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Attorneys for Defendant MARIETTA TERABELIAN

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD AYVAZYAN, MARIETTA TERABELIAN, *et al.*,

Defendants.

Case No. 20-cr-579 (SVW)

MARIETTA TERABELIAN'S SUPPLEMENTAL OPPOSITION TO GOVERNMENT'S MOTION *IN LIMINE* #4 TO ADMIT BUSINESS RECORDS UNDER FRE 902(11) REGARDING GOV.'S PROPOSED EXHIBIT 39

Hon. Stephen V. Wilson

Hearing Date: June 14, 2021
Time: 1:30 p.m.

Marietta Terabelian submits this supplemental opposition to government motion *in limine* #4 to admit business records under Federal Rule of Evidence ("Rule") 902(11). This separate filing addresses particular problems raised by the government's proposed exhibit 39. This proposed exhibit consists of documents purporting to be from Picadilly Jewelers. The government's proposed certification, the relevant portion of which is pictured below, admits that, while the out-of-court declarant represents himself to be the owner of Picadilly Jewelers and that he has "[h]ands-on experience," he also has no relevant training, or "[f]amiliarity with relevant policy/policies."

DECLARATION OF CUSTODIAN CERTIFYING BUSINESS RECORD

I, BERC CALGICIOGLU (name), hereby declare as follows:

1. I am a duly authorized custodian of records for Picadilly Jewelers (name of business entity) (the "Business Entity"). In that capacity, I am knowledgeable about the matters set forth herein and I am qualified and authorized to make this declaration.

a. My job title/position is: Owner

b. I have been employed in this capacity for 42 years (duration) and by the Business Entity for 42 years (duration).

c. My job duties are: Owner

d. I am knowledgeable about the matters set forth herein and the relevant record-keeping practices of the Business Entity based upon (check all that apply):

[ ] Training.

[ ] Familiarity with relevant policy/policies.

[X] Hands-on experience.

[ ] Supervision of one or more others with hands-on experience.

[ ] Other. Describe:

2. Attached hereto or enclosed herewith are *originals/true and correct duplicates* of a record or records of a regularly conducted activity of the Business Entity named above.

In addition, the declaration fails to identify the documents attached to the declaration that are the subject of the certification. It is unknowable from the declaration which extrinsic documents the declaration refers to as "attached." The declaration therefore fails to satisfy Rule 803(6) with respect to *any* other document, regardless of the declaration's other defects.

And the declaration does suffer from other defects. Its unchecked boxes for "training" and "familiarity with relevant policy/policies" suggest that Picadilly Jewelers actually *has no regular practice* that would satisfy Rule 803(6)(C), which casts significant doubt on the "method or circumstances of preparation" of the documents, "indicat[ing] a lack of trustworthiness." Fed. R. Evid. 803(6)(E).

On top of those concerns, proposed exhibit 39 includes the below foreign-language document (a portion of which is pictured on the next page) that has not been translated into English.

Türkiye Cumhuriyeti

Tarih: 21.12.2020
Yev.No: 1340 (A)

T.C.
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VEKALETNAME

Adıma vekaleten hareketle, ilgili Nüfus Müdürlüklerine müracaat ederek Vukuatlı Nüfus Kayıt Örnekleri almaya, bu hususta yapılması gereken tüm yasal ve özel işlemleri imzası ile takip ve ikmale, tanzim edilecek tüm evrak ve belgeleri imzalamaya, ayrıca yine adıma hareketle, Adrese Dayalı Nüfus Kayıt Sistemine göre mevcut adresimi, Türkiye Cumhuriyeti Hudutları ve/veya Yabancı Ülkeler dahilindeki dilediği adrese nakil ettirmeye, adres değişikliği beyanında bulunmaya, ikametgahımı taşımaya, Adres Kayıt Sistemi'nde (AKS) mevcut bir adresim bulunmaması halinde ilgili İl veya İlçe Nüfus Müdürlükleri'ne müracaatla adres beyanında bulunmaya, gerektiğinde adıma ikinci adres beyanı vermeye, Adres Bilgileri Formu ve Yerleşim Yeri Belgesi talep edip almaya, adres kaydımı yaptırmaya, ikametimi nakil ettirmeye, bu hususlarla ilgili istenecek evrak ve belgeleri temin etmeye, gerekli beyan izahat ve açıklamalarda bulunmaya, evrak alıp vermeye, dilekçeler sunmaya, tanzim edilecek tüm evrak ve belgeleri imzalamaya, gerekli vergi, harç ve rüsumları ödemeye, talimat vererek bilgilendirdiğim vekille aramızda vekalet sözleşmesi kurulduğundan, bilumum noterlik dairelerine müracaatla fiziki ortamda veya Türkiye Noterler Birliği Bilişim Sisteminde elektronik olarak arşivlenecek bu işlemden örnek talep etmeye, teslim almaya, imzalamaya, yetkili olmak üzere baba adı **DİMOSTEN** doğum tarihi **12.07.1979** olan **16778310968** T.C.Kimlik Numaralı **TONİ VASİL FİLMERİDİS** tarafımdan vekil tayin edildi.

VEKİL EDEN
BERÇ ÇALGICIOĞLU 33427796898
10600 TOPEKA DRIVE 91326 NORTHRIDGE / A.B.D.
İMZA

Bu Onaylama işlem altındaki imzanın gösterdiği T.C. İçişleri Bakanlığı tarafından verilmiş **06.12.2030** geçerlilik tarihli, **A29R75193** seri numaralı, fotoğraflı Türkiye Cumhuriyeti Kimlik Kartına göre, baba adı **KİRKOR**, ana adı **GÜLÜNYA**, doğum tarihi **18.08.1955** olan ve halen **10600 TOPEKA DRIVE 91326 NORTHRIDGE / A.B.D.** adresinde bulunduğunu, **okuryazar olduğunu** bildiren **33427796898** T.C. kimlik numaralı **BERÇ ÇALGICIOĞLU** isimli kişiye ait olduğunu noterlikte huzurumda alındığını, onaylarım. **Yirmibir Aralık İkibinyirmi, Pazartesi günü 21.12.2020**

MUAVİN KONSOLOS (MM)
Batuhan Başkır

For this additional reason, exhibit 39 is inadmissible under Rules 401 and 403 as irrelevant and confusing to the jury, with no probative value. It also contains an added level of hearsay unaddressed by the ostensible 902(11) certification, regardless of the certification's indeterminate scope, because the apparent name (*i.e.*, Batuhan Backir) corresponding to the signature does not match the name of the declarant for the 902(11) certification (*i.e.*, Berc Calgicioglu). (Recall from the declaration's unchecked box that the declarant supervises *no one else* with hands-on experience relevant to the business, so the certification provides no explanation of who Batuhan Backir is or what the document bearing their apparent signature is or how it relates to the rest of proposed exhibit 39.) And of course the requirements of Rule 902(3) are not satisfied, to the extent this part of proposed exhibit 39 is supposed to constitute a foreign public document.

The government's proposed exhibit 39 is not admissible.

Dated: June 12, 2021

Respectfully submitted,

/s/ Ryan V. Fraser

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Counsel for Defendant Marietta Terabelian

CERTIFICATE OF SERVICE

I declare that I am a citizen of the United States and I am a resident and employed in Los Angeles, California; that my business address is 601 W. 5th Street, Suite 720, Los Angeles, CA 90071; that I am over the age of 18 and not a party to the above-entitled action.

I am admitted to practice before the United States District Court for the Central District of California. I caused service of the foregoing document entitled "MARIETTA TERABELIAN'S SUPPLEMENTAL OPPOSITION TO GOVERNMENT'S MOTION IN LIMINE #4 TO ADMIT BUSINESS RECORDS UNDER FRE 902(11) REGARDING GOV.'S PROPOSED EXHIBIT 39" on all interested parties as follows:

[X] BY ELECTRONIC TRANSMISSION: by electronically filing the foregoing with the Clerk of the District Court using its CM/ECF System pursuant to the Electronic Case Filing provision of the United States District Court General Order and the E-Government Act of 2002, which electronically notifies all parties in this case.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 12, 2021 at Los Angeles, California.

/s/ Ryan Fraser