

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ARKANSAS TEACHER RETIREMENT SYSTEM,
on behalf of itself and all others similarly situated,

Plaintiff,

v.

STATE STREET BANK AND TRUST COMPANY,

Defendant.

No. 11-cv-10230 MLW

ARNOLD HENRIQUEZ, MICHAEL T. COHN, WILLIAM R.
TAYLOR, RICHARD A. SUTHERLAND, and those similarly
situated,

Plaintiff,

v.

STATE STREET BANK AND TRUST COMPANY, STATE
STREET GLOBAL MARKETS, LLC and DOES 1-20,

Defendants.

No. 11-cv-12049 MLW

THE ANDOVER COMPANIES EMPLOYEE SAVINGS AND
PROFIT SHARING PLAN, on behalf of itself, and JAMES
PEHOUSHEK-STANGELAND, and all others similarly
situated,

Plaintiff,

v.

STATE STREET BANK AND TRUST COMPANY,

Defendant.

No. 12-cv-11698 MLW

**CUSTOMER CLASS COUNSELS' MOTION
TO IMPOUND THEIR MEMORANDUM AND SUPPORTING DECLARATION IN
SUPPORT OF THEIR MOTION FOR AN ACCOUNTING, AND FOR
CLARIFICATION THAT THE MASTER'S ROLE HAS CONCLUDED**

1. Pursuant to Fed. R. Civ. P. 7(b) and District of Massachusetts Local Rule 7.2, Labaton Sucharow LLP (“Labaton”), Lieff Cabraser Heimann & Bernstein LLP (“Lieff”), and the Thornton Law Firm (“TLF”) (collectively, “Customer Class Counsel”) respectfully move to impound: (1) their Memorandum in Support of their Motion for an Accounting, and for Clarification that the Master’s Role Has Concluded (“Customer Class Counsels’ Memorandum”); and (2) the Transmittal Declaration of Joan A. Lukey in Support of Customer Class Counsels’ Motion for an Accounting, and for Clarification that the Master’s Role Has Concluded (“Lukey Transmittal Declaration”).

2. On May 16, 2018, this Court issued an Order confirming that the Special Master’s Report and Recommendations, the related Executive Summary, and all attached exhibits (collectively, the “Master’s Submission”) are currently under seal in their entirety, and setting forth a process by which the parties may seek redactions so that a public version could be unsealed. ECF 223.

3. Customer Class Counsels’ Memorandum contains discussion of Prof. Gillers’ original report (Ex. 232 to the Master’s Report and Recommendations), Prof. Gillers’ revised “supplemental” report (Ex. 233 to the Master’s Report and Recommendations), and the Master’s Report and Recommendations – all of which are currently under seal. *See, e.g.*, Customer Class Counsels’ Memorandum at 4-6, 9, 11, 13, 16 and 18 (discussing sealed materials and addressing specific substantive opinions proffered by Prof. Gillers, which are under seal). Because this information is currently under seal per this Court’s orders, and to prevent a partial release of information under seal, the non-redacted versions of these documents that contain this discussion of sealed material should also be kept under seal at least until this Court publicly releases a redacted version of the Master’s Submission.

4. Likewise, the Lukey Transmittal Declaration, which is submitted in support of Customer Class Counsels' motion, attaches as Exhibit 3 a chart created for use in these proceedings that shows the participation of members of the Master's team in various depositions. The chart is derived from deposition transcripts that currently are under seal. For the same reasons the Court has ordered the Master's Report and Recommendations and attached Exhibits to be temporarily sealed while the parties evaluate the record and propose redactions, this document should also be temporarily sealed.

5. Accordingly, there is good cause pursuant to D. Mass. L.R. 7.2 to impound the non-redacted versions of Customer Class Counsels' Memorandum and the supporting Lukey Transmittal Declaration.

6. Customer Class Counsel have filed herewith redacted versions of their Memorandum and supporting Lukey Transmittal Declaration. The portions of their Memorandum that Customer Class Counsel request be temporarily impounded are redacted in black. The redacted version of the Lukey Transmittal Declaration replaces Exhibit 3 with a page indicating that the information has been redacted.

WHEREFORE, for the reasons set forth herein, Customer Class Counsel request that the Court impound the non-redacted versions of Customer Class Counsels' Memorandum and the supporting Lukey Transmittal Declaration until the Court publicly releases a version of the Master's Submission.

Dated: June 19, 2018

Respectfully submitted,

By: /s/ Joan A. Lukey

Joan A. Lukey (BBO No. 307340)
Justin J. Wolosz (BBO No. 643543)
Stuart M. Glass (BBO No. 641466)
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By: /s/ Richard M. Heimann

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By: /s/ Brian T. Kelly

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Counsel for The Thornton Law Firm LLP

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

Labaton’s counsel, on behalf of Customer Class Counsel, contacted other counsel in this case in order to confer regarding the substance of this motion. Keller Rohrback, McTigue Law LLP, and State Street do not oppose the relief requested. Counsel for the Special Master has no objection, “to the extent the motion(s) filed contain material under seal and not yet made available to the public.” Zuckerman Spaeder LLP has not indicated its position as of the time of filing.

/s/ Joan A. Lukey
Joan A. Lukey

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to all counsel of record on June 19, 2018.

/s/ Joan A. Lukey
Joan A. Lukey

**UNITED STATES DISTRICT COURT
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No. 12-cv-11698 MLW

**CUSTOMER CLASS COUNSELS' MOTION FOR AN ACCOUNTING, AND FOR
CLARIFICATION THAT THE MASTER'S ROLE HAS CONCLUDED**

For the reasons set forth in the accompanying memorandum of law, incorporated here by reference, Labaton Sucharow LLP (“Labaton”), Lief Cabraser Heimann & Bernstein LLP (“Lief”), and the Thornton Law Firm (“TLF”) (collectively, “Customer Class Counsel”) respectfully move for an accounting regarding the \$3,800,000 that they have previously been ordered to pay into the Court for the Rule 53 proceedings before the Master. Further, they seek clarification that the Master’s role, as specified in the Court’s March 8, 2017 Memorandum and Order, ECF 173 (the “Appointment Order”), is now concluded.

WHEREFORE, Customer Class Counsel respectfully move for an accounting and for clarification that the Master’s role in this case has now concluded

Dated: June 19, 2018

Respectfully submitted,

By: /s/ Joan A. Lukey

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By: /s/ Brian T. Kelly

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Counsel for The Thornton Law Firm LLP

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

Labaton’s counsel, on behalf of Customer Class Counsel, contacted other counsel in this case in order to confer regarding the substance of this motion. State Street, Keller Rohrback L.L.P., and McTigue Law LLP take no position on the relief requested. Zuckerman Spaeder has not responded. The Master responds that he “objects to [the] request [for an accounting as to the \$3,800,000]. The Court has been meticulous in reviewing all invoices submitted to date relating to the Special Master’s appointment. All invoices have been approved.” With regard to the request for clarification, the Master “does not object to seeking clarification, and welcomes the Court’s guidance as to what role it would like the Special Master to have going forward. The Special Master notes, however, that he and his counsel have an extensive knowledge of the factual record such that they are well-situated to assist the Court in future proceedings, particularly in light of the volume and nature of the requested redactions.”

/s/ Joan A. Lukey

Joan A. Lukey

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/s/ Joan A. Lukey

Joan A. Lukey

UNITED STATES DISTRICT COURT
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Defendant.

**SPECIAL MASTER'S MOTION TO SEAL SPECIAL MASTER'S MOTION
FOR FILING LATE SPECIAL MASTER'S RESPONSE TO THE LAW FIRMS'
PROPOSED REDACTIONS TO THE SPECIAL MASTER'S REPORT AND
RECOMMENDATIONS**

Pursuant to Local Rule 7.2, and as provided for in paragraphs 7 and 11 of the Court's March 8, 2017 Order, the Special Master hereby moves this Honorable Court to permit the Special Master's Motion for Filing Late Special Master's Response to the Law Firms' Proposed Redactions to the Special Master's Report and Recommendations, to be filed under seal until further Court order.

WHEREFORE, Special Master respectfully requests that the Court permit the Motion be filed under seal.

Dated: June 19, 2018

Respectfully submitted,

**SPECIAL MASTER HONORABLE
GERALD E. ROSEN (RETIRED),**

By his attorneys,

/s/ William F. Sinnott
William F. Sinnott (BBO #547423)
Elizabeth J. McEvoy (BBO #683191)
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CERTIFICATE OF SERVICE

I hereby certify that this Notice of Appearance was filed electronically on June 19, 2018 and thereby delivered by electronic means to all registered participants as identified on the Notice of Electronic Filing ("NEF"). Paper copies were sent to any person identified in the NEF as a non-registered participant.

/s/ William F. Sinnott
William F. Sinnott

UNITED STATES DISTRICT COURT
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ARKANSAS TEACHER RETIREMENT SYSTEM,
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vs.

STATE STREET BANK AND TRUST COMPANY,

Defendant.

_____ /

**SPECIAL MASTER'S MOTION TO SEAL SPECIAL MASTER'S RESPONSE
TO THE LAW FIRMS' PROPOSED REDACTIONS TO
THE SPECIAL MASTER'S REPORT AND RECOMMENDATIONS**

Pursuant to Local Rule 7.2, and as provided for in paragraphs 7 and 11 of the Court's March 8, 2017 Order, the Special Master hereby moves this Honorable Court to permit the Special Master's Response to the Law Firms' Proposed Redactions to the Special Master's Report and Recommendations, to be filed under seal until further Court order.

WHEREFORE, Special Master respectfully requests that the Court permit the Motion be filed under seal.

Dated: June 19, 2018

Respectfully submitted,

**SPECIAL MASTER HONORABLE
GERALD E. ROSEN (RETIRED),**

By his attorneys,

/s/ William F. Sinnott
William F. Sinnott (BBO #547423)
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/s/ William F. Sinnott
William F. Sinnott

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**SPECIAL MASTER'S MOTION TO SEAL SPECIAL MASTER'S RESPONSE
TO MOTION TO STRIKE SUPPLEMENTAL GILLERS REPORT FILED UNDER
SEAL BY LABATON SUCHAROW ON JUNE 8, 2018**

Pursuant to Local Rule 7.2, and as provided for in paragraphs 7 and 11 of the Court's March 8, 2017 Order, the Special Master hereby moves this Honorable Court to permit the Special Master's Response to Motion to Strike Supplemental Gillers Report Filed Under Seal by Labaton Sucharow on June 8, 2018, to be filed under seal until further Court order.

WHEREFORE, Special Master respectfully requests that the Court permit the Motion be filed under seal.

Dated: June 20, 2018

Respectfully submitted,

**SPECIAL MASTER HONORABLE
GERALD E. ROSEN (RETIRED),**

By his attorneys,

/s/ William F. Sinnott
William F. Sinnott (BBO #547423)
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/s/ William F. Sinnott
William F. Sinnott

UNITED STATES DISTRICT COURT
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Defendants.)

C.A. No. 12-11698-MLW

ORDER

WOLF, D.J.

June 21, 2018

For the reasons that will be explained in a forthcoming Memorandum and Order, Labaton Sucharow, LLP's motion seeking my

recusal pursuant to 28 U.S.C. 455(a) (Docket No. 275) is hereby DENIED because a reasonable person could not question my impartiality in this case.


UNITED STATES DISTRICT JUDGE