

From: [Berg, Geoffrey](#)
To: [Chanler A. Langham](#); [Melissa Moore](#)
Subject: RE: Atlas/Torres/Sinn settlement agreement violation
Date: Tuesday, January 7, 2014 4:37:37 PM

Chanler,

I agree that Mr. Sinn and Mr. Torres' breach of the settlement agreement requires that the parties to confer with Paul Clote before initiating any action. I am available tomorrow afternoon anytime, Thursday from 1:30-2:45, Friday morning until 11:00, and Tuesday the 14th from 1:30-3:00.

As you know, if Mr. Clote is not able to assist us in resolving this matter and litigation follows, your clients will be required to produce in discovery what we're requesting now. If the texts didn't mention Atlas or go to anyone associated with Atlas, as you now claim, there will be nothing to drag third parties into. If that isn't the case, however, we will find out about it during discovery and those third parties will, at a minimum, be witnesses anyway. It is curious that Mr. Sinn and Mr. Torres would prefer to spend time and money jumping through all of these hoops instead of just forwarding what they claim would exonerate them and dispose of this issue completely.

Neither Mr. Sinn nor Mr. Torres have any reason to believe that Atlas wants to litigate further, as you now claim. It doesn't. Craig Taylor, James Marshall, and Atlas want nothing more to do with your clients. It wasn't Atlas that contacted them and it isn't Atlas which is refusing to prove something so simple.

If this was all a mistake, proving it is easy (which I guess you don't deny since you promise to provide some of the evidence to Mr. Clote). What makes absolutely no sense at all is to insist on spending thousands of dollars going through a mediator instead of just forwarding the requested information. It does make sense if Mr. Sinn and Mr. Torres have something to hide, though.

If your clients were actually concerned that Atlas was looking for an excuse to initiate litigation, you could have asked at any time over the last two-plus-weeks for an assurance that if you provided the material, Atlas would consider the issue resolved. Atlas would have said yes because litigation isn't what it wants. Instead, Mr. Sinn and Mr. Torres have done everything they can not to have to turn over what they sent out.

Mr. Sinn, XS, Aspire, and Mr. Torres are in breach of the settlement agreement. Because of their breach, further performance by Mr. Taylor, Mr. Marshall, and Atlas is excused. This email will be printed and sent by certified mail and facsimile to you and Melissa pursuant to paragraph 20 of the Settlement Agreement.

Geoff

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

From: Chanler A. Langham [<mailto:clangham@SusmanGodfrey.com>]
Sent: Tuesday, January 07, 2014 3:20 PM



To: Berg, Geoffrey; Melissa Moore
Subject: RE: Atlas/Torres/Sinn settlement agreement violation

Geoff,

Under the terms of the settlement agreement "If any dispute arises with regard to the interpretation and/or performance of this Agreement, the Parties agree to resolve that dispute by phone conference with Paul Clote (the 'Mediator'). If the Parties cannot resolve their dispute by phone conference, then each agrees to schedule one day of mediation with the Mediator within 30 days of the above phone conference to attempt to resolve the dispute before filing any law suit."

We believe that your unilateral claim of breach is not appropriate for a mistaken text message and is not appropriate under the terms of the settlement agreement. We also believe that your unilateral refusal to make further payments under the terms of the settlement agreement would constitute an unambiguous and clear breach of the settlement agreement.

Thus, we are willing to bring this dispute to the attention of Paul Clote under the terms of the settlement agreement without Atlas having to first breach the agreement by failing to make timely payments. In order to resolve this dispute, we are also willing to provide Paul Clote a list of recipients and the text messages at issue. We have not provided you a list of persons who received the message because we do not want those persons to be unnecessarily dragged into some unnecessary law suit, which based upon the tenor of your most recent emails appears to be Atlas's intent.

Please confirm that you agree that we may raise this issue with Paul Clote, and please give me times that you will be available for a phone conference.

Regards,
- Chanler

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

From: Berg, Geoffrey [<mailto:GBerg@diamondmccarthy.com>]
Sent: Tuesday, January 07, 2014 12:08 PM
To: Chanler A. Langham; Melissa Moore
Subject: RE: Atlas/Torres/Sinn settlement agreement violation

Chanler,

After Craig Taylor received the picture from Mr. Sinn, you advised that it was sent to people associated with Atlas with a tag line wishing everyone happy holidays from Atlas. Then you clarified that you meant "Aspire" when you typed Atlas. You further advised that Mr. Sinn sent it to Mr. Taylor by mistake, that it was meant for another Craig, and maybe even another Craig Taylor.

The version received by Mr. Taylor contained no tag line. It was just a picture.

We've asked repeatedly that you forward the original texts with a list of recipients, but you haven't provided it, so let me reiterate: sending this obscene message under the name "Atlas" to people associated with Atlas is a breach of the settlement agreement. All we've asked is that you verify that your second email is true, that this had nothing to do with Atlas. So far you have refused.

Request is made -- again -- that you provide the original texts in full, with a list of senders and recipients. If you do not provide it by the close of business on Friday, January 10, 2014, Atlas will assume that it is because to do so would confirm Mr. Sinn and Mr. Torres' breach of the settlement agreement.

Breach by Mr. Sinn and Mr. Torres excuses further performance by Atlas. If Mr. Sinn or Mr. Torres have breached the settlement agreement, Atlas will have no obligation to make further payment, and such payments will not be made.

Geoff

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

From: Berg, Geoffrey
Sent: Thursday, January 02, 2014 9:20 AM
To: 'Chanler A. Langham'; Melissa Moore
Subject: RE: Atlas/Torres/Sinn settlement agreement violation

Chanler,

Thanks for the clarification, but I do understand that you claim your

previous email's reference to Atlas was a typo. I hope that is the case and look forward to receiving the original texts with the original tag lines and a list of recipients so that it can be confirmed.

Geoff

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

From: Chanler A. Langham [<mailto:clangham@SusmanGodfrey.com>]
Sent: Wednesday, January 01, 2014 9:53 AM
To: Berg, Geoffrey; Melissa Moore
Subject: RE: Atlas/Torres/Sinn settlement agreement violation

Geoff,

I assume from your response that you did not understand that I wrote a typo in my previous email. The places where I referenced "Atlas" should have referenced "Aspire." It is my understanding that Mr. Taylor received the message and photo in error. It was not meant for him to receive it and it was not directed at him either. Indeed, the message had nothing to do with Mr. Taylor or the lawsuit that we amicably resolved.

We did not send any messages to people associated with your client's company, we also did not purport to send any messages "from" your client's company. This apparently is all a big misunderstanding. I don't think it would be appropriate to claim that the mistaken message or my typo is some breach of the settlement agreement. I also don't think it would be appropriate to unilaterally cease your clients performance under the settlement agreement based on a mistaken text message.

With that said, we sincerely apologize for any inconvenience this may have caused you and your client.

Regards,
- Chanler

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

From: Berg, Geoffrey [<mailto:GBerg@diamondmccarthy.com>]
Sent: Tuesday, December 31, 2013 8:00 AM
To: Chanler A. Langham; Melissa Moore
Subject: RE: Atlas/Torres/Sinn settlement agreement violation

Chanler,

I didn't receive any of these, so I will assume your client does not intend to provide them.

Contacting people associated with Atlas with an obscene message purporting to be "from Atlas" is a violation of the settlement agreement. This breach by Mr. Sinn and Mr. Torres excuses further performance by Atlas, which will now consider what action it should take to protect itself.

Geoff

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Pursuant to recently-enacted US Treasury Department Regulations, we are now required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication, including attachments and enclosures, is not intended or written to be used, and may not be used, for the purposes of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matter addressed herein.

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

From: Berg, Geoffrey
Sent: Wednesday, December 25, 2013 12:58 PM
To: 'Chanler A. Langham'; Melissa Moore
Subject: RE: Atlas/Torres/Sinn settlement agreement violation

Chanler,

Thanks for the update. The text Craig Taylor received contained no tag line. Please forward the messages themselves with tag line and the list of recipients by Friday. Thanks.

Geoff

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

From: Chanler A. Langham [<mailto:clangham@SusmanGodfrey.com>]

Sent: Tuesday, December 24, 2013 8:32 PM
To: Berg, Geoffrey; Melissa Moore
Subject: Fwd: Atlas/Torres/Sinn settlement agreement violation

Geoff,

My apologies. I just cycled 50 miles today and was a bit tired when I sent my email. Apparently I said "Atlas" when I meant to say "Aspire".

Below us the explanation I received from Adam before I made the typo in my message.

Thanks

- Chanler A. Langham

Begin forwarded message:

From: Adam Sinn <gonemaroon@hotmail.com<<mailto:gonemaroon@hotmail.com>>>
Date: December 24, 2013, 12:42:57 PM CST
To: "Chanler A. Langham"
<clangham@SusmanGodfrey.com<<mailto:clangham@SusmanGodfrey.com>>>
Cc: Barry Hammond
<barry.hammond@gmail.com<<mailto:barry.hammond@gmail.com>>>
Subject: Re: Atlas/Torres/Sinn settlement agreement violation

Chanler,

I thought I was sending the photo to someone else, I know multiple Craig's and even two Craig Taylor's believe it or not. This is the first I've learned of Craig Taylor getting sent this photo errantly. Everyone needs to lighten up a bit, and yes I sent it to a bunch of folks as a joke. If Craig has issue I can surely apologize, but in now way are the others in the photo apologizing for something I did by accident.

Considering I don't need Craig's phone number I will delete it so in the future this won't happen again.

Merry Christmas,
Adam

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