



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA,

-against-

S5 22-cr-0673 (LAK)

SAMUEL BANKMAN-FRIED,

Defendant.
----- X

ORDER

LEWIS A. KAPLAN, *District Judge.*

The defendant moves to compel the government pursuant to Rule 16 of the Federal Rules of Criminal Procedure to produce documents responsive to a subpoena attached as Exhibit A to Dkt 151-1 (the “Subpoena”) or, in the alternative, for an order under Rule 17(c)(1) of the Federal Rules of Criminal Procedure authorizing his counsel to issue the Subpoena to the law firm of Fenwick & West LLP (“Fenwick”) directing Fenwick to produce these same documents to the defense. (Dkt 150)

Substantially for the reasons set forth in the government’s opposition brief (Dkt 156), the defendant’s motion is denied. Neither Fenwick nor the FTX Debtors¹ are part of the “prosecution team,” and the government has no obligation to produce materials that are not within its possession, custody, or control. Furthermore, the defendant’s proposed subpoena, if enforced, would serve as a fishing expedition and does not meet the specificity, relevance, and admissibility requirements set forth in *United States v. Nixon*, 418 U.S. 683 (1974).

The FTX Debtors’ motion for a protective order (Dkt 163) is denied as moot. The clerk is directed to close Dkts 150 and 163.

SO ORDERED.

Dated: June 23, 2023

/s/ Lewis A. Kaplan

Lewis A. Kaplan
United States District Judge

1

The “FTX Debtors” include intervenors FTX Trading Ltd., West Realm Shires Inc., Alameda Research LLC, Alameda Research LTD and their subsidiaries and affiliates.