Declaration of Inmate Filing

Judicial Council for the Third Circuit

Docket Number J.C. No. 03-24-90020

I am presently an inmate confined to the Monmouth County Correctional Facility ("MCCI"). The Petition for Review of the Judicial Misconduct Complaint, was mailed on Monday, May 27, 2024, and is deemed filed on that date. Houston v. Lack, 487 U.S. 266, 276, 108 S. Ct. 2379, 101 L. Ed. 2d 245 (1988) (concluding that pleadings are deemed filed on date prisoner relinquishes control over documents).

Today, May 20th, 2024, I deposited the Petition, in the MCCI's internal mail system. First-class postage is prepaid by way of a forever stamp provided by purchased from commissary.

I declare under penalty of perjury that the foregoing is true and correct (see 28 USC 1746; 18 USC 1621).

Joseph Cammarata

Signed on May 20th, 2024

United States of America :
Plaintiff, :
v. :
Joseph Cammarata :
Defendant. :

Case #: 22-cr-639-PGS

MOTION FOR RECONSIDERATION OF DEFENDANT'S RULE 29 MOTION FOR ACQUITTAL AND RULE 33 MOTION FOR A NEW TRIAL

The Defendant, Joseph Cammarata, respectfully urges the Court to reconsider its order denying (1) the Defendant's Fed. R. Crim. P. 29, Motion for Acquittal and (2) his Fed. R. Crim. P. 33 Motion for a New Trial ("post-trial motions"). Mr. Cammarata asks the Court for its reconsideration in reviewing the law and the facts presented on the record and in the post-trial motions. Mr. Cammarata intends no disrespect to this Court, but must put on the record what he believes to have an unfair trial, judicial errors in denying post-trial motions, improper sentencing hearing, and a possible undisclosed pre-existing medical condition that may have impacted the post-trial motion procedures and sentencing.

Summary

The Government failed to present evidence at trial which provided, *beyond a reasonable doubt*, the tax due and owing for each of the years charged in the indictment. The Government's tax due and owing computations did not include deductible expenses and investment losses (herein referred to as "business expenses") under Internal Revenue Code ("I.R.C.") Section 212 and Section 162, in which the government possessed at all times and withheld from, not only the defendant, but more importantly the IRS and the jury. The IRS agent, Mr. Mazur, who was the government's expert witness who was responsible for calculating the tax due and owing, was not provided $19 million dollars of documented, possessed and undeniable business expenses of Mr. Cammarata from the government, only the alleged income. Mr. Cammarata then provided an attested spreadsheet in his post-trial motions that demonstrated an undisputed $17 million of subpoenaed business expenses (primarily from Merrill Lynch) and attested to another approximate $2 million of addition business expenses from other business accounts at Morgan Stanley, Ameritrade, Etrade, Bank of America, American Express and Visa credit cards, and the TD Bank business accounts that the government provided in the EDPA case, but deleted from the tax case discovery production to him. The Court is hung upon the Merrill Lynch accounts, but will soon see that there were many more that were specific business expenses and intentionally withheld by the government. While Mr. Cammarata has and will provide the irrefutable evidence and facts, for the record, that he had not been provided his business expenses by the government, and could not produce them at trial.

Mr. Cammarata was forced into a Constitutionally challenged and unfair trial. Mr. Cammarata not only knew the expenses had existed, and on January 23rd, 2023, he had asked the Court to compel the government to provide them where the Court attempted in ECF# 30, which the government subverted. At trial, the government's IRS expert witness who was tasked with calculating the tax due and owing, also testified under oath that he had not been provided Mr. Cammarata's business expenses and confirmed that without them, the tax due and owing calculation would be incorrect. Mr. Cammarata, despite being rushed and admonished by the Court, throughout the trial when he was cross-examining witnesses, had to then decide whether to upset the Court and take another day or two to testify, who stated in no uncertain terms, that the trial must end. This was while the government was allowed days on certain witnesses and Mr. Cammarata was precluded from laying proper foundations, and was admonished by the Court and often shut down and moved to the next question without any chance for a foundation. Mr. Cammarata, was a pro se defendant in a criminal trial, and was rushed and cut short in every cross-examination, without properly confronting his accusers and asking all the questions he required for a fair trial.

Without having the business expenses or them being presented to the IRS expert witness who calculated the tax due and owing, or to the jury, Mr. Cammarata had a difficult decision. Mr. Cammarata's decision to testify was also compounded by a Constitutionally unfair position to either give up his sixth amendment right to a fair trial by giving up his fifth amendment right to avoid self-incrimination to tell the jury about the undisclosed $19 million of business expenses, despite the government never providing or even showing any support for it. In fact, this motion provides the government's own emails and actions, that will demonstrate to this Court or higher Courts what is painfully obvious, there was never a fair trial and if not acquitted, he was due a new trial.

The Defendant was put in the position that if he did not testify the jury would have no way of knowing that there were the $19 million in business expenses that the government did not present to them. They heard Mr. Mazur testify that he was not provided "any expenses at all" as Mr. Miller asked him about on cross examination. Without the material and exculpatory evidence provided to Mr. Cammarata, the IRS, Mr. Mazur, the Court or the Jury, he would be forced to tell the jury they existed, yet can produce nothing to present to them. Moreover, it would have allowed the prosecution team to tell the jury about a previously corrupted fraud conviction, which would have denied Mr. Cammarata's fifth amendment right to avoid self-incrimination. Because the government suppressed the Merrill Lynch, TD Bank business expenses, and about twenty-five (25) other business accounts. Mr. Cammarata, was faced with the unfair choice of: hope that the jury would know that a man that owns 30 businesses, two business aircraft, and a private island resort business in the Bahamas would have spent more than $63.00 in business expenses in 2017 and 2018, and that the government hid his real business expenses from them and the IRS agent; or take the stand and have the unscrupulous prosecutors call him a criminal and a tax cheat, without anyway to prove the known (and suppressed) business expenses that are not disputed and were not provided to the IRS revenue agent or the jury. No criminal defendant, much less one with such significant withheld exculpatory evidence, should be forced to face that decision. Mr. Cammarata had to forego his right to a fair trial, for his 5th amendment right to avoid self-incrimination.

When the Court takes into account the fact, that despite the Court's possibly perceived antagonism to the Defendant, there is no denying the actual business expenses in Mr. Cammarata's post-trial and attested spreadsheet (which the government cannot challenge the authenticity because the numbers came from the evidence they had directly subpoenaed), the expenses were not applied to the tax calculations, and there is not and never was a tax due and owing. This always and constant ongoing failure to have ever been a tax due and owing, is a required element of 26 USC 7201. Regardless of the governments suppression of the business expenses, there was not any tax due and owing and therefore, there cannot be satisfaction of the statutory elements, and required an acquittal.

The sentencing hearing should not have proceeded while there was a missing statutory required element of a 26 USC 7201. Since the tax due and owing calculation was missing the material and exculpatory business expenses, and were confirmed to have not been provided to the IRS calculation witness, Mr. Mazur, who himself admitted that he could not attest that the tax due and owing calculation was correct. There was never a proper tax due and owing calculation that included the known and possessed business expenses by the government, and the Probation Office merely accepted the government's calculations without performing a calculation even with the post-trial, undeniable $19 million of business expenses.

The Defendant has some concerns that are difficult to raise, but will need then on the record, if this motion is denied and he must proceed to a direct appeal to the Third Circuit. The Defendant respectfully inquires on the record, if there are any undisclosed medical conditions of the Court, which would have perhaps required disqualification from the post-trial motions and criminal sentencing hearing. The Defendant is concerned that the Court, has had a significant decline of a pre-existing medical condition since the trial in November 2023. It is understood that the court had announced his retirement right around the time of the trial and maybe wanted to get this case off his docket. While the court took offense to the Defendant's insinuation that the court denied his post-trial motions without reading and considering them, he renews that allegation for the record.

The Defendant alleges that the Court had previously been preoccupied for the past four (4) months as evidenced by the half a dozen sentencing changes, failure to rule by ordered dates, and failing to rule before sentencing or perform the required disputed (and admitted incorrect) tax calculations that never included any of Mr. Cammarata's $19 million of business expenses. The court in its pending retirement, closing out cases, and possible medical issues may have inadvertently overlooked the Motion for a Judgment of Acquittal and/or a New Trial, which is understandable. However, the Court himself at sentencing admitted that he "though he already ruled on those motions" when it was clear he did not. This was already after the sentencing hearing had already improperly proceeded, and the Court appeared to be frustrated that he had not previously ruled, as he thought he did, so he made the "safe play" and just went with the government. If he had truly reviewed and ruled on the post-trial motions in advance he would have provided an order prior to sentencing, would have had some recollection what they were about, should have already had an opinion (if it was previously ruled as he thought) or at least remember the legal support. Additionally, the fact that the Motion to Dismiss (ECF# 137) was not ruled or even addressed at sentencing, reflects that the Court had not considered the post-trial motions until after sentencing had already proceeded. Finally, the Court had all of his sentencing notes prepared and essentially read from his prewritten decisions, for the post-trial motions there were none, no notes, no references, no apparent recollection of them

The post-trial motions were due by January 29th, 2024 and with excessive holiday, and year end lock-downs at the jail, and an inability to get the hearing and trial transcripts in time, Mr. Cammarata was unable to participate in his post-trial brief and had requested a mere two-week extension from the Court in which the government agreed to. The Court then unreasonably denied the unopposed and necessary motion for a filing extension of two weeks. The Court ordered that his ruling on the post-trial motions would be on March 18th, 2024 from the bench, and the motions were not ruled on that date or until after sentencing had already proceeded. At about a week before the (also cancelled) April 2nd, 2024 sentencing date, Defense stand-by counsel inquired about the post-trial motions, as sentencing memorandums would be required if the post-trial motions were denied. The Court, told counsel to proceed to sentencing and he will rule on the post-trial motions prior to the sentencing hearing. Since the conviction, there had been at least six (6) cancelations of the sentencing hearing and even on the day of the hearing it was delayed over two hours. At the sentencing hearing, the Court exhibited uncontrolled head shaking, which was only slightly noticeable at trial. At times during the Sentencing hearing, the Court became confused and disoriented. The Court proceeded to sentencing without ever ruling on the post-trial motions that were filed in January 2024, that were previously ordered to be ruled on March 18th, and then completely disregarded (or forgotten) about them, until prompted by the Defense, after about an hour into the sentencing hearing. When the Defense finally asked about the motions for acquittal and or new trial, the Court responded with frustrated confusion. The Court though that he already ruled on the motions, which he had not. He said, I already ruled on those, then caught himself, and was visibly disoriented and said, if he did not rule on them already, then he would do it now. The Court then asked for comment, which was perfunctory, while seeming to not have read the Defense's motions or understanding anything they argued, the Court then blindly accepted the government preposterous and unsubstantiated positions. The Court denied the post-trial motions without providing any law or support for the impromptu denials. The Court was angry and then acted incapable of understanding the legal requirements to resolve the issues raised about the Defense challenges and IRS Expert Witness's testimony that the tax due and owing calculation was incorrect, because it did not include Mr. Cammarata's business expenses (which he also attested were never provided to him). The Court demonstrated a "deep-seated antagonism towards the Defense and favoritism" to the government, where he ignored the facts, evidence and law that proved beyond any doubt that the government failed to prove the elements of 26 USC 7201 and did so by intentionally and maliciously suppressed almost all of the material and exculpatory evidence. This will be unquestionably proven in this motion and the Defendant can only hope the Court can set any ego aside to review the evidence and admit to a few possible oversights, and correct a miscarriage of justice.

Arguments from the Record and Evidence

The Burden of Proof did not Shift to the Defendant as the Government Would Like to Have it.

The government had possession of all the Defendants financial accounts including Merrill Lynch, Morgan Stanley, Etrade, Ameritrade, Credit cards, and several TD Bank accounts that had approximately $2 million of additional, unapplied business expenses beyond the $17 million documented in the post-trial motions. These accounts were all obtained through subpoena and search warrants and were provided in the EDPA case, which was prosecuted by the same Assistant U.S. Attorneys as this case. The Merrill Lynch account alone had received most of the alleged $16 million of "income" and it also contained the clearly documented business expenses in excess of $16 million, in that account alone. Curiously the government provided the "income" from the Merrill Lynch account, but not any of the documented business expenses within the same account. For the post-trial motion "ruling" after sentencing had already proceeded, Mr. Shapiro verbally cited some misconstrued case law at sentencing that the Court simply regurgitated back. The government cited the same Third Circuit case in their written opposition to the post-trial motions, but also omitted the most critical part of it at sentencing as well. The government declared, and the Court read back, "It is well settled that once the government establishes unreported income of the defendant, the burden is on the defendant to prove that he had other allowable deductions which were not shown in his return". United States v. Smith, 3 Cir., 1953, 206 F.2d 905; United States v. Link, 3 Cir., 1953, 202 F.2d 592; United States v Stayback, 212 F.2d 905 (3d Cir. 1953). What the government omitted from that citation is not only critical, but quite illustrative of why the government also "suppressed" that exculpatory information. Here is the citation without the government's convenient omission.

> "It is well settled that once the government establishes unreported income of the defendant and allows deductions claimed by him in his tax return **and others that it can calculate without his assistance**, the burden is on the defendant to prove that he had **other** allowable deductions which were not shown in his return" United States v. Smith, 3 Cir., 1953, 206 F.2d 905; United States v. Link, 3 Cir., 1953, 202 F.2d 592; United States v Stayback, 212 F.2d 905 (3d Cir. 1953).

Notably, the government, again misled the Court to believe that the burden of proof beyond a reasonable doubt had somehow shifted to the Defendant. While, there would have been a requirement of the Defendant to prove he had other deductions, like paper receipts, which are not shown on his return, there were plenty ($19 million worth) in the government's possessed evidence, that **"it could calculate without his assistance"**. Please be aware that these cases were from 1953, before the electronic era and computers, so calculating a person's tax due and owing from paper receipts and such would be applicable, but when the government had all of Mr. Cammarata's bank, brokerage, credit card statements, and business records, electronically there was no excuse to not provide the business expenses. The government did not even give those expenses to the IRS or Mr. Mazur who was required to do the criminal tax due and owing calculation. There can be no question that the IRS, Mr. Mazur, or the jury, would have not required any assistance to know that there were $19 million of business expenses (on the same accounts as the purported "income"), if the government provided that exculpatory evidence to them as require under the Brady Act. The Court can now see why the government did not provide (in fact deleted) these expenses from the discovery production to Mr. Cammarata for the tax case, and resorted to knowingly misquoting law, to further deceive the Court, which continues to agree with the government without any evidentiary corroboration.

If the Government "claimed" to have provided all the relevant discovery to the Defendant, why then was it also not provided to the IRS, the Court, the Jury, or the Probation Office?

Moreover, if the government wants to feign ignorance to the $17 million of business expenses from the Merrill Lynch account that it admits to always holding, why is it that they allowed no expenses from Merrill Lynch which accounted for over 90% of the alleged "income", to be presented to the IRS revenue agent, expert witness or the jury? Furthermore, these claimed "unknown", unacknowledged, and undisclosed business expenses were most of the same payees that the government, not only is aware of, but is listed as "Appendix C", of the always illegal Asset Freeze that illegally froze $78 million, the day after Mr. Cammarata was arrested on

November 3rd, 2021. IRS special agent, Mr. Hughes, in the grand jury transcript testified that he was involved in the SEC case as well, reviewed all the bank records and expenses, and was in fact the custodian of those documents. Please see the table below, and the record will represent that the government was incontrovertibly aware of Mr. Cammarata's business entities and expenses, and did not need "his assistance" in calculating the tax due and owing, because they never even gave them to the IRS revenue agent responsible for the revenue agent report to calculate the accurate taxes due. This Court (or the Circuit) should note that at least twenty-one (21) out of the approximately thirty (30) business that Mr. Cammarata referenced many times, where not only listed specifically as business interests and investments on the asset freeze, but are the identically identified payees that are included in Mr. Cammarata's attested spreadsheet. The below names are the precise payee names on the attested spreadsheet (of the withheld business expenses) provided in the post-trial motions, to the Probation Officer, and the Court, and yet the government is claiming they knew nothing about them, and that is why they must not have provided them to the grand jury, the petit jury, or Mr. Mazur, the expert witness calculating the taxes, that testified he had not been provided them and admitted that the tax calculation was incorrect without them.

1- Red Line Marine Liquidators, Inc.
2 - DataiFX S.A.S.
3- Dental Acquisition Company LLC
4- DFST Holdings, LLC
5- Dynasty Wealth LLC
6- Entrex, Inc.
7- Equity Acquisition Company Ltd.
8- Escala Capital S.A.S.
9- Fusion IQ
10- ID Global Corporation
11- International Technology Holdings Ltd.
12- Kuvera LLC
13- Macon Pineridge Apartments, LLC
14- Parkway Dental Services, LLC
15- Parralax Health Sciences, Inc.
16- Pineridge Apartments, LLC
17- Siren Marine, LLC
18- TapJets Technologies Inc.
19- The Amerigreen Products Company (dba Amerigreen Organics Co.)
20- The Token Team LLC
21- Tollpays, Inc.

Just to make this clearer for the Court; the government froze all of Mr. Cammarata's assets on November 4th, 2021 and in Appendix C of that freeze, identified his business interests and investments by name specifically to make sure they were covered by the freeze. However, then in the tax case, the government, failed to present these same known business expenses from these exactly identified business names from the bank accounts that the government had in their possession, and failed to provide Mr. Cammarata's business accounts at TD Bank, Ameritrade, American Express and other undeniable business expenses, to Mr. Mazur, and the jury. And if all of that is not obvious enough, there are many other cross referenced names that would identify that all of the spreadsheet expenses and many more from the suppressed, and still not disclosed TD bank, American Express, Morgan Stanley, Ameritrade, and Bank of America and other credit card statements, are the exact names listed on the asset freeze and the payee name on the bank statements.

The Court should now see the government's glaring failure and prosecutorial misconduct and undeniable violations of Fed. R. Crim. P. 16(E). Can the government still say they were unaware of those expenses being related to Mr. Cammarata's business and they failed to provide them to the IRS and the jury because they did

not think they were relevant, or perhaps they were not responsible for sifting through all of his business expenses, despite that they sifted through all his income that was also "not reported"? Your Honor this was a tax trial, the government provided only the alleged "income", and attempted to confuse the jury by claiming that they provided $10 million of credit for "marketing expenses" that were from AlpaPlus, NOT Mr. Cammarata's tax returns. That $10 million of "market expenses" was just that, paid to the clients as their approximate 80% of the settlement claims filed, but that had nothing to do with Mr. Cammarata's taxes, it was only AlphaPlus, but anytime they could confuse the jury and Court to distract from their misconduct, they successfully did. The government knew how absurd it was that they presented $16 million of "income" to Mr. Cammarata and almost no business expenses, and then also denied the jury, the 1042-S forms, 1099's and settlement claim letters which were all exculpatory and not provided either.

Now that the government has not challenged the business expenses, most which are listed on the asset freeze, and has not disputed the authenticity, payees, or amounts, there is no denial that they are material and exculpatory, which is why they falsely represented to the Court that they provided it to the Defendant "at least 3 or 4 times", yet cannot provide a single shred of evidence to demonstrate that, when in fact the evidence presented to this Court in the post-trial motions proved the government indeed suppressed more than just the Merrill Lynch expenses, but at least twenty one other accounts that contained Mr. Cammarata's business expenses. Maybe one or two, could have been an error, but twenty-one (21), that all contained business expenses and totaled over $19 million and the government knew the payees were not only business, but businesses that Cammarata owned and were even listed on the asset freeze, was not a mistake. The Defense has and will continue to prove the government's perjury, prosecutorial misconduct, and exactly how they never provided the most material and exculpatory discovery of the tax case, to the Defendant, as it is already on the record that the testifying IRS agent, the jury, nor the Court has been provided that exculpatory evidence either. There is also no dispute that Mr. Cammarata has repeatedly told the Court how critical and exculpatory these were for his defense and a fair trial, in almost every hearing, motion, and even at trial. Why then did Mr. Cammarata "decide" not to present any of it as his defense at trial? And the most important question for this Court (or the Third Circuit) is, if the government admits it was material, exculpatory and claims it was given to the Defense "at least 3 or 4 times' why then did they not provide it to the IRS expert witness, Mr. Mazur, or the jury either?

Mr. Cammarata told the Court without the Exact Documents, now Proven to be Suppressed, that there could not be a Fair Trial and he would be Convicted, and that is Precisely What Happened.

The Court was aware that Mr. Cammarata's defense was primarily predicated on the fact that his business expenses far exceeded the alleged income that was charged in the indictment, and that is why he knew there was never a tax due and owing, or the required elements of 26 USC 7201. On January 23rd, 2023 in open court, Mr. Cammarata explained that he needed the business expense records as they were critical to his defense and without them, there could not be a fair trial. The Court agreed with Mr. Cammarata's requirements of his business records and expenses for a fair trial. The Defendant made some foreboding statements in that hearing, knowing the government's three card Monte discovery games, that did indeed result in another unfair trial and conviction, by the same dishonest Assistant U.S. Attorneys, just as Mr. Cammarata predicted, without the business records he repeatedly told the Court he needed and never received.

January 23rd, 2023 Pre-Trail Hearing Transcript

This hearing transcript is from January 23rd, 2023 and was regarding the fact that Mr. Cammarata was on the record and under oath several times (while at these hearings) and even stand-by Counsel had explained that the Defendant needs these items to show the offsetting business expenses. [Defense comments in brackets]

Pages 13-14

> THE DEFENDANT: Yes, that would be fine for discovery, but **I'm talking about obtaining my files bank records, brokerage firm statements, on multiple firms in 30 businesses** that I've owned in the last nine years across three countries.

THE COURT: So what's the purpose of obtaining these records? They would provide a defense of some sort, or you could confirm the allegations of the Government? What are you doing?

THE DEFENDANT: **Yes, your Honor, both actually**. The numbers that have been provided by the Government are not in fact correct. They're not very far off, but they're not correct. [Defendant talking about the alleged $16 million of settlement payments] And on top of that **my only defense is to show my business expenses, allocations, bank and brokerage accounts, gains and losses and everything**. **This is a tax case, that's the only defense there is; without that information, there is no defense**. *We may as well have a speedy trial, you can call me guilty now and get it out of the way and I'll preserve my appeal rights.*"

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MR. MILLER: I think there are three categories of records I guess we're talking about. The records that pertain **primarily to Merrill Lynch, the Merrill Lynch** account that he had, **which he tells me it was that account from which he paid a lot of his business expenses**. And he can explain this better than I can, **but there would be documentary evidence there which the Government could not have had access to when it computed the tax due and owing for the years charged in the indictment.**

THE COURT: I agree with the right to defend yourself. **So we need to obtain those records somehow**.

Pages 16-17

THE DEFENDANT: Yes, I would agree with that. In fact, the data is much larger, it's 5.5 million – actually more than 5.5 million pages, I believe it was over a hundred gigabytes. It's a massive amount of data. And again, I've seen almost none of it for the past trial.

[Then when explaining that the government purported to put the tax trial discovery on Mr. Cammarata's discovery laptop, it took several times, and then when it was installed, there were just folder names, no data. This laptop will prove to dismantle the governments misrepresentations to the Court that they complied with the Court's order ECF# 30 and provided the defendant with all the relevant discovery for the tax case, on his discovery laptop.]

"The data that I did receive, the discovery was on a drive that didn't work at first at the FDC and then when it was working there was no actual data attached, it was just file names. So that was again another miss on the data. **And it was also missing some of the critical data like Merrill Lynch**."

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COURT: "And Mr. Cammarata also indicated that a computer that he had in place at some point in time during his Philadelphia trial, is not working as well or he's not in possession of right now, or access to it is limited. So all of that information -- there is no motion before me on it, but it's not very precise. And it's hard to detail an order that will allow Mr. Cammarata to develop a defense. **And I do agree with Mr. Cammarata that is necessary.**

There can be no denying that the government did not provide these business expenses to Mr. Cammarata prior to trail, as Mr. Shapiro insisted at the sentencing hearing. They may had been provided to defense counsel "at least three or four times", while not specifying that it may have been previous defense counsel in the EDPA trial, but Mr. Cammarata had never seen or had any access to his business expenses prior to trial.

Is the Court to believe that Mr. Cammarata repeatedly committed perjury, really had his business expenses, banking records, investment losses, brokerage and credit card statements (that clearly documented the $19 million of business expenses) the whole time, and for some reason did not want to present them as his defense, until after he was convicted? As ludicrous as this is to consider, without the required element of a tax due and

owing, there is still a "clear failure" to satisfy the criminal elements of 26 USC 7201 from just some of the expenses. It is even more difficult to explain why the Court ignored the well-established record, exculpatory evidence and business expenses clearly withheld, denied the post-trial motions, and then refused to do the required tax calculation, as it was not only objected to, but testified to being incorrect by the government's own IRS expert witness, and then proven on the record to be missing $19 million of expenses (and not disputed by the government); yet the Court still proceeded to sentencing. The government's primary contention appears to be that while the business expenses are undeniably accurate and valid, and there is truly NOT a tax due and owing, but that the (withheld) business expenses were merely not presented at trial, which is again because the government possessed them and failed to produce them to the Defendant or his discovery laptop.

Not Only the Business Expenses Were Suppressed

If the Court wanted to believe, despite the evidence, that Mr. Cammarata somehow had his business records and expenses, there can be no denying they withheld other exculpatory evidence, even after it was specifically requested, and was proven to also had been suppressed at trial. Another fatal defect of the government's representations of never providing the business expenses, brokerage accounts, credit cards, but remarkably, also the IRS 1042-S forms, 1099's, and claims administrator letters that stated the payments were "generally not taxable income", that the government failed to provide and was raised at trial. The Defense had sent an email to the government, prior to trial, specifically requesting any 1042-S forms, 1099's, and claims administrator check statements, because Mr. Cammarata had some (as presented at trial) and knew the government had many more, and had not provided any in the tax case. In fact, the government responded, by email to there being none, when that was also proven to be untrue and suppressed (the matter should have been over again at that point, as the government had no defense, it was well documented, easily proven, and yet the Court denied these being withheld as well). The 1042-S forms were so material and exculpatory that the government went into a panic, as the Court may have finally seen they were hiding all of the exculpatory evidence, that they previously denied having. They brought David Punturieri back to testify again, after the government already declared that they had none, and then proceeded to claim they never existed in their records, were falsified, or were never from the IRS. Then once they realized the jig was up, they had their own bates stamps on them, they were reported to the IRS, they <u>again</u> failed to produce exculpatory evidence, and most importantly the taxes were indeed withheld by the claims administrators and paid, and again they clearly had identified and failed to produce that to the Defense or the jury. The government then coached Punturieri to testify that they were minimal, "only a handful" and "only $12k taxes withheld by the IRS". It turns out, however, the government was setup again to show their prosecutorial misconduct because Mr. Cammarata knew there were many 1042-S, 1099's and claim payment letters from every year, that all provided the tax was already taken out, paid, and or not taxable.

On just that "handful discovered in Punturieri's desk", that were actually sixty-eight (68) 1042-S forms submitted to the IRS, it was not as minimal as the government will have the Court believe. There was, only for those two cases in 2017, over $375,330 properly reported to the IRS and the required taxes **<u>were actually paid to the IRS</u>**, in which like the $19 million of business expenses, were not disclosed, provided to anyone, and were required to offset Mr. Cammarata's alleged tax due and owing and none of this was done. These were only samples which proves that the settlement payments were reported to the IRS, taxes paid to the IRS (by withholdings by the administrators) where appropriate, and not taxable in many cases. the government failed to provide these, and when they were discovered, proven, and just that in that small sample of two cases from one year, demonstrated the taxes were reported to the IRS and paid, the issue was required to be addressed sua sponte. There was no willfulness, no tax due and owing and no way to Constitutionally sustain the conviction.

The Court's March 23rd, 2023 Order, ECF# 30, By Itself Requires a New Trial

The Defendant also demonstrates the problematic government averments that they provided all the exculpatory evidence, to the Defendant and updated his laptop to comply with the Court's order of ECF# 30. That order was a direct result of the Defendant's ongoing requests to obtain the exact records that he testified in the above raised hearing, that he needed those business records, he had not been provided them or had ever seen them even from the EDPA case. Mr. Cammarata was quite clear and on the record that without those material and exculpatory documents there could be no possibility of a fair trial, and the Court agreed. Again the record

reflects that Mr. Cammarata represented that he had not ever seen the documents he specified (on the record) and that the government had played discovery games in the EDPA case, and were trying to do the same in the tax case. The Defendant told Your Honor that there were over 5.5 million pages of discovery in which he had access to no more than 4% of it from the EDPA case, and whatever he had, did not include the Merrill Lynch, American Express, or other credit card, bank, and brokerage business accounts that were all material, exculpatory and did not need Mr. Cammarata's assistance to calculated the offset, if only they actually gave them to the IRS agents that created the "Criminal Tax Computation".

To further validate that the Defendant had always been on the record as never receiving the many business expense files from the many different accounts, not just Merrill Lynch, the Defendant provides the transcript from the end of the trial on November 9th, 2023 (day 7) page 1202, [Defense comments in brackets].

> THE COURT: So in the discovery you provided to Mr. Cammarata or his standby counsel you included all the discovery from the EDPA –
>
> MR. IGNALL: We did.
>
> THE COURT: -- district trial, and that would have been part –

[Notice that Mr. Ignall was always very quick to answer, often cutting the Court off before it can ask any probing details, of why Mr. Cammarata even as of the end of the trial still swore he did not have them.]

> MR. IGNALL: Correct. That's why Mr. Cammarata has access to it.

*[The government made it seem that Mr. Cammarata had access to it the whole time. The fact is after never receiving ANY of the business expenses he knew Merrill Lynch was a big part of it, but the government never provided it to him, so Mr. Cammarata asked his brother to reach out to former counsel for the EDPA case and ask if they had the Merrill Lynch, records and if they did to please email him, after a few days they did and he gave them to Mr. Grasso that day. ECF# 30 required the government to disregard the EDPA millions of pages of discovery evidence, which Mr. Cammarata had no access to anyway, and post March 23rd, 2023, only provide what was relevant to the tax case from the "millions of pages that were excessive" to what is relevant, which they claimed to do and did not include Merrill Lynch or any of the $19 million of Mr. Cammarata's business expenses]

> THE DEFENDANT: That's not true. I never got that discovery. I had no access to it until Wednesday, and the jail only prints on Wednesday. I printed it as of yesterday. Your Honor can take this.
>
> THE COURT: I can't take it right now but -- we have to mark those documents, and then if we want to make -- I'll reserve right now, but if you want to use those documents, we'll mark them in for you. Whatever you need to do.
>
> THE DEFENDANT: Your Honor, you may recall in January, you were very specific. You said, You can't just say, Hey, you have all the discovery. This is a different case. The discovery has to be differentiated, and that was clearly not done.
>
> THE COURT: First of all, I don't recall saying that, but if the documents were produced, that's what the requirement is to do.

*[While it's understandable that the Court did not recall saying that the discovery needed to be differentiated from the EDPA discovery, but there is no refuting that ECF# 30 did exactly that and the entire matter must end with that order. The Court did not respond to Mr. Cammarata's reference to ECF# 30 in the sentencing hearing or the denial order and memorandum ECF# 351.]

THE DEFENDANT: They were produced in the other case that I never had access to until Wednesday.

THE COURT: Well, that's not what Mr. Ignall is saying. He's saying all that discovery in the first case was copied and handed over to you folks at some point.

MR. IGNALL: Yes, sir.

THE DEFENDANT: That's not true.

MR. IGNALL: I don't think there is anything for the Court to rule on right now.

THE DEFENDANT: I never had access to it.

*[This is enough alone to justify a new trial, the Defendant, the facts, the evidence, ECF# 30, the updated "tax case discovery index" put onto Mr. Cammarata's laptop by the government, all told the Court that the government withheld it from him, the IRS, and the jury. Then the Court stated on the record, that the Defendant would need to be sworn in and there would need to be a hearing on the dispute. Mr. Cammarata has declared and attested under oath several times that he had not obtained, possessed, or reviewed the Merrill Lynch, or other 20 accounts that were removed from discovery for the tax case.]

THE COURT: We have to swear you in and have a hearing on that if that's what you're saying. I don't think I need to do that right now. You have access to the documents, you can use them if you want.

THE DEFENDANT: Thank you.

THE COURT: Your *Brady* motion is for mistrial?

THE DEFENDANT: My *Brady* motion is for relief from the indictment or to dismiss the indictment.

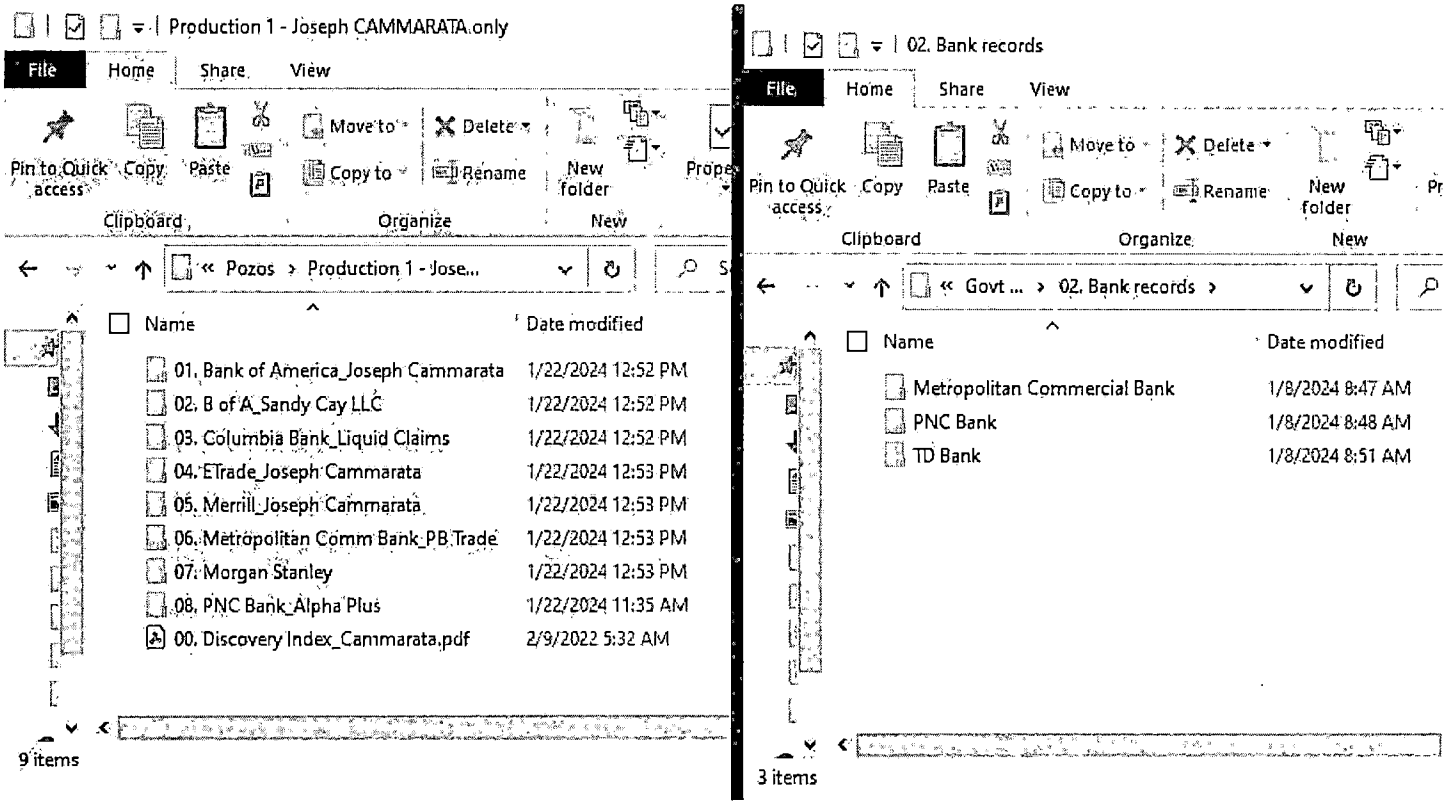
THE COURT: Either of those two reliefs to the motion, you need a motion and -- but right now we are going to continue.

(Whereupon sidebar ended.)"

In response to these Constitutional requirements to a fair trial and Brady disclosures, the Court issued the order in ECF# 30, to compel the government to limit the needle-in-a- haystack discovery that the government provided to Cammarata's counsel in the EDPA, but he never saw more than 4% and then provide all the discover that is relevant to the tax case. This is quoted, directly from the order, "It is my understanding that discovery is estimated to be in excess of 2 million pages. This is excessive." Then went on to say, "More importantly, it appears at first glance that the Government's attorneys are more knowledgeable about the content of discovery based on its involvement in the Eastern District of Pennsylvania criminal proceeding. As such, the Government should review and direct defense counsel to the discovery that is relevant to this action".

The government responded to that order and in appearing to comply with the court's March 24th, 2023 Order (ECF# 30), or at least the reduction part, when they updated Mr. Cammarata's discovery laptop at FDC Philadelphia, with the new discovery index, it still had no expenses at all. Mr. Cammarata provided (in the post-trial motions), the exact "discovery indexes" updated on his discovery laptop for the tax case, which are two only two (2) pages, as opposed to the EDPA discovery index which was five (5) pages. The government, in unambiguous language, represented to the Court that they provided Mr. Cammarata the discovery relevant to the tax case and included the "discovery index" of the files, which for the sake of fastidiousness will attach them below again as Exhibit B.

Mr. Cammarata also stated in his post-trial motions that the government's production to his laptop, after ECF# 30, was very well organized, clearly labeled, and had all the files that were listed in that "discovery index", but unfortunately had none of Mr. Cammarata's business expenses and accounts from Merrill Lynch, Morgan Stanley, the business accounts at TD Bank, ETrade, Ameritrade, and all of his credit cards that contained about $2 million of business expenses. The update also failed to include any of the actual business records. The laptop had the new post March 23rd, 2023 discovery index, and associated files with that index, but none of the EDPA business records or expenses (ever). The only files the laptop had were the new "reduced" discovery index files that was presented in Mr. Cammarata's post-trial motions as Exhibit C. Mr. Cammarata again represents that only business records or expenses that was ever on his laptop for discovery, even after the government updated the laptop to include the new post March 23rd, 2023 index and associated files did NOT include any of the EDPA files, just the "discovery index", which is how Mr. Cammarata knew they existed and were not provided. Here is a side by side screenshot of the bank records that were represented from the EDPA case (on the left) and then the what was represented and provided to Mr. Cammarata for the tax case (on the right). Why, if the government provided them to Mr. Cammarata, did they remove all of his business accounts, when providing the new index that was "everything relevant for the tax case"?



To make sure the Court is now completely clear, the Defendant is also attaching the government's "Discovery Index" from the EDPA case, which was ironically labeled "Joseph Cammarata Financial Records". Please see Exhibit A, which is five pages and include the "financial records" that were apparently provided in the EDPA case, which Mr. Cammarata had never had access to these expenses either, only the index listing the files, which is why Mr. Cammarata knew they existed, repeatedly asked for them, and was never provided them. The Defendant respectfully asks the Court to reconsider his judgment, if for nothing else, then by looking at these two Exhibits, A and B. Exhibit A, which is the discovery index provided from the EDPA case has the exact bank, brokerage, and credit card statements that contained all of Mr. Cammarata's business expenses and losses, that he has requested for two years and through the tax trial and never received. Exhibit B, is the "discovery index" that the government provided and represented to the Defense, was "the most important discovery for the tax case" in accordance with ECF# 30.

So there is no confusion, the government removed the following "financial records" from the tax case, when they represented to update the Defendant's discovery laptop with of all the relevant tax case discovery. The Defendant has highlighted what the government provided as "financial records" for the EDPA case, in Exhibit A, but were curiously missing from the tax case "discovery index", Exhibit B. If the highlights do not show well, please look at File Numbers 1, 2, 4, 5, 7, 9, 14, 15, 16, 17, 18, 19, 20, 21, which are the following accounts that were culled from the EDPA case and notably are all Mr. Cammarata's business accounts and accrued over $19 million of deductible business expenses, but were removed when the Court ordered the government to represent what was relevant for the tax case:

1. Bank of America Credit Card Statements (several credit card accounts)
2. Bank of America Credit Card Statements for the business account of Sandy Cay LLC
4. ETrade Brokerage account that had investments and losses
5. Merrill Lynch (three files that include all of the statements and interactions, but most importantly the business expenses (If it is not obvious enough, one file is listed as "Checks, Deposits, and Wires").
7. Morgan Stanley Brokerage accounts of both personal and business accounts (PB Trade LLC) which was several million dollars
9. Ameritrade is another brokerage account that contained investment losses, that were listed on Mr. Cammarata's tax returns, yet the government also omitted these.

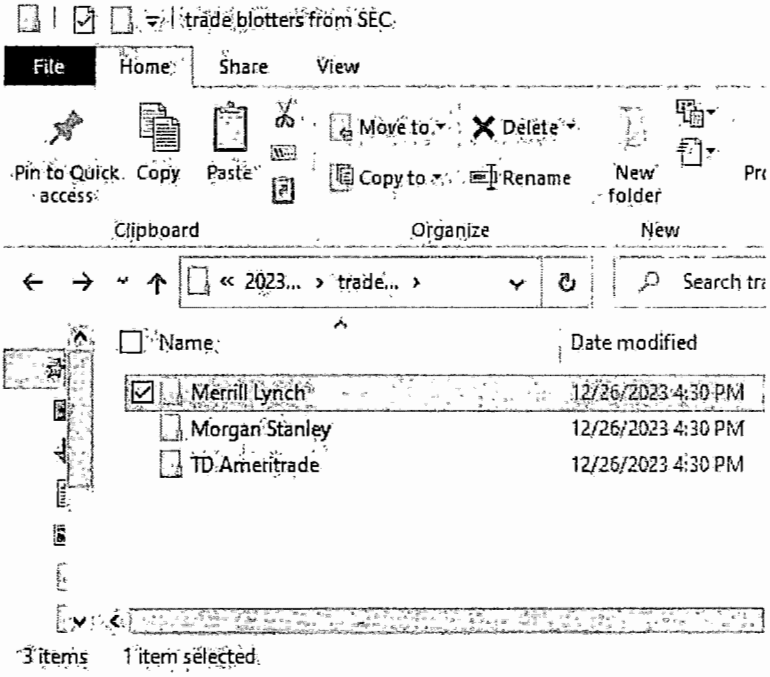
14 through 21. TD Bank statements that were all of Mr. Cammarata's business accounts, that also had many expenses and were also omitted from the tax case discovery. Remarkably the government did not remove all of the TD bank accounts from the tax case discovery, just the business accounts that had expenses.

Now if the Court looks at Exhibit B, the "discovery index" of the tax case is only two pages and as anyone will see, all of Mr. Cammarata's business bank, brokerage, and credit card accounts are NOT in the tax case discovery. If the Court sets aside the Merrill Lynch account that it appears to be concerned with, does it think that all these other business accounts, in addition to Merrill Lynch were deleted from the tax case discovery index, by an honest mistake? If the Court can still not believe that the Government deleted these ALL business expenses from the tax case discovery, why are the discovery indexes different and the new one missing all the business expenses?

The fact that the Court did not address these issues or even raise the critical ECF# 30 order, is why Mr. Cammarata contends that the Court did not read the post-trial motions. Is the Court claiming the government gave the Defendant all the business expenses several times, but then provided a new reduced two-page discovery index, and really provided the Defendant all the discovery anyway, which still would have violated the Court's ECF# 30 order? Why would the Defendant have continuously, on the record and during trial, still swearing under oath promise that he never got ANY of these business expenses, not just Merrill Lynch?

If the Court then wants to take the absurd position that the EDPA counsel may have had the files, but did not give them to Mr. Cammarata, it is not true and this was a completely different case, and while Mr. Cammarata has attested and still does, that he had not received the Merrill Lynch records prior to trial, the Court's Order in ECF# 30 and the governments updated laptop still not having these expenses and in fact removing the accounts from the new tax discovery index, support Mr. Cammarata and the facts. Further evidence of deception on the Court and prosecutorial misconduct was put on the record by the government in their Opposition (ECF# 136) tc Defendant's Post-Trial Motions. Remarkably, the government, (on page 27) represented that they provided financial records from Merrill Lynch, which were 2,646 pages, yet there is none of that on Mr. Cammarata's laptop. They expounded on their misdirection to state that on August 4th, 2023 they provided a production from Merrill Lynch and several financial institutions, which they emailed to Ms. Grasso. That is absolutely true and accurate, and Mr. Cammarata has those records, however, they are not financial records, but merely trade blotters. These records were useless to Mr. Cammarata in the tax trial, as they were only a list of trades executed at Merrill Lynch, Morgan Stanley, and Ameritrade in Mr. Cammarata's accounts. While that would have been helpful in the fraud case, to show that there were over 2,600 pages of trades for Mr. Cammarata alone, if they would have pulled up the near billion pages of SpeedRoute trades, they would have seen that

SpeedRoute did in fact own all of those trades that Mr. Cammarata filed claims on. As the Court, can see that was not provided in the EDPA case, but was provided in the tax case, was useless and was passed off as providing Merrill Lynch tax related discovery. Here is a screenshot of the "Trade Blotter" accounts created by the SEC that Mr. Cammarata was in fact provided by the government, just not those financial records or expenses from these accounts. This was a red herring to the Court.



Is coincidence that only the $19 million of business expenses were removed from the tax case, and were only the business accounts? If there is still any doubt to the governments willful misconduct, please look at the date on Exhibit B. Further proof of the blatant misconduct is the date of the tax case discovery index of December 1st, 2022, as it was already after the EDPA trial, if they try to allege that "discovery index" was from the EDPA case. The Defendant realizes he is being tedious and repetitive, but has lost everything and his liberty to these same dishonest prosecutors and will make sure that if the record is going to be very clear to the higher Courts of what went on in this trial, post-trial motions and sentencing.

The Discovery Laptop Dismisses any Valid Argument the Government Had

The last nail in the government's coffin of proven perjury and misconduct, can simply be evidenced by something Mr. Shapiro may have forgotten. As the Court is aware, Mr. Cammarata had his discovery laptop at FDC Philadelphia at all times before he was moved to MCCI in September 2023 (except when the government commandeered it to update it with all the tax related discovery after the Court's order). The record is clear that he never had more than 4% of the EDPA discovery on that and certainly any of the financial records from Exhibit A. In fact, Mr. Cammarata in a motion, on the record accused the government of an improper search and seizure of his discovery laptop from FDC Philadelphia when they took it to update it with all of the "tax case discovery", to comply with ECF# 30. Mr. Cammarata argued that the government never notified him and gained access to his entire legal defense strategy and privileged information, without allowing him notice to remove them. The government may try to run over there to tamper with evidence, but the Defense notices this Court and the government that Mr. Cammarata's personal property (discovery laptop) is privileged, and evidence for his direct appeal by putting this on the record. The defense has coordinated for a forensic expert [redacted] obtain the laptop from FDC Philadelphia directly, to maintain the chain of custody, and then prove what was provided and what was not. Please recall that the government represented that they took the laptop to provide of the discovery for the tax case, in addition to what was on already on there from the EDPA case. The forer results will provide to the Court of Appeals by clear and convincing evidence, that Mr. Cammarata's busines expenses were never provided to him, not in the EDPA case, and then not even after the government's

representation that they updated the laptop with all the augmented tax case discovery. What possibly justification can the government have for the many different business accounts described not being on t laptop that the government themselves updated to include everything relevant to the tax case? Not surp the updated tax case discovery they put on that laptop is the same Exhibit B discovery that had remove business accounts from the EDPA Exhibit A.

There is no possible defense for the government on these devastating well-documented facts, even i Court cares to ignore that the government was caught withholding the 1042-S (that were specifically re and they said there were none), questioned the authenticity, lied about them being reported to the IRS, t claimed only a "handful" and $12,000 when in fact the small sample of only two cases was over $300,(the taxes were in fact paid to the IRS! Without even discussing the 1099's and claim administrator lette were provided in the EDPA case and not in the tax case, even when requested in writing. Then the conv deletion of all Mr. Cammarata's business expense references in the tax trial, which now cannot be deni Cammarata has apparently defied the impossible, to "prove a negative" that he never obtained the recor government, never provided this material and exculpatory evidence to Mr. Cammarata or it would have his laptop. The discovery laptop alone, will demonstrate that Mr. Cammarata never had any of the busi expense records that were produced to previous EDPA counsel for that case, or was produced for the ta or even after the update for ECF# 30, was still not produced to Mr. Cammarata and on the laptop.

Even without the Fed. R. Crim. P. 16(E) Infractions, the Brady Violations and its Progeny, Canno Justify a Denial of a New Trial

As reconsideration, the Defendant asks this Court to please consider the well-stablished Third Circu Supreme Court law regarding Brady and its Progeny. Under Brady v. Maryland, "the suppression by th prosecution of evidence favorable to an accused . . . violates due process where the evidence is material guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." 373 U.S. at 87.

To establish a Brady violation, a petitioner must show three essential elements: "[1] [t]he evidence a must be favorable to the accused, either because it is exculpatory, or because it is impeaching; [2] that e must have been suppressed by the State, either willfully or inadvertently; and [3] prejudice must have e Banks v. Dretke, 540 U.S. 668, 691, 124 S. Ct. 1256, 157 L. Ed. 2d 1166 (2004) (quoting Strickler, 527 281-82).

There can be no contention that the evidence at issue, was not favorable to the accused, and if the $1 million of unchallenged business expenses were provided to the jury, or the IRS revenue agent, who wa expert witness and responsible for calculating what is now proven to be an incorrect tax calculation, the have never been a tax due and owing, also eliminating the essential element of 26 USC 7201. Even if w remove the fact that the Court's order of ECF# 30, has already required a new trial, as the government, inadvertently, did not produce the business expenses to Mr. Cammarata not before, on, or after March 2 2023, there is still a major Brady violation. Notice that the evidence must be suppressed, and in this cas if Court wants to believe it was not suppressed to the Defendant, the record is quite clear that the critica material, and exculpatory business expenses were indeed suppressed from the IRS revenue agents respo for the tax due and owing calculations, and the jury. Notwithstanding Mr. Cammarata's 5th amendment not testify, even if he had the business expenses, he had a right to remain silent and not present that evi himself, but it was required to be produced to the IRS agent witness responsible for the tax calculations jury, regardless of the Defense having it or not. In other words, by not providing that exculpatory evide the IRS (who testified it had never been provided) and the jury, the government unquestionably suppres from the trial evidence, and to call that prejudicial is an understatement. With the offsetting business ex there was no possibility of a tax due and owing. There was a violation of the 5th amendment and due pr and a new trial is required.

Further, the Defendant cites that the suppression of the known business expenses to the IRS agents v required to produce the criminal tax calculations, were provided with only the income and not the exper

important note, is that this was not a case of a filing false tax returns, which the government charged at trial (which will be raised a constructive amendment), stating constantly that Mr. Cammarata hid the $16 million of "income" on his tax returns during the relevant years. The reason Mr. Cammarata did not report the settlement payments was because they were not "income", they were also reported to the IRS through IRS 1042-S forms and taxes paid were required; and lastly because Mr. Cammarata also had over $19 million of offsetting business expenses to make sure there could never be tax evasion or a tax due and owing. The government, had to pore through all of his bank statements just to find the income, yet from those same account statements, ignored all of the expenses and never gave them to the IRS revenue agents. It was not like Mr. Cammarata stated a false income or expenses, he put neither, because he netted them and was not required to report the settlement payments as "income", because they were not, they were a partial return of a loss. Therefore, the government did in fact have to mine through the 22,000 pages of Merrill Lynch statements alone, and find the income, as they provided, but knowingly and willfully simply ignored the business expenses that they did not need Mr. Cammarata's assistance to determine. Mr. Cammarata also states that the government also violated the 5th amendment due process clause by obtaining a conviction through the use of false evidence (testified by Mr. Mazur), and allowed it to go uncorrected when it appeared.

In Napue v. Illinois, the Supreme Court recognized that "a conviction obtained through use of false evidence, known to be such by representatives of the State," violates due process, whether the State solicits the false evidence or "allows it to go uncorrected when it appears." 360 U.S. at 269. "[A] conviction obtained by the knowing use of perjured testimony is fundamentally unfair, and must be set aside if there is any reasonable likelihood that the false testimony could have affected the judgment of the jury." United States v. Agurs, 427 U.S. 97, 103, 96 S. Ct. 2392, 49 L. Ed. 2d 342 (1976) (footnotes omitted); see also Giglio v. United States, 405 U.S. 150, 154, 92 S. Ct. 763, 31 L. Ed. 2d 104 (1972) (quoting Napue, 360 U.S. at 271). Again, there can be no argument by the government or the Court that the business expenses, even if not "suppressed", were not provided to Mr. Mazur and therefore by his own admissions, of not having the associated and offsetting business expenses had presented an incorrect tax due and owing calculation. Moreover, the post-trial motions then provided the attested and unchallenged $17 million of documented (by the government's own evidence) business expenses, that caused there to be no tax due and owing. And, while the government's arguments are essentially that although there is not a tax due and owing with the withheld expenses, they were not provided during trial and therefore untimely. However, that does not change the fact that the post-trial motions proved that the government, even if not committed Brady Violations, had not correctly calculated the tax due and owing, by not including the exculpatory evidence and expenses (it did have). In fact, when Mr. Mazur testified that he had been provided none of the many business account deductions that Mr. Cammarata had and that his calculation was incorrect, there was a duty to correct it when it appeared to be incorrect by many millions of dollars. There was a post-trial failure to sustain the conviction, due to the fact that the 1042-S forms, and other several million dollars of business expenses were proven at trial, even without he banking records, and the IRS agent testified that all the expenses were withheld from him, and the tax due and owing calculation was incorrect without expenses. Then when a fully attested portion of the business expenses were provided and never challenged as the authenticity, amounts, payees, or business applicability, there was a requirement to perform an accurate tax due and owing, at least for the sentencing hearing. There was also an objection by the Defense, which required the issue to be resolved prior to sentencing and it was not.

There Can Be No Uncertainty that the Government Intentionally Suppressed Exculpatory Evidence fr the IRS Agent, and the Jury, even if not the Defendant

The Defendant, is attaching the relevant section of the trial transcript (day 7), from November 9th, 2023 i which Mr. Mazur was being cross-examined by Mr. Miller. The Q's are Mr. Miller and the A's are Mr. Ma [comments in brackets].

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BY MR. MILLER:

Q. When you were computing -- or preparing, rather, your revenue agent's report, did you make an inquiries as to how many businesses Mr. Cammarata may have owned?

A. No. I was not asked to do that. I took the items that -- as reported on the tax return.

[if Mr. Mazur only took the items from the tax return, how did he come up with $16 million of "incom that was never reported on the tax return? This further evidence that the government actually had to pr income, because it was not on Mr. Cammarata's tax return, which is why they also improperly charged with tax evasion instead of filing a false tax return.]

Q. You say you weren't asked, but this is your report. Weren't you concerned about the accurac

A. Based on what I was asked to do and the information provided, I am confident this is an acc report.

Q. So assuming for the sake of argument -- and this is, once again, a hypothetical question here. example, Mr. Cammarata incurred more expenses than he was given credit for in connection wi operation of a business, is it your testimony that those expenses were not deductible at all?

A. No. If he had additional expenses that weren't on the tax return, he would be allowed them if verified.

[This is one particular point at which the government could not deny knowing about the business exper even if not $19 million, they gave Mr. Mazur nothing, as you will see, and the government used falsifie evidence to obtain a conviction and was required to correct it.]

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Q. Well, did you -- were you concerned about the fact, given the nature and the size of the incor numbers that are in your report, that Mr. Cammarata could have incurred ordinary and necessar business expenses during the operation of his businesses that were not reflected in your report?

A. **There was no evidence provided to me that there were expenses at all**, even ones already tax return, and certainly not additional expenses beyond what was deducted on the tax return.

[no evidence provided to him that there were any "expenses at all", which confirms the curious fact of t tax case, and yet the income had to be calculated by the IRS agent, and the Defendant that owned 30 bu and took in $16 million of "income" had none of his well-documented business account expenses provi the very people responsible for calculating the criminal tax due and owing amount. There will be remar grand jury testimony of IRS special agent Leo Hughes, who testified to being part of the full investigati review of all bank records and expenses from all three (3) parallel prosecutions against Mr. Cammarata did not provide these bank records, 1042-S forms, tax payments, or documented $19 million of busines expenses to the agents that calculated the tax due and owing, or Mr. Mazur who also testified to as muc

Q. ...if a drug dealer -- and we know that's a crime -- reported his or her income, which they pr wouldn't, but they incurred expenses in connection with the earning of that income, wouldn't the entitled to deduct expenses?

A. They would be allowed to deduct them if they were otherwise legal expenses.

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Q. In computing your revenue agent's report, did you find any expense deductions that Mr. Cam was entitled to receive under Code Section 162, which is a trade or business expense, or the Sec provision, which talks about losses incurred in connection with earning money?

A. All right. I was not asked to analyze records to find those, and so I did not.

[Mr. Mazur was the IRS revenue agent and expert witness in a tax trial, in which he was tasked to calcu criminal tax due and owing computation without being provided or asked to analyze the records to find business expenses. It is not as if Mr. Mazur testified that he had the expenses, but thought they were per that he disputed their deductibility, he was denied those records, there was "no evidence provided to hin there were expenses at all", and he was "not asked to analyze any expense deductions that Mr. Cammar entitled to receive under Code Section 162, which is a trade or business expense, or the Section 212 pro There is no way to deny prosecutorial misconduct, Brady violations, and that the government obtained a conviction through the use of knowingly false evidence.

Sidebar:

THE DEFENDANT: Your Honor, I'm sorry. There's a whole bunch of Merrill Lynch expenses a millions of dollars of years in expenses that have not been calculated. It might have been erroneo this is the entire case, and I don't know how we're going to submit them.

Ms. Grasso has them, I assume they were given to the government. They have $63 for the year. ' millions of dollars of business expenses. That's my whole point, there's no tax due and owing in case. Even if they say it was fraud, I had over 18 million in expenses.

[Mr. Cammarata again telling the Court that the government had not provided the known and possessed business expenses, and Mr. Cammarata had no other way of submitting them if he took the stand to testi violate his 5th amendment right. However, even if he did the government would incriminate him by telli jury that he was already convicted for eight (8) counts of crimes in the EDPA case, and Mr. Cammarata still not have had all of his expenses and would have been exposed, naked, and unable to provide any ev that the government had withheld from him, the jury and the IRS agents to prove there was never a tax d owing. He would have looked like a liar, an already convicted felon, and would have only had his word that there were over $19 million of expenses that the government withheld. Who would they have believ was forced to violate his 5th amendment right? End of Sidebar]

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BY MR. MILLER:

Q. Mr. Mazur, sir, are you -- other than what you have on your revenue agent's report, **is it your testimony that you have no knowledge of any other expenses that Mr. Cammarata may hav incurred in tax year 2015**?

A. **Correct.**

Q. **2016?**

A. **Correct.**

Q. **2017?**

A. **Correct.**

Q. **2018?**

A. **Correct.**

Q. **2019?**

A. **Correct.**

[Mr. Mazur was not provided any expenses, and was provided a spreadsheet of income only, apparently Ms. Esimai (that he did not produce) and this was after he was a substitution for a woman who was supp be the IRS revenue agent that actually did the work. He was not asked to analyze the records and was no any of Mr. Cammarata's business expenses, in a criminal tax case, where the defendant owns 30 busine two business aircraft, and an international resort business. Mr. Mazur was clearly setup to be the govern patsy and knowingly omitted evidence from him, did not ask him to even analyze expense records, and Mazur and the jury relied on the admitted false RAR and tax due calculation at trial. The government knowingly admitted false evidence at trial, but for, there was not an essential element of the crime. The

government had the obligation to correct at trial, when it became clear, and the Court should not have a to proceed in violation of Brady and Napue.]

Fed. R. Crim. P. 16(G) Violations

The initial IRS Revenue Agent Expert witness was provided to the Defense and complied with Fed. P. 16(G) regarding the expert witness disclosures including: 16(g)(iii), "Contents of the Disclosure: The disclosure for each expert witness must contain:

- a complete statement of all opinions that the government will elicit from the witness in its case-in-chie during its rebuttal to counter testimony that the defendant has timely disclosed under (b)(1)(C);
- the bases and reasons for them;
- the witness's qualifications, including a list of all publications authored in the previous 10 years; and
- a list of all other cases in which, during the previous 4 years, the witness has testified as an expert at t by deposition."

However, when Mr. Mazur was then substituted in for the initial IRS revenue agent and expert witne was properly disclosed, the Defense made the specific requests to the government about Mr. Mazur and failed to comply. They provided a juvenile looking resume that was about a half of a page of his years employed by the IRS and nothing else.

Inadmissible Evidence under Federal Rules of Evidence 801

In addition to the violations of 16(G), Mr. Mazur admitted that he had only taken the previous agent' calculations. The entire Revenue Agents Report ("RAR") that the government presented the erroneous t and owing calculation, in which the jury relied on to find the required element of 26 USC 7201, was no testified to being inaccurate by not including any of the business expenses which were undeniably posse the government, but the critical document was admitted as hearsay evidence in violation of F.R.E. 801. Mazur admitted that he had only taken the previous agents' calculations and used Leo Hughes' docume (government exhibit 1004), both of which Mr. Mazur relied upon to present the admitted false tax due a owing. We now know the tax due and owing calculation was not only incorrect, by failing to include th business expenses the government had possessed, and Leo Hughes admitted to analyzing the financial r and expenses, and did not need Mr. Cammarata's assistance in identifying, but it was also falsely prese the government's IRS revenue agent expert witness, (1) who testified without the legally required disclo Rule 16(G), who then testified that the tax due and owing calculation was incorrect, if Mr. Cammarata h verified business expenses, (2) admitted under oath, that he was not provided any business expenses, (3 among other issues, testified that he had not participated in the investigation or was even asked to analy expenses (nor did he verify or provide his own calculations), as he only relied upon the information that given to him in creating the RAR report, in which he presented to the jury.

To validate that these facts, please refer to the relevant section of the trial transcript (day 7), from No 9th, 2023 in which Mr. Mazur was being cross-examined by Mr. Miller. The Q's are Mr. Miller and the Mr. Mazur.

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BY MR. MILLER:

Q. All right. Sir, I want to ask you some other questions about your role here, which I'll try to relate it to case. You didn't participate in the investigation along with the special agent in gathering evidence to wo the numbers in your RAR, did you?

A. **I did not.**

Q. **You simply relied upon information that was given to you; is that right?**

A. **Correct.**

The testimony and record evidences that none of the numbers, business records, or expenses that Mr relied on to present the Revenue Agents Report to the jury, were not investigated, created, or verified by He, "simply relied upon the information that was given to him", which in addition to the fallacy of a va due and owing, it was improperly admitted hearsay evidence, in violation of F.R.E. 801. The Circuit ha advised, "To determine when hearsay evidence is admissible, we have developed a balancing test that "consider[s] both the reliability of the proffered hearsay and the cause why a witness is not produced." U States v. Lloyd, 566 F.3d 341, 344 (3d Cir. 2009). "Although we generally review a district court's appl of that test for abuse of discretion, if the district court "made no attempt to conduct the analysis" we rev admissibility of hearsay evidence de novo". Id. That knowingly false presentation of a willfully faulty t calculation was not only improperly admitted hearsay, but proven "false evidence" presented to the jury which Mr. Cammarata was convicted upon.

Violation of Mr. Cammarata's 6th Amendment Confrontation Clause Right

Mr. Cammarata was denied the right to the right to confront and cross-examine the adverse witnesse gathered the information, omitted the known business expenses, and created the actual evidence that Mr relied upon and admitted he did not create, and yet was used to convict Mr. Cammarata. For example, M Mazur also testified that he had worked with IRS Special Agent Leo Hughes, who was the person that v responsible for the investigation, and provided the "income only spreadsheets" to the initial expert that abandoned, and also Mr. Mazur. Mr. Hughes had known of Mr. Cammarata's 30 businesses and posses business expenses that were required to be used that did not require Mr. Cammarata's assistance, and ye not produced as a summary witness, or as any witness, despite being at the entire EDPA fraud trial and Tax trial. Mr. Hughes, who clearly was the lead investigator, the witness Instead the government produc summary witness and only an expert witness who violated Fed. R. Crim. P. 16(G), admitted that he was person responsible for the tax calculation that included the expenses, business or personal, and he simpl what was given to him and created a self-admitted incorrect tax due and owing criminal tax calculation. Cammarata was denied his 6th amendment right to confront the witness that provided the evidence prese convicted him, not a scribe who was put up as the government's lackey, who was not provided or comp any review of the bank, brokerage, or credit card financial records, that included all of Mr. Cammarata' business expenses.

This was further prosecutorial misconduct by knowingly, presenting an expert witness that was deni the exculpatory evidence (including business expenses, 1042-S forms, 1099's, and the claim administra payment letters, stating that "the payment was generally not taxable income" (that came with almost ev claim settlement payment). The government, not only failed to comply with Rule 16(G) when Mr. Mazu substituted in, but with the one individual that was responsible for calculating the criminal tax due and c calculation, was intentionally denied all of the exculpatory evidence (financial records, business expens 1042-S and 1099 forms (that showed the taxes were reported withheld by claims administrators and pai IRS), and the accompanied settlement payment letters. The IRS expert witness agent was denied the abi complete any kind of remotely accurate calculation of the tax due and owing, by not being provided the or the work-up support for the spreadsheets he was provided. He testified that he simply relied on what already completed by the previously disclosed IRS expert, who would have had all these exculpatory ite expenses, and interestedly, had "a conflict the week of the trial" so they sent Mr. Mazur with her work t present her work to the jury. He admitted that he "simply relied upon information that was given to him was then hearsay evidence that also withheld all of the exculpatory evidence.

These previous few sentences are all verified by the record and undoubtable prove that Mr. Mazur's disclosures were not presented and violated Rule 16(G); Mr. Mazur then introduced evidence at trial, th his work product or even validated, as he simply relied upon what was already given to him, in violatio F.R.E 801; He testified that "There was no evidence provided to me that there were expenses at all", an is no dispute the government, the IRS and Mr. Leo Hughes had extensively reviewed these records and expenses (as will be shown shortly), demonstrates that the government also violated the Brady Act, by

suppressing the most material and exculpatory evidence from the IRS witness and the jury. Moreover, even if the Court's want to somehow believe that Mr. Cammarata repeatedly committed perjury, and really had the $19 million of business expenses, but did not want to present it, he still had a 5th amendment right to testify and admit, because it was required to have already been provided to the IRS agents calculating the tax due and owing and the jury, so that Mr. Cammarata was not required to violate his 5th amendment rights, because the government violated his right to have presented all exculpatory evidence, not only to him, but the IRS witnesses who were forced to perform knowingly incorrect calculations without it, and the jury who could have had no way of knowing that the income had indeed been reported to the IR and paid through the 1042-S forms and IRS 1099's, in which there were hundreds a year (that the government called a handful and still proved to not disclose them, even after requested) had $19 million. The jury (and the IRS expert witness) also had no way of knowing that Mr. Cammarata indeed had over $19 million of business expenses that offset any tax due and owing, but he could have only let them know if he was forced to violate his 5th amendment right to not testify. The government withheld all the exculpatory information from Mr. Mazur, the Jury, and while Mr. Hughes had it all, that is why he was not put forth as a witness, therefor also denying Mr. Cammarata his right to confronted the witnesses that actual had all the exculpatory evidence, gave it to no one, and could not be questioned or cross-examined, in violation of the 6th amendment.

The Grand Jury Transcript Presented IRS Special Agent Leo Hughes as their Only Witness

Mr. Cammarata has already proven that he was not afforded a fair trial, and that even so, there was not any actual tax due and owing. He will add to the record that Mr. Hughes who was the government's sole witness to indict Mr. Cammarata for a five (5) count charge of tax evasion under 26 USC 7201, he was nothing more than a lead witness, that said almost nothing more than yes or correct throughout the entire hearing. However, some notable sections are included below.

Grand Jury Transcript September 22nd, 2022 at 10:02am, of Mr. Shapiro telling Mr. Hughes that there was a crime, and Mr. Hughes saying yes (as a marionette). Q's are from Mr. Shapiro and A's are Mr. Hughes [comments in brackets].

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Q. Okay. And have you had the opportunity to work with the -- well, first of all, hand in hand with the other federal agencies as part of your investigation?
A. I have.

Q. And have you also had the opportunity to obtain information from the SEC as a result of their paral civil case?
A. I have.

Q. Okay. And your testimony today is in part based on information that you have developed yourself correct?
A. Yes.

Q. As well as information that you obtained from the other agents, both civil and criminal?
A. Yes.

Q. Also from documents that you have reviewed?
A. Yes.

Q. And witnesses that you've interviewed and the other agents have interviewed?
A. Yes.

[Here, Mr. Hughes has, as Mr. Cammarata declared, participated in all three prosecutions against him, i the SEC civil case, with the asset freeze, and was present at every day of both the EDPA and tax trials. testified (through a series of "yes" and correct" statements) that he had reviewed the bank statements.]

Q. Also, from your review of records?
A. Correct.

Q. And included among those are bank record?
A. Yes.
Q. And is it safe to say that the bank records that have been obtained as part of your investigatio truly voluminous?
A. Very, yes.

Q. And it would be very difficult to cart those into the grand jury room here today?
A. Correct.

Q. And you are the custodian of those bank records?
A. Yes.

Q. And you are in a position to summarize and provide to the grand jury information extracted f those records pertinent to your testimony today?
A. Correct.

[Mr. Hughes, on the record, disclosed as the person who participated in all three (3) prosecutions, two c criminal trials and an erroneous civil judgment, and not only reviewed the bank records, but is the custo those bank records. Why did he not provide the bank records to the people responsible for calculating th due and owing, Mr. Mazur, the jury, and why was Mr. Hughes not presented as a summary witness? Ins neutered Mr. Mazur was purported to be an expert witness that provided an alleged tax calculation that produced without any information that he created or verified and he was not provided any of the exculp evidence, or even "any expenses at all".]

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Q. In 2010, Joseph Cammarata established a bank account at TD Bank under the name PB Trad PB Trade LLC had no independent business activity. And by that, I mean, based on your investi you have not discovered any reason for its existence apart from holding funds for defendant Jos Cammarata?
A. Correct.

Q. You have looked at its records, you've asked Cammarata's accountant, and you've discovered no operations other than holding funds, and primarily holding funds recovered -- that it received from Alpha
A. Correct. When I interviewed Cammarata's accountant he wasn't even sure what the business c than potentially involved in Cammarata's investments.

[This is another material misrepresentation in which the witness (or Mr. Shapiro) was impeached there, Trade was in fact a valid investment business that had made numerous investments in approximately 30 business, which the government, Mr. Hughes, not only knew, but then contradicted "his own" averment only existence was holding funds received from AlphaPlus. On page 36, talking about the tax preparer, Mr. Troy Eisner, the government again impeached themselves that PB Trade "had no independent busir activity".]

Q. Okay. And in fact did you have -- and you mentioned this before. Did you have an opportunity to qu him about what business PB Trade was in?

A. Yes.

Q. And was he aware of it?
A. He really wasn't sure. You know, he thought in the very broad and general it was related to Mr. Cam investment activities.]

Q. Okay. Beginning in about May 5, 2015, defendant Cammarata deposited proceeds from the f scheme into this account. From about July 7, 2015, through on or about June 18, 2020, defenda Joseph Cammarata transferred and cause the transfer of funds from bank accounts in the names Jersey Nimello, New Jersey Quartis, and PB Trade into brokerage accounts he controlled at Mer Lynch, Pierce, Fenner, and Smith, known as Merrill, in the name of PB Trade LLC.

From About May 26, 2015, through on or about August 9, 2021, defendant Joseph Cammarata u funds from PB Trade LLC TD bank account for personal expenditures?
A. Correct.

[Mr. Cammarata was not charged with fraud in this case, nor was there any trial or conviction at that po to reference the funds as a "fraud scheme", was not only improper but prejudiced Mr. Cammarata to the jury repeatedly. This undeniable prejudice to the grand jury, alone, is enough to reverse the already tain conviction. These improper, prejudicial allegations that were not charged in this case and not yet tried in EDPA case, were included throughout every charge and in each year throughout the hearing, which coe grand jury to unconstitutionally indict Mr. Cammarata with inflammatory and prejudicial allegations.]

Q. From on or about February 22, 2016, through on or about July 15, 2021, Joseph Cammarata transferred funds from the PB Trade LLC TD bank account to a personal account at TD Bank th shared with his wife.

[Mr. Cammarata notes for the record that neither of those TD Bank accounts were provided in the post discovery index or his discovery laptop at all.]

From on or about May 6, 2015, through on or about February 19, 2020, defendant Joseph Camm withdrew $530,880 of cash from the PB Trade LLC bank account. In or about January 2016, de Joseph Cammarata established a bank account at Metropolitan Bank under the name of PB Trad Between on or about February 2, 2016, and on or about April 29, 2016, defendant Cammarata d proceeds from the fraud scheme into this account.

In or about November 2017, defendant Joseph Cammarata established a bank account at TD Ban the name of Miscellaneous, M-i-s-c, Holding Corp., which we're going to call Misc Holdings. B on or about October 19, 2018, and on or about November 17, 2020, defendant Cammarata depos proceeds from the fraud scheme into this account. And when we talk about the fraud scheme, we talking about what you and I have talked about, the false claims submitted to claims administrat throughout the United States. You understand that, right?
A. Correct.

[Can there be any denial of prejudice, when Mr. Cammarata was not charged with any fraud in this case certainly had not been to trial, and had a right to a presumption of innocence., and yet, like the entire Gr hearing, that was a very long leading statement and certainly not a question, in fact Mr. Hughes, was no if it was true, but rather if he understood that.]

Q. From on or about May 5, 2015, through on or about November 9, 2020, defendant Joseph Ca obtained more than 18 million in income from Alpha Plus. And what we're talking about there is false claims income that we're talking about?

A. Correct.

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Q. From at least on or about January 1, 2015, through on or about October 12, 2020, defendant Cammarata used funds from bank and brokerage accounts in the names of PB Trade LLC and M Moldings to pay more than 4 million of personal expenses?
A. Correct.

[These so called "personal expenses" were not only failed to be disclosed, because they indeed include business expenses, but further proves that, despite the fallacious claims of not being responsible for doi analysis of business expenses, they clearly reviewed and were well aware of Mr. Cammarata's expense Court still of the opinion that these business expenses were never discovered, were not material and exculpatory, and were not withheld from the IRS revenue agents, Mr. Mazur, the trial evidence, and jur

Q. So from on or about January 1, 2015, through on or about October 16, 2016, in the District o Jersey, and elsewhere, defendant Joseph Cammarata willfully attempted to evade and defeat a l of the income tax due and owing by him and his wife to the United States of America for the ca year 2015 by committing the following affirmative acts, among others: A, diverting income int accounts in corporate names, and we've talked about those corporate names, correct?
A. Correct.

Q. B, paying personal expenses from corporate accounts and we've talked about that?
A. Correct.

Q. C, providing to his tax return preparer false financial information that did not include, appro $1,721,646.11 of income that he had received from Alpha Plus in the calendar year 2015, and th income that we're talking about there is false claims income?
A. Correct.
Q. And we're going to get back to the tax return preparer in a few minutes. All right?
A. Sure.
Q. D, filing and causing to be filed with the IRS a false and fraudulent form 1040 for the calend 10- -- 2015?
A. Yes.

[These accusations for each claim and year was also a constructive amendment to the indictment, where government broadened the possible basis for a conviction from what was not charged in the indictment.

Q. And when we talk about a form 1040, I'm pretty sure that everybody here is familiar with tha But just so that we're clear, that is a typical IRS form, correct?
A. Correct.
Q. And it's a form in fact filed with IRS by most American tax payers every year?
A. Yes.
Q. And it's what we file to report our income, our deductible expenses, credits, and taxes due fo preceding tax year?
A. Correct.
Q. Okay. Now, from your investigation from **and in particular from your review of bank and records that we've talked about today, were you able to calculate tax due and owing for th year that we've just been talking about for 2015**?
A. **Yes.**

Q. And based on the information that we have been talking about for tax year 2015, what is the and owing by Mr. Cammarata that was not paid?
A. $645,000 and -- $645,583.

Q. Okay. So that is the Cammarata tax loss for 2015?
A. Correct.
Q. Turning to 2016, from on or about January 1, 2016, through on or about October 30, 2017, in District of New Jersey, and elsewhere, defendant Joseph Cammarata willfully attempted to evad defeat a large part of the income tax due and owing by him and his wife to the United States of A for the calendar year 2016 by committing the following affirmative acts, among others: divertin into accounts in corporate names, and we've talked about that?
A. Yes.
Q. Paying personal expenses from corporate accounts and we've talked about that?
A. Yes.

Q. **Providing to his tax return preparer false financial information that did not include,** approximately, $2,550,491.29 of income that he has received from Alpha Plus in the calendar ye We will, again, come back to the return preparer, but --
A. Yes.

Q. -- that 2 million 550 -- two-and-a-half million dollars, that's **false claims income** --
A. Correct.
Q. -- that we're talking about **that was not reported**?
A. Yes.

Q. Filing and causing to be filed with the IRS a false and fraudulent form 1040 for the calendar y 2016?
A. Yes.

Q. So turning to the year 2016, have you been able to calculate a tax loss due and owing for that calendar year?
A. I was.
Q. And what did it amount to?
A. $1,063,647.

Q. Based on reported **income**?
A. Correct.

[The government made it clear that there **was no income reported**, see above, then again Mr. Shapiro misrepresented and confused the grand jury to rely upon further false statements. There was no income and there were also no deductions reported, because (a) the settlement payments were not taxable, (b) th payments were reported, and where required, withheld and paid to the IRS on the 1042-S forms (that we provided as a small sample and also withheld by the government); and (c) there was not ever a tax due a owing because there were well documented business expenses of over $19 million on the exact bank rec that Mr. Hughes attested to reviewing and being the custody of the records.]

It should be clear to any Court by now why Mr. Hughes was not presented by the government as a w the criminal trial, and rather put up the woefully unprepared, improperly disclosed, replacement, who w nothing more than a copy scribe of the information that he himself was not included in creating, did not personally validate, or was given "any expenses at all", and yet provided a knowingly inaccurate tax du owing calculation and then entered it into evidence, in violation of FRE 801, inter alia.

Constructive Amendment[s]

"The Fifth Amendment requires that a defendant be tried only for crimes for which he has been ir See U.S. Const. amend. V; Stirone v. United States, 361 U.S. 212, 217, 80 S. Ct. 270, 4 L. Ed. 2d 252 (

"Accordingly, a court cannot later amend an indictment - either formally or constructively - to include i charges." Ex parte Bain, 121 U.S. 1, 6-9, 7 S. Ct. 781, 30 L. Ed. 849 (1887).

"A constructive amendment occurs when the court "broaden[s] the possible bases for conviction fro which appeared in the indictment." United States v. McKee, 506 F.3d 225, 229 (3d Cir. 2007) (citation internal quotation marks omitted). "For instance, an indictment is constructively amended if the jury instructions "modify essential terms of the charged offense" such that "the jury may have convicted the defendant for an offense differing from the offense the indictment returned by the grand jury actually c United States v. Daraio, 445 F.3d 253, 259-60 (3d Cir. 2006).

1) The Indictment Charged 26 USC 7201, and NOT 26 USC 7206(1)

Mr. Cammarata was charged with five counts of 26 USC 7201 ("7201") tax evasion in the indictme require the following elements, "**Attempt to evade or defeat tax.** Any person who willfully attempts i manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to othe penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more th $100,000 ($500,000 in the case of a corporation), or imprisoned not more than 5 years, or both, togethe the costs of prosecution". Noticeably the required elements are different from 26 USC 7206(1) ("7206(which is filing a false or fraudulent tax return. The government needed to prove all of the required elem 7201, which they failed on a tax due and owing at a minimum, but also constructively amended the indi to also charge Mr. Cammarata with the elements of 7206(1) from the grand jury indictment, to the open statements, throughout the trial and the closing statements by both Ignall and Shapiro.

There are different required elements for the two statutes and while the Defendant would not like to charged with 7206(1), that is what the government should have charged him with, and used its element convict Mr. Cammarata under 7201, by broadening the possible bases for conviction from th[ose] whic appeared in the indictment. In the interest of providing only a few samples of the grand jury, trial, open closing transcripts, instead of the entire trial, which will be enough to undeniably prove that the governm used the elements of the uncharged 26 USC 7206(1) statute to constructively amendment the indictmen jury.

From the Grand Jury Hearing Transcript, page 28.

Again, we have Mr. Shapiro telling the grand jury there were crimes, that included in addition to the ch 26 USC 7201, alleged violations of 26 USC 7206(1) and wire fraud as we have seen previously.

> Q. So from on or about January 1, 2015, through on or about October 16, 2016, in the District o Jersey, and elsewhere, defendant Joseph Cammarata willfully attempted to evade and defeat a la of the income tax due and owing by him and his wife to the United States of America for the cal year 2015 by committing the following affirmative acts, among others: **A,** diverting income into accounts in corporate names, and we've talked about those corporate names, correct?
> A. Correct.
>
> Q. **B,** paying personal **expenses from corporate accounts** and we've talked about that?
> A. Correct.

[There are expenses admitted to have been paid from corporate accounts. The Court has seen the expen eth subpoenaed bank records that included the $19 million of expenses, and Mr. Hughes has already tes was involved with SEC case (to know of the asset freeze and Appendix C) and knew full well that those expenses paid to LLC's, corporations, business aircraft, a resort business, and business credit cards wer business expenses and NOT personal expenses.]

Q. **C, providing to his tax return preparer false financial information** that did not include, approximately, $1,721,646.11 of income that he had received from Alpha Plus in the calendar y 2015, and that income that we're talking about there is **false claims income**?
A. Correct.

Q. And we're going to get back to the tax return preparer in a few minutes. All right?
A. Sure.

Q. D, filing and causing to be **filed with the IRS a false and fraudulent form 1040 for the cal year 10- -- 2015?**
A. Yes.

[As clearly evidenced just from the grand jury hearing, Mr. Shapiro represented that there were again fa claim filings, before any trial or verdict of fraud, and then even incorporated the elements of 7206(1) in elements of 7201, to broaden the basis to convict on charges that were not within the indictment. This is only undeniable, it was repeated throughout the grand jury hearing, the opening statements, trial, and cl statements.]

Here is Mr. Ignall's inappropriate, inaccurate and constructively amending comments during the openir arguments at trial. See trial transcript day 1.

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"$16 million. That's how much the defendant, Joseph Cammarata, hid from the IRS over t course of five years. Money that he made from **a massive multiyear fraud**. **A fraud** that he anc partners perpetrated on class action settlements. **Fraud** that he perpetrated by creating fake docu fake e-mails, and pretending to be unaffiliated with the **fraud**. The money we're talking about in case, ladies and gentlemen, was meant to compensate people who lost money in the stock marke you'll learn during the course of this trial, Mr. Cammarata never lost a single dollar associated w claims. That meant he was not entitled to a single dollar that he got from this **fraud**; a **fraud** tha more than $40 million to Mr. Cammarata and his partners. The $16 million we're talking about v of Mr. Cammarata's share of that **fraud**. He **hid that money from the IRS**. Ladies and gentlem **that's tax evasion**, and that's why we're here today.

We need to step back a moment right now and talk about the **fraud** because the **fraud** is the sou the income, the money that Mr. Cammarata **hid from the IRS**. And as you're going to learn dur course of this trial, even though Mr. Cammarata made the money from **fraud**, it was still incom He had to report it to the IRS, but, instead, **he chose to hide it**."

These are the exact troubling words from the opening arguments by Mr. Ignall. The first words he sa "sixteen million dollars", which was not the amount of the alleged tax evasion. In fact, there was no "th evidence will show". He just outright told the jury that there was $16 million "hid from the IRS" from a "massive multiyear fraud", and used the word "fraud" four (4) times in the first two sentences, for a tax trial, with no charge of fraud, and did not preface these improperly charged inflammatory statements wi "evidence will suggest". In his first five (5) sentences he used the word fraud eight (8) times, and four (told the jury that Mr. Cammarata "hid that money from the IRS", in which none of those are the require elements of tax evasion. Indeed, he then materially misrepresented to the jury, at the end of that prejudi tirade, by saying, "that's tax evasion". On the contrary, that is 26 USC 7206(1) and certainly not tax eva The government told the jury that the allegations of fraud and hiding money is tax evasion and there car argument that those are not tax evasion or even the required elements of tax evasion.

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"You're going to see and hear other evidence that **proves that Mr. Cammarata was involved i in fact, orchestrated this fraud**; that showed that Mr. Cammarata made **more than $16 millio hid from the IRS**.

Page 74

That leads us to Mr. Cammarata's attempts to hide the money he made, to hide that mone the IRS.

Trial Transcript, Day 8, Closing Arguments

By Mr. Shapiro

Page 1560

"If you make all this income, as Mr. Bookman told you, **you're supposed to declare it, and yo sure not supposed to hide it**. **So what is the evidence of hiding**? Well, number one, he gets m and millions and millions of dollars from false claims. They go into **his entities, especially PB** He doesn't tell his accountant and **he files false tax forms**. So let's talk about these three things, Using other companies to **hide the income, not telling his own accountant, and filing false ta returns**."

Here it is again even in the closing arguments, to "broaden[s] the possible bases for conviction from t which appeared in the indictment", the government continues to tell the jury about the charges of "hidir money" and "filing false tax returns" and "false tax forms", which are the elements of 26 USC 7206(1). even threw in that it went to Mr. Cammarata's "entities, especially PB Trade", of which they provided r business expenses to Mr. Mazur or any testifying agents or the IRS.

Page 1562

"And what does PB Trade say in 2017? You saw 1002. Page 36 is the **PB Trade schedule**. Ze Zero.

Every dollar gets hidden. PB Trade is making $5 million, but what's it telling the IRS? It's tellin IRS we had a horrible year. **We had lots of expenses this year, but zero income**.

What does PB Trade tell the IRS? Surprise, zero. Evasion, **hiding, misleading**. When you tell the IRS one thing, terrible year, not making much money, making zero money, losing mone **these expenses**, no income, when the reality is very different. The money is pouring in. **That's evasion**."

While Mr. Shapiro in his animated excitement of misleading the jury and constructively amending th indictment to be hiding money and trying to tell the jury, "that's evasion", he let the cat out of the bag a "all these expenses". Where are all these expenses, on the said $5 million in 2017? If the court recalls th expenses were ZERO?!?! The years of 2017 and 2018 the government told the jury that Mr. Cammarata business deductions were $63 for those two years. Then do not forget the over $300,000 of reported pay and taxes PAID, all proven and withheld, from the 1042-S forms that were from, surprise, 2017.

Page 1566

"Mr. Bookman tells you that **you don't hide them from your accountant**. Y**ou don't hide the the IRS**. You have a financial reason to put **expenses and deductions and credits on your retu because they reduce your income tax**. So ask yourselves, if you have legitimate deductions, w wouldn't you put them on your returns? And especially if you have **legitimate deductions**, why you hide them from your return and instead put on millions and millions of bogus expenses? It n sense. It's what every bouncer on the Jersey Shore knows. If the truth will get you what you wan don't fabricate a complicated lie."

Then there a two more quick samples from the closing arguments rebuttal by Mr. Ingall from the sai 8, trial transcript that are illustrative.

Page 1606

Let's talk for a minute about the tax returns that Mr. Cammarata filed, **tax returns that were fa**

There is the continued misrepresentation on the jury that Mr. Cammarata filed false tax returns, hid t alleged income, and had no business expenses or deductions. But, then as Mr. Ignall engaged in a const amendment starting with first words of his opening arguments, he finished strong to demonstrate beyon doubt that they charged Mr. Cammarata with 26 USC 7206(1) from the grand jury, and then first word opening arguments to the last word of their closing arguments.

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And he knew that **his tax returns were false when he reported a small amount and eventual as income to PB Trade**. So, ladies and gentlemen, when you go back in the jury room and you all the evidence, consider the testimony of the witnesses, you consider the text messages, the em exchanges, **you consider the tax returns that Mr. Cammarata filed that were false, you con the millions of dollars that he hid from the IRS**, you're going to come to one conclusion. Mr. Cammarata is guilty on all counts. Thank you.

If that last sentence of the closing arguments is not enough to demonstrate that the government broa the possible bases to include the statute 26 USC 7206(1), then any reviewing Court has failed the federa system and the Constitution, in allowing a miscarriage of justice to continue. The government, in no un terms, told the jury exactly what to consider, and they were NOT the elements of tax evasion. Rather th government told the jury to consider, that "the tax returns that Mr. Cammarata filed that were false" anc consider "the millions of dollars that he hid from the IRS". Then the last words, after considering those elements of 26 USC 7206(1), "you're going to come to one conclusion. Mr. Cammarata is guilty on all However, unfortunately for the government the jury considered what the government told them to right last words, and the jury did find Mr. Cammarata guilty on those exact considerations, for the elements t filing a false tax return and hiding money, not tax evasion. The government should have indicted Mr. Cammarata on 26 USC 7206(1), but they chose to indict him on 26 USC 7201, and in additional to the Constitutional violations and acts of prosecutorial misconduct, including Brady violations, Due Process Napue, they failed to prove the elements of 7201 beyond a reasonable doubt and instead constructively amended the indictment to also include the elements of 7206(1), but did not charge that in the indictmei relied on those elements to indisputably broaden the bases of charges for a conviction, that were not cha the indictment.

2) The Indictment Charged 26 USC 7201, and NOT Fraud 18 USC 1343

Mr. Cammarata also makes the same constructive amendment argument for the fact that at least 90% "tax" trial was a complete replay of the corrupted EDPA fraud trial, with most of the same tampered ev that was all produced by the cooperating witness with no chain of custody after proving perjury numero even during the tax trial. Again, there was no charge of fraud in the tax case indictment and yet the jury thrust into a confusing fraud trial, without fraud being one of the elements of 26 USC 7201 either. Witl going through, the many examples, as it is the entire trial, the defendant, will preserve the record for the argument of direct appeal.

Violations of Federal Rules of Evidence 403

The Defendant will renew his objection that was made numerous times in pre-trial motions and at tri the government's evidence was not only almost all related to the uncharged fraud allegations, but that a of the evidence provided to convict Mr. Cammarata, was also after the relevant period of 2015 through fact, almost all of the "evidence" provided was from November 2019, when the investigation of the ED fraud case began. Mr. Cammarata's argued that the court should have excluded "relevant evidence if its

probative value is substantially outweighed by a danger of one or more of the following: unfair prejudic confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulativ evidence." Fed. R. Evid. 403.

Post-November 2019 Evidence

The Indictment, ironically charged Mr. Cammarata with tax evasion from 2015, through October 20 the evidence in which the government relied on to Convict Mr. Cammarata (for fraud) started after than November of 2019. The government argued that the post-2019 evidence of fraud, was to show relevant for the tax evasion charges, which might have been plausible if the evidence was relevant conduct was t during the time of the alleged tax evasion. Mr. Cammarata could not have had relevant conduct, after O 2019, as not one of the evidenced cases shown had paid Mr. Cammarata any settlement payments, whic have been a taxable event and relevant conduct argument. It would have a viable admission of evidence, alleged evidence and conduct was prior to October 2019, but then that not a single one of these "relevan conduct" arguments were relevant to the time period of the indictment and there was not even a remote possibility of there had been tax evasion. To make sure the record is clear, despite the arguments made a the alleged relevant conduct that was all after the indictment period, also had not received a single settle reward. Mr. Cammarata had no possible way to commit any alleged tax evasion, on this post November evidence, as none of those claims were paid. It would have been a valid admission if the indictment cha with fraud, because that would have been relevant conduct, but this was a tax evasion case, and there wa any relevance or relevant conduct after November 2019, if there was not a single claim payment made t Cammarata after October 2019. There was no possibility to evade taxes on income that does not exist, a evidence was impermissibly allowed and allowed for unfair prejudice, that confused the issues, and cert misled the jury, caused undue delay and wasted time, that then denied Mr. Cammarata ample time for cr examinations or to lay proper foundations, as the trial was rushed when Mr. Cammarata or stand-by cou was presenting.

From the Trail Transcript Day 1, Mr. Cammarata objected to the use of the evidence past Oct 2019.

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THE DEFENDANT: Objection, Your Honor.
THE COURT: All right. What's the objection?
THE DEFENDANT: It's relevance. This is in 2020. The case we're looking at again is up to Dec 31st of 19 –
THE COURT: All right. I will have a sidebar with you on that.

(At sidebar.)

THE COURT: So I will listen to the objection first.

[the Court clearly said that he wanted to listen to the objection first, and again the government jumps in interject and throw off the pro se criminal defendant.]

MR. SHAPIRO: Your Honor, I believe we get the objection. I just want to give you a heads-up. exhibit list tells you which exhibits are in the book. This one is in book --
THE COURT: It's in the book? Okay, thanks.
MR. SHAPIRO: That was all.
THE COURT: All right. I'm sorry, go ahead.

THE DEFENDANT: Yes, I'm sorry. We had talked about anything over -- after December 31st, especially if these were not paid claims, and that's part of the issue, is it's outside the scope. I'm c with everything -- past history and everything else we have talked about. This is a tax case, and I the relevance and the damage –

[The government again doing its trademark, interrupt when there is evidence they do not want to come proof of their misconduct.]

> MR. IGNALL: Well, there are a couple things here. One, Mr. Cammarata's last filed tax return i case was in October of 2020, so it's after this date. But regardless of that, so during the time of tl fraud, it's certainly relevant to show that Mr. Cammarata is aware that **these claims are being p** through fraud and therefore –

[As Mr. Ignall conceded that "the last filed tax return was October 2019, so it's after this date but", goe say that "it's certainly relevant to show that Mr. Cammarata is aware that these claims are being paid thr fraud". This was the basis for the Defendant's adamant and repeated objection. Mr. Cammarata was fin relevant conduct, certainty if it was a fraud case, but even if the government wanted to admit that post-(2019 evidence for relevant conduct to the tax case, it would have been allowable, if there was any oppo for tax evasion and Mr. Cammarata was actually paid on any of those claims! However, Mr. Ignall agai materially misrepresented to the Court, in stating that "these claims are being paid through fraud". Not the claims that the government presented from the objected post 2019 evidence, did Mr. Cammarata obt payment or income from. If those claims that the government presented evidence of, past October 2019, actually "been paid" as Mr. Ignall perjured, then there may have been at least an argument of relevance. fact that it was "fraud" conduct, not tax evasion, and then being after the review period of the tax indict and not a single one of the claims presented as evidence was ever paid to Mr. Cammarata which could h resulted in any "relevant conduct" of tax evasion, was preposterous, misrepresented to the Court and in violation of 403.]

> THE COURT: Keep your voice down.

> MR. IGNALL: -- **when, therefore, that these claims are being paid because of fraud**, he's aw that fraud and, **therefore, is getting income from them during this time period** even if they ar other claims that Alpha Plus made earlier. Beyond that, regardless of the date, evidence that sho Cammarata's participation in and knowledge of the **fraud** is relevant to prove that earlier claims likewise part of the same **fraud** scheme **and were income**, and also provide him with his willful **hide that money from the IRS**.

[Mr. Ignall dug himself deeper into proving that the evidence they used at the tax trial, which was almo after October 2019, was not only "fraud" related (403 and constructive amendment), but again also false represented to the Court that those claims were paid, Mr. Cammarata received income on them, and that post Oct 2019 was income from the fraud scheme. If any of those statements were true, then perhaps all evidence could have been admissible, but in light of the fact that none of those claims ever paid anythin dissolved the government's entire argument. Mr. Cammarata was never paid on or from any of those cla evidence was inadmissible and the government once again made bald-faced lies to the Court.]

> THE COURT: So what it's showing is his knowledge?
> MR. IGNALL: It certainly goes to show his knowledge **that we need to prove that this is inco Mr. Cammarata** and that he was willful –

> THE DEFENDANT: **During the time –**

> MR. IGNALL: And the way that we prove that **Mr. Cammarata got income is to prove that tl claims were made through fraud**. And a lot of what we are going to introduce through this wit the next witness prove Mr. Cammarata's participation in the fraud. And even if these communica about the fraud are at the tail end of the fraud, they are still admissions by Mr. Cammarata just a made an admission to an undercover agent after the fact. Simply because he's making a later adn doesn't change the relevance to prove that he was a participant in the fraud all along.

THE COURT: How do you get to an admission by Mr. Cammarata?

MR. IGNALL: Well, we're going to go through a number of e-mails here, Your Honor, that's go show correspondence with Mr. Punturieri, and it's going to show how Mr. Cammarata ultimatel lie to this witness to verify trading.
THE COURT: So you're going to link that up through your evidence?
MR. IGNALL: We are. And it's going to be a voice mail message that we are going to play thro witness
where Mr. Cammarata pretends that he is not affiliated with Alpha Plus. And the jury can easily evidence to infer that Mr. Cammarata had been part of this fraud all along and therefore he's aw
-
THE COURT: **Circumstantially.**

MR. IGNALL: -- **this is fraudulent income** and, **therefore, it's income to him**, it's not repaym loss.

[It appears that the Court was questioning the admission of the evidence, and knew that it was circumst best, but then Mr. Ignall tells the Court that "it's income to him". The government had over ten (10) yea emails, phone calls, text messages, tax returns, and business records that could have been used for relev conduct. However, they decided to use only the evidence after October 2019, that was knowingly outsi indictment period, and then had to lie to the Court, that the untimely and irrelevant evidence provided ir Mr. Cammarata, in order to have it admitted. All of the post October 2019 evidence was after the releva indictment period, and with no income from any of the claims of the untimely evidence, there was no p of probative value to the tax case, it was inadmissible and Mr. Cammarata told the Court on the record a the next statement.]

THE DEFENDANT: Your Honor, I mean, I'm going to argue they have had seven years to find They're only looking at relevance outside the period here, the class period, the tax year, of 2019. was seven years. There's lots of e-mails in seven years. **And on top of this, these weren't even you can't even say that, well, this was tax income – taxable income during 2019. This was n taxable income, not income at all in 2020. No way this could be relevant. This is prejudicia**

Income from 2020 Included in Spreadsheets

Mr. Cammarata, also raises in this motion that the (income only) spreadsheets that the government p to the jury throughout the trial, to show a "criminal tax calculation" also included income from after the indictment review period and income from 2020, that increased the tax due and owing calculations. Mr. Cammarata does not have access to the government exhibits right now, but there were several of the spreadsheets provided to the jury at trial, that were not only very voluminous, but as the government scr through those exhibits, they included income from beyond October 2019 and 2020 that was confusing a showed a considerably higher total at the bottom (from dates outside the indictment period). This was al violation of the federal Rules of Evidence 403, over objection by the Defendant.

Restitution was Improperly Ordered

The Court also improperly at sentencing, ordered restitution to the U.S. treasury in ECF# 150 at page Court ordered a restitution payment of $6,023,189.00 due immediately and for tax offenses prosecuted u title 26, restitution is ordered as a condition of supervised release, but the Defendant can agree to restitu ordered as an independent part of the sentence. The Court must also, "before ordering restitution must c several factors, including the amount of loss, the defendant's financial resources, the financial needs an earnings ability of the defendant and his or her dependents, and any such factors the court deems appro see United States v. Caldwell, 302 F.3d, 399, 420 (2002).

While Mr. Cammarata has already been ordered by the EDPA court to pay over $31 million in restit the Department of Justice, over $2.7 million to the SEC, there are not enough assets left from the EDP court's unlawful freeze of $78 million to pay even a fraction of these restitution amounts.

As stated, many times, the EDPA court engaged in judicial misconduct to freeze over $78 million of from Mr. Cammarata in an ex-parte order the day after his arrest in violation of Fed. R. Civ. P. 65(b)(1) five days later, held a simultaneous TRO show cause hearing the same day as his criminal bail hearing was detained in Miami, and was not noticed of the simultaneous TRO hearing in Philadelphia. The cou extended the terms without proper notice, due process, or personal jurisdiction of Mr. Cammarata from November 9th, 2021 TRO hearing. To then compound the issue, the district court then also violated Fed P. 65(b)(2) when the court maintained the unlawfully obtained and extended TRO beyond the mandate expiration, again without any consent by Cammarata. And if all of that is not illegal enough, the Distric then impermissibly converted an illegally obtained, unlawfully extended, and expired ex-parte TRO int preliminary injunction without a noticed or docketed hearing scheduled. The court held a January 11th, TRO hearing which was declared to determine whether the TRO would be extended, and again without to Mr. Cammarata (who was not present), the court turned that hearing into an unnoticed impromptu preliminary injunction conversion, once again in violation of the Constitution. All of that notwithstandi EDPA district court has acted without jurisdiction or a valid injunction and has caused documented dan over $55 million to Mr. Cammarata's assets, which is why restitution was not applicable based on Mr. Cammarata's financial circumstances.

It should be noted that all of the EDPA restitution amounts of over $33 million were purported to be and several, as this Court has identified the alleged "ill-gotten gains" of Mr. Cammarata were approxim $16 million, where the two cooperating defendants obtained more than $27 million, plead guilty almost years ago, and none of the restitution amounts to Mr. Cammarata have been reduced by a penny. This c antagonism is also an 8th amendment violation of an excessive fine and always was. Therefore, with ov million dollars of restitution being shouldered by Mr. Cammarata alone, there is and was no financial al pay the extra $6 million tax restitution, or support his dependents.

It is also well established that restitution shall not be ordered against a defendant, until such time as supervised release occurs. The Courts have recognized that "the district court may order restitution for offenses as a condition of supervised release pursuant to 18 U.S.C. § 3583(d)(3)". See Campbell, 552 F at 344; see also Westbrooks, 858 F.3d at 327 (noting that "several statutes, read together, allow district order restitution for tax offenses as a condition of supervised release"). Moreover, "a court's authority t restitution for Title 26 offenses as a condition for supervised release is explicitly recognized in the Sent Guidelines, which prescribe the use of that authority", see Gall v. United States, 21 F.3d 107, 109-10 (1

The Court in this case, also failed to correct the knowingly false tax due and owing calculation, over objection by the Defendant and the plethora of evidence and testimony that detailed the many reasons tl tax due and owing calculation was wrong. That objected tax due and owing calculation was never corre the court, despite the significantly documented and disputed amount. The sentencing court simply took known false calculation that the government witness that created it, admitted to and then failed to addre Defendant's objections with an evidentiary hearing as required. The tax due and owing calculation was to be resolved not only for sentencing calculation, but also for restitution. "Although the district courts l broad discretion to determine the type and amount of evidence to support an award of restitution, the co cannot simply accept uncritically an amount recommended by the probation office". United States v. Na 255 F.3d 979, 984 (2001). In this case, notwithstanding the Constitutional issues at trial, and the Court of the Defendant's post-trial motions, the evidenced business expenses, and objection to the provided ta and owing amount to the probation office, the Court simply accepted that incorrect amount without any doing a correcting calculation for sentencing or restitution.

In the interest of resolving and reducing one restitution liability, Mr. Cammarata will agree to a one- payment of $1,000 to the U.S. Treasury as a token payment, as they will never see any restitution after t

two cases, but Mr. Cammarata would like to have one less liability over his head, and will immediately $1,000 to satisfy restitution in the tax case.

Conclusion

The Defendant has raised a number of issues for the record and despite many of the issues that Mr. Cammarata raises in this motion, they would have been moot if there was a simply tax due and owing calculation to correct what was testified to being false, or had a required evidentiary hearing on the obje due and owing amount that the probation office simply accepted from the government and then the Cou the same. By doing a corrective tax due and owing calculation, there would have been a failure of an es elements of 26 USC 7201 and would have had a significant impact on the sentencing guideline and rest amount, even if the Court improperly ordered it. Mr. Cammarata hopes that the Court considers this mo at least the arguments to contemplate, if everything the government did and said was true and proper, ai Cammarata was truly afforded a fair trial. What reason did the government not provide the 1042-S form just a small sample of two cases in 2017 had proven that over $373,000 was actually reported to the IRS taxes PAID? This was proven that they withheld at least these items from the Defense, after written req were made, and even with those two out of hundreds of settlements in seven years, there was 5% of the tax due already reported and taxes paid, but that was also not provided and or corrected at trial or post-t Then with Mr. Mazur testifying that he was not provided any expenses at all, and was not asked to anal bank records, and that if there were business expenses that he was not provided, that the tax due and ow calculation would be false. Without any documents, Mr. Cohen also testified that Mr. Cammarata had n of dollars of business expenses, and again that was not considered or corrected to reflect the wrong tax owing calculation. If all or any of this documented, possessed, and withheld exculpatory evidence was p to Mr. Mazur or the jury, there was no possibility of a conviction. There would have been no willfulnes certainly no tax due and owing both from the $19 million of business expenses and the many millions o reported and paid taxes to the IRS from the hundreds more settlements where the 1042-S existed and w not provided (even after requested specifically).

The inadmissible evidence that was admitted and constructive amendments certainly are well docum well. The opening and closing arguments from the first word to the last, told the jury that Mr. Cammara false tax returns" and "hid his income", which are NOT elements of 26 USC 7201, but the government jury to what to "consider" and the told them that filing false tax returns and hiding income, was tax eva Those are the elements of 26 USC 7206(1) not 7201, that allowed the government to undeniable "broad possible bases for conviction from th[ose] which appeared in the indictment." That proved a constructiv amendment by itself and requires reversal. Mr. Cammarata thanks the Court for its consideration of this

Respectfully submitted,

Joseph Cammarata

MCCI
One Waterworks Rd.
Freehold, NJ 07728

Dated Friday, May 24th, 202

Exhibit A

Discovery Index

Joseph Cammarata Financial Records

File No.	Bates Numbers	Description
01	BofA_00000001-BofA_00000084	Acct 5909 Card Statements 2015-2020 (Joseph Cammarata)
01	BofA_00000085-BofA_00000119	Acct 6848 Documents, Card Account Summary, Check & Ticket (Joseph Cammarata)
01	BofA_00000120-BofA_00000395	Acct 7947 Card Statements 2015-2020 (Joseph Cammarata)
02	BofA_00000396-BofA_00000437	Acct 4350 Card Statements 2020 (Sandy Cay LLC)
03	Columbia Bank_00000001-Columbia Bank_00000187	Acct 6802 Statements (Liquid Claims LLC)
03	Columbia Bank_00000188-Columbia Bank_00000200	Acct 6802 Checks (Liquid Claims LLC)
04	ETrade_00000001-ETrade_00000006	Acct 5557 Account notes, Opening Docs & Profile (Joseph Cammarata)
04	ETrade_00000007-ETrade_00000430	Acct 7026 Docs, Statements & Interactions (Joseph Cammarata)
05	Merrill_00000001-Merrill_00001206	Account Docs, Applications & Authorizations (Joseph Cammarata)
05	Merrill_00001207-Merrill_00001574	Account Checks, Deposits & Wires (Joseph Cammarata)
05	Merrill_00001575-Merrill_00002646	Account Statements (Joseph Cammarata)
06	MetroBank_00000001-MetroBank_00000289	Acct 3217 Correspondence (PB Trade)
06	MetroBank_00000290-MetroBank_00000308	Acct 3217 Deposits & Docs (PB Trade)
06	MetroBank_00000309-MetroBank_00000506	Acct 3217 Statements (PB Trade)
06	MetroBank_00000507-MetroBank_00000563	Acct 3233 Statements (PB Trade)
07	MorganStanley_00000001-MorganStanley_00000054	Acct 2459 Account Forms & Statements (Joseph Cammarata)
07	MorganStanley_00000055-MorganStanley_00000725	Acct 7435 Account Forms & Statements (Joseph Cammarata)
07	MorganStanley_00000726-MorganStanley_00001537	Acct 1529 Account Forms & Statements (PB Trade)
07	MorganStanley_00001538-MorganStanley_00001563	Acct 2442 Account Forms & Statements (PB Trade)
08	PNC_00000001-PNC_00001039	Acct 6602 Checks & Deposits (Alpha Plus)

08	PNC_00001040-PNC_00002494	Acct 6602 Checks & Deposits (Alpha Plus)
08	PNC_00002495-PNC_00002843	Acct 6602 Checks & Statement (Alpha Plus)
08	PNC_00002844-PNC_00002852	Acct 6602 Wires (Alpha Plus)
08	PNC_00002853-PNC_00002921	Acct 6602 Statements Oct 2016 to Dec 2017 (Alpha Plus)
09	Ameritrade_000001-Ameritrade_000455	Acct 1707 Application, Correspondence, Transactions, Wires & Statements (Joseph Cammarata)
10	TD Bank_00000001-TD Bank_00000429	Acct 9194 Statements & Checks (Advanced Tech)
10	TD Bank_00000430-TD Bank_00000889	Acct 9194 Statements & Checks (Advanced Tech)
11	TD Bank_00000890-TD Bank_00001788	Acct 6452 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00001789-TD Bank_00001852	Acct 3128 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00001853-TD Bank_00003571	Acct 1219 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00003572-TD Bank_00003681	Acct 1308 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00003682-TD Bank_00003856	Acct 1316 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00003857-TD Bank_00003887	Acct 1324 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00003888-TD Bank_00003940	Acct 1340 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00003941-TD Bank_00004664	Acct 1390 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00004665-TD Bank_00004854	Acct 1407 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00004855-TD Bank_00053018	Acct 1407 Account Deposits (Alpha Plus)

11	TD Bank_00053019-TD Bank_00053178	Acct 1415 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053179-TD Bank_00053265	Acct 1423 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053266-TD Bank_00053287	Acct 1449 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053288-TD Bank_00053308	Acct 1457 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053309-TD Bank_00053331	Acct 1465 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053332-TD Bank_00053371	Acct 1473 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053372-TD Bank_00053605	Acct 1481 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053606-TD Bank_00053623	Acct 1499 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053624-TD Bank_00053634	Acct 1506 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053635-TD Bank_00053657	Acct 1514 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053658-TD Bank_00053687	Acct 1522 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053688-TD Bank_00053752	Acct 1530 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053753-TD Bank_00053779	Acct 1548 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053780-TD Bank_00053805	Acct 1556 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053806-TD Bank_00053809	Transfers (Alpha Plus)
12	TD Bank_00053810-TD Bank_00053931	Acct 1059 Account Docs, Statements, Deposits, WD & Wires (JPeg LLC)
13	TD Bank_00053932-TD Bank_00054974	Acct 0808 Business Docs, Statements, Checks, Deposits, WD & Wires (Joseph Cammarata)
14	TD Bank_00054975-TD Bank_00056787	Acct 5769 Business Docs, Statements, Checks, Deposits (Liquid Claims)

14	TD Bank_00056788-TD Bank_00059082	Acct 1069 Account Docs, Statements, Checks, Deposits, Wires & Balance (Liquid Claims)
15	TD Bank_00059083-TD Bank_00062856	Acct 9843 Account Docs, Statements, Checks, Deposits & Balance (Manalapan Fitness & Wellness)
16	TD Bank_00062857-TD Bank_00062965	Acct 2956 Account Docs, Statements, Deposits, WD, Wires & Balance (Misc Holdings Group)
17	TD Bank_00062966-TD Bank_00063055	Acct 6114 Account Docs, Statements, Checks, Deposits, WD, Wires & Balance (N328MB LLC)
18	TD Bank_00063056-TD Bank_00063854	Acct 3555 Account Documents, Statements, Deposits, Checks, WD & Wires (PB Trade)
18	TD Bank_00063855-TD Bank_00063867	Acct 1621 Application & Statements (PB Trade)
19	TD Bank_00063868-TD Bank_00064157	Acct 1824 Account Docs, Statements, Checks, Deposits, WD & Wires (Pro Securities)
20	TD Bank_00064158-TD Bank_00064844	Acct 0181 Account Docs, Statements, Checks, Deposits, WD & Wires (SSA Technologies)
21	TD Bank_00064845-TD Bank_00065975	Acct 8212 Account Docs, Statements, Checks, Deposits, WD & Wires (Traderfield Securities)

Exhibit B

Production Index

2015 Account Transcript-Joseph Cammarata	IRS_000001-IRS_000002
2015 return (Joseph Cammarata)	IRS_000003-IRS_000054
2016 Account Transcript-Joseph Cammarata	IRS_000055-IRS_000056
2016 return (Joseph Cammarata)	IRS_000057-IRS_000110
2017 Account Transcript-Joseph Cammarata	IRS_000111-IRS_000112
2017 return (Joseph Cammarata)	IRS_000113-IRS_000166
2018 Account Transcript-Joseph Cammarata	IRS_000167-IRS_000168
2018 return (Joseph Cammarata)	IRS_000169-IRS_000244
2019 Account Transcript-Joseph Cammarata	IRS_000245-IRS_000246
2019 return (Joseph Cammarata)	IRS_000247-IRS_000293
Metropolitan Commercial Bank (MCB) wires	MCB_000001
MCB ACH Origination Agreement – 3217	MCB_000002-MCB000005
MCB BOB Agreement – 3217	MCB_000006-MCB_000007
MCB Checks deposit – 3217	MCB_000008-MCB000013
MCB OLB Application – 3217	MCB_000014-MCB000018
MCB Wire Transfer Agreement – 3217	MCB_000019-MCB_000020
MCB Metro PB 3217 combined statements (January 2016-December 2021) – 3217	MCB_000021-MCB-000246
MCB Business Online Banking Agreement – 3233	MCB-000247-MCB_000248
MCB Limited Liability Company – 3233	MCB_000249-MCB_000253
MCB New Account Application Business – 3233	MCB_000254-MCB_000261
MCB Terms and Conditions – 3233	MCB_000262-MCB_000263
PNC Bank PNC Nimello 6658 signature card – 6658	PNCB_000001-PNCB_000002
PNC Nimello 6658 statements (June 2015 - December 2021)	PNCB_000003-PNCB000161
PNC Quartis 7903 Signature card – 7903	PNCB_000162-PNCB_000163
PNC Quartis 7903 statements (April 2015 – November 2016) – 7903	PNCB_000164-PNCB_000208
PNC Alpha Plus 6602 signature card – 6602	PNCB_000209-PNCB_000210
PNC Alpha Plus 6602 (June 2015-December 2021) – 6602	PNCB_000211-PNCB_000387
PNC Index (Complete Response)	PNCB_000388-PNCB_000457
PNC Complete Response Docs	PNCB_000458-PNCB_001983
TD Bank Ck – 3555	TDB_000001-TDB_000027
TD Corp Res – 3555	TDB_000028
TD Dep – 3555	TDB_000029-TDB_000178
TD Sig Card – 3555	TDB_000179
TD Stmt (January 2015-September 2021) – 3555	TDB_000180-TDB_000411

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TD Wd – 3555	TDB_000412-TDB_000444
TD Wire – 3555	TDB_000445-TDB_000483
TD Bus open doc – 6452	TDB_000484-TDB_000490
TD Ck – 6452	TDB_000491-TDB_000991
TD Corp res – 6452	TDB_000992-TDB_000993
TD Dep - 6452	TDB_000994-TDB_003113
TD Misc cr – 6452	TDB_003114
TD Misc db – 6452	TDB_003115
TD Sig card – 6452	TDB_003116-TDB_003117
TD Stmt (January 2015-September 2021) – 6452	TDB_003118-TDB_003304
TD Wd – 6452	TDB_003305-TDB_003312
TD Wire – 6452	TDB_003313-TDB_003345
TD Ck – 0181	TDB_003346-TDB_003410
TD Corp Res – 0181	TDB_003411
TD Dep – 0181	TDB_003412-TDB_003599
TD Misc Db – 0181	TDB_003600
TD Sig Card – 0181	TDB_003601
TD Stmt (January 2015-Auguat 2021) – 0181	TDB_003602-TDB_003857
TD Wd – 0181	TDB_003858-TDB_003888
TD Wire – 0181	TDB_003889-TDB_003907
TD Dep – 1291	TDB_003908-TDB_005581
TD Stmt (January 2015-August 2021) – 1291	TDB_005582-TDB_005664
TD Dep – 1390	TDB_005665-TDB_006391
TD Stmt (September 2015-August 2021) - 1390	TDB_006392-TDB_006463
TD Dep – 1499	TDB_006464-TDB_006467
TS Stmt (July 2018-August 2021) – 1499	TDB_006468-TDB_006522
TD Dep – 1580	TDB_006523-TDB_006533
TD Stmt (May 2020-August 2021) – 1580	TDB_006534-TDB_006549
Alpha Plus (funds from AP-Quartis-Nimello-SSA to subjects; Trial)	USA000001-USA000013
Alpha Plus deposit summary (Quartis, Nimello, Invergasa only)Combined Sheets	USA000014-USA000103
Unreported income and tax loss (Cammarata)	USA000104-USA000115
MOI-NEW-04-Eisner, Troy-6152022	USA000116-USA000118

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