

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-23701-CIV-LENARD/O'SULLIVAN

ROATAN CRUISE TERMINAL, S.A. de S.V.,
a Honduran corporation,

Plaintiff,

v.

HPA, INC. n/k/a HALCROW, INC.,
a Delaware corporation,Defendant.

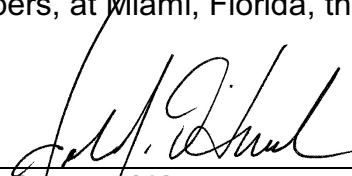
ORDER

THIS MATTER is before the Court on the Non-Party American Bridge's Motion for Protective Order or to Quash Subpoena (DE# 63, 7/7/11). Having reviewed the applicable filings and law, having held a hearing in this matter, having heard testimony in this matter, and for the reasons stated on the record, it is

ORDERED AND ADJUDGED that the Non-Party American Bridge's Motion for Protective Order or to Quash Subpoena (DE# 63, 7/7/11) is GRANTED. The work product doctrine protects from disclosure materials prepared by or for a party or for that party's attorney in anticipation of litigation. Hickman v. Taylor, 329 U.S. 495 (1947). The doctrine is codified in Fed. R. Civ. P. 26(b)(3). Rule 26(b)(3) states in part as follows: "Ordinarily, a party may not discover documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent)." Fed. R. Civ. P. 26(b)(3). Litigation need not be imminent "as long as the primary

motivating purpose behind the creation of the document was to aid in possible future litigation." United States v. Davis, 636 F.2d 1028, 1040 (5th Cir. 1981). The party invoking the work product doctrine has the burden of establishing its applicability. Stern v. O'Quinn, 253 F.R.D. 663, 674 (S.D. Fla. 2008). For the reasons stated on the record during the September 23, 2011, hearing before the undersigned, the undersigned finds that the primary motivating purpose behind the creation of the documents was to aid in possible future litigation. American Bridge has met their burden and established the applicability of the work product doctrine. The subject documents are protected and need not be disclosed.

DONE AND ORDERED, in Chambers, at Miami, Florida, this 26th day of September, 2011.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE

Copies furnished to:
United States District Judge Lenard
All Counsel of Record