UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-60170-CR-SCOLA

UNITED STATES OF AMERICA

v.

ALEXANDRA ACOSTA and
VILSAINT ST LOUIS,

Defendants.
_________________________________/

UNITED STATES' RESPONSE TO DEFENDANT'S
MOTION IN LIMINE TO EXCLUDE EVIDENCE

This Court should deny in part and grant in part the Defendant Alexandra Acosta's motion seeking to exclude evidence, ECF No. 49, as follows:

Defendant Acosta's Post-Arrest Statements

First, the Court can deny the motion as moot as to Acosta's utterances at her arrest. The United States stipulates that it will not introduce in its case in chief evidence about the Defendant's utterances at the time of her arrest as agreed to by the parties. But the United States does not agree that such evidence is inadmissible.

Paycheck Protection Program ("PPP") Evidence

Second, the Court should grant in part and deny in part the Defendant's motion as it pertains to evidence about the Paycheck Protection Program ("PPP"). The United States will not elicit or argue unfairly prejudicial evidence about the COVID-19 pandemic or argue that the Defendant is responsible for causing the PPP funds to run out for other small businesses that deserved the money.

However, the United States intends on presenting testimony from the SBA to provide a complete picture for the jury about the status of the pandemic and the SBA's reaction to the crisis, including (i) the purpose of the Paycheck Protection Program; (ii) the need for a "second round" in early 2021 because the "first round" funds ran out; and (iii) that there was not a third round once funds ran out. The program's purpose, creation, and implementation is probative of what information was available to the public—including small business owners, law enforcement officers, and the Defendant—and thus relates to the elements of knowledge an intent.

Law Enforcement Employment

Third, the Court should deny the motion as to the Defendant's and her wife's employment as law enforcement officers. The Defendant does not cite case law supporting her argument that her position as a law enforcement officer should be excluded from this trial as inflammatory or unfairly prejudicial. And Rule 403 analysis dictates the admission of the evidence.

As for the Defendant, the information is probative of her knowledge and intent—i.e., it establishes her state of mind at the time of the alleged crimes and throughout the conspiracy and provides context to her decisions. Inflame the jury? No. Support a jury finding that she intended to deceive and did not rely on her co-conspirator in good faith? Absolutely. The evidence is highly probative of the elements and only prejudicial in as much as any evidence of guilt is prejudicial to a defendant. Her position with BSO is simply who she is and who she was. Excising this fact would convert the United States's case against the person Alexandra Acosta into a prosecution against "Human X" sitting in a vacuum. Circumstances matter. And parsing out the Defendant's employment from the presentation of the case, including the BSO off-duty work policies, income, and full-time employment hours, would be incredibly confusing to a jury.

Moreover, the Defendant's wife's status as a law enforcement is relevant because the evidence at trial will show that the Defendant deliberately hid the PPP and tax case from her wife, which the jury can infer is based on the wife's position as a law enforcement officer and is probative of the Defendant's knowledge and intent.

IRS, BSO Policy, and Pool Evidence[1]

Last, the Court should deny the Defendant's motion as to the IRS, the BSO Policy, and the Pool Evidence for the reasons set forth in the United States' motion to admit evidence filed on May 11, 2024, ECF No. 38.

Notably, as to the Pool Evidence, the United States has also obtained relevant email correspondence between the pool-construction lender, Lyon Construction (not the party to civil dispute), and Acosta during the conspiracy (March 16, 2021) that includes the existence and terms of the $65,000 loan for the pool and attaches the $70,000 pool construction contract between Acosta

[1] The United States incorporates by reference the defined terms set forth in its Motion in Limine to Admit Inextricably Intertwined Evidence, ECF No. 38.

and Artistic Pools, without reference to any civil dispute. Thus, even if this Court were to conclude that evidence of the dispute as to the outstanding balance of the contract was unfairly prejudicial, the Court should still admit evidence of the existence of the loan and the total contract amount.

And, as to the IRS Evidence and the Defendant's argument that she did not spend the money to pay off the tax debt, the evidence will show that following the Defendants' joint call with the IRS on February 1, 2021, the same day they began the application for the PPP loan, the IRS kept the case open and Defendant Acosta continued to try to lower her liability even up until March 29, 2021, when she sent a letter to the IRS pushing the blame on Defendant St Louis. This led to a corrected report, signed by Defendant Acosta on April 13, 2021, that removed the penalties and finalized the amount owed to $14,038.69. Of course, Acosta had spent most of the PPP funds at this time as represented in her recent filings and she ultimately got on a monthly installment plan with the IRS.

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Conclusion

For the foregoing reasons, the United States of America respectfully submits that this Court should grant in part and deny in part the Defendant's motion as set forth herein.

Respectfully submitted,

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