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20 ROWLAND MARCUS ANDRADE

21 **IN THE UNITED STATES DISTRICT COURT**

22 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

23 **SAN FRANCISCO DIVISION**

24 UNITED STATES OF AMERICA,

25 Plaintiff,

26 v.

27 ROWLAND MARCUS ANDRADE,

28 Defendant.

Case No. 3:20-CR-00249-RS

**CORRECTED DECLARATION OF
KERRIE C. DENT IN SUPPORT OF
DEFENDANT ANDRADE'S MOTION FOR
NEW TRIAL AND FOR JUDGMENT OF
ACQUITTAL**

Judge: Hon. Richard Seeborg
Hearing: June 24, 2025, 9:30 a.m.

1 Kerrie C. Dent, counsel for Defendant Marcus Andrade, states as follows:

2 1. I am one of the lawyers representing Defendant Marcus Andrade in the above-
3 captioned matter. On May 23, 2025, I filed a declaration in support of Mr. Andrade's motion for
4 new trial and for judgment of acquittal. ECF #645-3 (filed under seal) (May 23, 2025).

5 Paragraphs 2, 3, 4, and 5 set forth lists of certain categories of trial exhibits referenced in our
6 post-trial motion. It has come to my attention that several of the exhibits were included in the
7 wrong category. Accordingly, I file this CORRECTED Declaration to provide accurate lists of
8 the exhibits we relied upon. The remainder of my declaration, beginning with paragraph 6,
9 remains unchanged. The CORRECTED motion for new trial and for judgment of acquittal,
10 filed together with the declaration, was necessary because the brief included numerous non-
11 substantive mistakes that made corrections necessary to make it more reader friendly.

12 Specifically, I made the following non-substantive edits to Mr. Andrade's motion for new trial
13 and for judgment of acquittal:

- 14 ○ Deleted extraneous words from the following lines: 3:7; 3:17; 5:19; 5:25; 9:11;
15 15:20; 15:25; 23:27; 26:14; 29:14; 37:12; and 44:19.
- 16 ○ Added missing words from the following lines: 6:27; 9:27; 10:20; 24:8; 24:22;
17 29:14; 38:9; and 44:19.
- 18 ○ Corrected misspellings/typographical errors on the following lines: 19:21; 20:24;
19 23:25; 30:23; 37:1; and 40:27.
- 20 ○ Added cites to the transcript at the following lines: 10:28; 11:15; and 40:28.
- 21 ○ Deleted the last sentence of footnote 11 because the cite is already in footnote 13.
- 22 ○ Deleted a note to myself at line 26:26.
- 23 ○ Added missing punctuation (mostly periods at the end of sentences) throughout
24 the brief.

2. Mr. Andrade's motion for new trial and for judgment of acquittal sets out numerous occasions where the Court incorrectly excluded offered exhibits based on hearsay. I attach as **Exhibit A** the documents cited in our post-trial motion that were offered but not admitted by the Court:

- i. Trial Exhibit 2127
- ii. Trial Exhibit 2160
- iii. Trial Exhibit 2360
- iv. Trial Exhibit 2472
- v. Trial Exhibit 2473
- vi. Trial Exhibit 2474
- vii. Trial Exhibit 3355
- viii. Trial Exhibit 3357
- ix. Trial Exhibit 3381

3. Mr. Andrade's motion for new trial and for judgment of acquittal also cites to trial exhibits the Court incorrectly excluded, but later admitted. I attach those trial exhibits as **Exhibit B:**

- i. Trial Exhibit 2327 (redacted)
- ii. Trial Exhibit 2333 (redacted)
- iii. Trial Exhibit 2334 (redacted)
- iv. Trial Exhibit 2337 (redacted)

4. Mr. Andrade's post-trial motion also references trial exhibits that were not offered, based on the Court's prior rulings. I attach those trial exhibits as **Exhibit C**:

- i. Trial Exhibit 2082
- ii. Trial Exhibit 2083
- iii. Trial Exhibit 2084
- iv. Trial Exhibit 2085

- xiii. Trial Exhibit 1459
- xiv. Trial Exhibit 1514
- xv. Trial Exhibit 1520
- xvi. Trial Exhibit 2106
- xvii. Trial Exhibit 2471
- xviii. Trial Exhibit 3054
- xix. Trial Exhibit 3109
- xx. Trial Exhibit 3047

6. Before the jury instructions were given in this case, we raised the lack of any mention of the specific transaction that had been charged by the grand jury. We raised the issue first with the government and then with the Court, again to no avail. With the government, defense counsel wrote to “follow[] up on [his] quick call to Dave [Ward] earlier regarding our concerns on the money laundering elements as drafted and their omission of the transaction charged in the indictment.” The government responded: “That issue was settled when Judge Seeborg finalized the jury instructions. As he has said multiple times now, you have preserved your objections. No need for further meet and confers on that issue, in our view.” I attach the March 10, 2025 email exchange as **Exhibit E**. We then re-raised the issue with the Court, explaining that we were bringing the issue back “because it seemed so fundamentally wrong.” The Court inquired about whether the instruction followed the pattern and then stated: “[Y]ou’ve preserved your objection. To the extent you haven’t, I think you waived it because it is the last day, but it sounds like you preserved it, but I am not going to change the instructions.” Tr. 2947:1-2, 22-25.

7. The government offered, and the Court admitted, Exhibit 805, which is a screenshot of new passwords that were created in January 2020. The screenshot that was marked and admitted as Exhibit 805 did not appear on Mr. Andrade’s phone until 2020, and as best as we can determine, no such document with the initials “MA” as part of the passwords – the key to the

1 government's argument that Mr. Andrade controlled the accounts – was on his phone prior to
2 2020. The FBI seized and produced to Mr. Andrade all the prior versions of the social media
3 password list, none of which included passwords that began with the letters “M and A.” From
4 late 2017 to November 2018, Dylan Pugliese maintained the passwords for the social media
5 accounts. See **Exhibit F**, FBI-00033510. The metadata I reviewed on the Relativity database
6 that stores the data for this case shows that this version of the passwords, “AML PWs Updated,”
7 was created by Pugliese on December 3, 2017, and last updated by him on November 16, 2018.
8 From November 2018 to April 2019, Melanie Cowan maintained the passwords for the social
9 media accounts. See **Exhibit G**, FBI-00033498. The metadata I reviewed on the Relativity
10 database shows that this version of “AML PWs Updated” was created by Melanie Cowan on
11 November 14, 2018, and last updated on April 22, 2019. And from April 2019 to December
12 2019, Bernadette Tran maintained the passwords for the social media accounts. See **Exhibits H**
13 **and I**, FBI-00048234 and FBI-00048235. The metadata I reviewed on the Relativity database
14 shows that she renamed the list “ABTC Corp Password and Vendors List” on April 5, 2019, and
15 last updated that document on December 11, 2019. The Cellebrite report from Mr. Andrade's
16 G7 phone, produced by the government, includes a message from Mr. Andrade to Melanie
17 Cowan on January 13, 2020, showing that they were changing the social media passwords as
18 Melanie was departing. Marcus says to Melanie: “Please let me know if all passwords have been
19 submitted over and all login credentials that were in your personal name have been converted
20 over to a company email account. Also please make sure you disable SMS on all Company
21 account that were using your number.” See **Exhibit J**, FBI-DEVICE-000001 (Cellebrite Entry
22 400). This email provides yet an additional reason I believe the government should have known
23 the MA passwords were newly created and were not in place during the relevant 2017-2018
24 period. In addition, the screenshot of the list of social media passwords that the government
25 offered as Exhibit 805 was sent by WhatsApp to Mr. Andrade on February 3, 2020, by his
26 lawyer Axel Lindholm. See **Exhibit K**. It is not clear why the government was in possession of a
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1 document that was attached to a privileged communication. The list appears to have been sent to
2 Mr. Lindholm and Mr. Andrade on January 9, 2020, by a paralegal who was assisting Mr.
3 Andrade with changing all of the passwords for the social media accounts as some of his staff
4 was leaving. See **Exhibit L**.

5 8. Mr. Andrade's phone was the only device seized from him for which the case
6 agents requested and received immediate working copies. The reports from the forensics
7 laboratory made it clear that, in addition to the three minimized reports that were provided to the
8 case agents almost immediately after the phone was seized, there also was an unminimized, pre-
9 taint review image. Even after numerous pleadings were filed, many letters were written,
10 hearings were held, and orders were issued, the government never produced the unminimized
11 extraction of the G7. Judge Beeler ordered that "the government must produce the unminimized
12 version of the Motorola G7 and the unminimized Cellebrite report." Order Granting Motion to
13 Compel, Dkt. #292 at 2:6-7 (March 17, 2024) (emphasis added). But, despite the government's
14 representation that it had produced the unminimized image of Mr. Andrade's Motorola G7 (Dkt.
15 #299 at 2:26, April 19, 2024), the government only re-produced the minimized extraction of the
16 phone that it previously had produced. King & Spalding eDiscovery Operations and an outside
17 vendor confirmed, that the government has not produced the unminimized, pre-taint version of
18 the phone. Attempting to explain producing only such a small portion of the phone, the
19 government claimed that there were technical difficulties with imaging the phone, rendering it
20 impossible to obtain a full image. But when defense counsel asked for the forensics reports that
21 would have been written by the RCFL to document the difficulty in imaging the phone, no such
22 forensics reports were provided. Instead, the government produced an FBI 302 report written by
23 Agent Zartman in July 2024, more than four years after the phone was seized and imaged, and
24 several months after the parties briefed the Judge Beeler's March 17, 2024 Order directing the
25 government to produce the unminimized version of the phone. In addition, another 302 produced
26 by the government indicates that in August 2020, the FBI conducted a taint review of Mr.

1 Andrade's phone, tagging potentially privileged documents using a list of attorneys, and placed
2 the Cellebrite file in the case file for "later review by a prosecutor," further proving that a pre-
3 taint report of the phone existed at some point in time.

4 9. An attorney for former FBI agent Jonathan Buma informed me that his client
5 could confirm that Jack Abramoff has been a government informant. That is one of the things
6 Mr. Buma could have testified about had the Court granted Mr. Andrade's motion for an
7 evidentiary hearing on the government's misconduct. Mr. Buma's testimony would undermine
8 Jack Abramoff's trial testimony that he was not an informant.

9 10. The Court did not let us call Christine Lee to impeach co-conspirator Dillman.
10 The government had interviewed Lee on March 3, 2022, learned about her potential testimony
11 almost three years before trial, and had been in possession of the defense's proffered documents
12 corroborating Lee's testimony since February 23, 2022. Dillman was under indictment, and
13 unavailable to testify given his fifth amendment privilege, and there should have been no dispute
14 about Lee's testimony given the existence of corroborating documents, See **Exhibit M**, FBI-302-
15 024998 and **Exhibit N**, FBI-302-025030.

16 I declare under penalty of perjury that the foregoing is true and correct, and that this
17 declaration was executed on June 3, 2025, in Boston, Massachusetts.

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19 /s/ Kerrie C. Dent

20 KERRIE C. DENT
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