

# **Exhibit N**

**The  
Bromwich  
Group**

The Bromwich Group LLC  
901 New York Avenue, NW, 5<sup>th</sup> Floor  
Washington, DC 20001

November 22, 2013

Noreen Krall, Esq.  
Apple Inc.  
Chief Litigation Counsel  
1 Infinite Loop  
Cupertino, CA 95014

Re: *U.S. v. Apple, Inc., et al.*, Civil Action No. 1:12-CV-2826

Dear Noreen:

Thank you for your letter of November 21. We too are pleased that we finally made a small amount of progress this week, although the progress has been unacceptably slow. Apple has been slow to produce the materials we initially requested a month ago, grudgingly given us access to only two of the 15 witnesses with whom we had requested interviews during our trip to Silicon Valley this past week, refused to allow us an introduction during that trip to the newly-hired internal Antitrust Compliance Officer, and generally deflected our repeated requests to have initial discussions with senior executives at the company and its Board members.

Instead, Apple has continued to focus on the issues of fees and expenses in disregard of the Court's September 5, 2013 Order. That Order establishes that the monitor proposes its fees and its policies relating to expenses, and the Department of Justice ("DOJ") and Plaintiff States collectively have the sole power of approval. Apple's role is to pay the invoices submitted by the monitor in connection with his work. The only requirement outlined in the September 5 Order is that the "compensation of the External Compliance Monitor and any

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persons hired to assist the External Compliance Monitor shall be on reasonable and customary terms commensurate with the individuals' experience and responsibilities and consistent with reasonable expense guidelines." September 5, 2013 Order, at p. 14.

Apple has converted this standard into a license to make inappropriate demands. Such demands are perfectly understandable and acceptable in other circumstances (i.e., when the company is deciding among various service providers and is expected to negotiate aggressively in order to decide whether or not to retain the services of a particular firm). That is not the case here. The authority regarding who to select as monitor rested, and continues to rest, with the Court, not Apple. The Court selected me as a candidate recommended by the DOJ and Plaintiff States. And, the fees and expenses to be paid to the monitor and his team are not set by Apple; they are set by the monitor, with approval reserved for the DOJ and the Plaintiff States.

In the interests of putting these issues to rest, let me respond to the claims contained in your November 21 letter.

First, you assert that the fee structure we have proposed is "unreasonable for a matter of this size, scope, and type" based on your comprehensive review of past billing practices for law firms working for Apple. Your statistical analysis might be relevant if this matter was in fact comparable to the other matters in your database, but it is not. We have been told by company representatives that Apple has never before had a monitor of any kind, so your review of past matters in which you retained law firms cannot include matters of "this size, scope, and type" because your database contains no such matters. Further, as we discussed again when we met this past Monday, we are providing you with discounts from our standard rates. Unlike other service providers who discount in the hope that they will obtain further work from Apple, we are quite correctly barred from doing any other work for Apple during the duration of the monitorship and for a year afterwards.

As for your concerns about the 15 percent administrative fee, as we discussed on Monday, the fact is the law firms you deal with charge out their associates at hourly rates that generate profits far in excess of 15 percent; indeed, the markups range from more than 30 percent to well over 100 percent. In that context, a 15 percent administrative and management fee is modest.

Second, your suggestion that our proposed fees bear no relation to fees I have charged in past monitorships is misplaced. You refer to an hourly rate I proposed to monitor the New Orleans Police Department (\$495/hour), as though it were a comparable assignment. It is not. For one thing, the difference between

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monitoring a private company and a municipal police department with severe financial problems is obvious on its face. Your reference to another engagement in which I charged \$750/hour to a municipal entity is based on a misunderstanding; that matter is not a monitorship at all but instead a different type of assignment.

Third, your requests for additional support for the administrative fee, and for the billing rates of Ms. Cirincione and other timekeepers (including a paralegal) are, again, a thinly-veiled attempt to substitute a fee negotiation and approval process, in which Apple sets the terms of the relationship, for the process the Court prescribed in its September 5 Order. Because Apple's historical experience with law firms is limited to hiring lawyers as counsel, this effort is not surprising, but it is inconsistent with the Court's September 5 Order.

Furthermore, as you are undoubtedly aware, I discussed Ms. Cirincione's rate with Messrs. Boutrous and Swanson on November 6. We explained that Ms. Cirincione's rate would be discounted significantly from the standard rate she charges to almost all of her clients. Moreover, as I told you at our meeting on November 18, and as I explained to Messrs. Boutrous and Swanson, I retained Ms. Carroll after a careful search for a talented and cost-effective associate. Ms. Cirincione, Ms. Carroll and Mr. Cowdery (a Fried Frank paralegal), are the only members of the monitoring team apart from Mr. Nigro and myself.

Fourth, you complain about our decision not to provide detail in our invoices on the tasks undertaken in addition to the amount of time spent by timekeepers on specific days, but this complaint ignores two basic facts. First, we have told you we will maintain detailed records and they will be provided to DOJ and the Plaintiff States for their review, as provided for in the Court's September 5 Order. Second, our experience to date with Apple on the fee and expense issues validates that decision. We have no interest in, or obligation to agree to, sharing with Apple each task we decide to undertake. In fact, such disclosure is inappropriate and could serve to compromise our independence. The work we undertake to fulfill our obligations under Judge Cote's September 5 Order is not in Apple's discretion.

Fifth, our experience over the past month clearly demonstrates that our ability to fulfill our obligations would be compromised at this point if we were to create a budget for our monitoring activities. We could not have anticipated the amount of effort it would take to get the small number of documents and the small number of interviews we have obtained so far. Nor could we have anticipated the amount of time we have spent responding to the numerous e-mails and letters received from Apple or the time we have spent drafting letters to senior executives of the company notifying them of Apple's lack of

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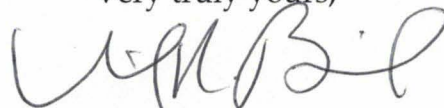
cooperation and seeking an early course correction. Until we see more cooperation from the company, and have a longer track record on which to base estimates, we are unable to provide a budget. Moreover, your insistence on a budget at this point is inconsistent with your acceptance of my suggestion at our November 18 meeting to base a budget on our first three months of work on this matter. Your letter does not explain the reason for changing your position between then and November 21.

A minor additional point: you suggest that this initial bill was before any "meaningful travel [was] conducted." However, it does include a trip to New York for the introductory October 22 meeting for which Mr. Nigro, Ms. Cirincione and I traveled round-trip from Washington, DC to New York. We were puzzled at Apple's selection of New York as the meeting site when four of the seven attendees are based in DC and only one was based in New York. Meeting in New York was Apple's choice, and yet this selection caused a non-trivial contribution to the bill.

Finally, contrary to your letter, I never said or even suggested that "Apple's wealth is sufficient reason not to address the billing concerns [contained in your November 21 Letter]." That was said by you. It was a view you attributed to me, without any foundation, that I quickly corrected. Please be careful about imputing views to me that I do not hold and have never articulated.

I have no doubt that we can develop a constructive and productive relationship with you and your colleagues, but we have been unable to do so after a full month of making every effort to communicate our expectations and to work with you. Unfortunately, we have seen little reciprocity and instead a consistent pattern of delay, unresponsiveness, and lack of cooperation. We very much hope that changes with our trip to Cupertino the week of December 2.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael R. Bromwich". The signature is fluid and cursive, with the first name being the most prominent.

Michael R. Bromwich