

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
) No. 2:10 -CR-186-MHT
 v.)
) ORAL ARGUMENT REQUESTED
 RONALD E. GILLEY, et. al.,)
)
 Defendants.)

DEFENDANT RONALD E. GILLEY'S SUPPLEMENTAL EVIDENCE
IN SUPPORT OF MOTION TO REVOKE DETENTION ORDER

Comes now the Defendant, Ronald E. Gilley, and in response to questions raised by the Court at oral argument held on Monday, March 7, 2011, hereby submits the following supplemental evidence.

At the March 7, 2011 hearing, the Court inquired about any evidence in the record to support Gilley's statements to Massey on December 14, 2010, that investor money was expected within a week, noting that it made no sense for anyone to take the initiative to call a creditor only to give them false information. Defense counsel acknowledged that while the series of Massey e-mails throughout the fall of 2010, Def. Ex. 2 presented at the Evidentiary Hearing, hereinafter Defendant's Exhibit 2, is evidence that Mr. Gilley was working with potential investors to raise funds, there was nothing in the record to support Mr. Gilley's specific statement that "1.5 million" was expected within a week of the December 14th conversations. Following said hearing counsel was provided the copies of the following e-mails, the attachments of which will be filed with the Court under seal due to the confidential nature of the business negotiations:

Exhibit 1- E-mail from Mark Sheldon to Sam Cherry sent at 6:24 on December 14, 2010, the same day as the contact between Mr. Gilley and Jarrod Massey. Mr. Sheldon is an

employee of one of Mr. Gilley's companies. Mr. Cherry is an attorney in Dothan, Alabama, and is the "major investor from Dothan who does not want to be disclosed" Mr. Gilley referenced in his conversation with Massey. *See* Def. Ex. 2, Tab VV. This e-mail also references an investment of "\$1,500,000 in new capital," precisely the amount Mr. Gilley stated to Mr. Massey. *See* Def. Ex. 2, Tab UU and VV.

Exhibit 2- E-mail from Sheldon to Cherry the following day, December 15, 2010, sent at 12:33 pm attaching the guaranty for the group of investors to sign in order to obtain the funds from Mr. Cherry.

Exhibit 3- E-mail from Sheldon and Cherry at 5:34 pm on December 15, 2010, attaching a revised personal guaranty for the investor group.

Exhibit 4- E-mail from Sheldon to Cherry at 5:35 pm on December 15, 2010, forwarding a Promissory Note for \$2.2 million, consistent with the December 14th e-mail above.

Exhibit 5- E-mail from Sheldon to Cherry sent at 5:36 pm on December 15, 2010, forwarding the Loan Agreement.

Exhibit 6- E-mail from Sheldon to Cherry sent at 6:03 pm on December 15, 2010, attaching the Forbearance Agreement that is also referenced by Mr. Gilley in the December 14th conversations with Massey. *See* Def. Ex.2, Tab UU and VV.

Exhibit 7- E-mail from Sheldon to Keith Givens sent at 5:12 pm on December 21, 2010, regarding the Forbearance Agreement referenced above and in Mr. Gilley's December 14th conversations with Massey. *See* Def. Ex. 2, Tab UU and VV.

Exhibit 8- Bank statements of Resorts Development Group II, LLC for the month of December, 2010, showing a wire transfer deposit of \$100,000 from Mr. Cherry on December 7,

2010, and a \$200,000 wire transfer deposit from Mr. Cherry on December 21, 2010. **Exhibit 8 is to be filed under seal.**

In addition to the foregoing, Government's Exhibit 8 from the evidentiary hearing also supports the accuracy of Mr. Gilley's statements to Massey regarding investor monies that were expected to come in. That exhibit is a record of Mr. Gilley's telephone calls on December 13, 14, 15 and 16, 2010, from the so-called "drop phone" that he used to call Mr. Massey on December 14th. Consistent with the above e-mails and documents, and Mr. Gilley's statements to Massey on December 14, 2010, this record is evidence of numerous calls to Mr. Cherry (the unnamed Dothan investor) and his law office, in around the same timeframe of Mr. Gilley's December 14th conversations with Mr. Massey.

The Defendant submits that the foregoing unequivocally establishes an expectation of investor funds by Mr. Gilley that is not merely consistent with his statements to Mr. Massey, but is also essentially a verbatim recitation of the statements Mr. Massey memorialized in his e-mails to his attorneys following his conversations with Mr. Gilley on December 14, 2010, and his testimony at the evidentiary hearing. As such, the plausibility of Mr. Massey's "beliefs" or "opinions" that Mr. Gilley really meant something else- something corrupt, in violation of federal law- when he advised him of what was in fact happening with his investors, and Mr. Gilley's belief that new capital was on it's way, causes the Government's evidence to fall far below the probable cause standard required for revoking the Defendant's bond and incarcerating him prior to trial. In this regard it is important to emphasize that the probable cause standard applies to Mr. Gilley's actions while on bond on December 14, 2010, not what may or may not have occurred in April, 2010, some six (6) months before his indictment.

Defendant respectfully submits that he has been incarcerated for over four (4) weeks now under facts that fail to support a finding of probable cause and therefore requests this Honorable Court for a release order as soon as possible.

Respectfully submitted,

/s/ G. Douglas Jones
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CERTIFICATE OF SERVICE

I hereby certify that I have on this the 9th day of March, 2011, filed the foregoing with the Clerk of Court via CM/ECF and an electronic copy of the same has been sent to the following:

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