

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

<b>DRUMMOND COMPANY, INC.,</b>	}	
	}	
<b>Plaintiff,</b>	}	
	}	
<b>v.</b>	}	<b>Case No.: 2:11-cv-3695-RDP</b>
	}	
<b>TERRENCE P. COLLINGSWORTH,</b>	}	
<b>et al.,</b>	}	
	}	
<b>Defendants.</b>	}	

**MEMORANDUM OPINION AND ORDER**

This matter is before the court on the Special Master’s Report and Recommendation Regarding Claims of Privilege Over Documents Subject to 10% Sampling Review. (Doc. # 695). No objections to the Report and Recommendation have been filed.

As a part of the recertification process, the court directed the Parties and the Special Master to employ a sampling process with regard to the remaining documents on the Defendants’ recertified privilege logs. (Doc. 628). The court instructed Drummond to select a sample of no more than ten percent (10%) of the remaining documents on the Defendants’ recertified privilege logs for the Special Master’s document-by-document review.

The Special Master performed a document-by-document in camera review of the Sampling Documents, taking into account the Orders from this court and the Eleventh Circuit, the relevant pleadings and correspondence from the Parties, and various meetings and discussions with the court and the Parties. Based upon that review, the Special Master concluded that “Defendants have appropriately and consistently implemented the Special Master’s prior Recommendations and the Court’s orders pertaining to the application of the crime-fraud exception. As such, there is no further need to review the remaining unreviewed documents on

the Defendants' recertified privilege log." (Doc. # 695).


Without objection, the Report and Recommendation of Special Master Regarding Claims of Privilege Over Documents Subject to 10% Sampling Review (Doc. # 695) is **ADOPTED** and **APPROVED**. It is **ORDERED** as follows:

1. Defendants **SHALL** produce (in full or with redactions) or withhold, as appropriate, the sampling Documents within thirty (30) days. Such production **SHALL** be made consistent with this Report and Recommendation, prior Reports and Recommendations, and the court's Orders (including the January 7, 2022 Memorandum Opinion and Order). The remaining unreviewed documents (approximately 2,800) **SHALL** be produced in a manner consistent with this Report & Recommendation, prior Reports and Recommendations, and the court's Orders (including the January 7, 2022 Memorandum Opinion and Order).

2. If Drummond has a good faith basis to disagree with the Defendants' nonproduction or partial production of specific unreviewed documents pursuant to this Report & Recommendation, Drummond may submit to the Special Master and Defendants a list of such documents to which it has such an objection (up to a maximum of 85 documents, or approximately 3% of the documents unreviewed by the Special Master). Upon submission, the Special Master may review the documents identified by Drummond to ensure that they have been treated consistently with his Recommendations and with this court's application of the crime-fraud exception. In the event material inconsistencies are found, and based on the number of such inconsistencies, the Special Master may

elect to review additional unreviewed documents.

**DONE** and **ORDERED** this March 25, 2022.

  
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**R. DAVID PROCTOR**  
UNITED STATES DISTRICT JUDGE