

APPEAL

U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:12-mc-00100-EGS
Internal Use Only

U.S. DEPARTMENT OF TREASURY v. BLACK et al

Assigned to: Judge Emmet G. Sullivan

Case in other court: USDC for the Eastern District of Michigan,
2:09-cv-13616

Cause: Motion to Quash Subpoenas

Date Filed: 02/17/2012

Jury Demand: None

Nature of Suit: 890 Other Statutory
Actions

Jurisdiction: U.S. Government Plaintiff

Petitioner

U.S. DEPARTMENT OF TREASURY

represented by **David Michael Glass**
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V.

Interested Party

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V.

Respondent

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Timothy Patrick O'Toole
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Respondent

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Timothy Patrick O'Toole

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Respondent

**DELTA SALARIED RETIREES
ASSOCIATION**

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Timothy Patrick O'Toole
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| Date Filed | # | Page | Docket Text |
|------------|----------|------|--|
| 02/17/2012 | <u>1</u> | | MOTION to Quash by U.S. DEPARTMENT OF TREASURY. (kb) (Entered: 02/21/2012) |
| 02/17/2012 | <u>2</u> | | NOTICE OF RELATED CASE by U.S. DEPARTMENT OF TREASURY. Case related to Case No. 1:09-cv-13616, US District Court for the Eastern District of Michigan. (kb) (Entered: 02/21/2012) |
| 02/24/2012 | <u>3</u> | | NOTICE of Appearance by Anthony F. Shelley on behalf of DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS (Shelley, Anthony) (Entered: 02/24/2012) |
| 02/24/2012 | <u>4</u> | | NOTICE of Appearance by Timothy Patrick O'Toole on behalf of DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS (O'Toole, Timothy) (Entered: 02/24/2012) |
| 02/24/2012 | <u>5</u> | | NOTICE of Appearance by Michael N. Khalil on behalf of DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS (Khalil, Michael) (Entered: 02/24/2012) |
| 03/05/2012 | <u>6</u> | | Memorandum in opposition to re <u>1</u> MOTION to Quash filed by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS. (Attachments: # <u>1</u> List of Exhibts, # <u>2</u> Exhibit A – Pappal Declaration, # <u>3</u> Exhibit B – Westenberg Declaration, # <u>4</u> Exhibit C – PBGC Press Release, # <u>5</u> Exhibit D – Mar. 20, 2009 Presentation, # <u>6</u> Exhibit E – M. Feldman Depo Transcript, # <u>7</u> Exhibit F – Sheehan Declaration, # <u>8</u> Exhibit G – Westenberg/Feldman Emails, # <u>9</u> Exhibit H – Discovery Ruling, # <u>10</u> Exhibit I – Second Mot. to Compel, # <u>11</u> Exhibit J – Apr. 2009 Termination Memo, # <u>12</u> Exhibit K – AR Cover Letter and TOC, # <u>13</u> Exhibit L – Sept. 2010 Hearing Transcript, # <u>14</u> Exhibit M – Three FOIA Transmittal Letters, # <u>15</u> Exhibit N – Part 1 Apr. 2010 FOIA Response, # <u>16</u> Exhibit N – Part 2 Apr. 2010 FOIA Response, # <u>17</u> Exhibit N – Part 3 Apr. 2010 FOIA Response, # <u>18</u> Text of Proposed Order)(Shelley, Anthony) |

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| | | (Entered: 03/05/2012) |
| 03/08/2012 | <u>7</u> | NOTICE of Appearance by John A. Menke on behalf of PENSION BENEFIT GUARANTY CORPORATION (Menke, John) (Entered: 03/08/2012) |
| 03/09/2012 | <u>8</u> | Unopposed MOTION for Extension of Time to File Response/Reply as to <u>1</u> MOTION to Quash by U.S. DEPARTMENT OF TREASURY (Glass, David) (Entered: 03/09/2012) |
| 03/14/2012 | | MINUTE ORDER granting <u>8</u> the U.S. Department of Treasury's unopposed motion for an extension of time to file a reply in support of its Motion to Quash. Treasury shall file its reply by no later than March 26, 2012. Signed by Judge Emmet G. Sullivan on March 14, 2012. (lcegs4) (Entered: 03/14/2012) |
| 03/15/2012 | | Set/Reset Deadlines: Replies due by 3/26/2012. (clv,) (Entered: 03/15/2012) |
| 03/23/2012 | <u>9</u> | Unopposed MOTION for Extension of Time to File Response/Reply as to <u>1</u> MOTION to Quash by U.S. DEPARTMENT OF TREASURY (Glass, David) (Entered: 03/23/2012) |
| 03/28/2012 | | MINUTE ORDER granting <u>9</u> unopposed motion by U.S. Department of the Treasury ("Treasury") for extension of time to file reply in support of motion to quash. The Treasury shall file its reply in support of motion to quash by no later than April 2, 2012. Signed by Judge Emmet G. Sullivan on March 28, 2012. (lcegs4) (Entered: 03/28/2012) |
| 03/28/2012 | | Set/Reset Deadlines: U.S. Department of Treasury reply due by 4/2/2012. (clv,) (Entered: 03/28/2012) |
| 04/02/2012 | <u>10</u> | REPLY to opposition to motion re <u>1</u> MOTION to Quash filed by U.S. DEPARTMENT OF TREASURY. (Attachments: # <u>1</u> Ex. List, # <u>2</u> Ex. M, # <u>3</u> Ex. N, # <u>4</u> Ex. O, # <u>5</u> Ex. P, # <u>6</u> Ex. Q, # <u>7</u> Ex. R)(Glass, David) (Entered: 04/02/2012) |
| 05/17/2012 | | MINUTE ORDER. Upon review of the motion to quash, the response, and the reply thereto, it appears to the Court that a threshold issue in this matter is whether the court in the underlying action has permitted discovery regarding the factors enunciated in 29 U.S.C. 1342(c). In light of the fact that this precise issue is ripe for resolution before Judge Tarnow, the judge in the underlying action, the Court hereby STAYS this matter pending Judge Tarnow's resolution of PBGC's Objections to Magistrate Judge's Order of March 9, 2012 Granting Plaintiffs' Motion to Compel Discovery, Case 09-13616 (E.D. Mich), Doc. No. 209. Plaintiffs are directed to notify this Court of Judge Tarnow's decision within five calendar days after it issues. This Order is subject to reconsideration for good cause shown. Any motion for reconsideration shall be filed by no later than May 31, 2012. Signed by Judge Emmet G. Sullivan on May 17, 2012. (lcegs4) (Entered: 05/17/2012) |
| 05/18/2012 | | Set/Reset Deadlines: Motions for reconsideration due by 5/31/2012. (clv,) (Entered: 05/18/2012) |
| 08/13/2013 | <u>11</u> | MOTION to Lift Stay <i>and Memorandum of Points and Authorities in Support</i> by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS (Attachments: # <u>1</u> Exhibit A – PBGC Response to Rule 37 Mot. E.D. Mich., # <u>2</u> Exhibit B – SIGTARP Testimony, # <u>3</u> Exhibit C – Pls Opp'n to Mot. to Dismiss E.D. Mich., # <u>4</u> |

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| | | Exhibit D – Sept. 2010 Hr'g Tr., # <u>5</u> Exhibit E – Ex. 12 to Cann Depo, # <u>6</u> Exhibit F – Cann Depo Tr., # <u>7</u> Exhibit G – Snowbarger Depo Tr., # <u>8</u> Exhibit H – J. House Depo Tr., # <u>9</u> Exhibit I – Ex. 16 to House Depo, # <u>10</u> Exhibit J – Ex. 18 to House Depo, # <u>11</u> Exhibit K – Ex. 21 to House Depo, # <u>12</u> Exhibit L – Ex. 22 to House Depo, # <u>13</u> Exhibit M – Ex. 23 to Snowbarger Depo, # <u>14</u> Exhibit N – Ex. 27 to House Depo, # <u>15</u> Exhibit O – 8/9/13 Press Release, # <u>16</u> Text of Proposed Order)(Shelley, Anthony) (Entered: 08/13/2013) |
| 08/23/2013 | <u>12</u> | ERRATA by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS <u>11</u> MOTION to Lift Stay <i>and Memorandum of Points and Authorities in Support</i> filed by KENNETH HOLLIS, DENNIS BLACK, DELTA SALARIED RETIREES ASSOCIATION, CHARLES CUNNINGHAM. (Attachments: # <u>1</u> Errata Corrected Page 5 to Memo in Support of Mot. to Lift Stay)(Shelley, Anthony) (Entered: 08/23/2013) |
| 08/23/2013 | <u>13</u> | SUPPLEMENTAL MEMORANDUM to re <u>11</u> MOTION to Lift Stay <i>and Memorandum of Points and Authorities in Support</i> filed by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS. (Attachments: # <u>1</u> Exhibit List, # <u>2</u> Exhibit A – SIGTARP Report, # <u>3</u> Exhibit B – E.D. Mich. Order, # <u>4</u> Exhibit C – Subpoena on Dep't of Treasury)(Shelley, Anthony) (Entered: 08/23/2013) |
| 08/30/2013 | <u>14</u> | Unopposed MOTION for Extension of Time to File Response/Reply as to <u>11</u> MOTION to Lift Stay <i>and Memorandum of Points and Authorities in Support</i> by U.S. DEPARTMENT OF TREASURY (Glass, David) (Entered: 08/30/2013) |
| 09/04/2013 | | MINUTE ORDER granting <u>14</u> the U.S. Dept of the Treasury's unopposed motion for extension of time. Treasury shall file a renewed motion to quash by no later than September 16, 2013. Treasury shall also file its response to <u>11</u> respondents' motion to lift the stay by no later than that same date. In view of the foregoing, Treasury's initial <u>1</u> Motion to Quash is hereby denied without prejudice to refile. Signed by Judge Emmet G. Sullivan on September 4, 2013. (lcegs4) (Entered: 09/04/2013) |
| 09/04/2013 | | Set/Reset Deadlines: Plaintiff's Motion to Quash due by 9/16/2013. Plaintiff's Response to <u>1</u> due by 9/16/2013. (mac) (Entered: 09/04/2013) |
| 09/16/2013 | <u>15</u> | Second MOTION to Quash <i>Subpoenas</i> by U.S. DEPARTMENT OF TREASURY (Attachments: # <u>1</u> Ex. List, # <u>2</u> Ex. S, # <u>3</u> Ex. T, # <u>4</u> Ex. U, # <u>5</u> Ex. V, # <u>6</u> Ex. W, # <u>7</u> Ex. X, # <u>8</u> Ex. Y, # <u>9</u> Ex. Z, # <u>10</u> Ex. 2A, # <u>11</u> Ex. 2B, # <u>12</u> Ex. 2C)(Glass, David) (Entered: 09/16/2013) |
| 09/30/2013 | <u>16</u> | Joint MOTION for Extension of Time to File <i>Opposition and Reply Briefs regarding Renewed Motion to Quash</i> by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS, U.S. DEPARTMENT OF TREASURY (Attachments: # <u>1</u> Text of Proposed Order)(Shelley, Anthony) (Entered: 09/30/2013) |
| 10/01/2013 | | MINUTE ORDER granting <u>16</u> joint motion for extension of time. The respondents shall file their opposition to the renewed motion to quash by no later than October 10, 2013; petitioner shall file its reply by no later than October 28, 2013. Signed by Judge Emmet G. Sullivan on October 1, 2013. (lcegs4) (Entered: 10/01/2013) |

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| 10/01/2013 | | | Set/Reset Deadlines: Respondents opposition to renewed motion to quash due by 10/10/2013. Petitioner Reply due by 10/28/2013. (mac) (Entered: 10/01/2013) |
| 10/09/2013 | <u>17</u> | | Unopposed MOTION for Extension of Time to File Response/Reply as to <u>15</u> Second MOTION to Quash <i>Subpoenas</i> by U.S. DEPARTMENT OF TREASURY (Glass, David) (Entered: 10/09/2013) |
| 10/11/2013 | | | MINUTE ORDER granting <u>17</u> unopposed motion for extension of time to complete briefing on renewed motion to quash due to the government shutdown. The parties shall file a joint status report with proposed deadlines for the remainder of the briefing schedule within two business days after Congress appropriates funds to the Department of Justice. SO ORDERED. Signed by Judge Emmet G. Sullivan on October 11, 2013. (lcegs4) (Entered: 10/11/2013) |
| 10/17/2013 | <u>18</u> | | STATUS REPORT (<i>Joint</i>) <i>Proposing Remainder of Briefing Schedule for Petitioner's Renewed Motion to Quash</i> by U.S. DEPARTMENT OF TREASURY. (Glass, David) (Entered: 10/17/2013) |
| 10/18/2013 | | | MINUTE ORDER adopting the proposed dates for completion of briefing set forth in the parties <u>18</u> joint status report. Respondents shall file their opposition to the renewed motion to quash by no later than October 25, 2013, and Treasury shall file its reply by no later than November 12, 2013. Signed by Judge Emmet G. Sullivan on October 18, 2013. (lcegs4) (Entered: 10/18/2013) |
| 10/18/2013 | | | Set/Reset Deadlines: Respondent's opposition to motion to quash due by 10/25/2013. Plaintiff Reply due by 11/12/2013. (mac) (Entered: 10/18/2013) |
| 10/25/2013 | <u>19</u> | | Memorandum in opposition to re <u>15</u> Second MOTION to Quash <i>Subpoenas</i> filed by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS. (Attachments: # <u>1</u> Exhibit A – Jan. 26, 2009 email chain, # <u>2</u> Exhibit B – Delphi Mediation Statement, # <u>3</u> Exhibit C – May 28, 2009 email chain, # <u>4</u> Exhibit D – July 15, 2009 email chain, # <u>5</u> Exhibit E – June 30, 2009 AFTAP Cert., # <u>6</u> Exhibit F – Declaration of Jim DeGrandis, # <u>7</u> Text of Proposed Order)(Shelley, Anthony) (Entered: 10/25/2013) |
| 11/06/2013 | <u>20</u> | | Unopposed MOTION for Extension of Time to File Response/Reply as to <u>15</u> Second MOTION to Quash <i>Subpoenas</i> by U.S. DEPARTMENT OF TREASURY (Glass, David) (Entered: 11/06/2013) |
| 11/08/2013 | | | MINUTE ORDER granting <u>20</u> unopposed motion by the Treasury for extension of time. Treasury shall file its reply in support of its renewed motion to quash by no later than November 19, 2013. Signed by Judge Emmet G. Sullivan on November 8, 2013. (lcegs4) (Entered: 11/08/2013) |
| 11/08/2013 | | | Set/Reset Deadlines: Reply due by 11/19/2013. (gdf) (Entered: 11/08/2013) |
| 11/19/2013 | <u>21</u> | | REPLY to opposition to motion re <u>15</u> Second MOTION to Quash <i>Subpoenas</i> filed by U.S. DEPARTMENT OF TREASURY. (Attachments: # <u>1</u> Ex. List, # <u>2</u> Ex. 2D, # <u>3</u> Ex. 2E, # <u>4</u> Ex. 2F)(Glass, David) (Entered: 11/19/2013) |
| 12/09/2013 | <u>22</u> | | Unopposed MOTION for Hearing on <i>Petitioner's Motion to Quash</i> by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS (Attachments: # <u>1</u> Text of Proposed Order)(Shelley, Anthony) (Entered: 12/09/2013) |

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| 01/29/2014 | | | MINUTE ORDER. The Court has received <u>22</u> respondents' unopposed motion to schedule a motions hearing, in order to address, in part, "new arguments" the Treasury raised in its reply brief. The Court, sua sponte, directs respondents to file a surreply, not to exceed 10 pages, by no later than February 10, 2014. The surreply is permitted for the limited purpose of addressing new arguments raised by Treasury in its reply brief, and no response to the surreply will be allowed. A hearing on Treasury's Renewed Motion to Quash will be held on March 5, 2014 at 11:00 AM in Courtroom 24A. SO ORDERED. Signed by Judge Emmet G. Sullivan on January 29, 2014. (lcegs4) (Entered: 01/29/2014) |
| 01/29/2014 | | | Set/Reset Hearings: Motion Hearing set for 3/5/2014 at 11:00 AM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 01/29/2014) |
| 02/06/2014 | <u>23</u> | | Unopposed MOTION to Reschedule Hearing Date on Petitioner's Renewed Motion to Quash by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS (Khalil, Michael) Modified on 2/6/2014 (jf,). (Entered: 02/06/2014) |
| 02/10/2014 | <u>24</u> | | SURREPLY to re <u>15</u> Second MOTION to Quash Subpoenas filed by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS. (Attachments: # <u>1</u> Exhibit G – Emails re AFTAP Cert., # <u>2</u> Exhibit H – March 8, 2010 Letter, # <u>3</u> Exhibit I – March 22, 2010 Letter)(Shelley, Anthony) Modified on 2/11/2014 (jf,). (Entered: 02/10/2014) |
| 02/12/2014 | | | MINUTE ORDER granting <u>23</u> unopposed motion to reschedule hearing. The hearing previously scheduled for March 5, 2014 is hereby rescheduled for April 7, 2014 at 2:30 PM in Courtroom 24A. Signed by Judge Emmet G. Sullivan on February 12, 2014. (lcegs4) (Entered: 02/12/2014) |
| 02/14/2014 | | | Set/Reset Hearings: Motion Hearing set for 4/7/2014 at 2:30 PM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 02/14/2014) |
| 04/02/2014 | | | MINUTE ORDER. The Court, sua sponte, cancels the motions hearing scheduled for April 7, 2014. In the event the Court is unable to resolve the pending motion to quash without a hearing, the Court will advise the parties and reschedule the hearing for a mutually agreeable date and time. Signed by Judge Emmet G. Sullivan on April 2, 2014. (lcegs4) (Entered: 04/02/2014) |
| 05/29/2014 | <u>25</u> | | NOTICE of Development in Underlying Case by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS re Order,,, (Attachments: # <u>1</u> Exhibit A – E.D. Mich. Docket Nos. 253 and 255)(Shelley, Anthony) (Entered: 05/29/2014) |
| 06/19/2014 | <u>26</u> | | ORDER denying <u>15</u> Motion to Quash. Signed by Judge Emmet G. Sullivan on June 19, 2014. (lcegs7) (Entered: 06/19/2014) |
| 06/19/2014 | <u>27</u> | | MEMORANDUM OPINION. Signed by Judge Emmet G. Sullivan on June 19, 2014. (lcegs7) (Entered: 06/19/2014) |
| 11/03/2014 | <u>28</u> | | STIPULATION and Protective Order Concerning Respondents' Subpoenas to Petitioner by U.S. DEPARTMENT OF TREASURY. (Glass, David) (Entered: 11/03/2014) |
| 11/06/2014 | <u>29</u> | | STIPULATION AND PROTECTIVE ORDER CONCERNING RESPONDENTS SUBPOENAS TO PETITIONER. Signed by Judge Emmet G. |

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| | | Sullivan on 11/04/14. (mac) (Entered: 11/06/2014) |
| 07/09/2015 | <u>30</u> | MOTION to Compel <i>Withheld and Redacted Documents, or for In Camera Review</i> by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS (Attachments: # <u>1</u> Exhibit 1 – List of Documents That Should Be Produced, # <u>2</u> Exhibit 2 – Dep't of Treasury Priv Log, # <u>3</u> Exhibit 3 – Hearing – Administration's Auto Bailouts and Delphi Pension Decisions, # <u>4</u> Exhibit 4 – Deposition Transcript of M. Feldman, # <u>5</u> Exhibit 5 – Hearing – Lasting Implications of GM Bailout, # <u>6</u> Exhibit 6 – Hearing – Oversight of SIGTARP Report on Treasury's Role in Delphi Pension Bailout, # <u>7</u> Exhibit 7 – SICO v. US Discovery Order No. 6, # <u>8</u> Exhibit 8 – GAO Report – Delphi Pensions, Key Events Leading to Plan Terminations, # <u>9</u> Text of Proposed Order)(Shelley, Anthony) (Entered: 07/09/2015) |
| 07/10/2015 | <u>31</u> | MOTION to Expedite <i>Briefing Schedule on Their Motion to Compel Withheld and Redacted Documents, or for In Camera Review</i> by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS (Attachments: # <u>1</u> Text of Proposed Order)(Shelley, Anthony) (Entered: 07/10/2015) |
| 07/12/2015 | <u>32</u> | Cross MOTION for Extension of Time to File Response/Reply as to <u>30</u> MOTION to Compel <i>Withheld and Redacted Documents, or for In Camera Review</i> by U.S. DEPARTMENT OF TREASURY (Attachments: # <u>1</u> Mem. Supp., # <u>2</u> Ex. List, # <u>3</u> Ex. A, # <u>4</u> Ex. B, # <u>5</u> Ex. C, # <u>6</u> Ex. D, # <u>7</u> Ex. E, # <u>8</u> Ex. F, # <u>9</u> Ex. G, # <u>10</u> Ex. H, # <u>11</u> Ex. I, # <u>12</u> Ex. J, # <u>13</u> Ex. K, # <u>14</u> Ex. L, # <u>15</u> Ex. M, # <u>16</u> Ex. N, # <u>17</u> Ex. O, # <u>18</u> Ex. P, # <u>19</u> Ex. Q, # <u>20</u> Prop. Order)(Glass, David) (Entered: 07/12/2015) |
| 07/14/2015 | <u>33</u> | Memorandum in opposition to re <u>32</u> Cross MOTION for Extension of Time to File Response/Reply as to <u>30</u> MOTION to Compel <i>Withheld and Redacted Documents, or for In Camera Review</i> filed by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS. (Attachments: # <u>1</u> Exhibit A – June 12 Letter, # <u>2</u> Exhibit B – June 16 Email, # <u>3</u> Exhibit C – June 22 Email, # <u>4</u> Exhibit D – June 23 Letter, # <u>5</u> Exhibit E – June 3 Email, # <u>6</u> Text of Proposed Order)(Shelley, Anthony) (Entered: 07/14/2015) |
| 07/15/2015 | | MINUTE ORDER denying <u>31</u> plaintiff's motion to expedite briefing schedule on their motion to compel withheld and redacted documents, or for in camera review. In view of the numerous consent and unopposed motions to extend the discovery deadlines in the underlying case (Case 09–13616 (E.D. Mich.)), the <u>32</u> petitioner's cross motion for extension of time is granted. The U.S. Department of Treasury shall file its response to the <u>30</u> motion to compel by August 14, 2015. Signed by Judge Emmet G. Sullivan on July 15, 2015.(lcegs1) (Entered: 07/15/2015) |
| 07/16/2015 | | Set/Reset Deadlines: Plaintiff Response to <u>30</u> Motion to Compel due by 8/14/2015. (mac) (Entered: 07/16/2015) |
| 08/05/2015 | <u>34</u> | Joint MOTION for Briefing Schedule <i>for Adjustment to Current Briefing Schedule</i> by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS (Shelley, Anthony) (Entered: 08/05/2015) |

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| 08/12/2015 | | | MINUTE ORDER granting the <u>34</u> Parties' Joint Motion for Adjustment to Current Briefing Schedule. The Treasury Department shall file its Memorandum in Opposition to the Motion to Compel no later than August 21, 2015. Plaintiffs' shall file their Reply Memorandum no later than August 31, 2015. Signed by Judge Emmet G. Sullivan on August 12, 2015. (lcegs4) (Entered: 08/12/2015) |
| 08/21/2015 | <u>35</u> | | RESPONSE re <u>30</u> MOTION to Compel <i>Withheld and Redacted Documents, or for In Camera Review</i> filed by U.S. DEPARTMENT OF TREASURY. (Attachments: # <u>1</u> Ex. A, # <u>2</u> Ex. B, # <u>3</u> Ex. C, # <u>4</u> Ex. D, # <u>5</u> Ex. E)(Glass, David) (Entered: 08/21/2015) |
| 08/31/2015 | <u>36</u> | | REPLY re Response to <u>30</u> Motion to Compel <i>Withheld and Redacted Documents or for In Camera Review</i> filed by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS. (Shelley, Anthony) Modified on 9/1/2015 to correct linkage (jf). (Entered: 08/31/2015) |
| 03/15/2016 | <u>37</u> | | NOTICE of Change of Address by Anthony F. Shelley (Shelley, Anthony) (Entered: 03/15/2016) |
| 03/21/2016 | <u>38</u> | | NOTICE of Opinion and Order in Underlying Case by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS (Attachments: # <u>1</u> Exhibit A – March 11, 2016 Opinion & Order, # <u>2</u> Exhibit B – July 2015 Stipulated Order)(Shelley, Anthony) (Entered: 03/21/2016) |
| 06/13/2016 | | | MINUTE ORDER. A hearing on <u>30</u> MOTION to Compel <i>Withheld and Redacted Documents, or for In Camera Review</i> filed by KENNETH HOLLIS, DENNIS BLACK, DELTA SALARIED RETIREES ASSOCIATION, CHARLES CUNNINGHAM shall take place on July 29, 2016 at 10:00 a.m. in Courtroom 24A. Signed by Judge Emmet G. Sullivan on June 13, 2016. (lcegs3) (Entered: 06/13/2016) |
| 06/13/2016 | | | Set/Reset Hearings: Motion Hearing set for 7/29/2016 at 10:00 AM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 06/13/2016) |
| 06/17/2016 | <u>39</u> | | Unopposed MOTION to Continue (<i>Reschedule</i>) Hearing by U.S. DEPARTMENT OF TREASURY (Glass, David) (Entered: 06/17/2016) |
| 06/17/2016 | | | MINUTE ORDER granting <u>39</u> motion to continue motions hearing. The hearing previously scheduled for July 29, 2016 will now take place on July 20, 2016 at 10:00 a.m. in Courtroom 24A. Signed by Judge Emmet G. Sullivan on June 17, 2016. (lcegs3) (Entered: 06/17/2016) |
| 06/17/2016 | | | Set/Reset Hearings: Motion Hearing set for 7/20/2016 at 10:00 AM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 06/17/2016) |
| 06/17/2016 | | 14 | MINUTE ORDER re <u>30</u> Respondent's motion to compel. In order to better evaluate the claims of privilege asserted by Petitioner Department of Treasury, the Court will review in camera a random selection of the withheld and redacted documents at issue. See <i>Weisberg v. U.S. Dep't of Justice</i> , 745 F.2d 1475, 1490 (D.C. Cir. 1984) ("sampling procedure is appropriately employed, where... the number of documents is excessive and it would not realistically be possible to review each and every one."). By no later than June 20, 2016 at 12:00 p.m., Petitioner Department of Treasury shall submit to chambers for in camera |

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| | | | review two hard copies of every tenth document listed in its Privilege Log, ECF No. 35–5. Documents shall be clearly labeled and placed in three–ring binders. For those documents that have been partially redacted, Petitioner shall indicate, through use of gray or yellow highlighter, the portions of the document that have been redacted. Based on the Court's conclusions following in camera review of this random sampling of documents, the Court may order a supplemental production of documents for in camera review. Signed by Judge Emmet G. Sullivan on June 17, 2016. (lcegs3) (Entered: 06/17/2016) |
| 07/15/2016 | | 16 | MINUTE ORDER re <u>30</u> Respondent's motion to compel. Upon review of the random sampling of documents submitted to chambers on June 20, 2016, the Court concludes that it has insufficient information to rule on many of Petitioner's claims of privilege and that all documents at issue must be examined in camera. Petitioner shall, by no later than 12:00 p.m. on July 25, 2016, submit to the Court for in camera review two sets of all documents at issue in Respondent's motion to compel. Petitioner need not submit for in camera review those documents which Respondent does not seek production. Documents shall be clearly labeled and placed in three–ring binders. For those documents that have been partially redacted, Petitioner shall indicate, through use of gray or yellow highlighter, the portions of the document that have been redacted. The binders shall be tabbed with each tab corresponding to the document number in Petitioner's privilege log and each binder shall include a table of contents. Along with these documents, Petitioner shall submit an ex parte submission clearly articulating why each document, or document portion, is protected by the privilege asserted. The explanation for each document shall not exceed one paragraph. For documents over which Petitioner has claimed the deliberative process privilege, Petitioner shall inform the Court "what deliberative process is involved, and the role played by the documents in issue in the course of that process." See <i>Coastal States Gas Corp. v. Dep't of Energy</i> , 617 F.2d 854, 868 (D.C. Cir. 1980). The Petitioner is forewarned that should the Court determine that claims of privilege are frivolous, the Court shall impose significant sanctions, monetary and otherwise! A hint to the wise should be sufficient. Any motions for reconsideration or for an extension of time based on an argument that Petitioner has insufficient resources to comply with this Order shall be denied. Accordingly, the hearing scheduled for July 20, 2016 is CANCELLED and will be rescheduled upon completion of the Court's in camera review, if necessary. Signed by Judge Emmet G. Sullivan on July 15, 2016. (lcegs3) (Entered: 07/15/2016) |
| 07/25/2016 | <u>40</u> | | NOTICE of Production by U.S. DEPARTMENT OF TREASURY re Order,,,,,, (Glass, David) (Entered: 07/25/2016) |
| 12/20/2016 | <u>41</u> | 18 | ORDER granting in part <u>30</u> motion to compel withheld and redacted documents, or for in camera review. Signed by Judge Emmet G. Sullivan on 12/20/2016. (lcegs4) (Entered: 12/20/2016) |
| 12/20/2016 | <u>42</u> | | MEMORANDUM AND OPINION. Signed by Judge Emmet G. Sullivan on 12/20/2016. (lcegs4) (Entered: 12/20/2016) |
| 01/10/2017 | <u>43</u> | | NOTICE of Compliance by U.S. DEPARTMENT OF TREASURY (Glass, David) (Entered: 01/10/2017) |
| 04/13/2017 | <u>44</u> | 20 | ORDER granting in part and denying in part the unresolved portion of Respondents' <u>30</u> motion to compel withheld and redacted documents. Signed by |

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| | | Judge Emmet G. Sullivan on 4/13/2017. (lcegs4) (Entered: 04/13/2017) |
| 04/13/2017 | <u>45</u> | MEMORANDUM AND OPINION. Signed by Judge Emmet G. Sullivan on 4/13/2017. (lcegs4) (Entered: 04/13/2017) |
| 04/28/2017 | <u>46</u> | MOTION to Stay re <u>44</u> Order by U.S. DEPARTMENT OF TREASURY (Attachments: # <u>1</u> Mem. Supp., # <u>2</u> Prop. Order)(Glass, David) (Entered: 04/28/2017) |
| 05/01/2017 | | MINUTE ORDER directing respondents to file a response to <u>44</u> U.S. Department of Treasury's motion to stay by no later than May 8, 2017. The U.S. Department of Treasury is directed to file a reply by no later than May 11, 2017. Signed by Judge Emmet G. Sullivan on 5/1/2017. (lcegs2) (Entered: 05/01/2017) |
| 05/01/2017 | | Set/Reset Deadlines: Respondents Response To <u>44</u> U.S. Department Of Treasury's Motion To Stay due by 5/8/2017. U.S, Department Of Treasury Reply due by 5/11/2017. (mac) (Entered: 05/01/2017) |
| 05/08/2017 | <u>47</u> | Memorandum in opposition to re <u>46</u> MOTION to Stay re <u>44</u> Order filed by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS. (Attachments: # <u>1</u> Text of Proposed Order)(Shelley, Anthony) (Entered: 05/08/2017) |
| 05/08/2017 | <u>48</u> | ERRATA <i>Attaching Exhibit 1</i> by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS <u>47</u> Memorandum in Opposition, filed by KENNETH HOLLIS, DENNIS BLACK, DELTA SALARIED RETIREES ASSOCIATION, CHARLES CUNNINGHAM. (Attachments: # <u>1</u> Exhibit)(Shelley, Anthony) (Entered: 05/08/2017) |
| 05/11/2017 | <u>49</u> | REPLY to opposition to motion re <u>46</u> MOTION to Stay re <u>44</u> Order filed by U.S. DEPARTMENT OF TREASURY. (Attachments: # <u>1</u> Ex. A)(Glass, David) (Entered: 05/11/2017) |
| 05/12/2017 | | MINUTE ORDER. A hearing on Treasury's motion for a stay is scheduled for Tuesday, May 16 at 1:00 PM in Courtroom 24A. The Court directs that counsel with decision-making authority be present at the hearing. Signed by Judge Emmet G. Sullivan on 5/12/2017. (lcegs2) (Entered: 05/12/2017) |
| 05/12/2017 | | Set/Reset Hearings: Motion Hearing set for 5/16/2017 at 1:00 PM in Courtroom 24A before Judge Emmet G. Sullivan. (mac) (Entered: 05/12/2017) |
| 05/16/2017 | | Minute Entry for proceedings held before Judge Emmet G. Sullivan: Motion Hearing held on 5/16/2017. Filings Of Motions For Reconsideration due by 5/22/2017. Responses due by 5/31/2017. (Court Reporter SCOTT WALLACE.) (mac) (Entered: 05/16/2017) |
| 05/17/2017 | | MINUTE ORDER. In light of the parties' arguments and for reasons stated on the record at the hearing, the Court enters the following briefing schedule for Treasury's motion to reconsider the Court's <u>44</u> April 13, 2017 Order: Treasury's motion for reconsideration shall be filed no later than May 22, 2017; respondents' response shall be filed no later than May 31, 2017; and Treasury's reply shall be filed no later than June 5, 2017. The parties' briefing should address, inter alia, (1) whether respondents have adequately made a "showing of need" for documents otherwise protected under the |

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| | | | presidential–communications privilege; and (2) the standard by which the Court should determine, during an in camera inspection, whether the documents at issue are "relevant" to respondents' case. The portion of the Court's <u>44</u> April 13, 2017 Order directing that documents over which Treasury has asserted the presidential–communications privilege be "forthwith produced" is hereby vacated. Signed by Judge Emmet G. Sullivan on May 17, 2017. (lcegs2) (Entered: 05/17/2017) |
| 05/22/2017 | <u>50</u> | | MOTION for Reconsideration re <u>44</u> Order by U.S. DEPARTMENT OF TREASURY (Attachments: # <u>1</u> Mem. Supp., # <u>2</u> Prop. Order, # <u>3</u> Ex. A, # <u>4</u> Ex. B)(Glass, David) (Entered: 05/22/2017) |
| 05/31/2017 | <u>51</u> | | Memorandum in opposition to re <u>50</u> MOTION for Reconsideration re <u>44</u> Order filed by DENNIS BLACK, CHARLES CUNNINGHAM, DELTA SALARIED RETIREES ASSOCIATION, KENNETH HOLLIS. (Attachments: # <u>1</u> Exhibit A– Hr'g Transcript, # <u>2</u> Exhibit B – Revised Priv Log, # <u>3</u> Text of Proposed Order)(Shelley, Anthony) (Entered: 05/31/2017) |
| 06/05/2017 | <u>52</u> | | REPLY to opposition to motion re <u>50</u> MOTION for Reconsideration re <u>44</u> Order filed by U.S. DEPARTMENT OF TREASURY. (Attachments: # <u>1</u> Ex. A)(Glass, David) (Entered: 06/05/2017) |
| 06/07/2017 | <u>53</u> | 22 | ORDER GRANTING <u>50</u> Treasury's motion for reconsideration and MODIFYING <u>44</u> the Court's Order compelling production of documents. Signed by Judge Emmet G. Sullivan on June 7, 2017. (lcegs2) (Entered: 06/07/2017) |
| 06/12/2017 | <u>54</u> | | ENTERED IN ERROR.....NOTICE of Appeal by U.S. DEPARTMENT OF TREASURY (Glass, David) Modified on 6/13/2017 (znmw). (Entered: 06/12/2017) |
| 06/12/2017 | <u>55</u> | | NOTICE OF APPEAL as to <u>44</u> Order, 6/17/16 Minute Order, <u>41</u> Order on Motion to Compel, 7/15/16 Minute Order, <u>53</u> Order on Motion for Reconsideration by U.S. DEPARTMENT OF TREASURY. Filing fee \$0. Fee Status: No Fee Paid. Parties have been notified. (znmw) (Entered: 06/13/2017) |
| 06/13/2017 | | 13 | NOTICE OF CORRECTED DOCKET ENTRY: Docket Entry <u>54</u> Notice (Other) was entered in error and was refiled as Docket Entry <u>55</u> Notice of Appeal.(znmw) (Entered: 06/13/2017) |

MIME-Version:1.0
From:DCD_ECFNotice@dcd.uscourts.gov
To:DCD_ECFNotice@localhost.localdomain
Bcc:
--Case Participants: Anthony F. Shelley (ashelley@milchev.com, ktafuri@milchev.com),
Michael N. Khalil (ktafuri@milchev.com, mkhalil@milchev.com), David Michael Glass
(david.glass@usdoj.gov), John A. Menke (efile@pbgc.gov, menke.john@pbgc.gov), Timothy
Patrick O'Toole (ktafuri@milchev.com, totoole@milchev.com), Judge Emmet G. Sullivan
(dorothy_patterson@dcd.uscourts.gov, emmet_g._sullivan@dcd.uscourts.gov,
mark_coates@dcd.uscourts.gov, nicole_bell-norwood@dcd.uscourts.gov,
sullivan_chambers@dcd.uscourts.gov)
--Non Case Participants:
--No Notice Sent:

Message-Id:5119967@dcd.uscourts.gov
Subject:Activity in Case 1:12-mc-00100-EGS U.S. DEPARTMENT OF TREASURY v. BLACK et al
Notice of Corrected Docket Entry
Content-Type: text/html

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 6/13/2017 at 7:44 AM and filed on 6/13/2017

Case Name: U.S. DEPARTMENT OF TREASURY v. BLACK et al

Case Number: 1:12-mc-00100-EGS

Filer:

Document Number: No document attached

Docket Text:

NOTICE OF CORRECTED DOCKET ENTRY: Docket Entry [54] Notice (Other) was entered in error and was refiled as Docket Entry [55] Notice of Appeal.(znmw)

1:12-mc-00100-EGS Notice has been electronically mailed to:

David Michael Glass david.glass@usdoj.gov

Timothy Patrick O'Toole TOtoole@milchev.com, ktafuri@milchev.com

John A. Menke menke.john@pbgc.gov, efile@pbgc.gov

Anthony F. Shelley ashelley@milchev.com, ktafuri@milchev.com

Michael N. Khalil mkhalil@milchev.com, ktafuri@milchev.com

1:12-mc-00100-EGS Notice will be delivered by other means to::

MIME-Version:1.0
From:DCD_ECFNotice@dcd.uscourts.gov
To:DCD_ECFNotice@localhost.localdomain
Bcc:
--Case Participants: Anthony F. Shelley (ashelley@milchev.com, ktafuri@milchev.com),
Michael N. Khalil (ktafuri@milchev.com, mkhalil@milchev.com), David Michael Glass
(david.glass@usdoj.gov), John A. Menke (efile@pbgc.gov, menke.john@pbgc.gov), Timothy
Patrick O'Toole (ktafuri@milchev.com, totoole@milchev.com), Judge Emmet G. Sullivan
(dorothy_patterson@dcd.uscourts.gov, emmet_g._sullivan@dcd.uscourts.gov,
mark_coates@dcd.uscourts.gov, sullivan_chambers@dcd.uscourts.gov)
--Non Case Participants:
--No Notice Sent:

Message-Id:4755526@dcd.uscourts.gov
Subject:Activity in Case 1:12-mc-00100-EGS U.S. DEPARTMENT OF TREASURY v. BLACK et al
Order
Content-Type: text/html

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 6/17/2016 at 4:45 PM and filed on 6/17/2016

Case Name: U.S. DEPARTMENT OF TREASURY v. BLACK et al

Case Number: 1:12-mc-00100-EGS

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER re [30] Respondent's motion to compel. In order to better evaluate the claims of privilege asserted by Petitioner Department of Treasury, the Court will review in camera a random selection of the withheld and redacted documents at issue. See Weisberg v. U.S. Dep't of Justice, 745 F.2d 1475, 1490 (D.C. Cir. 1984) ("sampling procedure is appropriately employed, where... the number of documents is excessive and it would not realistically be possible to review each and every one."). By no later than June 20, 2016 at 12:00 p.m., Petitioner Department of Treasury shall submit to chambers for in camera review two hard copies of every tenth document listed in its Privilege Log, ECF No. 35-5. Documents shall be clearly labeled and placed in three-ring binders. For those documents that have been partially redacted, Petitioner shall indicate, through use of gray or yellow highlighter, the portions of the document that have been redacted. Based on the Court's conclusions following in camera review of this random sampling of documents, the Court may order a supplemental production of documents for in camera review. Signed by Judge Emmet G. Sullivan on June 17, 2016. (lcegs3)

1:12-mc-00100-EGS Notice has been electronically mailed to:

David Michael Glass david.glass@usdoj.gov

Timothy Patrick O'Toole TOtoole@milchev.com, ktafuri@milchev.com

John A. Menke menke.john@pbgc.gov, efile@pbgc.gov

Anthony F. Shelley ashelley@milchev.com, ktafuri@milchev.com

Michael N. Khalil mkhalil@milchev.com, ktafuri@milchev.com

1:12-mc-00100-EGS Notice will be delivered by other means to:

MIME-Version:1.0
From:DCD_ECFNotice@dcd.uscourts.gov
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Bcc:
--Case Participants: Anthony F. Shelley (ashelley@milchev.com, ktafuri@milchev.com), Michael N. Khalil (ktafuri@milchev.com, mkhalil@milchev.com), David Michael Glass (david.glass@usdoj.gov), John A. Menke (efile@pbgc.gov, menke.john@pbgc.gov), Timothy Patrick O'Toole (ktafuri@milchev.com, totoole@milchev.com), Judge Emmet G. Sullivan (dorothy_patterson@dcd.uscourts.gov, emmet_g._sullivan@dcd.uscourts.gov, mark_coates@dcd.uscourts.gov, sullivan_chambers@dcd.uscourts.gov)
--Non Case Participants:
--No Notice Sent:

Message-Id:4786012@dcd.uscourts.gov
Subject:Activity in Case 1:12-mc-00100-EGS U.S. DEPARTMENT OF TREASURY v. BLACK et al
Order
Content-Type: text/html

U.S. District Court

District of Columbia

Notice of Electronic Filing

The following transaction was entered on 7/15/2016 at 7:21 PM and filed on 7/15/2016

Case Name: U.S. DEPARTMENT OF TREASURY v. BLACK et al

Case Number: 1:12-mc-00100-EGS

Filer:

Document Number: No document attached

Docket Text:

MINUTE ORDER re [30] Respondent's motion to compel. Upon review of the random sampling of documents submitted to chambers on June 20, 2016, the Court concludes that it has insufficient information to rule on many of Petitioner's claims of privilege and that all documents at issue must be examined in camera. Petitioner shall, by no later than 12:00 p.m. on July 25, 2016, submit to the Court for in camera review two sets of all documents at issue in Respondent's motion to compel. Petitioner need not submit for in camera review those documents which Respondent does not seek production. Documents shall be clearly labeled and placed in three-ring binders. For those documents that have been partially redacted, Petitioner shall indicate, through use of gray or yellow highlighter, the portions of the document that have been redacted. The binders shall be tabbed with each tab corresponding to the document number in Petitioner's privilege log and each binder shall include a table of contents. Along with these documents, Petitioner shall submit an ex parte submission clearly articulating why each document, or document portion, is protected by the privilege asserted. The explanation for each document shall not exceed one paragraph. For documents over which Petitioner has claimed the deliberative process privilege, Petitioner shall inform the Court "what deliberative process is involved, and the role played by the documents in issue in the course of that process." See Coastal States Gas Corp. v. Dep't of Energy, 617 F.2d 854, 868 (D.C. Cir. 1980). The Petitioner is forewarned that should the Court determine that claims of privilege are frivolous, the Court shall impose significant sanctions, monetary and otherwise! A hint to the wise should be sufficient. Any motions for reconsideration or for an extension of time based on an argument that Petitioner has insufficient resources to comply with this Order shall be denied. Accordingly, the hearing

scheduled for July 20, 2016 is CANCELLED and will be rescheduled upon completion of the Court's in camera review, if necessary. Signed by Judge Emmet G. Sullivan on July 15, 2016. (lcegs3)

1:12-mc-00100-EGS Notice has been electronically mailed to:

David Michael Glass david.glass@usdoj.gov

Timothy Patrick O'Toole TOtoole@milchev.com, ktafuri@milchev.com

John A. Menke menke.john@pbgc.gov, efile@pbgc.gov

Anthony F. Shelley ashelley@milchev.com, ktafuri@milchev.com

Michael N. Khalil mkhalil@milchev.com, ktafuri@milchev.com

1:12-mc-00100-EGS Notice will be delivered by other means to::

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| U.S. DEPARTMENT OF THE |) | |
| TREASURY, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. 12-mc-100 (EGS) |
| |) | |
| PENSION BENEFIT GUARANTY |) | |
| CORPORATION, |) | |
| |) | |
| Interested Party, |) | |
| |) | |
| v. |) | |
| |) | |
| DENNIS BLACK, <i>et al.</i> , |) | |
| |) | |
| Respondents. |) | |
| _____ |) | |

ORDER

For the reasons stated in the accompanying Memorandum Opinion issued this same day, it is hereby

ORDERED that Respondents' motion to compel the production, or alternatively *in camera* review, of the documents withheld and redacted by Treasury is **GRANTED in part**. It is further

ORDERED that the documents over which Treasury has asserted the deliberative process privilege in isolation shall be **FORTHWITH PRODUCED** to Respondents. It is further

ORDERED that Treasury shall produce a revised privilege log to both the Court and Respondents by no later than **January 10, 2017**. It is further

ORDERED that Treasury shall submit to the Court for *in camera* review two copies of an updated binder containing the documents in the revised privilege log by no later than **January 10, 2017 at 12:00 p.m.** The documents in the revised submission shall be clearly labeled and placed in three-ring binders. For those documents that have been partially redacted, Treasury shall indicate, through the use of gray or yellow highlighter, the portions of the document that have been redacted. The binders shall be tabbed with each tab corresponding to the document number in Treasury's privilege log and each binder shall include a table of contents. Along with these documents, Treasury shall submit an *ex parte* submission clearly articulating why each document, or document portion, is protected by the privilege asserted.

SO ORDERED.

Signed: Emmet G. Sullivan
United States District Judge
December 20, 2016

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| U.S. DEPARTMENT OF THE |) | |
| TREASURY, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. 12-mc-100 (EGS) |
| |) | |
| PENSION BENEFIT GUARANTY |) | |
| CORPORATION, |) | |
| |) | |
| Interested Party, |) | |
| |) | |
| v. |) | |
| |) | |
| DENNIS BLACK, <i>et al.</i> , |) | |
| |) | |
| Respondents. |) | |
| _____ |) | |

ORDER

For the reasons stated in the accompanying Memorandum Opinion issued this same day, it is hereby

ORDERED that the unresolved portion of Respondents' motion to compel the production, or alternatively *in camera* review, of the documents withheld and redacted by Treasury is **GRANTED in part** and **DENIED in part**. It is further

ORDERED that the 63 documents over which Treasury has asserted the presidential communications privilege shall be **FORTHWITH PRODUCED** to Respondents. It is further

ORDERED that the documents over which Treasury has asserted a claim of relevance, attorney-client privilege or work product are protected from production.

SO ORDERED.

Signed: Emmet G. Sullivan
United States District Judge
April 13, 2017

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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| U.S. DEPARTMENT OF THE |) | |
| TREASURY |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. 12-mc-100 (EGS) |
| |) | |
| PENSION BENEFIT GUARANTY |) | |
| CORPORATION |) | |
| |) | |
| Interested Party, |) | |
| |) | |
| v. |) | |
| |) | |
| DENNIS BLACK, <i>et al.</i> , |) | |
| |) | |
| Respondents |) | |
| _____ |) | |

ORDER

This ancillary proceeding was initiated over five years ago when the U.S. Department of Treasury ("Treasury") moved to quash respondents' subpoena requesting the production of certain documents. Since that time, this Court has expended considerable judicial resources in evaluating Treasury's various claims of privilege over those documents, conducting an *in camera* review of hundreds of documents across multiple rounds of briefing.

On April 13, 2017, the Court resolved the last of those privilege claims and, *inter alia*, ordered Treasury to produce 63 documents that it had asserted were protected under the

presidential-communications privilege. See *U.S. Dep't of Treasury v. Pension Benefit Guar. Corp.*, No. 12-MC-100 (EGS), 2017 WL 1373234 (D.D.C. Apr. 13, 2017) ("April 13 Order"). In so doing, the Court held that, although the documents at issue were covered by the presidential-communications privilege, respondents had made an adequate showing of need to overcome the privilege and require disclosure. *Id.* at *2-3.

On April 28, 2017, Treasury filed a motion to stay the Court's April 13 Order on the ground that it was considering whether to appeal that order. See Mot. to Stay, ECF No. 46. The Court subsequently held a hearing on that motion, during which Treasury requested an opportunity to file a motion for reconsideration of the April 13 Order. The Court granted Treasury's request, and that motion is now ripe for resolution.

Upon careful consideration of Treasury's motion for reconsideration, the response and the reply thereto, the parties' previous submissions, a supplemental *in camera* review of the 63 documents at issue,¹ and the entire record, it is hereby

ORDERED that Treasury's motion for reconsideration is **GRANTED**; and it is

¹ Through its *in camera* review, the Court has determined that only 21 of the 63 documents are "unique" - the remaining 42 documents are either duplicate copies or drafts of those 21 documents.

FURTHER ORDERED that the Court's April 13 Order requiring production of the 63 documents over which Treasury has asserted the presidential-communications privilege shall be modified to require production only of those portions of the documents that relate to General Motors, Delphi Corporation, or the Pension Benefit Guaranty Corporation; and it is

FURTHER ORDERED that Treasury shall produce the redacted versions of those 63 documents to respondents by no later than June 30, 2017; and it is

FURTHER ORDERED that, until the time for seeking appellate review passes - and during the pendency of any appeal should one be taken - the 63 documents shall remain under seal in Chambers.

SO ORDERED.

Signed: Emmet G. Sullivan
United States District Judge
June 7, 2017