

*U.S. Dep't of the Treas. v. Pension Benefit
Guar. Corp.*

No. 1:12-mc-00100-EGS

Pet. Opp'n Resp. Mot. Compel

Ex. C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

<hr/>)	No. 1:12-mc-00100-EGS
U.S. DEPARTMENT OF THE)	
TREASURY,)	
)	
Petitioner,)	
)	
v.)	
)	
PENSION BENEFIT GUARANTY)	
CORPORATION,)	
)	
Interested Party,)	
)	
v.)	
)	
DENNIS BLACK, <i>et al.</i> ,)	
)	
Respondents.)	
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DECLARATION OF JENNIFER M. O'CONNOR

Jennifer M. O'Connor says:

1. I currently hold the position of Deputy Counsel to the President. In this capacity, I am responsible for, *inter alia*, providing legal advice to White House staff, including advice on matters involving the invocation of the presidential communications privilege.
2. I submit this declaration in opposition to the motion of respondents to compel the production of documents withheld pursuant to the presidential communications privilege. I base this declaration on my personal knowledge and on information made available to me in the performance of my duties.
3. I am aware that, upon consultation with the Office of the Counsel to the President, the U.S. Department of the Treasury (Treasury) has withheld certain documents in whole or in

part on the basis of the presidential communications privilege. I understand that descriptions of these documents have been provided to respondents in a privilege log submitted by Treasury.

4. On behalf of the Office of the President, I hereby assert the presidential communications privilege with respect to all portions of the documents identified in the Treasury privilege log as Doc. Nos. 67, 72, 84, 94, 275, 560, 593, 596, 599, 601, 603, 605, 610-12, 619, 621, 623, 627, 629, 631, 633, 638, 668, 670, 672, 674, 676, 692, 758-68, 770, 776-78, 849, 856, 859-60, 863, 944, 948, 950, 956, 1006, 1089, 1091, 1094, 1152, 1166, 1168, 1217, 1219, 1221, 1223 and the portion of Doc. No. 358 redacted from page no. UST-BL-044502. This assertion of privilege is based on my review of each of those documents. In making this declaration, I have also relied on the description of the documents provided by my staff and on the description of the documents contained in the Treasury privilege log.

5. The presidential communications privilege is no longer being invoked with respect to the documents identified in the Treasury privilege log as Doc. Nos. 634, 771, and 779.

6. I understand that Treasury is also asserting other privileges, such as the deliberative process privilege, with respect to the documents or portions of documents as to which the presidential communications privilege is being asserted. The fact that my assertion is limited to the presidential communications privilege is in no way intended to suggest that those documents or portions of documents are not protected in whole or in part by other privileges.

7. The documents or portions of documents as to which the presidential communications privilege is being asserted consist of memoranda, drafts of presidential speeches, and electronic mail conversations, including, in some cases, attachments, that relate to the President's decisions as to how the United States should address the financial distress of

several of its large automobile corporations and protect the country from the potential consequences of their bankruptcy.

8. In particular, the documents or portions of documents as to which the presidential communications privilege is being asserted consist of communications among the Presidential Task Force on the Auto Industry (Auto Task Force) or the team of federal employees that staffed it (Auto Team) and the White House that were authored by or solicited and received by the President or senior presidential advisors and staff, including Lawrence H. Summers, the Director of the National Economic Council and Assistant to the President for Economic Policy and the co-chair of the Auto Task Force. The documents or portions of documents as to which the presidential communications privilege is being asserted also consist of communications that summarize or otherwise reflect communications with the President or that contain information provided to White House officials.

9. At the time of these communications, Dr. Summers was the chief White House advisor to the President on the development and implementation of economic policy. In that capacity, he led the President's daily economic briefing. As co-chair of the Auto Task Force, Dr. Summers advised the President on decisions relating to the United States' actions in response to the bankruptcy and restructuring of, among other companies, General Motors Corporation.

10. The communications as to which the presidential communications privilege is being asserted thus reflect or disclose information, views, and advice exchanged among the President, his senior advisors, and the Auto Task Force or Auto Team and were part of the process that informed the President's determinations as to what actions the United States should take with respect to the financial collapse of General Motors and other U.S. automobile companies.

11. I believe that without the protection of the presidential communications privilege over the communications described above, presidential advisors and their staffs would be chilled from gathering relevant information, exploring alternatives, and providing fully informed recommendations regarding the performance of the President's duties.

12. I declare under penalty of perjury that the foregoing is true and correct. Executed this 6 day of August 2015


JENNIFER M. O'CONNOR