

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,
Plaintiff,

v.

Case No. 16 CR 64

RONALD D. VAN DEN HEUVEL,
Defendant.

MEMORANDUM IN SUPPORT OF MOTION TO COMPEL DISCOVERY

The defendant has moved the Court for a Motion to Compel Discovery pursuant to Criminal Local Rule 16a and b. It is requested that the court order the government to provide the contents of the thumb drive described in the following memorandum. Defense counsel has requested via email and phone from both AUSAs in this case, Mel Johnson and Matt Krueger, to provide the information from the drive. They have indicated verbally and in writing, that it will not be provided, as it is, in their opinion, not discoverable. Those communications took place within the last two weeks on separate occasions.

The instant indictment is essentially an amalgam of charges relating to two alleged discreet fraud schemes. The first scheme involves fraudulent loans from Horicon Bank using straw borrowers during the period from 2008-2009. The second charges that the defendant attempted to secure loans from separate lending institutions, by use of a surrogate in 2013. Some of the evidence in support of the indictment is based upon information obtained during the execution of various search warrants. Other evidence

emanates from an FDIC administrative proceeding which predated the issuance of the warrant.

During the FDIC proceeding, a former accountant of the defendant and his business entities, Guy LoCascio, provided damaging information to authorities. Amongst his assertions was the claim that the defendant would divert corporate funds for his personal use; that an employee was told to make false entries regarding financial transactions; that he personally refused, when asked, to confirm the veracity of certain corporate financial documents; and that collateral and money was moved without proper documentation.

Additionally, LoCascio advised authorities about the circumstances of the second alleged scheme. More specifically, LoCascio stated that the defendant transferred titles of two company vehicles to another individual because that person was unable to obtain financing from any local bank. LoCascio provided information in support of the claimed fraud scheme that the vehicles were used in an attempt to secure bank funds by misrepresentation.

LoCascio provided a thumb drive, the contents of which related to the defendant and his business operations. The information on the thumb drive was taken by LoCascio from the defendant's businesses, arguably without any consent or authority. A search warrant was obtained to view the contents. According to the affidavit submitted in support of the search warrant, (paragraph 25), the thumb drive included, but was not limited to: information

about inflated valuation of patent and intellectual property claimed to have been possessed by the defendant; evidence of money having been transferred from different business accounts to cover purported shortfalls; and a chart of the banks and partial account numbers utilized by the defendant.

The information contained on the thumb drive has direct relevance to the guilt or innocence of the defendant, it contains documents which are believed to have been possessed by the defendant and/or his employees, and which were taken without consent. Any information derived there from may be subject to a separate motion to suppress, irrespective of whether the warrant to view it was properly issued and executed. The contents theoretically belongs to the defendant and there is no lawful basis for refusal to disclose it to the defense.

Dated at Milwaukee, Wisconsin, this 16th day of June, 2017.

Respectfully submitted,

/s/ Robert G. LeBell

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