

STATE GRAND JURY OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA	)	Case No. 2021-GS-47-27, -28, -29, -30, -31,
	)	-32, -33, -34, -35, -36, -37, and -38
	)	
	)	
v.	)	
	)	<b>RESPONSE IN OPPOSITION TO MOTION</b>
	)	<b>FOR BOND</b>
	)	<b>FILED</b>
RICHARD ALEXANDER MURDAUGH,	)	
	)	
Defendant.	)	
_____	)	

**FILED**

**JAN 07 2022**

MARGARET J. SELF  
CLERK, SC STATE GRAND JURY

The State of South Carolina hereby responds in opposition to the Defendant’s motion for bond reconsideration in the above-referenced matter. This Court granted Defendant bond of \$7 million on December 13, 2021, just three weeks and four days ago.

**I. PROCEDURAL HISTORY**

The November 2021 round of State Grand Jury indictments encompassed 27 felonies representing Defendant’s alleged conversion of \$4,853,488.09. The December 2021 round of State Grand Jury indictments contained 20 felonies and 1 misdemeanor representing Defendant’s alleged conversion of \$1,365,440.24. To date, the total amount Defendant is accused of misappropriating is \$6,218,923.33. A list of the charges from November and December before this Court on reconsideration is attached as “Appendix One”: In total, the indictments to date represent a possible 475 years of imprisonment and a possible fine of over \$3,353,500 million dollars (which does not include all the offenses for which the fine is discretionary).

Defendant was issued a \$20,000 PR bond by a Hampton County magistrate on September 16, 2021. This bond is for an alleged scheme in which Defendant convinced a co-conspirator to shoot and kill him so that insurance proceeds could be collected for

Defendant's son. Defendant was charged with and has since been indicted for conspiracy, insurance fraud, and filing a false report. At the bond hearing, the State argued that "a man who is a danger to himself is a danger to others", and that the danger to the community was heightened by the fact that such a stunning fall from grace leaves one particularly unhinged. Interestingly, and unbeknownst to the State, the Hampton County magistrate's office posted the \$20,000 PR bond on its website *before the hearing even started*. At the hearing, the State asked for a significant surety bond and GPS monitoring.

Defendant was subsequently arrested on two county arrest warrants for obtaining goods and services by false pretenses, for an alleged scheme in which he absconded with a check for \$403,500 and a check for \$2,961,931.95 meant for the children of Defendant's longtime housekeeper who died in a fall at his home. The Honorable Clifton Newman denied bond pending a psychiatric evaluation, and after review of the evaluation found that Defendant was a danger to the community and left the denial in place.

As noted before, the State Grand Jury issued five indictments containing 27 charges on November 18, 2021, and an additional seven indictments containing 21 charges on December 9, 2021. Together, these indictments to date allege crimes in six counties. On December 13, 2021, this Court held a bond hearing in which the State argued Defendant represented a flight risk and danger, and set bond at \$7 million.<sup>1</sup>

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<sup>1</sup> Defendant had filed an habeas corpus petition in the original jurisdiction of the South Carolina Supreme Court in which he challenged Judge Newman's denial of bond. On December 22, 2021, the State sent a letter to the Supreme Court in which it noted that State Grand Jury Indictment 2021-GS-47-30 indicted Mr. Murdaugh for the conduct that was the subject of the two arrest warrants at issue in the habeas corpus petition on which Judge Newman had denied bond (K-233570 and K-233571). The letter advised the Supreme Court that since this Court had set a surety bond of \$7 million dollars the indicted offenses, the State dismissed the arrest warrants on which Judge Newman has denied bond as it would in the normal course of business. Accordingly, aside from the \$20,000 PR bond which the Hampton magistrate issued on different charges, this Court's \$7 million bond is the only bond to which Defendant is subject.

## II. DEFENDANT IS A FLIGHT RISK AND DANGER TO THE COMMUNITY

Defendant remains a flight risk and danger to the community and there has been no change in circumstance warranting reconsideration of bond.

As the State previously argued at the bond hearing, the investigation and these indictments unfortunately reveal a particularly egregious pattern of deception and manipulation in which Defendant used the power, prestige, and influence of his family name and his status as a lawyer to separate friends and clients from their money. The allegations show he tended to prey on those who were either particularly trusting because of longstanding personal or family contacts, or those who were particularly vulnerable due to their unfamiliarity with the system – or both. Despite the recent allegations, Defendant with his family name still wields power and influence in the community. Even with his law license suspended he remains a danger to the community.

Indeed, multiple alleged victims in the case have expressed or displayed reluctance to come forward and cooperate with this investigation at least in part because of their concern about the influence of Defendant and his family. Some victims have complained of a “backlash” after being identified, and another victim said he or she was called a “snitch” for cooperation. Another victim repeatedly stated his or her concern was not for himself or herself if he or she came forward, but for any possible repercussions against his or her family. Many victims have generally expressed concern about having their name publicly associated with the investigation and prosecution of Defendant, because some still struggle with thinking defendant was their friend, and others remain fearful of the influence of Defendant and his family in the community, or both.

Additionally, as the State has repeatedly argued, the facts underlying his alleged

insurance fraud scheme on the side of the road are not only violent but also display a capacity for self-harm and an ability to continue to involve others in his illegal schemes. When combined with his alleged narcotics addiction, this capacity for self-harm and conspiracy mean that Defendant remains a danger to himself and others. The weight of such a fall from heights of power, respect, and influence to the current situation only adds to the danger Defendant represents and indeed has already displayed.

Based on the investigation, and as will be detailed below, the State is informed and believes that Defendant still can marshal significant personal and family assets. Given the weight and severity of the charges that continue to come against Defendant, he remains a flight risk for which an extremely high bond is warranted. Those significant personal and family assets when combined with the family influence further heighten his danger to the community.

**III. THIS COURT'S BOND IS NOT LEGALLY EXCESSIVE AND WAS APPROPRIATE.**

Defendant argues in his current motion that this Court's bond was constitutionally excessive and the equivalent of no bond at all. He argues to this Court, based on an email from a receiver, that he has less than \$10,000 and cannot even pay his phone bill. Defendant is legally and factually incorrect.

The Eighth Amendment to the United States Constitution and Article I, Section 15 of the South Carolina Constitution each provide by identical language that "[e]xcessive bail shall not be required." The general guideline governing the appropriate amount of bail "is that a figure higher than an amount reasonably calculated to insure defendant's presence at trial is excessive." State v. Taylor, 255 S.C. 268, 273, 178 S.E.2d 244, 246 (1970) (citing Stack v. Boyle, 342 U.S. 1 (1951)).

However, nothing in the text of these provisions limits permissible considerations solely to questions of flight. United States v. Salerno, 481 U.S. 739, 754 (1987). Since South Carolina law provides for the additional bond consideration of whether a defendant represents an "unreasonable danger to the community or an individual," whether bail is excessive is therefore determined not only by flight risk but also the potential for danger. See S.C. Code Ann. § 17-15-10(A). See also Galen v. County of Los Angeles, 477 F.3d 652, 661-662 (9<sup>th</sup> Cir. 2007) (noting that risk of flight is not the only consideration in assessing whether bond was excessive, and noting evidence did not establish a bond of \$1,000,000 was excessive even though the "default [bond] amount" for the crime was merely \$50,000, where the defendant was a well-respected attorney).

"[A] bail setting is not constitutionally excessive merely because a defendant is financially unable to satisfy the requirement." United States v. McConnell, 842 F.2d 105, 107 (5<sup>th</sup> Cir. 1988). Indeed, very large surety requirements for bail have been upheld many times upon review on appeal.<sup>2</sup>

As argued in the previous section, ample factors about Defendant's unique circumstances support this Court's ruling, and Defendant has not identified any change of circumstance since December 13 justifying a reconsideration.

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<sup>2</sup> See, e.g. Id. (in a prosecution for two counts of bank fraud, upholding bail set at \$750,000 in 1987, which adjusts for inflation to about \$1.8 million today); United States v. Zylstra, 713 F.2d 1332 (7<sup>th</sup> Cir. 1983) (in a prosecution for marijuana trafficking into small airports across the southeast, upholding bail set at \$1 million in 1981, which adjusts for inflation to about \$3 million today); United States v. Montemayor, 666 F.2d 235 (5<sup>th</sup> Cir. 1982) (Bond set at a collective \$1,350,000, which adjusts for inflation to \$3,888,400 today, for defendant with close ties to Mexico and claims to \$2,000,000 in property subject to forfeiture); United States v. Szott, 768 F.2d 159 (7<sup>th</sup> Cir. 1985) (Bail of \$1 million, which adjusts to \$2.8 million today, was not excessive where defendant was citizen of Canada with little ties to community and the criminal amount at issue was \$2.6 million); Mecom v. United States, 434 U.S. 1340 (1977) (in a prosecution for marijuana trafficking into Texas, upholding bail set at \$750,000 sometime before 1977, which adjusts for inflation to about \$3.4 million today).

**A. The investigation to date has revealed had or has control over substantial assets, of which a substantial amount was cash.**

The investigation to date has revealed Defendant allegedly had or has control over substantial assets, and a large portion of this has been converted to cash.

In the indictments to date, Defendant is accused of misappropriating **\$6,218,923.33** from 2015 to 2021.

Of the amounts indicted to date, a tracing of Defendant's disposition of *just these* allegedly misappropriated funds shows that **almost \$2,500,000** was cashed out through checks to himself and associates. The investigation has revealed that substantial portions of this money cashed out was actually returned as cash to Defendant (as opposed to supposedly all being spent on narcotics).

Indeed, without limiting the calculation to just the indictments to date, from 2015 to 2021 there is **approximately \$3.7 million dollars** that was cashed out by Defendant through various transactions including checks to himself and associates.

It must be remembered that these amounts are *exclusive* of the millions Defendant made with his lucrative law practice, and exclusive of any other personal or family assets.

And, with regard to "legitimate" assets, the investigation has revealed that Defendant still has a profit sharing account with **approximately \$2.2 million** in it.

Moreover, the State is informed and believed that while the receiver will say Defendant's *liquid* assets are limited, that is by no means the extent of his true assets.

**B. Defendant's jail calls refute any notion he does not have any personal or family assets at his control.**

A review of the jail calls does NOT reveal a broken man reduced to assets of less than \$10,000, but rather an experienced lawyer constantly maneuvering to protect and maximize his assets despite his alleged criminal conduct.

For example, on November 1, 2021, in maneuvering to find a way to protect the estate of a relative, Defendant tells a family member "if you decline, and I decline, we got no assets to freeze... you are going to be the person who inherits after I decline [the relative's] estate".

On November 2, 2021, Defendant discusses with a relative his expected windfall from the estate of a different deceased relative than the preceding paragraph, but adds: "you told them it would be many months before [the different relative]'s stuff came through?". The relative responds "It's gonna be a while".

In a call on November 6, 2021, Defendant in conversation with two relatives discusses rolling over or borrowing against the money in the profit sharing account.

In a call on November 30, 2021, Defendant discusses the profit sharing account with a relative, and states: "I've got to talk to [a relative] and see whether we are going to do a loan, and then I'm gonna pay it back out of the [retirement] account later, [...] if you pay interest on something for, let's see, 6 years it can end up being more than the penalty, but we gotta make sure the penalty doesn't open it up to creditors".

In a call on December 1, 2021, Defendant has a conversation with a different relative, and states: "The constitution guarantees ...a bond for non-capital offenses. It could be \$20 Million, well not \$20 million, it can't be unreasonable, but it could be \$2 million dollars, but they gotta set bond . . .". **This quote reveals Defendant himself considers a \$2 million bond within the range of reasonable**, which coming from his own mouth certainly

seems consistent with what the investigation has revealed about the amounts of money to which he has had access.

Defendant is also not shy about telling a relative to borrow money from another relative and Defendant will pay it back. For example, in a call on November 30, 2021, Defendant stated: "I told [relative #1] to give you [relative #2] money until we can get it sorted out where I can pay him back". Relative # 2 responded: "10-4". Later in the same call, Defendant says: "I've got him [relative #1] keeping up with all of it so I can pay him back. . . . You [relative #2] don't worry about that, I've even asked him if he wanted me to do other things, cause there's other options, and . . . he's glad to do it, so don't be bashful". It is unclear what Defendant's other "things" and "options" are, but he certainly believes he has them.

In a call on January 4, 2022, Defendant asks relative #2: "Do you want me to tell [relative #1] to give you, you know, several thousand dollars, and then I'll pay him back?". Later in the same call, Defendant reiterates the offer: "Anyway, do you want me to get him [relative #1] to give you, I don't know 4 or 5 thousand dollars?". As the conversation continues, Defendant says to relative #2: "I just want to make sure when you go play golf if you want you can get a shirt, have drinks or whatever at the bar, this that and the other". Obviously, Defendant feels comfortable enough with his finances that he can ensure this relative does not have to play golf without also being able to get some drinks at the bar and a souvenir shirt.

Finally, in a call on January 4, 2022 with a relative's spouse, Defendant says: "I need y'all to put, one more time, to put canteen [money] on [an inmate's] account". The relative asks: "Ok... what's going on?". Defendant responds: "It allows me to get stuff that I need." It is certainly interesting that Defendant is requesting family to put money on another inmate's books so that he can "get" what he "needs". Such a request hardly sounds



legitimate and is further indicative of a person not suitable for anything but the highest of surety bonds.

Defendant's claims about his finances in his motion are inaccurate and provide no basis for reconsideration.

#### **IV. CONCLUSION**

The allegations in the indictments show that to further his schemes Defendant relied on his knowledge of the system and his ability to get people to believe what he was telling them about financial transactions. It appears Defendant is engaging in the same conduct here while at the same time asking this Court for relief he simply does not deserve. Defendant displays the cavalier attitude for rules and the law. It is this entitled attitude that makes him a poor candidate for anything but an extremely high surety bond to ensure his compliance.

For these reasons and reasons to expressed at any hearing, the State opposes Defendant's request for reconsideration of bond given his unique danger to the community and risk of flight.

Respectfully submitted,

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January 7, 2022

## **APPENDIX ONE**

### **NOVEMBER INDICTMENTS**

- I. **2021-GS-47-27 – Orangeburg County (\$125,000)**
  - a. Count 1: Breach of Trust with Fraudulent Intent – Value \$10,000 or More, § 16-13-230 – **1 Count**
    - Up to 10 years or a fine in the discretion of the court
  - b. Count 2: Money Laundering – Value \$100,000 or More, § 35-11-740 - **1 Count**
    - Up to 20 years and a fine of up to \$250,000 or twice the amount at issue
  - c. Count 3: Computer Crime – Value More Than \$10,000, § 16-16-20 – **1 Count**
    - Up to 5 years in prison and/or a fine up to \$50,000
  - d. Count 4: Forgery – Value \$10,000 or More, § 16-13-10 – **1 Count**
    - Up to 10 years or a fine in the discretion of the court
- II. **2021-GS-47-28 – Bamberg County (\$375,000 and \$225,000 and \$192,000)**
  - a. Count 1: Obtaining Signature or Property by False Pretenses -Value \$10,000 or More, § 16-13-240(1) – **4 Counts**
    - Up to 10 years and a fine of up to \$500
  - b. Count 2: Money Laundering – Value \$100,000 or More, § 35-11-740 – **3 Counts**
    - Up to 20 years and a fine of up to \$250,000 or twice the amount at issue
  - c. Count 8: Computer Crime – Value More Than \$10,000, § 16-16-20 – **1 Count**
    - Up to 5 years in prison and/or a fine up to \$50,000
- III. **2021-GS-47-29 – Allendale County (\$338,056.14 and \$45,000)**
  - a. Count 1: Breach of Trust with Fraudulent Intent – Value \$10,000 or More, § 16-13-230 – **2 Counts**
    - Up to 10 years or a fine in the discretion of the court
  - b. Count 2: Computer Crime – Value More Than \$10,000, § 16-16-20 – **2 Counts**
    - Up to 5 years in prison and/or a fine up to \$50,000
- IV. **2021-GS-47-30 – Beaufort County (\$403,500 and \$2,961,931.95 and \$118,000)**
  - a. Count 1: Obtaining Signature or Property by False Pretenses - Value \$10,000 or More  
§ 16-13-240(1) – **3 Counts**
    - Up to 10 years and a fine of up to \$500
  - b. Count 2: Money Laundering – Value \$100,000 or More, § 35-11-740 – **3 Counts**
    - Up to 20 years and a fine of up to \$250,000 or twice the amount at issue
  - c. Count 3: Computer Crime – Value More Than \$10,000, § 16-16-20 – **3 Counts**
    - Up to 5 years in prison and/or a fine up to \$50,000
- V. **2021-GS-47-31 – Colleton County (\$70,000)**

- a. **Count 1: Breach of Trust with Fraudulent Intent – Value \$10,000 or More, § 16-13-230 – 1 Count**
  - Up to 10 years or a fine in the discretion of the court
- b. **Count 2: Computer Crime – Value More Than \$10,000, § 16-16-20 – 1 Count**
  - Up to 5 years in prison and/or a fine up to \$50,000

### **DECEMBER INDICTMENTS**

- I. **2021-GS-47-32 - Hampton County (\$9,569.30)**
  - c. **Count 1: Breach of Trust with Fraudulent Intent \$2,000 to \$10,000,**
  - d. **§ 16-13-230 - 1 Count**
    - Up to 10 years or a fine in the discretion of the court
  - e. **Count 2: Computer Crime – Value More Than \$1,000, but Less Than \$10,000, § 16-16-20 – 1 Count**
    - 0 – 1 years in prison and up to \$10,000
- II. **2021-GS-47-33 - Hampton County (\$112,500)**
  - a. **Count 1: Breach of Trust with Fraudulent Intent – Value \$10,000 or More, § 16-13-230 – 1 Count**
    - Up to 10 years or a fine in the discretion of the court
  - b. **Count 2: Money Laundering – Value \$100,000 or More, § 35-11-740 – 1 Count**
    - Up to 20 years and a fine of up to \$250,000 or twice the amount at issue
  - c. **Count 3: Computer Crime – Value More Than \$10,000, § 16-16-20 – 1 Count**
    - Up to 5 years in prison and/or a fine up to \$50,000
- III. **2021-GS-47-34 - Hampton County (\$750,000)**
  - a. **Count 1: Breach of Trust with Fraudulent Intent – Value \$10,000 or More, § 16-13-230 – 1 Count**
    - Up to 10 years or a fine in the discretion of the court
  - b. **Count 2: Money Laundering – Value \$100,000 or More, § 35-11-740 – 1 Count**
    - Up to 20 years and a fine of up to \$250,000 or twice the amount at issue
  - c. **Count 3: Computer Crime – Value More Than \$10,000, § 16-16-20 – 1 Count**
    - Up to 5 years in prison and/or a fine up to \$50,000
- IV. **2021-GS-47-35 - Beaufort County (\$85,000 and \$65,000)**
  - a. **Count 1: Breach of Trust with Fraudulent Intent – Value \$10,000 or More, § 16-13-230 – 2 Counts**
    - Up to 10 years or a fine in the discretion of the court
  - b. **Count 3: Money Laundering – Value \$100,000 or More, § 35-11-740 – 1 Count**
    - Up to 20 years and a fine of up to \$250,000 or twice the amount at issue
  - c. **Count 4: Computer Crime – Value More Than \$10,000, § 16-16-20 – 1 Count**

- Up to 5 years in prison and/or a fine up to \$50,000

- d. **Count 5: Forgery – Value \$10,000 or More, § 16-13-10 – 1 Count**
- Up to 10 years in prison or a fine in the discretion of the court

**V. 2021-GS-47-36 - Hampton County (\$95,000)**

- a. **Count 1: Breach of Trust with Fraudulent Intent – Value \$10,000 or More, § 16-13-230 – 1 Count**

- Up to 10 years or a fine in the discretion of the court

- b. **Count 2: Computer Crime – Value More Than \$10,000, § 16-16-20 – 1 Count**

- Up to 5 years in prison and/or a fine up to \$50,000

**VI. 2021-GS-47-37 - Hampton County (\$90,000 and \$5,504.94)**

- a. **Count 1: Breach of Trust with Fraudulent Intent – Value \$10,000 or More, § 16-13-230 – 1 Count**

- Up to 10 years or a fine in the discretion of the court

- b. **Count 2: Computer Crime – Value More Than \$10,000, § 16-16-20 – 1 Count**

- Up to 5 years in prison and/or a fine up to \$50,000

- c. **Count 3: Breach of Trust with Fraudulent Intent \$2,000 to \$10,000, § 16-13-230 – 1 Count**

- Up to 5 years in prison and/or fine in the discretion of the court

**VII. 2021-GS-47-38 - Colleton County (\$152,866)**

- a. **Count 1: Breach of Trust with Fraudulent Intent – Value \$10,000 or More, § 16-13-230 – 1 Count**

- Up to 10 years or a fine in the discretion of the court

- b. **Count 2: Money Laundering – Value \$100,000 or More, § 35-11-740 – 1 Count**

- Up to 20 years and a fine of up to \$250,000 or twice the amount at issue

- c. **Count 3: Computer Crime – Value More Than \$10,000, § 16-16-20 – 1 Count**

- Up to 5 years in prison and/or a fine up to \$50,000