Message

**From**: Picard, Michel [mpicard@kpmg.ca]
**Sent**: 2017-11-10 12:03:02 PM
**To**: Michael Boll [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4811917e15054407b665fe16d12ff415-Michael Bol]
**CC**: Kim Marshall [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b63a22b42bf14587870d93119a054d88-Kim Marshal]
**Subject**: RE: EXTERNAL - RE: KPMG 57 pager

Michael,

I discussed the proposed changes to our access letter made by the dealers with our National Head of Risk Management. We do not see a compelling reason to make the requested changes in the circumstances, whether from a legal, risk management or business perspective.

First, context is important here, since it impacts what would be considered "market". The dealers are not raising money for our client, IESO. They are doing so for a third party. As such, while there may be other circumstances where we are prepared to agree to minor changes to our access letter in order to facilitate our client's interests, that is not the case here. IESO has no interest in whether the dealers gain access, we owe the dealers no obligation to provide them with the report, and we certainly have no obligation to negotiate our standard access letter which itself is based on "market" terms and which we routinely have executed by dealers without change.

Second, we did not dismiss their changes out of hand and without due consideration. This can be seen by the fact that we agreed to a carve out from their confidentiality obligation where disclosure is made in compliance with applicable law, regulation or court order. It was a reasonable request, so we have accepted it.

Their other changes are not "market" in this particular circumstance, and would unduly diminish the very reasonable protections we require since we are not prepared to expose ourselves to any risk by virtue of the dealers gaining access. Namely:

- The requested limitation of the confidentiality period to two years is arbitrary. It does not reflect the nature of the report or the fact that it is highly unlikely to lose its competitive significance to KPMG after two years. Frankly, we are not able to put a time period on the value of confidentiality in the circumstances so we will not agree to one. We also cannot conceive of why the dealers need or should be given free reign over our work product after two years given their intended use of the report in the circumstances.

- The language we have agreed to permitting disclosure required by law, regulation or order of a court is sufficient. I do not see why we would permit disclosure in connection with litigation unless compelled for one of the foregoing reasons. Notice within a "commercially reasonable time" is not sufficient. For a document like this, "prompt" notice is appropriate. We need as much time as possible to protect our interests.

- There is no business justification for us to limit the scope of the indemnity. We do not owe the dealers any duty or other obligation, so there is no basis to carve out from our indemnity any acts or omissions on our part. If we suffer harm because we have allowed them to review the document, we should be indemnified. I cannot conceive of what kind of act or omission on our part would require any variation of that in the circumstances, or why we would accept the risk.

Happy to discuss further.

Michel

**From:** Sebastiano, Rocco [mailto:RSebastiano@osler.com]
**Sent:** Friday, November 10, 2017 10:06 AM
**To:** Michael Boll <Michael.Boll@ieso.ca>
**Cc:** Kim Marshall <Kim.Marshall@ieso.ca>; Picard, Michel <mpicard@kpmg.ca>
**Subject:** RE: EXTERNAL - RE: KPMG 57 pager

Michael, I forwarded your response to CIBC, RBC and GS and had a discussion with them. The Dealers were surprised with KPMG's response to the suggested changes. The changes which were made to the KPMG disclosure letter reflect market precedents for disclosure letters from major accounting firms. We specifically compared the suggested changes to disclosure letters on two other financing transactions that we were involved with earlier this year.

The Dealers have decided to escalate this matter on the business side to see if it can be resolved.

Regards, Rocco

**From:** Michael Boll [mailto:Michael.Boll@ieso.ca]
**Sent:** Wednesday, November 08, 2017 11:22 AM
**To:** Sebastiano, Rocco <RSebastiano@osler.com>
**Cc:** Kim Marshall <Kim.Marshall@ieso.ca>; Picard, Michel <mpicard@kpmg.ca>
**Subject:** FW: EXTERNAL - RE: KPMG 57 pager

Rocco,

Attached is KPMG's response to the requested changes to its letter. The IESO will also need to have the attached letter signed back in favour of the IESO. Please confirm these are acceptable and provide details for the Recipient and we will finalize and send to you for signature.

Regards,
Michael

**From:** Picard, Michel [mailto:mpicard@kpmg.ca]
**Sent:** November 06, 2017 10:27 AM
**To:** Michael Boll
**Cc:** Kim Marshall
**Subject:** RE: EXTERNAL - RE: KPMG 57 pager

Hi Michael,

I enclosed the only changes to our letter that we are ready to accept.

Regards,

Michel

**From:** Michael Boll [mailto:Michael.Boll@ieso.ca]
**Sent:** Friday, November 03, 2017 4:21 PM
**To:** Picard, Michel <mpicard@kpmg.ca>
**Cc:** Kim Marshall <Kim.Marshall@ieso.ca>
**Subject:** FW: EXTERNAL - RE: KPMG 57 pager

Michel,

See attached changes dealer's counsel is proposing to the KPMG letter with respect to their request for the KPMG report.

Michael

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**From:** WONG Leslie -LAWDIV [mailto:leslie.wong@opg.com]
**Sent:** November 03, 2017 10:14 AM
**To:** Michael Boll
**Cc:** LEE John -TREASURY; Sebastiano, Rocco
**Subject:** FW: EXTERNAL - RE: KPMG 57 pager

Dear Michael,

Please see the note below and the attached from the Dealers' counsel. I suggest that it would be more efficient if you dealt directly with Rocco on release of the KPMG report to the Dealers. I've copied Rocco on this e-mail, and his direct line is 416.862.5859.

Regards,

Les

Leslie Wong
Senior Counsel
***Ontario Power Generation Inc.***
700 University Avenue, H18 G26.1, Toronto, ON M5G 1X6
T: (416) 592-3110 **|** E: leslie.wong@opg.com

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**From:** Sebastiano, Rocco [mailto:RSebastiano@osler.com]
**Sent:** Thursday, November 02, 2017 10:01 PM
**To:** WONG Leslie -LAWDIV <leslie.wong@opg.com>
**Cc:** LEE John -TREASURY <john.s.lee@opg.com>; Ramchandani, Rima <rramchandani@torys.com>; Milligan, Peter <PMilligan@osler.com>
**Subject:** RE: EXTERNAL - RE: KPMG 57 pager

Les, the Dealers have requested that we pursue the disclosure of the KPMG report. It is their view that the report is relevant for the purposes of their internal review in light of the Auditor General's report.

The Dealers requested that I review and make certain revisions to the KPMG disclosure letter. A revised draft and a blackline is attached to this email. Would you please forward this to Michael Boll.

Thanks, Rocco

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