

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CROWN AWARDS, INC.,

Plaintiffs,

- against -

TROPHY DEPOT, INC.;
JAMES O'BOYLE; and
HOWARD BECKER,

Defendants

15-cv-01178 (LAK) (AJP)

NOTICE OF MOTION

PLEASE TAKE NOTICE that, upon the accompanying Declarations of Jonathan Pink, Joshua Hodas, James O'Boyle and Howard Becker, including all of exhibits referenced therein, and upon the accompanying Memorandum of Law, and upon all prior proceedings, pleadings and filings in this action, Defendants will move this Court on a date to be determined by the Court, before the Honorable Lewis A. Kaplan, United States District Judge, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Courtroom 21B, New York, New York, for an Order sanctioning Crown Awards, Inc. and its attorneys, Richard Lehv and the firm Fross Zelnick Lehrman & Zissu, P.C., in an amount of not less than \$1,568,155.45, to compensate Defendants for the costs incurred and reasonable attorneys' fees generated defending this lawsuit, pursuant to 28 U.S.C. § 1927 and its inherent powers to sanction parties who abuse the judicial process or perpetrate fraud upon the court, and granting such other and further relief as is just and proper.

DATED: July 15, 2016

Respectfully submitted,

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: /s/ Jonathan S. Pink

Jonathan S. Pink (jonathan.pink@lewisbrisbois.com)
Attorneys for Trophy Depot, Inc.; James O'Boyle; and
Howard Becker

77 Water Street
New York, New York 10005
212-232-1300

633 West 5th Street
Los Angeles, California 90071
212-250-1800

To: FROSS ZELNICK LEHRMAN & ZISSU, P.C.
Attorneys for Plaintiff
866 United Nations Plaza
New York, NY 10017
(212) 813-5900

Defendants' objections to the report and recommendation of Magistrate Judge Andrew J. Peck (the "R&R"), which recommends denial of plaintiff's motion for sanctions [DI 87], are overruled and the motion is denied. The Court finds no clear error, and the recommendation is not contrary to law. In any case, the Court would deny the motion in the exercise of discretion.

This is not to condone what Judge Peck described as admissions and "clear and convincing evidence of intentional falsehoods by Crown's witnesses." R&R at 23. The United States Attorney should consider whether criminal charges are appropriate, as perjury in civil cases should not be tolerated any more than perjury before grand juries and in criminal trials.

SO ORDERED.

Dated: July 14, 2017

/s/ Lewis A. Kaplan

Lewis A. Kaplan
United States District Judge