

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re: Case No. 9:08-bk-04360-MGW
Chapter 7
Ulrich Felix Anton Engler (Substantively Consolidated)
Private Commercial Office, Inc.,
And PCO Client Management, Inc.,

Debtors.

ORDER ON *IN CAMERA* REVIEW OF DOCUMENTS

THIS CASE came on for consideration of the Court's *in camera* review of documents withheld from production by SunTrust Bank on the basis of the SAR privilege. The Chapter 7 Trustee previously subpoenaed documents from the Bank relating to \$164 million of transfers that flowed in and out of the Debtors' accounts at the Bank during the four-year period before the petition date.¹

The Bank contended it was prohibited from responding to many of the requests under the Annunzio-Wylie Anti-Money Laundering Act.² The parties do not dispute that banks are required to file Suspicious Activity Reports with respect to certain financial transactions under the Act. Nor do they dispute that federal law also expressly prohibits banks from disclosing the existence of a SAR—even pursuant to a subpoena—to anyone other than law enforcement or a federal banking agency.

¹ Doc. No. 670-1.

² Doc. No. 670.

But having said that, the Trustee and the Bank nevertheless have been engaged in a long discovery dispute over whether the Bank is obligated to produce certain documents.³ That dispute culminated in an order requiring the Bank to produce a number of categories of documents.⁴ One of those categories was “internal investigation reports that are typically prepared by the bank in the ordinary course of business and are not solely related to any investigation or action performed by SunTrust to comply with its requirements to file a SAR.”⁵ The order expressly provided that the Bank was not required to produce any SAR document or any document that would disclose the existence of a SAR.⁶

The Court reserved jurisdiction to conduct an *in camera* review of any documents withheld from production.⁷ Ultimately, the Bank submitted documents it withheld from production to chambers for an *in camera* review. Included within the documents delivered to chambers were documents that apparently had previously been made available to the Trustee. The Court has now completed its *in camera* review and concludes, based on that review, that the Bank is not required to produce any documents reviewed in chambers other than those that had previously been made available to the

³ Doc. Nos. 614, 628, 636, 658, 670 & 682.

⁴ Doc. No. 699.

⁵ *Id.* at ¶ 6.

⁶ *Id.* at ¶ 7.

⁷ *Id.* at ¶ 10.

Trustee (provided the Trustee pays the copy costs—or the parties make some other suitable arrangement—for those documents). Accordingly, it is

ORDERED:

1. SunTrust shall not be required to produce any documents other than those previously made available to the Trustee. And the Bank is only required to produce those documents provided the Trustee pays the copying costs.

2. The Court will not award either party the attorney's fees they incurred—or otherwise impose sanctions—in connection with this discovery dispute.

DONE and ORDERED in Chambers at Tampa, Florida, on May 10, 2013



Michael G. Williamson
United States Bankruptcy Judge

Attorney Mark D. Schellhase is directed to serve a copy of this order on interested parties and file a proof of service within 3 days of entry of the order.