

**Smith, Eric A. EAS**

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**From:** Smith, Eric A. EAS  
**Sent:** Friday, May 20, 2005 1:53 PM  
**To:** 'Lee, Gary'; 'Andre Bouffard [Downs Rachlin]'  
**Cc:** Van Tol, Pieter; Littrell, Ryan; 'David Steinberg [CliffordChance]'  
**Subject:** RE: 5/20/05 letter #2

Gary:

Judge McGuire made clear, in the colloquy after issuance of the first order, that it applied to documents relied upon by the Joint Provisional Liquidator in preparing his March 31, 2004 affidavit. The Joint Provisional Liquidator has now produced any such documents as set forth in my letter.

Appendix 4 listed documents as to which the Liquidator asserted attorney-client privilege. They could therefore not have been documents upon which Mr. Williams or Mr. Warmuth relied. As stated in my earlier letter, neither Peter Bengelsdorf, Jonathan Rosen, nor Gareth Hughes relied on any Appendix 4 documents in developing their affidavits.

With respect to the redactions, the Referee ordered specific redactions, including the one referenced in your email, in the second paragraph of her May 18 order. In certain instances, the Referee ordered production of an email in a string but did not order production of other email(s) in the string. We have of course redacted the ones that were not ordered to be produced.

Regards,

Eric A. Smith  
Rackemann, Sawyer & Brewster P.C.  
One Financial Center  
Boston, Massachusetts 02111  
617-951-1127  
617-542-7437 (fax)

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**From:** Lee, Gary [mailto:Gary.Lee@lovells.com]  
**Sent:** Friday, May 20, 2005 1:01 PM  
**To:** Lee, Gary; Smith, Eric A. EAS; 'Andre Bouffard [Downs Rachlin]'  
**Cc:** Van Tol, Pieter; Littrell, Ryan; 'David Steinberg [CliffordChance]'  
**Subject:** RE: 5/20/05 letter #2

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FYI. The documents that contain the redactions were produced along with the 5/19 letter. A specific example is H 02828

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5/27/2005

-----Original Message-----

**From:** Lee, Gary  
**Sent:** Friday, May 20, 2005 12:57 PM  
**To:** 'Smith, Eric A. EAS'; Andre Bouffard [Downs Rachlin]  
**Cc:** Van Tol, Pieter; Littrell, Ryan; David Steinberg [CliffordChance]  
**Subject:** RE: 5/20/05 letter #2

Eric, thank you for the letter and attachments.

In the May 12 Orders (now posted), the Court specifically stated in relation to EY that "any documents shared by the JPLs with members of his firm, Ernst & Young, are discoverable and shall be provided to the ACE companies so long as these documents are relevant as provided in the Court's guidance regarding scope of discovery." Can you please confirm that the Liquidator has now produced all such documents, and that no documents have been withheld.

As regards Appendix 4, can you please confirm that the documents not being produced were not relied upon in developing any affidavit filed.

Finally, we have noticed that certain of the documents that the referee ordered produced still contain redactions. Please explain.

Regards,

Gary S. Lee  
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-----Original Message-----

**From:** Smith, Eric A. EAS [mailto:EAS@Rackemann.com]  
**Sent:** Friday, May 20, 2005 11:46 AM  
**To:** Lee, Gary; Andre Bouffard [Downs Rachlin]  
**Cc:** Van Tol, Pieter; Littrell, Ryan; David Steinberg [CliffordChance]  
**Subject:** 5/20/05 letter #2

Please see the attached.  
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5/27/2005