

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

VON RICO WEBBER,

Defendant.

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No. 08-20261-M1

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RESPONSE OF THE UNITED STATES TO DEFENSE'S  
"MOTION TO WITHDRAW AS COUNSEL"

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COMES NOW the United States of America, by and through the United States Attorney and Kevin G. Ritz, Assistant United States Attorney for the Western District of Tennessee, and files this response to the defense's "Motion to Withdraw as Counsel," filed December 31, 2009.

1. To the extent that the defense alleges in its motion that the United States has made misrepresentations to the defense regarding sentencing exposure or anything else in this case, the United States firmly denies such allegations, which are without merit. The defense should be prepared to substantiate these baseless allegations in court. The United States has made no misrepresentations to the defense in this case and has fulfilled all its obligations under the law and discovery rules.

2. In the motion, defense counsel makes various statements regarding representations made to defense counsel. For example, the motion states that "[c]ounsel based her [guideline] calculations and exposure on *statements* made prior to client's decision to change his plea."

(Emphasis added.) The motion also states that “[a]fter receiving the PSR, counsel has discovered that her representations to client were based on information provided by the Government, which were subsequently learned to be inaccurate.”

3. The United States sought to obtain clarification of these statements via electronic mail on January 4, 2010. Defense counsel phoned counsel for the United States and left a message stating that, based on discussions with the undersigned before the plea, she understood that defendant’s plea agreement contemplated that he would only be held accountable for a certain type and amount of drugs at sentencing. Specifically, she indicated that it was her understanding that the parties had agreed that the defendant would only be held accountable for a small amount of marijuana. The undersigned Assistant U.S. Attorney attempted to return defense counsel’s call but was unable to reach her. The United States did not enter any sort of agreement - oral, written, or otherwise - regarding drug type and quantity along the lines of that contemplated by defense counsel in her voicemail message of January 4, 2010.

4. As the defendant admitted at his change of plea hearing, the defendant’s financial transaction on August 23, 2006, represented a payment by the defendant for illegal drugs. The position of the United States in this money laundering case is and has always been that the defendant and his co-defendant trafficked in kilogram quantities of cocaine, along with smaller amounts of marijuana, and that the payment on August 23, 2006, consisted mostly of payment for kilogram quantities of cocaine. The discovery, plea negotiations and agreement, and all conversations with defense counsel - before and after the plea - consistently demonstrated this position.

5. For instance, on May 27, 2009, the defendant Mr. Webber, along with his attorney, met with investigative agents as well as two Assistant U.S. Attorneys. [REDACTED]

[REDACTED]

6. Regarding sentencing exposure in this money laundering case, the discovery produced to the defense included documents, including DEA-6 investigative reports and search warrant affidavits, that outlined in detail what the investigation showed about the types and amounts of drugs that defendant was dealing. Specifically, the discovery included:

- DEA-6 investigative report by Special Agent Rod Waller, dated September 14, 2006, and spanning 16 pages. This report detailed the financial transaction that occurred between the defendant, the co-defendant, and another individual on August 23, 2006. The report made clear that the agents' interpretation of events was that the defendants were making a payment for kilogram quantities of cocaine, and that the defendants had been involved in trafficking numerous kilograms of cocaine.
- Search warrants, applications, and affidavits regarding warrants executed on October 8, 2008, at locations connected to the defendant. The affidavits for these warrants included several details and information about the defendant being involved in trafficking kilogram quantities of cocaine, including detailed information provided by a named cooperating defendant about numbers of cocaine kilograms he had distributed to Von Rico Webber.

7. The defendant pled guilty on September 17, 2009. Before the hearing, on September 8, 2009, the United States sent the defense a proposed plea agreement. The defendant entered into this agreement at the plea hearing, and both he and defense counsel signed the agreement. The agreement contemplates that the defendant receive full credit for acceptance of responsibility under the sentencing guidelines, but it contains no further joint agreements or recommendations regarding the guidelines. In fact, the agreement states: "No additional promises, representations or inducements other than those referenced in this Plea Agreement have been made to the Defendant



or to his attorney with regard to this Plea, and none will be made or entered into unless in writing and signed by all parties.” Before the hearing, the undersigned counsel had a telephone conversation with counsel for the defendant. The undersigned Assistant U.S. Attorney advised defense counsel that the position of the United States was that the defendant and his co-defendant were trafficking in cocaine and that the United States would be adopting such a position at sentencing. The indictment did not charge, and the elements of the offense do not require specification of, the type or amount of drugs involved. It has been the expectation of the United States since the plea that type and amount of drugs would be contested issues at sentencing, and the United States is preparing accordingly.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Kevin G. Ritz, Assistant United States Attorney for the Western District of Tennessee, hereby certify that a copy of the foregoing Response of the United States has been delivered via the Court’s electronic filing system to counsel for the defendant.

This the 4th day of January, 2010.

s/Kevin G. Ritz  
KEVIN G. RITZ

Assistant United States Attorney