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16 Attorneys for Plaintiff  
17 UNITED STATES OF AMERICA

18 UNITED STATES DISTRICT COURT

19 FOR THE CENTRAL DISTRICT OF CALIFORNIA

20 UNITED STATES OF AMERICA,

21 Plaintiff,

22 v.

23 RICHARD AYVAZYAN,  
aka "Richard Avazian" and  
24 "Iuliia Zhadko,"  
MARIETTA TERABELIAN,  
25 aka "Marietta Abelian" and  
"Viktorika Kauichko,"  
26 ARTUR AYVAZYAN,  
aka "Arthur Ayvazyan," and  
27 TAMARA DADYAN,  
MANUK GRIGORYAN,  
28 aka "Mike Grigoryan," and

No. CR 20-579(A)-SVW

GOVERNMENT'S MOTION TO REDACT  
SUPERSEDING INDICTMENT FOR USE AT  
TRIAL; DECLARATION OF SCOTT  
PAETTY; EXHIBITS

Trial Date: June 15, 2021  
Trial Time: 8:30 a.m.  
Location: Courtroom of the  
Hon. Stephen V.  
Wilson

1 "Anton Kudiumov,"  
2 ARMAN HAYRAPETYAN,  
3 EDVARD PARONYAN,  
4 aka "Edvard Paronian" and  
5 "Edward Paronyan," and  
6 VAHE DADYAN,  
7  
8 Defendants.

9 Plaintiff United States of America, by and through its counsel  
10 of record, the Acting United States Attorney for the Central District  
11 of California, Assistant United States Attorneys Scott Paetty,  
12 Catherine S. Ahn, and Brian Faerstein, and Department of Justice  
13 Trial Attorney Christopher Fenton, hereby files its Motion To Redact  
14 The Superseding Indictment For Use at Trial. The government's  
15 proposed redactions pertain to allegations that the government does  
16 not intend to prove up or submit to the jury at the upcoming trial in  
17 this matter, which is set to proceed on June 15, 2021.

18 Prior to filing this Motion, government counsel advised counsel  
19 for defendants of the government's intention to proceed at trial on a  
20 redacted indictment as described in this Motion. Counsel for  
21 defendant Marietta Terabelian, John Littrell, inquired as to the  
22 reason the government was filing a redacted trial indictment.  
23 Government counsel responded that the purpose of the redacted trial  
24 indictment is to streamline the government's case at trial. As of  
25 the date of this filing, the government has not received an objection  
26 to use of a redacted indictment at trial from any of the defendants.

27 This Motion is based upon the attached memorandum of points and  
28 authorities, the declaration of Scott Paetty and attached exhibits,  
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1 the files and records in this case, and such further evidence and  
2 argument as the Court may permit.

3 Dated: June 4, 2012

Respectfully submitted,

4 TRACY L. WILKISON  
United States Attorney

5 SCOTT M. GARRINGER  
6 Assistant United States Attorney  
7 Chief, Criminal Division

8 /s/

9 SCOTT PAETTY  
10 CATHERINE S. AHN  
11 BRIAN FAERSTEIN  
Assistant United States Attorneys  
CHRISTOPHER FENTON  
Department of Justice Trial Attorney

12 Attorneys for Plaintiff  
13 UNITED STATES OF AMERICA  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. BACKGROUND**

In submitting this motion, the government hereby seeks permission to redact from the Superseding Indictment certain allegations against RICHARD AYVAZYAN ("R. AYVAZYAN"), MARIETTA TERABELIAN, ARTUR AYVAZYAN ("A. AYVAZYAN"), TAMARA DADYAN ("T. DADYAN"), MANUK GRIGORYAN, ARMAN HAYRAPETYAN, EDVARD PARONYAN, and VAHE DADYAN ("V. DADYAN") (collectively, "defendants") that will not be essential to the presentation of the government's case-in-chief at trial, and to file a Redacted Trial Superseding Indictment for use at trial in the above-entitled matter.

In paragraph thirty-two of the Superseding Indictment, the government alleges as follows:

As part of the conspiracy, between in or around March 2020 and in or around August 2020, defendants R. AYVAZYAN, TERABELIAN, A. AYVAZYAN, T. DADYAN, GRIGORYAN, HAYRAPETYAN, PARONYAN, and V. DADYAN, together with other coconspirators, submitted and caused the submission of at least 151 fraudulent PPP and EIDL loan applications seeking a total of at least \$21.9 million in PPP and EIDL proceeds from the SBA and at least 11 financial institutions, and received a total of at least \$18 million in PPP and EIDL loan proceeds from the SBA and financial institutions.

In paragraph sixty-one of the Superseding Indictment, the government alleges as follows:

Beginning no later than in or around January 2021 and continuing until at least in or around February 2021, in Los Angeles County, within the Central District of California, and elsewhere, defendant T. DADYAN, together with others known and unknown to the Grand Jury, knowingly and with intent to defraud, attempted to execute a scheme to obtain moneys, funds, credits, assets, and other property owned by and in the custody and control of Bank 8, a federally-insured financial institution, by means of material false and fraudulent pretenses, representations, and promises, and the concealment of material facts

To streamline the presentation of the evidence at trial, the

1 government intends to redact the entirety of paragraph 32, and the  
2 allegations in paragraph sixty-one that, defendant T. DADYAN,  
3 "devised, [and] participated in" bank fraud as alleged in count  
4 thirty-three of the Superseding Indictment because the government  
5 does not intend to prove up these allegations at trial.

6 Therefore, referring to the pagination of the Superseding  
7 Indictment (ECF 154), the government's proposed redactions are as  
8 follows:

9 (1) at p. 11, lines 3 to 11 are deleted; and

10 (2) at p. 46, line 11 to 12 "devised, participated in, and" is  
11 deleted.

12 A copy of the proposed Redacted Trial Superseding Indictment,  
13 incorporating the alterations identified above with the paragraphs  
14 renumbered to incorporate the redactions, is attached to the  
15 declaration of Scott Paetty ("Paetty Decl.") as Exhibit A. A true  
16 and correct copy of the Superseding Indictment is attached to the  
17 Paetty Decl. as Exhibit B, and a redlined version of the Superseding  
18 Indictment, showing the changes resulting in the Redacted Trial  
19 Superseding Indictment, is attached to the Paetty Decl. as Exhibit C.

20 As noted, the grounds for these proposed redactions of the  
21 Superseding Indictment are that the redactions contain allegations  
22 that the government does not intend to prove up at trial and because  
23 it assists the government in streamlining the presentation of  
24 evidence at trial. Paetty Decl. ¶ 4.

25 Prior to filing this Motion, government counsel advised counsel  
26 for defendants of the government's intention to proceed at trial on a  
27 redacted indictment as described in this Motion. Counsel for  
28 defendant Marietta Terabelian, John Littrell, inquired as to the

1 reason the government was filing a redacted trial indictment.  
2 Government counsel responded that the purpose of the redacted trial  
3 indictment is to streamline the government's case at trial. That was  
4 the only response the government received regarding this Motion. As  
5 of the date of this filing, the government has not received an  
6 objection to use of a redacted Superseding Indictment at trial from  
7 any of the defendants.

8 **II. ARGUMENT**

9 It is well-settled that, where a redaction has the effect of  
10 narrowing the indictment, makes no material change in the charges and  
11 does not result in prejudice to the defendant, it is permissible. In  
12 United States v. Lorefice, 192 F.3d 647 (7th Cir. 1999), the Seventh  
13 Circuit addressed precisely the issue of the propriety of the  
14 district court's allowing the government to redact allegations from  
15 the indictment without resubmitting the matter to the grand jury, and  
16 it ruled as follows:

17 There was nothing wrong in the district court's actions.  
18 An indictment may be altered without resubmission to the  
19 grand jury as long as the alteration makes no material  
20 change and there is no prejudice to the defendant [citation  
21 omitted]. Indeed, in United States v. Miller, 471 U.S. 130  
22 (1985), the Supreme Court expressly held that to drop from  
an indictment allegations that are unnecessary to an  
offense clearly contained within it does not  
unconstitutionally amend the indictment. Id. at 144,  
overruling part of Ex parte Bain, 121 U.S. 1 (1887).

23 Lorefice, 192 F.3d at 653. Ninth Circuit authority is wholly  
24 consistent with the Seventh Circuit's ruling in Lorefice.<sup>1</sup> See  
25 \_\_\_\_\_

26 <sup>1</sup> The Seventh Circuit also correctly held in Lorefice that the  
27 district court's redaction of the indictment, based on the  
28 government's motion, was not a proper subject for exploration at  
trial, because "[e]vidence about the government's drafting decisions  
is not relevant for the jury's consideration, and it is potentially  
(footnote cont'd on next page)

1 United States v. Aguilar, 756 F.2d 1418, 1432 (9th Cir. 1985)  
2 (correction of clerical errors and "reading out" of surplusage  
3 to an indictment is permitted without resubmission to the grand  
4 jury, as long as defendant is not prejudiced thereby); United  
5 States v. Abascal 564 F.2d 821, 832 (9th Cir. 1977) (same).

6 Given that: (1) the proposed redactions to the Superseding  
7 Indictment contain allegations that the government does not  
8 intend to prove up at trial, and (2) redaction of these  
9 allegations makes no adverse material changes in the charges and  
10 does not prejudice defendants, the Court should grant the  
11 government's motion to redact the Superseding Indictment in the  
12 manner indicated for use at trial.

13 **III. CONCLUSION**

14 For all the foregoing reasons, the government hereby requests  
15 permission form the Court to redact the Superseding Indictment  
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27 confusing." Lorefice, 192 F.3d at 653. Accordingly, in the event  
28 that the Court grants the government's instant motion, it should also  
preclude defendants from introducing evidence at trial about the  
redaction itself because it is immaterial to the charges at issue  
during the trial. Id. at 652-53.

1 as set forth in Exhibit A to the Paetty Declaration and to have  
2 Exhibit A filed as the Redacted Trial Superseding Indictment in  
3 this matter.

4 Dated: June 4, 2021

Respectfully submitted,

5 TRACY L. WILKISON  
6 Acting United States Attorney

7 SCOTT M. GARRINGER  
8 Assistant United States Attorney  
9 Chief, Criminal Division

10 /s/

11 SCOTT PAETTY  
12 CATHERINE S. AHN  
13 BRIAN FAERSTEIN  
14 Assistant United States Attorneys  
15 CHRISTOPHER FENTON  
16 Department of Justice Trial Attorney

17 Attorneys for Plaintiff  
18 UNITED STATES OF AMERICA  
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DECLARATION OF SCOTT PAETTY

I, Scott Paetty, hereby state and declare:

1. I am an Assistant United States Attorney ("AUSA") in the Central District of California and, along with AUSAs Catherine Ahn and Brian Faerstein, and Department of Justice Trial Attorney Christopher Fenton, am responsible for handling the prosecution of the case of United States v. Richard Ayvazyan, et al., CR 20-579(A)-SVW. I make this declaration based upon personal knowledge and, if called upon to do so, could and would so testify.

2. A copy of the government's proposed Redacted Trial Superseding Indictment is attached to this declaration as Exhibit A. A copy of the Superseding Indictment in this case is attached to this declaration as Exhibit B. A redlined version of the Superseding Indictment, showing the changes made to the Indictment that resulted in the proposed Redacted Trial Superseding Indictment, is attached to this declaration as Exhibit C.

3. Referring to the pagination of the Superseding Indictment, the government's proposed redactions are as follows:

(1) at p. 11, lines 3 to 11 are deleted; and

(2) at p. 46, line 11 to 12 "devised, participated in, and" is deleted.

4. The grounds for these proposed redactions are that they contain allegations that the government does not intend to prove up at trial, and redaction of these allegations makes no adverse material changes in the charges and does not prejudice defendants.

5. Before filing this motion, government counsel sent an email to counsel for all defendants seeking their position regarding this motion. Counsel for defendant Marietta Terabelian, John Littrell,

1 inquired as to the reason the government was filing a redacted trial  
2 indictment. That was the only response the government received  
3 regarding this Motion. Government counsel responded that the purpose  
4 of the redacted trial indictment is to streamline the government's  
5 case at trial. As of the date of this filing, the government has not  
6 received an objection to use of a redacted indictment at trial from  
7 any of the defendants.

8 I declare under penalty of perjury that the foregoing is true and  
9 correct to the best of my knowledge. Executed at Los Angeles,  
10 California on June 4, 2021.

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13 SCOTT PAETTY  
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