

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

U.S. DEPARTMENT OF THE)	No. 1:12-mc-00100-EGS
TREASURY,)	
)	STIPULATION AND PROTECTIVE
)	ORDER CONCERNING
Petitioner,)	RESPONDENTS' SUBPOENAS TO
)	PETITIONER
v.)	
)	
PENSION BENEFIT GUARANTY)	
CORPORATION,)	
)	
Interested Party,)	
)	
v.)	
)	
DENNIS BLACK, <i>et al.</i> ,)	
)	
Respondents.)	
)	

FILED

NOV - 6 2014

Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

To clarify the duties and obligations of petitioner U.S. Department of the Treasury (Treasury), interested party Pension Benefit Guaranty Corporation (PBGC), and respondents Dennis Black, Charles Cunningham, Kenneth Hollis, and Delphi Salaried Retiree Association under the third-party subpoenas issued to Treasury by respondents, it is hereby stipulated and agreed as follows by and among the undersigned subject to the approval of the Court:

1. As used in this stipulation and order, the following terms shall have the following meanings: (a) "Treasury" and "PBGC" shall have the meanings ascribed to them in the preamble to this stipulation and order; (b) "Document Subpoena" shall mean respondents' subpoena to Treasury dated January 4, 2012; (c) "Deposition Subpoena" shall mean respondents' subpoena to Treasury dated August 20, 2013; (d) "Counsel" shall mean counsel for respondents and counsel for PBGC; (e) "SIGTARP" shall mean the Special Inspector General for the Troubled Asset Relief Program; (f) "Delphi" shall mean Delphi Corporation; (g) "Delphi Pension Plans" shall

mean the pension plans maintained by Delphi on June 30, 2009; and (h) “*Black P*” shall mean *Black v. PBGC*, No. 2:09-cv-13616-AJT-MKM (E.D. Mich.).

2. Respondents will consider Treasury to have complied in full with the Document Subpoena if Treasury conducts the following searches and produces to Counsel all non-privileged portions of all documents responsive to the Document Subpoena located as a result of those searches: (a) an electronic search of the Outlook boxes of Matthew A. Feldman, Harry J. Wilson, and Steven L. Rattner using the following search string: (Delphi or PBGC or “Pension Benefit Guaranty Corporation” or SRP or HRP or Salaried) or ((pension or house or Joe) w/25 words of (Snowbarger or Menke or Sheehan or greentarget or “DIP” or Elliot or “Silver Point” or lien)); and (b) a manual search of the documents produced by Treasury to SIGTARP for documents relating to Delphi, the Delphi Pension Plans, or the release and discharge by PBGC of liens and claims relating to the Delphi Pension Plans.

3. Production of documents under this stipulation and order shall take place on a rolling basis.

4. Treasury shall use its best efforts to make its initial production of documents under this stipulation and order within 21 days of the date upon which the Court approves the stipulation and order and its final production within 135 days of that date.

5. Treasury shall update respondents on the status of production no less frequently than monthly.

6. Treasury shall not be required to produce the lesser included emails in an email chain if it produces the same emails (and any attachments to those emails) as part of another version of the chain.

7. Treasury shall have 60 days from the date of its final production under this stipulation and order to provide Counsel with a privilege log covering all documents or portions of documents encompassed by this stipulation and order but withheld pursuant to claim of privilege.

8. Treasury may designate as “Confidential” any material contained in any document produced under this stipulation and order that consists of any of the following or is copied or extracted from any of the following:

- a. confidential financial information of any individual or entity, including information dealing with confidential business practices, plans, strategies, or projections;
- b. information submitted to Treasury by a third party under an express or implied assurance of confidentiality;
- c. information related to the employment of any individual;
- d. information the disclosure of which is likely to embarrass or harm the reputation of any individual; or
- e. information that Treasury is required by law to protect from disclosure.

9. Material designated as “Confidential” under this stipulation and order shall be so labelled at the time of its production.

10. If material ought to have been labeled as “Confidential” at the time of its production under this stipulation and order but is not so labeled, Treasury shall provide Counsel promptly with a substitute copy of the document in which the previously-unlabeled material is properly labeled.

11. Within 10 business days of the date upon which Treasury provides Counsel with a substitute copy of any document pursuant to the preceding paragraph, Counsel shall destroy all

copies of that document produced previously under this stipulation and order and shall certify to Treasury the destruction of those copies.

12. If Treasury determines that any material designated as “Confidential” under this stipulation and order should no longer bear that designation, it shall so notify Counsel promptly.

13. Nothing contained in this stipulation shall preclude respondents or PBGC from moving the Court to invalidate any designation as “Confidential” of any material produced under this stipulation and order.

14. Material that has been designated as “Confidential” under this stipulation and order shall be used exclusively for the prosecution or defense of this action or *Black I* and shall not be used for any other purpose.

15. Material that has been designated as “Confidential” under this stipulation and order shall not be re-disclosed by Counsel except to members of Counsel’s office actively involved in the prosecution or defense of this action or *Black I*; consultants or experts hired or retained by Counsel in connection with the prosecution or defense of this action or *Black I*; Charles Cunningham; employees of PBGC with a need to know; this Court or the court in *Black I*; qualified persons (including necessary clerical personnel) recording, taking or transcribing testimony or argument at any deposition, hearing, trial or appeal in this action or *Black I*; or witnesses (including their counsel) in connection with the prosecution or defense of this action or *Black I*.

16. Material designated as “Confidential” under this stipulation and order shall not be filed with this Court or the court in *Black I* except under seal.

17. Except in the case of disclosures to this Court or to the court in *Black I*, no individual shall review or be permitted to review any material designated as “Confidential” under this

stipulation and order unless and until the individual has executed the following acknowledgment and has returned the executed acknowledgment to Counsel for retention by Counsel during the pendency of *Black I*:

I, _____, hereby declare under penalty of perjury that I have read the stipulation and order in *U.S. Department of the Treasury v. Black*, No. 1:12-mc-00100-EGS (D.D.C.), dated [insert the date upon which this stipulation and order is approved by the Court]. I agree to refrain from using or disclosing any material designated as "Confidential" under that stipulation and order other than in strict compliance with the terms of the stipulation and order. I acknowledge that my duties under the stipulation and order shall survive the termination of the above action and that my failure to comply with the terms of the stipulation and order may result in the imposition of sanctions by the Court.

Dated: _____ Signed: _____

18. Within 120 days of the termination of *Black I* (including the final resolution of any appeals), Counsel shall destroy or delete all material designated as "Confidential" under this stipulation and order, except that Counsel may retain in unredacted form any document filed with the Court in this action or with the court in *Black I* by either of those courts or by Counsel.

19. The Deposition Subpoena is hereby withdrawn with prejudice contingent upon the appearance of Matthew A. Feldman and Harry J. Wilson for deposition by respondents in connection with their prosecution of *Black I*.

Dated: November 3, 2014

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APPROVED AND SO ORDERED.

Dated: 11/4/14


UNITED STATES DISTRICT JUDGE