

**SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY**

PRESENT: HON. ARTHUR ENGORON

PART 37

Justice

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THE PEOPLE OF THE STATE OF NEW YORK, BY LETITIA
JAMES, ATTORNEY GENERAL OF THE STATE OF NEW
YORK,

INDEX NO. 451685/2020

Petitioner,

ORDER OF CONTEMPT

- v -

THE TRUMP ORGANIZATION, INC., DJT HOLDINGS, LLC,
DJT HOLDING MANAGING MEMBER, LLC, SEVEN
SPRINGS LLC, ERIC TRUMP, CHARLES MARTABANO,
MORGAN, LEWIS & BOCKIUS, LLC, SHERI DILLON,
DONALD J. TRUMP, IVANKA TRUMP, DONALD TRUMP
JR., CUSHMAN & WAKEFIELD, INC.,

Respondents.

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This Court issues the following Order in response to the July 1, 2022 letter application of petitioner, the Office of the Attorney General (“OAG”), which, in turn, responded to the motion of respondent Cushman & Wakefield, Inc. (“Cushman & Wakefield”) for a protective order, or, in the alternative, for an extension of time to comply with this Court’s prior orders.

This special proceeding, familiarity with which the Court will assume, arises out of an investigation commenced by OAG into the financial practices of respondent the Trump Organization, its employees, and its affiliates. One such affiliate is the Trump Organization’s former appraiser, respondent Cushman & Wakefield.

The pertinent facts are as follow: OAG served subpoenas on Cushman & Wakefield on September 20, 2021, and on February 16, 2022. After partially responding to the subpoenas, on March 23, 2022, Cushman & Wakefield advised OAG that it would not respond to the outstanding requests. On April 8, 2022, OAG moved to compel compliance with the outstanding requests in the subpoenas. Cushman & Wakefield cross-moved to quash the subpoenas. On April 27, 2022, this Court issued a Decision and Order granting OAG’s motion to compel and ordered Cushman and Wakefield to comply in full with the subpoenas by May 27, 2022. NYSCEF Doc. No. 761.

Cushman & Wakefield subsequently filed a notice of appeal with the Appellate Division, First Department. After initially staying this Court’s April 27, 2022 Decision and Order, on June 16, 2022, the First Department lifted the stay. On June 22, 2022, this Court issued an Order directing Cushman & Wakefield to comply with the subpoenas’ outstanding requests by June 27, 2022. NYSCEF Doc. No. 804.

On June 29, 2022, two days after the deadline for compliance, Cushman & Wakefield filed a motion, rather than an order to show cause application with a requested stay, seeking the following: pursuant to CPLR 3103, for a protective order; or, in the alternative, pursuant to CPLR 2004, for an extension of time.

In response, OAG wrote a letter application to this Court asking the Court to reject Cushman & Wakefield's motion out of hand as being procedurally and substantively defective. On July 5, 2022, Cushman & Wakefield filed a letter responding to OAG's assertions and arguing that it has done its best to comply under difficult circumstances. For the reasons stated herein, OAG's request is granted.

As an initial matter, this Court is incredulous as to why Cushman & Wakefield would wait until two days after the Court-ordered deadline had lapsed to initiate the process of asking for yet another extension. Cushman & Wakefield's failure to seek an extension in a timely matter is fatal to its motion because Cushman & Wakefield fails to identify any good cause for filing its motion after its time to comply had already lapsed.

However, even if this Court were to consider Cushman & Wakefield's motion timely, it still fails on the merits. Cushman & Wakefield moves pursuant to CPLR 3103, or, in the alternative, pursuant to CPLR 2004. CPLR 3103 is a provision outlining the procedures for moving for a protective order. However, having already moved to quash the subpoenas, and lost, before this Court, it is improper for Cushman & Wakefield to file a successive motion for a protective order seeking relief from the same subpoenas that this Court has already upheld.

CPLR 2004 permits this Court to extend the time fixed by a Court order "upon such terms as may be just and upon good cause shown, whether the application for extension is made before or after the expiration of the time is fixed." Cushman & Wakefield fails to demonstrate "good cause" for seeking this extension, as it was on notice, at least as early as April 27, 2022, that it was required to produce the documents responsive to the subject subpoenas.

"The granting of an adjournment for any purpose rests within the sound discretion of the Supreme Court." Adotey v Brit. Airways, PLC, 145 AD3d 748, 749 (2nd Dep't 2016) (upholding trial court's denial of adjournment where record demonstrated need for adjournment resulted from movant's lack of due diligence). Furthermore, "it is not an improvident exercise of discretion to deny an adjournment where the need for such a request is based on the movant's failure to exercise due diligence." Id. Cushman & Wakefield's failure to take timely steps to comply, and its failure to bring the instant motion in a timely manner, demonstrates its willful failure to abide by this Court's orders.

"If the credibility of court orders and the integrity of our judicial system are to be maintained, a litigant cannot ignore court orders with impunity." Kihl v Pfeffer, 94 NY2d 118, 123 (1999). Moreover, "[d]isobedience of a court order... warrant[s] imposition of [a] sanction." Pimental v City of New York, 246 AD2d 467, 468 (1st Dep't 1998).

This Court acknowledges that OAG's subpoenas required Cushman & Wakefield to produce an enormous number of documents. However, this Court held several months ago that Executive

Law §63(12) allows for subpoenas of this breadth. Cushman & Wakefield has only itself to blame if it chose to treat the looming deadlines cavalierly. With the statutes of limitations continuing to run, every delay prejudices OAG (and indirectly, the people of New York State).

Therefore, this Court finds that Cushman & Wakefield's willful non-compliance with Court-ordered deadlines warrants imposing sanctions to coerce compliance. Accordingly, this Court hereby finds Cushman & Wakefield, Inc. to be in contempt of Court and orders that, commencing July 7, 2022, Cushman & Wakefield, Inc. shall be fined the sum of \$10,000, to be paid to OAG, for every day that it fails fully to comply with OAG's subpoenas.



ARTHUR ENGORON, JSC

DATE: 7/5/2022

Check One:

Case Disposed

Non-Final Disposition

Check if Appropriate:

Other (Specify _____)