

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	:	Criminal No. 05-66
	:	
v.	:	
	:	
WALTER ANDERSON,	:	
	:	
aka Mark Roth,	:	
	:	
Defendant.	:	

GOVERNMENT'S MOTION FOR DETENTION

The United States, through its attorney, the United States Attorney for the District of Columbia, respectfully requests this Court to detain defendant Walter Anderson and schedule a hearing, pursuant to 18 U.S.C. Section 3142. The government intends to establish at the hearing that Mr. Anderson poses an extreme flight risk and will attempt to obstruct justice if he is not detained pending trial. In support of its Motion, the government submits the following:

Introduction

Mr. Anderson has been charged by a federal grand jury in a twelve count indictment, alleging tax evasion (26 U.S.C. Section 7201), obstructing the due administration of the internal revenue laws (26 U.S.C. Section 7212 (a)) and fraud (22 DC Code Section 3221(a)). For more than two decades, Mr. Anderson has engaged in a systematic course of fraudulent conduct to evade the assessment and payment of approximately \$200 million in income taxes owing to the United States and the District of Columbia governments.

Beginning in 1992, as Mr. Anderson realized that the merger of his first successful company, Mid-Atlantic Telecom ("MAT"), with Rochester Telephone Corporation ("RTC") would result in substantial taxable earnings, Mr. Anderson formed an offshore corporation to

receive the income. At that time, Mr. Anderson already owed the IRS hundreds of thousands of dollars in back taxes, interest and penalties. To evade paying taxes to the IRS, Mr. Anderson formed a tiered offshore corporate structure into which he transferred his personal assets.

First, Mr. Anderson formed Gold & Appel Transfer, S.A. ("G&A") in the British Virgin Islands ("BVI"), a known tax haven with strict secrecy laws. Mr. Anderson hired a trust company to serve as G&A's registered agent and sole director. At Anderson's direction, the trust company issued only 10 shares of the 1,000 authorized G&A shares to Icomnet, another BVI company previously formed by Mr. Anderson. Mr. Anderson granted himself an exclusive option to purchase the remaining 990 shares for \$990 to insure that no one other than Mr. Anderson could own these remaining shares. Neither the option nor Mr. Anderson's name was recorded in BVI's public records. Shortly thereafter, Mr. Anderson directed MAT's corporate secretary to transfer his MAT equity to G&A. When the MAT/RTC merger was consummated in September 1993, RTC paid G&A, not Mr. Anderson, more than \$4 million in RTC stock.

At approximately the same time of this merger, using the alias "Mark Roth," Mr. Anderson formed another offshore corporation, Iceberg Transport, S.A. ("Iceberg") in Panama and made G&A a wholly-owned subsidiary of Iceberg. Again, Mr. Anderson hired a Panamanian law firm and its employees to act as registered agent, officers and directors for Iceberg. These individuals, however, took all direction from Mr. Anderson. To avoid revealing the owners' names, Mr. Anderson formed Iceberg as a bearer share company and consistently maintained that he did not know the owners' identities. He denied personally owning any of its equity.

In addition to MAT, Mr. Anderson founded Telco Communications Group ("Telco") in Chantilly, Virginia, and Esprit Telecom ("Esprit"), based in several European cities. Mr.

Anderson personally owned a significant portion of the equity in both these companies. Eventually, Mr. Anderson transferred his personal ownership interests in Telco and Esprit to Iceberg and G&A for little or no consideration. Each of these transfers of shares to the offshore entities was carefully timed to pre-date any major capital events for those companies so that the substantially appreciated stock was owned by G&A at the time of the taxable event. With well over \$100 million in earnings realized by the public offerings in Telco and Esprit, Mr. Anderson invested in other business ventures. By the end of 1999, he had generated more than \$450 million in net earnings.

Citizens of the United States are obligated to pay taxes on worldwide income. According to the internal revenue laws, G&A and Iceberg are considered controlled foreign corporations ("CFCs"). A CFC is a foreign entity of which more than 50% of the total stock is owned by United States shareholders. One who owns, either directly, indirectly or constructively, 10% or more of the total voting power of the foreign corporation's voting stock is deemed a United States shareholder for CFC purposes. Investment type income earned by the CFC, whether distributed or not, is allocated to each of the United States shareholders by the amount of stock owned, directly or indirectly, by him. These regulations require that this amount be reported on the United States shareholder's US Individual Income Tax Return. Aware of his legal obligations, Mr. Anderson intentionally omitted this income on his federal returns.

Residents of the District of Columbia are similarly required to report these earnings on their District of Columbia Income Tax Returns. Mr. Anderson did not report this income on his District of Columbia tax returns. In fact, with the exception of 1999, Mr. Anderson failed to file any income tax returns with the District of Columbia government for the relevant years, falsely

claiming on his federal tax returns and in statements to his accountants that he was a resident of Florida (a state with no income tax), when in fact his primary residence at all relevant times was within the District of Columbia.

Applicable Legal Standard

Under 18 U.S.C. § 3142(e), if a judicial officer finds after a detention hearing that "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial." The judicial determination of whether release conditions will reasonably assure a defendant's appearance and community safety is guided by the following four statutory factors: (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. See 18 U.S.C. § 3142(g).

A judicial determination that a defendant should be detained pending trial on grounds of risk of flight must be supported by a preponderance of the evidence. See United States v. Xulam, 84 F.3d 441, 442 (D.C. Cir. 1996); United States v. Simpkins, 826 F.2d 94, 96 (D.C. Cir. 1987); United States v. Vortis, 785 F.2d 327, 328 (D.C. Cir.), cert. denied, 479 U.S. 841 (1986). When pretrial detention is based on community safety, that determination must be supported by clear and convincing evidence. See Simpkins, supra, 826 F.2d at 96; United States v. Alatishe, 768 F.2d 364, 370 (D.C. Cir. 1985). It is not necessary for a finding of dangerousness that the defendant be charged with a violent crime. Dangerousness can be based upon a finding of obstructive conduct, such as witness tampering. See Section 3142(f)(2)(B) (authorizing pretrial

detention if the court finds "a serious risk that the defendant will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure or intimidate a prospective witness or juror"); United States v. Cole, 715 F. Supp. 677, 679 (E.D. Pa. 1988) (the government must show that the defendants pose a danger of recidivism in at least one of the crimes listed in 18 U.S.C. Section 3142(f)(1) or that they will obstruct justice).

Formal evidentiary rules do not apply. See United States v. Jamal, 623 F. Supp. 2d 1006 (D. Az. 2003) (recorded conversations of defendant admitted in support of detention). The government may even present its evidence in support of detention by way of proffer. See United States v. Karni, 298 F. Supp. 2d 129, 131 (D.C. Cir. 2004). As the Second Circuit recognized, "Congress did not want detention hearings to resemble mini-trials" or serve as "discovery tool[s] for the defendant." United States v. Martir, 782 F.2d 1141, 1145 (2nd Cir. 1986) (citing, United States v. Delker, 757 F.2d 1390, 1396 (3d. Cir. 1985)).

Analysis

As set forth below, the evidence the government intends to present at the detention hearing will establish that, under all four Section 3142(g) factors, detention of Mr. Anderson is required.

1. Nature and circumstances of the Offenses

Mr. Anderson, age 51, is charged with serious federal and District of Columbia crimes. If convicted, Mr. Anderson faces a lengthy term of imprisonment. The combined statutory maximum penalties for the federal offenses is 23 years. Under the federal sentencing guidelines, Mr. Anderson's base offense level is 34. See U.S.S.G. § 2T4.1. In light of the sophisticated nature of his scheme and his obstructive conduct during the grand jury phase of this

investigation, several sentencing enhancements increase Mr. Anderson's base offense level to 38. See U.S.S.G. §§ 2T1.1(b) and 3C1.1(A)(B)(i). With a Criminal History I, Mr. Anderson's applicable sentencing range is 235 to 293 months. The combined statutory maximum penalties for the District of Columbia offenses is an additional 60 years. Accordingly, Mr. Anderson faces imprisonment for a large percentage, if not all, of his remaining life. See United States v. Levine, 770 F. Supp. 460 (N.D. Ind. 1991) (detention ordered based on risk of flight where defendant could be sentenced to life without the possibility of parole). Certainly, a sentence as substantial as 20 years provides a strong incentive to flee. This is particularly true in Mr. Anderson's case where travel and freedom of movement is second nature to him.

As set forth in the Indictment, Mr. Anderson is charged with engaging in a sophisticated criminal scheme involving international business transactions, movement of assets across foreign borders, concealment of identities, and tricking and evading United States law enforcement. By their nature, these offenses demonstrate familiarity with foreign jurisdictions and suggest that Mr. Anderson is especially capable of taking flight and that he would take flight. In United States v. Hollender, Judge McMahon placed the "maximum possible weight" on the nature and circumstances of the crime to order pretrial detention in a case where the defendant was charged in a \$2 million fraud scheme involving the use of aliases and bogus corporations. 162 F. Supp. 2d 261, 266 (S.D.N.Y. 2001). Likewise, the Ninth Circuit agreed that the defendant, in United States v. Townsend, should be detained where the "crimes charged required intelligence, planning, capital, facility in deception, [and] international communications." 897 F.2d 989, 996 (9th Cir. 1990). Mr. Anderson is an experienced and savvy international businessman. Avoiding capture by the government and living life as a fugitive would not pose much difficulty for him.

2. Weight of the Evidence

The central issue in this case is whether Mr. Anderson owned and controlled two offshore corporations, G&A and Iceberg, that earned hundreds of millions of dollars during the relevant tax years. The government's evidence that he did is strong. By using Mutual Legal Assistance treaties and Tax Information Exchange agreements, the government has obtained offshore banking records that provide a road map to the investment activities orchestrated by Mr. Anderson that earned hundreds of millions of dollars in income that was never reported on any of Mr. Anderson's tax returns. Brokerage records and witnesses statements also reveal Mr. Anderson's exclusive control over the business activities of G&A and Iceberg.

In addition, documents recovered from Mr. Anderson's residence further confirm his control over the companies. The documents include: Iceberg's bearer share certificates, which were found in Mr. Anderson's home and office;¹ written instructions from Mr. Anderson to the company formation agents for G&A and Iceberg; correspondence between Mr. Anderson and the nominee directors of G&A and Iceberg; correspondence between Mr. Anderson and Barclays Bank in the Channel Islands relating to G&A's bank account; Barclays Bank records reflecting Mr. Anderson as the sole signatory on the G&A account; brokerage firm records reflecting Mr. Anderson's exclusive power over all G&A accounts; and records and testimony describing Mr. Anderson's lavish lifestyle with the use of G&A's funds.

There is also strong evidence that Mr. Anderson repeatedly lied to his own accountants and others about his control of G&A and Iceberg and other critical facts that he knew would affect his tax liabilities. In short, there is compelling evidence that Mr. Anderson earned huge

¹ By definition, the individual in possession of a corporation's bearer shares is the owner.

amounts of income through foreign shell corporations he controlled, that he never paid any tax on that income, and that he knowingly and willfully set out to evade his federal and District of Columbia tax obligations and to obstruct the due administration of internal revenue laws.

3. **Mr. Anderson's History and Characteristics**

a) **History of Deceit and Concealment.** Mr. Anderson has a long history of deceit and concealment. Over the past twenty years, Mr. Anderson used corporate entities and nominees to conceal his business transactions from the government. Mr. Anderson is associated with at least seven aliases, including Robert Zzylich, William Prospero, Dr. Paul Anderson, Mark Roth, A. Clark, R. Langer, and Ragnor Danksjold, for various purposes. Historically, Mr. Anderson has relied on foreign and American commercial mail boxes and forwarding services to prevent the government from tracking his financial conduct. See United States v. Powell, 813 F. Supp. 903 (D. Ma. 1992) (use of aliases supports detention based on risk of flight); United States v. Rodgers, 738 F. Supp. 156 (E.D. Pa. 1990) (use of fictitious names in securing utility services supports order of detention).

Mr. Anderson used the fictitious name, Mark Roth, to facilitate the commission of the crimes charged in the Indictment. The records seized from Mr. Anderson and produced by foreign businesses reveal that, using the alias Mark Roth, Anderson created Iceberg in Panama. Mr. Anderson also used bogus addresses in Florida and Virginia to evade the payment of District of Columbia income taxes, use taxes and various regulatory fees. And when he opened a personal offshore bank account in the Channel Islands, he claimed to be a citizen of the Dominican Republic with a mailing address in the Netherlands.

The evidence suggests that Mr. Anderson's use of fictitious names, addresses, and other false information was supported by careful study. Both times that search warrants were executed at Mr. Anderson's apartment in the last three years, he was found to be in possession of numerous "how to" manuals detailing methods for creating or obtaining fake identification documents and techniques for remaining hidden from authorities. Among the books and documents seized were the following:

- Poof! How to Disappear and Create a New Identity;
- The ID Forger: Homemade Birth Certificates and Other Documents Explained;
- Reborn Overseas: Identity Building in Europe, Australia, and New Zealand; Methods of Disguise;
- The Paper Trip I for a New You Through a New ID;
- How to Legally Obtain a Second Citizenship and Passport - and Why You Want To; Second Citizenships: What's on the Market;
- Who Are You? - The Encyclopedia of Personal Identification, Freedom and Privacy Tactics Part 2. the Practice;
- Driving Big Brother: Techniques for Acquiring Driver's Licenses.

It is also clear that Mr. Anderson has more than just an historical or academic interest in identity fraud and international fugitivity. Also seized during the search warrants of his apartment were the following: an INS Form I-94W in the name of William Prospero with a photograph of Mr. Anderson; credentials purportedly issued by The Association of Independent Investigators; an American Press Association badge with a photograph of Mr. Anderson; and a British Guiana Passport in the name of Dr. Paul W. Anderson with a photograph of Mr.

Anderson.²

He also possessed materials to create more false identifications. In his Washington D.C. office, the government seized what appears to be an official Certificate of Baptism, purportedly issued by the Archdiocese of the United States Military. All the information is whited out. Upon examination, one can see that the certificate was originally issued in the name of a person called, for purposes of this motion, A.Z., whose date of birth was May 12, 1958. Typed over A.Z.'s name appears to be the name Ragnor Danskjold.³ A.Z. is a real person who had worked for Mr. Anderson in the late 1970s. He had no idea how Mr. Anderson came to possess this certificate.

Moreover, Mr. Anderson possessed copies of passports belonging to many of his business associates, including American citizen described as "G.H." and British national, described here as, "P.B." Mr. Anderson had many spare passport photographs of himself. Mr. Anderson easily has the knowledge and means to fabricate a passport using another person's or a fictitious person's identifying information.

There is also evidence to suggest that Mr. Anderson attempted to obtain citizenship in other countries. In March 2002, the government seized an application for citizenship for

² It appears that this passport was used on travel. There are numerous stamps of various countries, including what appears to be a visa from an Asian country. The agents also seized a registered British Guiana certificate for Dr. Paul Anderson living at 2012 Nevada N.W., with a November 27, 1955 birthdate. A District of Columbia map reflects that this is a bogus address because Nevada Avenue and 20th Street do not intersect. Interestingly, on January 7, 1993, when this document was purportedly issued, Mr. Anderson was residing at 2012 Wyoming Avenue, N.W. This is also about the same time when Mr. Anderson formed his elaborate offshore corporate structure for the specific purpose of evading his income taxes.

³ Danskjold Reed is also the name of Mr. Anderson's first telecom business, the company that held title to the private jet Mr. Anderson owned with a business associate and one of the main characters in Ayn Rand's novel, Atlas Shrugged.

Grenada. The form is handwritten and appears to have been signed by Mr. Anderson in approximately 1999. It is unknown whether Mr. Anderson was granted such citizenship. In November 2003, the government seized a yellow folder labeled "German Pass Docs." Mr. Anderson's birth certificate in his legal name of "Walter Anderson Crump" and another copy with the last name "Crump" obliterated were found inside.⁴ In addition, Mr. Anderson had a copy of his mother's birth certificate, which indicated that his grandfather was born in Norway. Mr. Anderson may have plans to claim (or already has claimed) another nation's citizenship based upon his lineage. See United States v. Minns, 863 F. Supp 360 (N.D. Tx. 1994) (court noted that defendant had renounced his United States citizenship and became a citizen of Ireland).

b) Financial Means and Sophistication. Mr. Anderson has the financial means and international sophistication that would make it very easy for him to flee and remain abroad indefinitely. He is a highly successful international businessman. In just five years, Mr. Anderson generated more than \$450 million in income through buying and selling telecommunication companies and other investments in the United States and abroad. He travels extensively throughout Europe, Asia and the Caribbean. He has formed close business and personal relationships with hundreds of individuals of foreign citizenship. He has access to an unknown number of foreign bank accounts and controls several privately held businesses that operate outside the United States, which can provide Mr. Anderson with continued financial

⁴ According to Mr. Anderson's mother, when Mr. Anderson was twelve years old, he decided to use his mother's maiden name for his surname. She was not aware whether he had ever officially changed his name from Crump to Anderson.

support.⁵

Mr. Anderson also maintains romantic relationships with numerous women, living in the United States and abroad, who are citizens of other countries, including Spanish national "S.M." and Brazilian national "J.N." Mr. Anderson owns at least one luxury property in Madrid and is fluent in Spanish. According to J.N., Mr. Anderson also purchased a twenty year lease to the water rights of J.N.'s family farm in Brazil for approximately \$2.5 million.

Upon learning of the investigation, Mr. Anderson took steps to move his physical assets outside the United States.⁶ Records reflect that Anderson shipped valuable artwork to a

⁵ The government has attempted to trace approximately \$500 million that flowed in and out of G&A's Channel Island account. Many millions remain unaccountable. Between December 22, 1998 and June 7, 2000, Mr. Anderson transferred \$20.5 million into two accounts in Switzerland. On March 4, 2004, pursuant to the Income Tax Treaty with Switzerland, the IRS requested assistance to determine into whose accounts the money was deposited. Before releasing any records, Switzerland requested that the government inform Mr. Anderson of his procedural rights under Swiss law to challenge disclosure. To date, the Swiss government has refused to provide the records. It is unknown whether Mr. Anderson exercised any of his procedural rights under Swiss law. He has made no disclosures. The government reminded his counsel of his obligation to do so. See 18 U.S.C. Section 3506 (requiring Mr. Anderson to serve any pleading "in opposition to an official request for evidence" to the "appropriate attorney for the Government").

Between 1995 and 2004, Mr. Anderson invested more than \$75 million in privately held companies. These companies are still viable and could provide additional means for Mr. Anderson's fugitive life. There is evidence to suggest that Mr. Anderson has been studying how to hide his assets. The following were among the books and articles seized from him: Complete Guide to Financial Privacy; Complete Guide to Offshore Money Havens; Reaching offshore assets (it won't be easy); Capturing Cargo Adrift - Reaching Offshore assets; and Desk Chair on the Titanic or a Veranda on the QE2: Your Financial Journey- the Choice is Yours.

⁶ Mr. Anderson attempted to create the appearance that others besides himself "ordered" him to take these actions. The records, however, reflect that Mr. Anderson directed Iceberg's nominee officers to write a letter to G&A's nominee director, instructing her to tell Mr. Anderson "to conduct the removal of any easily transportable property or other items which belong to [G&A], from the territory of the United States, including paintings, art objects, original share certificates, original contract documents, corporate records, certificates of incorporation and any

warehouse in Zurich, Switzerland.⁷ Some of these pieces have since been sold. What Mr. Anderson ultimately did with the proceeds is unknown.

These facts establish that Mr. Anderson has the knowledge, the intent, the ability and the resources to assume a new identity, travel outside this country without being detected by United States law enforcement and live comfortably abroad, out of the reach of this Court, for the rest of his life. Other than his mother and step-father, Mr. Anderson has no family ties to the community. He is unmarried. He has no children. The one unencumbered property he owns in the District of Columbia, he allegedly gave to one of his girlfriends, French national "B.A." His District of Columbia residence, which is titled in the name of a trust, has been pledged as collateral for several outstanding loans. His business interests and money are abroad. There is nothing to keep him here. Pretrial detention is the only way this Court can be reasonably confident that Mr. Anderson will not flee.

Detention in this case is also fully consistent with the practice of other courts. See United States v. El-Gabrowni, 35 F3d 63, (2nd Cir. 1994) (defendant detained where he possessed fraudulent passports); United States v. Arndt, 329 F. Supp. 2d 182 (D. Ma. 2004) (Harvard educated physician detained where he frequently traveled and was romantically involved with a Venezuelan national); United States v. Jamal, *supra*, 623 F. Supp. at 1008 (defendant, a

other records which are unique, irreplaceable and/or necessary to manage the activities of the Corporation." It was Mr. Anderson's idea and he had the authority to carry it out, irrespective of these letters.

⁷ Mr. Anderson wrote a letter to a newly formed B.V.I. Anderson corporation, Space Incorporated, on September 23, 2002, confirming that four of the valuable art pieces "are stored at Mobil Transport in Zurich."

naturalized United States citizen from Lebanon, detained where he owned property valued at \$500,000 in Lebanon); United States v. Cole, 715 F. Supp. 677 (E.D. Pa. 1988) (defendants charged with espionage detained where they had access to Yugoslavian passports, visas and bank accounts and maintained ties with people living in Yugoslavia who could assist them in their relocation).⁸

c) Likelihood that Mr. Anderson Will Violate Conditions of Release. As Magistrate Judge Facciola found in United States v. Battle, detention based upon the risk of flight prong encompasses more than concerns that the defendant may leave the jurisdiction to avoid prosecution. 59 F. Supp. 2d 17 (D.C. Cir. 1999). Analysis of flight risk also includes

⁸ In addition to the obvious reasons to flee presented by a pending criminal indictment, Mr. Anderson is also facing civil enforcement actions by the IRS and the District of Columbia revenue authorities to assess and collect more than \$200 million in taxes plus substantial fraud penalties and many years of accumulated interest. See United States v. Minns, *supra*, 863 F. Supp at 364 (serious flight risk found where the IRS had issued notice of levy in the amount of \$830,000); United States v. Levine, 770 F. Supp. 460 (N.D. Ind. 1991) (motive to flee enhanced where prominent businessman was currently experiencing a volatile financial situation as evidenced by his filing for bankruptcy).

Mr. Anderson and G&A have already been found liable in three civil actions and ordered to pay more than \$40 million to opposing parties. The plaintiffs in these actions have been unable to collect on these judgments because Mr. Anderson has represented, orally and in writing, that he and G&A lack the resources to pay. During the course of these civil lawsuits, Mr. Anderson denied under oath his ownership of G&A and Iceberg. These civil litigants, without the benefit of diplomatic assistance afforded the government in this investigation, have been unable to prove Mr. Anderson's ownership of G&A and Iceberg or to seize any valuable assets located abroad. The evidence that the government intends to present during Mr. Anderson's criminal prosecution will assist these civil litigants in collecting their judgments. If he flees before trial, and thereby postpones or prevents a criminal trial, these civil litigants will be prevented from reviewing the government's evidence as it will remain secret pursuant to Rule 6 of the Federal Rules of Criminal Procedure. Certainly, Mr. Anderson has a strong incentive to flee. See United States v. Minns, *supra*, 863 F. Supp at 362 (outstanding \$32 million civil judgment against the defendant).

consideration of the likelihood that defendant will comply with his release conditions, including the condition not to commit additional crimes, such as obstruction of justice and witness tampering. *Id.* at 19. Failing to produce records when one is under a legal obligation to comply, encouraging others to make limited record productions, and coaching witnesses as to what they should say before the grand jury are examples of unlawful conduct relevant to an assessment of a defendant's flight risk. See United States v. Khatami, 280 F.3d 907 (9th Cir. 2001) (witness tampering includes "non-coercive" attempts by a target of a criminal investigation towards a prospective witness to withhold or give false information). For example, an attorney acting in his professional capacity can commit obstruction by undertaking lawful acts with a corrupt purpose. See United States v. Cueto, 151 F.3d 620 (7th Cir. 1998) (obstruction conviction upheld where defendant attorney made false legal filings to forestall federal criminal investigation of his client); United States v. Morrison, 98 F.3d 619 (D.C. Cir. 1996) (witness tampering conviction upheld even where the government failed to show that defendant knew there was a grand jury investigation at the time he asked the witness to lie); United States v. Kenny, 973 F.2d 339 (4th Cir. 1992) (obstruction of justice includes giving grand jury witness document to produce and instructing her what to say); United States v. Ruggiero, 934 F.2d 440 (2nd Cir. 1991) (obstruction of justice conviction upheld where defendant withheld documents from grand jury and liquidated assets before government could trace and seize).

Where, as here, the defendant exhibits a strong animosity toward the lawful authority of the Court and an inclination to obstruct justice, it is appropriate to conclude that he will not follow any reasonable conditions of release. See United States v. Watson, 253 F. Supp. 2d 1 (D.C. Cir. 2003) (detention ordered where defendant's "crusade against the government has

overwhelmed his judgment and self control"); United States v. Kanahale, 951 F. Supp. 921 (D. Hawaii 1995) (detention ordered for defendant charged with harboring a fugitive); United States v. Dodge, 846 F. Supp. 181, 185 (D. Conn. 1994) (defendant detained where evidence suggested "a significant disrespect for lawful authority"). If released, Mr. Anderson will present a potential intimidating influence on witnesses in this case. He does not respect the authority of this Court and is unlikely to be able to comply with reasonable conditions of release.

It is no secret that Mr. Anderson despises the federal government.⁹ Mr. Anderson is entitled to his views. "The important point is the actions taken consequent upon their views." United States v. Ippolito, 930 F. Supp. 581, 583 (M.D. Fla. 1996) (detention ordered to prevent obstruction where defendants typically disobeyed court orders and regarded the judicial system as "counterfeit and malignant").

In addition to the indictment, there is other evidence to suggest that Mr. Anderson lacks respect for the laws of the United States and federal judges who control criminal and civil proceedings. When both the search warrants in this case were executed, Mr. Anderson was found in possession of controlled substances, including cocaine, ecstasy, marijuana and psilocin, five pipes and a scale. He also had one large and three small stun guns, in violation of District of

⁹ In a letter found on his computer, Mr. Anderson wrote the following to a student who had been featured in the Washington Post:

The government of this country lies steals and murders with impunity. The violence and problems in 'Amerika' are not due to a lack of religion. They are due to a failure to respect the rights of others to pursue their lives peacefully. . . I have been through similar experiences to yours (thankfully with less publicity) and it is worth the fight. Take satisfaction in having annoyed so many small minded idiots with a single act!!!

Columbia law. See 7 D.C. Code Sections 2501(7)(D) and 2502.01(a). On April 19, 2004, Mr. Anderson pled guilty to four counts of possession of controlled substances and one count of possession of drug paraphernalia in Superior Court for the District of Columbia, in M-11097-03. The unlawful possession of destructive device counts were dismissed by the government as part of its plea agreement.¹⁰

Mr. Anderson was not forthright with the District Court judges in the civil proceedings. G&A was a defendant in these actions and Mr. Anderson designated himself as G&A's representative. Yet, he refused, even after being ordered by Judge Bates, to disclose the identities of G&A's owners. He claimed that he was prohibited from disclosing their identities in accordance with terms of confidentiality agreements that he had signed. When asked to produce these agreements, Mr. Anderson refused. He speculated that the agreements were either lost or seized by the government during the searches of his home and office. To date, no such agreements have been found by the government. Moreover, as the evidence in the indictment alleges, Mr. Anderson knew the answer to the question and could have complied with Judge Bates' order: he was the owner of G&A.

The day before Mr. Anderson was ordered to appear before the grand jury to produce handwriting exemplars, his attorneys filed an emergency motion for a continuance. Counsel proffered that Mr. Anderson had previously scheduled a business trip. When Chief Judge Hogan inquired as to Mr. Anderson's whereabouts at that time, his counsel represented that Mr. Anderson was traveling in Europe. Chief Judge Hogan expressed concern that Mr. Anderson

¹⁰ Despite his guilty plea, Mr. Anderson lied to the pre-sentence investigator when he provided 2300 M Street, N.W. as his address. This is not where Mr. Anderson resides, but is another one of his many mailbox drops.

showed disdain for the court process by leaving the country without knowing how the Court would rule on his motion. Since Chief Judge Hogan believed Mr. Anderson was in Europe, he instructed the government to reschedule Mr. Anderson's grand jury appearance. The government subsequently learned Mr. Anderson's true whereabouts. He was back in the British Virgin Islands, further attempting to obstruct the grand jury investigation. Mr. Anderson was attempting to form yet another entity into which he intended to transfer G&A's assets and was opening a new mail box.

Since the early stages of the investigation in this case, Mr. Anderson has sought to control and manipulate the type and amount of information provided to the grand jury. On March 19, 2002, the date of the first search warrant, Mr. Anderson was served with numerous grand jury subpoenas seeking the production of corporate records for several entities under his control, including G&A and Iceberg. He did not comply. Through counsel, Mr. Anderson produced just 278 pages of records. Although the law required him to produce records located abroad over which he maintained custody, he failed to do so. See Marc Rich & Co. v. United States, 707 F. 2d 663, 667 (2d Cir.), cert. denied, 463 U.S. 1215 (1983) (foreign corporation held in contempt for failing to produce records located abroad); In re Grand Jury Proceedings (Bank of Nova Scotia), 740 F.2d 817, 829 (11th Cir. 1984) (grand jury witnesses must produce records held in a foreign country or face contempt proceedings even where production of the records would violate the foreign country's secrecy laws), cert. denied, 469 U.S. 1106 (1985). Instead, he told G&A's nominee director, who had possession of hundreds of documents responsive to the grand jury's requests, that "G&A does not have to make any disclosures to the United States government per BVI law." Mr. Anderson suggested, however, "to reduce the time and legal

costs related to this investigation," that she should make limited disclosures. When G&A's nominee director responded by informing Mr. Anderson that if she made any disclosures, she would tell the United States government that she was acting at Anderson's direction, he subtly threatened legal action against her: "it would be appropriate at this time to review you files and discuss this with counsel before you issue statements which could have serious legal consequences."

Mr. Anderson also possessed Iceberg records that were clearly responsive to the subpoena. Yet, he neither produced these records to the grand jury, nor offered any legitimate reason why he would not. Mr. Anderson informed Iceberg's nominees that he intended to keep such records in a secure place outside the United States. On April 7, 2003, Mr. Anderson traveled to London where he opened a safe deposit box. On November 11, 2003, just three days after the government executed the second search warrant, Mr. Anderson traveled to London, accessed the safe deposit box and arguably emptied its contents. Records reflect that Mr. Anderson never returned to the safe deposit box and stopped paying the rent.

Mr. Anderson has also attempted to monitor the testimony of witnesses called before the grand jury. During the execution of the second search warrant, the government seized from Mr. Anderson's records many of the grand jury subpoenas it had issued to third parties. Many witnesses confirmed that they had disclosed to Mr. Anderson that they had been contacted by the government. On several occasions, Mr. Anderson attempted to persuade witnesses to testify in a manner inconsistent with the witnesses' truthful recollection.¹¹


¹¹ The Court should also detain Mr. Anderson under the dangerousness prong of the bail statute. The government will demonstrate at the hearing, by clear and convincing evidence, that Mr. Anderson has engaged, and will continue to engage, in obstructive conduct if he is released.

WHEREFORE, the United States respectfully requests this Court for an order of detention.

RESPECTFULLY SUBMITTED,

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UNITED STATES ATTORNEY

By:


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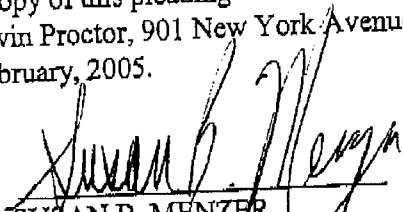
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In United States v. LaFontaine, Judge Mukasey revoked defendant's bail and detained her pending trial based upon a danger of future obstruction. 210 F.3d 125 (2d Cir. 2000). Defendant LaFontaine was similarly charged with white collar offenses. After her arrest, she was released on bail and specifically prohibited from contacting prospective witnesses in the case. The government moved to revoke her bail after it learned that LaFontaine had contacted a government witness and "reminded" her of facts the defendant knew to be false. The Second Circuit agreed with Judge Mukasey's findings that a non-violent attempt to tamper with a witness was a proper ground for pretrial detention. Id. at 134. Relying on its decision in United States v. Gotti, 794 F.2d 773 (2nd Cir. 1986), the Second Circuit found tampering with prospective trial witnesses more compelling for a finding of dangerousness than a defendant's prior violent conduct.

Defendants who engage in witness intimidation, like Mr. Anderson, cannot be trusted to comply with the Court's directions. Detention of Mr. Anderson is required to protect the integrity of the trial process.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this pleading to John Moustakas, Esquire by facsimile (202) 346-4444 and mail to Goodwin Proctor, 901 New York Avenue, N.W., Washington, D.C. 20001, this 28th day of February, 2005.



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**EXHIBIT 59 to Government's Motion for
Detention (2/28/05)**

International Travels of Walter Anderson

Date	From	To	In or Out
03/10/2003	Amsterdam, Netherlands	Dulles, VA	Inbound
03/14/2003	London, UK	Dulles, VA	Inbound
04/04/2003	Dulles, VA	London, UK	Outbound
04/10/2003	London, UK	Dulles, VA	Inbound
05/06/2003	Miami, FL	Nassau, Bahamas	Outbound
05/06/2003	Nassau, Bahamas	Miami, FL	Inbound
05/16/2003	New York, NY	London, UK	Outbound
05/19/2003	London, UK	New York, NY	Inbound
07/03/2003	Philadelphia, PA	Madrid, Spain	Outbound
07/09/2003	London, UK	Dulles, VA	Inbound
08/15/2003	San Juan, Puerto Rico	Dominica, Dominica	Outbound
08/17/2003	San Maarten, Guadalupe	Miami, FL	Inbound
08/25/2003	Dulles, VA	Amsterdam, Netherlands	Outbound
08/28/2003	London, UK	Dulles, VA	Inbound
09/16/2003	Dulles, VA	Paris, France	Outbound
09/19/2003	Amsterdam, Netherlands	Dulles, VA	Inbound
09/28/2003	Nassau, Bahamas	Orlando, FL	Inbound
10/02/2003	Nassau, Bahamas	Atlanta, GA	Inbound
10/08/2003	Dulles, VA	Amsterdam, Netherlands	Outbound
10/09/2003	Amsterdam, Netherlands	Dulles, VA	Inbound
10/20/2003	Dulles, VA	Tokyo, Japan	Outbound
10/25/2003	Tokyo, Japan	Dulles, VA	Inbound
11/10/2003	San Francisco, CA	London, UK	Outbound
11/13/2003	Amsterdam, Netherlands	Dulles, VA	Inbound
11/24/2003	Dulles, VA	Paris, France	Outbound
11/26/2003	Amsterdam, Netherlands	Dulles, VA	Inbound
12/31/2003	Dallas, TX	San Jose Cabos, Mexico	Outbound
01/02/2004	San Jose Cabos, Mexico	Dallas, TX	Inbound
01/24/2004	Miami, FL	Providenciales, Bahamas	Outbound
01/26/2004	Providenciales, Bahama	Miami, FL	Inbound
02/01/2004	Dulles, VA	London, UK	Outbound
02/07/2004	London, UK	Dulles, VA	Inbound

Internatioanl Travels of Walter Anderson

Date	From	To	In or Out
03/10/2004	Dulles, VA	London, UK	Outbound
03/12/2004	London, UK	Dulles, VA	Inbound
03/20/2004	Washington, DC	Nassau, Bahamas	Outbound
03/21/2004	Nassau, Bahamas	Philadelphia, PA	Inbound
04/14/2004	Chicago, IL	London, UK	Outbound
04/17/2004	Amsterdam, Netherlands	Dulles, VA	Inbound
04/26/2004	Dulles, VA	London, UK	Outbound
05/02/2004	London, UK	Dulles, VA	Inbound
06/13/2004	Dulles, VA	London, UK	Outbound
06/19/2004	Amsterdam, Netherlands	Dulles, VA	Inbound
07/06/2004	New York, NY	London, UK	Outbound
07/10/2004	London, UK	Dulles, VA	Inbound
08/01/2004	Dulles, VA	London, UK	Outbound
08/05/2004	London, UK	Los Angeles, CA	Inbound
08/14/2004	Dulles, VA	London, UK	Outbound
08/27/2004	Hong Kong	Chicago, IL	Inbound
09/06/2004	Dulles, VA	Paris, France	Outbound
09/11/2004	Amsterdam, Netherlands	Dulles, VA	Inbound
09/30/2004	Washington, DC	Toronto, Canada	Outbound
09/30/2004	Toronto, Canada	Chicago, IL	Inbound
10/14/2004	Miami, FL	Panama City, Panama	Outbound
10/16/2004	Panama City, Panama	Miami, FL	Inbound
10/20/2004	New York, NY	London, UK	Outbound
10/23/2004	London, UK	Dulles, VA	Inbound
11/08/2004	Dulles, VA	London, UK	Outbound
11/16/2004	Paris, France	Dulles, VA	Inbound
11/28/2004	Chicago, IL	Tokyo, Japan	Outbound
12/05/2004	Hong Kong	Chicago, IL	Inbound
12/13/2004	Dulles, VA	London, UK	Outbound
12/17/2004	London, UK	Dulles, VA	Inbound
12/26/2004	Denver, CO	Porta Vallarta, Mexico	Outbound
12/28/2004	Porta Vallarta, Mexico	Houston, TX	Inbound

International Travels of Walter Anderson

Date	From	To	In or Out
01/09/2005	Dulles, VA	London, UK	Outbound
01/15/2005	London, UK	Dulles, VA	Inbound
01/30/2005	Dulles, VA	Amsterdam, Netherlands	Outbound
02/03/2005	London, UK	Miami, FL	Inbound

etc