

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.)	

**DEFENDANT’S REPLY TO PLAINTIFF’S
RESPONSE TO DEFENDANT’S NOTICE OF APPARENT
VIOLATION OF SECOND AMENDED PROTECTIVE ORDER**

On January 25, 2016, the United States filed a document entitled Notice of Apparent Violation of Second Amended Protective Order and Expedited Request for Relief (ECF No. 285). In that filing, we reported that an internet blog site had falsely reported that James Parrott had, during his deposition on January 20, invoked his rights under the Fifth Amendment to the United States Constitution in refusing to answer certain deposition questions. In an abundance of caution, we brought this matter to the Court’s attention and requested that the Court expeditiously confirm that Mr. Parrott could publicly deny these false allegations without running afoul of the Court’s protective order. Although Fairholme Funds, Inc., *et al.* (Fairholme) did not object to the relief we sought, it filed a response in which it stated its disagreement with the insinuation that a violation of the protective order had occurred. Pls. Resp., Jan. 25, 2016 (ECF No. 286).

In its January 26, 2016 order (ECF No. 287), the Court granted the specific relief we sought (that is, it confirmed that Mr. Parrott could publicly rebut the false allegations), but stated that it had insufficient information to determine whether a violation of the protective order had occurred. The Court deferred making a decision on that issue until after the due date for the

Government's reply.

With respect to the question as to whether a violation of the protective order has occurred, the public disclosure on the referenced website accurately stated that Mr. Parrott did not answer some of the questions posed at the deposition; however, the website incorrectly reported that Mr. Parrott declined to answer questions based on the constitutional right against self-incrimination, when, in fact, Mr. Parrott was instructed not to answer the questions based on assertions of governmental privileges. It is not clear who provided the website with information about the deposition and what information was provided. The government's information about this incident is only that the website erroneously reported that Mr. Parrott invoked his Fifth Amendment right against self-incrimination. As contemplated by paragraph 16 of the Court's protective order, we promptly reported the available facts to the Court. Although we acknowledge the Court's statement that the information we provided in the Notice is insufficient for the Court to determine that a violation occurred, at this time we have no further details to report. Should further details become available, we will promptly notify the Court.

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

s/ Robert E. Kirschman, Jr.
ROBERT E. KIRSCHMAN, JR.
Director

s/ Kenneth M. Dintzer
KENNETH M. DINTZER
Deputy Director
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
P.O. Box 480
Ben Franklin Station
Washington, D.C. 20044
Telephone:(202) 616-0385
Facsimile: (202) 307-0973
Email: Kenneth.Dintzer@usdoj.gov

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Attorneys for Defendant