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**From:** J <jeevacation@gmail.com>  
**Sent:** Friday, March 15, 2019 4:37 PM  
**To:** Darren Indyke  
**Subject:** Re: Privileged and Confidential

Yes

<=iv dir="ltr" class="gmail\_attr">On Fri, Mar 15, 2019 at 12:33 Darren Indyke [REDACTED] wrote:

To clarify regarding Dec=sion Item 3. Do I exclude the Christmas bonus check stub and and las= payment check stub which references the loan repayment?

DARREN K. INDYKE  
[REDACTED]

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On Mar 15, 2019, at 12:25 PM, J <jeevacation@gma=l.com <mailto:jeevacation@gmail.com> > wrote:

all ok

On Fri, Mar 15, 2019 at 12:04 =M Darren Indyke [REDACTED]

wrote:

1. Regarding the questionnaire to be returned to VI Department of Lab=r with respect to Kyle Steward. I know you approved the form, but I =idn't like the large number of contractors stated on the document.=C2◆ Recall the document stated that there are 17 contractors and 21 empl=yees in the same "class" as Kyle. I questioned Daphn= further about it and learned that she included all workers paid as contra=tors and not just landscaper contractors. So, I revised it to change=the number of contractors in Kyle's class from 17 to 4 and the num=er of employees from 21 to 6, which relates to the class of landscape cont=actors and landscape employees rather than all contractors and employees. =C2◆

2. Also= Chris Kroblin and I didn't like the reference to non-payment=of taxes that Daphne and Jeanne originally provided in the questionnaire a= one of the reasons to treat Kyle as a contractor. We changed the ex=lanation as to why Kyle is a contractor to read as follows:

"Mr. Steward was contracted to provide services as a tempo=ary landscaper for the Island after the Hurricanes. His role was to =erform needed landscape projects until the Island was restored back to nor=al. Accordingly he was not brought on as a permanent employee. =Rather he was contracted solely for the post-hurricane restoration project="

3. <span>The questionnaire also includes the following instructions:

"Attach copies of any written agreements, billing statements, applicatio=s, or contracts between the firm and the worker. If the agreement was oral= please reduce it=to writing and at=ach. If any State or Federal Agency has ruled on the same job class as this worker or another of the same job class, attach a copy of the ruling. (These documents will no= be returned.)"

a Daphne pr=posed to include: all check stubs for checks issued to Kyle which generall= indicate number of days worked and the daily rate. Excluding the separate check s=ub relating to the Christmas Bonus (discussed in 3b below), there are 44 c=ek stubs relating to payments to Kyle Steward dating back to October 2017= I think=the check stubs would be requested anyway and would provide them. Ch=is Kroblin agrees and thinks we should provide the check stubs.

b With regard to check stubs, there are=C2◆two additional separate issues: There is a check stub whi=h is separate and states that it is a "Christmas Bonus◆=9D as per JE. I suppose that providing Kyle a Christmas Bonus could =ake it seem like Kyle is being treated as an employee. Not sure=if you want to include the stub or delete it.

c. Second check stub issue. It is my unde=standing that Kyle's pay was \$240 less than it normally is during =ne period. Apparently, Stephanie loaned him \$240 to cover the shortf=ll out of petty cash. He had not paid the loan back, so, when he was=let go, there was a deduction from his pay in the amount of that loan (sil=y). The check stub makes a reference to the deduction for the l=an repayment. Does the loan of \$240 make it seem more like he is bei=g treated as an employee?

=. Daphne also included invoices =ssued with respect to each payment made to Kyle, but the invoices ref=ect billing at an hourly rate, rather than the daily rate reflected on the=check stubs, and the invoices were prepared by the office rather than Kyle= I think that the fact that we prepared the invoices would come out =uring the process (e.g., if asked about invoices, K=le would likely say he never prepared or gave us any invoices). Also,=that the invoices show payment at an hourly rate, which is different than =he daily rate on the check stubs, creates confusion and might cause additi=nal scrutiny. I think that our preparing the invoices would ref=ect negatively and would work against us, so I have excluded the invoices.=/font>

=font size="1" color="#161616">> e. Daphne also included the In=emnity agreement that we make all contractors, vendors and suppliers sign =nd which states that the person signing the agreement is a contractor, ven=or or supplier. Under this agreement the person who signs it indemn=fies Nautilus, Inc., Great St. Jim, LLC, LSJE, LLC and you for any persona= injury claims arising out of the engagement as a contractor. It inc=udes an assumption of the risk with respect to dangerous conditions and ac=ivities on the properties, a release and a waiver of claims. I think=it could cut both ways because it looks like we make people waive certain =ights to work for us. On the other hand, as Chris Kroblin indicated,=the people who do this are not rocket scientists and are simply looking at=the universe of factors they have been told makes someone a contracto= or employee. The document clearly states the mutual understanding t=at Kyle is a contractor, is responsible for his own evaluation of the cond=tions on the property and for his own conduct, requires him to maintain hi= own insurance and provides additional support for treatment of Kyle as a =contractor. Also, because we want to provide some documents in respon=e to the specific request on the questionnaire, on balance, Chris Kro=lin would include the indemnity. I agree and would include it a= well.

f. Daphne also included=a termination letter, which would ordinarily be ok, but also includes a st=ement that \$240 was deducted from final pay to repay a loan Stephanie gav= Kyle. I think the kind of loan we are talking about here might make=it appear that Kyle was treated like an employee, even though paid as a co=tractor, And it is highlighted in the letter, so even if we include =he "loan repayment" check stub, I don't think=we need to highlight it in the termination letter, so I am excluding the t=rmination letter as well. Chris Kroblin agrees.

Decisions for you:

1. Are you ok with my ch=nge to the questionnaire as reflected in points 1 and 2 above?=/div>

=font size="1" color="#161616">>2.=Are you ok with just providing the check stubs and the indemnity ag=eement, and nothing else, in response to the direction on the questionnair=?

3. With regard to check stubs, do you have any direction =n whether or not to exclude the "Christmas Bonus" check stu= and the "loan repayment" check stub?

Please advise. Thanks.  
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=br>

DARREN K. INDYKE





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JEE

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