

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

CASE NO. 23-60173-CR-WILLIAMS

UNITED STATES OF AMERICA

Plaintiff,

v.

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

Defendant,

**DEFENDANT TRACY WADE'S OBJECTIONS TO THE
PRESENTENCE INVESTIGATION REPORT**

Defendant, Tracy Wade, through undersigned counsel, respectfully files his Objections to the Presentence Investigation Report (PSIR) dated November 20, 2023. (DE 208). In support thereof, Mr. Wade states:

Offense Conduct

A jury found Mr. Wade guilty of conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349; two counts of wire fraud, in violation of 18 U.S.C. § 1343; a general conspiracy in violation of 18 U.S.C. § 371; and three counts of false statements to the Small Business Association (SBA), in violation of 15 U.S.C. 645(a). Mr. Wade accepts responsibility for being negligent in not reading the PPP loan documents. *See* PSIR ¶ 56

However, Mr. Wade humbly submits that he never specially intended to defraud the United States or the Small Business Association. Accordingly, Mr. Wade objects to the paragraphs in the Offense Conduct Section of the PSIR that asserts 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.

Paragraph 25: Mr. Wade denies that he agreed with Haydee Rivero or any other person to obtain Paycheck Protection Program (PPP) loans from the SBA based on materially false or fraudulent information,

Paragraph 26: Mr. Wade denies that he agreed with Haydee Rivero or any other person to knowingly and with intent to defraud devise a scheme and artifice to defraud to obtain money and property by means of materially false pretenses, representations or promises. Furthermore, Mr. Wade submits that he received no property from the offenses of which he was found guilty.

Paragraph 27: Mr. Wade denies directing Haydee Rivero or any other person to create and prepare fictitious Internal Revenue Service (IRS) Schedule C forms for a PPP loan application.

Paragraph 39: Mr. Wade denies directing Haydee Rivero to create a false and fictitious IRS Schedule C for the tax year 2019.

Paragraph 31: Mr. Wade denies directing Haydee Rivero to upload a false IRS schedule C form into the Womply website

Paragraph 37: Mr. Wade does not deny that he testified on May 17, 2024, in the first trial of Carolyn Wade, that he received two loans. However, Mr. Wade submits that it was not his intent to mislead the jury. He simply was mistaken.

Paragraph 46: The PSIR names six other individuals who received loans based on false IRS schedule C forms created by Haydee Rivero. The list is incomplete. At

trial, two defense witnesses, Mr. Wright and Mr. Perez, testified to receiving PPP loans based upon false IRS Schedule C forms created by Haydee Rivero.

Paragraph 51: The PSIR states that Carolyn Wade and Tracy Wade conspired with Haydee Rivero to unlawfully apply for and obtain two PPP loans, each in the amount of \$20,833. Mr. Wade denies that he knowingly and willfully conspired with Haydee Rivero to engage in any unlawful conduct.

Factors That May Warrant a Departure and/or Variance

Paragraphs 130-139: Mr. Wade objects to the inclusion of facts relating to the Economic Injury Disaster Loan (EIDL) he received from the SBA on August 27, 2020. The EIDL loan was not charged or referenced in the indictment, nor was any evidence relating to the EIDL loan admitted in the trial. Additionally, Mr. Wade submits he committed no illegal acts which caused SBA to authorize the loan. Mr. Wade further objects to the Probation Officer's suggestion that the facts relating to the EIDL loan may be considered by the Court as an upward departure pursuant to USSG § 5K2.21.

Paragraph 140: Mr. Wade objects to the inclusion of facts relating to him being conditionally approved by SBA for a PPP loan in the amount of \$701,873. Mr. Wade submits that he did not seek a loan in the amount of \$701,873 and believes that Haydee Rivero's husband attempted to obtain this loan without his knowledge. Mr. Wade further objects to the Probation Officer's suggestion that the facts relating to the conditionally approved PPP loan may be considered by the Court as an upward departure pursuant to USSG § 5K2.21.

Conclusion

Based upon the foregoing, Mr. Wade respectfully requests that the Court sustain his objections to the Presentence Investigation Report, direct the United States to make the necessary corrections and to impose a sentence consistent with his objections.

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 January 10, 2025.

Respectfully submitted,

/s/ Daryl E. Wilcox._____

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/s/ Johnny L. McCray, Jr._____

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