IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

UNITED STATES OF AMERICA, Plaintiff, Case No.: 3:17-CR-82 vs. RANDALL KEITH BEANE AND HEATHER ANN TUCCI-JARRAF, Defendants.

VOLUME VIII of VIII

JURY TRIAL PROCEEDINGS BEFORE THE HONORABLE THOMAS A. VARLAN

February 1, 2018 10:57 a.m. to 11:28 a.m.

APPEARANCES:

FOR THE PLAINTIFF: CYNTHIA F. DAVIDSON, ESQUIRE

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APPEARANCES (CONTINUED):

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1 (Call to Order of the Court) 2 THE COURT: Thank you. Good morning, everyone. I've been informed that our jury is prepared to 3 4 return a verdict in this case. So we'll bring the jury in to 5 receive the verdict. 6 (Jury in at 10:57 a.m.) 7 THE COURT: All right. Thank you. Everyone may be 8 seated. 9 Good morning to our members of the jury. The Court 10 has been informed that the jury has agreed upon a verdict in 11 this case. I believe our juror in seat nine served as our jury 12 foreperson. Is that correct? 13 JURY FOREPERSON: Yes. 14 THE COURT: Has the jury unanimously agreed upon a 15 verdict in this case? 16 JURY FOREPERSON: Yes, sir. 17 THE COURT: Would you please pass the verdict form for review by the Court. 18 19 I'll ask the courtroom deputy to read the verdict 20 form aloud at this time. 21 THE COURTROOM DEPUTY: We, the members of the jury, find unanimously from all the evidence as follows: 22 23 One, as to Count 1 of the indictment, charging a 24 violation of 18 U.S.C. Section 1343, that is, wire fraud, 25 occurring on or about July 6th, 2017, we find the defendant,

Randall Keith Beane, guilty.

Two, with respect to Count 1 of the indictment, we find that the conduct constituting this offense did affect a financial institution.

Three, as to Count 2 of the indictment, charging a violation of 18 U.S.C. Section 1343, that is, wire fraud, occurring on or about July 6th, 2017, we find the defendant, Randall Keith Beane, guilty.

Four, with respect to Count 2 of the indictment, we find that the conduct constituting this offense did affect a financial institution.

Five, as to Count 3 of the indictment, charging a violation of 18 U.S.C. Section 1343, that is, wire fraud, occurring on or about July 6th, 2017, we find the defendant, Randall Keith Beane, guilty.

Six, with respect to Count 3 of the indictment, we find that the conduct constituting this offense did affect a financial institution.

Seven, as to Count 4 of the indictment, charging a violation of 18 U.S.C. Section 1343, that is, wire fraud, occurring on or about July 6th, 2017, we find the defendant, Randall Keith Beane, guilty.

Eight, with respect to Count 4 of the indictment, we find that the conduct constituting this offense did affect a financial institution.

Nine, as to Count 5 of the indictment, charging a violation of 18 U.S.C. Section 1343, that is, wire fraud, occurring on or about July 7, 2017, we find the defendant, Randall Keith Beane, guilty.

Ten, with respect to Count 5 of the indictment, we find that the conduct constituting this offense did affect a financial institution.

Eleven, as to Count 6 of the indictment, charging a violation of 18 U.S.C. Section 1344, that is, bank fraud, from on or about July 5, 2017 continuing through at least on or about July 11, 2017, we find the defendant, Randall Keith Beane, guilty.

Twelve, as to Count 7 of the indictment, charging a violation of 18 U.S.C. Section 1956(h), that is, conspiracy to commit money laundering, we find the defendant, Randall Keith Beane, guilty.

Thirteen, as to Count 7 of the indictment, charging a violation of 18 U.S.C. Section 1956(h), that is, conspiracy to commit money laundering, we find the defendant, Heather Ann Tucci-Jarraf, guilty.

Signed by the foreperson, February 1st, 2018.

THE COURT: All right. Thank you.

I want to make sure the verdict is the verdict of each of you as jurors. If the verdict as read is the verdict of each of you, please so indicate by raising your right hand

at this time.

All right. Thank you. Let the record reflect that each juror has raised his or her right hand in affirmative fashion in response to polling of the jury.

The Court will direct the courtroom deputy to file and record the verdict at the conclusion of today's proceeding.

Members of the jury, that concludes your service in this case. The Court wants to thank you for your service, and remind you that you have performed an important civic duty, and you've listened to this case and have been very conscientious, and you're due the thanks of all of us for your service. And please be assured you have performed a valuable public service.

I want to remind you, and you heard me remind the alternate jurors of this prior to their dismissal yesterday, but I want to remind you, as I do at the end of each case, of the Court's Local Rule 48.1, which provides that no attorney, party, or representative of either may question a juror after a verdict has been returned without prior permission of the Court.

And I want to inform you that no such permission has either, A, been requested or, B, been granted by the Court in this case. So, please keep that in mind.

So, again, thank you for your service, and you're discharged with the Court's appreciation.

THE COURTROOM DEPUTY: All rise.

(Jury out at 11:04 a.m.)

THE COURT: All right. Thank you. Everyone may be seated.

Mr. Beane and Ms. Tucci-Jarraf, as you heard the verdict read, you have been found guilty, Mr. Beane, of Counts 1 through 7, inclusive, and Ms. Tucci-Jarraf has been found guilty of Count 7.

So the next step in this process is for the Court to impose sentence. Prior to sentencing, the United States probation officer will prepare what's known as a presentence investigation report, which will aid the Court in fashioning an appropriate sentence in this case. You will be asked -- each of you respectively as defendants will be asked to give information to the probation officer for the presentence report.

And our local rules provide that you may have your attorney present with you at that time if you wish. Obviously, you were representing yourselves, but I believe that would equally apply to your standby counsel as well.

You, and if you desire, your standby counsel, will be permitted to read the presentence report before the sentencing hearing. Within 14 calendar days of filing of the presentence report, all parties must file with the Court any objections they may have to the report or a notice of no objections pursuant to Local Rule 83.9(c).

The Court also reminds the parties that pursuant to Local Rule 83.9(j), the government is to file any motion pursuant to 18 United States Code Section 3553(e) or Section 5K1.1 of the Guidelines or for a sentence below the statutory mandatory minimum at least seven days before the sentencing hearing.

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As to all parties, any other motions for downward or upward departure or variance and all sentencing memoranda must be filed at least 14 days before the sentencing hearing date. Failure to comply with these deadlines may result in a denial of a request for a departure or variance.

To the extent the parties cannot comply with these deadlines, the parties shall notify chambers as soon as practically possible and demonstrate good cause for an extension as required by Local Rule 83.9(g).

Also if an evidentiary hearing is required on any objections to the report, the party must expressly request a hearing at the time of the filing of any objections or responses.

And the defendants are advised, again, respectively, that you, as parties representing yourselves, and as parties -- specifically as parties, irrespective of whether you are representing yourselves, but you will be permitted to speak on your own behalf at the sentencing hearing.

Sentencing hearing dates sometimes have to change UNITED STATES DISTRICT COURT

because of the Court's calendar or other matters, so I'm going to set sentencing on these dates: Mr. Beane for June 12, 2018 at 10:00 a.m. and for Ms. Tucci-Jarraf for June 26th, 2018 at 10:00 a.m.

Again, I caution anyone making note of those dates, obviously, the parties will be directly advised if those dates change and their counsel and/or standby counsel, but sometimes those dates have to be changed. Sometimes they're moved up, sometimes they're moved back. But for now, the dates are going to be June 12th, 2018 at 10:00 a.m. for the defendant, Mr. Beane, and June 26th, 2018 at 10:00 a.m. for the defendant, Ms. Tucci-Jarraf.

All right. Next, the Court notes the defendant Mr. Beane was ordered detained pending trial after he waived his right to a detention hearing. The Court would provide for the continued detention of Mr. Beane pending his sentencing in this case.

The defendant, Ms. Tucci-Jarraf, has, on the other hand, been released pending trial in this case. She's now been found guilty of Count 7 of the indictment, conspiracy to commit money laundering.

What are the parties' positions on detention at this time? Hear first from the government.

MS. DAVIDSON: Your Honor, the United States moves for the detention of Ms. Tucci-Jarraf. She has been found UNITED STATES DISTRICT COURT

guilty. As this Court knows, this is the same position that we have taken all along. Ms. Tucci-Jarraf does not believe that this Court has any jurisdiction over her. And as such, she's a flight -- a risk of flight.

Further, now that she has been found guilty, we believe that she poses a greater risk of flight than she did pretrial.

Finally, Your Honor, this defendant has continually refused to comply with this Court's order, including not returning the jury questionnaires, which were provided in aid -- to aid her in trial. In fact, in her response that she filed this morning, she swore that she provided them to standby counsel a week before we actually even received them.

So based on this conduct, we ask that she be remanded.

THE COURT: All right. Ms. Tucci-Jarraf, do you have a response to the government's request that you be remanded at this time?

MR. LLOYD: Your Honor, with leave of the Court,
Ms. Tucci-Jarraf would prefer that I speak for her.

THE COURT: That would be fine. Why don't you come up to the podium, just to make sure we can hear.

MR. LLOYD: Yes, Your Honor.

This is, of course, not a controlled substance, this exact case, and therefore no presumption with respect to the

availability of presentence release is called for.

Ms. Tucci-Jarraf has complied assiduously with all of the requirements imposed on her since she was first required to report to the probation office pending this trial. That has included even yesterday making certain that she was at her residence immediately or as soon as possible after court recessed to be checked on by a representative of the probation office.

She has, in short, complied with every condition of release imposed on her, and has -- has not merely cooperated -- or has not cooperated grudgingly. She has done all required of her by the probation office, including showing up for urinalysis, wearing an ankle bracelet, and reporting as needed or required.

In short, her conduct up to the time of verdict has illustrated that the conditions previously imposed have been sufficient to cause her to appear when and as required.

There is obviously a set of conditions, including surrender of a passport, sufficient to do that without incarcerating this defendant prior to her post-trial motions and to sentencing by the Court as well as appeal.

I will address what counsel for the government raised about the jury instructions by saying that if my client tells me that those -- that the jury questionnaires were delivered back to me, I will make another search of my office.

THE COURT: I think the issue there is she's stating in a declaration that she received them on January 8th and gave them back to you on January 12th, but the government is saying that -- and I think this is accurate, that the jury questionnaires were not even distributed until January 18th by the jury administrator.

So there would have been no possible way she would have either received them on January 12th or given them back to you on -- or received them on January 8th and given them back to you on January 12th, because they were not ready to be disseminated until January 18th.

MR. LLOYD: And I understand counsel -- the government's counsel's point on that, but I still submit, Your Honor, that adding that fact to the fact that she has been in compliance throughout the time period leading up to this trial shows that that discrepancy or mistake is not a sufficient reason to incarcerate this person who has, again, complied with all pretrial conditions and has asserted on the basis of her beliefs, some of which have been presented during this trial, that she intends to be here for as long as it takes to complete the trial level adjudication of this case.

With that, Your Honor, I suggest that the continued order of detention with any conditions that the Court finds need to be added would be a sufficient alternative to the expense of incarceration and the difficulties incarceration

1 causes anyone consulting with counsel while sentencing is 2 pending. 3 THE COURT: Ms. Davidson, if you'd like to respond? 4 MS. DAVIDSON: Just briefly, Your Honor. 5 THE COURT: Before you respond, and both counsel, I 6 mean, I always like to start with a standard. 7 And, Mr. Lloyd, you'd concede the standard is 8 different now with the return of a guilty verdict than it was 9 at the time of initial appearance when there was a presumption 10 of innocence? 11 MR. LLOYD: I acknowledge that. 12 Okay. And you might speak to that too, THE COURT: 13 Ms. Davidson, so we all have the proper standard. 14 MS. DAVIDSON: Yes, Your Honor. As you mentioned, 15 the presumption is different. There is a higher level of --16 that would dictate detention in this case. 17 And further, regarding these jury questionnaires, I've known Mr. Lloyd for over 20 years, and there is no doubt 18 19 in my mind that he -- if he had been given these jury 20 questionnaires, he would have turned them over to the Court. 21 He's obviously advocating for his client. 22 But, Your Honor, this failure to comply with this 23 order is indicative of the conduct of Ms. Tucci-Jarraf. She

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she went into great detail over her independence from -- her

similarly does not believe that the rules apply to her.

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wealth on the stand.

She certainly could flee and has access to a large amount of family money. She certainly could flee if she chose to. And she does not comply with this Court's orders.

And the fact that she has complied with all the previous conditions is a very low weight.

THE COURT: All right. Anything further, Mr. Lloyd?

MR. LLOYD: Your Honor, Ms. Tucci-Jarraf would like to be heard on this.

THE COURT: Okay. Go ahead, Ms. Tucci-Jarraf.

MS. TUCCI-JARRAF: Thank you.

As far as the discrepancies with the dates, I wrote that this morning at 5:00 a.m. while I was still searching, so if there is incorrect dates, I was just remembering that there was a possibility I had given them to Francis, because, as this Court knows and has made a public record, I believe that it was different with the praecipe, which was Document 98. So I had no use for those.

So if there are wrong dates, that's completely my error. But it wasn't intentional. So Francis and I -- excuse me, Mr. Lloyd and I are going to be both searching for those particular documents.

As far as a flight risk or anything else. I'm still committed to being here to the very end, no matter what the outcome was. I stated that in the beginning. I followed

through with it. I continue until incarceration or until there's some other result. But I'm not leaving Tennessee until it's concluded. I've made that very clear. All my actions have fallen through -- followed through with that.

Ms. Wilson and I have -- I've complied with everything, even beyond as far as reporting and everything else.

So at this time, I would like to restate my intention to be here until the very end and sentencing on June 26th, unless there's some change by the court, of course, on that matter.

So that's all I have to say. Thank you.

THE COURT: Thank you. Anything further from either counsel in this case?

All right. Well, the Court referenced the standards applicable to a decision in this case. The general rule is that a person who has been found guilty of an offense and is awaiting imposition of sentence must be detained unless no term of imprisonment is recommended for the defendant, or the defendant can show by clear and convincing evidence that she is not likely to flee or pose a danger to others. The Court referencing 18 United States Code Section 3143(a)(1).

The Sixth Circuit has stated in numerous cases, and the Court quoting from United States v. Vance, "Once guilt of a crime has been established in a court of law, there is no

reason to favor release pending imposition of a sentence or appeal."

In other words, the Court is now quoting from United States v. Bowman, "Section 3143(a)(1) creates a presumption against release, which the defendant must overcome. However, defendants convicted of certain offenses, particularly those described in Subparagraphs A, B, or C of 18 United States Code Section 3142(f)(1) must be detained pending sentencing."

Here, the crime of which this defendant,

Ms. Tucci-Jarraf, has been convicted, conspiracy to commit

money laundering, in violation of 18 United States Code Section

1956(h) does not fall within the offenses described in

Subparagraphs A, B, or C of Section 3142(f)(1).

Therefore, the Court must turn to an analysis of whether the defendant has shown by clear and convincing evidence that she is not likely to flee or pose a danger to the community.

18 United States Code Section 3142(g) provides a nonexclusive set of factors for the Court to consider in deciding whether the defendant has met this burden.

These include the nature and circumstances of the offense, including whether it is a crime of violence, the weight of the evidence against the defendant concerning any risk of flight or danger to the community, the history and characteristics of the defendant, including her character,

mental and physical condition, family and community ties, employment status, financial resources, criminal history, substance abuse history, and probation or supervised release status, and the nature and seriousness of the danger posed to the community by the defendant's potential release.

The ultimate touchstone of this analysis is whether there are conditions of release that will reasonably assure the appearance of the defendant, as required, and the safety of the person in the community.

Here, the Court has carefully reviewed these factors and other relevant considerations in relation to the parties and circumstances of this case.

And, ultimately, after consideration of the arguments and the standards, the Court finds that the defendant has failed to meet her burden of proving by a clear and convincing evidence that she is not likely to flee the jurisdiction before sentencing hearing.

Let me expand upon that. From the time this case has begun -- and the Court does take into consideration

Ms. Tucci-Jarraf's declaration that she would comply with conditions of release and be here for sentencing and does note her compliance to date on pretrial release.

But on the other hand, the Court is mindful that from the time this case began, this defendant has repeatedly challenged the Court's subject matter jurisdiction, the

authority of the government to bring charges against her, and the legal existence of the federal government as a whole.

Indeed, she has filed numerous documents purporting to void the indictment and ordering the Court to dismiss all charges against her, including before trial and during the course of this trial. Ms. Tucci-Jarraf has also repeatedly filed altered version's of the Court's orders that purport to reject those orders as invalid.

In fact, referencing the order -- or excuse me, referencing the declaration filed today, February 1, by

Ms. Tucci-Jarraf, and putting aside the declarations therein regarding the timing and supposed return of the juror questionnaires to her standby counsel, the Court instead, for purposes of this analysis, focuses on her declaration in Paragraph 9 that until the morning the trial began, she, quote, believed 100 percent, closed quote, that this case would not go to trial, given that she did not consent to these proceedings.

In other words, this declaration -- through this declaration, the defendant appears to continue to believe, despite the Court's multiple rulings on the matter, that the Court has no authority over her.

And the Court finds no reason to believe, despite the assurances given, that this defendant would attach greater legitimacy to the upcoming sentencing hearing than she has to the trial and the other proceedings in this case, particularly

given her positions as to the jurisdiction of the Court now in light of a guilty verdict as to her and an upcoming sentencing hearing related to a potential term of imprisonment.

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Thus, the Court is not convinced, despite the assurances of the defendant or the other arguments made by the defendant, that Ms. Tucci-Jarraf would comply with either the conditions of release to which she is currently subject or any new conditions the Court could impose pending her sentencing hearing, the Court thus concluding that there are no conditions of release that would reasonably assure the appearance of the defendant as required.

Further analysis or support for the Court's decision, and one of the factors mentioned was the history and characteristics of this defendant.

And in that regard, the Court looks at

Ms. Tucci-Jarraf's own testimony in this case, which the Court

must consider. That testimony includes, but is not limited to,

she testified she is from a, quote, well-to-do family, closed

quote, and that she spent over 20 -- she has spent over

\$20 million over the last 20 years on her costs.

She also testified as to extensive foreign travel, including, in particular, to Morocco and Italy. In addition, she referenced foreign travel to China, Hong Kong, Haiti, among other foreign countries. Also, Ms. Tucci-Jarraf testified as to extensive foreign contacts, referencing contacts with

foreign leaders, foreign agents, and foreign business associates. She also alluded to assets of either herself or of her foreign contacts that are or could be held in foreign countries, all of which the Court must further take into consideration as part of its analysis in this case.

Now, it is true that Magistrate Judge Shirley elected to release Ms. Tucci-Jarraf pending trial. He did so based on a finding that she intended to litigate this case to trial and present her position to the jury notwithstanding her belief that the Court lacks authority over her.

And at the time of her initial appearance, the Court must note, she envisioned being exonerated of the charges against her or based on her declaration of today of being convinced that this case would not or would never go to trial.

However, again, Ms. Tucci-Jarraf has now been found guilty of a serious offense and is facing a potentially substantial term of prisonment. Thus, the justification for release of the defendant at the time of her initial appearance is no longer present, and is noted and is discussed with the parties the standards and burdens have now changed in light of the jury's return of a guilty verdict as to Ms. Tucci-Jarraf on Count 7.

Therefore, in light of the Section 3142(g) factors, in particular, the seriousness of the offense of conviction, the defendant's history of disputing the Court's authority over

1 her, and the weight of evidence that she poses a risk of 2 flight, and keeping in mind, the presumption against release, which defendant must overcome, the Court finds the defendant 3 4 has failed to prove by clear and convincing evidence that she 5 would not likely flee the jurisdiction if released. As such, the default rule of 18 U.S.C. 6 7 Section 3143(a)(1) applies, and the defendant, 8 Ms. Tucci-Jarraf, the Court orders, must be detained pending 9 sentencing. 10 In light of this ruling, related to flight risk, the 11 Court need not determine whether she's carried her burden of 12 proving she's not a danger to the community, and, accordingly, the Court hereby orders that the defendant, Heather Ann 13 14 Tucci-Jarraf, shall be detained pending her sentencing hearing. 15 I'm not going to deal with the other parts of the 16 declaration related to the juror questionnaire today. That may 17 be appropriate for another hearing, but we'll leave that for 18 now. 19 Any other matters we need to bring up at this time 20 related to this case? 21 Ms. Davidson, on behalf of the government? 22 MS. DAVIDSON: No, Your Honor. THE COURT: Ms. Tucci-Jarraf, or, Mr. Lloyd, on your 23 24 behalf?

UNITED STATES DISTRICT COURT

MS. TUCCI-JARRAF:

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1	THE COURT: Mr. Beane, anything further on your
2	behalf?
3	MR. BEANE: No.
4	THE COURT: All right. We'll stand adjourned.
5	Thank you, everyone.
6	THE COURTROOM DEPUTY: All rise. This honorable
7	court shall stand adjourned.
8	(Proceedings adjourned at 11:28 a.m.)
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1 CERTIFICATE OF REPORTER 2 STATE OF TENNESSEE 3 COUNTY OF KNOX I, Rebekah M. Lockwood, RPR, CRR, do hereby certify 4 5 that I was authorized to and did stenographically report the foregoing proceedings; and that the foregoing pages constitute 6 7 a true and complete computer-aided transcription of my original 8 stenographic notes to the best of my knowledge, skill, and 9 ability. 10 I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative 11 12 or employee of any of the parties' attorneys or counsel 13 connected with the action, nor am I financially interested in 14 the action. 15 IN WITNESS WHEREOF, I have hereunto set my hand at 16 Knoxville, Knox County, Tennessee this 22nd day of April, 2018. 17 18 19

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REBEKAH M. LOCKWOOD, RPR, CRR Official Court Reporter

United States District Court Eastern District of Tennessee