UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	**CASE NO: 4:22-CR-084**
	)	
BERNARD OKOJIE	)	

GOVERNMENT'S NOTICE OF ITS INTENT TO INTRODUCE EVIDENCE OF UNCHARGED SBA LOANS AND MONEY LAUNDERING AND RELATED INFORMATION

The United States gives notice of its intent to introduce evidence of uncharged Economic Injury Disaster Loans (EIDL) and Paycheck Protection Program (PPP) Loans relating to Defendant, and evidence relating to such EIDLs and PPPs, along with evidence of efforts to launder money outside of the scope of the money laundering conspiracy, at trial, showing as follows:

On June 9, 2022, the grand jury returned an indictment against Bernard Okojie. The indictment charges one count of conspiracy to commit bank fraud and wire fraud, one count of wire fraud, and one count of conspiracy to launder money.

I. UNCHARGED SBA LOANS AND RELATED EVIDENCE

At trial, the United States anticipates introducing evidence, including separate instances of EIDL applications and PPP applications, and payments made to Defendant, beyond the specific acts referenced in the indictment.

Consistent with precedent from the Eleventh Circuit, the Government contends that this evidence is <u>not</u> evidence offered under Rule 404(b). *See United States v. Ford*, 784 F.3d 1386, 1393 (11th Cir. 2015) (concluding that uncharged conduct in fraud case was inextricably intertwined and thus not subject to Rule 404(b)); *United States v. Merrill*, 513 F.3d 1293, 1303 (11th Cir. 2008) (concluding that evidence of non-charged conduct was outside the scope of Rule 404(b)); *see also United States v. Fuertes*, 723 F. App'x 733, 737 (11th Cir. 2018) (unpublished) (affirming convictions of fraud and holding evidence to be "'inextricably intertwined' with the charged conduct and 'necessary to complete the story'" and thus admissible regardless of Rule 404(b)); *United States v. Brown*, No. 6:18-CR-0001, 2019 WL 1051187, at *1 (S.D. Ga. Mar. 5, 2019) (admitting evidence that is inextricably intertwined and "necessary to complete the story of the crimes charged in this case").

Notwithstanding the Eleventh Circuit's holdings in *Ford*, *Merrill*, and other similar cases, the Government hereby provides notice to the extent required by Rule 404(b) and Local Rule 16.2 of its intent to introduce evidence of additional loan applications that are associated with Mr. Okojie, if the Court determines such evidence to be uncharged criminal activities or "bad acts" under Fed. R. Evid. 404(b). Specifically, the United States intends to introduce evidence that, in addition to the loans identified in the indictment, the United States intends to introduce evidence that Mr. Okojie submitted, conspired to submit, or aided and abetted the submission of additional EIDLs and PPP loans that have been provided to defense counsel in discovery, and that reflect the dates and times of submission. Any additional discovery obtained by the United States will promptly be produced, and any additional crimes, wrongs, and other acts identified after this date will be properly noticed in a supplemental 404(b) filing.

II. MONEY LAUNDERING AND RELATED EVIDENCE

In addition, the United States provides notice of the following additional crimes, wrongs, and other acts that are outside the scope of the money laundering conspiracy charged in Count Three, and that are not inextricably intertwined with the charged conduct, but that are admissible as Rule 404(b) evidence. Those crimes, wrongs, and other acts are as follows:

A. Export-based money laundering

The United States intends to introduce instances of Defendant exporting the proceeds of crimes to out-of-country individuals, and misrepresenting the contents of the exports to authorities in order to conceal his conduct. These instances include the following transactions with the commodity claimed to be exported, the claimed value, the export weight, the export date, and the destination identified for each:

Claimed Commodity	Weight	Value	Export Departure Date	Destination
Medication	1.644 KG	$80	10/12/2018	Nigeria
Game Cartridges	0.454 KG	$120	12/31/2017	Greece
Kids Games	0.17 KG	$120	10/22/2017	Thailand
T Shirts	1.077 KG	$100	07/05/2017	Finland
Game Cartridges	595 KG	$120	09/14/2016	Thailand
Kids Story Books	879 KG	$38	11/30/2015	Thailand
Pictures, Games Batteries	539 KG	$80	04/23/2014	Nigeria
Video Game Cartridge	567 KG	$70	11/12/2015	Nigeria
Kids Learning Books	2466 KG	$250	09/12/2013	Nigeria
Learning DVD	1276 KG	$45	07/23/2013	Nigeria
T Shirts, Documents	454 KG	$100	03/18/2013	Thailand
DVDs, Shoes, Toys	7569 KG	$140	08/24/2015	Nigeria
Clothing	2438 KG	$200	05/31/2012	Greece

Records relating to this conduct have been produced to defense counsel in discovery.

B. Undeclared cash on flight to Nigeria

The United States intends to introduce evidence relating to Mr. Okojie, on or about December 28, 2020, attempting to take $39,700.00 in cash onboard a flight from Atlanta to Lagos, Nigeria. Mr. Okojie failed to declare the cash and the cash was seized from Mr. Okojie.

Records relating to this conduct have been produced to defense counsel in discovery.

* * *

The United States intends to introduce the specified crimes, wrongs, and other acts in its case-in-chief to show intent, identity, knowledge, plan, and the lack of accident or mistake. *See United States v. Burke*, 645 F. App'x 883, 886 (11th Cir. 2016) (upholding 404(b) admission of prior fraud conviction as probative of intent in fraud trial); *United States v. Holland*, 722 F. App'x 919, 926–27 (11th Cir. 2018) (upholding evidence of uncharged similar conduct in fraud trial as either inextricably intertwined with charged offenses or under 404(b)).

Respectfully submitted, this 1st day of August 2022.

DAVID H. ESTES
UNITED STATES ATTORNEY

/s/ Jonathan A. Porter

Jonathan A. Porter
Assistant United States Attorney
Georgia Bar Number 725457

Post Office Box 8970
Savannah, Georgia 31412
Telephone: (912) 201-2594
Facsimile: (912) 652-4388
jonathan.porter@usdoj.gov

CERTIFICATE OF SERVICE

This is to certify that I have on this day served all the parties in this case in accordance with the notice of electronic filing ("NEF") which was generated as a result of electronic filing in this Court.

This 1st day of August 2022.

Respectfully submitted,

DAVID H. ESTES
UNITED STATES ATTORNEY

/s/ Jonathan A. Porter
JONATHAN A. PORTER
Assistant United States Attorney
Georgia Bar No. 725457
Email: Jonathan.Porter@usdoj.gov