

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
ANATOLIE STATI; GABRIEL STATI;	)	
ASCOM GROUP, S.A.; TERRA RAF	)	
TRANS TRADING LTD.,	)	
	)	
Petitioners,	)	
	)	
v.	)	Civil Action No. 14-1638 (ABJ)
	)	
REPUBLIC OF KAZAKHSTAN,	)	
	)	
Respondent.	)	
_____	)	

**ORDER**

This order memorializes specific aspects of the ruling issued by the Court during the status conference conducted by telephone on August 10, 2020.

Pending before the Court were respondent Republic of Kazakhstan’s objections to the June 24, 2020 Minute Order issued by the Magistrate Judge handling post-judgment discovery in this case. Resp.’s Objs. to Min. Order dated June 24, 2020 [Dkt. # 137]. For the reasons stated by the Court on the record at the status conference, the Court **AFFIRMED** the June 24, 2020 Minute Order. In particular, the Court upheld the Magistrate Judge’s June 24 finding that the respondent has failed to comply with her August 13, 2019 order. Respondent has failed to confer with petitioners in any meaningful way, and it refused to produce responsive documents by November 8, 2019 or by July 8, 2020 as ordered by the Magistrate Judge.<sup>1</sup>

Furthermore, in an exercise of its broad discretion to oversee discovery pursuant to Federal Rule of Civil Procedure 26, and post-judgment discovery in particular under Rule 69, and in light of the authorities set forth in the Court’s order of May 18, 2020, including *Republic of Argentina v. NML Capital, Ltd.*, 573 U.S. 134, 138 (2014), Order [Dkt. # 133], the Court established the terms and schedule for compliance with the Magistrate Judge’s Order and this Court’s Order denying the objections to that Order, and those terms will be set out in writing and clarified below.

---

1 The Court will not address respondent’s request in its objections for the Court to deny petitioner’s December 2, 2019 motion for sanctions [Dkt. # 129]. That motion deals with defiance of the Magistrate Judge’s order, and the Magistrate Judge has not decided that motion.

With respect to the disputed discovery requests, the Court has fully considered the legal limits on what can be attached in enforcing an arbitral award as well as the principles governing discovery set forth in Federal Rule of Civil Procedure 26(b)(1):

Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable.

With the principles of Rule 26 in mind, it is **FUTHER ORDERED**, in the Court's discretion, that:

- 1) Respondent must search for documents responsive to the requests identified in its own email of September 9, 2019 [Dkt. # 118-2] at 2, *i.e.*, those that were numbered as Requests 1, 5, 7, 9, 10, 12, 14, and 17 in petitioners' first requests for production of documents ("RFPs"), and re-numbered as **Requests 1, 3, 5, 7, 8, 10, 12, and 14** in petitioners' narrowed RFPs [Dkt. # 119-3],<sup>2</sup> excluding for purposes of this portion of the order only, the documents concerning ROK Instrumentalities called for by Requests 7 and 14 (formerly 9 and 17).

Respondent shall produce those responsive, non-privileged documents to petitioners by **August 31, 2020**.

A joint status report concerning compliance with this portion of the order must be submitted to the Magistrate Judge on **September 1, 2020**.

---

<sup>2</sup> In preparation for the status conference, the Court based this portion of its ruling on the numbers that respondents listed in their September 9, 2019 email [Dkt. # 118-2], and it discovered later that those numbers did not correspond to the numbering system in the narrowed set of requests that had already been transmitted to respondent by that time and is now the operative set of requests in this case [Dkt. # 119-3; *see also* Dkt. # 118-1, the redlined version]. For that reason, the numbers in the order issued during the conference are hereby clarified, and this written order, which also addresses several omissions, shall control.

- 2) With respect to the remainder of the forty RFPs that were still standing after petitioners' narrowing, *see* Dkt. # 119-3, it is **FURTHER ORDERED** that respondent must search for and produce:
- a) all non-privileged documents that are responsive to the following requests, with the definitions, threshold amounts, time periods, geographical scope, and any other matters as narrowed by the petitioners in August 2019: **Requests 2, 3, 4, 6, 11, 13, 20, 21, and 31**;
  - b) non-privileged records responsive to **Request 15**, but only those reflecting the identification of any accounts from which payments to the U.S. law firms and consultants were made, and the dates and amounts;
  - c) non-privileged documents that are responsive to **Requests 22 and 29** but only to the extent that they relate to transfers to third parties from the United States or accounts based in the United States;
  - d) non-privileged documents responsive to **Requests 25 and 26** to the extent any such debts are secured by any collateral or security within the United States or are to be paid in the United States or from a U.S. account;
  - e) non-privileged documents responsive to **Requests 27 and 28** to the extent any such debts are secured by any collateral or security within the United States or are to be paid in the United States or to a U.S. account;
  - f) non-privileged documents responsive to **Request 30**, limited to documents reflecting payments to those firms' international affiliates for work performed in the United States, or payments to those firms' international affiliates from accounts in the United States;
  - g) non-privileged documents responsive to **Request 36**, but limited to the transfer or disposal of assets within the United States; and
  - h) any documents responsive to **Requests 7 and 14** insofar as they relate to the narrowed definition of ROK Instrumentalities.

Respondent must produce these documents by **September 21, 2020**.

A joint status report concerning compliance with this portion of the order must be submitted to the Magistrate Judge on **September 22, 2020**.

- 3) The parties must meet and confer as follows:
- a) The following requests are overbroad as written, and they must therefore be the subject of an actual, good faith effort by the parties to meet and confer to limit them, as explained at the status conference: **Requests 9, 16, 17, 23, 24, 35, 37, 38, 39, and 40.**
  - b) The parties shall also meet and confer in an effort to narrow the scope of petitioners' **interrogatories**, to conform with the permissible scope of the RFPs. This will start with petitioners' transmittal to respondent of a narrowed set of interrogatories by **August 13, 2020**.

With respect to all of the matters about which the parties are ordered to **meet and confer**, they must do so by **August 19, 2020**, and they **must do so *in person, by phone, or by video conference***.

If the parties do that, and if they agree that they have come to an impasse, they may then seek assistance of the Magistrate Judge to resolve that impasse.

It is **ORDERED** that the parties must seek to resolve any dispute submitted to the Magistrate Judge by telephone or videoconference with the Magistrate Judge assigned to this matter before they may file any motion, such as a motion to compel, a motion for protective order, a motion for clarification, or a motion for sanctions, unless the parties have the express, advance permission from the Magistrate Judge to brief the issues in writing or the Magistrate Judge establishes some other procedure for discovery disputes.

Motions may not exceed five pages in length, and they must be stripped of condescension, sarcasm, and personal attacks. Furthermore, emails or letters of the parties or counsel may not be attached to the pleadings unless requested by the Magistrate Judge making the decision.

These requirements do not apply to a potential joint motion for a protective order to protect the confidentiality of information, but they do apply to any dispute over the terms of such an order.

All of these terms and conditions will apply if the case is reassigned to any other Magistrate Judge of this Court, although any Magistrate Judge assigned to the matter, may in its discretion, devise its own set of procedures.

A joint status report concerning compliance with this portion of the order requiring the parties to meet and confer must be submitted to the Magistrate Judge on **August 20, 2020**.

- 4) With respect to any requests not listed above (18, 19, 32, 33, 34) or any aspects of the requests that that have been carved out by the Court, it is hereby **ORDERED** that the question of whether the Stati parties may pursue any of the additional discovery sought in those RFPs, or the corresponding interrogatories, will be deferred until after respondent has complied with these requests and responded to the interrogatories that the parties agree, or the Magistrate Judge determines, are consistent with this ruling.

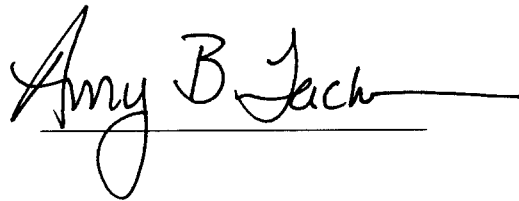
At that time, petitioners will be required to file a motion with the Magistrate Judge asking to pursue the additional discovery that specifies exactly what they request and why that information could lead to the identification of attachable assets.

If either party requires a reasonable extension of any of the deadlines set in this order, they are required to meet and confer pursuant to LCvR 7(m), and file any motion for extension, supported by good cause, with the Magistrate Judge for decision.

Furthermore, for the reasons stated at the status conference, the motion to file a surreply to the reply to the opposition to the objections to the Magistrate Judge's Minute Order [Dkt. # 143] is hereby DENIED as moot.

This matter is remanded to the Magistrate Judge for proceedings consistent with this order.

**SO ORDERED.**

A handwritten signature in black ink that reads "Amy B. Jackson". The signature is written in a cursive style with a long horizontal line extending to the right from the end of the name.

AMY BERMAN JACKSON  
United States District Judge

DATE: August 11, 2020