

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 14-20550-CR-ALTONAGA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

YURI SUCART,

Defendant.

GOVERNMENT’S RESPONSE TO DEFENDANT’S FINANCIAL REPORT

Comes Now, the United States of America, by and through the undersigned Assistant United States Attorney, and files this response to that pleading styled a “Financial Report” (DE 114), filed by defendant Yuri Sucart (hereinafter “the defendant”), pursuant to an order entered by Magistrate Judge Otazo-Reyes. The government states as follows, below.

PROCEDURAL BACKGROUND

1. The defendant was arrested on the original indictment on August 5, 2014. (DE 15). Attorney Jeffrey Cox filed a temporary notice of appearance on his behalf on that date. (DE 16). Defendant was released on a \$50,000 corporate surety bond (DE 17).

2. Attorney Cox withdrew from representation of defendant, and attorney O’Donnell was appointed to represent him under the Criminal Justice Act (“CJA”) by Magistrate Judge Otazo-Reyes on August 12, 2014 (DE 14). The Magistrate Judge ordered attorney O’Donnell to file a financial report with her on defendant’s ability to pay some portion of the costs of the CJA appointment.¹

3. Attorney O’Donnell filed a motion for extension of time to file that financial report on September 17, 2014. (DE 95). It was granted by the District Court (DE 97).

¹ The government has ordered a transcript of this hearing on an expedited basis.

4. Attorney O'Donnell filed the Financial Report with the Court on October 16, 2014. (DE 114). It was filed under seal with permission of the Court. Magistrate Judge Otazo-Reyes found, based on that Report, that defendant "does not have the ability to contribute funds into the Court Registry to defray the cost of counsel appointed pursuant to the Criminal Justice Act." (DE 117).

5. A status conference on this case was held in the District Court Monday morning, October 27, 2014. The Court made several inquiries of attorney O'Donnell concerning the report. The defendant was not present at the hearing. The government moved ore tenus for an unsealing of the report, which motion was granted. The Court did not rule on the issue whether defendant should defray costs of his CJA appointment, but did indicate that that was the Court's inclination, that defendant could probably pay up to \$400 per month to defray such costs. The government gained access to the sealed Financial Report the afternoon of October 27, 2014.

ARGUMENT

6. The government believes the defendant should not be represented by CJA counsel under any circumstance, because he has ample, but undisclosed, financial resources, as determined by the government pursuant to its investigation of defendant in this case.

7. The averments of the Financial Report are, to the government's understanding, accurate; but what makes the Financial Report totally inaccurate is what it does not disclose about defendant's financial situation. First, it limits itself to only disclosing a minimal "snap shot" of his financial situation by stating what his "after tax monthly income is," presently, rather than what his much larger documented monthly income has been over the least eight years, 2006 to 2013. Second, he completely fails to disclose any payments made to him in 2013 pursuant to a confidential legal settlement entered into by defendant and his "employer" Alexander Rodriguez.

Third, when he claims to not be the owner of a residence or an automobile, he again fails to disclose that he occupies a home and drives a car, at no cost to himself, all provided to him pursuant to the settlement with Rodriguez.

FACTUAL BACKGROUND

8. Alexander Rodriguez, a/k/a “A-Rod,” is defendant’s cousin, and a veteran MLB player for the New York Yankees, though now suspended from playing due to his illegal use of Performance Enhancing Drugs (“PEDs”), primarily testosterone, which are banned by MLB rules. Rodriguez has a prominent role in the government’s proof of the Counts 1 and 2 conspiracies to distribute testosterone and Human Growth Hormone. The government will prove at trial that defendant was a long-time personal assistant to Rodriguez, and that it was defendant who introduced Rodriguez to the Miami PEDs-peddler Tony Bosch, for the purpose of improving Rodriguez’s strength, endurance and recovery from injuries. The government will prove that defendant personally arranged meetings between Rodriguez and Bosch, where Bosch injected Rodriguez with PEDs; and that defendant received an ample cut of the payments Rodriguez made to Bosch.

9. Sometime in 2012, Rodriguez and defendant had a rancorous and personal falling-out, and defendant’s “employment” by Rodriguez ended, although the “salary” Rodriguez paid him continued into 2013. Defendant began sending threatening letters to Rodriguez, demanding enormous sums of money be paid him in recognition of his many years of service, and for “handling matters that were of a very sensitive confidential nature,” and threatening to expose those matters – “Unfortunately for you, litigation with you over his employment agreement will reveal all of his duties you instructed Yuri to perform.” This particular letter suggests defendant would maintain his silence for “a sum of \$5 million dollars and a life estate for he and his wife in

the house (free and clear of any liens and mortgages) where he is currently living.” See attached, government exhibit 1, letter of December 18, 2012 from attorney Jeffrey Sonn to Alexander Rodriguez.

10. Under the pressure of such threats, Rodriguez entered into an agreement with defendant entitled “Confidential Settlement Agreement, Covenants Not to Sue, and Releases,” signed by the parties on June 5, 2013. The provision of the Settlement most relevant to this Court’s determination of the present issue is the one entitled “Settlement Payment,” wherein one of Rodriguez’s companies, Newport Property Ventures, Ltd., “shall remit to the Sucarts a payment of \$700,000,” as well as additional payments spread over the following three months, totaling \$200,000. See attached, government’s exhibit 2.

11. Upon the signing of the Agreement, the required payments began promptly. By wire transfers a payment of \$700,000 was made on June 12, 2013; of \$75,000 was made on July 5, 2013; another of \$75,000 was made on August 5, 2013; and another of \$50,000 on September 4, 2013. The wire transfer “Advice of Debit” for \$700,000 refers to a “Settlement Agreement”; the Advice of Debit for the first \$75,000 refers to the “Sucart Settlement”; and the two Advices of Debit for the second \$75,000 and \$50,000 payments both refer to a “YS Settlement.” See attached, government exhibit 3.

12. But these were not the only payments made to defendant by Rodriguez in 2013. There were additional payments made, not pursuant to the Confidential Settlement. Rodriguez had been paying defendant a salary as his personal assistant for a number of years, from 2003 through the third-quarter of 2013. All of these salary payments were duly reported by Rodriguez’s financial advisers and accountants to the Florida Department of Revenue, as required by Florida state law. The government has obtained a summary-document from the Department of Revenue

that sets out the payments from Rodriguez to Sucart by yearly quarters, starting from 2003 and continuing through the third quarter of 2013. The government also has prepared a chart that summarizes the payments, and totals them up by year. Payments for 2008 totaled approximately \$65,000; for year 2009, \$93,000; for 2010, \$110,000; for 2011, \$105,000; for 2012, \$68,000; for 2013, \$42,000. See attached, government's exhibit 4.

13. The sums of money obtained by defendant in the past several years as a result of his association with Alexander Rodriguez are more than adequate for defendant to retain a defense attorney at his own expense. He should not be found entitled to the services of a CJA attorney, and his attempt to justify such an appointment by the averments of his wholly inadequate and extremely misleading Financial Report should be rejected.

14. The government notes that defendant has never had a full-blown hearing on his entitlement to a CJA attorney under Rule 44, Fed.R.Crim.P. Defendant has never been questioned under oath by a judicial officer about his income and net worth. The government respectfully urges this Court to order that such a proceeding be conducted promptly.

Respectfully submitted,

WIFREDO A. FERRER
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By /s/ Michael P. Sullivan

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CERTIFICATE OF SERVICE

I hereby certify that on October 31, 2014, I electronically filed the foregoing Government's Response to Defendant's Financial Report with the Clerk of the Court using CM/ECF.

By: /s/ Michael P. Sullivan
MICHAEL P. SULLIVAN
Assistant United States Attorney