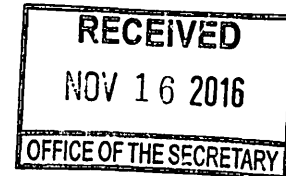


November 15, 2016

VIA E-MAIL AND UPS OVERNIGHT



Hon. James E. Grimes  
Administrative Law Judge  
U.S. Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: In the Matter of Donald F. Lathen, Jr., Eden Arc Capital Management, LLC  
and Eden Arc Capital Advisors, LLC, Admin. Proc. File No. 3-17387

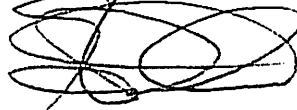
Dear Judge Grimes:

The Division of Enforcement's Reply Memorandum of Law in Further Support of Its Second Motion to Preclude Respondents' Advice of Counsel Defense, which we received via e-mail yesterday afternoon (the "Reply Mem."), raises and presents several new arguments not made in the Division's moving papers. In particular, the Division asserted for the first time that the Eden Arc Respondents have not yet identified all of the attorneys who provided them with the legal advice that forms the basis of their advice of counsel defense and have not produced all communications with those lawyers.

Introducing new arguments in a reply "is improper in this district and this circuit." CE Int'l Resources Holdings LLC v. S.A. Minerals Ltd., Case No. 12-CIV-8087, 2012 WL 6178236, at \*2 (S.D.N.Y. Dec. 10, 2012). We therefore respectfully request that this Court enter an Order authorizing the Eden Arc Respondents to submit a sur-reply (within five days after this Court adjudicates this application) responding to the new arguments presented for the first time in the Reply Mem. See, e.g., Jenkins v. N.Y.C. Police Dep't, Case No. 13-CIV-3405, 2015 WL 4660899, at \*2 (S.D.N.Y. Aug. 6, 2015) ("Because Defendants' reply brief raised new arguments, the Court granted Plaintiff's request to file a sur-reply"); Phillips v. Reed Group, Ltd., 955 F. Supp. 2d 201, 241 n. 19 (S.D.N.Y. 2013) ("The Court accepted a sur-reply from Plaintiff addressing new arguments raised by Defendants on reply"); Russell v. Rock, Case No. 08-CIV-1894, 2009 WL 1024714, at \*6 (E.D.N.Y. April 15, 2009) ("Although the Court ordinarily does not consider claims raised for the first time in a reply brief, the Court will consider petitioner's additional claims because the Court gave respondent the opportunity to fully respond to petitioner's new arguments, and respondent has filed a sur-reply") (internal quotation omitted).

Thank you for your consideration and attention to this matter.

Very truly yours.

A handwritten signature in black ink, consisting of several overlapping loops and a final downward stroke.

Harlan Protass

cc: Judith Weinstock, Esq. (via e-mail and UPS Overnight)  
Janna Berke, Esq. (via e-mail)  
Alex Janghorbani, Esq. (via e-mail)  
Nancy Brown, Esq. (via e-mail)