Berkley, Brian A. bberkley@foxrothschild.com; Sobol, Alexandra L. asobol@foxrothschild.com;

Subject: Re: replies to your emails re: discovery and settlement - response sought

G:

B4 I even read the below, I will call you later this morning to avoid self-serving emails George, but YOU sent me them leaving no option but to respond in writing...

M

Confidential From iPhone

> On May 2, 2017, at 9:16 AM, Krueger, George J. < GKrueger@foxrothschild.com> wrote:

> > >

> Mitch.

> I\ -

> I received your two (attached) emails last evening. I would rather have spoken to you, per my text yesterday afternoon in which I asked you to call me, rather than receive back to back self-serving emails.

> That said, let me respond to your emails in the order in which they were received and provide my views about the case, which we should try to settle:

> 1. Your email of 9:21 PM represents an abdication of your role as counsel to Dickens, a sophisticated, deep pocket party who has repeatedly stated that it has millions of dollars to spend on this litigation. Your email purports to "adopt" the improper, uncounseled position of Mr. Chou regarding Hallmark's discovery responses and ignores the real effort required to resolve disputes under the Court's "meet and confer" discovery requirements.

> More specifically, your email purports to adopt Mr. Chou's 5/1 email which claims that Hallmark has produced only 1% of what Dickens seeks in discovery. Mr. Chou has no basis to make this claim, which is absolutely false. Because he is not a lawyer, Mr. Chou does not understand the nature of Hallmark's on-going "rolling production" or the role of objections in discovery. He apparently has not bothered to read the transcript of the Court proceedings which he attended and has refused for weeks to authorize you to sign a confidentiality agreement which we provided to you. Moreover, neither you nor Mr. Chou have ever identified what specific deficiencies purport to exist in Hallmark's production or any facts to support Dickens' claim of a deficiency. Without this information, I cannot address your concerns with Hallmark. If Dickens is interested in an orderly resolution of the parties' disputes, Mr. Chou should defer to you and stop "playing lawyer". He faces consequences if he usurps the role of counsel and continues to vexatioulsy multiply the proceedings.

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> 2. Your email of 9:23 PM addresses discovery and settlement. As to discovery, I have addressed that issue above.
Suffice it to say that Hallmark is operating in good faith. If there is something specific you think is missing, please
let me know.
> As to the more important issue of settlement, I sent you a fairy lengthy letter late yesterday afternoon, outlining
the basis for Hallmark's dilution claim as well as addressing Dickens' repeated assertion that it acquired "good title".
As to these issues, I know of no defense to the dilution claim - none. Please provide me with your analysis if you
disagree. Beyond that, the letter from Square Peg's counsel explaining the Nothstar-Square Peg transaction, coupled
with the Declaration of Aaron Goodman, absolutely destroys any arguable claim that Dickens has "good title".
Moreover, the presence of numerous "red flags" further preclude any assertion that Dickens is a "good faith
purchaser". Under the facts and the law, Hallmark has every right to aggressively push for a seizure order, treble
damages and counsel fees from Dickens. It will likely prevail.
> Nonetheless, Hallmark remains prepared - at least for now - to settle the case. As part of that effort, it believes that
it can broker a deal with third parties by which Dickens will receive a return of the sums it paid Square Peg, plus
approximately 10 - 15%. This is a far better result than Dickens faces if confronted with a seizure order, a counsel
fee award for Hallmark and other relief. However, Hallmark's ability to broker such a deal is bottomed on avoiding
litigation. Thus, Dickens' entirely unrealistic litigation posture, advanced by a non-lawyer (Mr. Chou) rather than
sophisticated IP counsel, threatens the parties' settlement efforts and makes it increasingly more likely that the
parties will litigate rather than amicably resolve their disputes.
>
> As you know, the clock is ticking. The parties are quickly about to incur significant counsel fees in connection
with party and third party deposition discovery followed by a Court hearing, etc. We told the Court we would
attempt to settle the case. Dickens is in receipt of a proposal that provides it with a better result than it could ever
realistically hope to achieve in litigation. The time for gamesmanship is over. We should settle the case now. It is in
Dickens' interest to do so.
> I look forward to hearing from you.
> Regards,
> George
> George Krueger
> Partner
> Fox Rothschild LLP
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> Philadelphia, PA 19103-3222
> (215) 299-2028 - direct
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- > < Hallmark v. Dickens.eml>
- > <FW: Delivery of Dickens Requested Hallmark Records.eml>

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