Court of Chancery of Delaware.

SALOVAARA
v.
SSP ADVISORS, L.P., et al.
SOUTH STREET, et al.
v.
SALOVAARA

No. Civ.A.20288-NC, Civ.A.16579-NC.

Dec. 22, 2003.

Dear Counsel:

CHANDLER, J.

***1** This letter constitutes my decision in connection with plaintiff Mikael Salovaara's ("Salovaara") motion for summary judgment in Civil Action No. 20288-NC against defendants SSP Advisors, L.P. ("SSP Advisors") and SSP Partners, L.P. ("SSP Partners," collectively with SSP Advisors, the "Intermediate Partnerships"). [FN1] Specifically, Salovaara requests this Court grant summary judgment in his favor, awarding him indemnification of his legal fees and expenses from the Intermediate Partnerships that were addressed in Civil Action No. 16579 (the "Related Indemnification Action"). This letter also addresses Salovaara's request that this Court adjudicate his right to the advancement of his legal fees and expenses in connection with commencing and prosecuting Civil Action No. 20288-NC. [FN2] Finally, this letter constitutes my decision in connection with Salovaara's request that this Court lift the stay and award entry of final judgment in Civil Action No. 16579 (Related Indemnification Action), where this Court entered its June 14, 2002 Order of Dismissal With Prejudice, Judgment and Stay (the "June 14 Order") which was stayed, pending the final disposition of other matters in the federal courts.

FN1. Although the present action before the Court is against SSP Advisors and SSP Partners, for the sake of simplicity, I will refer to the defendants as Eckert, collectively, since Eckert is defending the action on behalf of SSP Advisors and SSP Partners.

FN2. Salovaara brings this action pursuant to *6 Del. C.* § 17-108 and Sections 10.4(a), (b) and (d) of the Amended and Restated Agreements of Limited Partnership of SSP Advisors and SSP Partners (the "Intermediate Partnership Agreements").

I. BACKGROUND

In the Related Indemnification Action (C.A. No. 16579), Alfred C. Eckert, III ("Eckert") filed a complaint in this Court asking it to interpret the indemnification provisions of South Street Corporate Recovery Fund I, L.P. ("South Street") and South Street Leveraged Corporate Recovery Fund, L.P. ("Leveraged," collectively with South Street, the "Funds") [FN3] to determine, among other things, whether Salovaara was entitled to indemnification of his legal fees and expenses in connection with suits that Salovaara initiated to obtain *personal* recovery as a plaintiff in connection with various legal actions that Salovaara initiated in this Court, as well as sister courts in various fora. [FN4] The Related Indemnification Action lingered in this Court for nearly four years.

FN3. The structure of the Funds involved in this litigation is complex. South Street is organized in three tiers. The first level is South Street itself, organized as a Delaware limited partnership. South Street's investors serve as its limited partners. SSP Advisors (an Intermediate Partnership) acts as the general partner to South Street. SSP Inc. ("SSP") is a corporation that Eckert and Salovaara each own as equal partners. SSP acts as the general partner to SSP Advisors. SSP manages the operations of South Street.
Leveraged is also organized in three tiers. Like South Street, Leveraged is organized as a Delaware limited partnership and consists of various investors who comprise the Leveraged's limited partners. SSP Partners (an Intermediate Partnership) serves as Leveraged's limited partner. As is the case with South Street, SSP acts as Leveraged's general partner.

FN4. These legal actions, referred to collectively as the Underlying Actions, include: (1) *Salovaara v. Eckert,* Docket No. MRS-C-29-94 (N.J.Super.Ct.) (This action addressed Eckert's conflict of interest by working with a competing fund, Greenwich Street.); (2) *Salovaara v. Eckert, et al.,* 94 Civ. 3430 (S.D.N.Y) (This action addressed ERISA violations and denied indemnification to Salovaara because the only benefit conferred was upon himself, not the fund.); (3) *Salovaara v. Hindes, et al.,* 96 Civ. 3203 (S.D.N.Y.) (Salovaara sued two officers and directors of SSP alleging breach of fiduciary duty by selling securities at an unreasonably low price.); (4) *Salovaara v. Jackson Nat'l Life Ins. Co., et al.,* 97 Civ. 1422 (D.N.J.) (Salovaara sued Jackson National Life Insurance, the entity that purchased the securities at issue in *Salovaara v. Hindes,* styled as a derivative action on behalf of the Funds and SSP. The court concluded that Salovaara was not an adequate representative and dismissed the action.); (5) *Greycliff Partners v. SSP, Inc., et al.,* Index No. 601366/96 (N.Y.Supr.Ct.) (Salovaara sued SSP, SSP Advisors and SSP Partners on behalf of Greycliff (an investment advisor Salovaara owned) alleging that the SSP entities owed Greycliff $411,000 in unpaid fees.); (6) *Salovaara v. Eckert, et al.,* Docket No. MRS-L-539-99 (N.J.Super.Ct.) (In 1999, Salovaara brought an action in the New Jersey Superior Court alleging that Eckert breached his fiduciary duty for, among other things, failing to make distributions to Salovaara, as required by certain partnership agreements.); and (7) *Salovaara v. SSP, Inc., et al.,* C.A. No. 18093-NC (Del. Ch.) (Salovaara brought a books and records action to compel SSP, the Intermediate Partnerships, and the Funds to give Salovaara access to information relating to these entities. The defendants provided Salovaara with the requested information and as a result, Salovaara's claims were mooted.).

During the pendency of the Related Indemnification Action, Eckert and Salovaara were involved in litigation in other states, including New York (the "New York Action") [FN5] and New Jersey (the "New Jersey Action"). [FN6] A brief discussion of the New York Action, the New Jersey Action, and the Related Indemnification Action is warranted before I address the present motions pending before the Court.

FN5. The New York Action refers to *State St. Bank Co. and Trust v. Salovaara,* 01 Civ. 8635 (S.D.N.Y.).

FN6. The New Jersey Action refers to *Salovaara v. Eckert, et al.,* Docket No. MRS C-126-96, N.J. Superior Court Ch. Div. (Sept. 24, 2002).

A. The New York Action

In the New York Action, State Street Bank and Trust Company ("State Street"), on behalf of various ERISA investors, sought a declaration that using South Street's assets to indemnify Salovaara would violate ERISA because South Street is an ERISA fund. [FN7] The Court concluded that Salovaara and Eckert managed an ERISA fund (South Street) and, therefore, South Street could only indemnify Salovaara and Eckert "for those expenses that are incurred pursuant to his duties with the plan, and that are undertaken for the exclusive benefit of the plan." [FN8]

FN7. *State Street Bank and Trust Co. v. Salovaara,* 326 F.3d 130 (3d Cir.2003). State Street also sought a declaration that using South Street's assets to reimburse SSP Advisors for indemnification it provided to Eckert in one of the underlying actions, *Salovaara v. Eckert,* Docket No. MRS-C-29-94 (N.J.Super.Ct.) would violate ERISA.

FN8. *State Street Bank,* 326 F.3d at 139.

B. The New Jersey Action

***2** In the New Jersey Action, Salovaara sought to prevent the Intermediate Partnerships from indemnifying Eckert for his legal fees and expenses in connection with *Salovaara v. Eckert,* Docket No. MRS-29-94 (*Salovaara I*), an action that Salovaara brought to prevent Eckert from competing against South Street. [FN9] More specifically, the New Jersey Action addressed whether Eckert was entitled to indemnification of his legal fees and expenses in *Salovaara I,* where the plaintiff (Salovaara) failed to prevail. [FN10] The court concluded that Eckert's actions constituted bad faith and even though the plaintiff was not successful on all claims, the SSP Partnerships (Intermediate Partnerships) could not indemnify Eckert because Eckert's actions still constituted bad faith and willful misconduct. [FN11] Most significantly, the New Jersey Action concluded that the Intermediate Partnerships agreements did not contemplate plaintiff indemnification. Rather, the Court held that "the indemnification clause governs the defense of claims rather than prosecution of such," stating that "[t]he language of the indemnification clause does not seem to cover the costs of instituting a prosecutorial matter as a partner." [FN12]

FN9. *Salovaara I* addressed Eckert's alleged bad faith and willful misconduct, as related to Eckert's involvement in the Greenwich Street Fund, a competing fund.

FN10. *Salovaara v. Eckert III, et al.,* Docket No. MRS C-126-96, slip op. at 4, N.J.Super. Ct. Ch. Div. (Sept. 24, 2002).

FN11. The Court also noted that if the SSP Partnerships were to indemnify Eckert, "Salovaara gains nothing if the amount awarded to him by this Court is paid out of funds from the SSP partnerships." *Id.* at 6.

FN12. *Id.* at 7.

Realizing that the New Jersey Court's September 24, 2002 decision was in conflict with this Court's June 14, 2002 Order, Salovaara asked the New Jersey Court to reconsider the issue of plaintiff indemnification. [FN13] The New Jersey Court denied Salovaara's motion for reconsideration, concluding that "[i]t is undisputed that the Delaware court's judgment is not final, an element that is necessary for either doctrine [res judicata and collateral estoppel] to be applied." [FN14] The New Jersey Court concluded that this Court did not specifically address Eckert's right to indemnification, noting that "[o]ne can only infer from this [June 14 Order] language ... that the Delaware Court did not intend for its judgment to cover the indemnification entitlements of Eckert...." [FN15]

FN13. *Salovaara v. Eckert III, et al.*, No. MRS C-126-96, slip op. at 2-3, N.J.Super. Ct. Ch. Div. (Dec. 10, 2002). The thrust of Salovaara's argument was that the New Jersey Court "did not have the benefit of the substantial briefing or enormous record that was before the Delaware Chancellor, which included course of dealing between the parties that allegedly demonstrated that both affirmative and defensive indemnification was intended." *Id.* at 3. Salovaara also argued that the doctrines of collateral estoppel, *res judicata* and comity dictated that the New Jersey Court should not address the issue of plaintiff indemnification because, according to Salovaara, this Court already addressed the issue of plaintiff indemnification.

FN14. *Id.* at 11.

FN15. *Id.* at 12. Because the New Jersey Court had to decide Eckert's entitlement to defensive indemnification, it also had no choice but to also consider the converse, whether Eckert was also entitled to plaintiff indemnification on his counterclaims.

C. The Related Indemnification Action

On February 12, 2002, several months before the New Jersey Court's decision, Eckert sought a voluntary dismissal of the Related Indemnification Action without prejudice pursuant to Court of Chancery Rule 41(a)(2). [FN16] Eckert reasoned that continuing the Related Indemnification Action was not in the best interest of the Funds and argued that this Court should dismiss the Related Indemnification Action without prejudice. [FN17]

FN16. Pl.'s Mot. to Dismiss, *South Street Corporate Recovery Fund I, L.P. v. Salovaara* (C.A. No. 16579).

FN17. First, Eckert argued that the case was still in its "infancy," and because the New York Action was still at the motion to dismiss stage, the parties could use the existing discovery in the New York Action. Second, Eckert argued that Salovaara had not incurred any "out of pocket" expenses because the Funds advanced Salovaara his legal fees and expenses. Finally, because the Funds were incurring costs for both Eckert's claims, and Salovaara's defenses, Eckert argued that judicial economy and efficiency dictates that the New York Action should address these issues.

In response, Salovaara argued that it would be inequitable to dismiss the Related Indemnification Action without prejudice because Eckert forced the issues of plaintiff indemnification to be litigated in this Court. [FN18] Salovaara also argued that this Court should dismiss the action with prejudice because Eckert has all along asserted that the Related Indemnification Action should be litigated in Delaware since Delaware had a paramount interest in this matter. Finally, Salovaara argued that the Related Indemnification Action should be dismissed with prejudice because the parties had expended hundreds of thousands of dollars on legal fees and dismissing the action without prejudice is unfair because the case is ready for trial.

FN18. Salovaara also argued that the case was not "in its infancy," as Eckert would have the Court believe. Rather, according to Salovaara, this case was ready to go to trial, as evidenced by the fact that "written and document discovery is complete, [and the] trial is scheduled for three months hence...." Defs.' Mem. in Opp'n to Pl.'s Mot. to Dismiss and In Supp. of Defs.' Cross-Mot. for Dismissal With Prejudice Pursuant to Ch. Ct. R. 41 at 19, *South Street Corporate Recovery Fund I, L.P. v. Salovaara* (C.A. No 16579). Additionally, according to Salovaara, the action should be dismissed with prejudice because the New York Action does not address Salovaara's contractual right to plaintiff indemnification. Therefore, according to Salovaara, Eckert "cannot now argue that the federal court in New York is as well or better qualified to hear these issues." *Id.* at 20.

***3** On June 14, 2002, this Court entered an Order of Dismissal With Prejudice, Judgment and Stay in the Related Indemnification Actions. The June 14 Order dismissed the Related Indemnification Action in Salovaara's favor, awarding Salovaara $4,111,194 (plus prejudgment interest) for indemnification of Salovaara's legal fees and expenses associated with the Underlying Actions. Additionally, the June 14 Order awarded Salovaara advancement of his future legal fees and expenses in connection with the Underlying Actions. The June 14 Order was stayed pending "final disposition of the New York Action including any appeals therefrom...." [FN19]

FN19. June 14 Order at 3.

II. ANALYSIS

A. Civil Action No. 16579 (The Related Indemnification Action)

1. *The June 14 Order*

The June 14 Order that this Court entered in the Related Indemnification Action was the result of a dismissal with prejudice and, as a matter of law, had the effect of indemnifying Salovaara for $4,111,194 of his legal fees and expenses in connection with the Underlying Actions. [FN20] Because the Related Indemnification Action was dismissed with prejudice, the June 14 Order had the effect of ruling against Eckert, in favor of Salovaara, conclusively determining that Section 10.6 of Leveraged's partnership agreement was drafted to include plaintiff indemnification.

FN20. *Dean v. Larkin*, 240 F.3d 505, 509 (5th Cir.2001) (holding "a dismissal with prejudice gives the defendant full relief to which he is legally entitled and is tantamount to a judgment on the merits."); *Ferrato v. Castro*, 888 F.Supp. 33, 34 (S.D.N.Y 1995) (holding that "a dismissal with prejudice has the effect of a final adjudication on the merits favorable to the defendant."); *Channell v. Gulf Operations, Inc., et al.*, 1990 U.S. Dist. LEXIS 3090, *2 (E.D.LA.1990) (holding dismissal with prejudice operates as complete adjudication of merits).

The circumstances in which Eckert asked this Court to dismiss the Related Indemnification Action without prejudice pursuant to Court of Chancery Rule 41(a)(2) are worth noting. As a matter of his own choice, Eckert asked this Court to dismiss voluntarily the Related Indemnification Action. It is in the Court's discretion to determine whether an action should be dismissed with, or without, prejudice. Regardless of whether an action is dismissed with, or without prejudice, the fact remains the same; the end result is based on Eckert's voluntary action to dismiss his claims.

The circumstances under which the June 14 Order was entered illustrates that Eckert *conceded* that Salovaara was entitled to plaintiff indemnification from Leveraged. In essence, by asking this Court to dismiss voluntarily the Related Indemnification Action, Eckert stood before this Court and said, "I admit my claim has no merit. Salovaara is entitled to indemnification." [FN21] As a result of Eckert's voluntary actions, the language of the June 14 Order could not be clearer: Salovaara is entitled to plaintiff indemnification from Leveraged. [FN22]

FN21. *See also* Motion to Lift Stay and For Entry of Final Judgment, at 5-6 (quoting Eckert's concession letter to investors). It is worth noting that in this letter, Eckert informed the Funds' investors that the indemnification provisions were written broadly and, as a result, Salovaara would likely be entitled to indemnification.

FN22. Eckert's twelfth-hour argument, that he should be allowed to raise the "exclusive benefit" section of ERISA as a defense to Salovaara's indemnification claim because such a defense has been "reserved" by Eckert, is completely without merit. For one thing, Eckert submitted a form of judgment to this Court on April 17, 2002, that provided that Salovaara's indemnification would "not violate Section 10.3 [of the Leveraged Partnership Agreement]," that is, that the indemnification was not precluded by the ERISA fiduciary standard set forth in Section 10.3. Regardless of what Eckert's position might have been before that date, as of April 17, 2002, he waived his right to assert an ERISA defense to Salovaara's indemnification claim. In addition, this Court, in denying the Fund I limited partners' motion to intervene, ruled that their proposed claim, alleging that Salovaara's lawsuits violated his ERISA fiduciary duties, could be asserted by Eckert under Count I or Count II of the complaint in this action. Despite this invitation, Eckert *never* attempted to litigate the ERISA issue in this action until after he had conceded Salovaara was entitled to indemnification. Finally, nothing in my stay Order, and nothing in my comments from the bench at the September 4, 2002 TRO hearing, indicated that the action was stayed in order to preserve Eckert's ability to litigate the previously conceded ERISA issue. The only reason I granted a stay was to allow the New York Federal Court to rule. It has done so. Eckert is estopped by his own conduct from raising the ERISA issue in this action after having waived and conceded it at least twice.

2. *The New York Action's Impact*

Because the New York Action declared that any indemnification paid out of South Street would violate ERISA, the indemnification burden must now be borne by Leveraged. Eckert cannot now claim that Leveraged should not be required to indemnify Salovaara for his legal fees and expenses in connection with the Underlying Action. This Court is a court of equity and Eckert cannot persuade it to disregard the voluntary circumstances under which the June 14 Order was entered, simply in order to avoid a conflict, which is the product of his own actions, in judgments between this Court and a sister court in New Jersey.

***4** For the foregoing reasons, the stay is vacated and to the extent Leveraged is financially capable, Leveraged must indemnify Salovaara.

B. Civil Action No. 20288

Also pending before this Court is Salovaara's motion for summary judgment in Civil Action No. 20288-NC in which he asks this Court to award him indemnification from the Intermediate Partnerships of his legal fees and expenses in prosecuting the Underlying Actions. Salovaara also asks this Court to award him advancement of his legal fees in connection with enforcing his right to indemnification from the Intermediate Partnerships. The summary judgment standard is a familiar one:

> Summary judgment should be granted if the moving party demonstrates that no genuine issue of material fact exists and that the moving party is entitled to judgment as a matter of law.... The facts must be viewed in the light most favorable to the non-moving party and the moving party has the burden of demonstrating that no material question of fact exists. [FN23]

FN23. *Goodwin v. Live Entm't, Inc.*, 1999 WL 64265, *5 (Del. Ch.1999), *aff'd*, 741 A.2d 16 (Del.1999).

Once the moving party has established facts that properly support its motion for summary judgment, the nonmoving party is entitled to establish facts illustrating that there is a genuine issue of material fact for trial. [FN24]

FN24. *Id.*

Section 10.4(a) of the Intermediate Partnership Agreements is identical to the language in Section 10.6 of the Funds' limited partnership agreements. Because the indemnification provisions in both the Intermediate Partnership Agreements and the Funds Agreements are identical, logic and common sense dictate that Salovaara is entitled to indemnification from the Intermediate Partnerships in the event that Leveraged is unable to satisfy its obligation to indemnify Salovaara. As noted earlier, Eckert conceded that the Funds' Agreements were drafted broadly and that Salovaara was entitled to indemnification from the Funds. Because the agreements are identical, Eckert does not have the luxury of arguing that Section 10.4(a) of the Intermediate Partnership Agreements does not allow for plaintiff indemnification since Paragraph 4 of the June 14 Order, as a matter of law, adjudicated Salovaara's right to plaintiff indemnification, and Eckert consented thereto. Any arguments that Eckert has made with respect to whether the Intermediate Partnership Agreements allow for indemnification must also fail for the reasons addressed above.

C. Advancement

Salovaara's claim for advancement is now moot since the Court is granting Salovaara's motion for summary judgment. The argument that Salovaara is not pursuing indemnification in good faith is rejected because the June 14, 2002 Order conclusively established that Salovaara is entitled to plaintiff indemnification. Salovaara's claims are therefore brought in "good faith" because this action relates to the advancement of the costs and expenses in lifting the stay that this Court granted in the June 14 Order which, as a matter of law, established Salovaara's right to plaintiff indemnification. Accordingly, Salovaara is awarded only his fees incurred in successfully prosecuting this claim for indemnification, pursuant to Section 10.4(d) of the Intermediate Partnership Agreements.

D. Statute of Limitations

***5** Salovaara's claim for indemnification of his legal fees and expenses in prosecuting the Underlying Actions is not barred by the statute of limitations. The statute of limitations on an indemnification claim accrues "on the date [the indemnitee] could be confident any claim against him ... had been resolved with reasonable certainty." [FN25]

FN25. *Scharf v. Edgcomb Corp.*, 1997 WL 762656, *4 (Del. Ch.1997); *see also* *Simon v. Navellier Series Fund*, 2000 WL 1597890 *9 (Del. Ch.2001) (holding "our courts have assumed that the statute of limitations for an indemnification claim under 8 *Del. C .* § 145 would run from the time that the underlying investigation or litigation was definitively resolved).

Eckert unsuccessfully argues that plaintiff indemnification, the issue in the present case, differs from the traditional notion of defensive indemnification and, therefore, the case is resolved after the trial court's decision, not after an appeal of a trial court's decision. [FN26] Eckert argues, for example, that the indemnitee does not have control over the claims in defensive indemnification and, as a consequence, does not know whether he is rightfully entitled to indemnification of his legal fees and expenses. In the context of plaintiff indemnification, Salovaara controls the claims and knows with certainty (argues Eckert) whether his costs are recoverable because he is entitled to indemnification whether he wins or loses.

FN26. Defs.' Opening Br. at 22.

Eckert's arguments miss the mark because a court must still consider whether Salovaara's claims are brought in good faith. Likewise, distinguishing between plaintiff indemnification and defensive indemnification is not necessary because whether a party is entitled to indemnification is ultimately left to the courts to decide, and there is still uncertainty as to whether the indemnitee can successfully assert a claim against the indemnitor.

At great length, Eckert argues that *Salovaara v. Hindes, et al.*, 96 Civ. 3203 (S.D.N.Y.) and *Salovaara v. Jackson National Life Ins. Co., et al.*, 97 Civ. 1422 (D.N.J.), two of the Underlying Actions, were resolved more than three years before Salovaara filed his complaint on May 2, 2003. In support of his argument, Eckert points to the fact that the trial courts issued their decisions on March 15, 2000, and July 1, 1999, respectively. As a result, according to Eckert, these actions were resolved more than three years before Salovaara filed his complaint.

I disagree. The indemnitee "could [not] be confident any claim against him ... had been resolved with reasonable certainty" [FN27] since the trial courts' decisions could be appealed. The statute of limitations begins to accrue on the date that the appellate courts issued their opinions, December 5, 2000, and April 5, 2001, respectively. Therefore, Salovaara has pursued his claims in a timely manner because the claims were filed on May 2, 2003, before the statute of limitations ran on either claim.

FN27. *Id.*

Eckert attempts to persuade this Court that it should not rely on *Scharf* because, according to Eckert, *Scharf'* s holding was based on the interpretation of a "specific contractual limitations period." The contractual clause in *Scharf* obligated the acquiring corporation to indemnify any officer or director "for six years after the Effective Time ... in connection with any claim arising from actions taken as directors or officers...." [FN28] The clause went on to state that "In the event any Claim or Claims are asserted or made ... within such six-year period, all rights to indemnification in respect of any such Claim or Claims shall continue until disposition of any and all such claims." [FN29] Eckert attempts to distinguish the present case on two grounds. First, Eckert argues that the holding in *Scharf* was based on a specific contractual limitation period. Regardless of whether the clause was contractual in nature, there is no reason why a statutorily created limitation period should not accrue until the indemnitee "could [not] be

confident any claim against him ... had been resolved with reasonable certainty." [FN30] Second, Eckert argues "whatever the rationale for waiting until 'disposition' of a claim against the indemnitee, where the indemnitee's right to indemnification is dependent on the 'disposition' of the claim against him, that rationale does not exist where Salovaara's claim is, by his own interpretation, utterly not dependent on the outcome of the actions brought by him." [FN31] In advancing this argument, Eckert misses the point that the "disposition" is relevant because it establishes whether the indemnitee can reasonably and confidently predict whether or not he has an indemnification claim that is assertable against the indemnitor.

FN28. *Id.*

FN29. *Id.*

FN30. *Id.*

FN31. Defs.' Reply Br. at 13.

***6** Salovaara commenced this action to obtain indemnification for the Underlying Actions on May 2, 2003. Therefore, Salovaara commenced this action before the statute of limitations had run on the Underlying Actions and Salovaara's claims are not barred by the statute of limitations.

III. CONCLUSION

For the reasons set forth in this letter, the Court grants Salovaara's motion for summary judgment in Civil Action No. 20288 and vacates the stay entered pursuant to paragraph 3 of the June 14, 2002 Order in Civil Action No. 16579. Accordingly, Leveraged must indemnify Salovaara for his legal fees and expenses associated with the Underlying Actions. In the event that Leveraged is unable to satisfy the obligation to Salovaara, the Intermediate Partnerships (if able) must satisfy the obligation.

Salovaara's counsel shall submit a form of implementing Order on notice.

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