

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

BANK OF MONTREAL,

Plaintiff,

v.

ORDER

Civil File No. 10-591 (MJD/AJB)

AVALON CAPITAL GROUP, INC.;

et al.;

Defendants.

Christopher R. Morris and Lewis A. Remele, Jr., Bassford Remele, PA, and Jeffrey G. Close, James M. Heiser, James E. Spiotto, and Mark D. Rasmussen, Chapman and Cutler, LLP, Counsel for Plaintiff Bank of Montreal.

David M. Schiffman, James F. Bendernagel, Jr., Jennifer A. Ratner, and Meredith Jenkins Laval, Sidley Austin LLP, and Jason R. Asmus, Richard D. Anderson, and Richard G. Mark, Briggs & Morgan, PA, Counsel for Defendant Avalon Capital Group, Inc.

The above-entitled matter comes before the Court on Defendant Avalon Capital Group, Inc.'s ("Avalon") appeal of Chief Magistrate Judge Arthur J. Boylan's July 10, 2012 Order granting Plaintiff's Motion to Compel and denying Avalon's Motion to Strike and for a Protective Order. Avalon represents that it

does not appeal the July 10 Order insofar as it requires production of documents that Joseph Burke has already produced to Bank of Montreal. Rather, it solely appeals the Order to the extent that it requires Burke to produce documents that he has previously withheld as privileged. In its Response, Bank of Montreal asks that this Court affirm Chief Magistrate Judge Boylan's Order and also specifically order production of particular documents and order the parties to not raise certain objections during depositions.

This Court will reverse a magistrate judge's order on a nondispositive issue if it is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); D. Minn. L.R. 72.2(a). The Court has reviewed the submissions and the record in this case and concludes that Chief Magistrate Judge Boylan's July 10 Order is neither clearly erroneous nor contrary to law. Therefore, the July 10 Order is affirmed. The Court declines Bank of Montreal's invitation to further order Avalon and Burke to produce particular documents in conformance with the July 10 Order or to order the parties to refrain from asserting particular objections during depositions. Chief Magistrate Judge Boylan is the appropriate authority to determine if Avalon and Burke are complying with the July 10 Order and whether additional guidance in interpreting that Order is warranted.

Accordingly, based upon the files, records, and proceedings herein, **IT IS**

HEREBY ORDERED:

1. Chief United States Magistrate Judge Arthur J. Boylan's July 10, 2012 Order [Docket No. 187] is **AFFIRMED**.
2. Defendant Avalon Capital Group, Inc.'s objection to that order [Docket No. 188] is **OVERRULED**.

Dated: September 6, 2012

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court