

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
BROWARD DIVISION
CASE NO. 21-60171-CR-RJS**

UNITED STATES OF AMERICA

vs.

CINDI ELLIS DENTON,

Defendant.

**GOVERNMENT'S FIRST RESPONSE TO
THE STANDING DISCOVERY ORDER**

The United States hereby files this response to the Standing Discovery Order. This response also complies with Local Rule 88.10 and Federal Rule of Criminal Procedure 16, and is numbered to correspond with Local Rule 88.10.

1. The government produced any written or recorded statements made by the defendant.
2. The government produced the portion of the written record containing the substance of any oral statement made by the defendant before or after arrest in response to interrogation by any person then known to the defendant to be a government agent.
3. The defendant did not testify before the Grand Jury.
4. The government produced documents regarding the defendant's prior criminal record.
5. For convenience, a substantial portion of the salient documents and records were provided for review in electronic form. Please be advised, however, that the attachments did ***not*** contain copies of all the books, papers, documents, etc., that the government may intend to introduce at trial.

Books, papers, documents, data, devices, photographs, tangible objects, buildings or places which the government intends to use as evidence at trial to prove its case in chief, or were obtained or belonging to the defendant, will be provided along with this response to the extent practicable but not filed with the Court. Other items, including additional items that may become available at a later date, may be

inspected at a mutually convenient time. Please call the undersigned to set up a date and time that is convenient to both parties.

The attachments produced along with this discovery response are not necessarily copies of all the books, papers, documents, etc., that the government may intend to introduce at trial.

6. Law enforcement has conducted forensic evaluations and/or data extractions in connection with electronic devices seized during this investigation. The government is otherwise unaware at this time of any physical or mental examinations or scientific tests or experiments made in connection with this case.
- B. DEMAND FOR RECIPROCAL DISCOVERY: The United States requests the disclosure and production of materials described in Local Rule 88.10(b). This request is also made pursuant to Rule 16(b) of the Federal Rules of Criminal Procedure.
- C. The government will disclose any information or material which may be favorable on the issues of guilt or punishment within the scope of Brady v. Maryland, 373 U.S. 83 (1963), and United States v. Agurs, 427 U.S. 97 (1976).
- D. The government will disclose any payments, promises of immunity, leniency, preferential treatment, or other inducements made to prospective government witnesses, within the scope of Giglio v. United States, 405 U.S. 150 (1972), or Napue v. Illinois, 360 U.S. 264 (1959).
- E. The government will disclose any prior convictions of any alleged co-conspirator, accomplice or informant who will testify for the government at trial.
- F. The defendant was not identified in a lineup, show up, photo array or similar identification proceedings.
- G. The government has advised its agents and officers involved in this case to preserve all rough notes.
- H. The government will timely advise the defendant of its intent, if any, to introduce during its case in chief proof of evidence pursuant to F.R.E. 404(b). Pursuant to Local Rule 88.10, the notice will be provided regardless of whether the evidence may be used in the case-in-chief, for impeachment or possible rebuttal, and will include the general nature of the evidence. You are hereby on notice that all evidence made available to you for inspection, as well as all statements disclosed herein or in any future discovery letter, may be offered in the trial of this cause, under F.R.E. 404(b) or otherwise (including the inextricably-intertwined doctrine).
- I. The defendant is not an aggrieved person, as defined in Title 18, United States Code, Section 2510(11), of any relevant electronic surveillance that was authorized

pursuant to 18 U.S.C. §2516 and 18 U.S.C §2518 and that has been unsealed in accordance with 18 U.S.C §2518.

- J. The government will order transcribed the Grand Jury testimony of all witnesses who will testify for the government at the trial of this case.
- K. No narcotics are involved in this indictment.
- L. The government is unaware at this time whether any automobile, vessel, or aircraft allegedly used in the commission of this offense is in the government's possession.
- M. The government is not aware of any latent fingerprints or palm prints which have been identified by a government expert as those of the defendant.
- N. The government will make every possible effort in good faith to stipulate to all facts or points of law the truth and existence of which is not contested and the early resolution of which will expedite trial. These stipulations will be discussed at the discovery conference.

Take note that the government intends to offer banking, corporate and other records in its case-in-chief pursuant to Fed. R. Evid. 902(11), and will provide certifications for those records consistent with Fed. R. Evid. 803(6)(A)-(C). If counsel challenges the certifications, please contact the undersigned to discuss the possibility of resolving the issue without need for court intervention.

- O. To date, the government has not received a request for disclosure of the subject-matter of expert testimony that the government reasonably expects to offer at trial. Please note, however, that at trial the government may offer testimony summarizing bank records, tracing funds between accounts and individuals, and describing the details of certain financial transactions. The government does not believe this constitutes expert opinion testimony within the meaning of Fed. R. Evid. 702, 703 or 705. *See United States v. Hamacker*, 455 F.3d 1316, 1330-32 (11th Cir. 2006) (rejecting defendant's argument that a testifying financial analyst was an expert, or that the witness offered expert opinions, when the witness merely compared and summarized records). If defense counsel disagrees with the government's assessment, then counsel should contact the undersigned in an effort to resolve the issue, if possible, without court intervention.

Having made this disclosure, the government hereby demands a written summary of expert testimony that the defense reasonably expects to offer at trial pursuant to Rules 702, 703 or 705 of the Federal Rules of Evidence, describing the witnesses' opinions, the bases and the reasons for those opinions, and the witnesses' qualifications.

The government is aware of its continuing duty to disclose such newly discovered additional information required by the Standing Discovery Order, Federal Rule of Criminal

Procedure 16(c), Brady, Giglio, Napue, and the obligation to assure a fair trial.

In addition to the request made above by the United States pursuant to both Local Rule 88.10(b) and Federal Rule of Criminal Procedure 16(b), in accordance with Federal Rule of Criminal Procedure 12.1, the United States hereby demands Notice of Alibi defense; the approximate dates and places of the offenses are set forth in the indictment.

On April 12, 2021, the United States produced PDFs to counsel for the Defendant via email. That discovery included text messages and emails between the Defendant and co-conspirators, a recorded call of the Defendant, bank records, business documents and PPP application materials. On May 26, 2021, the United States produced via CD additional discovery that included extraction reports of co-conspirators' cellular telephones, additional bank records, phone records, email account records, messages, and other documents. On June 7, 2021, the United States produced via CD additional discovery that included one additional extraction of a co-conspirator's cellular telephone.

This matter involved numerous additional electronic devices that were obtained as part of this investigation and involved numerous other individuals, many, if not most, of whom had little relation to the defendants, and because the documents related to such individuals are voluminous, the government will make available such records upon request. All discovery is being produced subject to this Court's anticipated Protective Order Regulating Disclosure. Please contact the undersigned Assistant United States Attorney if any portions are missing or if there are any issues accessing the discovery.

Respectfully Submitted,

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