

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal Action No. 1:24-cr-00106-NYW

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICO TOMAS GARCIA,

Defendant.

TRIAL BRIEF

The government respectfully submits this trial brief to alert the Court to potential legal issues that may arise during trial.

I. FACTUAL BACKGROUND

A federal grand jury in the District of Colorado returned the Indictment on April 9, 2024, which charged the defendant with nine counts of wire fraud and six counts of spending money laundering proceeds. ECF 1. The Indictment describes a complicated scheme wherein the defendant agreed to provide 9 million bottles of hand sanitizer but instead diverted approximately \$2.5 million for personal use and then lied by providing fraudulent documents in an arbitration proceeding about how he spent the money.

II. POTENTIAL LEGAL ISSUES

A. Evidence or argument about any ancillary civil litigation is irrelevant and prejudicial and may open the door to rebuttal.

The government believes that the defendant intends to illicit testimony or present evidence of ancillary civil litigation to argue either that he lacked the requisite criminal intent or that his

conduct only rises to the level of a civil breach of contract. In support of this strategy, numerous defense exhibits have been submitted for trial from litigation between IPF Sourcing, LLC, and SZY Holdings, LLC, which later added Botani-Labs and the defendant Rico Garcia as civil defendants. *See* Trial Ex. 2202-2242, 2270, 2291. A review of most of these exhibits reveal that they are typical filings made by lawyers during civil litigation, including complaints, answers, and transcripts of non-evidentiary hearings. Although the government believes that most of these exhibits are inadmissible hearsay, the Court should likewise exclude this type of evidence or testimony because it is wholly irrelevant and is prejudicial and will mislead or confuse the jury. *See* Fed. R. Evid. 401, 402, 403.

In a recent and instructive case, *United States v. Nolde*, No. 24-cr-23, 2026 WL 128169 (D. Neb. Jan. 16, 2026), a district court addressed a similar defense. The defendant was both plaintiff and defendant in numerous civil cases related to facts underlying his criminal case. *Id.* at *4. The defendant sought to introduce evidence of those civil cases to show that he did not have the requisite intent to defraud and to establish that his conduct was not criminal. *Id.* The Court, however, excluded any evidence of the actual civil litigation and any testimony or argument that the case should have been a civil matter instead of a criminal prosecution. *Id.* at *4. The Court determined that it was “not relevant that the underlying facts of [the] criminal case could potentially support a civil breach of contract” because the government had to prove wire fraud, not a violation of civil law. *Id.* In addition, the Court further excluded any actual evidence of the civil litigation because the existence of those lawsuits did “not have any tendency to make the defendant’s guilt or innocence more or less probable, and they [were] of no consequence in determining whether the Government [had] met its burden to prove the elements of the charged wire fraud offenses.” *Id.* at *5 (citing Fed. R. Evid. 401 and 402). In addition, the Court found that

“any probative value [of such argument and evidence] would be substantially outweighed by the dangers of unfair prejudice, confusing the issues, and misleading the jury.” *Id.* (citing Fed. R. Evid. 403).

Likewise, the sole issue in this criminal case is whether the defendant committed wire fraud and money laundering beyond a reasonable doubt. Civil litigation and whether civil remedies exist are not relevant to this case. *See, e.g. United States v. Stegman*, No. 14-20109-JAR, 2016 WL 845256, at *1 (D. Kan. Mar. 3, 2016) (“Defendants may not introduce testimony that this case should have been brought as a civil, rather than criminal, proceeding. Additionally, Defendants may not inquire into differences between civil and criminal audits or differences in the burden of proof standards in civil and criminal cases.”); *United States v. Merrick*, 464 F.2d 1087, 1093 (10th Cir. 1972) (“the trial court refused to instruct the jury that a civil case might be brought against defendant to recover unpaid taxes, interest and penalties. We see no relevance in such an instruction.”).

Much like *Nolde*, the defendant has been involved in litigation related to the conduct alleged in the Indictment, but his other cases are wholly irrelevant as to whether the defendant violated the wire fraud or money laundering statutes. An argument that the factual basis of the present criminal charges should be resolved in a civil forum or admission of documents from those proceedings in this criminal case would likewise confuse and mislead the jury about the narrow issues involved. Fed. R. Evid. 403. Accordingly, the government seeks to preclude such evidence and argument if raised by the defendant.

In addition, the government is concerned that the defendant may seek to introduce aspects of the arbitration proceedings in opening statements or in testifying, or that he will use only portions of the documents from those proceedings he deems favorable to him. He may also simply

attempt to relitigate issues decided by the arbiter such as interpretation of the contract under civil law. By doing so, the defendant could open the door to the subject matter of the arbitration proceeding and produce a misleading account of those proceedings that were ultimately decided in favor of IPF Sourcing, LLC. *See* Ex. 2228, 2237, 2238.¹

“When a party opens the door to a topic, the admission of rebuttal evidence on that topic becomes permissible,” within discretion of the court. *Tanberg v. Sholtis*, 401 F.3d 1151, 1166 (10th Cir. 2005). To correct any misleading impressions should the defendant open the door, the government may seek to rebut, either affirmatively or by impeachment, by offering evidence such as the defendant’s hostile conduct during those proceedings, the ultimate outcome of the arbitration in favor of IPF Sourcing, LLC, or the fact that he did not return the money when ordered by the arbitration judgment. *See United States v. Jones*, 151 F.4th 1235, 1245 (10th Cir. 2025) (the defendant “put his criminal history at issue even though he did not have to, and as already explained, the government is not required to sit back and allow the defendant to give a misleading picture of his credibility.”); *see also* Fed. Rule Evid. 106; *Beech Aircraft Corp. v. Rainey*, 488 U.S. 153, 171, 109 S.Ct. 439, 102 L.Ed.2d 445 (1988) (the rule of completeness allows a party “against whom a part of an utterance has been put in, may in his turn complement it by putting in the remainder.” (quotation omitted)); *United States v. Lopez-Medina*, 596 F.3d 716, 735 (10th Cir. 2010) (“the purpose of Rule 106 is to prevent a party from misleading the jury”).

¹ The government addresses its own limited use of the arbitration proceedings in the next section.

B. A jury instruction prohibiting the jury from speculating on the outcome of the arbitration is appropriate.

The Indictment alleges that the defendant provided false documents and made misrepresentations during the arbitration with IPF Sourcing, LLC. ECF 1, at ¶¶ 14-16. Although there are certain exhibits from the arbitration proceedings that the government intends to introduce to support the allegations in the Indictment, the government only intends to introduce those exhibits that were fraudulent or depict the misrepresentations made by the defendant, which are relevant because they were made to cover up his scheme. The government does not intend to introduce additional information related to the arbitration in its case in chief, including the arbiter's final order, because that would be prejudicial to the defendant.² Accordingly, the government believes a limiting instruction informing the jury that they are not to speculate on the outcome of the arbitration is appropriate. The government proposes the following language:

Members of the jury, during the trial, you heard testimony about and observed certain exhibits from an civil arbitration case between Mr. Garcia and IPF Sourcing, LLC. That matter is separate from this case, and each case must be decided on its own individual merits. You are not to speculate on the outcome of the arbitration case when you reach a verdict in this case.

C. The government's summary exhibit is admissible under Fed. R. Crim. P. 1006.

The government intends to admit a summary exhibit through the testimony of FBI Forensic Accountant Lindsay Fryer under Fed. R. Evid. 1006. The Federal Rules of Evidence provide that they are to be construed to "eliminate unjustifiable expense and delay." Fed. R. Evid. 102. Over

² The defendant lost the arbitration, and the Final Order and Award discusses the acts committed by the defendant throughout the proceeding. That arbitration award has been upheld in this district. *See IPF Sourcing, LLC v. Botani-Labs, LLC*, No. 22-CV-0307-WJM-SKC, 2022 WL 4182409, at *1 (D. Colo. Sept. 13, 2022). The defendant has indicated his desire to admit the Final Order and Award as an exhibit. *See* Trial Ex. 2228, 2237, 2238 (Corrected Final Order and Award), 2293 (Corrected Final Order and Award).

the last several years, the government has been providing the defendant with discovery including voluminous bank records, business formation records, title company records, and other records with accompanying business records certifications pursuant to Fed. R. Evid. 806(b), 902, and 18 U.S.C. § 3505. *See* ECF 243, 257, 266 (the government’s Notices of Intent to Introduce Business Records by Certification).

Without conceding that Ms. Fryer’s testimony falls into the category of expert testimony under Fed. R. Evid. 702, the government, in an abundance of caution, provided expert disclosures pursuant to Fed. R. Crim. P. 16(a)(1)(G) in July 2025. The disclosure explained that Ms. Fryer would be called to testify regarding the “summaries, charts, and calculations she performed for exhibits the government will seek to admit under Federal Rule of Evidence 1006 related to thousands of pages of bank and related financial records.” The defendant has not filed a motion to exclude her testimony under Fed. R. Evid. 702.

At trial, the government will call Ms. Fryer to testify. In part, the government intends to illicit testimony and admit the summary exhibit Ms. Fryer created. The visual depictions of Ms. Fryer’s summary calculations are attached and are marked as trial exhibit 2201. *See* Ex 1 (attached trial exhibit 2201). All financial transactions set forth in the Indictment are depicted in the exhibit.

Under Fed. R. Evid. 1006(a), “[t]he court may admit as evidence a summary, chart, or calculation offered to prove the content of voluminous admissible writings, recordings, or photographs that cannot be conveniently examined in court, whether or not they have been introduced into evidence.” The proponent must make the “originals or duplicates available for examination or copying, or both, by other parties at a reasonable time and place. And the court may order the proponent to produce them in court.” Fed. R. Evid. 1006(b). The underlying evidence supporting the summary need not be admitted into evidence but must be admissible.

United States v. Samaniego, 187 F.3d 1222, 1223 (10th Cir. 1999). This prevents litigants from using Rule 1006 to admit evidence that would otherwise be inadmissible. *Id.*

After laying proper foundation, the government intends to admit the attached summary exhibit based on the admissible voluminous self-authenticating documents. Ms. Fryer’s testimony and the proffered exhibit is clearly relevant. As set forth above, the defendant orchestrated a scheme to defraud where he obtained approximately \$2.5 million in wire fraud proceeds and moved them through various accounts and financial transactions while deceiving the victims by providing false information and documents in the JAMS proceeding. Based on Ms. Fryer’s review of the voluminous documents, she created the proffered exhibits summarizing transactions through the use of domestic and foreign accounts and real estate purchases that are charged in the Indictment.

Second, the exhibits and Ms. Fryer’s testimony summarize thousands of pages of admissible business records. *See* ECF 243, 257, 266. The proffered exhibits show data from numerous bank accounts and title company records that cannot be “conveniently examined in court.” Fed. R. Evid. 1006(a). The summaries provide admissible data in a digestible manner for the jury. And it will not require days of testimony reviewing thousands of documents. Indeed, the summary testimony and exhibits are the type that are routinely admitted. *See, e.g., United States v. Stewart*, No. 21-CR-034-WJM, 2024 WL 1811603, at *2 (D. Colo. Apr. 25, 2024) (permitting summary exhibits of FBI Financial Analyst Lindsay Fryer based on voluminous bank and brokerage records); *United States v. Dermen*, 143 F.4th 1148, 1212 (10th Cir. 2025), *petition for cert. filed* (U.S. Dec. 31, 2025) (No. 25-772) (testimony and exhibit explaining financial transactions and tracing through numerous accounts is “precisely the kind of testimony that Rule 1006 contemplates.”); *United States v. Caballero*, 277 F.3d 1235, 1247 (10th Cir. 2002) (financial

analysis testified as a lay person when she summarized business records and presented them in condensed form).

Third, the underlying records have been provided in discovery, along with business records declarations as set forth in ECF 243, 257, and 266. Therefore, the defendant has had the opportunity to inspect the documents in accordance with Fed. R. Evid. 1006(b). Any dispute the defendant may have with the summary testimony and/or exhibits are not a basis for exclusion, but rather a matter to address on cross-examination of the witness. *See, e.g., United States v. Stewart*, No. 21-CR-034-WJM, 2024 WL 1811603, at *2 (admitting summary exhibits noting the defendant “may convince the jury to give the summaries considerably, or somewhat, less weight than other evidence, or to discount them entirely.”); *United States v. Hoffman*, No. CRIM.A. 14-022, 2015 WL 1509488, at *4 (E.D. La. Apr. 1, 2015) (“Any prejudice . . . will be minimized by cross-examination of the forensic accountant who will testify alongside this sort of exhibit.”). Indeed, any objection to the summary goes to its weight, not its admissibility. *See, e.g., Iowa Pac. Holdings, LLC v. Nat’l R.R. Passenger Corp.*, 853 F. Supp. 2d 1094, 1102 (D. Colo. 2012).

D. Many of the defendant’s exhibits are hearsay.

It appears that defendant wishes to admit exhibits purportedly showing he attempted to contact various individuals for the purpose of obtaining hand sanitizer. Most of these exhibits are emails, unsigned contracts or quotes, and other unrelated documents. *See* Trial Ex. 2262-2269; 2271-2290; 2292-2293; and 2295-2296. Many of the documents post-date the initiation of arbitration between the defendant and IPF Sourcing, LLC. *See* Trial Ex. 2268, 2271, 2273, 2284, 2286, 2295, 2296.

The defendant appears to be attempting to offer these exhibits without a sponsoring witness because none of the email communications or invoices are made with the individuals listed on the

defense exhibit or witness lists. *See* ECF 249, 260. But even if the defendant testifies and sponsors the documents himself, many of these documents simply contain inadmissible hearsay, as they are being offered to prove the truth of matters asserted by others or contain the defendant's own self-serving hearsay. *See* Fed. R. Evid. 801(c); *United States v. Larsen*, 175 Fed. App'x 236, 241 (10th Cir. 2006) (Rule 801(d)(2) does not permit self-serving, exculpatory statements made by a party and offered by that same party).

Since receiving the defense exhibits, the government has sought to independently investigate the exhibits and simultaneously disclose its findings to defense counsel. At this time, the government suspects many of these exhibits may be inauthentic due to misspellings, incomplete or inconsistent communications, and lack of sponsoring witnesses designated in the exhibit or witness lists. Thus, the government believes that many of the exhibits will fail to have "evidence sufficient to support a finding that the item is what the proponent claims it is" under Fed. R. Evid. 901(a), separate and apart from inadmissibility under Fed. R. Evid. 801(c).

E. The defendant may cast blame on the victims.

The government anticipates that the defendant may attempt to blame witnesses from IPF Sourcing, LLC, or argue that they were negligent. But such arguments are not a defense to the charges against the defendant and will mislead, waste time, or confuse the jury. *See* Fed. R. Evid. 403.

The criminal statutes focus on the defendant's conduct. "If a scheme to defraud has been or is intended to be devised, it makes no difference whether the persons the schemers intended to defraud are gullible or skeptical, dull or bright. These are criminal statutes, not tort concepts." *United States v. Colton*, 231 F.3d 890, 903 (4th Cir. 2000) (quoting *United States v. Brien*, 617 F.2d 299, 311 (1st Cir. 1980)). Any argument that IPF Sourcing is to blame for the defendant's

conduct is wholly irrelevant to the crimes charged and will likewise confuse the issues for the jury.

Dated: February 19, 2026

Respectfully submitted,

PETER MCNEILLY
United States Attorney

By: s/ Alyssa Mance
ALYSSA MANCE
Assistant United States Attorney
United States Attorney's Office
1801 California St. Suite 1600
Denver, CO 80202
(303) 454-0100
Alyssa.Mance@usdoj.gov

By: s/ Albert Buchman
ALBERT BUCHMAN
Assistant United States Attorney
United States Attorney's Office
1801 California St. Suite 1600
Denver, CO 80202
(303) 454-0100
Al.Buchman@usdoj.gov