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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. ARTUR AYVAZYAN, aka "Arthur Ayvazyan," Defendant.	No. CR 20-579-SVW-3 GOVERNMENT'S OPPOSITION TO DEFENDANT ARTUR AYVAZYAN'S MOTION TO MODIFY CONDITIONS OF PRETRIAL RELEASE; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF CHRISTOPHER FENTON

Plaintiff United States of America, by and through its counsel of record, the Acting United States Attorney for the Central District of California, Assistant United States Attorneys Scott Paetty and Brian Faerstein, and Department of Justice Trial Attorney Christopher

Fenton, hereby submits its opposition to defendant ARTUR AYVAZYAN's motion to modify the conditions of pretrial release. (CR 117.)

The government's opposition is based on the attached memorandum of points and authorities, the attached declaration, the files and records in this case, and such additional evidence or argument as the Court may permit.

Dated: February 16, 2021

Respectfully submitted,

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/s/
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MEMORANDUM OF POINTS AND AUTHORITIES

Defendant ARTUR AYVAZYAN, his wife, brother, and sister-in-law, were all indicted for bank fraud, wire fraud and conspiracy, in connection with a scheme to fraudulently obtain millions of dollars in COVID-19-related disaster relief funds under the federal government's Paycheck Protection Program and Economic Injury Disaster Loan Program. (CR 32.) Among other things, the indictment alleges that AYVAZYAN and his co-defendants used fake, stolen, and synthetic identities, as well as stolen or fictitious business names, to submit fraudulent loan applications to financial institutions and the Small Business Administration. (Id.) In connection with the fraudulent loan applications, AYVAZYAN and his co-defendants made false statements and submitted fake documents, including fake Internal Revenue Service forms and fake California Drivers' Licenses. (Id.) The indictment further alleges that AYVAZYAYN and his co-defendants used the fraudulently obtained disaster relief funds for their own personal benefit, including to purchase a multi-million dollar luxury home. (Id.)

The government moved for detention based on the danger that the defendant poses to the community and the serious risk that he may flee. (CR 17.) While the Court denied the government's motion, it imposed strict conditions on the defendant including, among other things, home confinement, restriction of travel to this District, location monitoring, and posting of a surety bond to be secured by the full deeding of property. (CR 5.) At that time, the defendant represented that he was working as a truck driver and the Court set conditions that specifically allow him to continue doing so - the conditions allow the defendant to leave his home, with pre-approval of Pretrial Services, to seek and maintain employment. (Id.)

Only three months after the Court imposed these conditions, the defendant has asked the Court to eliminate home confinement and the travel restrictions. (CR 117.) The defendant argues that his choice of employment as a truck driver makes supervision inconvenient for himself and for Pretrial Services. The Court should deny the defendant's current motion for the following reasons:

First, the defendant fails to provide verifiable proof that he is actually working as a truck driver. He does not provide any documentation to show for whom he is working, when is working, or how he is getting paid, among other things. The lack of evidence is particularly concerning in light of the pending indictment, which alleges that the defendant's purported trucking company - Allstate Towing and Transport LLC – played a central role in the fraud. (CR 32 at 11-12, 18, 20; see also United States v. Artur Ayvazyan, et al., 2:20-mj-05321, CR 1 ("Complaint"), ¶¶ 15-27.) Specifically, the defendant lied about the trucking company's operations and submitted fake federal tax forms on behalf of the trucking company to fraudulently obtain COVID-19 disaster relief money from the government. (Id.) Given the defendant's past lies about his trucking company, the government is concerned the defendant is again lying about his trucking company in an attempt to evade supervision.

Second, the conditions do not need to be modified because they already afford the defendant a reasonable opportunity to seek and maintain employment (as a truck driver or otherwise). Indeed, based on government counsel's communications with Pretrial Services Officers Alexis Ochoa and Sandra Hege, the government understands that, in the past, when the defendant has claimed to be running late due to an unexpected delay in loading or unloading cargo, Pretrial Services has been agreeable to work with him, so long as he provides notice. (See Declaration of Christopher Fenton (attached hereto) ("Declaration"), ¶ 3.) The government further understands that, were the Court to deny the defendant's motion, Pretrial Services is agreeable to continue to work with the defendant in this respect. (Id., ¶ 4.) And, to the extent there are inconveniences, the government understands from Pretrial Services that these inconveniences can be alleviated, in part, by switching the form of electronic monitoring from voice ID to an ankle bracelet, which is now being used again in the District. (Id., ¶ 5.) There is therefore no need for the Court to modify the conditions by eliminating home confinement.[1]

Third, the conditions initially imposed by the Court are still necessary to reasonably assure the safety of the community from the danger posed by the defendant's criminal activities. Nothing has changed in the last three months. The defendant continues to pose the same serious risk of harm.[2]

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[1] The defendant also claims there are trucking jobs that would require him to travel out of the District. (CR 117.) He does not, however, argue that there are an insufficient number of trucking jobs within the District or that he needs to take out of District trucking jobs in order to earn enough money for his family. In addition, the defendant's wife - who is also a defendant in this case – is required by the conditions of her release to actively seek and maintain employment and is therefore expected to contribute to the family's income. (CR 20.)

[2] The defendant previously filed a motion asking the Court to modify the conditions to allow him to go on a luxury ski trip in Aspen for the holidays. (CR 107.) The Court denied his motion. (CR 109.)

The defendant is alleged to have used fake, stolen, and synthetic identities, as well as stolen and fictitious business names, to defraud federally-insured financial institutions and the federal government of millions of dollars earmarked for families in need as a result of the COVID-19 pandemic. (See generally Complaint, CR 32.) When the defendant's home was searched at the time of his arrest, federal law enforcement agents seized: (i) dozens of counterfeit and unauthorized access devices, namely, drivers' license numbers, Social Security numbers, and credit card numbers relating to real, fake, and synthetic identities; (ii) fake or stolen stamps bearing the name of state and federal court clerks and various notaries; and (iii) documents associated with over 20 different businesses at various addresses in and around Los Angeles, including federal tax forms, checkbooks, and bank statements. (Declaration, ¶ 6.) In addition, federal law enforcement took custody of an arsenal of 13 guns from the defendant's home. (Id., ¶ 7.) Around the same time agents searched the defendant's home, the government also applied for and obtained from this Court warrants to search six other residences in and around Los Angeles that were believed to be used as part of the scheme. (See, e.g., 2:20-MJ-05282.)

Home confinement is critical in this case because allowing the defendant to travel freely in and around the District without pre-approval would afford him easy unfettered access to a number of nearby locations that were and continue to be relevant to the fraudulent scheme, including: (i) the various addresses the defendant used to send and receive mail relating to the fake, stolen and synthetic identities and stolen and fictitious businesses; (ii) the homes of his co-defendants and other co-conspirators; and (iii) the branch locations for banks used to hold or transfer the criminal proceeds of the alleged conspiracy. The defendant's *modus operandi*, which includes using fake, stolen and synthetic identities, stolen and fictitious businesses, and fake documents, makes it more likely that the defendant can commit such crimes without immediate detection.

In addition, the defendant could readily commit further crimes if released from home confinement - the federal government continues to provide COVID-19 disaster relief funds through the programs that the defendant has already learned how to defraud. Home confinement is therefore necessary.

Fourth, home confinement and travel restrictions are still necessary to reasonably assure the defendant's appearance at trial. Both the defendant and his wife are charged with serious crimes and, if convicted, face considerable sentences of imprisonment. That fact alone provides a significant incentive to flee. The fact that the defendant and his wife have young children makes such an incentive even greater. Were the Court to eliminate home confinement and travel restrictions, the defendant could hide his family in his truck, drive them to the border, and use a fake identity and documents to cross into Mexico.

Finally, the defendant argues that home confinement is no longer necessary because he posted a surety bond. The defendant is wrong. The Court's order setting conditions does not, as the defendant suggests, provide that home confinement is only necessary up to and until a surety bond is posted. The Court imposed the conditions of home confinement and a surety bond. (CR 5.) While these two conditions serve related purposes, home confinement is necessary to reasonably assure the safety of the community and the defendant’s appearance at trial.

In conclusion, for the reasons set forth herein, home confinement and travel restrictions remain necessary to reasonably assure the safety of the community and defendant’s appearance at trial. Accordingly, the Court should deny the defendant’s motion.

DECLARATION OF CHRISTOPHER FENTON

I, CHRISTOPHER FENTON, hereby declare as follows:

1. I am a Trial Attorney at the Fraud Section within the Criminal Division of the Department of Justice. I represent the government in this matter and submit this declaration in support of the Government's Opposition to Defendant Artur Ayvazyan's Motion to Modify Conditions of Pretrial Release.

2. In connection with the defendant's motion, I spoke with United States Probation and Pretrial Services ("Pretrial Services") Officers Alexis Ochoa and Sandra Hege on Friday, February 12, 2021, to obtain more information about the defendant's ongoing supervision and conditions of release. On Monday, February 15, 2021, I exchanged emails with Officer Hege to confirm my understanding of my earlier telephone conversations.

3. Based on my communications with Pretrial Services Officers Ochoa and Hege, I understand that, in the past, when the defendant has claimed to be running late due to an unexpected delay in loading or unloading cargo, Pretrial Services has been agreeable to work with him, so long as he provides notice.

4. Based on these communications, I further understand that, were the Court to deny the defendant's motion, Pretrial Services is agreeable to continue to work with the defendant in this respect.

5. Moreover, to the extent there are inconveniences, I understand from Pretrial Services that these inconveniences can be alleviated, in part, by switching the form of electronic monitoring from voice ID to an ankle bracelet, which is now being used again in the District.

6. Based on information provided to me by case agents and made available to the defense to inspect as part of discovery, I know that during the search of the defendant's home, federal law enforcement agents seized (i) dozens of counterfeit and unauthorized access devices, namely, drivers' license numbers, Social Security numbers, and credit card numbers relating to real, fake, and synthetic identities; (ii) fake or stolen stamps bearing the name of state and federal court clerks and various notaries; and (iii) documents associated with over 20 different businesses at various addresses in and around Los Angeles, including federal tax forms, checkbooks, and bank statements.

7. Based on information provided to me by case agents, at the time of the search, federal law enforcement took custody of an arsenal of 13 guns from the defendant's home.