UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA v. FRANCESCO DISTEFANO	Case No. 24 CR 424 Honorable Jeffrey Cole

GOVERNMENT'S MEMORANDUM IN SUPPORT OF CONTINUED DETENTION OF DEFENDANT

This memorandum is submitted in support of the government's position that defendant continue in pretrial detention pending resolution of the Second Superseding Indictment that charges defendant with 11 counts of wire fraud in violation of 18 U.S.C. § 1343, 5 counts of money laundering in violation of 18 U.S.C. § 1957(a), and 1 count of making a false statement to a financial institution in violation of 18 U.S.C. § 1014. Defendant has been detained since September 11, 2024, when he was arrested at O'Hare Airport on an arrest warrant issued in connection with the original indictment, which charged defendant with a single count of making a false statement to a financial institution. The government moved for a detention hearing under 18 U.S.C. § 3142(f)(2) following that arrest, outlining at defendant's initial appearance some of its proffered evidence as to defendant's serious risk of flight and the serious risk that he will obstruct or will attempt to obstruct justice if he is not detained pending trial. A detention hearing was scheduled for September 17, 2024. Prior to that hearing, defendant, through his counsel, withdrew his objection to detention. Defendant now seeks pretrial release, and a hearing has been set for December 13, 2024, at 1:30 p.m.

For the reasons described below, which will be expanded upon at the upcoming hearing, the government submits that defendant poses a serious risk of flight and that no condition or combination of conditions will reasonably assure his appearance.

I. LEGAL STANDARD

Detention prior to trial is appropriate if the Court finds that there is no condition or combination of conditions that will both assure the appearance of the person as required and assure the safety of any other person and the community. 18 U.S.C. § 3142(e)(1). In making its detention determination, the Court may consider factors including the nature and circumstances of the offense charged, the weight of the evidence against the defendant, and the history and characteristics of the defendant. 18 U.S.C. § 3142(g). If, after a detention hearing, the Court finds that "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, [the Court] shall order the detention of the person before trial." 18 U.S.C. § 3142(e)(1). With respect to risk of non-appearance, the government bears the burden of proof by a preponderance of the evidence. *United States v. Portes*, 786 F.2d 758, 765 (7th Cir. 1985); *United States v. Daniels*, 772 F.2d 382, 383 (7th Cir. 1985).

II. NATURE AND CIRCUMSTANCES OF THE OFFENSE

Defendant is charged with 11 counts of wire fraud, five counts of money laundering, and one count of making a false statement to a financial institution. These charges arise from and relate to defendant's conduct in filing fraudulent Paycheck Protection Program ("PPP"), Economic Injury Disaster Loan ("EIDL"), and mortgage loan applications between March 2020 and February 2021. Defendant engaged in two charged schemes that fraudulently obtained approximately $3,330,947 in PPP and EIDL funds, and would have obtained an additional $3,458,696 in fraudulent second draw PPP loans, but for the intervention of law enforcement in February of 2021.

III. THE STRENGTH OF THE EVIDENCE

The evidence in this case is strong. The defendant submitted fraudulent loan applications accompanied by fraudulent tax returns and fraudulent ADP records for his own company (Distefano Enterprises), as well as his co-defendant's two companies using his own name, his own name and his own email account, and he did so from an unmasked IP addresses at his parents' house (while he lived there) and later his own home, in Addison, Illinois. Defendant caused a substantial portion of the funds derived from the charged offenses to be deposited into his own personal bank account where he used them for, among other things, exotic motor vehicles.

When law enforcement approached and interviewed defendant concerning the suspected fraud on February 13, 2021, he repeated the lies from Distefano Enterprises PPP application, telling agents that the entity had 14 employees and

$79,166 in monthly payroll, when, in reality, it had no employees and was just the defendant with occasional help from individuals paid under the table as contractors.

IV. NATURE AND CHARACTERISTICS OF THE DEFENDANT

Defendant's Background

At the time of the charged offenses, defendant was 24 years-old and working in the payments processing industry through his Distefano Enterprises entity. At the time the charged scheme began, defendant resided in his parents' home in Addison, Illinois. During the course of the charged scheme, defendant moved out of his parents' house and into his own home (the "8TH Avenue Property"), also in Addison, Illinois. In December 2023, defendant was convicted of nonconsensual dissemination of a sex image, a fourth-degree felony, and he is presently on probation. *See People of the State of Illinois v. Francesco Distefano*, No. 22CR0622401 (Cook County Circuit Court).

Defendant was born in Illinois on March 24, 1996. Defendant is now a dual citizen of the United States and Italy.[1] In June and August of 2021, defendant was issued passports by the United States and Italy, respectively. The United States passport indicates that it was issued to replace a lost or stolen passport.

[1] The government does not know exactly when defendant obtained Italian citizenship. The government has been provided an image of a text message sent on or around August 2, 2021, that the recipient attributes to defendant that shows a picture of what appears to be an Italian citizenship document containing defendant's name, followed by the statement "no more usa [sic] buddy".

Ties to the Community

In the 15 months preceding defendant's arrest, he steadily reduced his ties to the community.

On or about May 22, 2023, defendant caused Distefano Enterprises to purchase a 2017 Maserati Levante, paying $33,473 for the vehicle by a cashier's check in the amount of $35,000. On or around July 16, 2024, according to a public records database, title to the 2017 Maserati Levante was transferred from Distefano Enterprises to Relative A.

On or about June 29, 2023, X1 Merchant Services LLC was formed in Delaware, with an individual who has performed handyman services for defendant as its sole member. The following day, June 30, 2023, the entity opened a bank account with its member and defendant as the two designated signers on the account. According to its website, X1 offers payment processing solutions to customers, a business very similar to the business of Distefano Enterprises.

On or around August 2, 2023, Relative A entered into a purchase agreement to acquire a 2017 Lamborghini Huracan coupe, in the exterior color of orange, for a sale price before taxes and fees of $230,000. The vehicle was paid for several days later through a $20,000 trade-in allowance for a 2013 Maserati GranTurismo coupe (that, according to public records, was previously titled to Distefano Enterprises), a $60,000 cashier's check, and a $167,400.97 loan from Credit Union A. While the loan from Credit Union A is in Relative A's name alone, defendant's email address appears on the application. The Lamborghini is titled to Relative A.

On or around August 23, 2023, defendant executed a quitclaim deed transferring the 8TH Avenue Property to Relative B. Defendant continued to reside at the residence after the transfer of title. Defendant had purchased the home in or around June of 2020, and had held title in his own name before transferring title to Relative B.

On or about November 21, 2023, a 2023 Mercedes G-Class was purchased in Relative A's name. The purchase price for the vehicle, inclusive of taxes and fees, was $242,527.40, of which $201,527.40 was financed for a 72-month term. While the loan and title for the vehicle are in Relative A's name, defendant's email address and phone number appear on the retail installment sale contract.

In February 2024, four different lien releases were filed with the DuPage County Recorder effecting the release of liens that had been filed against the 8TH Avenue Property. Each of the releases states that it was prepared by Distefano Enterprises. Each release purports to be signed by the same individual who signed the original lien claim to which it pertains. Each signature appears above *defendant's notary stamp and apparent signature*. From interviews with representatives of the four lien claimants, the government understands that none of the claimants have been paid, and none authorized or caused the release of their lien to be filed. The fraudulently released liens are:

Claimant	Lien Recorded	Release Recorded	Claim Amount	Basis for Claim
Contractor A	11/4/2020	2/7/2024	$26,995	Windows and door
Contractor B	1/15/2021	2/7/2024	$14,595	Roof and downspout
Contractor C	1/26/2024	2/8/2024	$3,000	Floor refinishing
Contractor D	2/8/2024	2/15/2024	$3,522.50	Duct sealing

In August 2024, the government received information indicating that Relative A had been shopping for shipping containers to ship cars and furniture to Italy. While defendant did not at that time have any vehicles titled in his own he possessed and enjoyed the use of the Orange Lamborghini, a Porsche Teycan, and the Mercedes G-Class, as if they were his own and not Relative A's.

Defendant's recently diminishing ties to the community, and the brazenness of the lien release fraud committed in February 2024, suggests that defendant has plans to relocate.

Financial Resources

The government does not have high confidence that it currently knows of all defendant's accounts, and its visibility into defendant's known accounts is not real time, however, based on personal and business account balances in the 12 months preceding defendant's arrest, the government expects defendant likely has immediate access to tens of thousands of dollars. Defendant also has future income streams in the form of residual payments that he receives from the processing charges from his business's payments customers.

Capacity for Flight

The government is now in possession of defendant's U.S. and Italian passports. But there is an unaccounted-for U.S. passport that defendant reported lost or stolen in May 2021, and his Italian citizenship enables him to get a new passport by visiting an Italian embassy or consulate in the United States, Mexico, Canada, or beyond. And there is of course no requirement that defendant take flight to a foreign country in order to not appear; defendant could try to hide in the United States rather than face what could be a substantial custodial sentence for the charged conduct.

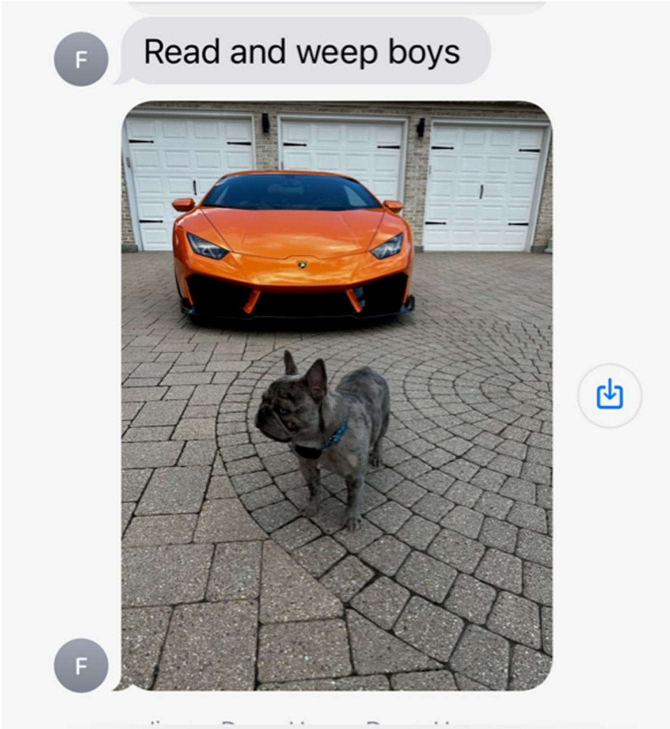
Past Conduct

Defendant's past conduct demonstrates that he is willing to engage in unlawful conduct even when he knows he is under a microscope, which strongly suggests that he will not comply with any conditions of release. The nature of defendant's past obstructive acts also speaks to his capacity to produce or procure fake documents to assist flight.

Defendant has been aware that he is under investigation for loan fraud since at least February 13, 2021, when agents visited his house and interviewed him by telephone. This knowledge did not dissuade him from continuing to engage in fraud.

On April 28, 2021, FBI issued a Notice of Seizure and Initiation of Administrative Forfeiture Proceedings against the $677,932.25 seized from defendant's bank account, and four luxury vehicles that are now the subjects of forfeiture allegations in the pending indictment and in a separate civil forfeiture proceeding. *See USA v. 2016 Lamborghini Huracan VIN:ZHWUC2ZF1GLA04413, et al*, No. 22-cv-01684 (N.D. IL). On or around May 3, 2022, defendant submitted a petition for remission or mitigation of forfeiture to the FBI Chicago field office, seeking return of the $677,932.25 seized from his bank account. In the petition, defendant represented that the funds in the account were "for work that he legitimately performed." Defendant contended that even if the funds originated from fraudulent PPP/EIDL loans obtained by West Coast and National, those entities owed him the funds that were transferred into his account for debts that were evidenced by invoices attached to the petition. The petition was electronically signed by defendant under penalty of perjury. The petition attached four undated purported invoices totaling $1,010,000 issued to purported customers, care of West Coast or National. Law enforcement has interviewed the purported customers referenced in the invoices, and they neither contracted for, nor received, the goods and services described in the invoices. The documents were simply fabrications, and defendant submitted those to the FBI in an attempt to obstruct the investigation that he knew was ongoing and recover the scheme proceeds that had been seized.

On or around August 28, 2023, a restaurant industry consultant who had previously referred a customer to defendant, sent a group text message to defendant and the (by then, former) customer with a link to a news article about Covid fraud and a follow-on text asking: "Are they still coming after you Francesco?" Defendant responded in the negative, sending what appears to be a letter from the U.S. Attorney for the District of Columbia that purports to clear defendant of all wrongdoing, informs that the 2020 Vehicles will be returned "instanter," and states that the United States has "accepted wrongdoing" and will be paying defendant $15,000,000. Defendant followed the picture of a letter with an instruction "read and weep boys" and then followed that with the below picture of an orange Lamborghini.



Defendant's Conduct While on Probation

As noted above, defendant was convicted of a revenge porn offense in December 2023 and was sentenced to 18 months of probation. The sentencing order provides that defendant shall not violate the criminal statutes of any jurisdiction, and specifies that "defendant allowed to travel for work." The face of the order itself is ambiguous about whether defendant is permitted to travel generally (i.e., not for work).

The government has spoken with the probation officers in both Cook and DuPage Counties (the defendant's probation is based in Cook County but he reports to an officer in DuPage County), and is informed that defendant is not permitted to travel without first clearing the travel with his probation officer. If defendant wants to travel for work, he must ask permission from the DuPage County Probation Officer and supply documentation evidencing the planned travel before the officer approves the travel. The defendant has sought and been granted such permission previously, demonstrating that he is aware of the requirement. The government understands that the defendant must seek court approval if he wishes to travel for matters other than work.

The defendant spent most of the month of June outside of the United States, flying from New York to Rome on June 1, 2024, and returning to Chicago from Munich on June 29, 2024. The government understands that defendant did not request permission from the Cook County Circuit Court to make this trip, nor did he request approval from his DuPage County Probation Officer. Defendant met by video with his DuPage County Probation Officer on June 20, 2024, and apparently did not inform the officer that he was out of the country during their video meeting. The DuPage County Officer informs that defendant did not request permission to travel to Istanbul, Turkey on September 11, 2024, which is where he was headed at the time of his arrest.

Defendant's non-compliance with the conditions of his current probation, through his involvement in the fraudulent lien releases and unauthorized travel, suggest that defendant is unlikely to abide any conditions of pretrial release.

Defendant's Conduct While Detained

Since his detention on September 11, 2024, defendant has engaged in at least two notable episodes of dishonest behavior. First, in the early days of his detention, defendant falsely accused one of the case agents working on this investigation of visiting him on multiple occasions at the Jerome Combs Detention Center to try and speak with him outside of the presence of his attorneys. The agent did not even visit the building on the days that defendant claimed these encounters occurred. Defendant's accusations were entirely false. And while the false accusations against the case agent were quickly dropped, the fact that defendant leveled the accusations in the first place illustrates the extents to which defendant is willing to go in an attempt to achieve his aims.

More recently, after defendant had spent approximately 40 days in detention, he claimed to have a serious, pre-existing eye condition that, left untreated, would result in him losing sight in the affected eye within a week. He claimed to have submitted medical requests to the Jerome Combs facility that went unheeded and further alleged that he was threatened with a write-up if he continued to submit requests for medical attention. Defendant went on to assert that he traveling to Istanbul on September 11, 2024, so that he could have eye surgery in Turkey on

September 17, 2024.[2] When the government investigated the claimed lack of medical attention, serious contradictions in defendant's claims quickly emerged. First, the facility had no record of *any* medical requests from defendant.[3] Next, when the facility attempted to obtain the purportedly existent medical records so that treatment for the condition could be arranged, defendant told medical staff that the undersigned AUSA possessed his medical records (which was not true), and then provided the name of his purportedly treating doctor, who, as it turns out, retired 8 years. The only records the facility's medical staff have been able to obtain regarding defendant's eyes are records from his visits to LensCrafters in March 2023 and March 2024.

[2] Notably, defendant provided a different reason for the travel to Turkey in his interview with Pretrial Services, as set forth in the report.

[3] Defendant had made three non-medical requests as of October 22, 2024, demonstrating his awareness of the process for submitting requests.

V. CONCLUSION

The government respectfully submits that no condition or combination of conditions will reasonably assure defendant's appearance. Defendant should be detained pending trial.

Respectfully submitted,

MORRIS PASQUAL
Acting United States Attorney

By: *<u>/s/ Jeffrey S. Snell</u>*
Jeffrey S. Snell
Assistant United States Attorney
United States Attorney's Office
219 South Dearborn Street
Chicago, Illinois 60604
(312) 469-6308

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