



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

January 15, 2020

BY ECF

The Honorable Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

**Re: *United States v. Michael Avenatti*,
S1 19 Cr. 373 (PGG)**

Dear Judge Gardephe:

The Government respectfully submits this letter pursuant to the Court's order dated today, January 15, 2020, regarding the defendant's recent arrest in another district.

Late yesterday afternoon, the United States Attorney's Office for the Southern District of New York (the "USAO-SDNY") was informed by the United States Attorney's Office for the Central District of California (the "USAO-CDCA") that the USAO-CDCA had submitted, on an *ex parte* basis, a sealed request for the United States District Court for the Central District of California to issue an arrest warrant or an order to show cause with respect to potential violations of the conditions of pretrial release by the defendant in connection with his case pending in that district. The USAO-CDCA motion papers, which the Government received after they had been filed, are attached. According to these papers, which the Government is still reviewing, the violations appear to stem from a series of alleged financial transactions and related conduct that occurred principally after the defendant's arrest in this case.

The Government had no knowledge, prior to late yesterday afternoon, that the USAO-CDCA believed the defendant to be in substantive violation of the conditions of his pretrial release in that district or was considering seeking a revocation of his release. The Government understands that a bail proceeding has been scheduled for 11:00 a.m. PST / 2:00 p.m. EST today in the Central District of California. The USAO-SDNY has not been asked to and does not anticipate having any role whatsoever in that bail proceeding. The Government understands from the motion filed yesterday by the USAO-CDCA that it intends to seek the defendant's remand and detention pending trial in the Central District of California.


In the event such a request is granted, the USAO-SDNY is taking steps to ensure that the defendant would be present in this district as soon as possible in order to minimize disruption to pretrial and trial schedule in this case. We have also been in discussions, beginning yesterday evening, with defense counsel in this case about the potential implications that the defendant's arrest may have on that schedule. If the defendant is detained, the USAO-SDNY will likely ask

Honorable Paul G. Gardephe
United States District Judge
January 15, 2020
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this Court to issue an order either directing the United States Marshals Service to transport the defendant to this district on an expedited basis, or for an order directing the USMS to release the defendant to the custody of the Special Agents of the United States Attorney's Office for the Southern District of New York and/or the Federal Bureau of Investigation so that they can transport the defendant to the Southern District of New York so that he can be housed in this district and available for trial.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

By: 
Matthew D. Podolsky
Daniel C. Richenthal
Robert B. Sobelman
Assistant United States Attorneys
(212) 637-1947/2109/2616

Attachments

cc: (by ECF)

Counsel of Record

1 NICOLA T. HANNA
 United States Attorney
 2 BRANDON D. FOX
 Assistant United States Attorney
 3 Chief, Criminal Division
 JULIAN L. ANDRÉ (Cal. Bar No. 251120)
 4 Assistant United States Attorney
 Major Frauds Section
 5 1100 United States Courthouse
 312 North Spring Street
 6 Los Angeles, California 90012
 Telephone: (213) 894-6683
 7 Facsimile: (213) 894-6269
 Email: Julian.L.Andre@usdoj.gov
 8

BRETT A. SAGEL (Cal. Bar No. 243918)
 9 Assistant United States Attorney
 Ronald Reagan Federal Building
 10 411 West Fourth Street, Suite 8000
 Santa Ana, California 92701
 11 Telephone: (714) 338-3598
 Facsimile: (714) 338-3708
 12 Email: Brett.Sagel@usdoj.gov

13 Attorneys for Plaintiff
 UNITED STATES OF AMERICA

14 UNITED STATES DISTRICT COURT
 15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 16 SOUTHERN DIVISION

17 UNITED STATES OF AMERICA,
 18 Plaintiff,
 19 v.
 20 MICHAEL JOHN AVENATTI,
 21 Defendant.
 22

SA CR No. 19-061-JVS
DOCUMENT
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[UNDER SEAL]

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1 NICOLA T. HANNA
 United States Attorney
 2 BRANDON D. FOX
 Assistant United States Attorney
 3 Chief, Criminal Division
 JULIAN L. ANDRÉ (Cal. Bar No. 251120)
 4 Assistant United States Attorney
 Major Frauds Section
 5 1100 United States Courthouse
 312 North Spring Street
 6 Los Angeles, California 90012
 Telephone: (213) 894-6683
 7 Facsimile: (213) 894-6269
 Email: Julian.L.Andre@usdoj.gov
 8

BRETT A. SAGEL (Cal. Bar No. 243918)
 9 Assistant United States Attorney
 Ronald Reagan Federal Building
 10 411 West Fourth Street, Suite 8000
 Santa Ana, California 92701
 11 Telephone: (714) 338-3598
 Facsimile: (714) 338-3708
 12 Email: Brett.Sagel@usdoj.gov

13 Attorneys for Plaintiff
 UNITED STATES OF AMERICA

14 UNITED STATES DISTRICT COURT

15 FOR THE CENTRAL DISTRICT OF CALIFORNIA

16 SOUTHERN DIVISION

17 UNITED STATES OF AMERICA,

18 Plaintiff,

19 v.

20 MICHAEL JOHN AVENATTI,

21 Defendant.

SA CR No. 19-061-JVS

GOVERNMENT'S MOTION FOR AN ARREST
 WARRANT, ORDER REVOKING PRETRIAL
 RELEASE, AND ORDER OF DETENTION

*[Declaration of Remoun Karlous
 Filed Concurrently Herewith]*

[IN CAMERA]

[UNDER SEAL]

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1 **GOVERNMENT'S MOTION FOR AN ARREST WARRANT,**
2 **ORDER REVOKING PRETRIAL RELEASE, AND ORDER OF DETENTION**

3 Plaintiff United States of America, by and through its counsel
4 of record, the United States Attorney for the Central District of
5 California and Assistant United States Attorneys Julian L. André and
6 Brett A. Sagel, hereby moves under seal and in camera for: (1) a
7 warrant for the arrest of defendant MICHAEL JOHN AVENATTI
8 ("defendant"); (2) an order revoking defendant's order of pretrial
9 release; and (3) an order detaining defendant pending further
10 proceedings in the instant prosecution, United States v. Avenatti, SA
11 CR No. 19-061-JVS.

12 This motion is made pursuant to Title 18, United States Code,
13 Section 3148, and is based on the following grounds:

14 1. There is probable cause to believe that defendant has
15 committed federal offenses while on pretrial release, namely,
16 (a) mail fraud, in violation of Title 18, United States Code, Section
17 1341; (b) wire fraud, in violation of Title 18, United States Code,
18 Section 1343, and (c) structuring of currency transactions to evade
19 reporting requirements, in violation of 31 U.S.C. § 5324(a)(3).

20 2. There is probable cause to believe that defendant committed
21 multiple state offenses while on pretrial release, namely, (a)
22 defendant or judgment debtor fraudulently removing, concealing, or
23 disposing of personal property sought to be recovered, in violation
24 of California Penal Code § 155(a); (b) money laundering, in violation
25 of California Penal Code § 186.10; and (c) fraudulent removal of
26 property, in violation of Revised Code of Washington § 9.45.080.

27 3. In doing so, defendant has violated the terms of his
28 pretrial release order by violating federal and state law.

1 4. There is no condition or combination of conditions that
2 will ensure the safety of the community.

3 5. It is unlikely that defendant will abide by any condition
4 or combination of conditions of release.

5 Alternatively, the government requests that the Court issue an
6 order to show cause as to why defendant's bond should not be revoked,
7 and schedule a bond revocation hearing as soon as possible.

8 This motion is based on the attached memorandum of points and
9 authorities, the declaration of Internal Revenue Service - Criminal
10 Investigation Special Agent Remoun Karlous and exhibits thereto, the
11 record and file in this case, and such other evidence and argument as
12 the Court may receive.

13 Dated: January 14, 2020

Respectfully submitted,

14 NICOLA T. HANNA
United States Attorney

15 BRANDON D. FOX
16 Assistant United States Attorney
Chief, Criminal Division

17 

18 JULIAN L. ANDRÉ
19 BRETT A. SAGEL
Assistant United States Attorneys

20 Attorneys for Plaintiff
21 UNITED STATES OF AMERICA
22
23
24
25
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant MICHAEL JOHN AVENATTI ("defendant") is charged in a 36-count indictment in this district with wire fraud; willful failure to pay over withheld payroll taxes; endeavoring to obstruct the administration of the Internal Revenue Code; willful failure to file tax returns; bank fraud; aggravated identity theft; and making false declarations and providing false testimony in bankruptcy. (CR 16.) Defendant is separately charged in the Southern District of New York with extortion-related offenses in United States v. Avenatti, No. 1:19-CR-373-PGG (the "SDNY Extortion Case") and fraud-related offenses in United States v. Avenatti, No. 1:19-CR-374-DAB (the "SDNY Fraud Case" and, collectively with the SDNY Extortion Case, the "SDNY Cases")

On March 25, 2019, defendant was arrested pursuant to a criminal complaint (CR 1) and released on an unsecured \$300,000 appearance bond pending trial. (CR 38; CR 13.) Defendant's first ex-wife, Christine Avenatti Carlin ("Carlin"), and Carlin's current husband, Brian Carlin, are the third-party sureties for defendant's bond in this district. (CR 14.)

The conditions of defendant's pretrial release state that defendant "must not violate federal, state, or local law while on release." (CR 13 at 14.) Defendant has violated this condition by engaging in a scheme to defraud his creditors, in violation of 18 U.S.C. § 1341 (mail fraud), and 18 U.S.C. § 1343 (wire fraud), by structuring currency transactions to evade reporting requirements, in violation of 31 U.S.C. § 5324(a)(3) (structuring), and by concealing his personal assets from his creditors, in violation of California

1 Penal Code § 155 (defendant or judgment debtor fraudulently removing,
2 concealing, or disposing of personal property sought to be
3 recovered), California Penal Code § 186.10 (money laundering), and
4 Revised Code of Washington § 9.45.080 (fraudulent removal of
5 property).¹

6 Among other debts, as of May 2019, defendant personally owed:
7 (1) a former law partner, Jason Frank Law PLC ("JFL"), approximately
8 \$5 million pursuant to a judgment issued in the Los Angeles Superior
9 Court; (2) a former client, William Parrish ("Parrish"),
10 approximately \$2.2 million pursuant to a judgment issued in Santa
11 Barbara Superior Court; (3) his second wife Lisa Storie Avenatti
12 ("Storie") approximately \$2.5 million pursuant to spousal and child
13 support orders issued in Orange County Superior Court; and (4) the
14 Washington Department of Revenue approximately \$1.5 million pursuant
15 to a tax warrant.² Since at least May 2019, defendant has brazenly
16 attempted to defraud and conceal his assets from these creditors.

17 In early-May 2019, while on pre-trial release, defendant
18 received a \$1,000,000 payment in connection with a settlement his law
19 firm, Avenatti & Associates, APC ("A&A"), obtained for a client, E.S.
20 To prevent his creditors from discovering this \$1,000,000 payment, on
21 May 7, 2019, defendant deposited the payment into a new bank account
22 he had opened with J.P. Morgan Chase ("Chase") that same day. Then,
23 on May 8, 2019, defendant fraudulently transferred to Carlin
24

25 ¹ The government discovered that defendant was likely engaged in
26 the ongoing criminal conduct described herein last month. The
27 government has worked diligently to obtain and present the relevant
evidence to the Court for its consideration as soon as possible.

28 ² The government uses these individuals' names, rather than
initials, as each of them have public judgments against defendant.

1 approximately \$717,000 of the \$1,000,000 payment in a further effort
2 to defraud and conceal his assets from his creditors, including a
3 number of the victims of the alleged criminal conduct in this case.³
4 Five days later, on May 13, 2019, Carlin returned \$500,000 of the
5 \$717,000 to defendant, which he later deposited into a different bank
6 account that he had opened at U.S. Bank on May 22, 2019.

7 Defendant also engaged in a number of other fraudulent
8 transactions designed to defraud his creditors and conceal his
9 assets. For example, in May 2019, defendant arranged for his ex-wife
10 to use a portion of the \$717,000 payment to purchase a \$50,000
11 Mercedes Benz in her name that defendant and defendant's personal
12 driver, J.C., repeatedly used to transport defendant. As noted
13 below, defendant completed the paperwork to purchase the Mercedes
14 Benz in his own name on or about May 6, 2019, but returned with
15 Carlin on May 9, 2019, for Carlin to purchase the car in her name.

16 Additionally, between June 2019 and September 2019, defendant
17 "flipped" cashier's checks to himself in order to limit the amount of
18 funds available in his U.S. Bank account on at least eight separate
19 occasions. Specifically, defendant would purchase cashier's checks
20 payable to himself so as to drain his bank accounts of any remaining
21 funds, would hold onto the cashier's checks, would briefly
22 "redeposit" the cashier's checks to immediately access the funds, and
23 would then purchase additional cashier's checks payable to himself to
24 again drain any remaining funds in the account. By doing so,

25
26 ³ As noted herein, on May 14, 2019, approximately one week after
27 he obtained a \$1,000,000 payment and fraudulently transferred
28 \$717,000 of those funds to Carlin, defendant sought to have the
Federal Public Defender's Office appointed to represent him in this
case, but requested that he not be required to submit the required
financial affidavit. (CR 28.)

1 defendant was clearly attempting to limit his creditors' ability to
2 levy his accounts and recover the debts defendant owed to his
3 creditors.

4 Finally, on several occasions, more fully described below,
5 defendant structured his financial transactions at U.S. Bank to evade
6 currency reporting requirements. Specifically, defendant would
7 withdraw cash in an amount just below the \$10,000 reporting
8 requirement and simultaneously purchase a cashier's check for a
9 similar amount - resulting in a total withdrawal amount that, if
10 withdrawn entirely in cash, would have been greater than \$10,000.
11 Defendant would then cash the cashier's checks soon thereafter. By
12 doing so, he prevented U.S. Bank from filing currency transaction
13 reports, which would likely have alerted the government to
14 defendant's bank account information and suspicious banking
15 activities.⁴

16 The fact that defendant continued to engage in criminal conduct
17 after he had been indicted in this case and while on bond
18 demonstrates that defendant remains a substantial economic danger to
19 the community. In April 2019, defendant was indicted for, among
20 other things, making false statements and declarations during
21 bankruptcy proceedings in order to conceal his assets, and for
22 obstructing the IRS efforts to collect unpaid payroll taxes by
23 evading liens and levies. Yet, between at least April 2019 and
24

25 ⁴ The conditions of defendant's pretrial release further state
26 that defendant must not spend or transfer \$5,000 or more in a single
27 transaction to or from any account defendant controls without first
28 notifying pretrial services. Although defendant may have violated
this condition, possibly numerous times, the government believes
defendant's actions violated federal and state law. The government,
therefore, does not yet know whether defendant notified Pre-Trial
Services of the financial transactions discussed in this motion.

1 October 2019, defendant continued to engage in similar conduct in a
2 continued effort to defraud his creditors, including some of the very
3 same creditors who are victims of the bankruptcy fraud allegations in
4 the indictment.

5 Defendant has also repeatedly demonstrated that he is unlikely
6 to comply with any conditions imposed by this Court and has a long
7 history of violating court orders. Because there are no conditions
8 or combinations of conditions that will ensure the safety of the
9 community, defendant's bond should be revoked and he should be
10 detained pending trial.

11 Accordingly, the government respectfully requests that the Court
12 issue a warrant for defendant's arrest so that he can be brought
13 before the Court for an immediate bond revocation hearing, revoke
14 defendant's order of pretrial release, and detain defendant pending
15 the trial in this case.⁵ Alternatively, the government requests that
16 the Court issue an order to show cause as to why defendant's bond
17 should not be revoked, and schedule a hearing on the government's
18 motion as soon as possible.

19 **II. PROCEDURAL HISTORY**

20 **A. Defendant's Arrest and Bond Conditions**

21 On March 22, 2019, the Honorable Douglas F. McCormick, United
22 States Magistrate Judge for the Central District of California,
23 issued a warrant for defendant's arrest based on a criminal complaint
24 charging defendant with one count of bank fraud, in violation of 18
25 U.S.C. § 1344(1), and count of wire fraud, in violation of 18 U.S.C.

27 ⁵ If this Court does not detain defendant pending trial, the
28 government, alternatively, believes defendant's conditions of release
must be significantly modified. Additionally, the government
believes that Carlin is no longer an appropriate surety.

1 § 1343. (CR 1.) The affidavit in support of the criminal complaint
2 set forth extensive evidence of the charged offenses, but also
3 incorporated by reference a prior search warrant affidavit (the
4 "February 2019 affidavit") detailing other alleged criminal conduct
5 dating back to as early as 2011, including numerous tax offenses.
6 (CR 1.) Along with the criminal complaint, the government filed a
7 notice for request of detention. (CR 4.)

8 On March 25, 2019, defendant was arrested in New York on the
9 criminal complaint. (CR 13; CR 15.) Simultaneously, defendant was
10 arrested on a separate criminal complaint and arrest warrant issued
11 in the Southern District of New York, which alleged that defendant
12 attempted to extort NIKE, Inc. ("Nike"). At defendant's initial
13 appearance that same day, the Honorable Katharine H. Parker, United
14 States Magistrate Judge for the Southern District of New York,
15 released defendant on conditions, including the posting of a \$300,000
16 unsecured appearance bond. (CR 13.) The conditions of defendant's
17 release also included the following:

18 The defendant must not violate federal, state, or local law
19 while on release.

20 (CR 13 at 14.) The conditions of defendant's release further
21 required that defendant must not spend or transfer \$5,000 or more in
22 a single transaction to or from any account defendant controls
23 without first notifying pretrial services. (CR 13 at 16.) The bond
24 paperwork, which defendant signed, explicitly advised defendant of
25 the consequences of violating the conditions of his release, stating:

26 Violating any of the foregoing conditions of release may
27 result in the immediate issuance of a warrant for your
28 arrest, a revocation of your release, an order of
detention, a forfeiture of any bond, and prosecution of for

1 contempt of court and could result in imprisonment, a fine,
2 or both.

3 (CR 13 at 17.)

4 On April 1, 2019, defendant made his initial appearance in this
5 district before the Honorable John D. Early, United States Magistrate
6 Judge for the Central District of California, and Judge Early ordered
7 that defendant remain on bond under the conditions previously set in
8 the Southern District of New York. (CR 10.)⁶ Defendant's first ex-
9 wife, Carlin, and Carlin's husband are the third-party sureties for
10 defendant's bond. (CR 14.)

11 **B. The Indictment**

12 On April 10, 2019, a federal grand jury returned a 36-count
13 indictment charging defendant with: (a) ten counts of wire fraud, in
14 violation of 18 U.S.C. § 1343; (b) eight counts of willful failure to
15 pay over withheld taxes, in violation of 26 U.S.C. § 7202; (c) one
16 count of endeavoring to obstruct the administration of the Internal
17 Revenue Code, in violation of 26 U.S.C. § 7212(a); (d) ten counts of
18 willful failure to file tax return, in violation of 26 U.S.C. § 7203;
19 (e) two counts of bank fraud, in violation of 18 U.S.C. § 1344(1);
20 (f) one count of aggravated identity theft, in violation of 18 U.S.C.
21 § 1028A(a)(1); (g) three counts of false declaration in bankruptcy,
22 in violation of 18 U.S.C. § 152(3); and (h) one count of false
23 testimony under oath in bankruptcy, in violate of 18 U.S.C. § 152(2).
24 (CR 16 (the "Indictment").) The bankruptcy fraud charges and the tax
25 charges relating to defendant's efforts to evade the collection of
26

27
28 ⁶ Although Judge Early modified defendant's conditions of
release related to travel (CR 42), all other conditions have remained
the same.

1 payroll taxes are particularly relevant to the instant motion as
2 defendant's ongoing criminal conduct is nearly identical to the
3 allegations set forth in those charges.

4 1. False Declarations and Statements in the EA LLP
5 Bankruptcy Proceeding

6 Counts Thirty-Three through Thirty-Six of the Indictment charge
7 defendant with making false declarations and a false oaths in a
8 bankruptcy proceeding relating to defendant's former law firm, Eagan
9 Avenatti LLP ("EA LLP"), In re: Eagan Avenatti LLP, No. 8:17-bk-
10 11961-CB (C.D. Cal.) (the "2017 EA Bankruptcy"). (Indictment ¶¶ 50-
11 63.)

12 In February 2016, JFL filed an arbitration claim against EA LLP
13 and defendant (the "JFL Arbitration"). (Indictment ¶ 51.) In or
14 about February 2017, the arbitration panel ordered the deposition of
15 defendant and his office manager, J.R., to take place on March 3,
16 2017. (Id.) On or about March 1, 2017, a creditor of EA LLP filed
17 an involuntary Chapter 11 bankruptcy petition in the Middle District
18 of Florida.⁷ (Id. ¶ 52) By law, the filing of the bankruptcy caused
19 an automatic stay of the JFL Arbitration. (Id.)

20 On or about March 8, 2017, the bankruptcy court stated that
21 unless EA LLP consented to the bankruptcy by March 10, 2017, the
22 court would grant relief from the automatic stay and allow the JFL
23

24 ⁷ The Chapter 11 involuntary bankruptcy petition was filed by a
25 single creditor, Gerald Tobin, who claimed that EA LLP owed him
26 approximately \$28,000. The filing of the petition was itself
27 fraudulent. Additional evidence collected during the government's
28 investigation demonstrates that Tobin filed the petition at the
direction of defendant and with assistance from an attorney working
with defendant. The government will be seeking to admit this
evidence at trial as it is inextricably intertwined with the
bankruptcy charges and is direct evidence of defendant's fraudulent
intent.

1 arbitration to proceed. (Id. ¶ 53.) On or about March 10, 2017, EA
2 LLP consented to the order for relief, (id. ¶ 54), and, as a result,
3 the automatic stay of the JFL arbitration remained in place. In
4 April 2017, the 2017 EA Bankruptcy was transferred to the Central
5 District of California. (Id. ¶ 56.) JFL was one of the largest
6 creditors of EA LLP. The IRS was also a large creditor of EA LLP.

7 From approximately March 2017 through March 2018, defendant
8 failed to report as required, among other information, all revenues
9 of EA LLP and payments and distributions defendant, as an insider,
10 received from EA LLP funds. (Indictment ¶¶ 50-63.) Additionally,
11 between March 2017 and March 2018, defendant defrauded the bankruptcy
12 court, the Office of the United States Trustee, and the creditors of
13 EA LLP, by concealing bank accounts controlled by EA LLP, the true
14 revenues generated by EA LLP, and the sources of revenue to EA LLP.
15 (Id.)

16 For example, on June 12, 2017, defendant falsely testified under
17 oath during a Section 341(a) debtor's examination that EA LLP had not
18 received any attorney's fees from the Super Bowl Litigation, when EA
19 LLP had in fact received two wire transfers totaling approximately
20 \$1,361,000, including attorneys' fees on May 17, 2017. (Indictment
21 ¶ 67.) Indeed, in order to conceal EA LLP's receipt of the Super
22 Bowl Litigation settlement funds, in May 2017, defendant instructed
23 his co-counsel to wire approximately \$952,995 of the funds from the
24 Super Bowl NFL Litigation to a separate attorney trust account at
25 City National Bank defendant had just recently opened in defendant's
26
27
28

1 own name.⁸ (Karlous Decl. Ex. 3 at ¶¶ 41-48.) Defendant also failed
2 to disclose the receipt of these funds in the May 2017 monthly
3 operating report defendant submitted under penalty of perjury.
4 (Indictment ¶ 61.) Defendant also concealed and failed to disclose
5 the \$1.6 million settlement payment EA LLP received on behalf of
6 "Client 3" in January 2018 and subsequently stole from Client 3. (See
7 id. ¶¶ 7(r)-(x), 65; Karlous Decl. Ex. 1 at ¶ 76.)

8 2. Endeavoring to Obstruct the Administration of the
9 Internal Revenue Code

10 Count Nineteen of the Indictment alleges that between October
11 2016 and September 2018, defendant corruptly endeavored to obstruct
12 and impede the due administration of the internal revenue laws of the
13 United States. (Indictment ¶¶ 19-26.) As alleged in the Indictment,
14 defendant's coffee company, Global Baristas US LLC ("GBUS"), doing
15 business as "Tully's," failed to timely file employment tax returns
16 (IRS Forms 941) and pay over to the IRS approximately \$3,207,144 in
17 federal payroll taxes, including approximately \$2,390,048 in trust
18 fund taxes, which had been withheld from GBUS employees' paychecks.
19 (Indictment ¶ 16.) Defendant was responsible for all of GBUS's
20 significant financial and business decisions, including the decision
21 not to pay the payroll and trust fund taxes that GBUS owed to the
22

23 ⁸ As set forth in the May 2019 affidavit submitted by IRS-CI
24 Special Agent Remoun Karlous, beginning in 2012, defendant and EA LLP
25 represented approximately 200 individuals (the "Super Bowl Clients")
26 in connection with litigation against the National Football League
27 ("NFL") relating to the 2011 Super Bowl. (Karlous Decl. Ex. 3 at
28 ¶¶ 41-48.) The government has obtained extensive evidence
demonstrating that defendant embezzled substantial portions of the
settlement proceeds from the Super Bowl Litigation intended for the
Super Bowl Clients. (Id.) The government will be seeking to admit
this evidence at trial on the basis that this criminal conduct falls
squarely within and is inextricably intertwined with the charged wire
fraud offenses.

1 IRS. (Indictment ¶¶ 14(c), 26(a). Indeed, defendant was well aware
2 of GBUS's outstanding tax obligations, yet repeatedly refused to
3 authorize the required tax payments to the IRS. (Indictment ¶
4 26(a); see also Karlous Decl. Ex. 1 at ¶¶ 21-47; Karlous Decl. Ex. 2
5 at ¶¶ 12-17.)

6 After the IRS initiated a collection action relating to GBUS's
7 outstanding payroll tax obligations in September 2016, issued an
8 approximately \$5,000,000 tax lien against GBUS in July 2017, and
9 levied multiple GBUS bank accounts, defendant directed repeated
10 attempts to evade collection of those payroll taxes and obstruct the
11 IRS collection action. (Indictment ¶¶ 19-26.) Among other things,
12 defendant: (a) directed GBUS employees to deposit the cash receipts
13 from Tully's stores into a bank account associated with a different
14 entity defendant controlled; (b) opened a new bank account for a
15 different entity defendant controlled, and then changed the company
16 name, Employer Identification Number, and bank account information
17 associated with GBUS's merchant credit card processing accounts; (c)
18 changed the company name on various contracts with The Boeing
19 Company; and (d) caused significant amounts of GBUS's funds, which
20 could and should have been used to pay GBUS's payroll taxes, to be
21 transferred to other entities defendant controlled, including EA LLP
22 and A&A, and then used the funds for his personal purposes and to
23 make lulling payments to the wire fraud victims named in the
24 indictment. (Indictment ¶ 26; see also Karlous Decl. Ex. 1 at ¶¶ 21-
25 47; Karlous Decl. Ex. 2 at ¶¶ 12-17.) The clear purpose of this
26 conduct was to evade levies issued against GBUS and to prevent the
27 IRS from locating and collecting GBUS funds. (Indictment ¶ 26; see

28

1 also Karlous Decl. Ex. 1 at ¶¶ 21-47; Karlous Decl. Ex. 2 at ¶¶ 12-
2 17.)

3 **C. Defendant's Prior Alleged Bond Violation**

4 On or about April 24, 2019, the government advised defendant and
5 pretrial services that it believed defendant had violated the
6 conditions of his release by threatening to disclose confidential and
7 personal information regarding a victim and government witness. (See
8 CR 25.) However, neither the government nor pretrial services sought
9 to revoke defendant's bond at that time. (Id.)

10 **D. Defendant's May 2019 Request for Appointment of Counsel**

11 Although defendant was represented by retained counsel during
12 his initial appearance in this district on April 1, 2019 (CR 10),
13 defendant appeared for his post-indictment arraignment on April 29,
14 2019, without counsel (CR 23). As a result, the Federal Public
15 Defender represented him at that time (CR 23), and the Court
16 scheduled a status conference on May 7, 2019, to address defendant's
17 representation issues (CR 22).

18 On May 7, 2019, defendant appeared before this Court for a
19 status conference to address defendant's representation issues, and
20 was again represented by the Federal Public Defender at this hearing.
21 (CR 27.) At defendant's request, the Court continued the status
22 conference until May 15, 2019, in order to allow defendant additional
23 time to "finalize" his representation with retained counsel. (CR
24 27.) The Court, however, advised defendant that by May 15, 2019,
25 defendant would have to choose one of three options: (1) retain
26 private counsel; (2) submit a financial affidavit and seek
27 appointment of counsel; or (3) seek to represent himself after a
28 Faretta inquiry. (CR 27.)

1 On May 14, 2019, despite having just received a \$1,000,000
2 payment (see infra § III.B.1.), defendant submitted an ex parte
3 application for an order appointing the Federal Public Defender to
4 represent him in this matter. (CR 28.) Defendant's ex parte
5 application stated:

6 The [Guide to Judiciary Policies and Procedures] indicates
7 that a defendant is "financially unable to obtain counsel"
8 under the Act if his or her "net financial resources and
9 income are insufficient to obtain qualified counsel."
10 However, even if a defendant's net resources and income are
11 in excess of the amount needed to cover the necessities of
12 life, the court should find the defendant eligible for the
13 appointment of counsel and order contribution when those
14 excess funds are insufficient to pay fully for retained
15 counsel. Mr. Avenatti submits that he falls into the
16 latter category of eligibility and requests an opportunity
17 to contribute to his representation.

18 (CR 28 at 3-4 (internal citations omitted).)

19 Additionally, rather than submit the required financial
20 affidavit, defendant requested "that the Court defer determination of
21 the amount of contribution until the end of the case in light of the
22 complexity of his financial situation and the case" (CR 28.)
23 The Court denied defendant's ex parte application that same day. (CR
24 29.)

25 The next day, May 15, 2019, H. Dean Steward was retained to
26 represent defendant in this matter and appeared on defendant's behalf
27 at the status conference. (CR 33.) During the status conference,
28 the Court ordered defendant to pay for all services rendered by the
Federal Public Defender. (CR 33.) The government does not know
whether defendant has complied with the Court's order and paid the
Federal Public Defender.

1 **III. STATEMENT OF FACTS**

2 **A. Defendant's Debts**

3 Defendant and his companies, including EA LLP, are currently
 4 subject to numerous court judgments. Indeed, as detailed below,
 5 defendant personally owes at least \$11,000,000 to four creditors
 6 pursuant to valid judgments and tax warrants issued against him in
 7 California and Washington.⁹ His former law-firm, EA LLP, is also
 8 considerably in debt, including one \$10,000,000 judgment relating to
 9 the 2017 EA Bankruptcy.

10 1. \$15 Million Debts to JFL

11 In December 2017, in connection with the 2017 EA Bankruptcy,
 12 defendant, both individually and on behalf of EA LLP, entered into a
 13 settlement agreement with JFL (the "JFL Settlement"). (Karlous Decl.
 14 Ex. 4); see also Motion for Order Approving Settlement, In re: Eagan
 15 Avenatti LLP, No. 8:17-bk-11961-CB, Dkt. No. 343 (C.D. Cal. Jan. 30,
 16 2018). Under the terms of the settlement, JFL would consent to the
 17 dismissal of the 2017 EA Bankruptcy,¹⁰ and JFL would receive an
 18 allowed general unsecured claim of \$10,000,000. Id. at 3-4. Absent
 19 a default by EA LLP and defendant (as guarantor), JFL would be paid a
 20 total of \$4,850,000 in full for its allowed claim by EA LLP. Id.
 21 Payment would be made in two installments: (a) \$2,000,000 to be paid

22 _____
 23 ⁹ Although the government is aware of other debts and judgments
 24 against defendant and his companies, for purposes of this motion, the
 government has focused on the four judgments referenced below.

25 ¹⁰ In order to obtain a dismissal of the 2017 EA Bankruptcy, EA
 26 LLP also entered into a settlement agreement with the IRS relating to
 EA LLP's failure to pay to the IRS approximately \$2,389,005 EA LLP
 27 owed, including approximately \$1,288,277 in payroll taxes EA LLP had
 withheld from EA LLP's paychecks. (Karlous Decl. Ex. 1, ¶ 50.) As
 28 alleged in the indictment, defendant used funds he stole from Client
 4 to make EA LLP's initial settlement payment to the IRS, and then
 failed to make further required payments. (See id.; Indictment
 ¶ 7(cc)(i).)

1 within 60 days of the dismissal of the 2017 EA Bankruptcy; and (b)
2 \$2,850,000 to be paid within 120 days of the dismissal. Id.

3 EA LLP and defendant did not make any of the payments to JFL
4 required under the JFL Settlement. As a result of EA LLP's and
5 defendant's failure to comply with the JFL Settlement, on May 22,
6 2018, the Bankruptcy Court issued a final judgment against EA LLP in
7 favor of JFL in the amount of \$10,000,000 (the "\$10 Million JFL
8 Federal Judgment"). (Karlous Decl. Ex. 5.) The \$10 Million JFL
9 Federal Judgment was subsequently registered with this Court and
10 judgment debtor proceedings were initiated in In re Eagan Avenatti,
11 LLP, No. 8:18-cv-1644-VAP-KES (C.D. Cal.) (the "Federal JFL Case").

12 Separately, as a result of defendant's failure to comply with
13 the JFL Settlement, on November 10, 2018, the Los Angeles Superior
14 Court entered a \$5,054,287.75 judgment against defendant personally
15 (the "\$5 Million JFL State Judgment") in Jason Frank Law, PLC v.
16 Michael J. Avenatti, Los Angeles Superior Court, Case No. BC706555
17 (the "State JFL Case"). (Karlous Decl. Ex. 6.)

18 Both before and after the indictment in this case, JFL engaged
19 in extensive efforts to enforce the judgments against EA LLP and
20 defendant personally. Yet, in a clear effort to defraud JFL,
21 defendant repeatedly attempted to conceal his assets and provided
22 false testimony during judgment debtor examinations so as to prevent
23 JFL (and others) from enforcing these judgments and collecting the
24 funds defendant owes JFL.

25 On July 25, 2018, JFL conducted a judgment debtor examination of
26 defendant in connection with the 2017 EA Bankruptcy. (Karlous Decl.
27 Ex. 7.) During this examination, defendant was evasive and made
28 numerous false statements. For example, defendant falsely claimed to

1 not know whether EA LLP had filed its tax returns and claimed to not
2 recall how EA LLP had fallen \$2 million behind in its payroll tax
3 obligations. (Id. at 11-20, 27-30.) Defendant, however, was well
4 aware that EA LLP had not filed tax returns for any tax years since
5 2012 and had personally directed that EA LLP's payroll taxes no
6 longer be paid to the IRS. (Indictment ¶¶ 32-36; Karlous Decl. Ex. 1
7 at ¶¶ 48-55.)

8 Defendant then attempted to avoid having to sit for a further
9 judgment debtor examination in January 2019 by, among other things,
10 moving to disqualify JFL's counsel. Notably, on February 1, 2019,
11 the Honorable Virginia A. Phillips, Chief United States District
12 Judge, denied this motion finding that the motion was "tactically
13 abusive." Minute Order, In re Eagan Avenatti, LLP, No. 8:18-CV-1644-
14 VAP (KES), Dkt. No. 45 (C.D. Cal. Feb. 1, 2019). Judge Phillips also
15 found that defendant was "repeatedly evasive at the [July 2018]
16 examination" and had failed to bring subpoenaed documents. (Id.)
17 Additionally, on February 4, 2019, United States Magistrate Judge
18 Karen E. Scott recommended that Judge Phillips initiate contempt
19 proceedings against defendant due to defendant's repeated refusals to
20 comply with a subpoena. Order to Show Cause re Contempt, In re Eagan
21 Avenatti, LLP, No. 8:18-CV-1644-VAP (KES), Dkt. No. 48 (C.D. Cal.
22 Feb. 4, 2019).

23 On February 12, 2019, JFL filed a motion in the Federal JFL Case
24 seeking the appointment of a receiver for EA LLP and a restraining
25 order against EA LLP. Among other things, JFL's motion accused
26 defendant and EA LLP of bankruptcy fraud and improperly diverting EA
27 LLP's assets to other companies or bank accounts defendant controlled
28 both during and after the 2017 EA Bankruptcy. See Motion, In re:

1 Eagan Avenatti LLP, No. 8:18-CV-1644-VAP (KES), Dkt. 51 (Feb. 12,
2 2019).

3 On February 13, 2019, JFL and defendant, both individually and
4 as Managing Partner of EA LLP, filed a joint stipulation seeking the
5 appointment of the EA Receiver and the issuance of a restraining
6 order against EA LLP and defendant. (See CR 55, Ex. 2.) In exchange
7 for defendant agreeing to the appointment of the EA Receiver and the
8 terms of the Stipulated Receivership Order, JFL agreed to withdraw
9 his motion. (Id.) The parties also agreed to continue the judgment
10 debtor examination of defendant from February 14, 2019, to March 8,
11 2019. (Id.)

12 Despite defendant previously stipulating to the Receivership
13 Order that gave "sole authority regarding whether to file a petition
14 for bankruptcy to the receiver" (see CR 55, Ex. 2 at ¶ 14(s)), on
15 March 7, 2019, defendant filed a second bankruptcy petition on behalf
16 of EA LLP in In re The Trial Group, LLP a/k/a Eagan Avenatti, LLP,
17 No. 8:19-BK-10822 (C.D. Cal.) (the "2019 EA Bankruptcy"). This
18 petition was filed for the specific purpose of avoiding the judgment
19 debtor examination of defendant that had been scheduled for the
20 following day. On March 13, 2019, the Bankruptcy Court dismissed the
21 2019 EA Bankruptcy as defendant did not have the authority to file
22 the bankruptcy petition. In re The Trial Group LLP, No. 8:19-BK-
23 10822, Dkt. No. 38. The Bankruptcy Court also found that defendant
24 had violated the terms of the order appointing the receiver in the
25 JFL Litigation and scheduled an order to show cause hearing ("OSC")
26
27
28

1 for May 8, 2019, to determine whether defendant should be sanctioned.
2 Id., Dkt. No. 35.¹¹

3 On March 15, 2019, JFL conducted a judgment debtor examination
4 of defendant in the State JFL Case. (Karlous Decl. Ex. 8.) During
5 this examination, defendant was again evasive and continued to make
6 false statements under oath. For example, in response to the
7 question, "Who owns Augustus LLP?" Defendant answered, "I'm not at
8 liberty to disclose that. It's not me." Defendant then answered
9 "no" to the question, "do you have any direct or indirect interest in
10 Augustus LLP?" (Karlous Decl. Ex. 8 at 96-98.)

11 In December 2018, however, defendant established a company
12 called Augustus LLP, and on February 13, 2019, defendant caused
13 business bank accounts at Union Bank to be opened under the name
14 Augustus LLP. (Karlous Decl. Ex. 3 at ¶ 49.) The application to
15 open the accounts listed defendant's home address as the mailing
16 address for Augustus LLP and identified defendant as the
17 owner/partner of the business. (Id.) Defendant used this account to
18 make payroll payments to a number of EA LLP employees, as well as to
19 make further lulling payments to two of the wire fraud victims in
20 this case, Client 1 and Client 2. (Id.)

21 On March 22, 2019, JFL conducted a judgment debtor examination
22 of defendant in the Federal JFL Case. During this examination,
23 defendant was again evasive and made numerous false statements under
24 oath. (Karlous Decl. Ex. 9.) For example, defendant falsely
25 testified that "to best of [defendant's] knowledge" EA LLP had filed
26

27
28 ¹¹ On April 17, 2019, defendant moved to stay the OSC in the
2019 EA Bankruptcy pending the resolution of this criminal case. The
OSC hearing has since been continued to May 27, 2020.

1 federal tax returns for each year since 2013, other than for the 2018
2 tax year (which had "not been filed yet"), and that copies of the tax
3 returns were "in the files of the firm in storage." (Karlous Decl.
4 Ex. 9 at 31-33.)

5 After defendant was charged in this case, JFL continued its
6 efforts to enforce the judgments against EA LLP and defendant. Among
7 other things, JFL issued a number of subpoenas in an attempt to
8 locate defendant's remaining assets. Defendant was well aware of
9 JFL's enforcement efforts.

10 For example, on April 2, 2019, JFL served a subpoena on
11 defendant's prior counsel, Bienert Katzman PC ("Bienert") requiring
12 Bienert to produce "all checks, wire transfers or other documents
13 reflecting any payments or retainers" Bienert received relating to
14 its representation of defendant. See Motion to Compel, In re: Eagan
15 Avenatti, LLP, No. 8:18-cv-1644-VAP (KES), Dkt. No. 76 (C.D. Cal.
16 Apr. 29, 2019). Defendant moved to quash the subpoena to Bienert and
17 JFL moved to compel Bienert to comply. See Minute Order, In re:
18 Eagan Avenatti, LLP, No. 8:18-cv-1644-VAP (KES), Dkt. No. 95 (C.D.
19 Cal. July 3, 2019). On July 2, 2019, the Court granted JFL's motion
20 to compel and denied defendant's motion to quash. Id.

21 On July 18, 2019, JFL issued a subpoena to Chase and served
22 notice to defendant. (Karlous Decl. Ex. 10.) On July 19, JFL also
23 issued a subpoena to the Intercontinental Hotel for payment records
24 relating to a press conference defendant held at the hotel on July
25 18, 2019. (Karlous Decl. Ex. 11.) Defendant responded to the email
26 attaching the notice of subpoena as follows: "I see desperation has
27 set in. I paid cash. Nice try." (Karlous Decl. Ex. 12.)

28

1 In late-August 2019, JFL filed a motion for a turnover order in
2 the State JFL Case relating to certain artwork that defendant
3 purchased during a foreclosure auction brought by his second wife,
4 Storie, to satisfy a separate \$2.5 million judgement due to
5 defendant's past-due child and spousal support obligations. (Karlous
6 Decl. Ex. 13.) In opposition to the motion, defendant submitted a
7 declaration indicating he had turned the artwork over to his first
8 ex-wife, Carlin, in order to satisfy a prior spousal and child
9 support judgment. (Id.) In his declaration, defendant said that "I
10 have several creditors, many of whom have judgments against me."
11 (Id.) Although the Superior Court granted the turnover order on
12 August 29, 2019, defendant did not comply with the order because he
13 claimed he did not have possession, custody, or control of the
14 artwork at the time the order was issued.

15 On October 18, 2019, defendant testified in a further judgment
16 debtor examination in the State JFL Case. (Karlous Decl. Ex. 14.)
17 Among other things, during the judgment debtor examination, defendant
18 was asked to identify the creditors that have judgements against
19 defendant. Defendant responded: "My first wife, my second wife,
20 [JFL], who's the plaintiff in this action, Mr. William Parrish,
21 various taxing authorities, and I'm sure that there are others that I
22 am - that I can't recall." (Id. at 8-9.)

23 2. \$2.2 Million Debt to William Parrish

24 On October 26, 2018, the Santa Barbara Superior Court issued a
25 judgment against defendant in favor of William J. Parrish in the
26 amount of approximately \$2,194,302 in Parrish v. Avenatti, Santa
27 Barbara Superior Court Case No. 18CV04106 (the "Parrish Case").
28 (Karlous Decl. Ex. 15.) Although defendant initially appealed the

1 judgment, the California Court of Appeal dismissed defendant's
2 appeal. (Karlous Decl. ¶ 16.)

3 On August 26, 2019, defendant was personally served with a
4 notice for a judgment debtor examination in the Parrish Case.
5 (Karlous Decl. Ex. 17.) Defendant, however, failed to appear for the
6 judgment debtor examination on two separate occasions. (Karlous
7 Decl. Exs. 18-19.) Accordingly, on or about October 8, 2019, the
8 Superior Court issued a bench warrant for defendant's arrest.¹²
9 (Karlous Decl. Exs. 19-20.) After defendant filed an ex parte
10 application seeking to have the warrant recalled, and agreeing to sit
11 for a judgment debtor examination the following week (Karlous Decl.
12 Ex. 21), the court recalled the bench warrant on October 23, 2019
13 (Karlous Decl. Ex. 22).

14 On October 29, 2019, defendant appeared for a judgment debtor
15 examination in the Parrish Case. (Karlous Decl. Ex. 23.) Among
16 other things, when defendant was asked whether he was "aware of any
17 individuals or entities holding title to real property on
18 [defendant's] behalf," he responded "[n]ot that I can think of."
19 (Karlous Decl. Ex. 23 at 50.) As set forth further below, this
20 testimony was false as defendant's first ex-wife, Carlin, was holding
21 title to a Mercedes Benz that was purchased at defendant's direction
22 with funds Carlin received from defendant. (See supra § III.B.4.)

23 3. \$2.5 Million Spousal and Child Support Debt to Storie

24 Defendant married his second wife, Lisa Storie, on or about May
25 9, 2011, and they had one minor child born in August 2014. Defendant
26

27
28 ¹² The government does not currently know whether defendant
disclosed the issuance of the bench warrant to his pretrial services
officer.

1 and Storie separated in approximately October 2017, and a divorce
2 proceeding in Orange County Superior Court commenced in or about
3 January 2018. On or about April 23, 2018, defendant and Storie
4 stipulated to the custody and support terms in which both parties
5 agreed that defendant would pay, among other required expenditures,
6 approximately \$9,000 per month in child support and \$28,000 per month
7 in spousal support to Storie. (Karlous Decl. Ex. 24.) The Honorable
8 Carol L. Henson, Orange County Superior Court Judge, ordered the
9 support payments pursuant to the stipulation of the parties. (Id.)

10 On October 22, 2018, Judge Henson issued her Findings and Order
11 After Hearing ("Support Order"), in which, among other findings, she
12 ordered: defendant to pay child support on behalf of their minor son
13 to Storie, retroactively to January 1, 2018, of \$37,897 per month;
14 and defendant to pay spousal support to Storie, retroactively to
15 January 1, 2018, of \$124,398 per month. (Karlous Decl. Ex. 25.)
16 Defendant was ordered to appear for a judgment debtor examination on
17 December 7, 2018, as part of his divorce proceedings. (Karlous Decl.
18 Ex. 26.) On or about November 30, 2018, defendant entered into a
19 stipulation to postpone the examination and defendant agreed to turn
20 over a Ferrari; five watches; at least thirteen pieces of artwork;
21 and defendant's entire legal and equitable interest in Passport 420,
22 LLC, which owned a Honda Jet, in which defendant held such interest
23 through Avenatti and Associates, APC.¹³ (Id.) Defendant further
24 agreed to turn over all banking records related to EA LLP, A&A, and
25 defendant individually by December 20, 2018. (Id.) Judge Henson
26

27
28 ¹³ Defendant purchased the Honda Jet using settlement funds he
stole from Client 2. (Indictment ¶ 7(p).) In April 2019, the
government seized the Honda Jet.

1 issued the Order pursuant to the parties' stipulation on December 4,
2 2018. (Id.)

3 On or about January 17, 2019, a writ of execution was issued in
4 in the divorce proceeding in the total amount, including principal,
5 interest and cost of \$2,053,332 against defendant and in favor of
6 Storie. (Karlous Decl. Ex. 27.) The debt was based on the court's
7 previously issued orders on April 23, 2018, and October 22, 2018.

8 (Id.) On or about January 25, 2019, the Honorable Nathan Vu, Orange
9 County Superior Court Judge, issued a "Turnover Order," in which the
10 court ordered defendant, the judgment debtor in the divorce
11 proceedings, to immediately turn over, among other things: 100% of
12 the shares in the corporation Avenatti & Associates; 100% of the
13 funds due and owing to defendant from The Fight PAC; three watches;
14 and all artwork at Orange County Fine Art Storage held in defendant's
15 name or held under Avenatti & Associates. The Order concluded with,
16 **"FAILURE TO COMPLY WITH THE ORDER MAY SUBJECT THE JUDGMENT DEBTOR TO**
17 **ARREST AND PUNISHMENT FOR CONTEMPT OF COURT."** (Id. (bold and caps in
18 the original).)

19 Defendant sought to set aside the Turnover Order. (Karlous
20 Decl. Ex. 28.) On February 14, 2019, Judge Vu ordered that during
21 the pendency of the litigation, defendant was "prohibited from
22 transferring, encumbering, hypothecating, concealing, or in any way
23 disposing of the assets that are the subject of the [January 25,
24 2019] Turnover Order. . . ." (Id.) On April 4, 2019, Judge Vu
25 issued an "Order To Deliver Specific Property," whereby Judge Vu
26 determined defendant still owed over \$2 million to Storie as of
27 January 9, 2019, and required defendant to turn over to Storie the
28 property previously ordered on January 25, 2019, as well as 100% of

1 defendant's interest in EA LLP held in defendant's name or held in
2 Avenatti & Associates to satisfy his outstanding debt to Storie.
3 (Karlous Decl. Ex. 29.)

4 On June 5, 2019, the Honorable Julie A. Palafox, Orange County
5 Superior Court Judge, ordered defendant to show cause why he should
6 not be found guilty of contempt for willfully disobeying the court's
7 orders, including defendant's continued failure to provide personal
8 and business tax returns and bank account statements that defendant
9 was ordered to produce as early as May 15, 2018.¹⁴ (Karlous Decl. Ex.
10 30.) On or about October 28, 2019, Judge Vu denied defendant's
11 motion to set aside the Child and Spousal Support Orders filed on
12 October 22, 2018. (Karlous Decl. Ex. 31.) As of August 20, 2019,
13 when defendant bought the artwork at the foreclosure auction, his
14 outstanding debt to Storie on the April 23, 2018, and October 22,
15 2018, judgments rendered against defendant was approximately
16 \$2,553,089. (Karlous Decl. Ex. 33.)

17 4. \$1.5 Million Debt to Washington Department of Revenue

18 On January 17, 2019, the Washington Department of Revenue filed
19 a Warrant for Unpaid Taxes in Thurston County Superior Court.
20 (Karlous Decl. Ex. 34.) The Warrant indicated that defendant
21 personally owed the Washington Department of Revenue approximately,
22 \$1,530,216, including approximately \$995,208 in unpaid taxes from
23 July 2017 through March 2018. (Id.) It appears that these unpaid
24 taxes directly relate to defendant's failure to pay state taxes in
25 connection with GBUS. (See Karlous Decl. Ex. 2 at ¶ 14 (indicating
26

27
28 ¹⁴ Citing defendant's ongoing federal criminal matters, defendant
has obtained continuances of his contempt hearing until February
2020.

1 that defendant was aware that GBUS had failed to make required tax
2 payments to the State of Washington).)

3 In an effort to enforce the Warrant, the Washington Department
4 of Revenue subsequently issued levies on a number of defendant's bank
5 accounts. On or about June 14, 2019, the Washington Department of
6 Revenue issued a Notice and Order to Withhold and Deliver to Chase
7 Bank. (Karlous Decl. Ex. 35.) The Washington Department of Revenue
8 collected approximately \$32,072 from defendant's Chase bank account
9 as a result of this levy. (Karlous Decl. Ex. 39 at 24.) On or about
10 July 1, 2019, and July 29, 2019, additional levies were served on
11 defendant's Chase account. (Id. at 36, 43.)

12 On or about August 26, 2019, the Washington Department of
13 Revenue issued a Notice and Order to Withhold and Deliver to U.S.
14 Bank. (Karlous Decl. Ex. 36.) The Washington Department of Revenue
15 collected approximately \$280 from defendant's U.S. Bank account as a
16 result of this levy. (Karlous Decl. Ex. 40 at 59.)

17 **B. Defendant's Efforts to Conceal His Assets from His**
18 **Creditors**

19 1. Defendant's Receipt of a \$1,000,000 Settlement Payment
20 in Early-May 2019

21 On March 14, 2019, defendant signed a letter on Avenatti &
22 Associates, APC (A&A) letterhead, to counsel representing a potential
23 defendant in a civil case, that "this office represents [E.S.]" in
24 connection with an incident that had occurred on March 3, 2019.
25 (Karlous Decl. Ex. 37.) On April 17, 2019, defendant and E.S. signed
26 a settlement agreement in which the opposing party was to pay \$2
27 million dollars to E.S. and \$1 million to defendant on or before May
28 8, 2019. (Id.) Despite defendant claiming the previous month A&A
represented E.S., the settlement agreement called for the \$1 million

1 payment be made payable to defendant, individually. (Id.) On April
2 30, 2019, a \$1 million cashier's check was issued to defendant
3 pursuant to the settlement agreement. (Karlous Decl. Ex. 38.)

4 2. Defendant Opened a Chase Bank Account in May 2019

5 On May 7, 2019, defendant opened a personal checking account at
6 the Newport Center Fashion Island Branch of Chase Bank with an
7 initial deposit of \$1 million, consisting solely of the \$1,000,000
8 check issued to defendant in the E.S. matter on April 30, 2019.
9 (Karlous Decl. Ex. 39 at 1-4, 8-9.) On May 8, 2019, defendant
10 withdrew \$871,821.03 from the account to purchase the following
11 cashier's checks in the following amounts: \$717,723 payable to Carlin
12 with "per judgment" in the memo section; \$29,264 payable to Smart
13 Tuition for defendant's daughter's private school tuition; \$50,000 to
14 Shulman Hodges & Bastian LLP, the law firm that represented defendant
15 in various bankruptcy-related proceedings; \$26,218.67 to Stegmeier,
16 Gelbert, Schwartz, Benquente, the law firm that represented defendant
17 in his divorce proceedings with Storie; \$34,425.36 to SM 10000 with
18 "2107" in the memo line; and \$9,720 to CH Services with "2107" in the
19 memo line.¹⁵ (Id. at 4-5, 46-51.)

20 On May 13, 2019, defendant withdrew an additional \$23,200 from
21 the account and with part of the withdrawal, purchased a cashier's
22 check for \$19,200 to Stegmeier, Gelbert, Schwartz, Benquente. (Id.
23 at 52.) On May 21, 2019, defendant withdrew \$4,000 in cash and
24 withdrew an additional \$40,000 to purchase a cashier's check made
25 payable to defendant. (Id. at 53.) Defendant made numerous other
26 transactions throughout the month of May 2019. (Id. at 4-7.) The

28 ¹⁵ Defendant lived at 10000 Santa Monica Boulevard, Unit 2107.

1 ending balance in the account as of May 31, 2019, was \$4,150.56,
2 despite an initial balance of \$1 million on May 7, 2019. (Id. at 7.)

3 On June 7, 2019, the account balance was \$1,240.98, before
4 defendant redeposited the \$40,000 cashier's check he had purchased in
5 own his name on May 21, 2019. (Id. at 23.) On June 14, 2019, the
6 Washington Department of Revenue issued a levy on the Chase Bank
7 account and obtained \$32,071.90, the approximate balance in the Chase
8 account. (Id. at 24; Karlous Decl. Ex. 35.) On or about July 1,
9 2019, and July 29, 2019, additional levies were served on defendant's
10 Chase account, resulting in \$955.94 and \$70.78 being seized from
11 defendant's account. (Karlous Decl. Ex. 39 at 36, 43.) As of at
12 least July 24, 2019, defendant carried a negative balance in the
13 account and basically had no further activity in the account.¹⁶ (Id.
14 at 36.)

15 3. Carlin Opened a U.S. Bank Account in May 2019

16 On May 8, 2019, defendant's first ex-wife, Carlin, opened an
17 individual checking account in her name only at the Michelson Branch
18 of U.S. Bank in Irvine, California. (Karlous Decl. Ex. 40 at 4.)
19 Carlin's initial deposit into the account was the \$717,723 cashier's
20 check that defendant purchased at Chase Bank the same day.¹⁷ (Karlous
21 Decl. Ex. 39 at 46.) On May 9, 2019, Carlin purchased the following
22 two cashier's checks in the following amounts at the Arcadia Foothill
23 Branch of U.S. Bank: \$250,000 made payable to the Law Offices of Evan
24

25 ¹⁶ As described above, on July 18, 2019, JFL served a subpoena on
26 Chase Bank and provided notice to defendant of the subpoena.

27 ¹⁷ For at least several years prior to the opening of this
28 account at U.S. Bank, and at all times while Carlin used this account
at U.S. Bank, Carlin had a joint checking account with her current
husband at USAA.

1 A. Jenness;¹⁸ and \$52,983.28 made payable to Mercedes Benz of
2 Arcadia.¹⁹ (Karlous Decl. Ex. 40 at 8-11.) On May 13, 2019, Carlin
3 purchased a \$500,000 cashier's check made payable to defendant (id.
4 at 12-13), which, as described below, defendant did not deposit until
5 May 22, 2019 (supra § III.B.5).²⁰ A review of the bank account
6 appears to show Carlin spent the remainder of money in the account
7 paying off credit cards and making personal expenditures.

8 4. Defendant Used Carlin as a Nominee to Purchase a 2014
9 Mercedes Benz S550 in May 2019

10 Special Agent Karlous has obtained records from Mercedes Benz of
11 Arcadia as well as interviewed Fleet Manager/Sales Representative
12 J.O. responsible for the sale of a 2014 Mercedes Benz S550 with VIN
13 ending in 8895 ("S550"). (Karlous Decl. ¶¶ 51-52.) On May 6, 2019,
14 defendant spoke with J.O. regarding the S550 that the dealership had
15 for sale, and J.O. sent photographs of the car to defendant. (Id. at
16 ¶ 52.) Defendant stated that he would come into the dealership to
17 look at the car and defendant did so later that day. That same day,
18 May 6, 2019, defendant filled out the paperwork to purchase the S550.
19 (Id.) Defendant provided an Arizona Driver's License in defendant's
20 name as well as an address in Arizona. (Karlous Decl. Ex. 43.)

21
22 ¹⁸ Evan Jenness had previously represented defendant at least in
23 relation to his domestic violence arrest in November 2018. Moreover,
24 as described above, on May 7, 2019, defendant requested this Court to
25 continue his matter for an additional week for him to finalize his
26 "representation issues." The cashier's check made payable to Ms.
27 Jenness was redeposited the following day, May 10, 2019, with the
28 note, "not used for purpose intended."

¹⁹ The purchase of the Mercedes Benz and defendant being present
with Carlin at the Arcadia Foothill Branch of U.S. Bank is described
infra, Section III.B.4.

²⁰ As detailed above, on May 14, 2019, the Federal Public
Defender's Office filed an ex parte application with this Court
seeking to represent defendant without defendant having to file a
financial affidavit.

1 Among the paperwork defendant completed, defendant signed a
2 California Department of Tax and Fee Administration Form in which
3 defendant certified that the car was being purchased for use outside
4 of California, not for storage, use, or consumption in California,
5 and would be used at the address in Arizona. (Id. at 6.) The
6 certification defendant signed was for the purpose of waiving the
7 California Sale and Use Tax. (Id.) Defendant signed the
8 certification above the bold print that stated: "Fraudulent use of
9 this statement to avoid the payment of California sales and use tax
10 may result in severe penalties." (Id.) After defendant told J.O.
11 that he would be registering the S550 out-of-state, J.O. told
12 defendant that the dealership would need to transport the car to the
13 state where the car is registered. (Karlous Decl. ¶ 52.) After
14 defendant completed the paperwork to purchase the S550, defendant
15 told J.O. that defendant's business manager would wire the money into
16 the dealership to purchase the car. (Id.)

17 On May 8, 2019, J.O. called defendant because the money to
18 purchase the car had not arrived to the dealership. (Id.) Defendant
19 told J.O. that defendant was no longer interested in buying the car,
20 but defendant knew someone that was interested in buying the S550.
21 (Id.) Defendant returned to the dealership on May 9, 2019, with
22 Carlin; defendant told J.O. that Carlin was defendant's ex-wife.
23 (Id.) Carlin filled out the paperwork to buy the same S550 that
24 defendant claimed to be purchasing two days prior.²¹ (Karlous Decl.
25 Ex. 43 at 16-21.) Because Carlin wanted to purchase the S550 with a
26

27
28 ²¹ Although the price for the car remained the same, because
Carlin provided her actual residence in California, the final cost
was approximately \$3,800 more due to California taxes.

1 cashier's check, J.O. told her the dealership's policy required J.O.
2 to accompany Carlin to the bank to purchase the cashier's check.
3 (Karlous Decl. ¶ 52.) J.O. followed Carlin and defendant to the
4 Arcadia Foothill Branch of U.S. Bank and was present inside the bank
5 when Carlin purchased the cashier's check to buy the S550 using the
6 funds she had just received from defendant the day before. (Id.)

7 On three occasions between December 17, 2019, and January 7,
8 2020, Special Agent Karlous observed and photographed the S550
9 purchased in Carlin's name parked at the house of J.C., and
10 individual known to be defendant's personal driver, as well as
11 observing J.C. driving the S550 on December 17, 2019. (Karlous Decl.
12 ¶ 53.) Moreover, in declarations and photographs submitted in the
13 State JFL Case, defendant was observed leaving the foreclosure
14 auction on August 20, 2019, in the S550. (Karlous Decl. Ex. 44.)
15 Defendant also testified at his October 18, 2019, judgment debtor
16 examination that he took an Uber to the courthouse for his testimony;
17 however, after the examination concluded, J.C. was parked outside of
18 the courthouse in the S550.

19 5. Defendant Opened a U.S. Bank Account in May 2019 and
20 Began Flipping Cashier's Checks in June 2019

21 On May 22, 2019, defendant opened a Platinum Select Money Market
22 Savings Account with U.S. Bank at its Century City Branch.
23 Defendant's initial deposit to open the account was the \$500,000
24 cashier's check Carlin purchased on May 13, 2019 and which was
25 derived entirely from the \$1,000,000 E.S. settlement payment.
26 (Karlous Decl. Ex. 40 at 3; see also Karlous Decl. Ex. 42
27 (summarizing defendant's U.S. Bank transactions).) On May 23, 2019,
28 defendant made two wire transfers of \$150,000, totaling \$300,000, to

1 the two attorneys representing defendant at that time in defendant's
2 SDNY Extortion Case. (Id.) On June 7, 2019, defendant withdrew
3 \$25,000 to purchase a cashier's check payable to H. Dean Steward, his
4 counsel of record in this case. (Id.) As of June 14, 2019,
5 defendant had approximately \$170,000 available in his U.S. Bank
6 account.²² (Id.)

7 On June 17, 2019, the next banking day after the Washington
8 Department of Revenue located and levied defendant's Chase bank
9 account, defendant drained his U.S. Bank account and began flipping
10 cashier's checks to himself. (Id.) Defendant would purchase
11 cashier's checks payable to himself so as to drain his bank accounts
12 of any remaining funds, hold onto the cashier's checks, and would
13 then briefly "deposit" the cashier's checks to immediately access the
14 funds, and would then purchase additional cashier's checks payable to
15 himself. (Id.) Based on Special Agent Karlous's training and
16 experience, he knows that individuals that purchase cashier's checks
17 in their own name and hold on to the cashier's checks, often do so to
18 evade creditors and law enforcement, specifically to prevent the
19 seizure of the funds. Karlous Decl. ¶ 49.) Additionally, each time
20 defendant purchased or deposited a cashier's check, U.S. Bank would
21 necessarily have to transmit data electronically to U.S. Bank's
22 servers outside of California in order to complete the transactions.
23 (Karlous Decl. ¶ 50.)

24 As set forth below and in Exhibit 42 to the Declaration of Agent
25 Karlous, defendant engaged in this cashier's check flipping scheme on
26

27 ²² As described supra, on June 14, 2019, which was a Friday, the
28 Washington Department of Revenue levied defendant's bank account at
Chase and seized the approximately \$32,000 defendant had in that
account.

1 at least nine different occasions between June 2019 and September
2 2019 in an effort to conceal his assets from his creditors:

- 3 • On Monday, June 17, 2019, defendant withdrew \$169,000 from
4 his U.S. Bank account, including \$8,500 in cash and purchased
5 two cashier's checks payable to himself in the amounts of
6 \$8,500 and \$152,000. Defendant cashed the \$8,500 cashier's
7 check on June 21, 2019.
- 8 • On June 24, 2019, defendant "deposited" the \$152,000
9 cashier's check defendant purchased the prior week payable to
10 himself, and immediately withdrew the full amount by
11 withdrawing \$8,000 in cash and purchasing two new cashier's
12 checks payable to himself in the amounts of \$9,000 and
13 \$135,000.²³ Defendant cashed the \$9,000 cashier's check on
14 July 8, 2019.
- 15 • On July 16, 2019, defendant "deposited" the \$135,000
16 cashier's check defendant purchased on June 24, 2019, payable
17 to himself, and immediately withdrew the full amount by
18 withdrawing \$6,800 in cash and purchasing the following three
19 cashier's checks in the following amounts: \$12,500 made
20 payable to Pansky Markle, the law firm representing defendant
21 in his state bar disciplinary proceedings; \$10,700 made
22 payable to Exclusive Resorts;²⁴ and \$105,000 payable to
23 himself.

24
25 ²³ Defendant actions of "depositing" the cashier's checks made
26 payable to himself and immediately withdrawing cash and purchasing
27 additional cashier's checks did not actually result in money being
28 put in the account. On a few occasions, the manner in which
defendant conducted his transactions caused the bank to not even
account for defendant's transactions in his account.

²⁴ Defendant's payments and use of Exclusive Resorts is discussed
infra.

- 1 • On July 22, 2019, defendant "deposited" the \$105,000
2 cashier's check defendant purchased the prior week payable to
3 himself, and immediately withdrew the full amount by
4 withdrawing \$4,500 in cash and purchasing two new cashier's
5 checks payable to himself in the amounts of \$8,000 and
6 \$92,500. Defendant cashed the \$8,000 cashier's check on July
7 31, 2019. Notably, after defendant started purchasing
8 cashier's checks payable to himself on June 17, 2019, he
9 never had more than \$2,284 in his account at any time, and by
10 July 31, 2019, defendant never had more than \$380 in his
11 account.
- 12 • On August 16, 2019, defendant "deposited" the \$92,500
13 cashier's check defendant purchased on July 22, 2019, payable
14 to himself, and immediately withdrew the full amount by
15 withdrawing \$7,000 in cash and purchasing the following four
16 cashier's checks in the following amounts: \$10,000 made
17 payable to Pansky Markle; \$25,000 made payable to Exclusive
18 Resorts; \$11,200 payable to SM 10000, defendant's residence;
19 and \$39,300 payable to himself.
- 20 • On August 19, 2019, defendant "deposited" the \$39,300
21 cashier's check defendant purchased the prior week payable to
22 himself, and immediately withdrew the full amount by
23 withdrawing \$6,300 in cash and purchasing a new cashier's
24 check payable to himself in the amounts of \$33,000.
- 25 • On August 20, 2019, defendant "deposited" the \$33,000
26 cashier's check defendant purchased the prior day payable to
27 himself, and immediately withdrew the full amount by
28 purchasing the following two cashier's checks in the

1 following amounts: \$15,500 payable to the Orange County
2 Sheriff; and \$17,500 payable to himself.²⁵

- 3 • On August 30, 2019, defendant "deposited" the \$17,500
4 cashier's check defendant purchased on August 20, 2019,
5 payable to himself, and immediately withdrew the full amount
6 by withdrawing \$4,700 in cash and purchasing the following
7 two cashier's checks in the following amounts: \$2,800 payable
8 to J.C., defendant's driver; and \$10,000 payable to himself.
- 9 • On September 10, 2019, defendant "deposited" the \$10,000
10 cashier's check defendant purchased on August 30, 2019,
11 payable to himself, and immediately withdrew the full amount
12 by withdrawing \$7,760 in cash and purchasing a new cashier's
13 check payable to Anderson & Associates in the amount of
14 \$2,240.

15 (See Karlous Decl. Exs. 40-42.) There does not appear to be any
16 legitimate purpose for the manner in which defendant conducted these
17 financial transactions, specifically his flipping of cashier's
18 checks.

19 Defendant also appears to have structured his withdrawals and
20 purchase of cashier's checks to evade currency transaction reporting
21 requirements. As detailed in Exhibit 42 to Agent Karlous's
22 declaration, on the following ten occasions defendant either withdrew
23
24

25 ²⁵ As noted above, defendant bought artwork from an Orange County
26 Sheriff foreclosure auction on August 20, 2019; the funds went to pay
27 an over \$2.5 million judgement Storie. Despite having made very
28 limited payments towards his child or spousal support obligations in
two years, resulting in the \$2.5 million judgment, defendant used
\$15,500 cashier's check to buy his artwork back, and kept the other
\$17,500 cashier's check.

1 cash or cashed cashier's checks written to himself in amounts below
2 the \$10,000 reporting requirement:

- 3 • On June 17, 2019, defendant withdrew \$8,500 in cash;
- 4 • On June 21, 2019, defendant cashed a \$8,500 cashier's check
5 he purchased on June 17, 2019;
- 6 • On June 24, 2019, the next business day, defendant withdrew
7 \$8,000 in cash;
- 8 • On July 8, 2019, defendant cashed a \$9,000 cashier's check he
9 purchased on June 24, 2019;
- 10 • On July 16, 2019, defendant withdrew \$6,800 in cash;
- 11 • On July 22, 2019, defendant withdrew \$4,500 in cash;
- 12 • On July 31, 2019, defendant cashed \$8,000 cashier's check
13 purchased on July 22, 2019;
- 14 • On August 16, 2019, defendant withdrew \$7,000 in cash;
- 15 • On August 19, 2019, the next business day, defendant withdrew
16 \$6,300 in cash;
- 17 • On August 30, 2019, defendant withdrew \$4,700 in cash; and
- 18 • On September 10, 2019, defendant withdrew \$7,760 in cash.

19 (Karlous Decl. Exs. 40-42.) On several occasions, defendant
20 purchased the cashier's check simultaneously to withdrawing cash just
21 below the \$10,000 reporting requirement, and then merely cashed the
22 cashier's check a few days later.

23 Additionally, on August 26, 2019, the Washington Department of
24 Revenue levied defendant's account at U.S. Bank, which after fees
25 were deducted, resulted in Washington Department of Revenue seizing
26 approximately \$280 in September 2019. (See infra III.A.3.)
27 Defendant largely stopped using the U.S. Bank account after the levy
28 was issued and the funds were seized. (Karlous Decl. Exs. 40, 42.)

1 Indeed, as of September 10, 2019, the account balance was zero.
2 (Karlous Decl. Ex. 40 at 57-59.) In addition, as of September 2019,
3 none of the \$1 million payment that defendant had obtained in the
4 E.S. settlement and initially deposited four months earlier on May 7,
5 2019, remained in any bank account in defendant's name. (Karlous
6 Decl. Exs. 39, 40, 42.)

7 6. Defendant's Exclusive Resorts Membership

8 Exclusive Resorts is a company located in Colorado that
9 advertises itself as the world's elite private vacation club.
10 Defendant had a membership with Exclusive Resorts for years and
11 travelled numerous times domestically and internationally through
12 Exclusive Resorts.

13 On June 11, 2019, defendant electronically signed a new
14 agreement with Exclusive Resorts to modify his membership plan and
15 submitted it to Exclusive Reports in Colorado. (Karlous Decl. Ex.
16 45.) As described above, defendant also purchased \$10,700 and
17 \$25,000 cashier's checks -- in Century City, California -- made
18 payable to Exclusive Resorts on July 16, 2019, and August 18, 2019,
19 respectively, and were deposited into Exclusive Resorts' bank account
20 in Denver, Colorado; thus, the cashier's checks would have been
21 mailed to Exclusive Resorts in Colorado. (See Karlous Decl. Exs. 42,
22 45.) Defendant used Exclusive Resorts luxury properties in
23 California, Florida, and New York on four occasions between August
24 and November 2019. (Karlous Decl. Ex. 45 at 19.)

25 From September 8-15, 2019, R.S., an individual identified in at
26 least two interviews as defendant's current girlfriend, stayed at an
27 Exclusive Resort in Tuscany, Italy, as a guest of defendant's on
28 defendant's membership. (Id.) The government notes R.S.'s travel as

1 it happened at the same time defendant's creditors found and levied
2 defendant's bank accounts and defendant stopped using both his Chase
3 and U.S. Bank accounts. In addition, defendant's girlfriend
4 travelled to Italy, a country that defendant obtained citizenship and
5 had an Italian Passport upon arrest, which raises questions about
6 whether defendant has any assets there.

7 **IV. ARGUMENT**

8 **A. Applicable Legal Standards**

9 Title 18, United States Code, Section 3148(a), provides that a
10 defendant who has been ordered released pending trial pursuant to
11 § 3142 of the Bail Reform Act, and "who has violated a condition of
12 his release, is subject to a revocation of release, an order of
13 detention and a prosecution for contempt of court." The revocation
14 proceedings may be initiated by motion of the government. 18 U.S.C.
15 § 3148(b). Section 3148(b) provides:

16 The judicial officer shall enter an order of revocation and
17 detention if, after a hearing, the judicial officer -

18 (1) finds that there is -

19 (A) probable cause to believe that the person has
20 committed a Federal, State, or local crime while on
21 release;

22 . . . and

23 (2) finds that -

24 (A) based on the factors set forth in section 3142(g)
25 of this title, there is no condition or combination of
26 conditions of release that will assure that the person will
27 not flee or pose a danger to the safety of any other person
28 or the community; or

(B) the person is unlikely to abide by any condition
or combination of conditions of release.

If there is probable cause to believe that, while on
release, the person committed a Federal, State, or local
felony, a rebuttable presumption arises that no condition

1 or combination of conditions will assure that the person
2 will not pose a danger to the safety of any other person or
3 the community.

4 18 U.S.C. § 3148(b) (emphases added); see also United States v.
5 Jalloh, SA CR No. 15-129-CJC, 2016 WL 4939102 (C.D. Cal. Sep. 13,

6 2016) (applying 18 U.S.C. § 3148(b)). As discussed below, the
7 government's proof satisfies all of these conditions.

8 **B. There is Probable Cause to Believe that Defendant Has**
9 **Committed Federal Crimes While on Pretrial Release**

10 In United States v. Cook, 880 F.2d 1158, 1160 (10th Cir. 1989),
11 the Tenth Circuit held that probable cause to believe that a
12 defendant has committed a felony while on release is satisfied when
13 "the facts available to the judicial officer 'warrant a man of
14 reasonable caution in the belief' that the defendant has committed a
15 crime while on bail." Id. (quoting United States v. Gotti, 794 F.2d
16 773, 333 (2d Cir. 1986)); see also United States v. Aron, 904 F.2d
17 221, 224 (5th Cir. 1990) (adopting same standard).

18 There is probable cause to believe that defendant has continued
19 to commit federal felonies while on pretrial release, including, mail
20 fraud, in violation of 18 U.S.C. § 1341, wire fraud, in violation of
21 18 U.S.C. § 1343, and structuring of currency transactions to evade
22 reporting requirements, in violation of 31 U.S.C. § 5324(a)(3).

23 1. Mail and Wire Fraud

24 To establish that defendant committed mail and/or wire fraud,
25 the government would be required to prove that: (1) defendant
26 knowingly devised or knowingly participated in a scheme or plan to
27 defraud, or a scheme or plan for obtaining money or property by means
28 of false or fraudulent pretenses, representations or promises; (2)
the statements made or the facts omitted as part of the scheme were

1 material; (3) defendant acted with the intent to defraud; and (4) in
2 advancing or furthering or carrying out the scheme, the defendant
3 used the mails/wires or caused the mails/wires to be used. United
4 States v. Woods, 335 F.3d 993, 997 (9th Cir. 2003). The mail and
5 wire fraud statutes encompass any scheme or artifice to defraud,
6 regardless of whether the scheme involved a specific false statement.
7 Id.

8 Here, defendant engaged in a scheme to defraud his creditors,
9 including JFL and Storie, both before and after the issuance of the
10 indictment in this case. As noted above, defendant agreed to pay JFL
11 and Storie millions of dollars to settle various claims and has since
12 used the mail and interstate wirings to defraud his victim creditors,
13 including JFL and Storie. (Supra § III.A.) Moreover, defendant
14 concealed and fraudulently transferred his assets in order to avoid
15 paying his creditors the money to which they were -- and are --
16 legally entitled. (Supra § III.B.)

17 2. Structuring

18 To establish that defendant committed structuring, the
19 government would be required to prove: (1) defendant structured a
20 currency transaction; (2) the transaction involved a domestic
21 financial institution; (3) defendant did so with knowledge that the
22 financial institution was legally obligated to report currency
23 transactions in excess of \$10,000; and (4) defendant acted with the
24 intent to evade that reporting requirement. 31 U.S.C. § 5324(a)(3);
25 United States v. Pang, 362 F.3d 1187, 1193-94 (9th Cir. 2004); United
26 States v. MacPherson, 424 F.3d 183, 189 (2d Cir. 2005). A pattern of
27 structured transactions may, by itself, establish that defendant had
28

1 knowledge of any intent to evade currency reporting requirements.
2 Id. at 195.

3 As detailed above, over the course of approximately six weeks
4 between June 2019 and August 2019, defendant withdrew cash and/or
5 purchased and subsequently cashed cashier's checks in amounts just
6 below the \$10,000 reporting requirement on ten separate occasions.
7 (Supra § III.B.5; Karlous Decl. Ex. 42.) Moreover, on June 17, June
8 24, and July 22, 2019, defendant structured his transactions to
9 withdraw cash and purchase another "smaller" cashier's check, just
10 under \$10,000, which defendant subsequently cashed to avoid the
11 currency reporting requirement. (Karlous Decl. Ex. 42.) Had
12 defendant withdrawn all the cash simultaneously, the bank would have
13 reported the financial transaction. At no point during this time
14 period, did defendant withdraw more than \$10,000. (Id.)

15 **C. There is Probable Cause to Believe Defendant Committed**
16 **State Crimes While on Pretrial Release**

17 1. Defendant's Violation of California Law

18 There is also probable cause to believe that defendant's conduct
19 constituted multiple violations of California law, including
20 fraudulently removing, concealing, or disposing of personal property
21 sought to be recovered, in violation of California Penal Code
22 § 155(a) and money laundering, in violation of California Penal Code
23 § 186.10.

24 California Penal Code § 155(a) states:

25 Every person against whom an action is pending, or against
26 whom a judgment has been rendered for the recovery of any
27 personal property, who fraudulently conceals, sells, or
28 disposes of that property, with intent to hinder, delay, or
defraud the person bringing the action or recovering the
judgment, or with such intent removes that property beyond
the limits of the county in which it may be at the time of
the commencement of the action or the rendering of the

1 judgment, is punishable by imprisonment in a county jail
2 not exceeding one year, or by fine not exceeding one
3 thousand dollars (\$1,000), or by both that fine and
4 imprisonment.

5 Cal. Penal Code § 155(a). Each violation of § 155(a) would be
6 considered a misdemeanor. Id.

7 California Penal Code § 186.10(a)(1) states:

8 (a) Any person who conducts or attempts to conduct a
9 transaction or more than one transaction within a seven-day
10 period involving a monetary instrument or instruments of a
11 total value exceeding five thousand dollars (\$5,000), or a
12 total value exceeding twenty-five thousand dollars
13 (\$25,000) within a 30-day period, through one or more
14 financial institutions (1) with the specific intent to
15 promote, manage, establish, carry on, or facilitate the
16 promotion, management, establishment, or carrying on of any
17 criminal activity . . . is guilty of the crime of money
18 laundering.

19 Cal. Penal Code § 186.10(a)(1). Each violation of § 186.10 could be
20 charged as either a felony or misdemeanor. Id.

21 As set forth above, defendant was well aware of the pending
22 judgments against him, as well as his creditors' efforts to enforce
23 those debts. (See supra § III.A.) Yet, defendant repeatedly
24 attempted to conceal his assets to prevent them from enforcing those
25 judgments and recovering the funds to which they were legally
26 entitled, and conducted financial transactions for the specific
27 purpose of carrying out such criminal activity. (See supra
28 § III.B.)

2. Defendant's Violation of Washington State Law

Defendant's conduct also constituted a misdemeanor violation of
the Revised Code of Washington § 9.45.080. Section 9.45.080 states:

Every person who, with intent to defraud a prior or
subsequent purchaser thereof, or prevent any of his or her
property being made liable for the payment of any of his or
her debts, or levied upon by an execution or warrant of
attachment, shall remove any of his or her property, or
secrete, assign, convey, or otherwise dispose of the same,

1 or with intent to defraud a creditor shall remove, secrete,
2 assign, convey, or otherwise dispose of any of his or her
3 books or accounts, vouchers or writings in any way relating
4 to his or her business affairs, or destroy, obliterate,
alter, or erase any of such books of account, accounts,
vouchers, or writing or any entry, memorandum, or minute
therein contained, shall be guilty of a gross misdemeanor.

5 RWC § 9.45.080.

6 Defendant would necessarily have been aware of the outstanding
7 Washington Department of Revenue tax warrant by no later than June
8 14, 2019, when the Washington Department of Revenue levied
9 defendant's Chase bank account and seized approximately \$32,072 from
10 defendant's account. (Karlous Decl. Exs. 36, 39.) After the
11 Washington Department of Revenue levied defendant's Chase bank
12 account, defendant only used the Chase bank account for smaller
13 transactions and never maintained a balance greater than \$2,000.

14 (Id.) As noted above, defendant also immediately withdrew almost all
15 of the funds from his U.S. Bank account after the levy was issued to
16 his Chase bank account and defendant started his cashier's check
17 flipping scheme. (See supra § III.B.5.)

18 The Washington Department of Revenue also levied defendant's
19 U.S. Bank on August 26, 2019 (Karlous Decl. Ex. 37), resulting in
20 \$280.44 being withdrawn from his account on September 6, 2019
21 (Karlous Decl. Ex 42). After September 10, 2019, however, defendant
22 largely stopped using the U.S. Bank account. (Karlous Decl. Ex. 42.)

23 **D. There Are No Conditions or Combination of Conditions that**
24 **Will Ensure the Safety of the Community**

25 1. There is a Rebuttable Presumption that Defendant Poses
a Danger to the Community

26 Where there is probable cause to believe that a defendant has
27 committed a felony while on release, Section 3148(b) creates a
28 rebuttable presumption that the defendant poses a danger to the

1 community. In United States v. Cook, 880 F.2d 1158, 1160 (10th Cir.
2 1989), the Tenth Circuit held that the district court erred in
3 refusing to revoke a defendant's bond because the district court
4 failed to take into account the rebuttable presumption established by
5 § 3148(b). In analyzing the rebuttable presumption, the court
6 emphasized that:

7 [T]he establishment of probable cause to believe that the
8 defendant has committed a serious crime while on release
9 constitutes compelling evidence that the defendant poses a
10 danger to the community, and, once such probable cause is
11 established, it is appropriate that the burden rest on the
12 defendant to come forward with evidence indicating that
13 this conclusion is not warranted in his case.

14 Cook, 880 F.2d at 1161 (emphasis omitted). Even if the defendant
15 does come forward with evidence to rebut the presumption, "the
16 presumption does not disappear, but rather remains as a factor for
17 consideration in the ultimate release or detention determination."
18 Id. at 1162.

19 As discussed above, there is probable cause to believe that
20 defendant, while on pretrial release, committed federal felonies,
21 specifically, mail fraud, wire fraud, and structuring, as well as
22 committing multiple state misdemeanor offenses. Thus, there is a
23 presumption in this case that defendant poses a danger to the
24 community. Defendant cannot rebut the presumption that defendant
25 poses a danger to the community because, as discussed further below,
26 there is ample evidence that he is an ongoing threat to the
27 community.

28 2. Defendant Is a Danger the Community

Separate and apart from the rebuttable presumption discussed
above, Section 3148(b) requires detention where the Court, after
considering the factors enumerated in Section 3142(g), finds that

1 "there is no condition or combination of conditions of release that
2 will assure that the [defendant] will not flee or pose a danger to
3 the safety of any other person or the community." 18 U.S.C. §
4 3148(b)(2)(A).²⁶

5 Section 3142(g) lists a variety of factors to be considered in
6 determining whether detention is appropriate. These factors include
7 the nature of the charges and the weight of the evidence against the
8 defendant; the defendant's character, community ties, employment,
9 past conduct and criminal history; and the danger to the community
10 that would be created by releasing the defendant on bail. See 18
11 U.S.C. § 3142(g). Of these factors, the weight of the evidence is
12 the least significant, and the nature of the offense and evidence of
13 guilt are relevant only in so far as they bear on the likelihood that
14 the defendant will fail to appear or may pose a threat to the
15 community. See United States v. Cardenas, 784 F.2d 937, 939 (9th
16 Cir. 1986); United States v. Motamedi, 767 F.2d 1403, 1408 (9th Cir.
17 1985).

18 Additionally, for purposes of the Bail Reform Act, the term
19 "danger to the community" is construed broadly. "[T]he concern about
20 safety is to be given a broader construction than the mere danger of
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22 ²⁶ Although the government's primary concern is that defendant
23 is a danger to the community, the government also believes that
24 defendant presents a risk of flight due to the seriousness of the
25 charges defendant is facing. See, e.g., United States v. Townsend,
26 897 F.2d 989, 995 (9th Cir. 1990) (noting that the district court may
27 consider possible punishment as an incentive for defendant to flee in
28 assessing a defendant's risk of flight). For example, if convicted
at trial, defendant would likely face an advisory sentencing
guideline range of at least 168 to 210 months' imprisonment, plus a
two-year mandatory consecutive sentence for the violation of 18
U.S.C. § 1028A. The government, however, recognizes that there are
likely conditions of release, at this time, which could mitigate the
risk of flight in this case.

1 physical violence. Safety to the community 'refers to the danger
2 that the defendant might engage in criminal activity to the detriment
3 of the community.'" Cook, 880 F.2d at 1161 (quoting Comprehensive
4 Crime Control Act of 1984, S. Rep. No. 98-225; 1984 U.S.C.C.A.N.
5 3195). Furthermore, for purposes of the Act, "danger may, at least
6 in some cases, encompass pecuniary or economic harm." United States
7 v. Reynolds, 956 F.2d 192 (9th Cir. 1992); see also United States v.
8 Possino, No. CR 13-0048-SVW-3 (JEM), 2013 WL 1415108 (C.D. Cal. Apr.
9 8, 2013) (detaining defendant based on "economic danger to the
10 community"); United States v. Cohen, No. C 10-00547 SI, 2010 WL
11 5387757 (N.D. Cal. Dec. 10, 2010) (affirming pretrial detention order
12 based on economic harm where "fraudulent activity is ongoing or
13 defendant has a propensity to continue fraudulent activity").

14 Here, the pertinent 3142(g) factors, including the nature and
15 circumstances of the offense charged, the weight of the evidence
16 against defendant, and defendant's history and characteristics, all
17 support detention. Most notably, there is extensive evidence that
18 defendant would pose a serious and continuing economic danger to the
19 community if allowed to remain on bond pending trial. 18 U.S.C.
20 § 3142(g)(4).

21 As detailed in the indictment and in the affidavits attached to
22 Agent Karlous's declaration (Exs. 1-3), defendant has engaged in an
23 extensive pattern of criminal conduct since as early as 2011. In
24 this case, defendant is charged in this case with embezzling at least
25 \$9 million from his legal clients; failing to pay to the IRS at least
26 \$3.2 million that had been withheld from GBUS employee' paychecks;
27 obstructing the IRS's efforts to collect the payroll taxes GBUS owed
28 to the IRS; failing to file federal tax returns for himself and his

1 companies; committing bank fraud and aggravated identity theft in
2 order to obtain millions of dollars of loans; and making false and
3 fraudulent statements in the 2017 EA Bankruptcy.²⁷ Defendant has also
4 been indicted in the Southern District of New York for attempting to
5 use information he obtained during his representation of a legal
6 client to extort Nike out of approximately \$20 million, see United
7 States v. Avenatti, No. 1:19-CR-373, and stealing approximately
8 \$148,750 from another former legal client, see United States v.
9 Avenatti, No. 1:19-CR-374-DAB.

10 The similarities between defendant's prior criminal conduct and
11 his ongoing criminal conduct while on pretrial release is also deeply
12 troubling. As detailed herein, there is overwhelming evidence that
13 defendant had attempted to defraud his creditors in the 2017 EA
14 Bankruptcy and conceal funds and obstruct the IRS's collection
15 efforts prior to his indictment. This is precisely the same type of
16 conduct defendant has engaged in while on pretrial release. The fact
17 that he has continued to engage in such efforts while on pretrial
18 release proves that defendant remains a substantial economic danger
19 to the community.

20 Moreover, the fact that defendant continues to go to great
21 lengths to conceal his assets suggests that defendant may be engaged
22 in further fraudulent conduct. The Court imposed a condition of
23 release requiring defendant to give notice of financial transactions
24 over \$5,000, however, this condition did not prevent defendant from
25 continuing to engage in the criminal conduct described herein. To
26

27
28 ²⁷ Notably, the indictment alleges that defendant had been engaged in criminal conduct as recently as March 24, 2019 - the day before defendant was arrested. (Indictment ¶ 7(c).)

1 the best of the government's knowledge, defendant continues to reside
2 in a luxury condominium in Los Angeles that costs approximately
3 \$11,000 per month, is still employing a personal driver and being
4 transported in a \$50,000 Mercedes-Benz defendant purchased in his ex-
5 wife's name, and staying at luxury hotels when he travels. Although
6 defendant received \$1 million dollars from a settlement shortly after
7 defendant was indicted in the present case, the bank records show
8 defendant spending and using almost the full \$1 million within a few
9 months on himself, and not to pay any portion of the substantial
10 judgments ordered against defendant.

11 In addition, the records of the \$1 million dollar judgment
12 itself further evidence defendant's scheme, and mirror allegations in
13 the indictment. Although defendant initially advised opposing
14 counsel in March 2019, prior to any charges in this case, that
15 Avenatti & Associates represented E.S., defendant signed the
16 settlement agreement in April 2019 and instructed the payment be made
17 to defendant individually. (Karlous Decl. Ex. 37.) Defendant's
18 failure to pay over this amount was in violation of several judgments
19 against defendant, but was specifically in violation of various
20 Superior Court Orders from defendant's divorce case with Storie
21 prohibiting defendant from transferring, concealing, or disposing in
22 any way of assets subject to prior orders. (See supra § III.A.3.)

23 In sum, defendant's extensive pattern of criminal conduct and
24 the overwhelming evidence supporting those charges demonstrate that
25 defendant is a substantial danger to the community. If allowed to
26 remain on bond, defendant will almost certainly continue to engage in
27 further fraudulent and obstructive conduct.

28

1 3. Defendant Is Unlikely to Comply with the Conditions of
2 His Release

3 There is also ample evidence to suggest that defendant is
4 unlikely to comply with the conditions of his release. Crucially,
5 the ongoing criminal conduct set forth herein occurred despite the
6 fact that he was required to report such financial transactions to
7 his pretrial services officer. The conduct also demonstrates a
8 complete lack of respect for the law. Indeed, as detailed in Section
9 III.A.1 above, defendant has a long history of refusing to comply
10 with and/or violating court orders.

11 **E. Issuance of an Arrest Warrant for Defendant Is Appropriate**

12 Title 18, United States Code, Section 3148 provides that:

13 A judicial officer may issue a warrant for the arrest of a
14 person charged with violating a condition of release, and
15 the person shall be brought before a judicial officer in
16 the district in which such person's arrest was ordered for
17 a proceeding in accordance with this section.

18 18 U.S.C. § 3148(b). Issuance of an arrest warrant is appropriate
19 and necessary for three reasons.

20 First, as set forth above, defendant has violated the terms of
21 his pretrial release by attempting to defraud his creditors and
22 conceal his assets in violation of federal and state law. Defendant
23 has engaged in this ongoing criminal conduct while on pretrial
24 release, with the apparent assistance of his surety, and despite
25 being required to report all financial transactions over \$5,000 to
26 his pretrial services officer. An arrest warrant is therefore
27 entirely appropriate.

28 Additionally, if defendant is not immediately arrested there is
a substantial likelihood that defendant will continue his efforts to
defraud his creditors, conceal his assets, and fraudulently transfer

1 property to others. If defendant is alerted to the instant motion
2 prior to being brought before this Court, there will be nothing to
3 stop defendant from immediately hiding any remaining assets or making
4 arrangements for others to do so. Such actions could prevent his
5 creditors from ever recovering the funds to which they are legally
6 entitled, or significantly hinder the government's ability to
7 complete its ongoing investigation regarding defendant's fraudulent
8 conduct.

9 Indeed, defendant has a lengthy history of attempting to conceal
10 his criminal conduct when he is alerted to allegations of wrongdoing.
11 For example, on March 22, 2019, defendant testified under oath during
12 a judgment debtor examination in the Federal JFL Case. (Indictment
13 ¶ 7(k); Karlous Decl. Ex. 3, § IV.D.1) During his testimony,
14 defendant was specifically asked whether he embezzled Client 1's
15 \$4,000,000 settlement payment from 2015 and denied doing so.
16 (Indictment ¶ 7(k); Karlous Decl. Ex. 3, § IV.D.1.) After the
17 judgment-debtor examination ended, defendant drove to Client 1's
18 residence and told Client 1 that Client 1 would finally begin
19 receiving the settlement payments from the County of Los Angeles.
20 (Indictment ¶ 7(k); Karlous Decl. Ex. 3, § IV.D.1.) In order to
21 attempt to establish a defense against any claims Client 1 could
22 bring against defendant, defendant then returned to Client 1's
23 residence on March 23 and March 24, 2019, to have Client 1 sign a
24 document defendant claimed was necessary for Client 1 to receive the
25 settlement proceeds, and another document stating that Client 1 was

1 satisfied with defendant's representation. (Indictment ¶ 7(k);
2 Karlous Decl. Ex. 3, § IV.D.1.)²⁸

3 Finally, the government notes that defendant's trial in the Nike
4 extortion case in the Southern District of New York is scheduled to
5 commence on January 21, 2020.²⁹ The government believes it is
6 important that this issue be resolved immediately, before defendant
7 leaves this district, and in a manner that does not negatively impact
8 defendant's trial date in the Southern District of New York.

9 Accordingly, the government requests that the Court issue a
10 warrant for defendant's arrest so that defendant can be immediately
11 brought before the Court for a hearing on the instant motion.
12 Alternatively, the government requests that the Court issue an order
13 to show cause as to why defendant's bond should not be revoked, and
14 schedule a hearing on the government's motion as soon as possible.

15 **V. CONCLUSION**

16 For the foregoing reasons, the government respectfully requests
17 that this Court either: (1) issue a warrant for defendant's arrest,
18 schedule an immediate bond revocation hearing, revoke his pretrial
19 release order, and order him detained pending further proceedings in
20 this matter; or (2) issue an order to show cause as to why
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23 ²⁸ Similarly, on March 25, 2019, immediately after defendant
24 learned that law enforcement had approached the client identified in
25 the Nike extortion case and shortly before defendant's arrest,
26 defendant posted derogatory information regarding Nike on Twitter.
Superseding Indictment, United States v. Avenatti, No. 1:19-cr-373-
PGG, Dkt. No. 72 at ¶ 18 (S.D.N.Y. Nov. 13, 2019).

27 ²⁹ On January 12, 2020, defendant's counsel in the Nike extortion
28 case filed a request for exclusion of evidence or in the alternative,
a thirty-day continuance of the trial due to defendant's claim that
the government failed to turn over certain discovery in a timely
manner. Defendant's request is pending.

1 defendant's bond should not be revoked and schedule a bond revocation
2 hearing as soon as possible.

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