

December 14, 2006

Charles F. B. McAleer, Jr.
Miller & Chevalier
655 15th Street, N.W. Suite 900
Washington, D.C. 20005

Dear Chas,

Thank you for your December 11, 2006, letter and your production of the additional documents which we requested. However, there are still outstanding issues regarding your document production that I initially identified in my letter to you of December 5, 2006. Since our deadline for filing motion to compel is tomorrow, please let me know if you intend to address those issues as soon as possible.

As explained in more detail in my earlier letter, in your response you did not state whether you have produced all responsive non-privileged documents. Therefore, we request that you confirm that your response is complete and accurate in compliance with 10 C.F.R. 2.705(g). Additionally, it is not clear whether the privilege log you have provided is intended to be a complete listing of all documents you have withheld from production or whether this represents a subset of responsive documents by virtue of the statement that the list is "exclusive of categories identified by counsel for David Geisen in Section D of initial disclosure dated July 28, 2006."

In this regard, we believe that your description of the documents that you have not logged goes beyond the scope of the attorney client or attorney work product privileges. While we do not expect that you need to log each and every communication that properly and legitimately fall under those privileges, we believe that your representation of the documents you do not intent to log goes well beyond the scope of those privileges. Specifically, we take issue with your statements that you would not log (1) documents sent to or received from counsel for any persons subject to "any criminal, civil or administrative indictment, charges, investigations, allegations or claims" which you consider similar or related to those pending against Mr. Geisen, presumably as subject to the joint defense or common interest privilege, and (2) documents subject to any other applicable statutory privilege. Therefore, if you have not produced any responsive documents which you claim fall under the joint defense or common interest privilege or any other common law privilege, we request that they be included in your privilege log with sufficient explanation so that the validity of your claimed privilege can be assessed.

Sincerely,

/RA by Lisa B. Clark/

Lisa B. Clark