

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X
*In the Matter of Search Warrants Executed on
April 9, 2018*
-----X

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/27/18

MICHAEL D. COHEN,

Plaintiff,

-against-

18-MJ-3161 (KMW)

ORDER OF APPOINTMENT

UNITED STATES OF AMERICA,

Defendant.

-----X

KIMBA M. WOOD, United States District Judge:

The Court has previously notified the parties of its intention to appoint a Special Master for privilege issues related to the materials seized in the execution of certain search warrants executed on April 9, 2018 (the "Seized Materials") and, having now considered (i) the Declaration of the proposed Special Master, the Hon. Barbara S. Jones (Ret.); (ii) the absence of any grounds for disqualification of Judge Jones; and (iii) the consent of Plaintiff and Defendant in this case to the Hon. Barbara S. Jones (Ret.) serving as Special Master,

IT IS HEREBY ORDERED THAT:

1. Pursuant to Federal Rule of Civil Procedure 53(a)(1)(C) and this Court's inherent equitable powers and authority, this Court appoints the Hon. Barbara S. Jones (Ret.) as Special Master.

Duties

2. The Special Master shall render decisions regarding privilege issues related to the Seized Materials. The specific duties of the Special Master are as follows, which shall include all powers necessary to carry out the duties below:
 - a. Conducting an initial privilege review of the Seized Materials and adjudicating privilege disputes between the parties in accordance with this Court's oral ruling in this case on April 26, 2018; and
 - b. Additional duties may be assigned to the Special Master by the Court in

subsequent orders, upon notice to the parties and an opportunity to be heard with regard to those additional duties.

3. The Special Master shall have the full authority set forth in Fed. R. Civ. P. 53(c).

Reporting and Judicial Review

4. Within seven days following the issuance of this order, the Special Master shall consult with counsel for the parties and provide the Court with a scheduling plan setting forth the procedure and timeline for concluding the privilege review and adjudicating any disputes as to privilege. The scheduling plan should include a process for resolving disputes as to privilege.
5. The Special Master shall file all written scheduling plans, orders, reports, and recommendations on the electronic docket, along with any additional information that the Special Master believes will assist the Court in reviewing those scheduling plans, orders, reports, or recommendations. The Special Master shall, during the pendency of this action, including during any appeals, preserve any and all documents or other materials she receives from the parties.
6. The Special Master shall make *ex parte* reports to the Court on an ongoing basis concerning the progress in resolving the issues above as the Special Master believes appropriate, but no less frequently than once every week.
7. The parties may file objections to—or a motion to adopt or modify—the Special Master’s scheduling plans, orders, reports, or recommendations no later than seven calendar days after the service of each, and the Court will review these objections, consistent with the standards set forth in Federal Rule of Civil Procedure 53(f).

Access to Information

8. The Special Master shall have access to individuals, information, documents, and materials relevant to the orders of the Court that she requires to perform her duties, subject to the terms of this Order Appointing a Special Master. Such materials shall be provided to the Special Master on an *ex parte* basis as the Special Master sees fit in connection with potentially privileged or confidential materials.
9. In particular, the Government shall provide to the Special Master a copy of the Seized Materials, the search warrants executed in this case, and the underlying application materials for those search warrants.

Compensation and Expenses

10. The procedures for establishing and paying the Special Master’s compensation and expenses shall be determined in a later order. Within one week of issuance of this order, the Special Master and counsel for the parties shall confer on this

issue, and the Special Master shall submit a proposal for the Court's approval as to the procedures for paying the Special Master's compensation and expenses.

Engagement of Professionals, Support Staff, and Expert Consultants

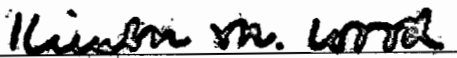
11. If the Special Master determines that the efficient administration of her duties requires the assistance of additional professionals, support staff, or expert consultants, she may submit a work proposal to the parties, who will have five business days to submit comments, after which time the Special Master may then submit the proposal to the Court for consideration.

Other Provisions

12. As an agent and officer of the Court, the Special Master and those working at her direction shall enjoy the same protections from being compelled to give testimony and from liability for damages as those enjoyed by other federal judicial adjuncts performing similar functions.
13. As required by Rule 53(b)(2) of the Federal Rules of Civil Procedure, the Court directs the Special Master to proceed with all reasonable diligence.
14. The Special Master shall be discharged or replaced only upon an order of this Court.
15. The parties and their successors in office, agents, and employees will observe faithfully the requirements of this Appointment Order and cooperate fully with the Special Master in the performance of their duties.
16. The Court reserves the right to remove the Special Master if the Court finds that the parties are not expeditiously completing this work.

SO ORDERED.

Dated: New York, New York
April 27, 2018


KIMBA M. WOOD
United States District Judge