UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	**CASE NO: 3:22-CR-09**
	)	
GLADYS HARUN	)	

UNITED STATES' RESPONSE IN OPPOSITION TO DEFENDANT'S OBJECTION TO THE MAGISTRATE JUDGE'S DETENTION ORDER

The United States opposes Defendant's Objection and Appeal (doc. 21) challenging U.S. Magistrate Judge Epps' Order detaining Defendant (doc. 22 "Order"). A *de novo* review of the record reveals that the Magistrate Judge correctly determined that Defendant is a flight risk, danger to the community, and someone who "cannot be trusted to tell the truth." Order at 9. The record is replete with Defendant's falsehoods, omissions, and outright lies to this Court and others. In response, Defendant's Objection and Appeal rehashes the same arguments for release that were already properly considered and rejected by the Magistrate Judge.

I. Factual Background

Defendant was born and raised in Kenya. Her only living parent resides in Kenya. Her brothers live in Kenya. Her sisters live in Kenya. She married her husband in Kenya, though he is currently seeking a divorce. Each year, Defendant travels to Kenya. Doc. 10 (Pretrial Report) at 1.

In 2005, Defendant came to the United States and was naturalized six years later. Since January 2016, she has worked for Jackson Hewitt Tax Service as a franchise owner; she now owns 12 Jackson Hewitt locations. She reported to U.S.

Probation that her monthly income is $66,666.67, and that she had worked at Jackson Hewitt for the past 6.5 years (*i.e.*, 2016 to 2022). *Id.* at 2.

A. Defendant Lies to the Southern District of Georgia.

On December 2, 2019, Defendant, utilizing her maiden name, Gladys Chege, applied to this Court to proceed in a civil appeal without prepaying fees or costs. Doc. 24, 3:18-CV-051. She declared under penalty of perjury that she had no income during the preceding 12 months. When asked about her employment history for the prior two years (*i.e.*, 2017 to 2019), Defendant wrote: "Have not worked past 4 years." *Id.* at 2.

Defendant's sworn statements to this Court in 2019 disclaiming any income or employment are contradicted by her own statements, namely: (1) her statements to U.S. Probation that she was gainfully employed during that period at Jackson Hewitt, doc. 10 at 2; (2) her loan application to Wells Fargo representing that she paid $18,413 in average monthly payroll for the period covering 2019, doc. 3-1 (Complaint), 1:22-MJ-051, at ¶ 25; and (3) her loan application to Truist in which she represented that, during 2019, she was also an independent contractor who had $99,456 in gross income and was paid $95,000 from Jackson Hewitt in 2019, *id.* ¶ 20. Further cutting against her sworn claim of indigency in 2019 is that Defendant testified she bought a home in Byron, Georgia in 2019, where she continued to reside until her arrest. Doc. 25 at 9–10 (Tr. of July 7, 2022 Det'n Hr'g) ("Transcript").

On January 10, 2020, this Court denied Defendant's motion for leave to appeal *in forma pauperis*. Doc. 29, 3:18-CV-051.

B. Defendant Lies to the Middle District of Georgia.

Unsuccessful in the Southern District of Georgia, Defendant filed a federal civil action in the Middle District of Georgia on September 10, 2021. *See* Doc. 1, 5:21-CV-333 (M.D. Ga.). On that date, she filed a motion requesting the appointment of counsel, declaring she had "no money to hire an attorney." Doc. 19-13, 1:22-MJ-051, at 1. She claimed that she was "not employed now" and "suffer[ed] a psychological illness as well" that made her "unable to work a shift." *Id.* at 2.

Curiously, less than three months before declaring that she was unemployed and destitute, Defendant obtained a Paycheck Protection Program (PPP) loan of $299,913 deposited into her Wells Fargo account by representing that she was the sole owner of a business with more than 20 employees and more than $119,000 in average monthly payroll. Compl. ¶ 23; Doc. 1 (Indictment) at 4. Similarly, months after making such claims, she told U.S. Probation that she had been continuously employed with Jackson Hewitt, and her annual income from that business is $800,000. Pretrial Report at 2. In remarking at the success of her business, Defendant testified at her detention hearing, "But by the grace of God, in 2020 and 2021, my business had grown, so I had many employees." Doc. 25 at 20 (Tr. of July 7, 2022 Det'n Hr'g). As Magistrate Judge Epps noted when presented with these contradictions:

> it is very clear that she reported income of $800,000 a year and testified on the stand today that her business has been thriving over the last 2 years. And so I can't square that what she told Judge Self. They're diametrically opposed presentations of the facts.

Id. at 35.

After the Middle District denied Defendant's request for court-appointed counsel, Defendant elected to retain counsel. Docs. 4 & 10, 5:21-CV-333 (M.D. Ga.). Her civil case ended when the Middle District dismissed her claims as being barred by *res judicata*. In its order dismissing the claims, the Court observed that Defendant "wasn't entirely forthcoming with [her counsel] about her prior suits." Doc. 19-13, 1:22-MJ-051, at 6 n.2.

C. Defendant Lies to Lenders to Secure Pandemic Loans.

Notwithstanding her sworn declarations of indigency in federal courts in 2019 and 2021, Defendant submitted a series of PPP applications to lenders. Between April 2020 to June 2021, Defendant obtained more than $366,000 in forgiven PPP loans and approximately $137,500 in Economic Injury Disaster Loan (EIDL) grants and loans. Compl. ¶ 17. In the PPP submissions, Defendant's reported number of employees and average monthly payroll varied; depending on the application, she variously claimed to be an independent contractor or an employer with as many as 59 employees. And the average monthly payroll ranged from $8,288 on one application to as high as $158,830 on another application. Compl. ¶¶ 19–24; Doc. 19-3, 1:22-MJ-051, at 1.

Not all her PPP efforts bore fruit. In April 2021, Defendant applied for a PPP loan of nearly $400,000 from Wells Fargo, where she banked. Wells Fargo reviewed her application and determined something was amiss. The bank flagged the application as fraudulent because Defendant claimed her tax business employed 59 people and her average monthly payroll was $158,830, which diverged from what she reported about her business when she opened a Wells Fargo account. Wells Fargo also noted that the tax documents Defendant submitted in support of her PPP application appeared to have been altered. *Id.* at ¶¶ 21–22.

Undeterred, weeks later, Defendant applied for a PPP loan with Lendistry, an online lender. Defendant scaled back her request, this time reporting average monthly payroll of $119,965 and requesting a loan of $299,913, which Lendistry paid into Defendant's bank account. *Id.* at ¶ 23.

In response to a grand jury subpoena, Defendant produced payroll records to law enforcement. Comparing the payroll records she produced to what she reported in her PPP submissions revealed that Defendant grossly inflated the average monthly payroll. For instance, her 2019 payroll records showed approximately $8,500 in average monthly payroll compared to $18,413 she reported in a PPP application; her 2020 payroll records show $9,304 in average monthly payroll yet she reported $119,965 in a PPP application. *Id.* at ¶ 25.

Defendant's PPP submissions also contained altered tax documents. In addition to Wells Fargo recognizing the altered tax documents, an IRS Special Agent testified at the detention hearing that IRS forms submitted as part of Defendant's PPP submissions had alterations such as mismatched fonts, odd spacing, and numbers removed by white-out and typed over, all of which indicated fraud. The altered forms were entered into evidence and were not disputed by Defendant. *See* Docs. 19-4 (Gov't Ex. 4), 19-5 (Gov't Ex. 5), 19-8 (Gov't Ex. 8), 1:22-MJ-051.

D. Defendant Lies to the Small Business Administration and Impersonates a Deceased Person.

Lotsie Gordon died on June 24, 2021. The next day, an application in Ms. Gordon's name for an Economic Injury Disaster Loan (EIDL) was created and submitted to the SBA. Although the application was filed under Ms. Gordon's name, the application listed Defendant's address, email address, and phone number. Compl. ¶¶ 28–31.

Months later, the SBA received an email from Defendant's email address claiming to be Ms. Gordon, and asking for help setting up a password to log in and access the application portal "to see if I need to sign documents." Doc. 19-11 (Gov't Ex. 11), 1:22-MJ-051; Compl. ¶ 32. The SBA denied the application; SBA's records show that the IP address in Ms. Gordon's application matched at least 29 other EIDL applications submitted for other individuals, including individuals who were interviewed by law enforcement and confirmed that Defendant prepared their EIDL applications. Compl. ¶ 33.

E. Defendant Withdraws $100,000 Hours After Agents Inform Her that She is a Target of a Federal Investigation.

On May 2, 2022, agents with the IRS and Secret Service interviewed Defendant at her workplace. At the end of the interview, in which she acknowledged obtaining PPP loans, agents served her with a letter from the U.S. Attorney's Office advising her that she was a target of a federal grand jury investigation into various fraud-related crimes. Doc. 22 at 4. The interview concluded at approximately 2:15 P.M.

Nearly two hours later, surveillance video from Truist Bank shows Defendant at the bank, where she withdrew $100,000 from her account. Ex. A. When questioned about this withdrawal, Defendant testified at her detention hearing that "Wells Fargo gives me trouble -- a lot of trouble doing international transfers," so she occasionally withdraws cash from Wells Fargo and then goes to another bank, for instance SunTrust, to wire the money to Africa. Doc. 25 at 25–26. She observed that "it was a coincidence" that the withdrawal happened on the same day as being advised she was a target of an investigation. *Id.* at 26.[1]

F. Defendant Intimidates Potential Witnesses.

As the investigation progressed, Defendant took steps to thwart it. On May 17, 2022, she sent a text message to a witness. Doc. 19-12 (Gov't Ex. 12), 1:22-MJ-051, at 1. In that message, Defendant told the witness that "this is a test to show if you are really a true friend." *Id.* The message recounted how Defendant had acted on behalf of the witness when the witness's child was molested. Three days later, Defendant again messaged the witness, instructing the witness, "don't talk to them people anymore" and "don't take yourself to the slaughter house [sic]." *Id.* at 2. After receiving the messages, the witness was concerned by the nature of it and alerted law enforcement. Doc. 22 at 6.

[1] Defendant has not provided evidence that the money withdrawn from Truist was wired at another bank. Rather, agents subsequently identified a $150,000 international wire from Defendant's Truist account a month after the withdrawal, which is inconsistent with Defendant's explanation. *See* Ex. A at 4.

G. Defendant Lies to Investigators.

On June 27, 2022, Defendant and her attorney attended a proffer with agents and the U.S. Attorney's Office. During which, law enforcement questioned her about the significant discrepancy between the payroll amounts she reported to the IRS and the amounts reported on her PPP applications. In response, Defendant explained that the payroll reported to the IRS—for her tax preparation business—must be inaccurate. After initially acknowledging that not all her PPP applications were accurate, she then changed course and insisted that everything in the applications was accurate. She explained that when she was paid for preparing others' EIDL applications, that such money received was not payments, but rather blessings and donations that individuals elected to give.

Defendant further maintained that the payroll records she submitted to law enforcement in response to the grand jury subpoena would show that her PPP applications were accurate. As discussed above, when law enforcement analyzed the records she produced, the opposite was true. Compl. ¶ 25. At the conclusion of the proffer, the U.S. Attorney's Office informed Defendant that she was likely going to be charged.

H. Defendant Tells Her Divorce Counsel She Is Leaving for Africa.

Defendant's husband filed for divorce in Peach County, Georgia, Superior Court in April 2022. On June 22, 2022, Defendant's divorce attorney emailed Melissa Wood, who is the legal assistant to Superior Court Judge Connie Williford, along with counsel for Defendant's husband. In the email, Defendant's divorce counsel noted that "Ms. Harun is apparently going to be visiting family out of the country from July 6 through August and will not be here for a hearing on July 29. What is Judge Williford's availability after August 6?" Ex. B.

When questioned at her detention hearing, Defendant admitted she was unsurprised of her divorce counsel's email stating that Defendant would not be able to attend a July 29 court hearing because she planned to visit family out of the country from July 6 through August 6. Doc. 25 at 17.

I. Defendant is Arrested and Lies to the U.S. Probation Office.

On July 4, 2022, Judge Epps reviewed a 13-page affidavit and determined there was probable cause that Defendant committed federal crimes, including wire fraud. Docs. 3 & 3-1, 1:22-MJ-051. Defendant was arrested the next day. U.S. Probation interviewed Defendant on July 6, 2022.

Defendant reported to the Probation Officer that she had no history of mental health treatment. Doc. 10 at 3. Yet, less than three months earlier, she had filed an Affidavit from Dr. Thomas Sachy in her federal civil case proceeding in the Middle District of Georgia. Doc. 19-13 (Gov't Ex. 13) at 3, 1:22-MJ-051. In the Affidavit, Dr. Sachy recounts how he has treated Defendant "as a psychiatric patient since January 11, 2016," and he described how Defendant "received continuous psychiatric treatment" from other psychiatrists "since no later than June of 2014" and had received several psychiatric diagnoses. *Id.*

Defendant also reported to the Probation Officer that her income was $800,000 a year, which amounted to monthly income of $66,666.67. Doc. 10 at 2. Yet, when confronted with these amounts during cross examination, Defendant admitted that her monthly income was not that amount. Doc. 25 at 30. Defendant claimed, "I don't remember that discussion." *Id.* She acknowledged that, "I remember telling him how much I make, like, the whole year," but when presented with the Pretrial Report, she claimed "I don't remember this." *Id.* Given the contradiction between her testimony and her report to the Probation Officer, the Magistrate Judge questioned the Probation Officer and concluded, "in my conversation with [Probation Officer White], it is very clear that [Defendant] reported income of $800,000 a year[.]" Doc. 25 at 35.

J. The Magistrate Judge Listens to Defendant's Testimony, Reviews the Evidence, and Finds Her Not Credible.

On July 8, 2022, the Court conducted a detention hearing. An IRS Special Agent testified about the investigation, the discrepancies observed in Defendant's PPP submissions, and the witness tampering. A Special Agent with U.S. Secret Service testified as to Defendant's $100,000 withdrawal on the day of her interview. The United States also presented 13 documentary exhibits displaying fraudulent conduct, deceit, and tampering.

Defendant testified in response. "Her attempts to explain away" her travel plans and financial transactions were determined to be "unpersuasive and not credible." Doc. 22 at 9. At the conclusion of her testimony, the Magistrate Judge determined that, "I just can't find any morsel of support for believing that she's going to follow what I tell her to do and that she'll report honestly to the probation office her conduct." Doc. 25 at 34. On July 21, 2022, the Magistrate Judge issued its written order detaining Defendant. Doc. 22.

K. The Grand Jury Indicts Defendant for Wire Fraud.

On July 13, 2022, the grand jury returned a one-count indictment charging Defendant with wire fraud in connection with the PPP loan from Lendistry. Doc. 1. As the United States alerted the Court and defense counsel at Defendant's arraignment, the investigation is ongoing as to Defendant's additional federal criminal violations.

II. <u>Legal Standard</u>

A. Section 3145(b)

"Pursuant to 18 U.S.C. § 3145, following a magistrate's order that a detainee be held without bond pending trial, the detainee may move the district court to revoke or amend the magistrate's pretrial detention order." *United States v. King*, 849 F.2d 485, 490 (11th Cir. 1988). The district court then "conduct[s] an independent review to determine whether the magistrate properly found that pretrial detention is necessary." *Id.* This "independent review" is de novo. *See United States v. Gaviria*, 828 F.2d 667, 670 (11th Cir. 1987). In conducting this review, a hearing is not required; the district court may look to the record developed or it may conclude that additional evidence is necessary and conduct its own evidentiary hearing. *King*, 849 F.2d at 490.

B. Factors Considered

Under Section 3142, there are multiple factors for the Court to consider in determining whether there are conditions of release that will reasonably assure the appearance of the defendant as required and the safety of any other person and the community: (1) the nature and circumstances of the offense charged; (2) the weight of the evidence against the person; (3) the history and characteristics of the person; and (4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release. 18 U.S.C. § 3142(g).

A finding that the defendant either poses a flight risk or is a danger to the community is sufficient to detain the defendant pending trial. *King*, 849 F.2d at 488. The Government must prove that the Defendant is a flight risk by a preponderance of the evidence, or that she is a danger to the community by clear and convincing evidence. *Id.* at 488–89.

III. <u>Argument</u>

Defendant's manifested dishonesty in the record, combined with her access to significant assets, her ties outside the United States, and preparatory steps to leave the country after being alerted of her status as a target of a federal investigation evince that she cannot be trusted when she represents to the Court that she will not flee, if released. Likewise, she represents a pecuniary danger to the community and a danger to obstruct justice. Accordingly, as Judge Epps correctly determined, detention is appropriate based on her flight risk and her danger to the community.

A. The Magistrate Correctly Determined That Defendant Poses a Flight Risk.

The United States met its burden in establishing by a preponderance that Defendant is a risk of flight. She has the means to flee, the motive to flee, and she cannot be trusted.

First, Defendant has the relationships and resources that would facilitate her flight. "Courts have held that significant contacts with foreign countries are an important factor in determining one's risk of flight." *Matter of Extradition of Ricardo Alberto Martinelli Berrocal*, 263 F. Supp. 3d 1280, 1305 (S.D. Fla. 2017) (collecting cases). Defendant is a citizen of Kenya where she was raised and where her siblings and parent continue to reside. She maintains connections to Kenya through her business and claims to regularly wire money there. Doc. 25 at 24–25 ("it's part of what I do every day. I will withdraw sometimes even 40,000 and then go to another bank and send it to Africa"); *see United States v. Armstrong*, 397 F. App'x 466, 468 (10th Cir. 2010) (affirming detention of defendant charged with tax fraud where defendant regularly transferred money to overseas banks and frequently traveled abroad). Defendant travels to Kenya each year and planned to travel there near the time of her arrest, as reflected in her divorce attorney's correspondence and Defendant's own testimony. *Id.* at 15–17 (noting that she was not surprised to learn of her divorce counsel's email and acknowledging that "[w]e were planning on leaving, but we didn't finalize everything").

Her business affords her the means to flee. She obtained hundreds of thousands of dollars in fraudulent Covid relief from which to draw, and she purports to operate a business generating $800,000 in annual income. *See United States v. Burstyn*, No. 04-CR-60279-ALL, 2005 WL 2297605, at *5 (S.D. Fla. Mar. 18, 2005) (noting that where evidence "indicates Defendant has substantial financial assets, the Court presumes he has the resources to flee"). In addition, her tax preparation business grants her access to individuals' personal identifiable information. Doc. 25 at 10 (noting that she filed taxes for "approximately 700 people" during Covid). The investigation has already revealed her willingness to assume a new identity—a *sine qua non* to any successful flight from justice—when she posed as the deceased Lotsie Gordon to the SBA. *See United States v. Rives*, No. 114CR00130TWTJFK4, 2014 WL 12698578, at *2 (N.D. Ga. Oct. 7, 2014) ("Defendant's access to and capability of obtaining fraudulent identity documents supports a finding that he is a risk of flight.").

Second, Defendant's motive to flee is palpable, for she faces a potentially lengthy sentence if convicted. Her relevant conduct in this case is likely to exceed $1,000,000 in loss, along with guidelines enhancements for sophisticated means, use of means of identification unlawfully, vulnerable victim, and obstructing the administration of justice, resulting in an advisory guideline range exceeding 100 months in federal prison. Her personal situation appears no better, since, although she has children in this country, the government has taken steps to seize various financial assets from her, her husband here is divorcing her, and her prospects of operating a tax business appear dubious after being charged with federal fraud. Thus, she is likely to see her native Kenya as providing an international safe harbor.

Third, Defendant "is not only a master of deceit and a doyen of dishonesty but the kind of person who, under stress, may resort to desperate measures." *United States v. Dreier*, 596 F. Supp. 2d 831, 832–33 (S.D.N.Y. 2009). She lied under penalty of perjury to this Court in 2019 when she claimed she had no income in the past year and had not worked in the prior four years; she lied to the court in the Middle District of Georgia in September 2021; she lied to obtain pandemic loans; she lied to the SBA when she impersonated a deceased person; she lied to investigators at the June 2022 proffer; and she lied to U.S. Probation. Hours after federal agents interviewed her, she withdrew $100,000 from her bank account. She subsequently alerted her divorce counsel that she was leaving the country and texted a potential witness not to speak with law enforcement—precisely the type of conduct that suggests Defendant was resorting to desperate measures up until her arrest and detention. Then, when she testified under oath before a U.S. Magistrate at her detention hearing, the Court observed her demeanor, her testimony, and the record before concluding that Defendant was "not credible" and "cannot be trusted to tell the truth." Order at 9. In sum, Defendant's "long history of dishonesty and ties outside . . . the United States provided an ample basis for denying [her] bail request." *United States v. Cerizo*, 542 F. App'x 641, 642 (9th Cir. 2013).

B. The Magistrate Correctly Determined That Defendant Poses a Danger to the Community.

Defendant represents a pecuniary danger to the community as well as a risk of continuing to obstruct justice. *See King*, 849 F.2d at 487 n.2 (noting that language referring to the safety of the community be given a broader construct that merely danger of harm involving physical violence). "Often it is economic or pecuniary interests of a community rather than physical ones which are most susceptible to repeated danger by a released defendant." *United States v. Chappell*, No. 2:08-CR-127-WKW WO, 2010 WL 716416, at *3 (M.D. Ala. Feb. 24, 2010) (citation omitted).

Although currently charged with one count of wire fraud, Defendant has engaged in a lengthy pattern of fraudulent and deceitful conduct to obtain significant funds. She has displayed little compunction for lying to courts, to federal agencies, or to federal agents. As the Magistrate Judge noted, "the fact that she owns 12 of these franchise tax businesses means that there is a significant opportunity there for financial fraud to continue to occur." Doc. 25 at 36.

In addition, Defendant has demonstrated her willingness to obstruct justice and intimidate a witness. She has not only lied under oath, but her text messages to a witness, which cause the recipient such alarm that the witness alerted agents, were blunt and pointed: "don't talk to them people anymore" and "don't take yourself to the slaughter house [sic]." Doc. 19-12 (Gov't Ex. 12), 1:22-MJ-051, at 2. Releasing Defendant will set the stage for a continuation of such activity.

C. Defendant's Objections to the Detention Order Are Unavailing.

On appeal, Defendant rehashes arguments considered and properly rejected by the Magistrate Judge. Defendant provides no fact that the Magistrate Judge overlooked nor any proposed set of release conditions unconsidered. Defendant acknowledges that Magistrate Judge Epps articulated the correct legal standard. Doc. 21 at 5. Defendant, however, insists that Judge Epps "violently deviate[d]" from that correct legal standard. *Id.* at 6. Left unsaid is the manner of violence in which Judge Epps purportedly engaged.

Instead, Defendant contends that the Court ought to have taken "a step back from the unsavory analysis" and recognized that Defendant was "simply . . .

misunderstood" due to a language barrier. *Id.* at 8–9. To the extent such a barrier exists, Defendant has shown the ability to scale it. She has lived in the U.S. for years, told agents that she obtained a doctorate degree in the U.S., purports to operate a business in the U.S. with more than 50 employees in a highly regulated field preparing U.S. tax returns through filing U.S. documents. She spoke English throughout the lengthy detention hearing, and neither she nor her counsel requested the aid of a translator. She communicated with agents in English during the investigation, sent threatening text messages to a witness in English, submitted PPP and EIDL applications in English, and communicated with the SBA and lenders in English.

Defendant also contends that she will not flee since she has children, some of whom do not have passports, and that she had not actually booked travel abroad yet. Doc. 21 at 11. But the Magistrate Judge considered that and determined that her ties to the community were not enough to overwhelm the familial and financial ties to other parts of the world as well as her curious financial transactions. *See United States v. Kachkar*, 701 F. App'x 744, 747 (11th Cir. 2017) ("The district court did not ignore Kachkar's argument on this issue, it simply disagreed that his failure to flee while under investigation meant that he would not flee after having been indicted.").

Defendant also contends that she was willing to cooperate by meeting with the government and disclosing her travel. Yet, as discussed above, nothing in the record reveals that she disclosed to the government, or even her own criminal defense counsel, her intention to be out of the country from July to August. And, while she did meet with agents to be questioned, she lied during those meetings—a behavior in which Defendant has engaged in repeatedly.

Lastly, Defendant complains that her release would assist her in preparing a defense and reviewing discovery with her counsel. While that may be true, it does not bear on whether she is a risk of flight or danger to the community. And as for the complexity of Defendant's case, the Magistrate Judge's order provided that Defendant, while detained, "be afforded a reasonable opportunity for private consultations with defense counsel." Doc. 22 at 10.

IV. Conclusion

The United States respectfully requests the Court overrule Defendant's Objection and Appeal (doc. 21) and affirm the order detaining Defendant. As there are no unresolved factual issues presented in the Objection and Appeal, the United States submits that a hearing is not necessary to aid the Court in its independent review.

Respectfully submitted,

DAVID H. ESTES
UNITED STATES ATTORNEY

/s/ Chris Howard

Chris Howard
Assistant United States Attorney
N.Y. Bar Number 4935938

Post Office Box 8970
Savannah, Georgia 31412
Telephone: (912) 201-2594
Facsimile: (912) 652-4388