

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re: Search Warrants Executed on April 28,
2021

Case No.: 1:21-MC-00425-JPO

SPECIAL MASTER REPORT

By Order of Appointment, dated June 9, 2021 [Dkt. No. 25] (the “Order”), the Court appointed the Hon. Barbara S. Jones (Ret.) as Special Master to render decisions regarding “privilege issues relating to the materials seized in the execution of certain search warrants dated April 21, 2021, and April 28, 2021, and executed on April 28, 2021 (the ‘Seized Materials’).” *See* Order, § 2. This report is submitted to provide the Court with a scheduling plan setting forth the procedure and timeline for conducting the privilege review of the Seized Materials and resolving any disputes as to privilege. *See* Order, § 4.

Pursuant to § 4 of the Order, the Special Master has conferred with the parties regarding the status of production of the Seized Materials and a procedure for review. The Government is currently processing the Seized Materials. The Government will provide electronic copies of the materials to counsel for Mr. Giuliani and Ms. Toensing on an expedited and rolling basis.¹

The procedures for review are as follows. As the materials become available, the Special Master will designate batches of documents in the order that they will be reviewed. For each batch, counsel for Mr. Giuliani and Ms. Toensing will conduct a privilege review and submit privilege designations to the Special Master. These designations shall identify potentially privileged documents and contain descriptions regarding the nature of the attorney-client relationship, the

¹ The Government will provide Mr. Giuliani’s counsel copies of the materials seized from Mr. Giuliani, and it will provide Ms. Toensing’s counsel copies of the materials seized from Ms. Toensing.

subject matter, the nature of the advice provided and/or the work product created as a result of the relationship. In addition, counsel for Mr. Giuliani and Ms. Toensing may submit designations for highly personal information, such as medical records or similar materials. It is understood by all parties, however, that the Special Master will not conduct a review of all materials for responsiveness. After all privileged or “highly personal” designations are made by counsel for Mr. Giuliani and Ms. Toensing in a batch, the remaining, non-designated documents or materials will be released to the government.

The designation submissions from counsel for Mr. Giuliani and Ms. Toensing and any subsequent conferences regarding those submissions, which may be necessary to assist the Special Master in making privilege determinations, will be *ex parte*. Should the Special Master require additional facts or background information to assist her in making privilege determinations, she may also confer with the Government – and receive submissions from the Government – on an *ex parte* basis. The Special Master will not provide designated documents or materials to the Government.

Once the Special Master has considered the privilege positions of Mr. Giuliani and Ms. Toensing, the Special Master will render decisions on the materials and submit a Report and Recommendation to the Court. The Special Master’s final privilege determinations will include the following categories: (1) Privileged Materials; (2) Partially Privileged Materials; (3) Non-Privileged Materials; or (4) Highly Personal Materials. Pursuant to § 7 of the Order, any objections to the Report and Recommendation must be filed with the Court no later than seven days after the Report and Recommendation is filed.

The Special Master will provide the Court with a timeline for concluding the privilege review once she better understands the volume of the materials to be reviewed.

Pursuant to § 9 of the Order, the Government has provided the Special Master with a copy of the search warrants executed in this matter, and the underlying application materials for those warrants.

Pursuant to § 10 of the Order, the Special Master has conferred with the parties regarding her compensation and expenses. The Government will be responsible for the payment of the Special Master's compensation and expenses if the review proceeds in the manner described above. The Special Master has discussed the relevant hourly rates with the Government, and the Special Master intends to submit invoices for the Court's review and approval monthly.

Dated: New York, New York
June 16, 2021



HON. BARBARA S. JONES (Ret.)