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September 12, 2016

The Hon. Saliann Scarpulla
Supreme Court, Commercial Division
60 Centre Street, Courtroom 208
New York, NY 10007

Re: Lebedev v. Blavatnik and Vekselberg, Case No. 650369/2014

Dear Justice Scarpulla:

The undersigned represent Defendants Len Blavatnik and Viktor Vekselberg, respectively, in the above-captioned action. We write pursuant to the Court's instruction to detail certain discovery abuses of Plaintiff Lebedev and his New York counsel, Steptoe & Johnson, LLP ("Steptoe"). For months, Steptoe steadfastly refused—until Defendants brought the matter to the Court's attention—to provide candid answers to basic questions about Lebedev's document collection efforts. On September 9, 2016, Steptoe finally acknowledged that it could not answer Defendants' questions because Steptoe did not conduct the collection and review of its client's documents. Rather, Steptoe allowed Lebedev's unidentified "Russian counsel" to conduct these tasks without regard to ensuring whether or not such counsel was aware of, let alone complied with, Lebedev's discovery obligations under New York law. Steptoe now concedes that the Russian collection efforts were deficient. On August 15, 2016, *i.e.*, 2.5 months before the close of fact discovery, Steptoe determined it needed to "re-do"

Lebedev’s searches and conduct its own “analysis of responsiveness and privilege”—something it plainly should have done in the first place. Thus, more than eight months into the discovery process, Steptoe is starting the document collection and review process from square one.¹ Steptoe did not disclose this fact to Defendants until instructed by Ms. Marquez to provide Defendants with information concerning the parameters of Lebedev’s document collection during a call with chambers on August 26, 2016 and, even then, Steptoe waited two weeks—until September 9, 2016—to disclose this material fact, despite being specifically told to produce available information “on a rolling basis” in advance of the scheduled September 9 Court call. Further hindering discovery, Lebedev submitted demonstrably false and incomplete responses to Defendants’ interrogatories regarding the location and identity of relevant documents and witnesses and has refused Defendants’ repeated requests to amend those responses.²

Steptoe’s representations concerning the entities and individuals under Lebedev’s control for purposes of discovery have also been misleading, if not outright false. It contends that Lebedev lacks control over certain individuals and entities³ beyond the Court’s subpoena power which indisputably possess highly-relevant documents—some of which Lebedev has selectively used to advance his interests in this and related judicial proceedings—and that he can do no more than request that these individuals and/or entities make a “voluntary” production of such documents. Yet, Steptoe has refused to produce any of Lebedev’s communications with these

¹ Steptoe has not provided Defendants any estimate of when it anticipates completing this reboot of Lebedev’s document collection but Defendants fail to see how this effort could possibly be completed in time for the parties to conclude fact discovery (including depositions) by the current discovery cutoff of October 31, 2016.

² For example, Lebedev has failed to identify numerous relevant witnesses, including the person that signed the 2003 Acquisition Agreement that Lebedev acknowledges released at least certain of his rights under the alleged joint venture agreement. He also failed to identify certain witnesses that he acknowledges received litigation hold notices. *See* Ex. A (9/9/16 Miller Letter), at 2.

³ Including Sintez Group, Sovlink LLC, and the Sintez Petroleum employee Nikita Belous, who submitted testimonial and documentary evidence on Lebedev’s behalf in a related proceeding.

purported “third parties” reflecting his request(s) for, or the scope of, any such purportedly “voluntary” productions. This is all a ruse. It is common knowledge, for example, that Lebedev controls Sintez Group.⁴ He acknowledges that he has three Sintez Group email accounts that are stored on a Sintez email server. Ex. A (9/9/16 Letter), at 1. Indeed, he claims that, other than his Sintez email accounts, “[h]e has *no other email accounts* where potentially responsive documents would be located.” *Id.* Lebedev acknowledges that he sent “litigation hold notices” in connection with this action to certain Sintez employees. *Id.* at 2. He has represented to Defendants that he continues to have “representatives” at Sintez Group that have been involved in this litigation. Ex. B (2/16/16 Email). He also recently acknowledged that a Sintez “general manager,” acting “on [his] behalf,” “collected potentially relevant documents from” relevant witnesses and entities that acted on Lebedev’s behalf with respect to material events in this case. Ex. A, at 2. And Lebedev represented in his interrogatory responses that *all* of the documents he produced “*originated* from ZAO Sintez Group.”⁵ Ex. C, at 5. Lebedev’s characterization of Sintez Group as an independent third party is meritless and a clear attempt at cherry-picking.⁶

In light of these (and other) discovery deficiencies, Defendants request that Lebedev (1) produce all correspondence between himself (or his representatives) and the various third parties from whom he requested “voluntary” productions, and (2) be ordered to appear for a deposition on his relationships with these third parties and his responses to defendants’ interrogatories.

⁴ See https://en.wikipedia.org/wiki/Leonid_Lebedev (September 10, 2016) (“Lebedev is the sole owner of Sintez Group.”).

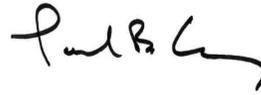
⁵ He now admits that, contrary to his sworn interrogatory responses, many of these documents did not “originate” from Sintez Group but rather “were obtained from certain third parties, including Nikita Belous and Sovlink.” Ex. A (9/9/16 Miller Letter), at 2.

⁶ There is also no doubt that Lebedev’s document production to date is incomplete. To use the “voluntary” Sintez production as an example, Lebedev has not produced *any* emails from anyone at Sintez other than a handful of his own emails, even though it is undisputed that his Sintez “representatives” have been involved in numerous relevant events in this case as recently as 2013 and dating back to the early 2000s. See, e.g., Ex. D (ACCESS000026); Ex. E (CMP0000334).

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "S. Broome".

Stephen A. Broome
Counsel for Defendant Len Blavatnik

A handwritten signature in black ink, appearing to read "Paul B. Carberry".

Paul B. Carberry, White & Case LLP
Counsel for Defendant Viktor Vekselberg

cc: All Counsel of Record (via Email)