

08-10084.oao

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA**

Case Number: 08-10084-CIV-BROWN

PETER HALMOS, INTERNATIONAL
YACHTING CHARTERS, INC., and HIGH
PLAINS CAPITAL,

Plaintiffs,

vs.

INSURANCE COMPANY OF NORTH
AMERICA and STRICKLAND MARINE
INSURANCE, INC., (f/k/a STRICKLAND
MARINE AGENCY, INC.),

Defendants.

ORDER DENYING MOTION FOR RECONSIDERATION OF D.E. 871

This matter is before this Court on defendant Insurance Company of North America's Motion for Reconsideration of D.E. 871(D.E. 980). The Court has considered the motion, the response, the reply and all pertinent materials in the file.

This motion raises more questions than it should. It seeks to have this Court reconsider it's decision that it might have to overturn a state court judge's order to allow defendant to have certain discovery denied by Special Master Klein. It totally misses the point. That entire section of the order started with the word "furthermore". The entire section dealing with the fact that disclosure pursuant to an order of the court does not waive privilege is ignored.

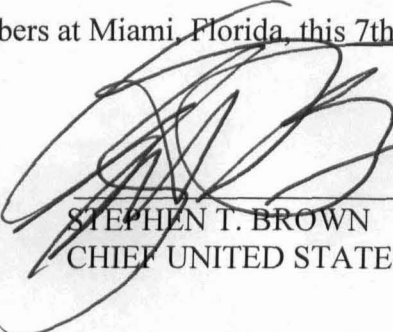
While accepting as true for the purpose of this order that this Court can act notwithstanding the state court order, and even further accepting as true that the state court order, even if enforceable,

makes exceptions in certain situations to allow discovery, those exceptions come in to play only when the materials sought are otherwise discoverable.

The order sought to be reconsidered started by noting that defendant claims a waiver of privilege because of disclosure in state court - a position rejected by this court. Nothing has changed in that regard. This court went on to say that the argument that the privilege has been waived because the matters in those documents were placed "at issue" in this case is rejected. Nothing has changed in that regard.

Even if the Court accepts every argument in this motion and considers same in favor of defendant, the ruling does not change. Therefore, and the Court being otherwise fully advised in the premises it is hereby **ORDERED AND ADJUDGED** that said motion be and the same is hereby **DENIED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 7th day of October, 2010.



STEPHEN T. BROWN
CHIEF UNITED STATES MAGISTRATE JUDGE

cc: Counsel of record