

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 23-60173-CR-KMW(s) (GRAHAM)

UNITED STATES OF AMERICA

vs.

**CAROLYN DENISE WADE and
TRACY D. WADE,**

Defendants.

**UNITED STATES' RESPONSE TO DEFENDANT TRACY D. WADE'S
OBJECTIONS TO THE PRESENTENCE INVESTIGATION REPORT**

Introduction

The United States of America, by and through its undersigned counsel, hereby responds to the objections to the Presentence Investigation Report ("PSR") as to Defendant Tracy D. Wade ("Defendant"). The U.S. Probation Office disclosed the PSR to the parties via CM/ECF on December 18, 2024 (DE 210). Defendant filed his objections to the PSR on January 10, 2025 (DE 215) (the "Objections" or "Obj.").

Responses

Offense Conduct

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial all of the facts set forth in the Offense Conduct section of the PSR (¶¶ 7-50).¹ Accordingly, the Court should overrule Defendant's objection to "the paragraphs in the Offense Conduct Section of the

¹ The United States summarized the record evidence in its response in opposition to Defendants' post-verdict motion for judgment of acquittal, filed on November 20, 2024, and respectfully refers the Court to this summary. See DE 207 at 4-11.

PSIR that assert [sic] he agreed with Haydee Rivero to defraud the United States, and any paragraph that asserts that Haydee Rivero committed fraudulent acts at Mr. Wade's direction."

Obj. at 1-2.

Paragraphs 25

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial the facts set forth in paragraph 25 of the PSR, including that Defendant agreed with Haydee Rivero and others to obtain Paycheck Protection Program (PPP) loans from the SBA based on materially false and fraudulent information. Accordingly, the Court should overrule Defendant's objection to paragraph 25 of the PSR.

Paragraph 26

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial the facts set forth in paragraph 26 of the PSR, including that Defendant agreed with Haydee Rivero and others to knowingly and with the intent to defraud devise a scheme and artifice to defraud to obtain money and property by means of false pretenses, representations or promises, and that such money and property was the proceeds of such PPP loans. Accordingly, the Court should overrule Defendant's objection to paragraph 26 of the PSR.

Paragraph 27

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial the facts set forth in paragraph 27 of the PSR, including that Haydee Rivero, at the direction and with

the knowledge of her co-conspirators, including Defendant, created false and fictitious IRS Schedule C forms for PPP loan applications. Accordingly, the Court should overrule Defendant's objection to paragraph 27 of the PSR.

Paragraph 31

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial the facts set forth in paragraph 31 of the PSR, including that Haydee Rivero, acting at the direction and with the knowledge of Defendant, uploaded to Womply's website a copy of a false and fictitious IRS Schedule C. Accordingly, the Court should overrule Defendant's objection to paragraph 31 of the PSR.

Paragraph 37

Paragraph 37 of the PSR accurately reflects Defendant's testimony on May 17, 2024, during the first trial of Carolyn Wade. *See* DE 106 (Transcript) at 14:17 through 15:4. Accordingly, the Court should overrule Defendant's objection to paragraph 37 of the PSR.

Paragraph 39

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial the facts set forth in paragraph 39 of the PSR, including that Haydee Rivero, acting at the direction and with the knowledge of Defendant, created a false and fictitious IRS Schedule C for the tax year 2019. Accordingly, the Court should overrule Defendant's objection to paragraph 39 of the PSR.

Paragraph 46

Paragraph 46 of the PSR accurately reflects the facts established through the trial testimony of Haydee Rivero regarding the names of individuals who received PPP loans based on a fake Schedule C from created by Ms. Rivero. Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the jury credited Ms. Rivero's testimony. Accordingly, the Court should overrule Defendant's objection to paragraph 46 of the PSR.

Paragraph 51

Based upon the evidence in the record and the jury's verdict of guilty on all counts with which Defendant was charged in the superseding indictment, the United States proved at trial the facts set forth in paragraph 51 of the PSR, including that Defendant knowingly and willfully conspired with Haydee Rivero to engage in unlawful conduct. Accordingly, the Court should overrule Defendant's objection to paragraph 51 of the PSR.

Paragraphs 130-140

As set forth in paragraph 131 of the PSR, Guidelines Manual § 1B1.4 provides the following:

In determining the sentence to impose within the guideline range, or whether a departure from the guidelines is warranted, the court may consider, without limitation, any information concerning the background, character and conduct of the defendant, unless otherwise prohibited by law. *See* 18 U.S.C. § 3661.

The facts set forth in paragraphs 130 through 140 of the PSR provide information concerning the background, character, and conduct of Defendant that the court may consider in determining the sentence to impose within the guideline range, or whether a departure from the guidelines is warranted. Furthermore, the Objections do not dispute or otherwise challenge the factual

accuracy of any of the information set forth in paragraphs 130 through 140. Accordingly, the Court should overrule Defendant's objections to paragraphs 130 through 140.

Conclusion

The United States respectfully requests that the Court overrule Defendant's objections to the PSR as set forth above. The United States will address the sentencing factors under Title 18, United States Code, Section 3553(a) and make a sentencing recommendation as to Defendant in a sentencing memorandum to be filed with the Court.

Respectfully submitted,

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