



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

June 7, 2018

BY ECF AND HAND

The Honorable Kimba M. Wood
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Cohen v. United States*, 18 Mag. 3161 (KMW)

Dear Judge Wood:

Pursuant to the Court's Amended Order dated May 31, 2018, Michael Cohen and the Intervenor are required to submit any objections to the Special Master's Report and Recommendations by June 11, 2018. The Government respectfully submits this letter to request that, to the extent the Court is inclined to disagree with any of the Special Master's Recommendations in this or any future Report, the Government be given an opportunity to make a written submission before the Court makes a final ruling. In connection with such a submission, the Government would seek in advance sufficient information about the documents in question in order to respond meaningfully.

The Government further notes that Cohen and the Intervenor submitted a motion yesterday requesting permission to file their objections to the Report and Recommendations wholly under seal and *ex parte*. The motion accurately stated the Government's position with respect to this request, namely, that the objections should be filed publicly, with the exception of any limited section that refers specifically to the substance of the contested documents; the Government does not object to those sections being filed at this time under seal and *ex parte*. But the Government further notes that, in support of the request for wholesale sealing and *ex parte* treatment, Cohen and the Intervenor make two errors.

First, they claim that the materials seized pursuant to search warrant on April 9, 2018 "are subject to the strictures of Rule 6(e)" of the Federal Rules of Criminal Procedure. However, because these materials were seized pursuant to search warrant, Rule 6(e) does not apply, much less provide a basis to seal the filings in their entirety. *See, e.g., D.L. Cromwell Investments, Inc. v. NASD Regulation, Inc.*, 132 F. Supp. 2d 248, 254 n. 34 (S.D.N.Y. 2001) (LAK) ("Information obtained independently of a grand jury examination does not come within the secrecy provisions of Rule 6(e) simply because it may be presented to a grand jury in the future. Accordingly, in ordinary circumstances, information obtained pursuant to a search warrant, at least prior to any

