

In the United States Court of Federal Claims

No. 13-465C

(Filed Under Seal: January 26, 2016)
(Reissued for Publication: February 8, 2016)¹

 FAIRHOLME FUNDS, INC., et al., *
 *
 Plaintiffs, *
 *
 v. *
 *
 THE UNITED STATES, *
 *
 Defendant. *

ORDER

Defendant in the above-captioned case filed a “Notice of Apparent Violation of Second Amended Protective Order and Expedited Request for Relief,” and plaintiffs filed a response. Defendant argues that on January 20, 2016, plaintiffs deposed James Parrott, former senior advisor at the National Economic Council. According to defendant, “an internet blog site that frequently publishes reports on the progress of this litigation posted a piece reporting the fact of Mr. Parrott’s deposition and falsely alleging that Mr. Parrott had invoked his rights under the Fifth Amendment to the United States Constitution in refusing to answer” certain deposition questions. Def.’s Mot. 1-2. “To the contrary,” defendant contends, “on the occasions that Mr. Parrott declined to answer questions, he did so pursuant to instructions from counsel not to answer on governmental privilege grounds.” *Id.* at 2. Defendant argues that this false allegation has now resulted in press inquiries to Mr. Parrott, who is bound by the terms of this court’s second amended protective order, and consequently cannot respond to these inquiries to clear any cloud on his reputation.

Defendant contends that the false allegation “is of a highly serious nature, as it suggests the possibility that Mr. Parrott may have involvement with criminal conduct.” *Id.* Consequently, defendant requests that Mr. Parrott be “afforded the opportunity to address the allegation that he invoked the Fifth Amendment privilege against self-incrimination and refused to testify under that privilege.” *Id.* Further, defendant argues that because the contents of Mr. Parrott’s deposition were under seal, the fact that the internet blog piece described that he declined to answer certain questions during his deposition indicates that the second amended protective order in this case was violated.

¹ The court provided the parties with an opportunity to suggest redactions to this ruling, but in a January 29, 2016 joint status report, they indicated that no redactions were necessary.

In response, plaintiffs do not object to defendant's request to allow Mr. Parrott to "correct[] the public record" by "telling reporters that he did not invoke the Fifth Amendment during his deposition." Pls.' Response 1. However, plaintiffs "strenuously disagree with Defendant's insinuation that *false* information on the Internet proves that a violation of the Second Amended Protective Order has occurred." Id.

The court finds it important to correct false statements and will not permit such an injustice, and thus happily and with alacrity allows Mr. Parrott to correct the false statements described herein made by bloggers, anonymous or otherwise, or members of the media. That portion of defendant's motion is therefore **GRANTED**. However, the court has insufficient information at this time to determine whether information regarding the deposition was actually leaked and the second amended protective order was violated. Defendant's reply in support of its motion is due on February 4, 2016; accordingly, any determination regarding whether the second amended protective order was breached will be made after that time. Finally, the court files this order under seal out of an abundance of caution. The parties shall file **by no later than Friday, January 29, 2016** a joint status report advising whether this order should remain sealed.

IT IS SO ORDERED.

s/ Margaret M. Sweeney
MARGARET M. SWEENEY
Judge