

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SUSAN GAFFNEY, in her official capacity :
as Inspector General, U.S. Department of :
Housing and Urban Development, :

Petitioner, :

v. :

THE HAMILTON SECURITIES :
GROUP, INC., and HAMILTON :
SECURITIES ADVISORY :
SERVICES, INC., :

Respondents. :

Misc. No. 98-92 (SS)

FILED UNDER SEAL

ORDER

UPON CONSIDERATION of the Petitioner's Motions for a Temporary Restraining Order and a Preliminary Injunction requiring Respondents to deposit with this Court the materials sought by Petitioner's subpoenas duces tecum pending a final decision on the petition for summary enforcement of those subpoenas, it is hereby

ORDERED, that the motions should be, and hereby are, GRANTED to the extent set forth herein, and are DENIED in all other respects; and

IT IS FURTHER ORDERED that Irving Pollack and Larry Storch, are hereby appointed as co-Special Masters in this case (hereinafter "the Special Master"); and

IT IS FURTHER ORDERED that Petitioner shall pay the fees and expenses of the Special Master and all those working under the Special Master's authority, who shall receive compensation at the rate of \$100.00 per hour plus all actual expenses incurred by the Special Master for the

performance of the Special Master's duties in this case, including without limitation the cost of storing the records deposited by Respondents with the Special Master; and

IT IS FURTHER ORDERED that Respondents shall immediately deposit with the Special Master the following:

1. The originals of all records responsive to each item in the August 6 and 22, 1996 subpoenas, modified as reflected in the attachments to Exhibit 14 to the Declaration of James M. Martin filed in support of Petitioner's Petition for Summary Enforcement of Administrative Subpoenas, which records were previously produced to Petitioner in the form of copies;

2. Any and all original records responsive to Item No. 4 of the subpoenas of August 6, 1996, as modified;

3. Any and all original records responsive to each item in the subpoenas of October 24, 1997, not yet produced to Petitioner;

4. Any and all original records responsive to the subpoenas of August 6 and 22, 1996, as modified, and October 24, 1997, that are claimed to be privileged;

5. Any and all original backup tapes of Respondents' electronic and computer records systems that contain information responsive to the subpoenas of August 6, and 22, 1996, as modified, and October 24, 1997, including but not limited to the following:

Full backup tapes for the following dates:

1996 --

June 16-17

July 21-22

July 28-29

August 18-19

August 25-26

1997 --

September 14-15

September 28-29

October 19-20

Differential backup tapes for the following dates:

1996 --

March 7

July 13, 23, 25, 26, 27, 29, 30, and 31

August 1, 2, 3, 4, 6, 7, 8, 12, 14, 16, 17,
20, 21, 22, 23, 24, 27, and 28

1997 --

October 21, 22, 23, 24, and 25;

6. Any and all other records that may contain information responsive to the subpoenas of August 6 and August 22, 1996, as modified, and October 24, 1997, which have not previously been produced to Petitioner regardless of the format or media by which such information is stored, including without limitation computer discs, computer hard drives, and other electronic and computer data storage devices; and

IT IS FURTHER ORDERED that a representative(s) of Respondents with personal knowledge of the matter and of the searches that have been conducted for records responsive to the subpoenas of August 6 and 22, 1996, as modified, and of October 24, 1997, shall submit to the Court and to Petitioner a certification of compliance, made under penalty of perjury, that all records described above have been delivered intact, without deletion or alteration, to the Special Master; provided, however, that if the Special Master determines that such certification is not feasible, then Respondents shall provide a certification regarding compliance as shall be satisfactory to the Special Master; and

IT IS FURTHER ORDERED that the Special Master shall make such arrangements as may be necessary for the security and preservation of all records deposited with the Special Master by Respondents, and shall take all necessary precautions to preserve such records in the exact form that

those records are received by the Special Master; and

IT IS FURTHER ORDERED, that the Special Master shall permit Respondents and their representatives to have access to the records deposited with the Special Master, and to make copies thereof, at all reasonable times and upon reasonable advance notice, for the purpose of winding up Respondents' affairs and for any other legitimate purpose, consistent with the Special Master's duty to safeguard and preserve such records intact; and

IT IS FURTHER ORDERED, that Respondents shall not hereafter sell, destroy, discard, or otherwise dispose of any of Respondents' or their affiliated entities business paper records, including accounting, correspondence, personnel and other paper records related to Respondents and their affiliated entities' conduct of their business without prior approval of the Special Master, whose approval or disapproval may be reviewed by the Court on the request of either party and nothing herein shall preclude Respondents from complying with this provision by depositing all such paper records with the Special Master; and

IT IS FURTHER ORDERED that Respondents shall not hereafter sell, destroy, discard, or otherwise dispose of any computer disc, computer hard drive, or other electronic or computer data storage device which contains, or formerly contained, Respondents' electronic or computer records during any period commencing on or after October 24, 1997, without prior approval of the Court unless Respondents first deliver an exact copy of any and all information contained in such electronic or computer data storage device(s) on and after October 24, 1997, without alteration or deletion, to the Special Master and submit to the Court and to the Petitioner a certificate to that effect, made under penalty of perjury, by a representative(s) of Respondents with personal knowledge of the matter; and

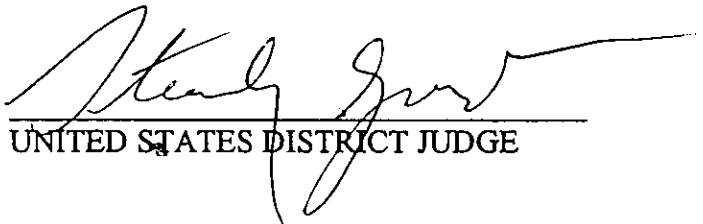
IT IS FURTHER ORDERED that the Special Master shall determine such issues and make such reports and recommendations with respect to this case as the Court may direct by subsequent Order(s) following the filing and service of any response by Respondents to Petitioners' petition for summary enforcement of the subpoenas; and

IT IS FURTHER ORDERED that only the parties, the Court, and the Special Master, and their respective agents shall have access to any record furnished by Respondents pursuant to this Order, pending further Order of the Court; and

IT IS FURTHER ORDERED that the Special Master shall have full authority to ensure compliance with this Order.

IT IS SO ORDERED.

3/6/98
DATE


UNITED STATES DISTRICT JUDGE

COPIES TO :

ABBE DAVID LOWELL, ESQUIRE
DAVID E. FRULLA, ESQUIRE
TERESA ALVA, ESQUIRE
BRAND, LOWELL & RYAN, P.C.
923 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005

DANIEL F. VAN HORN, ESQUIRE
ASSISTANT U.S. ATTORNEY
ROOM 10-104 (JCB)
555 FOURTH STREET, N.W.
WASHINGTON, D.C. 20001