UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES – GENERAL

Case No. 2:20-cr-579-SVW-3; 2:20-cr-579-SVW-4 Date: April 27, 2021

Present: The Honorable: Stephen V. Wilson, U.S. District Judge

Interpreter NA

Paul M. Cruz	N/A	N/A
Deputy Clerk	*Court Reporter / Recorder*	*Assistant U.S. Attorney*

U.S.A. v. Defendant(s)	Present	Cust	Bond	Attorneys for Defendants:	Present	App	Ret
Artur Ayvazyan			X	N/A			
Tamara Dadyan			X	N/A			

Proceedings: IN CHAMBERS ORDER DENYING [149] MOTION TO SUPPRESS.

Before the Court is a joint motion to suppress filed by Defendants Artur Ayvazyan and Tamara Dadyan (collectively "Defendants"). *See* Dkt 149. Defendants move to suppress evidence seized during a search of their home executed on November 5, 2020. *See id.*

Defendants' motion is largely an incorporation of arguments made in a similar motion by defendants Richard Ayvazyan and Marietta Terabelian. *See generally id.* This is presumably because, as best the Court can discern, the warrant to search Defendants' home is a verbatim copy of the warrant to search the home of Richard Ayvazyan and Marietta Terabelian (with the exception of the properties to be searched). *Compare In the Matter of the Search of [REDACTED] Tarzana, California 91356*, 2:20-mj-05282, Dkt. 3 (warrant to search home of Ayvazyan and Terabelian) *with In the Matter of the Search of [REDACTED] Encino, California 91316*, 2:20-mj-05286, Dkt. 3 (warrant to search Defendants' home) (hereinafter "Warrant").

Today, the Court denied the motion to suppress filed by Ayvazyan and Terabelian. *See* Dkt. 296. In its order, the Court explained that the warrant was not facially invalid for overbreadth or lack of particularity. *See id.* at 25–29. The Court also noted that, even if defendants Ayvazyan and Terabelian are correct regarding the warrant's overbreadth and lack of particularity (they are not), the good faith exception applies. *See id.* at 29–38.

The Court incorporates its prior order herein by reference. *See generally id.* Defendants' instant motion is denied for the same reasons that the Court denied the motion filed by Ayvazyan and Terabelian.

I. The Warrant is Not Facially Invalid for Lack of Particularity.

For the reasons explained in the Court's prior order, the Warrant is not facially invalid for lack of particularity. *See id.* at 25–27.

II. The Warrant is Not Facially Overbroad.

As noted in the Court's prior order, *see id.* at 27–28, a warrant is overbroad if probable cause does not exist to seize the particular things named in the warrant. "Probable cause means only a 'fair probability,' not certainty, and requires consideration of the totality of the circumstances." *United States v. Hill*, 459 F.3d 966, 970 (9th Cir. 2006) (citing *Illinois v. Gates*, 462 U.S. 213, 238 (1983)).

Here, probable cause exists as to all of the challenged categories of evidence. Before explaining why, the Court will first discuss all of the facts contained in the warrant application that created probable cause to search Defendants' home.

Fraudulent Loans Linked to Defendants

According to records provided by the California Department of Motor Vehicles, the listed address of Artur Ayvazyan and Tamara Dadyan is the address that the Warrant authorized agents to search. *See In the Matter of the Search of [REDACTED] Encino, California 91316*, 2:20-mj-05286, Dkt. 1 (application for warrant to search Defendants' home) (hereinafter cited as "Warrant Application" or "Warrant App.") at 33.[1]

The Government's investigation revealed that three of the fraudulent loans obtained in the alleged conspiracy were applied for using Defendants' home address as the listed business address. *See id.* at 34. Two of the loans were applied for by Tamara Dadyan for the business Secureline Realty and Funding Inc. ("Secureline"). *Id.* Those loans were for $122,838 and $137,500. *Id.* One of the loans was applied for by Artur Ayvazyan for the business "Allstate Towing and Transport LLC" ("Allstate Towing"). *Id.* That loan was for $124,000. *Id.*

Fraudulent Loans for Secureline

The Government's investigation revealed that the loan applications for Secureline contained materially false and misleading information. For example, on the first application (to Wells Fargo), Secureline is listed as having the Employer Identification Number ("EIN") "61-2105827" and an average payroll of $49,135. *Id.* However, information provided by the IRS revealed that the EIN 61-2105827 was invalid. *Id.* at 35. Moreover,

[1] Citations are to page numbers in the upper right corner of the filing.

on the second application, Secureline listed a different EIN and average payroll: 45-3539141 and $55,105, respectively. *Id.*

A review of information provided by the California Employment Development Department ("CA EDD") revealed no records of Secureline having employees under either EIN for the period of January 2019 to October 5, 2020. *Id.* Additionally, documents attached to the applications in order to confirm the average payroll actually contradicted the average payroll. Specifically, a payroll report attached to the first application noted an average payroll of $52,075, even though the applications listed average payrolls of $49,135 and $55,105. *Id.* at 34–35.

Records provided by Wells Fargo revealed that the $122,838 wired to Dadyan's account was not used to pay employees or for any other business purpose. Instead, the PPP funds were withdrawn Dadyan on June 12, 2020, by means of an in-branch withdrawal of $120,010. *Id.* at 35. Wells Fargo bank records further revealed no legitimate business activity between January 2020 and July 31, 2020. *Id.* at 36.

Records provided by Comerica Bank showed that the $137,500 in PPP loan proceeds wired to Dadyan's account was not used to pay employees or for any other business purpose. Instead, a check for $136,000 was drawn on the account, and the check was addressed to "Tamara Dadyan or ABC Realty Advisors Inc." *Id.* at 36. The entirety of the check appeared to consist of PPP funds. *Id.* Comerica Bank records records further revealed no legitimate business activity between January 2020 and July 31, 2020. *Id.*

Finally, a fourth fraudulent loan was applied for by Dadyan's brother for the business "ABC Realty Advisors, Inc." *Id.* The loan was approved, and $117,938 was wired into a Bank of America account. *Id.* Although Dadyan's brother purportedly applied for the loan, Dadyan is the sole signatory on the Bank of America account into which the funds were deposited. *Id.*

<u>Fraudulent Loans for Allstate Towing</u>

The Government's investigation revealed that the loan applications for Allstate Towing contained materially false and misleading information. For example, on an IRS Form 941 submitted for Allstate Towing, the EIN provided is "84-2591201," and in box 16a the amount listed is $94.50 of Federal Unemployment Tax Act ("FUTA") tax liability paid for the first quarter of 2019. *Id.* at 36.

However, IRS records showed that EIN prefixes starting with "84" could have only been assigned, at the earliest, on May 13, 2019. *Id.* That date falls outside of the first quarter of 2019. *Id.* Information provided by the IRS further confirmed that the Form 941 was fraudulent, as there was no record of Allstate Towing filing the form with the IRS. *Id.* at 36–37. The IRS also had no records of Allstate Towing filing any employment tax or federal income tax returns with the IRS in 2019 or 2020. *Id.* at 37.

As another example, Allstate Towing represented on the PPP application to Cross River Bank that it employed 11 individuals. *Id.* However, information provided by the CA EDD revealed no records of Allstate Towing having any employees for the period January 2019 to October 5, 2020. *Id.*

<u>Other Evidence of Fraudulent Loans</u>

On or about October 8, 2020, agents searched through trash that was left curbside at Defendants' home. A search of the trash revealed the following:

- Mail addressed to Arsen Dadyan, the individual who purportedly applied for the fraudulent PPP loan for ABC Realty Advisors, Inc.

- Copies of a California Driver License ("CADL") for "Tony Gleb" with the number "A9554735." Records provided by the CA DMV revealed that the CADL number "A9554735" did not come back to "Tony Gleb" and the copy of the CADL appeared to be a fraudulent document.

- Copies of a social security card for "Tony Gleb."

- An unclaimed property form addressed to "Tony Gleb."

- An earnings statement from "Crystalcare Home Health, Inc." for "Tony Gleb." Records provided by the Small Business Administration ("SBA") and finance company Ready Capital revealed that CrystalCare Home Health, Inc. applied for and received PPP loan funding. The application was submitted by Arsen Dadyan and listed the same business address used for the fraudulent Secureline Realty loan application.

- A FedEx Airbill for "EM Construction" with a listed business address in Downey, California. Records provided by the SBA revealed that an SBA EIDL loan was applied for in the name of "EM Construction" by "Artem Zherdov" with the same business address listed on the FedEx Airbill. Publicly available records from the California Secretary of State did not show an "EM Construction" that listed "Artem Zherdov" as having any affiliation. In addition, information obtained from the IRS showed that EM Construction did not have a valid EIN and there is no record of EM Construction filing any employment tax or federal income tax returns with the IRS in 2019 or 2020.

Id. at 37–38. Additionally, an October 22, 2020 search of trash left curbside at Defendants' home revealed the following:

- A "Closing Disclosure" addressed to "Anton Kudiumov" that appears to show the purchase of a property in the name of "Anton Kudiumov."

- A letter from "Comerica Bank" addressed to Secureline. As noted above, Comerica Bank is one of the lenders through which Secureline fraudulently applied for a PPP loan.

Id. at 38. The Government's investigation revealed that "Anton Kudiumov" is likely another synthetic identity utilized to fraudulently apply for PPP and EIDL loans. *Id.* at 38–39. In one of the applications, a CADL bearing the name "Anton Kudiumov" was submitted with the application. *Id.* at 39. Records provided by the California DMV revealed that "Anton Kudiumov" does not have a CADL. *Id.* Rather, the DL number "D6343561" listed on the submitted CADL comes back to an "Aaron Donal Keas." *Id.* At least eight disaster loan applications were submitted in the name of "Anton Kudiumov" on behalf of four different companies. *Id.*

* * *

In light of the foregoing, probable cause existed not only to search Defendants' home but also to seize all of the challenged categories of evidence.

First, there was probable cause to seize records or items concerning the businesses identified in paragraph 1(a). The Warrant Application demonstrated that Defendants procured fraudulent loans on behalf of some of the businesses identified in paragraph 1(a). Evidence also showed that Defendants utilized aliases to procure fraudulent loans on behalf of some of the businesses identified in paragraph 1(a). Many of the fraudulent applications listed Defendants' home as the business address. Defendants' co-conspirators also fraudulently applied for loans on behalf of some of the businesses identified in paragraph 1(a). Under these circumstances, there was probable cause to search for records or items concerning the businesses identified in paragraph 1(a) because there was a fair probability those records or items were evidence of the alleged loan fraud. *See Hill*, 459 F.3d at 970.

Second, there was probable cause to seize currency in excess of $1,000. The Warrant Application explained that individuals committing financial crimes "often liquidate criminal proceeds to cash." Warrant App. at 46. The affidavit further noted that Dadyan withdrew $120,000 of fraudulently obtained PPP funds as cash. *Id.* at 35. The affidavit also explained that, at the time the warrant was issued, law enforcement had not yet located "a large portion of fraud proceeds." *Id.* at 47. Under these circumstances, there was probable cause to seize cash in excess of $1,000 because there was a "fair probability" that evidence of the scheme included large sums of cash. *See Hill*, 459 F.3d at 970.

Third, there was probable cause to seize financial records, including tax, bank, and corporate records. The gravamen of the alleged loan fraud is that Defendants submitted loan applications using fake or synthetic identities. Those applications included false information, including materially false statements regarding corporate and tax information. The loans were deposited into bank accounts whose sole signatories were either Defendants or fake identities. Given these allegations, there was probable cause to seize bank, corporate, and tax records because there was a "fair probability" that such records were evidence of the fraudulent loan applications. *See Hill*, 459 F.3d at 970.

Accordingly, the Warrant is not facially overbroad. *See United States v. SDI Future Health*, 568 F.3d 684, 702 (9th Cir. 2009) (noting warrant is facially overbroad if probable cause to seize particular things is lacking).

III. Even if the Warrant is Facially Invalid for Overbreadth or Lack of Particularity, the Good Faith Exception Applies.

For the reasons explained in the Court's prior order, *see* Dkt. 296 at 29–38, even if Defendants are correct regarding the Warrant's overbreadth or lack of particularity (they are not), the good faith exception would apply. The Warrant is not so lacking in particularity as to preclude reasonable reliance. And, for the same reasons the Court found that probable cause existed both to search Defendants' home and to seize the challenged categories of evidence, *see supra* at 2–6, the warrant is also not so facially overbroad as to preclude reasonable reliance. That finding is bolstered by the "clearest indication that the officers acted in an objectively reasonable manner": the warrant was issued by a neutral magistrate. *Messerschmidt v. Millender*, 565 U.S. 535, 539 (2012).

IV. The Government Must Return the Cash in the Pink Envelope but Not the Truck GPS Systems.

Although Defendants' motion is largely an incorporation of the motion filed by defendants Richard Ayvazyan and Marietta Terabelian, *see generally* Dkt. 149, Defendants specifically address two items that were allegedly seized without probable cause: (1) truck GPS systems, and (2) cash in a pink envelope that seemingly belongs to Defendants' daughter.

The Court finds that the truck GPS systems need not be returned because there was probable cause to seize those systems. The Warrant Application identified seven addresses that were either purchased with fraudulently obtained PPP loans or were listed as business addresses on fraudulent loan applications. *See* Warrant App. at 25–43. The truck GPS systems fall within the definition of "digital device" used in the Warrant, which was supported by probable cause. Warrant at 10. The Court finds there was probable cause to believe that the truck GPS systems contained evidence of Defendants' travel to and from the various addresses associated with the alleged conspiracy.

The Court reaches a different result, however, with respect to the cash in the pink envelope. Although there was probable cause to seize currency in excess of $1,000, it appears that the cash in the pink envelope was not related to the alleged scheme. Dadyan submitted a declaration stating that the pink envelope had her 14-year-old daughter's name written on the outside, and the envelope contained a birthday card and the daughter's cash savings from birthdays and other holidays. *See* Dkt. 150 ¶ 4. The Government does not meaningfully dispute that statement in Dadyan's declaration. Instead, the Government simply states that the pink envelope "purportedly" belongs to Defendants' daughter, without any evidence that the pink envelope does not, in fact, belong to Defendants' daughter. *See* Dkt. 207 at 18.

Under these circumstances, the Court finds that the pink envelope and cash contained in that envelope should be returned to Defendants without unnecessary delay. *See United States v. Tamura*, 694 F.2d 591, 596 (9th Cir. 1982) (noting that property seized unlawfully should be returned without "unnecessary delay").

However, for the reasons explained in the Court's prior order—*i.e.*, because the good faith exception applies—the evidence of the cash in the pink envelope will be admissible at trial and will not be suppressed. *See* Dkt. 296 at 40.

V. Conclusion.

For the foregoing reasons, Defendants' motion to suppress is DENIED, and the Government is ORDERED to return the pink envelope and cash contained in that envelope within fourteen days of this order.

IT IS SO ORDERED.

cc

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Initials of Deputy Clerk ________