

From: Simon Henderson [GRO]
To: 'Anthony de Garr Robinson' [GRO], Amy Prime [GRO]
Cc: Andrew Parsons [GRO], Jonathan Gribben [GRO]
Subject: RE: Stage 3 Disclosure - Project Zebra [WBDUK-AC.FID26896945]
Date: Fri, 27 Jul 2018 06:40:13 +0000
Importance: Normal

Yes that should be fine

Simon

From: Anthony de Garr Robinson [mailto:[GRO]]
Sent: 26 July 2018 20:37
To: Amy Prime [GRO]
Cc: Andrew Parsons [GRO], Simon Henderson [GRO]
Jonathan Gribben [GRO]
Subject: Re: Stage 3 Disclosure - Project Zebra [WBDUK-AC.FID26896945]
Sensitivity: Private

Thanks, Amy.

3.15 would suit me - how about you, Simon? Would that give you enough time to research the points we discussed?

Tony

On 26 Jul 2018, at 20:18, Amy Prime <[GRO]<mailto:[GRO]>> wrote:

Tony

Thank you for the below, we are seeking clarification and instructions from Post Office on this. We can be available for a conference call on Monday between 9am and 1pm or from 3.15pm onwards. Please could you let me know if there is a time which suits you best?

Kind regards
Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

d:
m:
t:

e: [GRO]
[GRO]
[GRO] <mailto:[GRO]>

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From: Anthony de Garr Robinson [<mailto:> [GRO]]
Sent: 26 July 2018 17:55
To: Andrew Parsons; Amy Prime; Simon Henderson
Cc: Jonathan Gribben
Subject: RE: Stage 3 Disclosure - Project Zebra [WBDUK-AC.FID26896945]
Sensitivity: Private

Dear Amy,

This is an awkward issue. If we get it wrong – either by claiming too much privilege or too little – it could be very damaging for the client.

Simon and I have had quite a long discussion and we are likely to conclude that privilege cannot be claimed over the whole of the Zebra Action Summary but the parts which repeat or summarise the contents of the Deloitte report can be redacted. However, we have identified a number of questions which should be answered before final conclusions can properly be drawn. Some are factual and some are legal.

As you anticipated, we need further information regarding the background to the Deloitte report and the Zebra Action Summary and would be grateful for clear instructions on the following points:

1. Is it definitely the case that the dominant purpose for which the Deloitte report was obtaining legal advice about or obtaining information in connection with the conduct of anticipated litigation? We ask because section 1 of the report records (amongst other things) that Deloitte were appointed to raise suggestions for potential improvements in the assurance provision for Horizon and the final section of the report contains 6 pages of recommendations to management to strengthen the quality and assurance in place over the Horizon system. What we are hoping to receive is factual instructions allowing us to be clear that the Deloitte report was not created for two equal purposes, one of which was anticipated litigation and the other was making Horizon more robust (compare the unsuccessful claim to privilege made in relation to the accident report in *Waugh v British Railways Board*).

1. Who produced the Zebra Action Summary, who was it produced for and for what purpose was it produced? To whom was it disseminated and what actions were taken as a result of it?

1. What was the source and purpose of the “recommended remediations” set out in the Zebra Action Summary For example, were they recommendations produced by management of changes to be made in the systems around Horizon with a view to giving effect to recommendations of a more general nature made in the Deloitte report?

1. Were these “recommended remediations” actually implemented?

1. Who were the parties to the email you attached (Julie George, Lesley Sewell, Rod Ismay, David Mason, Malcolm Zack and Gina Gould) and why was the Zebra Action Summary sent to them? Were they part of the Post Office litigation team concerned with subpostmaster claims, for example, or were they management

people responsible for deciding what improvements to make to the Horizon systems, or what?

With clear answers to these questions, and a bit of research from Simon, we can then take a final view. Should we pencil in a telecon on Monday afternoon?

Best wishes,

Tony

From: Andrew Parsons <[REDACTED]>
Sent: 26 July 2018 13:51
To: Anthony de Garr Robinson <[REDACTED]>; Amy Prime
<[REDACTED]>; Simon Henderson
<[REDACTED]>
Cc: Jonathan Gribben <[REDACTED]>
Subject: RE: Stage 3 Disclosure - Project Zebra [WBDUK-AC.FID26896945]
Sensitivity: Private

Tony

Thanks. I can only give a second-hand answer to question 1, because I was not involved in the first Deloitte report. My understanding is that the report was produced on the recommendation of Linklaters and for the purpose of understanding Post Office's litigation risk if the mediation scheme collapsed. We will however speak to Rod to confirm this.

On question 2, we don't know the answer but I presume that there may be other similar documents out there. However we only need to disclose those documents that fall within our Model C disclosure classes and only after having conducted a reasonable search. So far, this is the only document on this nature that we have found. Note – there are several other documents about Zebra but these are reports by lawyers and so are privileged.

A

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

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GRO
<[REDACTED]>

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From: Anthony de Garr Robinson [<mailto:> GRO]
Sent: 26 July 2018 13:30
To: Amy Prime; Simon Henderson
Cc: Jonathan Gribben; Andrew Parsons
Subject: RE: Stage 3 Disclosure - Project Zebra [WBDUK-AC.FID26896945]
Sensitivity: Private

Thanks for your email, Amy.

Simon and I will be discussing this later today. In the meantime, there are a couple of questions you might be able to help me with.

First, the Deloitte report was marked "Privileged". Is this because the report was commissioned for the dominant purpose of obtaining legal advice about, or helping in the conduct of, anticipated litigation? Is it definitely the case that an equally important purpose was not (say) reducing the incidence or risk of undetected Horizon accounting errors in the future?

Second, am I right in thinking that there are lots of documents out there charting the steps taken to implement Deloitte's recommendations, that these steps included numerous changes that were made in Horizon and/or in the systems and processes supporting, improving or ensuring the proper use of Horizon and that some the relevant documents (at least) indicate that the relevant steps are being taken as a result of Deloitte's recommendations will have the relevant documents? Have these documents been / are they going to be disclosed and if not, why not?

Best wishes,

Tony

From: Amy Prime <GRO <<mailto:> GRO>>
Sent: 25 July 2018 21:34
To: Anthony de Garr Robinson <GRO <<mailto:> GRO>>>; Simon Henderson <GRO <<mailto:> GRO>>>
Cc: Jonathan Gribben <GRO <<mailto:> GRO>>>; Andrew Parsons <GRO <<mailto:> GRO>>>
Subject: Stage 3 Disclosure - Project Zebra [WBDUK-AC.FID26896945]
Sensitivity: Private

Tony, Simon

In 2014 and as part of the Mediation Scheme, Linklaters produced a piece of advice for Post Office on the complaints made by SPMRs about Horizon. A copy of this advice is attached. Linklaters recommended that Deloitte undertake a review of the integrity of Horizon – this review is known as Project Zebra and a copy of Deloitte's report is also attached.

Whilst Deloitte's report itself is covered by privilege and the Cs do not know of the existence of this report, we have come across an ancillary document which followed on from the report and discusses how to implement the findings within the business. This document falls within one of the Stage 3 Disclosure Classes and we are concerned that we are not able to assert privilege over this document (or privilege would be limited to those sections which refer to the Deloitte Report directly). I have attached the email chain but the document of interest is the Zebra Action Summary attached to the email.

We would welcome your thoughts on whether privilege can be asserted over the Zebra Action Summary, if parts of the document can be redacted for privilege or if the full document needs to be disclosed.

If you require any further information about the background to this document please let me know.

Kind regards

Amy

Amy Prime
Solicitor
Womble Bond Dickinson (UK) LLP

d:
m:
t:
e:

GRO

GRO

<mailto:GRO>

GRO

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