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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,	:	Case No. 18-CR-365-JNP
Plaintiff,	:	
v.	:	
JACOB ORTELL KINGSTON,	:	GOVERNMENT’S SUPPLEMENTAL
ISAIAH ELDEN KINGSTON, and	:	MOTION FOR DETENTION OF ISAIAH
LEV ASLAN DERMEN,	:	ELDEN KINGSTON
a/k/a Levon Termendzhyan,	:	
Defendants.	:	
	:	District Judge Jill Parish
	:	Magistrate Judge Brooke Wells

The United State hereby submits additional evidence in support its motion for pre-trial detention of Isaiah Kingston. This motion supplements the United States’ Motion for Detention of Jacob Ortell Kingston and Isaiah Elden Kingston. Doc 9. Defendant Isaiah Kingston’s detention hearing is scheduled for August 31, 2018 at 2:00 p.m.

I. Isaiah Kingston Personally Authorized At Least \$52 Million of Wires to Turkey

As discussed in the United States Motion for Detention, Document 9, Isaiah Kingston, through his company Washakie Renewable Energy (WRE) has significant financial ties to Turkey. WRE wired more than \$134 million to Turkey from September 2013 through December 2015. Doc 9 at 6-7 and Exhibit B. As the chief financial officer and 50% owner of WRE, Isaiah Kingston was in charge of WRE's finances. According to multiple witnesses, he oversaw the company's finance and accounting departments, he had signatory authority over the company's accounts, and he personally authorized large transactions.

Bank records establish that Isaiah Kingston personally authorized the transfer of at least \$52 million from WRE's accounts to Turkey. Bank of Utah wire transfer requests and Wells Fargo Transfer Activity Detail forms, attached as Exhibit H, reflect "Isaiah" as the individual who authorized these wire transfers to Turkey. *See* Exhibit H.

In particular, on March 5, 2014, Isaiah authorized the transfer of \$483,000 to a Turkish bank account in the name of Levon Termendzhyan, a co-defendant in this matter, as payment for the "VAT [i.e. Value Added Tax] of the waterside house (mansion)." The wire transfer request for this transaction clearly identifies Isaiah Kingston as the authorizing individual. *See* Exhibit I.

Accordingly, the evidence shows that Defendant Isaiah Kingston was instrumental in concealing fraud proceeds by transferring them to Turkey. Further, the United States submits these transfers show Isaiah Kingston had authority over these funds when they were transferred and therefore now has access to significant financial resources as well as real estate in Turkey.

II. Defendant Isaiah Kingston Submitted False Testimony in a Civil Matter to Conceal the Existence of WRE's Turkish Assets

Isaiah Kingston has himself admitted that WRE held significant financial and real estate

assets in Turkey. On April 17, 2015, as part of a breach of contract suit brought against WRE, Isaiah Kingston personally, and others, Isaiah Kingston filed a sworn affidavit stating: “As of May 2014, much of WRE’s cash was held on deposit with banks located in Turkey. Additionally, WRE held real estate in Turkey at the time.” *See* Exhibit J-1 (*Lifetree Trading PTE, Ltd. v. Washakie Renewable Energy, LLC et al.*, 14-CV-9075-JPO, Doc 40 at ¶ 6).

According to bank records, at the time of this affidavit, WRE had wired more than \$50 million to Turkey from September 2013 through May 2014. Further, following this affidavit, WRE wired an additional \$80 million to Turkish bank accounts from July 2014 through December 2015. *See* Document 9 Exhibit B.

Following this affidavit, Isaiah Kingston became aware of the government’s criminal investigation when, on February 10, 2016, the United States executed search warrants on WRE and UFS business locations and Jacob Kingston’s residence. In addition, the record reflects that the Court overseeing the civil litigation rejected WRE’s attempt to shield discovery into its assets in Turkey. *See* Exhibit J-3 p. 5 (Court order stating “Washakie came clean only when its story began to unravel, after the Court rejected its attempt to shield discovery into its supposed assets in Turkey.”).

In response to these developments, on December 7, 2016, Defendant Isaiah Kingston filed a second sworn affidavit recanting the sworn statements he had made in the April 24, 2015 affidavit. In this second affidavit, he wrote: “In paragraph 6 of my affidavit, I made the following untrue statement that I am withdrawing: As of May 2014, much of [Washakie’s] cash was held on deposit with banks located in Turkey. Additionally, [Washakie] held real estate in Turkey at the time” *See* Exhibit J-2 (*Lifetree Trading PTE, Ltd. v. Washakie Renewable Energy, LLC et al.*, 14-CV-9075-JPO, Doc 85 at ¶ 4).

As the bank records clearly establish, WRE, and Isaiah Kingston personally, wired significant funds to Turkey. The United States submits that Isaiah Kingston chose to submit false testimony during civil litigation rather than submit to discovery requests regarding Washakie's financial and real estate holdings in Turkey. This false testimony constituted a further effort to conceal the fraud proceeds he had transferred to Turkey.

III. Isaiah Kingston Paid Money to an Intermediary to Pay Enforcers to Intimidate Witnesses

Isaiah and Jacob Kingston schemed to pay an enforcer to intimidate and harm at least two potential cooperating witnesses, through an intermediary. As detailed in the United States' Motion for Detention, in November and December 2016, Defendant Jacob Kingston directed an intermediary by text message to send an enforcer to Miami to intimidate a potential witness and ensure that he would not cooperate with the government's investigation. *See* Document 9 at 8-10 and Exhibit D (Text messages with Jacob Kingston). Defendant Jacob Kingston and the intermediary used secret code words to refer to the enforcer ("OTEB"), the witness ("the Bird"), Miami ("imaim"), and cash ("dog food" or "food").

On January 25, 2017, Jacob Kingston texted the intermediary and wrote "I left 10lb of dog food w Isaiah." *See* Doc 9 Exhibit E. The intermediary protests that it is not enough money, writing "Did you only leave that?" Defendant Jacob Kingston responds, "I can have him get more. But you need to tell me how much."

Defendant Isaiah Kingston also communicated directly with this intermediary. For example, on January 26, 2017, one day after the exchange with Jacob Kingston described above, Defendant Isaiah Kingston texted with the intermediary to arrange for the delivery of cash ("food") to pay the enforcer ("OTEB"). In Exhibit K, attached to this motion, the following

exchange is captured:

Intermediary: Isaiah did you talk to Jacob I have to take care of OTEB by 4 let me know please. We should be done by 230 here. Thank you nice to see you again.

Isaiah Kingston: I havnt yet. Did he ever respond to you?

Isaiah Kingston: How much food do they need?

Intermediary: Yes he thought it was 2 but it's 3 and OTEB.

See Exhibit K.

These text messages prove by clear and convincing evidence that Isaiah Kingston conspired with Jacob Kingston to pay money to an enforcer, through an intermediary, for the purpose of threatening, intimidating, or injuring potential witnesses. As courts have repeatedly noted, “maintain[ing] the safety of witnesses is an important public interest.” *United States v. Alvarez*, No. 11-10074-01-EFM, 2011 WL 4971575, at *2 (D. Kan. Oct. 19, 2011); *United States v. Boone*, No. 02–1185, 2003 WL 841088, at * 5 (S.D.N.Y. Mar. 6, 2003), *aff'd* 120 Fed. App'x 868 (2nd Cir.2005), *cert. denied Boone v. United States*, 546 U.S. 921 (2005); *see also United States v. Smith*, No. 05–40065–01–RDR, 2006 WL 2714276, at *2 (D. Kan. Sept. 22, 2006).

In addition, as discussed in the United States’ Motion for Detention, Document 9 pp. 10-11 and Exhibit E, Defendants Isaiah and Jacob Kingston paid bribes to an intermediary who told them the bribes would be used for high ranking Department of Justice officials and judges, including one code named “Commissioner Gordan.” The text messages between Isaiah Kingston and the intermediary include discussions of Commissioner Gordan, as “CG,” demonstrating Isaiah Kingston’s involvement in the attempt to bribe officials. *See Exhibit K p. 2.*

IV. CONCLUSION

When a case involves a serious risk that a defendant will flee or attempt to obstruct

justice, the Bail Reform Act of 1984 provides that “a judicial officer shall hold a hearing to determine whether any condition of or combination of conditions ... will reasonably assure the appearance of the person as required and the safety of any other person and the community.” 18 U.S.C. § 3142(f)(2). If after a hearing, the Court “finds that no conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community, such judicial officer shall order the detention of the person before trial.” 18 U.S.C. § 3142(e)(1). The United States must prove a serious risk of flight by a “preponderance of the evidence.” *United States v. Cisneros*, 328 F.3d 610, 613 (10th Cir. 2003). The United States must prove danger to the community by “clear and convincing evidence.” 18 U.S.C. § 3142(f).

As argued in the present motion and the United States’ Motion for Detention of Jacob Kingston and Isaiah Kingston, Document 9, Defendant Isaiah Kingston poses a serious risk of flight. He faces an advisory guidelines range of life in prison and a statutory maximum of 30 years in prison. He was the CFO and 50% owner of Washakie Renewable Energy, which concealed more than \$134 million in proceeds of their fraud scheme in Turkey. Isaiah Kingston was personally responsible for wiring at least \$52 million of those proceeds, including a \$483,000 wire to pay the VAT tax on a mansion. Washakie Renewable Energy invested in SBK Turkey, which purchased Borajet, a private airline used by co-defendant Levon Termendzhyan to flee Los Angeles to Turkey during the execution of unrelated state search warrants. Isaiah Kingston is completely committed to concealing his fraudulent proceeds in Turkey. In civil litigation in the Southern District of New York, Isaiah Kingston submitted a sworn affidavit swearing that WRE had assets in Turkey before recanting this testimony to avoid having to provide discovery to the plaintiffs related to Washakie’s cash and real estate holdings in Turkey. Defendant Isaiah Kingston has the motive to flee, the means to flee, and the means to live an

exceptionally comfortable life in Turkey. The United States has proved by a preponderance of the evidence that Defendant Isaiah Kingston poses a serious risk of nonappearance.

In addition, Defendant Isaiah Kingston's efforts to threaten and intimidate prospective government witnesses pose a threat to members of the community. Exhibits D and E to Document 9 (Text messages of Jacob Kingston) and Exhibit K to this motion (Text messages of Isaiah Kingston) prove by clear and convincing evidence that Defendants Isaiah Kingston and Jacob Kingston conspired to pay an intermediary for an enforcer, "OTEB," and others to threaten or intimidate prospective witnesses. Such conduct constitutes clear and convincing evidence that Defendant Isaiah Kingston poses a great threat to the safety of members of the community, and particularly to potential government witnesses.

Accordingly, the United States respectfully submits that no condition or combination of condition will assure Defendant Isaiah Kingston's appearance at trial and safety of any other person and the community.

Exhibit H – Wire Transfer Requests verified by "Isaiah"
Exhibit I – Wire Transfer Request for \$483,000 for VAT tax for mansion verified by "Isaiah"
Exhibit J-1 – April 17, 2015 affidavit of Isaiah Kingston
Exhibit J-2 – December 7, 2016 affidavit of Isaiah Kingston
Exhibit J-3 – Opinion and Order
Exhibit K – Text messages of Isaiah Kingston

Respectfully submitted this 31st day of August, 2018.

JOHN W. HUBER
United States Attorney

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Certificate of Service

I certify that on the 31st day of August 2018 I caused a copy of the foregoing to be filed through the CM/ECF electronic filing system, thereby causing a true and correct copy of the foregoing to be delivered to the following:

scwlegal@gmail.com

/s/Leslie A. Goemaat
LESLIE A. GOEMAAT
Special Assistant United States Attorney