

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 11 CR 820
v.	)	
	)	Hon. Harry D. Leinenweber
SHARON ANZALDI,	)	
PHILLIP DESALVO, and	)	
STEVEN LATIN	)	

**GOVERNMENT’S MOTION *IN LIMINE* REGARDING FINANCIAL MOTIVE**

The UNITED STATES OF AMERICA, by and through its attorney, GARY S. SHAPIRO, United States Attorney for the Northern District of Illinois, hereby respectfully moves this Court, *in limine*, for entry of an order admitting certain evidence at trial in the above referenced case.

**I. Evidence of the Defendants’ Unemployment, Foreclosures, Debts and Liens**

Defendants have been charged with conspiring to defraud the Department of the Treasury by filing false claims, namely, tax returns, in violation of Title 18, United States Code, Section 286. The defendants have also been charged with filing particular false tax returns, in violation of Title 18, United States Code, Section 287. Specifically, the indictment alleges that the defendants participated in a scheme in which they gathered taxpayers’ mortgage and debt information, falsely claimed the taxpayers’ total debt amount as both 1099 OID interest income and tax withholdings, and thereby sought falsely inflated refunds. In all, the defendants have been charged with preparing and filing fourteen fraudulent returns that sought a total of \$8,497,161 in refunds.

Of these fraudulent returns, defendant Sharon Anzaldi filed two of her own tax returns for tax years 2008 and 2009, requesting a total of \$4,505,179 in refunds; defendant DeSalvo filed his own return for tax year 2008, requesting a refund of \$268,775; and defendant Latin filed two of his

own returns for tax years 2008 and 2009, requesting a total of \$815,156 in refunds. The IRS issued DeSalvo's requested refund for tax year 2008 in the amount of \$268,775 and Latin's requested refund for tax year 2008 in the amount of \$481,234.

At the time defendants filed their own returns and assisted others in filing returns, they were all unemployed. In addition, at or just around the time defendants Anzaldi and Latin filed their returns, both had experienced, or were experiencing, foreclosure of their homes. Defendant Anzaldi also had a large tax lien filed against her by the IRS. It is also expected that subpoenaed records will reveal that some or all of the defendants had outstanding credit card, utility, and other debts. It is the government's position that these financial circumstances motivated, at least in part, the crimes charged.

Although the government's financial records demonstrate that certain of the defendants began incurring debts significantly earlier, the government seeks only to introduce evidence of debts which existed during the charged tax years and years of filing. For example, as to defendant Anzaldi, in addition to evidence of Anzaldi's unemployment in between 2008 and 2010, the government seeks to present the following evidence:

- On March 31, 2008, LaSalle Bank National Association filed a Complaint to Foreclose Mortgage against Anzaldi in connection with a residential property she owned at 201 Lake Hinsdale Drive, Unit 306, Willowbrook, Illinois. On November 18, 2008, the DuPage County Sheriff sold the property in a public sale.
- On November 25, 2008, IndyMac Federal Bank FSB filed a Complaint to Foreclose Mortgage against Anzaldi in connection with a residential property she owned at 4018 S. Martin Luther King Drive, Chicago, Illinois.
- In 2009, when Anzaldi filed her 2008 tax return, she was subject to a federal tax lien of \$54,542.
- As of at least spring 2009, Anzaldi was behind in her payments on a 2002 Chrysler Sebring, which vehicle was subsequently repossessed.

As to defendant Latin, in addition to evidence of his unemployment in between 2008 and 2010, the government seeks to present evidence that on January 29, 2009, within days of filing his 2008 tax return, National City Bank filed a mortgage foreclosure action against him for a property he and his wife owned at 1576 Birmingham Court, Crystal Lake, Illinois.

Finally, as to defendant DeSalvo, the government seeks to introduce evidence of his unemployment in 2008 and 2009, and of various other debts the government expects to obtain as trial approaches.

The government is seeking to introduce evidence of the defendants' unemployment, foreclosures, liens, and other debts (including debts the government may obtain as trial approaches) in order to provide evidence of the defendants' financial motive for committing the charged crimes.<sup>1</sup> *See United States v. King*, 627 F.3d 641, 650 (7th Cir. 2010) (phone call in which defendant discussed his financial problems properly admitted in drug case, as it provided financial motive for the crime charged); *United States v. Mobley*, 193 F.3d 492, 495-96 (7th Cir. 1999) (evidence that defendants spent more than they earned relevant to show economic motive in theft case); *United States v. Robinson*, 177 F.3d 643, 647 (7th Cir. 1999) (evidence of defendant's financial problems relevant to prove motive for bank robbery); *United States v. Holt*, 817 F.2d 1264, 1269-70 (7th Cir. 1987) (evidence of defendant's "dire financial situation" properly admitted as motive for bank robbery); *United States v. Kwitek*, 467 F.2d 1222, 1225 (7th Cir. 1972) (evidence of gambling is

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<sup>1</sup> In addition, the government plans to present evidence regarding the lavish spending sprees that defendants DeSalvo and Latin engaged in during 2009 after the IRS mistakenly issued them refunds following the filing of their charged fraudulent returns. Courts have consistently upheld the admission of spending spree evidence to show participation in, and motivation for, financial enrichment crimes. *See, e.g., United States v. Carrera*, 259 F.3d 818, 829 (7th Cir. 2001) ("Expensive trips, gambling, and other instances of free spending and high living may be pertinent in crimes involving a motive of enrichment.")

relevant to prove motive for crimes involving enrichment).

The government believes evidence of the defendants' unemployment, foreclosures, liens, debts, and judgments is relevant in that it tends to make a fact of consequence more probable, namely that the defendants had economic motives to steal money from the IRS during the years in question. *See* F.R.E. 401 and 402. Because the government does not seek to introduce additional debts incurred by the defendants before and after the tax years in question, and the years in which they filed their charged returns, such evidence will not be unduly prejudicial. *See* F.R.E. 403. Therefore, the government respectfully requests the opportunity to introduce into evidence the facts of defendants' unemployment, foreclosures, liens, debts, and judgments as set forth above, and as will be supplemented.

## **II. Conclusion**

For the aforementioned reasons, the government respectfully requests that its motion *in limine* be granted.

Dated: April 8, 2013

Respectfully submitted,

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