

II. ARGUMENT

A. Mr. Verhoff Is Entitled To Invoke His Fifth Amendment Rights And Should Not Be Compelled To Testify.

It is a well-settled principle of constitutional law that “one of the Fifth Amendment’s basic functions is to protect innocent men who otherwise might be ensnared by ambiguous circumstances.” *Ohio v. Reiner*, 532 U.S. 17, 21 (2001) (internal quotations omitted). The privilege afforded by the Fifth Amendment “must be accorded liberal construction in favor of the right it was intended to secure.” *Hoffman v. United States*, 341 U.S. 479, 486 (1951).

It is axiomatic “that truthful responses of an innocent witness, as well as those of a wrongdoer, may provide the government with incriminating evidence from the speaker’s own mouth.” *Reiner*, 532 U.S. at 21. Mr. Verhoff was present at the October 10, 2018 meeting when the alleged bribery occurred. Therefore, Mr. Verhoff has reasonable cause to invoke.

B. Mr. Verhoff Should Not Be Required To Take The Stand Because It Is Futile And Unnecessary.

The Sixth Circuit has disposed of the requirement for a witness to invoke in open court when the court already knows that “reasonable cause” to invoke the Fifth Amendment privilege exists. *United States v. Bates*, 552 F.3d 472, 476 (6th Cir. 2009) (“when a defendant has a clear entitlement to claim the [Fifth Amendment] privilege, forcing the defendant to take the stand is ‘futile’ and thus unnecessary”); *United States v. McAllister*, 693 F.3d 572, 583-84 (6th Cir. 2012) (no error when court accepted witness’s blanket refusal to testify). Here, it is obvious that reasonable cause exists for Mr. Verhoff to invoke the privilege. Accordingly, Mr. Verhoff should not be required to take the stand.

III. CONCLUSION

For these reasons, the Court should grant Mr. Verhoff's unopposed motion in all respects.

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Respectfully Submitted,



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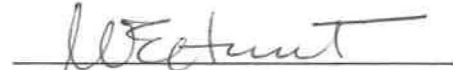
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CERTIFICATE OF SERVICE

I certify that on March 1, 2023 I served the foregoing in the above-captioned action to:
US District Court Clerk at Cincinnati Ohio

Notice of manual filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing at the Clerk's office.



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