

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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

Plaintiff,

- v -

THE NATIONAL RIFLE ASSOCIATION OF AMERICA,  
INC., WAYNE LAPIERRE, WILSON PHILLIPS, JOHN  
FRAZER, JOSHUA POWELL,

Defendants.

INDEX NO. 451625/2020

MOTION DATE 11/02/2022

MOTION SEQ. NO. 034

**DECISION + ORDER ON  
MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 034) 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 890, 892, 893, 894

were read on this motion to REVIEW ORDER OF SPECIAL MASTER.

Upon the foregoing documents, it is

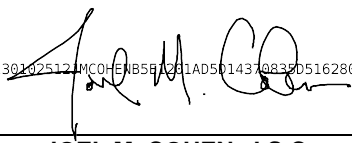
**ORDERED** that Defendant the National Rifle Association's ("NRA") motion (NYSCEF 871) pursuant to CPLR 3104(d) to review and reverse a discovery ruling by the Special Master is **DENIED**.

The Court confirmed the Special Master's previous order mandating production of the so-called Frenkel Report (NYSCEF 860). Rather than complying with the order, the NRA sought to re-litigate in front of the Special Master the question of whether the document was subject to discovery, this time raising a privilege objection that it purported to "reserve" during the prior motion practice but did not argue to the Special Master or the Court at that time. Consistent with this Court's Order, the Special Master correctly directed (again) that the document be produced. The NRA's piecemeal approach to raising objections to producing this document is inefficient

and inappropriate. *All* objections to production should have been raised and litigated in connection with the prior motion. Those that were not argued are waived. The fact that the NRA purported to reserve the right to assert additional objections at a later date does not make it so.

In any event, even if the privilege objection is considered timely, it is unavailing. The Report was, by design, shared with a third party, namely PricewaterhouseCoopers. Any privilege that otherwise might have attached to this document was waived.

This constitutes the Decision and Order of the Court.

<u>11/29/2022</u> <b>DATE</b>	 <small>20221130102512 JMC01ENB5B7C81AD501437083D0516280C308D0</small> <b>JOEL M. COHEN, J.S.C.</b>			
CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
APPLICATION:	<input type="checkbox"/>	GRANTED	<input checked="" type="checkbox"/> DENIED	<input type="checkbox"/> GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/> OTHER
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/> FIDUCIARY APPOINTMENT
				<input type="checkbox"/> REFERENCE