

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

SECURITIES AND EXCHANGE,
COMMISSION,

Case No. 1:12-mc-67

Plaintiff,

Diott, C.J.

vs.

Bowman, M.J.

CHRISTOPHER SELLS and
TIMOTHY MURAWASKI,

Defendants.

ORDER

This civil action came before the Court for a telephone conference on July 31, 2012 to address Defendant Sells' pending motion for an order of contempt and for sanctions against third party Cincinnati VA Medical Center ("VA") for its failure to comply with: a document subpoena issued to the VA on April 30, 2012 ("Subpoena"), an order of this Court entered December 10, 2012 granting Sells motion to compel compliance with the Subpoena, and an order of this Court entered May 6, 2013 granting in part Sells' motion for an order of contempt and sanctions. George Allen Brandt, Laura Wilson and Ana DaMonte appeared on behalf of Defendant Sells at the conference. Despite being properly noticed, a representative for the VA did not call-in to the conference.¹

¹ The undersigned acknowledges that Dennis McGuire, counsel for the VA, did contact the Court after the conference, apologized for his absence and advised Chambers that he was traveling and inadvertently failed to call-in at the specified time due to being in a difference time zone.

The Court, having heard the arguments of counsel and reviewed the motion and papers submitted therewith, having found notice of the motion was proper, and being otherwise fully advised in the matter, hereby issues the following Order:

(1) the VA shall produce, within 20 days of entry of this order, all documents responsive to the Subpoena, including the results of the search using the terms provided by Sells counsel from the backup tapes of the earliest available restored mailboxes of the nine custodians identified by Sells' counsel.

(2) if the VA fails to produce such documents in 20 days, the VA shall permit Defendant Sells to conduct the relevant search using an independent e-discovery company at the cost of the VA.

(3) the Clerk of Court shall serve this order on counsel for the VA at the following address: Dennis McGuire, Office of General Counsel, Department of Veterans Affairs, 420 N. James Rd., Columbus, OH 43219; and

(4) the VA's failure to fully comply with the terms of this Order will result in an order of contempt, thereby requiring the VA to pay sanctions to Sells for his attorney fees and costs incurred in attempting to secure the VA's compliance with the Subpoena and Order.

IT IS SO ORDERED.

s/Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge