UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America, Plaintiff, v. Aimee Marie Bock et al., Defendants.	Case No. 22-cr-223 (NEB/DTS) **ORDER & REPORT AND RECOMMENDATION**

INTRODUCTION

This case—along with several others brought in this District—arises out of the Government's investigation into an alleged multi-million-dollar scheme to defraud federal child nutrition programs. Of the fourteen Defendants charged in this case, nine have filed more than twenty pretrial motions requiring resolution. This Report and Recommendation addresses Defendants' motions to suppress found at docket numbers 188, 189, 193, 198, 200, 203, 205, 213, 222, and 223. For the reasons stated below, the Court recommends that Defendants' motions be denied.

FACTS[1]

The federal government provides funding for various nutrition programs, including the Summer Food Service Program and Child and Adult Care Food Program. Dkt.

[1] The facts are drawn from the challenged search warrants and accepted as true. Some conclusory statements and characterizations of the facts are also taken from the challenged warrants but are not accepted as true. *See United States v. Summage*, 481 F.3d 1075, 1077–78 (8th Cir. 2007) ("Conclusory statements made by affiants fail to give the issuing magistrate a substantial basis for determining that probable cause exists."). Although a few parties offer extrinsic evidence, such evidence will be considered when addressing the merits of Defendants' motions.

No. 188-1 ¶ 45. These federal child nutrition programs operate by reimbursing organizations that serve meals at sites. *Id.* ¶¶ 48, 50. State agencies administer the federal child nutrition programs by approving sites and claims for reimbursement. *Id.* ¶¶ 49–50. In Minnesota, the administering agency is the Minnesota Department of Education (MDE). *Id.* ¶ 49. Approved nonprofit organizations sponsor sites and submit claims for reimbursement to the MDE on behalf of those sites.

These reimbursements—federal child nutrition funds—"are supposed to be used to provide nutritious meals and food to children and low-income individuals." *Id.* ¶ 51. However, certain United States Department of Agriculture waivers during the COVID-19 pandemic made the federal child nutrition programs vulnerable to abuse:

> Historically, the Federal Child Nutrition Program has generally functioned through the provision of meals to children involved in education-based programs or activities. During the Covid-19 pandemic, however, the USDA waived some of the standard requirements for participation in the Federal Child Nutrition Program. Among other things, USDA allowed for-profit restaurants to participate in the program. It also allowed for off-site food distribution to children outside of educational programs. At the same time, the state government's stay-at-home order and telework policies interfered with the ability to oversee the program. According to MDE officials, this left the program vulnerable to fraud and abuse.

Dkt. No. 188-1 ¶ 52.

Feeding Our Future was an approved nonprofit organization that sponsored sites in Minnesota. *Id.* ¶ 53. During the COVID-19 pandemic, Feeding Our Future's claims for reimbursement skyrocketed. *Id.* ¶ 54. This dramatic increase can be seen in the following table:

Year	Approximate amount of Federal Child Nutrition Program funds to Feeding Our Future
2018	$307,253
2019	$3,487,168
2020	$42,681,790
2021	$197,932,695
Total	**$244,408,906**

Id.

In April 2021, the MDE provided information to the FBI alleging that Feeding Our Future and sites under its sponsorship were diverting funds away from the federal child nutrition programs. *Id.* ¶ 57. The MDE suspected that these sites were submitting fraudulent documents to claim reimbursement for more meals than they were serving. *Id.* In May 2021, the FBI began to investigate these allegations. *Id.* ¶ 58.[2] As a part of that investigation, the Government applied for several search warrants.

I. January 12 Search Warrants (the Safari Restaurant)

On January 12, 2022, the Government applied for and received search warrants for five premises connected to the Safari Restaurant and Event Center. *See* Dkt. No. 188-1 ¶ 5. The thrust of the Government's applications was that the Safari Restaurant's owners and associates were defrauding the federal child nutrition programs. Relevant here, the premises to be searched included: (1) the Safari Restaurant; (2) Defendant Abdulkadir Nur Salah's (Abdulkadir) residence; and (3) Defendant Abdikadir Ainanshe Mohamud's (Ainanshe) residence.[3] *Id.* ¶¶ 5, 8, 24, 37. In support of its

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[2] The background information discussed so far is included in all of the challenged search warrants.

[3] Several defendants in this case share first or last names with a co-defendant. For clarity and brevity, each defendant will be referred to by a name (first, middle, or last) that is unique to that defendant, *i.e.*, a name that is not shared with any co-defendant in this case. The Court intends no disrespect by adopting this convention.

application, the Government submitted a lengthy affidavit of Federal Bureau of Investigation Special Agent Travis Wilmer. The following facts are drawn from Agent Wilmer's January 12 affidavit.

A. The Safari Restaurant

The Safari Restaurant opens a site. The Safari Restaurant is a restaurant and event center located in South Minneapolis. Dkt. No. 188-1 ¶ 60. It first applied to participate in the federal child nutrition programs in April 2020. *Id.* ¶ 61. According to the application, the Safari Restaurant claimed it would be serving meals at its restaurant. *Id.* Defendant Aimee Marie Bock (Bock)—the executive director of Feeding Our Future—signed the Safari Restaurant's application. *Id.* After the MDE initially denied the application, Feeding Our Future submitted a formal complaint. *Id.* ¶¶ 63–65. On April 30, a few days after receiving Feeding Our Future's complaint, the MDE approved the Safari Restaurant's application. *Id.* ¶ 66. By early July, the Safari Restaurant claimed to be serving breakfast and lunch to around 5,000 children a day. *Id.* ¶ 68. According to Agent Wilmer, this was "an exceedingly large number of children." *Id.* ¶ 69. The Safari Restaurant received approximately $476,000 in federal child nutrition funds in July 2020 and $702,000 in August 2020. *Id.* ¶ 70.

Related entities open more sites. In the fall of 2020, "individuals associated with Safari Restaurant enrolled additional sites in the Federal Child Nutrition Program." *Id.* ¶ 71. These individuals created entities to participate in the federal child nutrition programs, including ASA Limited LLC and Olive Management Inc. *Id.* ¶¶ 72, 76. Like the Safari Restaurant, these entities "quickly began reporting that they were serving large numbers of children." *Id.* ¶ 71.

ASA Limited. Defendant Abdihakim Ali Ahmed (Abdihakim) created ASA Limited on September 4, 2020, and applied that same day "to enroll in the Federal Child Nutrition Program under the sponsorship of Feeding Our Future." *Id.* ¶ 72.[4] ASA Limited claimed that it was entitled to more than $700,000 for meals served in September and October 2020. *Id.* ¶ 74. From its creation in September 2020 to January 2022, ASA Limited received more than $5.3 million from the federal child nutrition programs. *Id.* ¶ 75.

Olive Management. Defendant Ahmed Sharif Omar-Hashim (Omar-Hashim) created Olive Management in September 2020 and applied that same month to enroll in the federal child nutrition programs under the sponsorship of Feeding Our Future. *Id.* ¶ 76. Olive Management "claimed that it was entitled to more than $1.2 million in Federal Child Nutrition Program funds for meals served from September to November 2020." *Id.* ¶ 77. From its creation in September 2020 to January 2022, Olive Management received more than $5.2 million from the federal child nutrition programs. *Id.* ¶ 78.

Feeding Our Future lawsuit. In the fall of 2020, the MDE raised concerns about the size of the reimbursements being claimed by the Safari Restaurant and related entities. *Id.* ¶ 79. In October, the MDE terminated the Safari Restaurant's participation in the federal child nutrition programs. *Id.* ¶ 80. In November, Feeding Our Future sued the MDE for unlawfully refusing to approve site applications and unlawfully withholding reimbursements. *Id.* ¶ 81. While the lawsuit was pending, the MDE continued to reimburse

[4] A table in Agent Wilmer's January 12 affidavit identifies Abdihakim and Defendant Ahmed Abdullahi Ghedi (Ghedi) as owners of the Safari Restaurant. *See* Dkt. No. 188-1 ¶ 98. This is inconsistent with other statements in the affidavit. *See, e.g.*, *id.* ¶ 127. Identifying Abdihakim and Ghedi as Safari Restaurant owners appears to have been a typographical error. But even if Abdihakim and Ghedi were Safari Restaurant owners, this would not change the outcome of Defendants' motions.

the Safari Restaurant and related entities. *Id.* ¶ 81. The litigation was pending at the time of the January 12, 2022 warrant application. *Id.* ¶ 55.

Suspicious documentation. In January 2021, the MDE audited Feeding Our Future. *Id.* ¶ 83. In response to that audit, Feeding Our Future provided claim detail reports and summer meal counts "that purport to document the meals served by Safari Restaurant in March 2021." *Id.* According to Feeding Our Future's documentation, the Safari Restaurant served between 5,991 and 5,999 children all 31 days of March 2021. *Id.* ¶ 84. And the Safari Restaurant received $1,143,303 in federal child nutrition funds for March 2021 alone. *Id.* ¶ 85. "By way of comparison, the average McDonalds franchise has approximately $2.9 million in annual revenue." *Id.* ¶ 86. Agent Wilmer also claimed that the Safari Restaurant submitted false invoices to supports its claims for reimbursements. *Id.* ¶ 87. By way of example, on August 3, 2021, an accountant sent an e-mail to Bock attaching five invoices for the Safari Restaurant and related sites, each invoice charging for 2,000 meals purportedly served every day of July 2021. *Id.* The invoices were identical. *Id.* Suspicious that this documentation was fraudulent, the MDE brought its concerns to the FBI, and the FBI began investigating in May 2021. *Id.* ¶ 57.

Safari Restaurant bank records. During the Government's investigation, it obtained records from several banks. *Id.* ¶¶ 99, 107, 146. Based on a review of those records, more than $15 million in federal child nutrition funds was deposited into Safari Restaurant bank accounts between May 2020 and November 2021. *Id.* ¶ 89. "[L]ittle of this money was used to buy food or other items related to participation in the Federal Child Nutrition Program. Instead, the most significant withdrawals from the Safari Restaurant accounts were to limited liability companies controlled by owners or associates of Safari

Restaurant." *Id.* ¶ 90. $5.3 million was transferred from a Safari Restaurant bank account at Bridgewater Bank to entities controlled by owners of the Safari Restaurant. *Id.* ¶¶ 90–92. $3 million was transferred from a Safari Restaurant account at Bell Bank to entities controlled by Safari Restaurant owners and associates. *Id.* ¶ 93–97. And $1.5 million was transferred from a third Safari Restaurant account to owners of the Safari Restaurant directly or through entities they controlled. *Id.* ¶ 105.

Safari Restaurant owner and associate purchases. Much of this money was then used "to purchase real estate, cars, and other luxury items." *Id.* ¶ 108. Defendant Salim Ahmed Said (Said), used federal child nutrition funds "to purchase a 2021 Chevrolet Silverado 3500 pickup truck for $87,000." *Id.* ¶¶ 111–17. He also purchased a single-family home "using more than $950,000 in Federal Child Nutrition Program funds." *Id.* ¶¶ 118–125. Said (a Safari Restaurant owner), Abdulkadir (a Safari Restaurant owner), and Omar-Hashim (an Olive Management owner), spent $2.8 million in federal child nutrition funds to purchase a commercial office building in South Minneapolis. *Id.* ¶¶ 126–133. Abdihakim (an ASA Limited owner) used federal child nutrition funds to purchase a Mini Cooper. *Id.* ¶¶ 145–48.

Some additional facts from Agent Wilmer's affidavit focus on Abdulkadir and Ainanshe's residences.

B. Abdulkadir Nur Salah's Residence

Abdulkadir is an owner of the Safari Restaurant who received more than a million dollars in federal child nutrition funds. Dkt. No. 188-1 ¶¶ 42, 92, 98, 129. He created two entities that he "used to carry out and launder the proceeds of the fraud scheme." *Id.* ¶¶ 37–40. The first entity was 3017 LLC, a "shell company" that received more than $2 million from Safari Restaurant bank accounts. *See id.* ¶¶ 92, 94, 106. The second entity was Cosmopolitan Business Properties LLC, through which Abdulkadir and others purchased a commercial building for $2.8 million. *Id.* ¶ 43. Both entities have links to his residence. Abdulkadir listed his residence as the registered office address for 3017 LLC with the Minnesota Secretary of State and listed his residence as the entity's address on its bank account. *Id.* ¶¶ 39–41. He also listed his residence as Cosmopolitan Business Properties LLC's address with the IRS, *id.* ¶ 43, and the residence received mail addressed to Cosmopolitan Business Properties LLC, *id.* ¶ 44. Finally, based on Agent Wilmer's experience, training, and discussions with law enforcement, he stated in his affidavit that individuals receiving income from fraud schemes "often maintain within their residence records of assets and financial transactions." *Id.* ¶ 4(b).

C. Abdikadir Ainanshe Mohamud's Residence

Ainanshe is the owner of Tunyar Trading LLC, an entity that operated "as a shell company for use in laundering the proceeds of the fraud scheme." *Id.* ¶¶ 27–28. He created Tunyar Trading in September 2020. *Id.* ¶ 27. Shortly after its creation, Tunyar Trading obtained vendor contracts to provide meals to sites sponsored by Feeding Our Future. *Id.* ¶ 96. More than $4 million was deposited in Tunyar Trading bank accounts in 2021, almost all of this money coming from the Safari Restaurant or related entities. *Id.* ¶ 98. Despite these contracts to provide meals, "bank records show that [Tunyar Trading] did not use these funds to buy food or prepare meals." *Id.* ¶ 97. Instead, much of that money was then transferred to other entities controlled by owners or associates of the Safari Restaurant. *Id.* ¶ 102. Tunyar Trading also communicated with Feeding Our Future to provide documentation supporting claims for reimbursement. For example, it sent an e-mail to Feeding Our Future attaching meal counts claiming that 2,000 meals were being served every day of August 2021 at a site in Willmar, Minnesota. *Id.* ¶ 100. For context, around 21,000 people live in Willmar. *Id.* ¶ 101. Ainanshe's residence was listed as the registered office address of Tunyar Trading with the Minnesota Secretary of State. *Id.* ¶¶ 27–28. Tunyar Tradings's bank accounts also listed Ainanshe's residence as the entity's address. Finally, Tunyar Trading regularly received mail at the residence. *Id.* ¶ 29.

II. January 14 Search Warrants (Feeding Our Future)

On January 14, 2022, the Government applied for and received search warrants for six premises connected to Feeding Our Future. Dkt. No. 257-2. Only the warrants for Bock's residence and Feeding Our Future's office—two of these six premises—are relevant to Defendants' motions. *See* Dkt. No. 198 at 1. As with the January 12 applications, the Government submitted a lengthy affidavit of Agent Wilmer in support of its January 14 applications. Agent Wilmer's January 14 affidavit incorporates most of the facts from his January 12 affidavit. *Compare* Dkt. No. 188-1 ¶¶ 45–153, *with* Dkt. No. 257-2 ¶¶ 39–121. The following facts, drawn from Agent Wilmer's January 14 affidavit, focus on Feeding Our Future and Bock.

Feeding Our Future's administrative fee. Feeding Our Future contracted with sponsored sites, such as those operated by the Safari Restaurant, to retain a percentage of claims for reimbursements as its administrative fee. Dkt. No. 257-2 ¶ 49. Ordinarily, the agreed-upon percentage was ten percent. *Id.* So, if Feeding Our Future claimed $1 million in reimbursements from the MDE for meals served by the Safari Restaurant, Feeding Our Future would receive $100,000 of that $1 million as its administrative fee. "This provided an incentive for Feeding Our Future, and its Executive Director Bock, to increase the number of sites under its sponsorship as well as the amount of Federal Child Nutrition Program reimbursements each site was receiving." *Id.* ¶ 50.

The Southcross site. In addition to sponsoring sites, Feeding Our Future operated its own sites that participated in the federal child nutrition programs. *Id.* ¶ 127. It operated one site at 1507 Southcross Drive West in Burnsville, Minnesota (the Southcross site), submitting a site application to the MDE in 2020. *Id.* ¶ 128. For November 2021 alone, Feeding Our Future submitted reimbursement claims for serving more than 50,000 meals at the Southcross site. *Id.* ¶ 132. FBI surveillance in November and December 2021 found no evidence that meals were being served at the Southcross site. *Id.* ¶¶ 134–35.

The Columbus site. Feeding Our Future operated two more sites at 2854 Columbus Avenue South, Minneapolis (collectively the Columbus site). *Id.* ¶¶ 136–37. For November 2021 alone, Feeding Our Future sought reimbursement for serving more than 55,000 meals at the Columbus site. *Id.* ¶ 142. FBI surveillance in November and December 2021 observed nothing to suggest that meals were being served at the Columbus site. *Id.* ¶¶ 140–48. Feeding Our Future received millions in federal child nutrition funds for meals purportedly served at the Southcross and Columbus sites. *Id.* ¶¶ 135, 148.

Bock's direct involvement. As the executive director of Feeding Our Future, Bock was at times directly involved in the operation of these sites. For example, Bock signed the vendor contract for the Southcross site. *Id.* ¶ 129. She also received an invoice for the vendor at the Columbus site claiming that the vendor had served breakfast and lunch to 1,500 children a day for 8 days in September 2021. *Id.* ¶ 147. And when an MDE employee noticed that there were apparently two sites serving meals at the Columbus site, Bock told the MDE by e-mail that “we have verified that it is different youth being served at each of the locations in the building.” *Id.* ¶ 138.

Employees create shell companies. Several Feeding Our Future employees set up shell companies to “fraudulently misappropriate” federal child nutrition funds. *Id.* ¶ 149.[5] Handy Helper’s LLC, an entity controlled by Bock’s boyfriend, received approximately $600,000 in federal child nutrition funds from Feeding Our Future. *Id.* ¶¶ 150–52. That money was then used for personal spending; roughly $184,000 was withdrawn in cash and more than $30,000 was spent on a trip to Las Vagas. *Id.* ¶¶ 152–53. Hadith Yusuf Ahmed, a Feeding Our Future employee, deposited more than $1.1 million in federal child nutrition funds into a shell company. *Id.* ¶¶ 155–58. He then transferred roughly $843,000 to accounts controlled by Defendant Abdikerm Abdelahi Eidleh (Eidleh), another Feeding Our Future employee. *Id.* ¶¶ 159–60. Eidleh also deposited a $343,064 check from Feeding Our Future into a shell company he created in December 2020. *Id.* ¶¶ 160–63. And he created at least six other shell companies in late 2020 and early 2021 “for use in soliciting and receiving kickbacks.” *Id.* ¶ 165. In total, $4.4 million was deposited into bank accounts held by Eidleh’s entities. *Id.* ¶¶ 164–66. Some of this money came from Feeding Our Future, but much of it came “from entities that fraudulently misappropriated Federal Child Nutrition Program funds.” *Id.* ¶ 166. More than $500,000 was transferred from entities connected to the Safari Restaurant. *Id.*

[5] For money transferred from Feeding Our Future to its employees, Agent Wilmer does not specify whether the transferred federal child nutrition funds were derived from administrative fees or direct reimbursements.

$310,000 kickback. Finally, Bock received a $310,000 "kickback" from Abdulkadir. *Id.* ¶ 122. Bock deposited the check into a personal account held by her and her ex-husband on August 13, 2021. *Id.* ¶ 124. Some of this money was then spent on personal expenses. *Id.* ¶¶ 124–25.

III. January 21 Search Warrant (E-mail Accounts)

On January 21, 2022, the Government applied for and received a search warrant for two e-mail accounts. Dkt. No. 223-1. Relevant here is Defendant Abdi Nur Salah's (Abdi) e-mail account. *Id.* ¶ 6. As with its earlier applications, the Government submitted a lengthy affidavit of Agent Wilmer in support of its January 21 application. Agent Wilmer's January 21 affidavit incorporates most of the facts previously discussed from his January 12 affidavit. *Compare* Dkt. No. 188-1 ¶¶ 45–153, *with* Dkt. No. 223-1 ¶¶ 11–104. The following facts, drawn from Agent Wilmer's January 21 affidavit, focus on Abdi's alleged money laundering.

Abdi creates Stone Bridge Development LLC. Abdi worked for the City of Minneapolis as a Senior Policy Aide to the Mayor. Dkt. No. 223-1 ¶ 105. In January 2021, Abdi created Stone Bridge Development LLC, listing his e-mail as the company e-mail for official notices. *Id.* ¶ 106. According to Agent Wilmer, the purpose of setting up Stone Bridge was to receive federal child nutrition funds. *Id.* A month later, he opened up a bank account for Stone Bridge listing his e-mail on the application. *Id.* ¶ 107. Between February and December 2021, Stone Bridge received $905,754 in federal child nutrition funds from Tunyar Trading. *Id.* ¶¶ 108–09. Abdi used the Stone Bridge account for personal spending, regularly withdrawing hundreds of dollars in cash. *Id.* ¶ 111.

Abdi purchases real estate. Abdi used this money "to purchase real estate with other individuals involved in the scheme." *Id.* ¶ 112. Abdi created a second entity in October 2021—The Five A's Projects LLC—that purchased property for approximately $1 million that same month. *Id.* ¶¶ 113–14. The Five A's Projects LLC had four other members: Ainanshe (the Tunyar Trading owner), Abdihakim (an ASA Limited owner), Omar-Hashim (the Olive Management owner), and Defendant Ahmed Mohamed Artan (Artan) (the Stigma-Free International owner). *Id.* ¶ 115.[6] Abdi also used Stone Bridge to purchase a rental property. *Id.* ¶ 119. Abdi's e-mail account was listed under the buyer's information section for the purchase of that rental property. *Id.* ¶ 128.

IV. February 1 Search Warrant (E-mail Accounts)

On February 1, 2022, the Government applied for and received a search warrant for five e-mail accounts. *See* Dkt. No. 188-3. Relevant here are the e-mail accounts of Abdulkadir, Abdihakim, and Ainanshe. As with its earlier applications, the Government submitted a lengthy affidavit of Agent Wilmer in support of its February 1 application. Agent Wilmer's February 1 affidavit incorporates most of the facts from his January 12 and January 21 affidavits. *Compare* Dkt. No. 188-3 ¶¶ 7–124, *with* Dkt. No. 188-1 ¶¶ 45–153 and Dkt. No. 223-1 ¶¶ 105–129. The following facts, drawn from Agent Wilmer's February 1 affidavit, focus on the three at-issue e-mail accounts and the list of items to be seized.

[6] Stigma-Free International operated sites sponsored by Feeding Our Future and transferred more than $3 million to Tunyar Trading. Dkt. No. 223-1 ¶ 66.

A. Abdulkadir Nur Salah's E-mail Account

Abdulkadir used his e-mail account "in connection with the scheme to fraudulently obtain, launder, and misappropriate Federal Child Nutrition Program funds." Dkt. No. 188-3 ¶ 134. Abdulkadir listed the e-mail account with the Minnesota Secretary of State in relation to the creation of 3017 LLC, an entity he used "to fraudulently obtain and launder Federal Child Nutrition Program funds." *Id.* ¶ 135. For example, federal child nutrition funds were transferred from Safari Restaurant bank accounts to 3017 LLC, *id.* ¶¶ 57, 70, and then transferred to Cosmopolitan Business Properties LLC, which spent the money purchasing a commercial building in South Minneapolis. *Id.* ¶¶ 92–93. Abdulkadir also used the e-mail account to submit documents to Bock, including receipts and invoices purporting to show the Safari Restaurant purchasing food from various food distribution companies. *Id.* ¶¶ 136–38.

B. Abdihakim Ali Ahmed's E-mail Account

Abdihakim likewise used his e-mail account "to fraudulently obtain, launder, and misappropriate Federal Child Nutrition Program funds." *Id.* ¶ 144. He used the e-mail to communicate with Feeding Our Future employees, for example, requesting and receiving a catering contract for the Safari Restaurant. *Id.* ¶ 147. Abdihakim also e-mailed meal counts and invoices seeking reimbursement for meals purportedly served at Safari Restaurant and ASA Limited sites. *Id.* ¶¶ 148–152.

C. Abdikadir Ainanshe Mohamud's E-mail Account

Ainanshe listed his e-mail account as the e-mail for official notices related to Tunyar Trading. *Id.* ¶ 140. According to Agent Wilmer, Ainanshe used his e-mail account "to run Tunyar Trading[,] . . . a company used to fraudulently obtain, launder, and misappropriate Federal Child Nutrition funds." *Id.* ¶ 139. For example, Ainanshe sent an e-mail attaching a vendor contract between Feeding Our Future and Tunyar Trading. *Id.* ¶ 141. According to the contract, Tunyar Trading would provide meals at sites in Willmar and Mankato, Minnesota. *Id.* He also e-mailed meal counts for both sites to Eidleh and Bock. *Id.* ¶¶ 141–42.

D. Attachment B to the February 1 Search Warrant

Attachment B describes the particular things to be seized from all five e-mail accounts, following the two-step procedure set forth in Federal Rule of Criminal Procedure 41. Under Rule 41, the Government may collect a broader set of data from an individual's electronic database, including an e-mail account, and then conduct a second search of that data to seize a relevant subset of information identified by the search warrant. Attachment B first directed Google to provide the Government with the contents of all e-mails associated with the account (among other data) for the period of "January 1, 2019 to the present." Attachment B, Dkt. No. 188-3.

The data to then be seized by the Government included: (1) all the information that constituted fruits, contraband, evidence and instrumentalities of violations of 18 U.S.C. §§ 1341, 1343, 1349, 1956 and 1957 involving several entities and individuals targeted by the Government's investigation; (2) communications with Feeding Our Future and certain government entities; (3) communications or records related to sites participating in the federal child nutrition programs; (4) records related to distribution of federal child nutrition funds; (5) records or communications related to thirteen shell companies, Feeding Our Future, and Partners in Quality Care (another organization authorized to sponsor sites); (6) records or communications related to the creation of those thirteen shell companies; (7) records related to purchases made with federal child nutrition funds; (8) records or communications related to "obtaining, secreting, transfer, and/or concealment of money"; (9) "records related to payments from sites under sponsorship of Feeding Our Future or Partners in Quality Care to and from Feeding Our Future or Partners in Nutrition employees"; (10) records related to who created, used, or communicated with the e-mail accounts; (11) evidence indicating how and when the e-mail accounts were used; (12) "all e-mails indicating the e-mail account owner's state of mind as it relates to the crime under investigation"; (13) e-mails that identified co-conspirators; and (14) e-mails which evidenced the planning and execution of the fraud scheme. Attachment B, Dkt. No. 188-3.

V. August 16 Search Warrant (E-mail Accounts)

On August 16, 2022, the Government applied for and received a search warrant for three more e-mail accounts. Dkt. No. 258-2. Relevant here is Ghedi's e-mail account. As with its earlier applications, the Government submitted a lengthy affidavit of Agent Wilmer in support of its August 16 application. The August 16 application focuses on ASA Limited, while incorporating some background information from Agent Wilmer's previous affidavits. *Compare* Dkt. No. 258-2 ¶¶ 7–34, *with* Dkt. No. 188-1 ¶¶ 45–71. The following facts, drawn from Agent Wilmer's August 16 application, focus on ASA Limited, Ghedi's e-mail account, and the list of items to be seized.

Ghedi's ownership interests. Ghedi is an ASA Limited owner. Dkt. No. 258-2 ¶ 35. As a reminder, ASA Limited quickly began claiming that it was serving breakfast and lunch to 3,000 children every day. *Id.* ¶¶ 38–39. Ghedi is also the owner of AG Limited LLC, an entity that received $1,195,700 in federal child nutrition funds from ASA Limited. *Id.* ¶ 43.

Fake attendance rosters. Through prior search warrants, the Government determined that Safari Restaurant owners and associates "submitted fraudulent attendance rosters purporting to identify students attending after-school programs at which meals were served." *Id.* ¶ 45. For example, on October 7, 2021, Abdihakim received by e-mail a spreadsheet containing children's names along with their parents' names and phone numbers. *Id.* ¶ 50. The spreadsheet did not include age. *Id.* Abdihakim e-mailed the spreadsheet back with a second tab containing a roster purporting to show attendance at ASA Limited's site for September 2021. *Id.* ¶ 51. He asked the sender, "can you make all the kids ages 6-17?" *Id.* ¶ 52. Later that day, Abdihakim sent an updated spreadsheet by e-mail to Said and Abdulkadir. *Id.* ¶ 53. The updated attendance roster contained a column for age, but rather than list a real age, the spreadsheet contained a formula that inserted a random number between seven and seventeen in the age column. *Id.* ¶ 54. Similar fake attendance rosters were used to support claims for reimbursement at other sites operated by Safari Restaurant owners and associates. *Id.* ¶ 47 (Wilmar), ¶ 48 (Mankato), ¶ 56 (Waite Park).

Ghedi's e-mail account. The name of Ghedi's e-mail account is the "Safari [R]estaurant Event Center." *Id.* ¶ 71. The account sent e-mails to and received e-mails from several other individuals allegedly involved in the fraud scheme. For example, Abdihakim sent Ghedi copies of checks written from an ASA Limited account, including checks written to Abdihakim and Ghedi. *Id.* ¶ 72. Ghedi also received e-mails from Abdulkadir attaching paystubs from ASA Limited. *Id.* ¶ 76. And Abdulkadir forwarded a title report to Ghedi regarding a commercial property purchased for $2.8 million with federal child nutrition funds. *Id.* ¶ 77. Finally, Ghedi sent an e-mail to Abdulkadir attaching bank statements for Cosmopolitan Business Solutions, the entity that ran Safari Restaurant. *Id.* ¶ 78.

Rule 41 step one. As with the Attachment B to the February 1 search warrant, Attachment B to the August 16 warrant follows the familiar two-step procedure of Rule 41. Attachment B directed Google to provide the Government with the contents of all e-mails associated with the account (among other data) for the period of "January 1, 2020 to the present." Attachment B, Dkt. No. 258-2.

Rule 41 step two. The data to then be seized by the government included: (1) all the information that constituted fruits, contraband, evidence and instrumentalities of violations of 18 U.S.C. §§ 1341, 1343, 1349, 1956 and 1957 involving several entities and individuals targeted by the Government's investigation; (2) any records or communications related to the creation of rosters or attendance lists; (3) communications with Feeding Our Future and certain government entities; (4) communications or records related to sites participating in the federal child nutrition programs; (5) records related to distribution of federal child nutrition funds; (6) records or communications related to education programs or serving food to children; (7) records related to purchases made with federal child nutrition funds; (8) records or communications related to "obtaining, secreting, transfer, and/or concealment of money"; (9) records "related to payments from sites under sponsorship of Feeding our Future and from Feeding Our Future employees"; (10) records related to who created, used, or communicated with the e-mail accounts; (11) evidence indicating how and when the e-mail accounts were used; (12) "e-mails indicating the e-mail account owner's state of mind as it relates to the crime under investigation"; (13) e-mails that identify co-conspirators; and (14) e-mails which evidenced the planning and execution of the fraud scheme. Attachment B, Dkt. No. 258-2.

ANALYSIS

Defendants' motions to suppress will be addressed on an issue-by-issue basis in the following order: (1) the first requirement for a *Franks* hearing (whether Agent Wilmer made a knowingly false statement or reckless omission); (2) absence of probable cause (four-corners review); (3) the second requirement for a *Franks* hearing (whether the supporting affidavits lack probable cause with the false statements corrected and missing information inserted); (4) particularity, overbreadth, and exceeding scope of search; and (5) the good-faith exception.

I. *Franks* Hearing: First Requirement

Several Defendants move for a hearing to review the validity of search warrants pursuant to *Franks v. Delaware*, 438 U.S. 154 (1978). *Franks* allows criminal defendants to "request a hearing to challenge a search warrant on the ground that the supporting affidavit contains factual misrepresentations or omissions relevant to the probable cause determination." *United States v. Arnold*, 725 F.3d 896, 898 (8th Cir. 2013). If the issuing judge's probable cause determination was based on such an affidavit, the search warrant may be invalid. *United States v. Conant*, 799 F.3d 1195, 1199 (8th Cir. 2015) (quoting *United States v. Reinholz*, 245 F.3d 765, 774 (8th Cir. 2001)). To receive a *Franks* hearing, a defendant must make a substantial preliminary showing that (1) the affidavit contained a false statement (or omission) made either knowingly or with reckless disregard for the truth; and (2) with the false statement corrected and missing information inserted, the affidavit no longer establishes probable cause for the search. *United States v. Gonzalez*, 781 F.3d 422, 430 (8th Cir. 2015).

This preliminary showing requires defendants to "offer specific allegations along with supporting affidavits or similarly reliable statements." *Id.* "A Franks hearing must be denied unless the defendant makes a strong initial showing of deliberate falsehood or reckless disregard of the truth." *United States v. Freeman*, 625 F.3d 1049, 1052 (8th Cir. 2010). "In determining if an affiant's statements were made with reckless disregard for the truth, the test is whether, after viewing all the evidence, the affiant must have entertained serious doubts as to the truth of his statements or had obvious reasons to doubt the accuracy of the information he reported." *United States v. McIntyre*, 646 F.3d 1107, 1114 (8th Cir. 2011). "Allegations of negligence or innocent mistake are insufficient." *Franks*, 438 U.S. at 171. For omissions, recklessness "may be inferred from the omission of information from an affidavit only when the material omitted would have been clearly critical to the finding of probable cause." *United States v. Carnahan*, 684 F.3d 732, 735 (8th Cir. 2012) (quoting *United States v. Smith,* 581 F.3d 692, 695 (8th Cir. 2009)); *see also United States v. Jacobs*, 986 F.2d 1231, 1235 (8th Cir. 1993) (finding an officer acted recklessly by withholding information that a "reasonable person would have known . . . was the kind of thing the judge would wish to know"). This section addresses only the first requirement to receive a *Franks* hearing—whether Defendants have made a substantial showing that Agent Wilmer made a knowing or reckless false statement or omission in the challenged supporting affidavits.

A. Abdulkadir Nur Salah (Dkt. No. 188)

Abdulkadir (a Safari Restaurant owner) requests a *Franks* hearing, challenging the validity of three search warrants: (1) the January 12 search warrant for his residence; (2) the January 12 search warrant for the Safari Restaurant; and (3) the February 1 search warrant for his e-mail account. Dkt. No. 188 at 1. He identifies three categories of false statements or omissions. First, Abdulkadir argues that the January 12 and February 1 affidavits omitted facts regarding COVID-19 era waivers and misrepresented program rules. *Id.* at 5. Second, he contends that the affidavits misrepresented the Safari Restaurant's bank records and omitted facts regarding relevant expenditures. *Id.* at 19–24. And third, he contends that the affidavits recklessly omitted surveillance footage showing the Safari Restaurant receiving and distributing food. *Id.* at 24–34.

1. COVID-19 Era Waivers and Program Rules

Although Abdulkadir concedes that the affidavits' "general description of a few USDA waivers was accurate," he contends that omitted information regarding other waivers contradicts the Agent Wilmer's narrative of fraud. Dkt. No. 188 at 5. He points to four specific COVID-19 era waivers (1) allowing food to be distributed outside of structured settings, *id.* at 10; (2) lifting verification requirements, *id.* at 11–14; (3) letting adults pick up meals for children, *id.* at 15; and (4) allowing multiple meals to be packaged together, *id.* at 15–17. According to Abdulkadir, these waivers make it plausible that the Safari Restaurant distributed the large number of meals it claims to have served. *Id.* at 17.

But Abdulkadir does not present affidavits or other reliable evidence that Agent Wilmer knowingly or recklessly omitted the waivers. And recklessness may be inferred only when omitted information was clearly critical to the finding of probable cause.

Carnahan, 684 F.3d at 735 (describing the standard as rigorous). An example is instructive. In *U.S. v. Jacobs*, a drug dog showed interest in a package by pushing it around, but this action did not amount to an official alert, 986 F.2d 1231, 1233 (8th Cir. 1993). In a warrant application, the officer "informed the magistrate judge that the dog had shown an interest in the Jacobs package, but neglected to include . . . that no alert had occurred." *Id.* at 1234. The Eighth Circuit Court of Appeals found this omission to be reckless because "[a]ny reasonable person would have known that this was the kind of thing the judge would wish to know." *Id.* at 1235. The difference between *Jones* and this case is stark. In *Jones*, the dog sniff was the main basis to search the package. Here, the implausibility of the Safari Restaurant's large meal counts is one of many pieces of circumstantial evidence. In *Jones*, the absence of an alert cut clearly against the likelihood of finding drugs in the package. Here, the link is much more attenuated. The waivers might have allowed the Safari Restaurant to deliver more food. But nothing in the record demonstrates that the Safari Restaurant provided meals to adults, packaged multiple meals together, or distributed food without verifying eligibility. And even assuming that the Safari Restaurant served meals at its sites and made use of these waivers, at best this makes the incredibly high number of meals the Safari Restaurant claimed to be serving slightly more plausible. That the issuing magistrate judge could have found the omitted waivers somewhat relevant is not enough to infer recklessness. *See Tech. Ordnance, Inc. v. United States*, 244 F.3d 641, 650 (8th Cir. 2001) ("A law enforcement official is not required to include everything he knows about a subject in his affidavit, whether it is material to a finding of probable cause or not.").

Next, Abdulkadir contends that the affidavits misrepresent the Safari Restaurant's entitlement to make a profit. Dkt. No. 188 at 5. There is some merit to this argument. Paragraph 51 of the January 12 affidavit misleadingly quotes 7 C.F.R. § 225.15(a)(4) in a parenthetical, stating that "[a]ll Program reimbursement funds must be used solely for the conduct of the nonprofit food service operation." Dkt. No. 188-1 ¶ 51. Several later paragraphs in the affidavits can be read to imply that the Safari Restaurant was required to spend federal child nutrition funds feeding children. *Id.* ¶¶ 58 ("A review of these financial records showed a massive fraud scheme involving the misuse and theft of tens of millions of dollars."), 92 ("[A]lmost none of the Federal Child Nutrition Program funds deposited into this account were used to purchase food to prepare and feed to children."), 100 ("[B]ank records show that Stigma-Free did not use the Federal Child Nutrition Program funds to purchase food or prepare meals[.]").

But Abdulkadir has not made a substantial showing to demonstrate that any of these statements were false. And mere allegations that Agent Wilmer intended to mislead are insufficient. *See United States v. Kattaria*, 553 F.3d 1171, 1177 (8th Cir. 2009). Nor has Abdulkadir provided affidavits or other reliable evidence to demonstrate that Agent Wilmer knowingly or recklessly omitted that program rules allowed the Safari Restaurant to earn a profit. So, the question becomes whether it's fair to infer that Agent Wilmer recklessly omitted that information. The answer is no. To start, the omission—that the Safari Restaurant was allowed to earn a profit serving meals—is closer to a statement of law than fact. Omissions of law are not ordinarily a basis to receive a *Franks* hearing. *See Franks*, 438 U.S. at 155 (framing the question as whether defendants may "challenge the truthfulness of factual statements made in an affidavit"); *United States v. Gater*, 868 F.3d

657, 660 (8th Cir. 2017) (explaining that a defendant was required to show that the affiant "omitted the facts in reckless disregard . . . .").

Although magistrate judges rely on affiants to supply the facts, they rely on their independent judgment to determine what law applies to those facts. Regardless, the omitted statement was not clearly critical to probable cause. The Safari Restaurant could make a profit, but only by actually serving the meals. The heart of this case is that Safari Restaurant owners and associates claimed reimbursements for meals never served. *See* Dkt. No. 257 at 2 (describing the fraud scheme). Several core facts in Agent Wilmer's affidavit tend to show that Safari Restaurant owners and associates falsely represented the number of meals that were served. *See* Infra, Part II.A. One of those core facts is the millions of dollars of federal child nutrition funds Safari Restaurant owners and associates transferred to themselves. That the Safari Restaurant might have been able to earn these federal child nutrition funds as a profit does little to undermine this fact, let alone the totality of Agent Wilmer's affidavit. Such a hypothetical link slightly undermining one piece of circumstantial evidence does not satisfy the clearly critical standard. Because the omission of program rules permitting the Safari Restaurant to earn a profit was not clearly critical to probable cause, there is no valid basis to infer that Agent Wilmer's omission of that fact was reckless.[7]

[7] Abdulkadir identifies other related omissions. For example, he claims that Agent Wilmer should have included reimbursement rates and data regarding the costs of meals. Dkt. No. 188 at 8–9. Again, reckless disregard for the truth may be inferred only in specific circumstances—"when the material omitted would have been clearly critical to the finding of probable cause." *United States v. Randle*, 39 F.4th 533, 538 (8th Cir. 2022) (quoting *Carnahan*, 684 F.3d at 735). That sites in Minnesota were able to earn a decent profit distributing meals is relevant, but not the type of critical information that merits an inference of recklessness. Nothing required Agent Wilmer to research and insert every

2. Omitted Safari Restaurant Bank Records

Abdulkadir retained a private investigation firm to review debits and credits in the Safari Restaurant's operating accounts. Dkt. No. 188 at 19. Based on that review of records, Abdulkadir identifies several alleged inconsistences with Agent Wilmer's affidavit. First, he contends that the Safari Restaurant "paid over $2 million . . . to apparent food suppliers." *Id.* at 21. Second, that "bank records show approximately $370,000 was spent out of Safari's operating accounts on credit card payments." *Id.* Third, that the affidavits failed to mention "$1.7 million on payments to multiple seemingly unrelated individuals" that "plainly could have been consistent with contract labor and management expense payments." *Id.* at 22. And fourth, that Agent Wilmer failed to identify $4.6 million transferred to other sites (such as ASA Limited, Olive Management, and Tunyar Trading). According to Abdulkadir, "these misleading misstatements and omissions fundamentally undercut the narrative the government told the Court in the affidavits." *Id.* at 24.

The basic problem with the alleged omission of bank records is familiar—there's no valid basis to infer recklessness because the omitted information was not clearly critical to probable cause.[8] Focusing on the payments to apparent food suppliers first, the private investigator's declaration lists 21 payees that received a combined roughly $2 million from the Safari Restaurant during the period of April 1, 2020, to November 30, 2021. But the declaration does not state those payments were for food. The private investigator only states in his declaration that "payments in the amounts listed below were

moderately relevant fact in his supporting affidavit. *See Tech. Ordnance, Inc.*, 244 F.3d at 650.

[8] Abdulkadir makes no other showing, in the form of affidavits or other reliable evidence, that the omissions were reckless or knowing.

made to the following payees out of Cosmopolitan's accounts." Dkt. No. 184-4 ¶ 2. The largest portion of this $2 million—$727,228.36—was paid to Premium Fresh Produce LLC. *Id.* ¶ 6. The sworn declaration does not describe anything about Premium Fresh Produce LLC other than its name. Nor does the private investigator state that the Safari Restaurant paid the $727,228.36 to Premium Fresh Produce LLC for food. The second largest payee, Afrique Hospitality Group LLC, received $482,024.70 from the Safari Restaurant. *Id.* Again, nothing establishing that these payments were for food. The third largest payee, Afro Produce, received $255,725.70. *Id.* Again, nothing else. That these payments might be for food—based on the names of entities alone—is not the strong preliminary showing required for a movant to receive a *Franks* hearing. After all, it is equally plausible that these entities are shell companies linked to the fraud scheme.[9]

True, the Safari Restaurant paid a few hundred thousand dollars to recognized food vendors such as Costco and Sysco. *Id.* But these payments to recognized food vendors could be expenditures on ordinary restaurant operations of the Safari Restaurant, rather than for serving meals to children through the federal child nutrition programs. Regardless, such limited payments to recognized food vendors stand in sharp contrast to the Safari Restaurant's reimbursement claims for more than $10 million. And even if the Safari Restaurant served some meals, this does little to undermine the totality of Agent Wilmer's affidavit, which provides several other core facts that make it fairly likely the Safari Restaurant requested reimbursement for meals never served. *See* Infra, Part II.A. In short, Agent Wilmer's omission of payments to 21 "apparent food suppliers" was not

[9] Afrique Hospitality Group LLC has been indicted for defrauding the federal child nutrition programs. Dkt. No. 257 at 34–35. No party points to facts in the record describing Premium Fresh Produce or Afro Produce's ownership.

clearly critical to a finding of probable cause. Accordingly, there is no proper basis to infer that Agent Wilmer's omission of the information was reckless.[10]

The remaining omitted bank records run into the same problem. Abdulkadir argues that roughly $370,000 spent on credit card payments may have been for "food, supplies, or other operating expenses." Dkt. No. 188 at 21. But he offers no evidence to support his assertion. As for the approximately $1.8 million in payments to "seemingly unrelated individuals," he contends that these "plainly could have been consistent with contract labor and management expense payments." *Id.* at 22. Again, Abdulkadir offers no reliable evidence identifying the people receiving these payments or explaining what the payments were for. Notably, that $1.8 million includes $614,699.26 to AG Limited, which, according to the Government, is a shell company involved in the alleged fraud scheme. Dkt. No. 257 at 36. Finally, Abdulkadir critiques the affidavits for failing to specify that $4.6 million was transferred out of Safari Restaurant accounts to ASA Limited, Olive Management, and related entities that operated sites. Dkt. No. 188 at 20. But the affidavits more than adequately connect these entities to a common fraud scheme. And whether the Safari Restaurant retained $15 or $10 million is not clearly critical to the probable-cause analysis. Either way, it was reasonable for Agent Wilmer to conclude from the bank records that the Safari Restaurant spent only a small fraction of the federal child nutrition

[10] In addition to claiming that records of these payments were omitted, Abdulkadir challenges some of Agent Wilmer's statements summarizing the Safari Restaurant's bank records, in particular, Agent Wilmer's claim that the Safari Restaurant spent little of the federal child nutrition funds serving children. Dkt. No. 188 at 20–21. Because the proffered bank records fail to adequately demonstrate that the Safari Restaurant was spending large amounts of money on food (let alone on serving reimbursable meals), Abdulkadir has not made a substantial showing that Agent Wilmer's statements summarizing the Safari Restaurant bank records were knowingly or recklessly false.

funds serving children, while transferring millions to Safari Restaurant owners and associates. Because none of these records would have been clearly critical to a finding of probable cause, there is no valid basis to infer that Agent Wilmer's omission of the records was reckless.

3. FBI Surveillance Footage

Finally, Abdulkadir argues that Agent Wilmer omitted video evidence showing the Safari Restaurant receiving shipments of food and distributing food. *Id.* at 24–34. From December 10, 2021, through January 24, 2022, federal agents installed a surveillance camera outside the Safari Restaurant. *Id.* at 24. Abdulkadir claims to have "identified hundreds of instances of food distribution and food deliveries on the Pole Cam video." *Id.* at 25. He then proceeds to embed twelve examples of this in his brief. *Id.* at 26–34.

There is a familiar denial-worthy problem with this line of attack—Abdulkadir has not adequately shown that these videos are clearly critical to probable cause.[11] The basic problem is that the video footage does not decisively favor either Abdulkadir or the Government. On one hand, Abdulkadir can argue that the video footage is evidence that the Safari Restaurant was serving meals. But the Government can counter that the video footage doesn't show nearly as many meals being served as the Safari Restaurant claimed for reimbursement. After all, Abdulkadir represents that he has identified hundreds of instances of food deliveries, but the Safari Restaurant claimed to be serving around 3,500 meals every day in December. Dkt. No. 257 at 38–39. For the evidence to clearly cut in Abdulkadir's favor, surveillance footage would need to show sufficient food

[11] Again, Abdulkadir makes no other showing, in the form of affidavits or other reliable evidence, that the omissions were reckless or knowing.

deliveries to support Safari Restaurant's claim of serving tens of thousands of meals each month. Because the evidence is at least ambiguous, it would not have been clearly critical to a finding of probable cause, and there is no valid basis to infer that Agent Wilmer's omission of the videos was reckless.

In summary, none of Abdulkadir's specified statements or omissions pass the first hurdle to receive a *Franks* hearing; he has failed to make the required substantial showing that Agent Wilmer made a knowing or reckless false statement or omission.

B. Aimee Bock (Dkt. No. 198)

Bock (the executive director of Feeding Our Future) seeks a *Franks* hearing, challenging the validity of two search warrants: (1) the January 14 search warrant for her residence; and (2) the January 14 search warrant for Feeding Our Future's office. Dkt. No. 198 at 1. She argues that "the affiant knowingly or recklessly created a misleading narrative regarding alleged payments to Bock," specifically claiming that Agent Wilmer's characterization of the $310,000 payment as a kickback was knowingly or recklessly false. Dkt No. 198 at 1–2. She identifies omissions relating to that payment, including (1) the date of the transaction; (2) "that the check was for a legitimate business purpose"; and (3) that Bock was "actively involved in reporting organizations that she suspected of fraudulent activity." *Id.* at 2.

There is a basic problem with Bock's motion; she has failed to offer supporting affidavits or other reliable statements to substantiate her allegations. *United States v. Gonzalez*, 781 F.3d 422, 430 (8th Cir. 2015) ("This substantiality requirement is not met lightly and requires a defendant to offer specific allegations along with supporting affidavits or similarly reliable statements."). Bock offers no reliable basis to conclude that the $310,000 check was for a legitimate business transaction or that she was actively involved in reporting suspected fraud. Her mere allegations are not enough. *See Kattaria*, 553 F.3d at 1177. As for the omission of the transaction date, Bock does not demonstrate why its omission was knowing, reckless, or explain why the date of the transaction was clearly critical to probable cause.

To the extent that Bock's issue with Agent Wilmer's description of the transaction as a kickback is that he failed to adequately indicate how he made that determination in his affidavit, this is not a basis for a *Franks* hearing. To receive a *Franks* hearing, Bock must make a substantial showing that Agent Wilmer's description of the transaction as a kickback was knowingly or recklessly false. Suspicion and speculation are not enough. Nor is her mere allegation that she received no kickbacks while in her role as executive director. *Kattaria*, 553 F.3d at 1177.[12] Accordingly, Bock's motion fails to satisfy the first requirement for *Franks* hearing.

C. Abdikadir Ainanshe Mohamud (Dkt. No. 213)

Ainanshe (the Tunyar Trading owner) moves for a *Franks* hearing, challenging the validity of two search warrants: (1) the January 12 search warrant for his residence; and (2) the February 1 search warrant for his e-mail account. Dkt. No. 213 at 1. He identifies two allegedly false statements. First, that Agent Wilmer falsely stated he was the owner of Stigma-Free International. Second, that the affidavits include a false allegation that he

[12] Bock's arguments would be better raised in a motion to suppress based on an absence of probable cause. In other words, that the January 12 affidavit lacks sufficient factual content to make it fairly likely that she committed a crime. But she has not filed such a motion. Regardless, such a motion would fail for the same reasons that Bock's motion fails to satisfy the second requirement for a *Franks* hearing, as is discussed below. Infra, Part III.C.

sent information to Bock through Stigma-Free International regarding operations at two sites. Dkt. No. 213 at 3, 5–6.

Although the Government concedes that Agent Wilmer incorrectly stated Ainanshe was the owner of Stigma-Free International, it claims this was a typographical error. Dkt. No. 257 at 44. The Government's claim is consistent with other paragraphs in the affidavits identifying Artan as the owner of Stigma-Free International and Ainanshe as the owner of Tunyar Trading. *See* Dkt. No. 188-1 ¶¶ 27, 95, 98, 127. And Ainanshe offers nothing to dispute the Government's claim. Negligent or innocent mistakes, such as typographical errors, are not a sufficient basis to receive a *Franks* hearing*. United States v. Carpenter*, 422 F.3d 738, 745 (8th Cir. 2005) (explaining that movant must make a substantial showing that the false statement was "intentional rather than negligent").

As for the second statement, Ainanshe fails to make a substantial showing that the statement was false, let alone intentionally or recklessly so. The only basis for his allegation is a sentence in his motion where he "denies sending emails directly to Ms. Bock about counts." Dkt. No. 213 at 3. Such "[m]ere allegations of deliberate or reckless falsehoods are insufficient" to receive a *Franks* hearing. *Kattaria*, 553 F.3d at 1177. Therefore, Ainanshe's motion fails to satisfy the first requirement for a *Franks* hearing.

D. Abdi Nur Salah (Dkt. No. 223)

Abdi (the Stone Bridge owner) moves for a *Franks* hearing, challenging the validity of the January 21 search warrant for his e-mail account. Dkt. No. 223. He contends that Agent Wilmer's January 21 affidavit "is replete with knowingly or recklessly false and misleading statements or omission that render it devoid of legally sufficient probable cause." *Id.* at 1. But the only specific omission he identifies is that Stone Bridge received the more than $900,000 in federal child nutrition funds pursuant to a consulting contract. *Id.* at 2. This omission doesn't make it to first base. "An officer who does not personally know information cannot intentionally or recklessly omit it." *Hartman v. Bowles*, 39 F.4th 544, 546 (8th Cir. 2022) (alteration omitted). As the Government represents, it was not aware of the consulting contract when applying for the January 21 search warrant. Dkt. No. 258 at 40. And Abdi provides no affidavit or other reliable statement showing that the Government knew about the existence of the contract. Even if the Government were aware of the consulting contract, Abdi has not shown the contract was clearly critical to probable cause. Nothing in the record explains what consulting services he performed under the contract or why the services were legitimately worth $900,000. In short, the mere existence of a consulting contract, without more, does not change anything. Accordingly, Abdi's motion fails to satisfy the first requirement for a *Franks* hearing.[13]

E. Abdihakim Ali Ahmed (Dkt. No. 193)

Abdihakim (an ASA Limited owner) moves for a *Franks* hearing, challenging the validity of the February 1 search warrant for his e-mail account. Dkt. No. 193. But he identifies no omissions or false statements in his motion. *See generally* Dkt. No. 193. Having failed to identify specific falsehoods or omissions, let alone provide supporting affidavits or other reliable statements to substantiate his allegations, his motion does not satisfy the first requirement for a *Franks* hearing. *Gonzalez*, 781 F.3d at 430 ("This

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[13] Abdi also claims that various statements in Agent Wilmer's January 12 affidavit lack a factual basis. Dkt. No. 223 at 2–3. To the extent these arguments are in support of a Franks hearing, they do not satisfy the required substantial showing. Mere allegations of reckless or intentional falsehood are insufficient. *Kattaria*, 553 F.3d at 1177; *Franks*, 438 U.S. 154 at 172 ("[A]llegations must be accompanied by an offer of proof.").

substantiality requirement is not met lightly and requires a defendant to offer specific allegations along with supporting affidavits or similarly reliable statements.”).

II. Probable Cause (Four-Corners Review)

In addition to requesting a *Franks* hearing, several Defendants move to suppress based on a four-corners review, arguing that the search warrants failed to establish probable cause. “Whether probable cause to issue a search warrant has been established is determined by considering the totality of the circumstances.” *United States v. Notman*, 831 F.3d 1084, 1088 (8th Cir. 2016). When the judge issuing a search warrant relied solely upon the supporting affidavit, “only that information which is found within the four corners of the affidavit may be considered in determining the existence of probable cause.” *United States v. O’Dell*, 766 F.3d 870, 874 (8th Cir. 2014) (quoting *United States v. Solomon*, 432 F.3d 824, 827 (8th Cir. 2005)). When conducting a four-corners review, the warrant must set forth “sufficient facts to lead a prudent person to believe that there is a fair probability that contraband or evidence of a crime will be found in a particular place” *Notman*, 831 F.3d at 1088.

Reviewing courts must afford “great deference” to the probable cause determination of the judge who issued the warrant and should resolve even “doubtful or marginal cases” in favor of a warrant’s validity. *United States v. Butler*, 594 F.3d 955, 962 (8th Cir. 2010) (citation omitted); *see United States v. Ventresca*, 380 U.S. 102, 109 (1965). So long as the issuing judge had a “substantial basis” for concluding the “search would uncover evidence of wrongdoing,” this Court must uphold the probable cause determination. *United States v. Horn*, 187 F.3d 781, 785 (8th Cir. 1999). Accordingly, courts take a common-sense approach to examining the sufficiency of a search-warrant affidavit. However, a warrant issued based only on a supporting affidavit that merely asserts conclusions rather than facts may be invalid. *Aguilar v. Texas*, 378 U.S. 108, 113 (1964).

A. Abdulkadir Nur Salah (Dkt. No. 189)

Abdulkadir moves to suppress evidence from the January 12 warrant for his residence and February 1 warrant for his e-mail account, contending that the supporting affidavits failed to set forth probable cause. Dkt. No. 189 at 1. More specifically, he argues that the affidavits failed to establish a nexus between the locations to be searched and the fraud scheme. For a warrant to be properly issued, there must be a nexus between the evidence of a crime and a particular place. *United States v. Tellez*, 217 F.3d 547, 550 (8th Cir. 2000). "The requisite nexus . . . is determined by the nature of the crime and the reasonable, logical likelihood of finding useful evidence." *United States v. Etheridge*, 165 F.3d 655, 657 (8th Cir. 1999).

To start, the supporting affidavits offer more than enough facts to conclude the Safari Restaurant's owners and associates knowingly caused the submission of false claims for reimbursement. Abdulkadir concedes that's a crime. Just consider the following core facts: (1) shortly after joining the programs, the Safari Restaurant claimed to serving 5,000 meals a day; (2) a few months later, associates and owners of the Safari Restaurant created new entities (ASA Limited and Olive Management) specifically to enroll in the federal child nutrition programs, and shortly after enrollment those entities claimed to be serving thousands of meals a day; (3) one of those new sites claimed to be serving 2,000 meals a day in a town with a population of 21,000; (4) when audited, sites submitted invoices and meal counts claiming to have served practically identical large numbers of meals every day of the month; (5) owners and associates of the Safari Restaurant received more than $9 million from Safari Restaurant bank accounts (most of this money derived from federal child nutrition funds); (6) Safari Restaurant bank records showed that only a small amount of the reimbursed federal child nutrition funds were spent on food; and (7) Safari Restaurant owners and associates spent millions of federal child nutrition funds on cars and real estate. Although any of these facts taken in isolation might just be suspicious, together, they are powerful evidence that these sites were knowingly claiming reimbursement for meals never served.

The supporting affidavits also provide more than enough facts linking Abdulkadir to this fraud scheme. He was one of the owners of the Safari Restaurant, Dkt No. 188-1 ¶¶ 42, 88, created two entities to receive funds from the scheme, *id.* ¶¶ 37, 43, received more than $1 million through those entities, *id.* ¶¶ 92, 94, 106, and purchased real estate with alleged co-conspirators using proceeds from the scheme, *id.* ¶¶ 126–133. Moreover, he was the signatory on a Safari Restaurant bank account that transferred $3 million in (mostly) federal child nutrition funds to Safari Restaurant owners and associates. *Id.* ¶¶ 93–95.

Because the affidavits provide enough evidence to substantiate the existence of a fraud scheme and sufficiently describe Abdulkadir's participation in that scheme, other allegations form a sufficient nexus to his residence. Abdulkadir listed his residence as the office and address for 3017 LLC. *Id.* ¶¶ 39, 41. He also listed his residence as the address for Cosmopolitan Business Properties LLC, and received mail addressed to that entity at his residence. *Id.* ¶¶ 43–44. It is fair to conclude records of financial transactions involving those entities would be found at his residence. Based on his participation in the scheme, it is fairly likely that such records would be evidence of money laundering.[14] Moreover, Agent Wilmer asserted that based upon his experience and training, those engaged in fraud schemes often maintain records of assets and financial transactions at their residences. *Id.* ¶ 4. Taken together, these facts establish a fair probability that evidence of a crime would be found at his residence. *See United States v. Esherick*, No. 20-cr-232, 2022 WL 3644895, at *3–4 (D. Minn. Aug. 24, 2022) (finding a similar factual basis sufficient); *see also United States v. Keele*, 589 F.3d 940, 943–44 (8th Cir. 2009) (relying on an affiant's experience with criminal activity).

The same follows for Abdulkadir's e-mail account. He listed his e-mail account in connection with 3017 LLC, Dkt. No. 188-3 ¶ 135, listed it as the contact for Cosmopolitan Business Properties LLC in connection with the purchase of a building for $2.8 million (almost all of that amount derived from federal child nutrition funds), *id.* ¶ 96. and used the e-mail account to submit documents to Bock, including receipts and invoices that purported to show the Safari Restaurant purchasing food from distribution companies, *id.* ¶¶ 136–38. These account-specific facts must be "read along with the totality of circumstances described in the affidavit, which include significant information detailing evidence of the ongoing . . . fraud." *United States v. Moulder*, No. 20-cr-232, 2022 WL 4001207, at *6 (D. Minn. May 31, 2022), *report and recommendation adopted,* No. 20-cr-232, 2022 WL 4000203 (D. Minn. Sept. 1, 2022) (finding a sufficient nexus between a fraud scheme and e-mail account). When viewed in light of Agent Wilmer's detailed

[14] The elements of § 1957 money laundering are: "(1) that the defendant knowingly engaged in a monetary transaction, (2) that the defendant knew the property involved derived from specified unlawful activity, and (3) that the property was of a value greater than $10,000." *United States v. Johnson*, 450 F.3d 366, 375 (8th Cir. 2006).

description of the fraud scheme, the links to the shell companies make it fairly likely that evidence of money laundering or wire fraud would be found on Abdulkadir's e-mail account. And sending those invoices and receipts to Bock (an alleged co-conspirator) makes it fairly likely that evidence of the fraud scheme would be found on his account.[15] That is more than enough to establish probable cause. *See United States v. Miller*, No. 20-cr-232, 2022 WL 3644894, at *3 (D. Minn. Aug. 24, 2022) (finding a sufficient nexus between a fraud scheme and e-mail account).

B. Abdikadir Ainanshe Mohamud (Dkt. No. 213)

Ainanshe challenges the January 12 search warrant for his residence and February 1 search warrant for his e-mail account, arguing that the supporting affidavits fail to set forth probable cause. Dkt. No. 213 at 1. The thrust of his argument is that the affidavits lack sufficient detail to connect him to the fraud scheme. *Id.* at 5. This contention is not persuasive.

Ainanshe created Tunyar Trading in September 2020, a company that quickly obtained vendor contracts to serve meals at sites sponsored by Feeding Our Future and received more than $4 million from the Safari Restaurant and related entities in 2021. Dkt. No. 188-1 ¶ 98. Much of that money was then transferred to Safari Restaurant owners and associates. *Id.* ¶ 102. It is unlikely that Ainanshe received that much money from the

[15] Abdulkadir argues that his e-mails sending Bock receipts and invoices were innocuous. Dkt. No. 189 at 4–5. But according to Agent Wilmer, the Safari Restaurant sent various fraudulent documents to support its false claims for reimbursement. Although the e-mails might not be incriminating when viewed in isolation, given Abdulkadir's connections to the fraud scheme, it is reasonable to infer he sent these e-mails to support the Safari Restaurant's false claims for reimbursements. *United States v. Thompson*, 210 F.3d 855, 860 (8th Cir. 2000) (explaining that judges "may draw reasonable inferences from the totality of the circumstances in determining whether probable cause exists to issue a warrant").

Safari Restaurant without being an active participant in the fraud scheme. Moreover, Ainanshe directly participated in the operation of sites. For example, he e-mailed Feeding Our Future meal counts representing that 2,000 meals were being served every day at a site in Willmar, a town with a total population of 21,000. This is more than enough to link Ainanshe to the fraud scheme.

Other facts in the affidavits outline a sufficient nexus between the fraud scheme and his residence. Ainanshe listed his residence as Tunyar Trading's office with the Minnesota Secretary of State and as his address on the entity's bank accounts. *Id.* ¶¶ 27, 28. Tunyar Trading also regularly received mail at the residence. *Id.* ¶ 29. When taken in conjunction with Agent Wilmer's statement that those engaged in fraud schemes often maintain records of assets and financial transactions at their residences, *id.* ¶ 4(b), it is fairly likely that evidence of a crime would be found at Ainanshe's residence. *See Esherick*, No. 20-cr-232, 2022 WL 3644895, at *3–4; *Keele*, 589 F.3d at 943–44.

The same follows for his e-mail account. Agent Wilmer's February 1 affidavit identifies two e-mails that Ainanshe sent from the account. The first attaches a vendor contract between Tunyar Trading and Feeding Our Future, while the second attaches meal counts claiming that Stigma-Free International served nearly 3,000 meals a day at a Mankato site. Dkt. No. 188-3 ¶¶ 140–43. When these e-mails are taken in context with the affidavit's thorough description of the fraud scheme, it is fairly likely that these e-mails evidence Ainanshe participation in the scheme. That is more than enough to establish probable cause. *Miller*, No. 20-cr-232, 2022 WL 3644894, at *3; *Moulder*, No. 20-cr-232, 2022 WL 4001207, at *6, *R&R adopted,* No. 20-cr-232, 2022 WL 4000203.

C. Abdi Nur Salah (Dkt. No. 223)

Abdi moves to suppress evidence from the January 21 warrant based on the absence of probable cause. Dkt. No. 223 at 4 (requesting that the Court "find that there is legally insufficient probable cause"). The thrust of his argument seems to be that the January 21 affidavit lacks sufficient factual content connecting Abdi and his e-mail account to the fraud scheme. *Id.* at 1–3. This argument is not persuasive.

Agent Wilmer's January 21 affidavit provides enough facts to conclude that evidence of a crime, in particular money laundering, would be found on Abdi's e-mail account.[16] Abdi knowingly purchased two properties. Dkt. No. 223-1 ¶¶ 112, 119. Most, if not all, of the money spent to purchase those properties was derived from the fraud scheme. *Id.* ¶¶ 108–09, 116. It is reasonable to infer that Abdi knew the origin of this money. *See United States v. Thompson*, 210 F.3d 855, 860 (8th Cir. 2000) (courts may draw reasonable inferences). He created Stone Bridge to receive more than $900,000 in federal child nutrition funds. *Id.* ¶ 106–07. It is hard to believe he received such a large sum from the fraud scheme without being aware of its origin. And he created the Five A's Project with the Tunyar Trading owner, a Safari Restaurant owner, the Stigma-Free International owner, and the Olive Management owner. *Id.* ¶ 112–15. Shortly after its creation, he purchased a property for $1 million on behalf of the Five A's Project. *Id.* Taking these facts together with the use of his e-mail account in connection with Stone Bridge and the purchase of a rental property with fraud scheme proceeds, the supporting

[16] The elements of § 1957 money laundering are: "(1) that the defendant knowingly engaged in a monetary transaction, (2) that the defendant knew the property involved derived from specified unlawful activity, and (3) that the property was of a value greater than $10,000." *United States v. Johnson*, 450 F.3d 366, 375 (8th Cir. 2006).

affidavit made it fairly likely that evidence of a crime would be found on his e-mail account. *See Miller*, No. 20-cr-232, 2022 WL 3644894, at *3.

D. Abdihakim Ali Ahmed (Dkt. No. 193)

Abdihakim (an ASA Limited owner) moves to suppress evidence from the February 1 search warrant for his e-mail account based on the absence of probable cause. Dkt. No. 193 at 1. The thrust of Abdihakim's argument is that the supporting affidavit lacks enough facts to establish that a crime was committed. *Id.* at 2, 5. He contends that "[i]n essence, the government appears to be asserting that large profits in a restaurant operation necessarily indicate fraud." *Id.* at 5. This benign interpretation of the facts has already been rejected. Supra, Part II.A. Moreover, there is more than enough linking the fraud scheme to Abdihakim and his e-mail account.

Abdihakim created ASA Limited, almost immediately enrolling in the federal child nutrition programs and claiming to be serving thousands of meals every day. Dkt. No. 188-3 ¶¶ 35–38. He also e-mailed meal counts and invoices to Feeding Our Future. *Id.* ¶¶ 147–52. Based on the implausibly high number of meals ASA Limited claimed to serve, the identical quantities claimed every day of the month, and that almost none of the federal child nutrition funds were spent on food, it is fairly likely that those invoices and meal counts falsely represented the number of meals ASA Limited served. *See Thompson*, 210 F.3d at 860 (courts may draw reasonable inferences). When considering the totality of the circumstances, this is more than enough to make it fairly likely that evidence of a crime would be found on his e-mail account. *See Miller*, No. 20-cr-232, 2022 WL 3644894, at *3.

E. Ahmed Abdullahi Ghedi (Dkt. No. 203)

Ghedi (an ASA Limited owner) moves to suppress evidence from the August 16 search warrant for his e-mail account based on the absence of probable cause. Dkt. No. 203 at 1. He argues that the affidavit only provides mere suspicion that ASA was engaged in unsavory activities. *Id.* at 5. He also characterizes the e-mails as "a series of routine transactions in which Ahmed communicated with Ghedi or in which Ghedi conveyed information to others." *Id.* According to Ghedi, "the affidavit does not make it plain that any of these communications explicitly involved illegal activities." *Id.* As has already been explained, this innocuous characterization of the facts in Agent Wilmer's supporting affidavit is not persuasive.

Ghedi was an ASA Limited owner, an entity that received more than $5 million in reimbursements from Feeding Our Future. Dkt. No. 258-2 ¶ 41. Moreover, ASA Limited was formed to operate a new site as part of the fraud scheme. *Id.* ¶¶ 35–41, 45–56. Ghedi received more than $1.2 million from ASA Limited. *Id.* ¶ 43. Remember, all that money came from an entity that had just been formed in September 2020 and derived its revenue from federal child nutrition funds. *Id.* ¶ 42. This is enough to reasonably infer Ghedi was a participant in the fraud scheme. *See Thompson*, 210 F.3d at 860 (probable cause analysis permits reasonable inferences). Read in this context, the e-mails referenced in Agent Wilmer's affidavit—attaching paystubs, a title report, checks, and so on—are fairly interpreted as co-conspirators communicating information regarding the distribution of fraud-scheme proceeds. Taken together, there is enough to establish probable cause for the search of Ghedi's e-mail. *Miller*, No. 20-cr-232, 2022 WL 3644894, at *3; *Moulder*, No. 20-cr-232, 2022 WL 4001207, at *6, *R&R adopted,* No. 20-cr-232, 2022 WL 4000203.[17]

III. *Franks* Hearing: Second Requirement

In this section, the Court turns back to Defendants' motions to receive *Franks* hearings. To recap, to receive a *Franks* hearing, a defendant must make a substantial preliminary showing that (1) the supporting affidavit contained a false statement (or omission) made either knowingly and intentionally, or with reckless disregard for the truth; and (2) with the false statement corrected or missing information inserted, the affidavit no longer establishes probable cause for the search. *United States v. Gonzalez*, 781 F.3d 422, 430 (8th Cir. 2015). Although none of Defendants' motions satisfy this first requirement, it is worth explaining why the affidavits—which as just discussed do establish probable cause—would continue to do so even after correcting allegedly false statements and inserting identified omissions.

[17] Ghedi filed a separate motion to suppress the January 12 search warrant for the commercial building in South Minneapolis (located at 2722 Park Avenue South). Dkt. No. 205 at 1. But "Fourth Amendment rights are personal rights that may not be asserted vicariously." *United States v. Mosley*, 878 F.3d 246, 255 (8th Cir. 2017) (quoting *United States v. Anguiano*, 795 F.3d 873, 878 (8th Cir. 2015)). To challenge a search, a defendant "must demonstrate that he personally has an expectation of privacy in the place searched, and that his expectation is reasonable." *United States v. Barragan*, 379 F.3d 524, 529 (8th Cir. 2004) (quoting *Minnesota v. Carter,* 525 U.S. 83, 88 (1998)). A defendant must either present evidence demonstrating that he had a reasonable expectation of privacy or point to specific evidence in the record presented by the Government. *United States v. Maxwell*, 778 F.3d 719, 732 (8th Cir. 2015). Ghedi claimed at oral argument that he is a minority owner of the entity that purchased the commercial building. He did not provide any evidence to support this assertion, nor did he point to specific evidence in the record presented by the Government. Accordingly, the Court recommends that Ghedi's second motion to suppress, Dkt. No. 205, be denied for lack of standing.

A. Abdulkadir Nur Salah (Dkt. No. 188)

Abdulkadir's motion for a *Franks* hearing challenges the validity of (1) the January 12 search warrant for his residence; (2) the January 12 search warrant for the Safari Restaurant; and (3) the February 1 search warrant for his e-mail account. Dkt. No. 188 at 1. His motion identifies omitted COVID-19 waivers and program rules, Safari Restaurant bank records, and surveillance footage, and allegedly false statements related to these omissions.

Having already explained why none of the omitted information is clearly critical to probable cause, *see* Supra Part I.A, it follows that inserting the omitted information does not negate the existence of probable cause. The omitted COVID-19 waivers and program rules only slightly undermine a few of the core facts in Agent Wilmer's affidavit. *See* Supra, Part II.A (outlining core facts that make it fairly likely that Safari Restaurant owners and associates knowingly caused the submission of false claims). Between the suspicious invoices and meal counts, rapid expansion of new sites, web of shell companies transferring millions of dollars of federal child nutrition funds, and so on, there would still be more than enough to establish probable cause even if inserting the COVID-19 waivers made the Safari Restaurant's incredibly large claims for reimbursement slightly more plausible. The same is true if the affidavits clarified that the Safari Restaurant could make a profit. That the Safari Restaurant could legally make a profit does not undermine probable cause given the circumstantial evidence indicating fraudulent claims for reimbursement. Such evidence includes both the incredible number of meals the restaurant claims to have served and the explosive rapidity with which that volume expanded in a short amount of time. Put another way, that the Safari Restaurant could legally earn *a* profit, does not make the volume of business claimed benign to the point of undermining probable cause.

As for the bank records and surveillance footage, both omissions could reasonably be interpreted to cut either way. The omitted bank records identify large transfers of money to mostly unidentified payees for unknown reasons.[18] Based on Abdulkadir's proffer and the embedded photographs, the surveillance footage shows some meals being served, but far fewer than would be expected if the Safari Restaurant was serving 3,500 reimbursable meals a day. Because the affidavits establish probable cause even after correcting the alleged deficiencies, Abdulkadir's motion does not satisfy the second requirement to receive a *Franks* hearing. Having failed to meet either requirement for a *Franks* hearing, Abdulkadir's motion is denied.

B. Salim Ahmed Said and Abdirahman Mohamud Ahmed (Dkt. Nos. 200, 222)

Said and Defendant Abdirahman Mohamud Ahmed (Abdirahman) move to join Abdulkadir's motion for a *Franks* hearing as it relates to the January 12 search warrant for the Safari Restaurant. Dkt. Nos. 200, 222. Neither motion adds anything. Accordingly, their motions are denied for the same reasons Abdulkadir's motion for a *Franks* hearing is denied.[19]

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[18] Even without Agent Wilmer's statements that little of the federal child nutrition funds were spent on food, the same conclusion could reasonably be reached by examining the omitted bank records.

[19] To the extent Said also seeks to join other, unspecified motions, the Court denies his motion to the extent it joins unspecified *Franks* motions and recommends it be denied to the extent it joins unspecified motions to suppress.

C. Aimee Bock (Dkt. No. 198)

Bock's motion for a *Franks* hearing challenges the January 14 search warrants for her residence and the Feeding Our Future office. Dkt. No. 198 at 1. In passing, she identifies several omissions and corrections linked to the $310,000 payment Bock received. But even removing any discussion of the $310,000 payment and kickbacks generally, the affidavits easily establish probable cause for the two warrants.

To start, based on FBI surveillance finding no evidence of meals being served at the Columbus and Taylor sites, it is fairly likely that Feeding Our Future knowingly submitted false claims for reimbursement. Dkt. No. 257-2 ¶¶ 127–48. Bock was personally involved in these sites, signing a vendor contract and telling the MDE that Feeding Our Future had verified children were being served at the Columbus site. *Id.* ¶¶ 129, 138, 147. Evidence linked to the false submission of claims at those sites—such as meal counts, vendor contracts, and related documents—is likely to be found at Feeding Our Future's office. Stripping Agent Wilmer's January 14 affidavit of facts related to the $310,000 payment has no impact on this conclusion.

Additional evidence supports this conclusion. Considering the totality of the circumstances, it is fairly likely that Feeding Our Future—including its executive director Bock—knowingly approved fraudulent claims on behalf of sponsored entities such as the Safari Restaurant. As has already been explained, Agent Wilmer's affidavit provides more than enough facts to conclude the Safari Restaurant and related sites sponsored by Feeding Our Future were knowingly submitting false claims for reimbursement. *See* Supra, Part II.A. Feeding Our Future worked closely with these sites, quickly sponsoring applications for newly created entities, Dkt. No. 257-2 ¶¶ 56, 67, 70, fiercely advocating for the approval of sites and reimbursement of claims in the face of MDE resistance, *id.*

¶¶ 51–52, 57–61, 73–76, submitting implausibly large claims for reimbursement month after month, *id.* ¶¶ 62, 68, 71, and submitting suspicious documentation from those sites to the MDE, *id.* ¶¶ 63, 78–79, 81–82. These facts—with or without the alleged $310,000 kickback—provide ample probable cause to search the Feeding Our Future office.

Other facts form a sufficient nexus between the fraud scheme, Bock, and her residence. Bock was directly involved in the sponsorship of new sites, creation of vendor contracts, and communication with the MDE to keep the federal child nutrition funds flowing. *See, e.g.*, *id.* ¶¶ 60, 94. More than $600,000 was transferred from Feeding Our Future to an entity controlled by her boyfriend. *Id.* ¶¶ 150–52. As for the residence, Feeding Our Future listed its address as her residence, *id.* ¶ 17, the entity owned by her boyfriend listed her residence as its address and received mail at her residence, *id.* ¶ 19–20, and Agent Wilmer stated in his affidavit that individuals receiving income from fraud schemes often maintain relevant records at their residences, *id.* ¶ 4. That is sufficient probable cause that evidence of a crime would be found at Bock's residence even if facts regarding the $310,000 kickback were removed from Agent Wilmer's January 14 affidavit. Accordingly, because Bock fails to satisfy either requirement for a *Franks* hearing on either warrant, her motion is denied.

D. Abdikadir Ainanshe Mohamud (Dkt. No. 213)

Ainanshe's motion for a *Franks* hearing challenges the January 12 search warrant for his residence and February 1 search warrant for his e-mail account. Dkt. No. 213. The two allegedly false statements are (1) that he was the owner of Stigma-Free International; and (2) that he sent information to Bock through Stigma-Free International regarding operations at two sites. *Id.* at 3, 5–6.

This Court already explained why the supporting affidavits established probable cause for both search warrants. *See* Supra, Part II.B. That analysis did not rely on Ainanshe's purported ownership interest in Stigma-Free International. In other words, correcting the first false statement does not change the probable cause analysis. The second false statement seems to be referring to the meal counts Ainanshe sent to Feeding Out Future. But even removing any discussion of those e-mails, the remaining details adequately describe Ainanshe's participation in the conspiracy. In particular, Tunyar Trading—Ainanshe's entity—received more than $4 million in federal child nutrition funds, before transferring much of those funds on to Safari Restaurant owners and associates. Considering his use of the e-mail account in connection with Tunyar Trading, there is still probable cause to believe evidence of a crime would be found in the e-mail account. Having failed to satisfy either requirement for a *Franks* hearing, Ainanshe's motion is denied.

E. Abdi Nur Salah (Dkt. No. 223)

Abdi's motion for a *Franks* hearing challenges the January 21 search warrant for his e-mail account. Dkt. No. 223. The only specific omission he identifies is that Stone Bridge received the more than $900,000 in federal child nutrition funds pursuant to a consulting contract. *Id.* at 2. But inserting the existence of a consulting contract, without more, does not seriously undermine probable cause. Abdi still created an entity to receive and did receive more than $900,000 in federal child nutrition funds. He created a second entity to purchase a $1 million property with four Safari Restaurant owners and associates. The existence of a consulting contract does not alter where the money originated and is consistent with the allegations of money laundering. He also takes issue with conclusory statements, such as that the money was "fraudulently obtained." Dkt. No.

223 at 2. But even if these conclusory statements are excised, Agent Wilmer's January 21 affidavit contains enough facts to conclude the money was derived from the fraud scheme. *See* Dkt. No. 223-1 ¶¶ 26–55 (generally describing the fraud scheme), ¶¶ 62–70, 108–09 (describing Tunyar Trading's role). Because the affidavit establishes probable cause even with the allegedly false statements corrected and omissions inserted, Abdi's motion does not satisfy the second requirement for a *Franks* hearing. Having failed to meet either requirement, the motion is denied.

F. Abdihakim Ali Ahmed (Dkt. No. 193)

Abdihakim failed to identify specific statements or omissions while moving for a Franks hearing. *See* Dkt. No. 193. Without specific statements to correct or omissions to insert, it is not possible to conduct meaningful analysis of the second *Franks*-hearing requirement. Having failed to make a substantial showing as to either requirement, his motion is denied.

IV. Particularity, Overbreadth, and Exceeding the Scope

Three Defendants challenge e-mail search warrants as overly broad and insufficiently particular. The Fourth Amendment provides that "no Warrants shall issue . . . [unless] particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. amend. IV. The purpose of this particularity requirement is to prevent "a general, exploratory rummaging in a person's belongings." *Coolidge v. New Hampshire*, 403 U.S. 443, 467 (1971). To be sufficiently particular, the warrant application must describe the items to be seized with enough detail that "the searcher [can] locate and identify the places and items with reasonable effort and [] avoid mistakenly searching the wrong places or seizing the wrong items." *United States v. Gleich*, 397 F.3d 608, 911 (8th Cir. 2005). Courts evaluate particularity for "practical" not "hypertechnical" accuracy.

United States v. Fiorito, 640 F.3d 338, 346 (8th Cir. 2011). Particularity depends in part on the nature of the investigated crimes. *See United States v. Frederickson*, 846 F.2d 517, 519 (8th Cir. 1988); *United States v. Cooper*, 654 F.3d 1104, 1127 (10th Cir. 2011); *United States v. Greene*, 250 F.3d 471, 477 (6th Cir. 2001). This approach comports with the totality-of-the-circumstances test for probable cause in general. *See Notman*, 831 F.3d at 1088.[20]

Two Defendants also claim that the Government exceeded the scope of search warrants when searching their e-mail accounts. A seizure pursuant to a search warrant may not exceed the warrant's scope. *United States v. Stephen*, 984 F.3d 625, 631 (8th Cir. 2021). To determine whether a search exceeding the warrant's scope, courts look to "the fair meaning of the warrant's terms." *United States v. Sturgis*, 652 F.3d 842, 844 (8th Cir. 2011) (quoting *United States v. Johnson,* 640 F.3d 843, 845 (8th Cir. 2011)).

A. Abdihakim Ali Ahmed (Dkt. No. 193)

Abdihakim's motion to suppress the February 1 search warrant raises particularity, overbreadth, and exceeding-scope-of-search challenges. Dkt. No. 193 at 1. Start with particularity and overbreadth. He contends that the search warrant lacks particularity because it "authorized the seizure of the entire contents of the Google Account, including draft emails and lists of contacts, and as such, it essentially authorized whole-sale

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[20] Overbreadth is the requirement that the scope of the warrant be limited by probable cause. *United States v. Brown*, No. 19-cr-110, 2019 WL 7838276, at *11 (D. Minn. Sept. 20, 2019), *R&R adopted,* No. 19-cr-110, 2019 WL 6607240, at *11 (D. Minn. Dec. 5, 2019). Particularity and overbreadth are distinct but intertwined concepts that are often addressed together. *Id.*; *Moulder*, No. 20-cr-232, 2022 WL 3644893, at *3 n.2. Addressing the concepts together makes sense here because Defendants' motions make no serious attempt to distinguish between them. *See generally* Dkt. Nos. 193, 213, 203.

rummaging through the account user's personal communications and affairs, unlimited by scope or time." Dkt. No. 193 at 5. This argument is not persuasive.

The Government's search-warrant application follows Rule 41(e)(2)(B)'s two-step procedure. At step one, the warrant directed Google to turn over Abdihakim's e-mail account. Attachment B, Dkt. No. 188-3. At step two, the Government would seize the list of items described by Attachment B. *Id.* Attachment B identifies several categories of communications and records related to the fraud scheme. *Id.* Abdihakim does not specify whether he challenges step one, two, or both. *See generally* Dkt. No. 193. Whatever the challenge, it fails. This Court has already rejected a similar challenge to the particularity of a similar step-one request directing Google to turn over an e-mail account. *United States v. Diallo*, No. 20-cv-233, 2023 WL 4423940, at *5–7 (D. Minn. Apr. 5, 2023), *R&R adopted,* No. 20-cr-233, 2023 WL 3815695 (D. Minn. June 5, 2023).[21] Having the Government search an e-mail account for a specific list of items is not unlike the Government reviewing the contents of an entire filing cabinet in order to seize specified documents within. As a practical matter, this is the only way such a search could work. It is both impractical and legally dubious to require a private entity to conduct targeted searches of a defendant's e-mails so as to produce to the government only those e-mails it is authorized to seize by warrant. Hence, the two-step process of Rule 41.

[21] This Court is familiar with *United States v. Moulder*, No. 20-cr-232, 2022 WL 3644893, at *4 (D. Minn. Aug. 24, 2022) (finding step one of an e-mail warrant unconstitutionally overbroad). However, no Defendant cites *Moulder* in this case. A motion to suppress based on *Moulder* has been filed in 22-cr-225, another Feeding Our Future case. Because the Court will soon issue a Report and Recommendation squarely addressing *Moulder* in that case where it has been fully briefed and argued, it will not do so here. It suffices to say that even if the District Court finds *Moulder* persuasive, the good-faith exception would apply. *See Moulder*, 20-cr-232, 2022 WL 3644893, at *6; *Diallo*, No. 20-cr-233, 2023 WL 3815695, at *4–5.

As for step two, Abdihakim seems to take issue with the generality of the list of items to be seized. But the Eighth Circuit and courts in this District have repeatedly found broad lists of documents—cabined by categories of records to be seized and a specific set of crimes under investigation—sufficiently particular to support a warrant. *United States v. Fiorito*, 640 F.3d 338, 346–47 (8th Cir. 2011); *see also United States v. Adams*, 17-cr-64, 2018 WL 6991106, at *31 (D. Minn. Sept. 17, 2018); *United States v. Moulder*, No. 20-cr-232, 2022 WL 3644893, at *5 (D. Minn. Aug. 24, 2022) (finding step-two of an e-mail warrant sufficiently particular); *Diallo*, No. 20-cv-233, 2023 WL 4423940, at *5–7, *R&R adopted,* No. 20-cr-233, 2023 WL 3815695. Nothing about Attachment B merits a different result. Taking into account the scope of the alleged fraud scheme, the Government's broad list of financial documents, communications, and other items to be seized makes sense. Nor is it insufficiently particular to seize items related to co-conspirators and the defendant's state of mind. *See, e.g.*, *United States v. Moulder*, No. 20-cr-232, 2022 WL 4001207, at *7 (D. Minn. May 31, 2022), *R&R adopted*, No. 20-cr-232, 2022 WL 4000203 (D. Minn. Sept. 1, 2022) (finding a similar list of items to be seized sufficiently particular). In short, although the list of items to be seized is broad, it satisfies the Fourth Amendment's particularity requirement.

Abdihakim also contends that "the search conducted pursuant to the Search Warrant exceeded its authorized scope." Dkt. No. 193 at 5. But Abdihakim does not adequately explain how. All he says is that "[t]he government seized the entire contents of the Google Account, although the warrant only authorized seizure of items relevant to fraud charges." *Id.* That is not what happened. The Government followed the two-step process of Rule 41, first directing Google to provide the e-mail account and then culling items to be seized based on Attachment B. As Abdihakim concedes, the Government received 22,558 e-mails but seized only 3,634. Dkt. No. 193 at 3. Because that is exactly the type of search Attachment B directed the Government to complete, the search did not exceed its authorized scope.

B. Abdikadir Ainanshe Mohamud (Dkt. No. 213)

Ainanshe's motion to suppress the February 1 search warrant for his e-mail account raises a particularity and overbreadth challenge in passing. He contends that "[t]he all-inclusive nature of these warrants allowed investigators to deem anything and everything relevant, resulting in them to exceed what should have been a much narrower scope for each search." Dkt. No. 213 at 1–2. He continues, arguing that the affidavit "allowed investigators to seize large amounts of data and not just specific email threads between the subject parties." *Id.* at 3–4.

There is no daylight between Ainanshe's particularity challenge and Abdihakim's, *see* Supra, Part IV.A. Like Abdihakim, Ainanshe generally avers that the February 1 search warrant was overly broad and insufficiently particular. As was already explained, Attachment B to the February 1 warrant followed Rule 41's familiar two-step procedure. Directing Google to turn over the e-mail account at step one was not unconstitutional. *Diallo*, No. 20-cv-233, 2023 WL 4423940, at *5–7, *R&R adopted,* No. 20-cr-233, 2023 WL 3815695. Though broad, the categories of documents to be seized at step two were sufficiently particular. *See, e.g.*, *Fiorito*, 640 F.3d at 346–47.

C. Ahmed Abdullahi Ghedi (Dkt. No. 203)

Ghedi moves to suppress the August 16 search warrant for his e-mail account, arguing that the search warrant lacked particularity, was unconstitutionally overbroad, and exceeded the scope of the search by failing to selectively seize e-mails. Dkt. No. 203 at 1.

First, Ghedi takes issue with the broad list of items Attachment B permitted the Government to seize. *See* Dkt. No. 203 at 3–5. But he offers no authority or arguments to change the analysis above. *See* Supra, Part IV.A. As explained above, the Eighth Circuit and courts in this District have repeatedly found similarly broad lists of documents to be sufficiently particular. *Fiorito*, 640 F.3d 338 at 346–47; *see also Adams*, 17-cr-64, 2018 WL 6991106, at *31; *Moulder*, No. 20-cr-232, 2022 WL 3644893, at *5. Because the scope of the warrant was cabined by the purpose of the investigation and categories of specific items to be seized, there was nothing improper about seeking e-mails identifying co-conspirators and relating to the owner's state of mind. *See Moulder*, No. 20-cr-232, 2022 WL 4001207, at *7, *R&R adopted*, No. 20-cr-232, 2022 WL 4000203 (finding similar categories of items to be seized sufficiently particular). Nothing about Attachment B to the August 16 search warrant merits a different result than the February 1 search warrant.

Ghedi also argues that the Government "apparently exceeded the scope of the search warrant by failing to selectively seize emails." Dkt. No. 203. The basis for his argument is Agent Wilmer's certification, which stated that 4,748 e-mails were received, but 5,663 e-mails were deemed relevant. The Government counters that those two numbers were accidentally transposed, meaning 5,663 e-mails were received but only 4,748 were deemed relevant. Dkt. No. 258 at 41. And Ghedi conceded at oral argument that he had no reason to question the Government's representation. Without any further attempt to identify how the Government exceeded the scope of its warrant—such as by identifying specific e-mails beyond the scope of the language in Attachment B—there is no basis to conclude the Government exceeded the authorized scope of its search.

V. *Leon* Good Faith Exception

Even if Defendants' motions to suppress were successful, the good-faith exception would apply. Under the good faith exception to the Fourth Amendment's warrant requirement, "disputed evidence will be admitted if it was objectively reasonable for the officer executing the search warrant to have relied in good faith on the judge's determination that there was probable cause to issue the warrant." *United States v. Mayweather*, 993 F.3d 1035, 1041 (8th Cir. 2021). "The operative test is whether a reasonably well trained officer would have known that the search was illegal despite the issuing judge's authorization." *Id.* (cleaned up). There are four recognized limits to the good faith exception. The exception will not apply

> (1) when the affidavit or testimony supporting the warrant contained a false statement made knowingly and intentionally or with reckless disregard for its truth, thus misleading the issuing judge; (2) when the issuing judge wholly abandoned his judicial role in issuing the warrant; (3) when the affidavit in support of the warrant is so lacking in indicia of probable cause as to render official belief in its existence *entirely unreasonable*; and (4) when the warrant is so facially deficient that no police officer could reasonably presume the warrant to be valid.

United States v. Proell, 485 F.3d 427, 431 (8th Cir. 2007) (citing *United States v. Leon*, 468 U.S. 897, 921 (1984). As with warrant analysis is general, courts consider the totality of the circumstances in determining whether a law enforcement officer's reliance on the warrant was in good faith. *United States v. Grant*, 490 F.3d 627, 632 (8th Cir. 2007).

Defendants raise two arguments against application of the good-faith exception. First, that Agent Wilmer made knowing false statements or reckless omissions. Dkt. No. 188 at 38 (Abdulkadir); Dkt. No. 189 at 6 (Abdulkadir); Dkt. No. 198 at 5–6 (Bock). Second, that the affidavits lack any indicia of probable cause to render belief in its existence unreasonable. Dkt. No. 189 at 5 (Abdulkadir); Dkt. No. 193 at 6 (Abdihakim); Dkt. No. 198 at 6 (Bock). The Court has already explained why Defendants failed to identify any false statements or reckless omissions, Supra, Part I, and that the challenged affidavits establish ample probable cause, Supra, Part II. For these reasons, even if the warrants were deficient the good-faith exception to the warrant requirement would require denial of Defendants' motions to suppress.

ORDER

For the reasons set forth above, IT IS HEREBY ORDERED:

1. Abdulkadir Nur Salah's Motion for a *Franks* hearing [Dkt. No. 188] is **DENIED**;

2. Abdihakim Ali Ahmed's Motion to Suppress Fruits of Search Warrant [Dkt. No. 193] is **DENIED** to the extent Abdihakim Ali Ahmed requests a *Franks* hearing;

3. Aimee Bock's Motion for Hearing Pursuant to *Franks v. Delaware*, 438 U.S. 154 (1978) [Dkt. No. 198] is **DENIED**;

4. Salim Ahmed Said's Motion to Join in Pretrial Motions of All Co-Defendants [Dkt. No. 200] is **DENIED** to the extent he seeks to join motions for a *Franks* hearing;

5. Abdikadir Ainanshe Mohamud's Motion to Suppress Evidence from Search Warrants and Request for *Franks* hearing [Dkt. No. 213] is **DENIED** to the extent Abdikadir Ainanshe Mohamud requests a *Franks* hearing;

6. Abdirahman Mohamud Ahmed's Motion to Join Motion for *Franks* hearing [Dkt. No. 222] is **DENIED**; and

7. Abdi Nur Salah's Motion to Suppress Search Warrant and Request for *Franks* hearing [Dkt. No. 223] is **DENIED** to the extent Abdi Nur Salah requests a *Franks* hearing.

RECOMMENDATION

For the reasons set forth above, the Court RECOMMENDS that:

1. Abdulkadir Nur Salah's Motion to Suppress Evidence Obtained via Search Warrants [Dkt. No. 189] be **DENIED**;

2. Abdihakim Ali Ahmed's Motion to Suppress Fruits of Search Warrant [Dkt. No. 193] be **DENIED** to the extent Abdihakim Ali Ahmed moves to suppress;

3. Salim Ahmed Said's Motion to Join in Pretrial Motions of all Co-Defendants [Dkt. No. 200] be **DENIED** to the extent he requests to join unspecified motions to suppress;

4. Ahmed Ghedi's Motion to Suppress Evidence Seized from Execution of an August 16, 2022 Warrant Directed to Google, LLC [Dkt. No. 203] be **DENIED**;

5. Ahmed Ghedi's Motion to Clarify and Suppress Evidence Seized by the Government During its Search of 2722 Park Avenue South and for a *Franks* Hearing [Dkt. No. 205] be **DENIED**;

6. Abdikadir Ainanshe Mohamud's Motion to Suppress Evidence from Search Warrants and Request for *Franks* Hearing [Dkt. No. 213] be **DENIED** to the extent Abdikadir Ainanshe Mohamud moves to suppress; and

7. Abdi Nur Salah's Motion to Suppress Search Warrant and Request for *Franks* hearing [Dkt. No. 223] be **DENIED** to the extent Abdi Nur Salah moves to suppress.

Dated: November 1, 2024

s/David T. Schultz
DAVID T. SCHULTZ
U.S. Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).