

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

FAIRHOLME FUNDS, INC., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 13-465C
)	(Judge Sweeney)
THE UNITED STATES,)	
)	PUBLIC VERSION
Defendant.)	

NOTICE OF APPARENT VIOLATION OF SECOND AMENDED PROTECTIVE ORDER AND EXPEDITED REQUEST FOR RELIEF

Pursuant to paragraphs 16 and 17 of this Court’s Second Amended Protective Order (Protective Order), dated November 9, 2015 (ECF No. 256), defendant, the United States, hereby notifies the Court and all parties of an apparent violation of the Protective Order, and requests leave to address this violation as appropriate. We request review of this motion on an expedited basis given the violation’s harmful effects.

On January 20, 2016, plaintiffs, Fairholme Funds, Inc., et al. (Fairholme), deposed Mr. James (Jim) Parrott, former senior advisor at the National Economic Council, pursuant to this Court’s jurisdictional discovery orders dated February 26, 2014, and July 16, 2014 (ECF Nos. 32, 72). Under the terms of paragraphs 2(b), 3, 4, and 12 of the Protective Order, Mr. Parrott’s deposition was designated as protected information. It has come to our attention, however, that 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 hundreds of deposition questions.¹ Mr. Parrott, however, never invoked the Fifth Amendment during the deposition. To the contrary, 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.

The false allegation has now resulted in press inquiries to Mr. Parrott, who is bound by the terms of the Court's protective order. The false allegation, however, is of a highly serious nature, as it suggests the possibility that Mr. Parrott may have involvement with criminal conduct. As such, Mr. Parrott should 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.

We believe that a simple denial that Mr. Parrott invoked the Fifth Amendment during his deposition would not constitute "protected information" for purposes of the Court's Protective Order because no such invocation occurred. Nonetheless, in an abundance of caution, we respectfully request that this Court confirm that the protective order does not prevent Mr. Parrott from denying this allegation or, in the alternative, we ask the Court to permit Mr. Parrott to deny the allegation that he invoked his Fifth Amendment privilege.

Counsel for the United States has consulted with counsel for Fairholme, who has indicated that Fairholme does not oppose the proposed relief.

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

¹ <http://timhoward717.com/2016/01/22/breaking-news-co-conspirator-jim-parrot-takes-the-fifth-in-depositon/> (attached).
See also [http://www.fidererongses.com/params/post/755424/jim-parrotts-deposition-may-be-less-than-meets-the-eye](http://www.fidererongses.com/params/post/755424/jim-parrotts-deposition-may-be-less-than-meets-the-eye;); <http://timhoward717.com/2016/01/25/silence-is-often-evidence-of-the-most-persuasive-character-justice-brandeis/>.

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January 25, 2016

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Attachment A



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22
Friday
JAN 2016

Breaking News: Co-Conspirator Jim Parrot Takes The Fifth In Depositon.

POSTED BY TIMHOWARD717 IN FANNIE MAE FREDDIE MAC

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Sources close to Jim Parrot have disclosed that he was the final deponent in the Fairholme Lawsuit and he has taken the fifth on 100s of questions. This has broad ranging implications and we will have much more to report on this. Keep the Faith!

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