

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-60173-CR-WILLIAMS (GRAHAM)

UNITED STATES OF AMERICA, :

Plaintiff, :

vs. :

CAROLYN DENISE WADE and
TRACY D. WADE,

Defendants :

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**DEFENDANTS MEMORANDUM OF LAW IN SUPPORT OF ADMITTING
WOMPLY FILES PRODUCED PURSUANT TO GOVERNMENT
SUBPOENA.**

The Defendants, **Carolyn Denise Wade and Tracy D. Wade**, files this memorandum of law in support of admitting files produced by Oto Analytics, Inc dba Womply pursuant to a government subpoena issued on March 7, 2024.

Background

During the trial, testimony has been elicited from cooperating co-conspirator, Haydee Rivero f.k.a. Haydee Granados, that she either obtained or attempted to obtain Paycheck Protection Program (PPP) loans for individuals other than Defendant Carolyn Wade, Tracy Wade and herself. In March of 2024, the government subpoenaed Oto Analytics, Inc. dba Womply (hereinafter Womply) for any records in

their possession related to the PPP loan application loan for Carolyn Wade. Among the records specifically requested by the government were PPP applications with the same IP addresses as Carolyn Wade's PPP loan application.

In response to the subpoena, Womply produced twenty-one (21) PPP loan application files that contained documents that were uploaded from an IP address belonging to Haydee Granados. The government disclosed these files to the defense as part of their discovery and/or *Brady* obligations.

During the trial, the cooperating coconspirator Haydee Rivero admitted to attempting to obtain a PPP loan for almost every individual whose name appears on the files produced by Womply. In four instances, Ms. Grandos testified she did not remember anything about a particular individual whose name appears on the file submitted by Womply. In other instances, Ms. Rivero's testimony about what actions she took on a particular individual's PPP application is inconsistent with the documents that appear in the file produced by Womply.

The defense has attempted to introduce certain files produced by Womply as evidence to impeach Ms. Granados. The Court has sustained the government objection to the introduction of the files because the files fail to satisfy the requirements to be admitted under the business records hearsay exception to the hearsay rule. *See* Fed. R. Evid. 803(6)

The defense has called one witness, Walter Wright, whose testimony is at odds with Ms. Granados testimony as to what actions she undertook with respect to Mr. Wright's PPP loan. Specifically, Ms. Rivero denied preparing an IRS Schedule C tax

form for Mr. Wright's PPP loan application. However, a fraudulent IRS schedule C form is contained in Mr. Wright's PPP application file produced by Womply.

The defense intends to call a second witness, Edison Rogers. Womply produced a PPP loan application file bearing the name of Edison Rogers. Haydee Granados has testified that she has no recollection of who Mr. Rogers is or what she did with respect to his PPP loan application. Documents contained in the file produced by Womply contain photographs of Mr. Womply which appear to have been taken at Ms. Rivero's residence and a fake Schedule C form.

Argument for Admission of the Womply Files

The Womply files should be admitted over a hearsay objection or objection that the documents fail to satisfy the business records exception to the hearsay rule. The Womply documents are not being offered for the truth of the matters asserted the documents. The Womply files are relevant simply because they exist. Whether the contents of the documents are true or not is irrelevant.

Indeed, the government and the defense do not dispute the fact that IRS Schedule C forms filed with the PPP applications and the PPP applications prepared by Haydee Granados contain false information. The fake IRS Schedule C forms are relevant because they were filed. The defense seeks to introduce the contents of the Womply files to impeach Ms. Granados or to show that she filed fake IRs Schedule C forms without the knowledge of the person whose name appears on the application.

Having shown that the Womply files are admissible for a non-hearsay purpose, the only other possible reason for exclusion of the Womply files is that they are not

properly authenticated. However, the defense contends that under Federal Rule of Evidence 901(a) and 901(b)(4), the defense has produce evidence sufficient to support a finding that the Womply records are what the defense says they are. The appearance, the contents, substance, internal patterns of the Womply files taken with all the other circumstances of the case are sufficient to support a finding that the Womply files are what the defense claimed them to be.

Based on foregoing facts and arguments, the defense respectfully requests that the Court admit the files produced by Womply pursuant to the government subpoena.

Respectfully submitted,

/s/ Daryl E. Wilcox.____

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing pleading was electronically filed with the Clerk of the Court via CM/ECF. I also certify that the foregoing pleading was served electronically on this date on all counsel of record via Notice of Electronic Filing generated by CM/ECF on October 21, 2024.