UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v. CASE NO. 6:25-cr-74-CEM-RMN

JAMES OCTAVIAS TOBIAS OWENS

UNITED STATES' TRIAL BRIEF

The United States of America, by Gregory W. Kehoe, United States Attorney for the Middle District of Florida, submits the following brief to notify the defendant and the court of certain evidentiary issues that the United States anticipates may arise during the trial in this case.

I. Factual Background

The United States expects to prove the following facts, among others, during its case-in-chief at trial:

The Defendant worked for the Victim Company between in or about July 2020 through in or around February 2022. Doc. 1 ¶ 3. The Victim Company provides residential and commercial insurance to customers throughout the southeastern United States. Doc. 1 ¶ 2. The defendant was employed as a daily claims adjuster for the Victim Company. In that capacity the defendant was provided an email address from the Victim Company and was authorized to pay expenditures on behalf of the Victim Company to outside vendors up to a certain amount. Doc. 1 at ¶ 3.

On or about July 31, 2020, articles of incorporation were filed with the Florida Department of State for a company named Atlas Weather Forensics LLC. On this paperwork, the registered agent was listed as "James Owens," who digitally signed the document as the registered agent and authorized representative. The defendant's minor son, who at the time was 9 years old, was listed as the person authorized to manage the LLC. In August 2020, after the defendant had Atlas added to the list of the Victim Company's vendors, Atlas began billing the Victim Company for weather-related services for certain open insurance claims with the Victim Company. Later in August 2020, after being alerted to the unusual payments to Atlas for claims to which the defendant was assigned—but without realizing that Atlas was controlled by the defendant—the defendant's supervisors at the Victim Company directed him to stop using Atlas's weather services for his claims. The defendant thus stopped using Atlas but did not disclose his ownership of it to the Victim Company.

A few months later, the defendant started using a different entity to embezzle funds from the Victim Company. On February 12, 2021, the defendant applied for a post office box for "Bradford Construction and Roofing LLC." On February 24, 2021, articles of organization were filed with the Florida Department of State, listing the defendant as the registered agent for Bradford Construction and Roofing, LLC. *See* Doc. 1 ¶ 4. On February 28, 2021, an email account was opened through Google for the email address cbfl@bradfordconstructionroofing.org. The name associated with the account was Octavias Tobias (the defendant's middle names, which were not the names he was known by at the Victim Company), and the recovery email

associated with this email account relates back to the defendant. On March 9, 2021, the defendant emailed the Victim Company's "vendor help" email account asking, in sum and substance, to add Bradford Construction and Roofing, LLC ("Bradford") into the Victim Company's system for vendor payment. The defendant attached a W-9 to this email for Bradford, containing a signature that appears to read "Octavias Tobias." As a result, the Victim Company added Bradford to its vendor list. On March 18, 2021, the defendant opened a bank account on behalf of Bradford. The defendant is the sole signatory on this account. The opening deposits into this account consist of checks from the Victim Company dated as early as March 12, 2021. Thereafter, approximately 85% of the deposits into this account were from checks issued by the Victim Company.

After Bradford was established as a vendor in the Victim Company's system, the defendant used his access to specific claims from the Victim Company's customers to cause Bradford to prepare comparative estimates that were not needed—and that were typically for claims that had already been paid out. With respect to Counts One through Five and Count Ten, the defendant followed the same pattern. The defendant was assigned as the adjuster on each of the claims. The claims were closed and settled. Sometime after the claims were closed and settled, the defendant sent an email from his Victim Company email address to the cbfl@bradfordconstructionroofing.org email account that he had created asking for a

"comparative estimate."[1] A short time later, usually the next day, the defendant would receive an email from cbfl@bradfordconstructionroofing.org to his Victim Company email account containing a comparative estimate and an invoice. The estimates and invoices were all backdated to a date prior to the request for the comparative estimate. Once the defendant received the estimate and invoice, he would upload the estimate and invoice into the digital file for the respective claim and authorize a payment from the Victim Company to Bradford. Once the payment was authorized by the defendant, the Victim Company would issue and mail the check out. Once the defendant received the check at the Post Office box that he had created, the defendant would deposit the checks at ATMs in the Middle District of Florida. The servers that processed these deposits were located outside the state of Florida.

For example, with respect to Count Two of the Indictment, the damage claim was reported on December 28, 2020. On that same date, the defendant was assigned as the daily adjuster for the claim. The claim was settled on January 20, 2021. Over three months later, on March 26, 2021, the defendant sent an email from his Victim

[1] Per the Victim Company, a comparative estimate is used in the rare circumstance where the Victim Company's estimate of the damage varies from the customer or customer retained third party estimate. In the cases where the difference between the estimates is significant enough, the Victim Company will ask for a comparative estimate to rectify the two damage estimates. Per the Victim Company, a legitimate comparative estimate would be sought *prior* to the settling a damage claim because it was used to determine the proper amount for which to settle the claim.

Company email account to his Bradford email account requesting a comparative estimate:

From: James Owens on behalf of James Owens <jowens@flhi.com>
To: cbfl@bradfordconstructionroofing.org
Subject: Frontline Insurance Claim #01000042258
Date: Friday, March 26, 2021 5:18:13 PM
Attachments: Final+Report (14).pdf
Insured+-+Roofing+Contract+-+01-18-21.pdf
Insured+-+Additional+Contract+-+01-18-21.pdf

Greetings,

I would like a comparative estimate for this claim. I have attached the adjusters photos, reports and the contractors estimate for review.

Should you have any further questions, please feel free to contact me.

Best regards

JAMES OWENS | Daily Claims Adjuster

On March 29, 2021, the defendant emailed himself back from his Bradford email account to his Victim Company email account attaching an estimate and an invoice, both of which were backdated to January 21, 2021:

From: Octavias Tobias on behalf of Octavias Tobias <cbfl@bradfordconstructionroofing.org>
To: jowens@flhi.com
Subject: 01000042258 - [redacted]
Date: Monday, March 29, 2021 9:53:04 AM
Attachments: 01-42258 - [redacted].pdf
Invoice - [redacted].pdf

Greetings James,

Please find the attached estimate for your review. Should you have any questions please feel free to contact me.

Thank you,
Octavias Tobias

As can be seen in the above example, the defendant always used his first and last names in his Victim Company emails and his middle names in his Bradford emails to give the appearance that Bradford was an outside vendor and to conceal the fact that he was self-dealing.

On the same day that he sent/received the above email, the defendant reopened the claim, uploaded the estimate and invoice, authorized payment, and then re-closed the claim within minutes. A similar pattern can be seen for Counts One, Three, Four Five, and Ten, and also with respect to hundreds of other checks that the defendant caused to be fraudulently issued by the Victim Company to Bradford between 2021 and 2022.

With respect to the transactions charged in Counts Six, Seven, Eight, and Nine, the defendant simply caused checks to be issued to Bradford in connection with pre-existing claims from Victim Company customers after the claims were settled. In other words, the defendant caused payments to be issued without uploading an estimate or invoice into the digital file.

In total, during a twelve-month period, the defendant used this scheme to cause the Victim Company to issue checks to Bradford amounting to more than $580,000.

II. Legal Argument

a. Circumstantial authentication of email evidence

The United States intends to enter various emails in its case in chief. Some of these emails will be authenticated by a sender or recipient of the email. The United

States intends to enter other emails that were sent to the defendant by the defendant, or that were sent by the defendant or his company to the "Vendor Help" email address at the Victim Company. For these emails, the United States has provided a certification of authentication of business records from the Victim Company which controlled the email accounts and has moved for the court to deem the emails as self-authenticating under Federal Rule of Evidence 902(11). Alternatively, the United States intends to authenticate these emails circumstantially pursuant to Federal Rule of Evidence 901(b)(4).

Under Federal Rule of Evidence 901(b)(4), the distinctive characteristics of an email can be used to authenticate electronic emails. *See United States v. Smith,* 918 F.2d 1501, 1510 (11th Cir. 1990) (holding that "[t]he government may authenticate a document solely through the use of circumstantial evidence, including the document's own distinctive characteristics and the circumstances surrounding its discovery."). In *United States v. Siddiqui*, 235 F.3d 1318 (11th Cir. 2000), the Eleventh Circuit held that email exhibits were properly authenticated under Federal Rule of Evidence 901(b)(4) where the evidence established that the email address in the exhibit was used was the defendant, the context of the email aligned with someone who knew the details of the defendant's conduct, and the email referenced a known nickname of the defendant. *Id.* at 1322.

Here, the exhibits the United States seeks to enter pursuant to Federal Rule of Evidence 901(b)(4), bear sufficient distinctive characteristics to be authenticated circumstantially. The United States anticipates that a witness from the Victim

Company will testify, in sum and substance, that the emails were sent from the email address assigned to the defendant by the Victim Company, that the signature in the emails match the defendant name and contact information at the Victim Company, that the content of the emails involve claims to which the defendant was assigned, and that documents sent to the defendant via email were later uploaded by the defendant into the digital claim file. These distinctive features meet the requirements imposed by Federal Rule of Evidence 901(b)(4).

b. Testimony of summary witnesses

The United States intends to offer non-expert summary witnesses in its case in chief. These witnesses include: 1) an investigator for Truist Bank who the United States anticipates will testify about the location of certain ATMs and servers; 2) an FBI forensic accountant, who will summarize the records of various bank accounts; 3) an FBI computer analyst, who will summarize records provided by Google; and 4) a witness from the IRS, who is anticipated to testify about the results of a search of IRS databases. The United States does not intend to elicit opinion evidence from these witnesses and considers them fact witnesses.

A witness's testimony does not generally rise to the level of expert opinion where it is based on particularized knowledge gained from the witness's own personal experiences or professional background, or where the witness is presenting hard facts. *United States v. Horn*, 129 F.4th 1275, 1293 (11th Cir. 2025); *United States v. Jeri*, 869 F.3d 1247, 1265 (11th Cir. 2017) (explaining that, "Rule 701 does not prohibit lay witnesses from testifying based on particularized knowledge gained from

their own personal experiences") (internal citations omitted). In *United States v. Chalker*, for example, the Eleventh Circuit upheld the admission of the testimony of a forensic accountant who provided the jury with a summary of the defendant's bank and wage records as lay witness testimony. 966 F.3d 1177, 1192 (11th Cir. 2020); *see also United States v. Hamaker*, 455 F.3d 1316, 1330 (11th Cir. 2006) (finding testimony regarding the witness's review and analysis of "financial documents, primarily MCC's Quickbooks records, time sheets, invoices, and check stubs" to be non-expert testimony); *United States v. Ransfer*, 749 F.3d 914, 937 (11th Cir. 2014) (finding testimony of a record custodian non-expert testimony where the witness testified about how cell phone towers record "pings" from each cell phone number and how he mapped the cell phone tower locations for each phone call and offered no opinion testimony).

The United States does not intend to elicit any expert testimony from these witnesses, as defined by Federal Rule of Evidence 702. As such, Federal Rule of Evidence 701 should be applied to the testimony of these witnesses.

c. The defendant's civil case / Alleged misconduct by judicial and prosecutorial officials

The United States anticipates that at trial, the defendant will attempt to make certain arguments that are not supported any admissible evidence and that will not be made in good faith. First, the United States anticipates that the defendant will rely on self-serving hearsay from a pending civil lawsuit that he has filed to argue that the charges against him "stem from a retaliatory campaign orchestrated by the alleged

victim . . . following Mr. Owens's protected whistleblower disclosures concerning [the victim's] fraudulent and deceptive claims-handling practices." *See* Doc. 69 at 4. Second, the United States anticipates that the defendant will argue that Court officials, the prosecutors, and law enforcement have all engaged in ethical misconduct, and that the charges in this case are the result of "collusion between the alleged victim, government officials, and court personnel." *Id.* at 50–53. Neither of these arguments are supported by admissible evidence, and permitting the defendant to make arguments regarding these issues without supporting evidence is likely to confuse the jury and distract it from its proper role at trial.

The United States anticipates that the evidence presented at trial will show that the defendant was terminated from the Victim Company after the fraud with which he has been charged was discovered. The defendant, meanwhile, intends to argue that he was terminated not due to any fraud, but due to his protected whistleblower activities. *See* Doc. 69 at 4–6, 20, 31, 35–40. Yet, in support of this argument, the defendant does not appear to have any evidence other than a self-serving complaint authored by the defendant after his fraud was discovered (Doc. 69-1 at 78–80), a self-serving statement made by the defendant to the FBI (Doc. 69-1 at 115), and his civil whistleblower complaint, all of which are out-of-court statements authored after the defendant's fraud was discovered. Not only do these documents lack any significant evidentiary support for the defendant's whistleblower arguments, but they are each inadmissible hearsay. *See United States v. Pomrenke*, 198 F.Supp.3d 648, 704–05 (W.D.Va. 2016) ("As I stated when ruling on this issue at trial, in order

to accept that the statements made by Pomrenke were 'whistle blower' statements, I have to consider them for the truth of the matters asserted, whatever those matters were. I find that the defendant offered these statements in an attempt to show the truth of the matters discussed. The statements were not present sense impressions because the defense has not indicated that Pomrenke was describing something she was observing at the time or immediately after perceiving it. . . . I find that the so-called 'whistle blower' statements Pomrenke allegedly made to Esposito were properly excluded as inadmissible hearsay and not relevant to the issues before the jury."); *see also United States v. Klein*, 2017 WL 1316999, at *8–10 (E.D.N.Y., 2017) (finding over the defense's objection that allegations in an SEC complaint were inadmissible hearsay and that admitting them would "invite a danger of unfair prejudice and confusion that substantially outweigh any probative value").

In any event, even assuming *arguendo* that these documents qualify for a hearsay exception, they are not probative to the matters at issue for the jury in this case. Even if the Victim Company had other motivations for terminating the defendant—which it did not—this does not resolve the question for the jury of whether the defendant defrauded the Victim Company. Admitting these documents would not assist the jury in making the factual determinations with which it will be tasked.

Nor is there any support for the defendant's argument that Court personnel, prosecutors, law enforcement, the Victim Company, and his defense attorney have colluded against him (Doc. 69 at 36–53). The prior judge appropriately recused

himself as soon as he realized that he and the Victim Company were members of the same, unrelated corporate entity and before he had made any substantive rulings in this case. *See* Doc. 55 at 1. This does not constitute evidence of collusion. To the contrary, it shows that the prior judge, in the abundance of caution, took steps to ensure that the integrity of the proceedings would not be compromised or have the appearance of being compromised. Nor has the defendant presented evidence to support his grand claims of collusion by the other parties involved. The United States thus intends to object to any such arguments at trial as unfounded and intended to mislead and confuse the jury, unless and until the defendant presents any admissible evidence to support these claims.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: *Chauncey A. Bratt*
Chauncey A. Bratt
Assistant United States Attorney
Florida Bar No. 1059720
400 W. Washington Street, Suite 3100
Orlando, Florida 32801
Telephone: (407) 648-7500
Facsimile: (407) 648-7643
E-mail: chauncey.bratt@usdoj.gov

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CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2025, I caused a true and correct copy of the foregoing document and the notice of electronic filing to be sent by United States Mail and via email to the following non-CM/ECF participant:

James Octavias Tobias Owens
4701 Old Canoe Creek Rd.
Unit # 700192
St. Cloud, FL 34770
jamesowens1014@gmail.com
jamesowens1556@gmail.com

Chauncey A. Bratt
Chauncey A. Bratt
Assistant United States Attorney
Florida Bar No. 1059720
400 W. Washington Street, Suite 3100
Orlando, Florida 32801
Telephone: (407) 648-7500
Facsimile: (407) 648-7643
E-mail: chauncey.bratt@usdoj.gov