

March 4, 2015

*via e-mail and U.S. Mail*John P. Sheridan  
The Sheridan Law Firm, P.S.  
705 Second Avenue, Suite 1200  
Seattle, WA 98104

Re: Engstrom and Stockwell

Dear Jack:

Your production this week of illegal recordings taken by Mr. Engstrom heightens Microsoft's serious concerns regarding your clients' retention, use, and disclosure of Microsoft information. As you have acknowledged, Mr. Engstrom committed a crime and violated Microsoft employees' privacy rights when he secretly recorded private conversations with Microsoft employees without their consent. The criminal actions compound the issues already raised by your clients' wrongful retention of years of confidential Microsoft e-mails and documents.

While Microsoft appreciates your oral representation to me that your clients no longer retain any Microsoft information or recordings and have not used or disclosed such information or materials, the seriousness of this issue requires sworn testimony. Given the criminal misconduct, we cannot wait for the routine discovery process to unfold to ensure Microsoft's information – and its employees' rights – are protected.

As I previously requested, Microsoft needs prompt assurances under oath concerning its information and now also the recordings of its employees. Please provide by Sunday, March 8<sup>th</sup>, sworn declarations from your clients stating, if true:

- Your clients did not record private conversations of any other Microsoft employees;
- Your clients do not possess any recordings of private conversations involving Microsoft employees;
- Your clients have not provided copies of recordings of private conversations involving Microsoft employees to anyone other than Eric Blank;

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- Your clients have not played for anyone any recordings of private conversations involving Microsoft employees;
- Your clients have returned all Microsoft information, including all electronic and hard copy documents without retaining any copies or providing any copies to anyone else; and
- Your clients did not use or disclose any Microsoft information since their employment with Microsoft ended.

If your clients will not provide sworn statements, Microsoft anticipates seeking assistance from the court to ensure protection of its information and employees.

Please also know we are contacting Messrs. Engstrom's and Stockwell's former attorney, Nancy Anderson, to obtain assurances she is not in possession of Microsoft information or recordings. Moreover, we expect to address with Ms. Anderson her previous representations to Microsoft that her (now your) clients had no facts to support a basis for a Foreign Corrupt Practices Act claim against Microsoft. In light of Ms. Anderson's clear representations, we were surprised Messrs. Engstrom and Stockwell raised the FCPA as the basis for the public policy they contend was violated by the termination of their employment. If there is any information other than as stated in the complaint, of an FCPA violation, then I renew my request made to Ms. Anderson that we have someone (not affiliated with this litigation) interview the plaintiffs about the facts. Microsoft takes seriously its obligation to comply with the FCPA and, if there are facts arguably supporting an FCPA violation, Microsoft intends to investigate them.

As you undoubtedly recognize, your clients' wrongful actions raise the prospect of claims against your clients for their wrongful retention of Microsoft information, invasion of employee privacy rights, lack of a good faith basis for their complaint, and other misconduct. While supplying the requested declarations will not cure any past legal or criminal damage done by your clients, it will help substantially mitigate Microsoft's and its employees' concerns regarding the need for emergency action to protect its private and confidential information.

Thank you for your prompt attention to these serious issues.

Sincerely,

Davis Wright Tremaine LLP



Robert J. Maguire