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**Via Email**

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RE: Discovery in 650

Jim:

I am presently drafting the motion to compel for Manal. I am attaching a copy of the present version of that draft for your review. By that, I mean--should you wish to supplement the discovery responses or discuss a middle ground. However, I also write to address a specific issue—here is the draft text relating to that issue:

**I.A Final Issue: Present Funding**

Although Manal and her counsel take the position that neither her past nor her present bank accounts or records exist, and that any transactions with her counsel are privileged, Sixteen Plus must, as a conspiracy is alleged, be allowed get to the bottom of the intertwined questions of (1) are other of the alleged co-conspirators directing her representation—(2) who is funding her expensive, top-level USVI counsel if she states in discovery that she doesn't even have any bank account and is just a simple housewife. Participation in a conspiracy may be shown by payment and/or direction of a co-conspirator's attorney as part of the conspiracy. See, e.g., *Curry v. United States*, Civil Action No. 11-5800 (FSH), 2015 U.S. Dist. LEXIS 20461, at \*63 (D.N.J. Feb. 20, 2015) (“the usefulness of this testimony is demonstrably undermined by the wiretap interceptions in which Curry explicitly directed a co-conspirator to pay for Webb's legal representation.”); see also *Loughman v. Consol-Pennsylvania Coal Co.*, 6 F.3d 88 (3d Cir. 1993) (holding all co-conspirators liable for lawyer's malpractice committed in furtherance of the conspiracy.)

Manal is accused of being *in pari delicto* in 65/342, and (by the proposed amendment) of being part of a present conspiracy to do the criminal acts of a USVI CICO in the 650 action. It is alleged she acts with Isam and Fathi to do so. Sixteen Plus has the right to be able to examine the interconnections between the other conspirators, the funds involved in the conspiracy and Manal's positions and funding here.

If she will not agree to provide this information to Sixteen Plus, then an alternative method must be compelled—(1) a special master or (2) in camera review of (a) counsel's billing and receipts of funds, (b) communication directing the litigation to counsel—if it comes from other of the alleged co-conspirators, and (c) client communications with counsel that would reveal her present and ongoing participation in the predicate criminal acts.

She says she is a poor housewife, and that she has no bank accounts. So the funds must be coming from somewhere and by some means. *If it is from an alleged co-conspirator, that raises issues and is discoverable.* It seems to me that if there is nothing problematic in who is paying for her representation and/or directing it, the best way to deal with this is a joint motion for the appointment of a special master to examine, *in camera*, who is paying for her representation (to assure that such payment is not part of the present conspiracy)—as well as how and what implications such payment has. I think this will do one of two things: (1) make me look like an idiot for suggesting it—and I will agree that Hamed will pay for the special master, or (2) insulate you from a later motion to remove you as counsel for one or the other of the two (Isam or Manal) if there is a potential conflict there.

Also, if you have some case law to suggest that either actual discovery or such an *in camera* review invades attorney-client privilege, I would be more than happy to review it. I cannot find any such.

I would also be open to other paths to the same end if you can think of a better suggestion.

Respectfully,



Carl J. Hartmann III