

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA

v.

STERLING BANCORP, INC.

No. 2:23-cr-20174-LVP-DRG

Hon. Linda V. Parker

NOTICE OF INTENT TO APPOINT SPECIAL MASTER

1. On May 18, 2023, defendant Sterling Bancorp, Inc. pled guilty to one count of securities fraud in violation of 15 U.S.C. §§ 78j(b) and 78ff(a) and 17 C.F.R. § 240.10b-5. As part of the Rule 11 Plea Agreement, the Defendant agreed to pay restitution in the amount of \$27,239,000 to non-insider victim-shareholders. The Defendant paid the restitution amount on August 15, 2023.

2. As part of the Plea Agreement, the parties agreed pursuant to 18 U.S.C. § 3664(d) that the Court has the authority to appoint a Special Master to determine the proper administration and disbursement of the \$27,239,000 in restitution monies the Defendant has paid in this case. Plea Agreement ¶ 22, ECF No. 12 at 25.

3. On July 21, 2023, the Court entered a Joint Restitution Order, ECF No. 15, stating that the Court will appoint a Special Master pursuant to 18 U.S.C. § 3664(d)(6). As set forth in the Joint Restitution Order, the Special Master will make findings of fact and recommendations to this Court regarding: (a) the non-insider victim-shareholders and entities who should receive restitution; and (b) the restitution amounts which these individuals and entities should receive. Joint Restitution Order ¶ 3, ECF No. 15 at 3. Further, the Special Master shall be empowered to establish, oversee, and administer a restitution fund established for the benefit of the non-insider victim-shareholders (the “Restitution Fund”). *Id.* at ¶ 4, ECF No. 15 at

4. The Defendant has recommended the appointment of Eric Schachter of A.B. Data as Special Master to oversee the Restitution Fund, and indicated that the government has no objection to the appointment. The Court has examined Mr. Schachter's background, experience, and credentials, and finds him qualified for the position.

5. Because the Federal Rules of Criminal Procedure do not have a provision regarding the appointment of special masters, this Court is guided by Federal Rule of Civil Procedure 53 which governs the same. Federal Rule of Civil Procedure 53(b)(3) provides that before being appointed, the Special Master must file an affidavit "disclosing whether there is any ground for disqualification under 28 U.S.C. § 455." Accordingly, the Court shall require Mr. Schachter to file such an affidavit here. Although the parties have informally stated their consent to the appointment of Mr. Schachter as Special Master, the Court deems it appropriate to require their consent in writing after a review of Mr. Schachter's affidavit.

6. Accordingly, **IT IS ORDERED** that Mr. Schachter file the above described affidavit on or before October 6, 2023. After Mr. Schachter discloses in a written affidavit any potential grounds for disqualification, the parties are **ORDERED** to file their consent or any objection to the appointment of him as Special Master within seven days after the filing of the affidavit.

SO ORDERED:

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: September 28, 2023