

EXHIBIT “28”

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Manhattan Judge, Over NRA Objection, Orders Its Former Ad Agency to Comply With Subpoena

A Manhattan judge ordered the advertising agency Ackerman McQueen to comply with a subpoena from the New York Attorney General's Office, largely ignoring a series of objections from the National Rifle Association.

By Jane Wester | February 24, 2020



A National Rifle Association logo on display at the NRA annual meeting in Dalla. Photo: Daniel Acker/Bloomberg L.P.

A Manhattan judge ordered the advertising agency Ackerman McQueen to comply with a subpoena from the New York Attorney General's Office on Monday, largely ignoring a series of objections from the National Rifle Association.

Ackerman had a contract with the gun rights advocacy group for decades, and it included a nondisclosure agreement. Lawyers in the Attorney General's Office, which has said it is investigating the NRA as part of its duty to regulate nonprofits, subpoenaed Ackerman during the summer of 2019, but the ad agency said the NDA meant it had to allow the NRA to review the disclosures in advance.

The AG's office filed a petition in September, asking New York County Supreme Court Justice Melissa Crane to compel Ackerman to comply with the subpoena.

Crane presided over a contentious hearing in October, where Sarah Rogers, a partner in the New York office of Brewer, Attorneys & Counselors representing the NRA, argued that the ad agency was routinely involved in legal communications and the subpoena could violate attorney-client privilege.

Crane nodded to that argument in Monday's order, agreeing to undertake an in-camera review of some documents prepared by legal counsel for the NRA. Otherwise, she ordered Ackerman to turn over subpoenaed documents without the NRA previewing or approving them.

"To allow not-for-profit entities, like the NRA, to shield its conduct through use of an NDA would frustrate OAG's regulatory and law enforcement duties, and its oversight of charities," Crane wrote.

New York Attorney General Letitia James praised the ruling in a statement.

"Once again, the National Rifle Association has been thwarted in its attempt to stifle and interfere with a confidential, law enforcement investigation," she said. "The court has stopped the NRA from acting as a set of virtual eyes and ears over our investigation and rejected the NRA's demand to preview information in response to a lawful subpoena. We won't allow the NRA to control or intimidate witnesses' responses to subpoenas or compromise the integrity of our investigation."

William Brewer III of Brewer, Attorneys & Counselors said in a statement that his firm is reviewing its options in response to Crane's "perplexing" opinion.

"We are pleased to see the court agree with the NRA on a critical issue: there should be protection via in camera review of certain privileged materials ... Unfortunately, the court ignores, with no evidentiary support, the true nature of the relationship between the NRA and Ackerman McQueen, and misapprehends the full protections that should be afforded to the NRA under the law," he said.

A spokesperson for McDermott Will & Emery, which is representing Ackerman, declined to comment.

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Civ Pro Professor Arthur Miller Says NRA Has Right to Review Ad Agency's Response to Subpoena

(<https://www.law.com/newyorklawjournal/2019/11/15/civ-pro-professor-arthur-miller-says-nra-has-right-to-review-ad-agencys-response-to-subpoena/>)