



U.S. Department of Housing and Urban Development
Office of Inspector General
451 7th St., S.W.
Washington, D.C. 20410

February 23, 2000

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Via facsimile: (202) 842-8465

Re: Susan Gaffney v. The Hamilton Securities Group, Inc.,
Misc. No 98-92

Dear Mr. Ryan:

This responds to your letters to me dated February 14, 15 and 17, 2000. Your letter of February 14, 2000 letter seeks the consent of the Office of Inspector General ("OIG") for the Special Master to release to your clients documents that are claimed to be not responsive to OIG's subpoenas. You and I previously discussed this matter via telephone, and I advised you that OIG has concerns regarding the "non-responsive" nature of the subject records. Based upon this conversation, it was my understanding and expectation that you had agreed to assuage OIG's concerns by providing a statement to the effect that your office had reviewed each of the records claimed to be "non-responsive" and it is your opinion that such records are "non-responsive." Your February 14, 2000 letter does not contain such a statement or its equivalent, and, thus, I am reluctant to provide the consent that you have requested from me. As I thought that we had agreed, however, once I receive the assurances that we discussed, I will provide the consent that you seek.

Regarding your February 15, 2000 letter, I hope that you have since received my February 8, 2000 letter. It was sent to you. I have no information concerning why you had not received it by February 15th. With respect to your surprise and objection to the number of tapes that OIG designated for Ontrack's Phase I review, there is no reason for surprise or grounds for objection. Judge Sporkin's December 18, 1998 Order in no way limits the number of tapes that OIG can designate for copying or review. The Order, in relevant part, states:

That as to all electronically stored data stored on computer tapes or disks or other media now in the possession of the Special Masters or which shall come to be in possession of the Special Masters, other than that described in Section 1 above, Petitioner shall designate to the Special Masters which tapes, disks, or other media it wishes Respondents to review for responsive information. The Special Masters, pursuant to such schedule as the Special Masters may designate, shall make available the tapes, disks, or other media so designated to Petitioner or its designee, who shall cause to be made at its

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expense and under the Special Master's supervision two electronic copies of the data stored on each tape, disk, or other media, which it shall certify to be exact and which shall be reflected on such media and in such format as is acceptable to the Special Masters. Petitioner or its designee shall not review or alter the information on said tapes or disks or other media and shall provide the original tape, disk, or other media along with both electronic copies to the Special Masters

Further, assuming that you somehow have standing to object on behalf of the Special Masters, the Special Masters' role under Phase I of the Ontrack contract is limited to forwarding to Ontrack the tapes designated by OIG, receiving from Ontrack a written report concerning the applications found on the tapes, and forwarding the report to OIG for designation of tapes to be copied in Phase II of the contract. Clearly these responsibilities cannot be reasonably characterized as overwhelming. Moreover, since we all wish to avoid delay, OIG's identification of all tapes that it currently believes are most likely to contain responsive information for inclusion in Phase I appears to me to be the most expedient way to proceed.

Regarding your February 17, 2000 letter, we have no objection to your removing documents that the Special Master confirms are duplicates. However, we consider "duplicate" to refer only to exact copies of a record. For example, we would not consider "duplicate" to include two copies of the same letter where one copy includes margin notes. Additionally, we of course expect that your client will bear the Special Masters costs associated with your client's search for duplicates, and the Special Masters' confirmation that records identified by your client are in fact duplicates.

Sincerely,



Bryan Saddler
Acting Counsel to the Inspector General

cc: Laurence Storch, Esq. ((202) 452-0930)
Daniel Van Horn, Esq. ((202) 514-8780)