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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICHARD AYVAZYAN,
aka "Richard Avazian" and
"Iuliia Zhadko,"
MARIETTA TERABELIAN,
aka "Marietta Abelian" and
"Viktoria Kauichko,"
ARTUR AYVAZYAN,
aka "Arthur Ayvazyan," and
TAMARA DADYAN,
MANUK GRIGORYAN,
aka "Mike Grigoryan," and

No. CR 20-579(A)-SVW

GOVERNMENT'S RESPONSE IN
OPPOSITION TO DEFENDANT
TERABELIAN'S MOTION IN LIMINE TO
EXCLUDE CELLPHONE IMAGE (GOV'T.
EXHIBIT 16b)

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
11 District of California, Assistant United States Attorneys Scott
12 Paetty, Catherine Ahn, and Brian Faerstein, and Department of
13 Justice Trial Attorney Christopher Fenton, hereby files this
14 response in opposition to defendant Marietta Terabelian's motion in
15 limine seeking exclusion of Government Exhibit 16b (ECF 545).

16 This response is based upon the attached memorandum of points
17 and authorities, the files and records in this case, and such
18 further evidence and argument as the Court may permit.

19 Dated: June 20, 2021

Respectfully submitted,

20 TRACY L. WILKISON
21 Acting United States Attorney

22 SCOTT M. GARRINGER
23 Assistant United States Attorney
24 Chief, Criminal Division

25 /s/
26 CATHERINE AHN
27 SCOTT PAETTY
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CHRISTOPHER FENTON
Department of Justice Trial Attorney

Attorneys for Plaintiff
UNITED STATES OF AMERICA

MEMORANDUM OF POINTS AND AUTHORITIES

This Court has already held that evidence like Government Exhibit ("GEX") 16b is directly relevant under Federal Rule of Evidence ("Rule") 401. Even if it were not directly relevant, GEX 16b is inextricably intertwined and not subject to Rule 404(b). Defendant Marietta Terabelian's ("Terabelian's") contention that the government has failed to meet a Rule 404(b) burden or that GEX 16b should be otherwise excluded ignores this Court's prior rulings and defendant's motion to exclude GEX 16b should be denied.

I. GEX 16b Is Directly Relevant Under Rule 401

The image of the handwritten note at GEX 16b contains the business name "Fiber One Media." That purported business name was used by defendants to submit numerous Paycheck Protection Program ("PPP") and Economic Injury Disaster Loan ("EIDL") applications using one of the names that was both: (a) used to further the charged conspiracies; and (b) directly linked to defendant Marietta Terabelian - Viktoria Kauichko. (See GEX 3.e, 3.f, 3.g, 4.o, 4.q. (Fiber One Media PPP and EIDL applications submitted in the name of Viktoria Kauichko).)

Defendant Terabelian's argument that the age of the photograph renders it confusing and irrelevant ignores the other evidence identified in the government's trial exhibits. Photographs of still-valid credit cards and checks found in defendant Richard Ayvazyan's possession shows the same name, Susanna M., doing business as Fiber One Media - the same company whose name was used by defendants to submit PPP and EIDL

applications. (See Image 1, below (excerpts from GEX 19c) (with redactions).) Furthermore, the address identified with Susanna M. DBA Fiber One Media on the check images is the exact same address associated with Viktoria Kauichko by defendant Richard Ayvazyan in his text messages to Anthony Farrar. (See Image 2 (excerpts from GEX 37c).) Notably, defendant Richard Ayvazyan identifies that address as the address of his wife. (Id.)

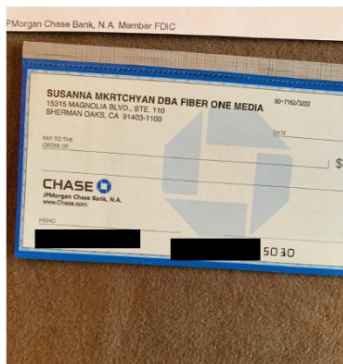
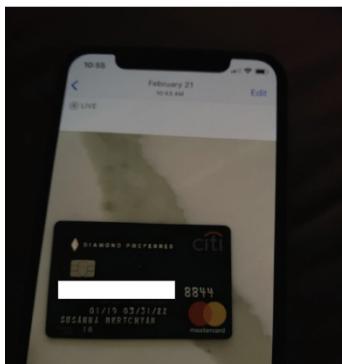
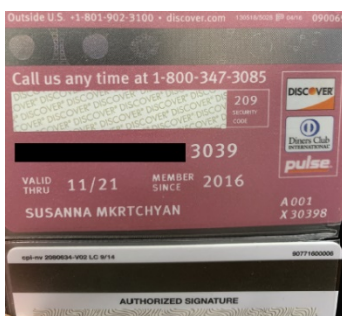


Image 1. Checks and credit cards found in Richard Ayvazyan's phone (1B85) (redacted) (GEX 19c).

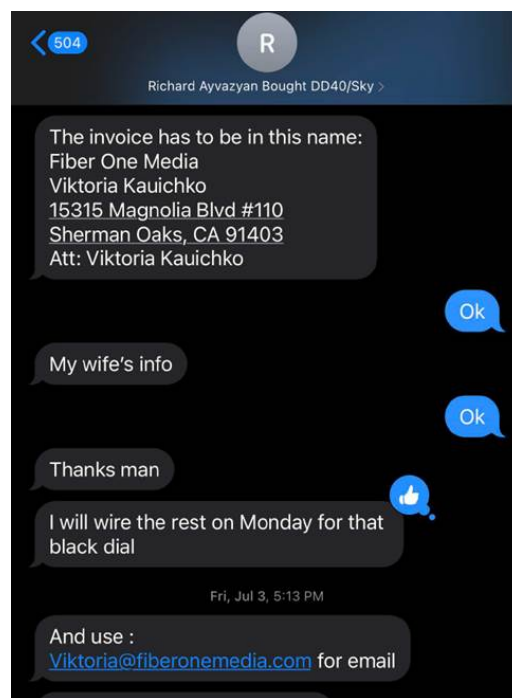


Image 2. Anthony Farrar text messages (admitted as GEX 37c.)

The handwritten note possessed by defendant Terabelian, just like the credit cards and checks possessed by defendant Richard Ayvazyan, constitutes evidence that is directly relevant to the charged offenses. Fiber One Media is part of the First Superseding Indictment, which alleges that Fiber One Media was used to launder the criminal proceeds of the bank fraud and wire fraud conspiracy. (See First Superseding Indictment, Count One,

Overt Act No. 7.) Moreover, it was further explicitly referenced in text messages found on defendant Tamara Dadyan's phone in the context of submitting PPP or EIDL applications. (See ECF 441 at 6-7 (T.D. iPhone Excerpt 9).) The handwritten note found in defendant Terabelian's phone, just like the checks and credit cards found in defendant Richard Ayvazyan's phone, are directly relevant to the government's charges alleging their knowing use of the businesses, names, and addresses used to commit the fraud and money laundering schemes and conspiracies. The existence of evidence on defendant Terabelian's iPhone showing her knowledge of and possession of the fake business name Fiber One Media in association with Susanna M., who shares the same address and company affiliation as Viktoria Kauichko, corroborates defendant Terabelian's intentional possession of the Viktoria Kauichko credit card during the Miami border stop. As such, the handwritten note, like the credit card and check images found in defendant Richard Ayvazyan's phone, is directly relevant to the crimes with which defendants, including defendant Terabelian, are charged.

II. If Not Directly Relevant, Then GEX 16x Is Inextricably Intertwined

This Court has previously held that if there was "a sufficient contextual or substantive connection" to the charged offenses, the Court will admit the evidence." Order, ECF 478 at

15 (quoting United States v. Vizcarra-Martinez, 66 F.3d 1006,
1013 (9th Cir. 1995)).¹

3 This Court has admitted evidence that provides “‘a coherent
4 and comprehensible story regarding the commission of the crime’
5 – i.e., it is highly probative of the methods and instruments
6 Defendants used to execute the conspiracy alleged in the
7 indictment.” Order, ECF 517 at 1 (quoting United States v.
8 Loftis, 843 F.3d 1173, 1178 (9th Cir. 2016).) This Court has
9 done so when the evidence commingled information for individuals
10 or businesses whose names were directly used in a Paycheck
11 Protection Program (“PPP”) and Economic Injury Disaster Loan
12 (“EIDL”) application with those that were not. (See e.g., ECF
13 506, Gov’t. Exh. 4 (previously filed under seal) at 8-9 (“EMAILS
14 FOR BORROWERS”).) This Court has also admitted evidence when
15 that evidence contained proof of the overall scheme, even though
16 the specific individual named in that evidence was not found in
17 a submitted PPP or EIDL application. (See e.g., ECF 441 at 5-6
18 (discussing handwritten instructions regarding identifiers and
19 photograph for “Nerses N” with accompanying California Driver’s
20 License found on defendant Artur Ayvazyan’s phone).) Such
21 evidence is related to the “overall scheme to obtain fraudulent
22 PPP and EIDL loans” and is therefore inextricably intertwined
23 with the charged offenses. Order, ECF 478 at 15.

26 ¹ The government hereby incorporates by reference herein the
27 evidence and arguments set forth in its Motion in Limine to
28 Admit Evidence Inextricably Intertwined with the Charged
Offenses (“MIL #2”) and supporting filings.

1 If this Court determines the evidence is not directly
2 relevant, the evidence found on defendant Terabelian's phone
3 meets the standard for the other evidence this Court previously
4 admitted as being inextricably intertwined with the charged
5 offenses for all of the reasons explained above. As such, if
6 not directly relevant, defendant Terabelian's possession of that
7 image is still directly related to, and inextricably intertwined
8 with, the charged offenses.

9 Defendant Terabelian's argument that the photograph of the
10 handwritten note lacks foundation and is confusing is similarly
11 unavailing. The foundation for this image is that it was found
12 in defendant Terabelian's possession. Whether it was created by
13 another person does not negate that fact. Defendant Terabelian
14 does not challenge that she possessed it either in her iCloud
15 account² or directly on her phone. That possession is highly
16 probative of her knowledge of and participation in the charged
17 offenses. This is particularly true given the actual content of
18 that evidence, which is her possession of another individual's
19 identifiers in conjunction with a business on whose behalf
20 numerous fraudulent PPP and EIDL loans were submitted. Given
21 the ample evidence in this case that defendants texted or
22 otherwise passed personal and business identifiers amongst each
23 other (see id.), the possibility that the photograph was taken
24 by another individual does not diminish its probative value and

25
26 ² iCloud is Apple's proprietary remote storage system. It
27 enables users to store data remotely and download them onto
28 their personal devices. Each iCloud account is tied to a
specific Apple ID.

1 in fact is strongly probative of defendant Terabelian's
2 involvement in the charged conspiracies. The photograph neither
3 lacks foundation nor is it confusing, and it should be admitted.

4 Defendant's possession of the image contained in GEX 16b
5 prior to the charged offenses also does not negate its
6 admissibility or proof of her relationship to the overall
7 scheme.³ As extensively briefed in the government's MIL #2,
8 defendants used a combination of previously held individual and
9 business identities as well as newly formed ones to commit the
10 charged fraud and money laundering schemes and conspiracies.
11 (See ECF 441 at 1-5; see also ECF 384 at 11-12 (T.D. iPhone
12 Excerpt 3, referencing use of "osbaldo" or "alak" in loan
13 applications for their higher credit score).) Whether
14 defendants reached into their supply of previously formed
15 reserve identities or formed new ones, defendants' possession of
16 and access to personal and business identifiers was critical to
17 the formation and continuation of the fraud and money laundering
18 conspiracies and schemes charged in the First Superseding
19 Indictment.

20 Notably, defendant appears to contend that a large batch
21 download of data to defendant Terabelian's phone somehow
22 demonstrates GEX 16b's lack of relevance or admissibility. But,

23
24 ³ This applies even if defendant used the information for
25 other crimes in addition to possessing it during the period of
26 the charged offenses. See United States v. Williams, 989 F.2d
27 1061, 1070 (9th Cir. 1993) (holding that intextricably
28 intertwined evidence does not become "other acts" evidence
subject to Fed. R. Evid. 404(b) "simply because the defendant is
indicted for less than all of his actions") (internal citations
and quotations omitted).

1 as previously briefed, the government seized defendant
2 Terabelian's previous phone during the Miami border stop on
3 October 19-20, 2020. In order to access her data on a new
4 phone, defendant Terabelian would have had to download the data
5 she had stored remotely back onto any new or replacement phone.
6 Either way, it does not negate the fact that defendant
7 Terabelian possessed the information during the period of the
8 charged offenses.

9 Finally, defendant's arguments that GEX 16b fails to meet
10 the notice requirements of Federal Rule of Evidence 404(b) is
11 simply not applicable. As explained above, this Court has held
12 that evidence like GEX 16b is, at a minimum, inextricably
13 intertwined with the charged offenses. As such, the
14 requirements of Rule 404(b) simply do not apply. Loftis, 843
15 F.3d at 1177 (relying on Vizcarra-Martinez, 66 F.3d at 1012).)

16 **III. Conclusion**

17 Accordingly, for the foregoing reasons, including the fact
18 that the evidence is directly relevant to the charged offenses,
19 and even if not directly relevant would be inextricably
20 intertwined for the reasons articulated in this Court's previous
21 rulings (ECF 478 at 14-15 and ECF 517 at 1), defendant
22 Terabelian's motion should be denied.