

*U.S. Dep't of the Treas. v. Pension Benefit
Guar. Corp.*

No. 1:12-mc-00100-EGS

Petitioner's Opposition to Respondents'
Renewed Motion to Compel

Ex. A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

U.S. DEPARTMENT OF THE TREASURY,)	
)	
Petitioner,)	
)	
v.)	No. 1:12-mc-00100-EGS
)	
PENSION BENEFIT GUARANTY CORPORATION,)	
)	
Interested Party,)	
)	
v.)	
)	
DENNIS BLACK, <i>et al.</i> ,)	
)	
Respondents.)	
)	

DECLARATION OF DAVID M. GLASS

DAVID M. GLASS says:

1. I am an attorney with the Department of Justice, Civil Division, Federal Programs Branch. I am lead counsel in this action for petitioner U.S. Department of the Treasury (Treasury). I make this declaration in support of Treasury’s opposition to the renewed motion to compel of respondents Dennis Black, Charles Cunningham, Kenneth Hollis, and Delphi Salaried Retiree Association, ECF No. 70.

2. I was advised by email of respondents’ lead counsel dated January 11, 2018, that respondents intended to file a motion on remand to compel the production of some or all of the 63 documents covered in this case by the presidential communications privilege. I thereafter conducted a search in Relativity of all 63 of the documents, using the following search string:

(Delphi or PBGC or “Pension Benefit Guaranty Corporation” or SRP or HRP or Salaried) or ((pension or house or Joe) w/25 (Snowbarger or Menke or Sheehan or greentarget or “DIP” or Elliott or “Silver Point” or lien)).

Treasury had been authorized by the stipulation and order approved November 4, 2014, to use this search string to find documents responsive to respondents’ subpoena dated January 4, 2012.

ECF No. 29 ¶ 2. Guided by each appearance in the 63 documents of any of the terms in the search string, I re-reviewed all of the documents in full, except those that were duplicates of other such documents.

3. I determined on the basis of my review of the 63 documents that the term “HRP” does not appear in any of them, nor does any of the terms in the search string containing a proximity connector. Appearances in the documents of the terms “Salaried” and “SRP” refer solely to personnel of General Motors or Chrysler, not personnel of Delphi Corporation. The term “PBGC” appears in three of the documents but the term “Pension Benefit Guaranty Corporation” does not appear in any of them. References to Delphi appear in 39 of the documents, other than the documents that are duplicates of each other. I used these references to look for material in the documents dealing with the Delphi pension plans. Material dealing with the Delphi pension plans, PBGC, or both appears in seven of the documents, Doc. Nos. 627, 763-767, and 770. Doc. No. 627 is the oldest of the seven documents, followed in chronological order by Doc. Nos. 770, 764, 763, 765, 767, and 766. Doc. Nos. 765 and 767 are duplicates of each other. The amount of material in the seven documents that deals with the Delphi pension plans, PBGC, or both totals approximately five pages because Doc. Nos. 627 and 770 deal mainly with other things and Doc. Nos. 763, 765, and 767 are brief email strings.

4. I also determined on the basis of my review of the 63 documents that no material contained in any of them states, or even suggests, that “the termination [of the Delphi Salaried

Plan] occurred as the result of politics, with Treasury having impermissibly pressured the PBGC to acquiesce in the Plan's termination as part of Treasury's political goals in restructuring the auto industry in general, and GM in particular." See No. 70, Mem. at 4. I determined further that no material in any of the 63 documents states, or even suggests, that the termination of the Delphi Salaried Plan was anything other than fully justified under 29 U.S.C. § 1342, the statutory provision governing the termination of pension plans.

5. The Court can verify my findings and conclusions by conducting its own review of any or all of the 63 documents on an *in camera*, *ex parte* basis. I have prepared two sets of materials to facilitate the Court's review of the documents. Either or both of these sets of materials will be made available to the Court upon request. The first set of materials consists of the seven documents that contain material dealing with the Delphi pension plans, PBGC, or both. The documents in this set of materials are arranged in chronological order for purposes of context. All portions of the documents that deal with anything other than the Delphi pension plans or with PBGC have been redacted to expedite the review of those portions of the documents that deal with either or both of those subjects. The second set of materials consists of a complete set of the 63 documents from which nothing has been redacted. Each appearance in any of the documents of any of the terms contained in the search string prescribed by the stipulation and order approved November 4, 2014, is highlighted, as is contextual material adjacent to each appearance of the terms. A sheet is included for each document identifying the terms in the search string as they appear in the document.

6. I declare under penalty of perjury that the foregoing is true and correct. Executed
March 16, 2018.



DAVID M. GLASS