



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

June 3, 2021

BY ECF

The Honorable J. Paul Oetken
United States District Judge
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, New York 10007

Re: In re Search Warrants dated April 21, 2021, and April 28, 2021, 21-MC-425(JPO)

Dear Judge Oetken:

The Government writes on behalf of the parties to propose the appointment of the Honorable Barbara S. Jones, a retired federal judge with the law firm of Bracewell LLP, to serve as the court-appointed special master for this matter.

As the Court is aware, Judge Jones served as a United States District Judge in the Southern District of New York from 1995 to 2013. While serving as a federal judge, Judge Jones adjudicated privilege disputes and also considered the issues associated with the appointment of a special master in *United States v. Grant*, No. 04 Cr. 207 (BSJ), 2004 WL 1171258 (S.D.N.Y. May 25, 2004). Since entering private practice at Bracewell LLP,¹ Judge Jones was appointed as the special master by Judge Kimba Wood in *In re the Matter of Search Warrants Executed on April 9, 2018*, No. 18 Misc. 3161 (S.D.N.Y. Apr. 16, 2018) [hereinafter *Cohen*]. Judge Jones “efficiently and meticulously reviewed” tens of thousands of items over a period of four months and made privilege designations that were not objected to by the parties. *Cohen*, No. 18 Misc. 3161 (S.D.N.Y. Aug. 20, 2018) (Dkt. 103). Judge Wood noted at the conclusion of the *Cohen* proceeding that Judge Jones “performed her review with extraordinary efficiency and speed, while giving the parties a full opportunity to be heard,” and she and her law firm showed “professionalism and careful attention to detail.” *Id.* at 6.

¹ Rudolph Giuliani was previously a shareholder at Bracewell LLP, which was then known as Bracewell & Giuliani. In January 2016, Mr. Giuliani left the firm, and Judge Jones did not join the firm until July 2016. None of the parties believe that Mr. Giuliani’s prior affiliation with Bracewell & Giuliani presents a conflict that would disqualify Judge Jones from being appointed as the special master or her firm assisting in her review. In addition, after consulting with counsel at Bracewell, the Government understands that a partner who assisted Judge Jones in the privilege review in *Cohen*, who has a personal relationship with Mr. Giuliani, will recuse himself from this matter in order to avoid the appearance of any conflict.

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The Government respectfully requests that the Court appoint Judge Jones to serve as the special master in this matter because her background and the resources available to her at her law firm will allow her to complete a privilege review in a fair and efficient manner. Mr. Giuliani and Ms. Toensing, through counsel, have both agreed to the appointment of Judge Jones. The Government has conferred with Judge Jones and she is available to accept this appointment. The Government respectfully suggests that the Court issue an Order of Appointment similar to the one issued by Judge Wood in the *Cohen* matter, setting forth the duties of the special master, the reporting and judicial review requirements, terms of compensation, terms of engagement of other professionals, and other relevant provisions. *Cohen*, No. 18 Misc. 3161 (S.D.N.Y. Apr. 27, 2018) (Dkt. 30). Judge Jones is available to speak with the Court directly should the Court have any questions about her potential appointment.

Respectfully submitted,

AUDREY STRAUSS
United States Attorney for the
Southern District of New York

By: _____/s/
Rebekah Donaleski
Aline R. Flodr
Nicolas Roos
Assistant United States Attorneys
(212) 637-2423/ 2421/ 1110

Cc: Robert Costello, Esq. / Barry Kamins, Esq. / John M. Leventhal, Esq. Arthur Aidala, Esq.
Michael Bowe, Esq./ E. Patrick Gilman, Esq.