IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No. 1:24-cr-00212-DDD

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. JOSHUA LYBOLT, and
2. MAGDALENA LYBOLT,

Defendants.

FOURTH JOINT UNOPPOSED MOTION FOR AN ENDS OF JUSTICE CONTINUANCE OF TRIAL AND RELATED DATES

Defendants Joshua Lybolt, by and through counsel, Todd A. Spodek of the Spodek Law Group, and Magdalena Lybolt, by and through counsel, Richard K. Kornfeld of Recht Kornfeld, P.C., respectfully move this Court for an Order, pursuant to Title 18 U.S.C. § 3161(h)(1) and (7)(A) for a 90 day ends of justice continuance of this matter. In support of said Motion, Defendants state as follows:

1. Magdalena Lybolt is charged in a felony indictment dated June 27, 2024, charging her with Wire Fraud and Aiding and Abetting, in violation of 18 U.S.C. §§ 1343, 2(a). Ms. Lybolt is out of custody on an unsecured bond. Joshua Lybolt is charged in the indictment with five counts of Wire Fraud and Aiding and Abetting, in violation of 18 U.S.C. §§ 1343, 2(a), and eight counts of Money Laundering, in violation of 18 U.S.C. § 1957. Mr. Lybolt also is on bond.

2. Mr. Spodek and the Government are currently engaged in the final stages of plea negotiations and anticipate resolving this case outside of trial. This continuance will allow them to continue in good faith and avoid unnecessary motion practice. Because the defendants are married

with young children, these negotiations directly impact Ms. Lybolt and her ongoing negotiations with the government, which are directly related to the negotiations involving her husband. A resolution of the case against Mr. Lybolt will likely also resolve the case as to Mrs. Lybolt.

3. Further, Mrs. Lybolt was hospitalized on October 16, 2025 and currently is on a mental health hold. Undersigned counsel for Mrs. Lybolt has been unable to contact her to obtain more information, or to further discuss any potential pretrial motions. This case is complicated by Mrs. Lybolt's unavailability, her health status, and the negotiations between the government and her husband. Undersigned counsel also has very real concerns regarding Mrs. Lybolt's current ability to participate in, and assist with, her defense.

4. The Defendants filed a Joint Unopposed Motion for an Ends of Justice Continuance of Trial and Related Dates on September 12, 2024 (ECF no. 39), which was granted by this Court (ECF no. 41). The Defendants filed a second Joint Unopposed Motion for an Ends of Justice Continuance of Trial and Related Dates on March 4, 2025 (ECF no. 55), which was granted by this Court (ECF no. 56). The Defendants filed a third Joint Unopposed Motion for an Ends of Justice Continuance of Trial and Related Dates on July 9, 2025 (ECF no. 61), which was granted by this Court (ECF no. 63). This case is presently set for a seven-day jury trial to commence on December 1, 2025, with a trial preparation conference on November 18, 2025.

5. Defendants further request that the deadlines for the filing of pretrial motions, disclosure of experts, and other temporal requirements also be continued for the reasons stated above.

6. Undersigned counsel and counsel for the government will communicate about these issues, and it is possible that a pretrial disposition will be agreed upon. However, meaningful final

disposition discussions cannot be fully realized until defense counsel has properly conferred with both defendants, one of whom is currently unavailable.

7. Undersigned counsel conferred with Assistant United States Attorney Craig Fansler, who indicated that the government is not opposed to this motion. Defendants also concur with the request made herein.

8. Consistent with the guidance provided in United States v. Toombs, 574 F.3d 1262 (10th Cir. 2009), the factors that support the requested continuance pursuant to Title 18 U.S.C. § 3161(h)(1) and (7)(A) are:

a) Whether a failure to grant the continuance would result in a miscarriage of justice, *See* 18 U.S.C. § 3161(h)(7)(B)(I). The defense believes a miscarriage of justice would occur if the Defendants are forced to proceed to trial under the current time limitations without adequate time to properly review all of the discovery materials in this matter, and without the time to conduct further investigation.

b) Whether a failure to grant the continuance would deny counsel for the Defendant reasonable time necessary for effective preparation, taking into account the exercise of due diligence, *See* 18 U.S.C. § 3161(h)(1)(A). Failure to grant a continuance in this case would unreasonably deny undersigned counsel the reasonable time necessary to both effectively advise Defendants as to their options, undersigned counsel's best professional advice regarding the best course of action, and, if necessary, effectively prepare for trial. As stated earlier, the need for expert witnesses in this case has a direct bearing on the way in which undersigned counsel will advise the Defendants.

13. It is in the interests of justice to grant this Motion. No party will be prejudiced by the relief requested herein.

WHEREFORE, Defendants Joshua Lybolt and Magdalena Lybolt respectfully move this Court for an Order granting a 90 day ends of justice continuance of this matter, and modifying the Trial Preparation Conference, Jury Trial dates and attendant pretrial deadlines accordingly.

Respectfully submitted this 21st day of October, 2025

RECHT KORNFELD, P.C.

s/ Richard K. Kornfeld
Richard K. Kornfeld
Attorney for Defendant Magdalena Lybolt
1600 Stout Street, Suite 1400
Denver, Colorado 80202
(303) 573-1900
Fax: (303) 446-9400
rick@rklawpc.com

SPODEK LAW GROUP

s/ Todd A. Spodek
Todd A. Spodek
Attorney for Defendant Joshua Lybolt
233 Broadway, Suite 710
New York, NY 10279
Phone: (212) 300-5196
Fax: (212) 300-6371
ts@spodeklawgroup.com

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of October, 2025, I electronically filed the foregoing **Fourth Joint Unopposed Motion for an Ends of Justice Continuance of Trial and Related Deadlines** with the Clerk of Court using the CM/ECF system which will send notification of such filing to all listed parties.

s/ Erin Mohr