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March 13, 2025

Via ECF

Honorable Diane Gujarati
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Nicole Daedone and Rachel Cherwitz, 23-CR-146

Dear Judge Gujarati:

In an extraordinary filing yesterday, following months of litigation on this topic, the government finally admitted that Ayries Blanck fabricated her journals and that she repeatedly lied to the government about the journals' authenticity. As a result of its admission, the government affirmatively corrected its repeated misrepresentations to the defense and the Court that the journals were authentic, and it has stated that it does not intend to call Blanck as a witness in the upcoming trial. In short, the government has admitted that Blanck committed federal crimes, by falsifying evidence and lying to federal agents, and that the government relied on those lies and false evidence in prosecuting the defendants. *See, e.g.*, 18 U.S.C. § 1001. The government does not indicate whether it will investigate and prosecute Blanck, nor whether it will drop the charges against the defendants. But it should immediately do both. Blanck's crimes not only have wasted extensive judicial and defense resources, but also led the government to bring a baseless indictment against the defendants. The defendants request that the Court set a briefing schedule to bring appropriate motions related to yesterday's disclosure of Blanck's crimes.

The defense is still considering the full implications of the government's startling admission. It therefore requests a motion deadline of March 27, 2025. The defense will meet and confer with the government to attempt to narrow the issues before bringing its motions. The government has notified the defense that it opposes additional motions, including based on timeliness grounds. We look forward to the government's explanation of how motions based on its disclosure yesterday of Blanck's crimes could possibly be untimely, when the government has incorrectly represented to the defense and the Court for months that these

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journals are authentic, despite being presented with clear and overwhelming evidence to the contrary during that time.

Had the defense not had the opportunity to bring its prior motions and pressed the issue of Blanck's fake journals, none of this would have come to light. The government did not live up to its obligations to do due diligence on its witnesses' false claims before presenting her testimony; rather, it repeatedly took Blanck's word for it that the journals were authentic, even after the defense presented concrete evidence in December 2024 that they were not. But for the defense's efforts, the government would have presented perjured testimony from its star witness at trial, potentially leading to a wrongful conviction of the defendants.

Moreover, the defense continues to be extremely troubled by what appear to be obviously false statements in the government's letter from Blanck and her sister indicating that Blanck's sister had no knowledge the journals she sent to the producer of the Netflix film were fabricated, raising ongoing questions about the government's commitment to investigate and challenge such false narratives. In addition, the defense has produced to the government an email between Blanck and Special Agent McGinnis related to the journals, which the government claims to have been unable to locate on FBI servers. This missing email raises questions about whether it has been deleted from McGinnis's email account. This email adds to the list of other missing evidence in this case, including the missing USB drive that McGinnis provided to Mitch Aidelbaum to upload the stolen privileged documents, Blanck's deleted email account, and data deleted from Blanck's hard drive.

The defense has continuously raised issues about the integrity of this investigation, and this most recent admission about Blanck's crimes demonstrates the need for further inquiry into these issues. As Judge Nathan recently noted:

With each [government] misstep, the public faith in the criminal-justice system further erodes. With each document wrongfully withheld, an innocent person faces the chance of wrongful conviction. And with each unforced Government error, the likelihood grows that a reviewing court will be forced to reverse a conviction or even dismiss an indictment, resulting in wasted resources, delayed justice, and individuals guilty of crimes potentially going unpunished.

United States v. Nejad, 487 F.Supp.3d 206, 225-26 (2020). Indeed, whereas here, the government nearly introduced fabricated evidence and perjured testimony at trial—and was only thwarted from doing so by the defendants' vigorous investigation—the Court must conduct a searching inquiry into the ongoing vitality of this case. *See id*; *Berger v. United States* 295 U.S. 78, 88 (1935) (“It is as much [the prosecutor’s] duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one”); *Kyles v. Whitley*, 514 U.S. 419, 449 & n.19 (1995) (stating various

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pieces of undisclosed evidence were relevant *Brady* material, because they would have enabled defendant to attack “integrity” of investigation, such as evidence undermining “process by which the police gathered evidence and assembled the case”).

The defendants must be given time to consider the implications of the government’s disclosure, investigate these ongoing issues, and raise appropriate motions to vindicate their rights. At this point, the defense cannot be expected to take the government’s word for it that Blanck’s crimes have not irreparably tainted this case. For the foregoing reasons, defendants respectfully request that the Court set a motion deadline of March 27, 2025.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Celia A. Cohen".

Celia Cohen

A handwritten signature in black ink, appearing to read "M. P. Robotti".

Michael P. Robotti