
From: Evans, Michael: HR (LDN)
Sent: Wednesday, September 17, 2008 7:15 PM
To: Clackson, Patrick: Finance (LDN); Ricci, Rich: Barclays Capital
Subject: RE: \$650m problem

Patrick,

I want to help in any way I can, but not sure where you are coming from here. They had already accrued 1.5, and we collectively tried to back into the bonus number for the parts we were taking. I repeatedly said I was nervous about their numbers and just how robust and complete they were.

As for the language below, I never saw any of it, nor was I ever asked/invited to review it. I will call you when I finish something I need to complete asap

Michael

From: Clackson, Patrick: Finance (LDN)
Sent: Wednesday, September 17, 2008 7:07 PM
To: Evans, Michael: HR (LDN); Ricci, Rich: Barclays Capital
Subject: \$650m problem

This is a problem, they have \$2bn in the agreement, I was relying on you guys telling me I needed \$1.35bn which gave me \$650m of the goodwill but the para below says we have to pay it to them/can't use

Archie says you have agreed to this

Help.....

From sale and purchase agreement

(c) On or after the Closing, Purchaser shall, or shall cause its Subsidiaries to, pay each Transferred Employee an annual bonus ("08 Annual Bonuses"), in respect of the 2008 Fiscal Year that, in the aggregate, are equal in amount to 100 percent of the bonus pool amounts accrued in respect of amounts payable for incentive compensation (but not base salary) and reflected on the financial schedule delivered to Purchaser on September 16, 2008 and initialed by an officer of each of Holdings and Purchaser (the "Accrued 08 FY Liability"). Such 08 Annual Bonuses shall be awarded on or before March 15, 2009 in such forms and proportions as are consistent with Purchaser's customary practices, so that the aggregate amount awarded shall equal the Accrued 08 FY Liability. Any amounts that would have been allocated in respect of any Transferred Employee who voluntarily terminates employment before such award is made shall instead be allocated among the remaining Transferred Employees (who include, for this purpose, those Transferred Employees who are terminated without cause by Purchaser or its affiliates prior to the time the awards are made) (collectively, the "Remaining Transferred Employees"). However, the Accrued 08 FY Liability shall be reduced if, prior to the time such awards are made, both (x) 10% of the Transferred Employees have voluntarily terminated their employment with the Purchaser and (y) such terminated Transferred Employees would have been expected to receive at least 10% of the 08 Annual Bonuses had no such Transferred Employee's employment in fact terminated. In that case, Purchaser may adjust the Accrued 08 FY Liability proportionately from its initial level, in the same proportion as the reduction in Transferred Employees below 90% of the initial number of Transferred Employees compared to 90% of the initial number of Transferred Employees, in a good faith and reasonably equitable manner to account for the Transferred Employees to whom 08 Annual Bonuses will not be payable, and thereby to reduce the aggregate 08 Annual Bonuses. Any such reduction shall take into account the length of service, seniority within the Business and contribution of the Remaining Transferred Employees, relative to the allocation of the Accrued 08 FY Liability, in accordance with the principles enumerated herein.

