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8 THE UNITED STATES DISTRICT COURT
9 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
10 (THE HONORABLE MICHAEL M. ANELLO)

11 UNITED STATES OF AMERICA,) Case No. 14-CR-00388-MMA
12 Plaintiff,)
13 v.) **MEMORANDUM OF POINTS**
14 JOSE SUSUMO AZANO) **AND AUTHORITIES IN**
15 MATSURA) **SUPPORT OF MOTION TO**
16 Defendant.) **MODIFY CONDITIONS OF**
17) **SUPERVISION**
18) **Date: February 24, 2015**
19) **Time: 1:30 pm**
20) **Department: Hon. Mitchell**
21) **Dembin U.S. Magistrate Judge**

22 I. INTRODUCTION AND FACTS

23 About a month before his arrest, law enforcement searched Mr.
24 Azano's homes. At that time, law enforcement strongly recommended
25 that he not fly from San Diego. Although there was no legal impediment
26 to flying, he refrained from doing so for the next month in order to show
27 his good faith to the agents. Furthermore, a person who was at that time

1 acting undercover on behalf of the government informed Mr. Azano,
2
3 through a third person that he should flee from the United States. He
4 refused to do so,
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6 Mr. Azano was later indicted and arrested on a single count of
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8 violating the campaign laws of the United States. On February 20, 2014
9
10 this Court set the conditions of release for Mr. Azano (Clerk's Record
11
12 Docket Entries 5 and 8), who has remained free on bail without any
13
14 violations since that time. Those conditions included, among other
15
16 things, posting a fully secured \$5,000,000.00 personal appearance bond.
17
18 To secure his release Mr. Azano posted \$250,000.00 cash and a home that
19
20 at that time had equity of \$4.75 million.

21 After the passing of a year, this case no longer resembles the case
22
23 as initially proffered by the United States¹ in support of its motion to
24
25 detain. The government first proffered to this Court that this case

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27 ¹ The Assistant U.S. Attorney who made these remarks is no longer with
28
29 the Office of the U.S. Attorney. That Assistant U.S. Attorney also made
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false, wild, and unsubstantiated claims about never charged conduct in a
written pleading that included confidential tax and banking information.
The District Court ordered those allegations sealed. *See*, Docket Entry 59.

1 appeared “to be one of the larges, if not the largest, campaign finance
2 fraud conspiracy in San Diego, San Diego’s history, if not the history of
3 the United States.” [Reporter’s Transcript² (“RT”), 6: 11-12.] The past
4 year has shown that the government’s initial assessment was wrong.
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8 First, the amount of money that the government alleged at the first
9 court appearance (\$600,000.00) is far more than the amount alleged and
10 disputed in the superseding indictment (about \$450,000.00).
11
12

13 Second, the government has yet to produce any evidence that Mr.
14 Azano sought or received any benefit from any United States politician.
15 In point of fact, the government’s allegation at the detention hearing that
16 Mr. Azano had contemplated a move to London or Spain suggests that
17 he would have no motive to try to influence a local San Diego politician.
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22 [R.T. 12: 14.]
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29 ² A true and correct copy of the transcript of the detention hearing is
30 attached as Exhibit A.

1 Third, logically Mr. Azano would not knowingly violate the law
2 when his wife and adult child could instead donate to any U.S. political
3 candidate.
4

5
6 The absence of allegations or facts pointing to misconduct by a
7 politician speaks volumes about this case, which has one central (and
8 many ancillary) issue: can the government prove beyond a reasonable
9 doubt that Mr. Azano knew that neither he nor a company associated
10 with him could not donate to campaigns.
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15 **a. Summary**

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17 Mr. Azano has previously detailed for this Court the government's
18 evidence, which, in short, rests on two thin threads: first, on a man
19 (Encinas) who was bribing police, lying to others, and using Mr. Azano
20 to appear to be a big shot. That person manipulated politicians,
21
22 conspired to bribe officers, and ordered the other witness (Chase) to
23
24 make certain donations. Second, the other witness (Chase) owes Mr.
25
26 Azano millions of dollars, admitted to using Mr. Azano to make money,
27
28 admitted to manipulating Mr. Azano, admitted to tricking Mr. Azano
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30

1 into believing he owned part the Chase's company, and who was given
2
3 misdemeanors for his trouble.

4 One campaign professional with no connections whatsoever with
5
6 Mr. Azano felt that Encinas was misleading Mr. Azano so he could look
7
8 like "a big man on campus." EM_AGT RPT_ROIs_001608. That
9
10 campaign professional wondered if Encinas was trying to take credit for
11
12 Mr. Azano's money. RPT_ROIs_001607.

13 **II. THIS COURT SHOULD MODIFY THE CONDITIONS OF**
14 **RELEASE**

15 Under 18 USC § 3142(c)(3), this Court "may at any time amend the
16
17 [release] order to impose additional or different conditions of release."

18
19 Mr. Azano moves for such orders in this case. Title 18 U.S.C. § 3142(b)
20
21 mandates pretrial release ("Shall order the pretrial release") on personal
22
23 recognizance or on an unsecured appearance bond unless the court
24
25 determines that "such release will not reasonably assure" the person's
26
27 appearance. If the court sets conditions, they must be the "least
28
29 restrictive" conditions necessary to reasonably assure the person's
30
appearance. § 3142(c)(1)(B).

1 In this case, a year of litigating and inability to travel and conduct
2 business has burdened Mr. Azano financially. He, therefore, seeks to
3 change (not eliminate) conditions so that the court will remain
4 reasonably assured he will return and to also allow him access to
5 resources and the ability to conduct business.
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10 **A. Mr. Azano Asks This Court To Modify His Release Order So**
11 **to Return the \$250,000.00 Deposited With the Court**

12 Mr. Azano has deposited with this Court \$250,000.00 along with a
13 trust deed on his home with equity as of a year ago of at least \$4.75
14 million. Counsel for Mr. Azano has previously advised this Court of
15 Mr. Azano's need to access those funds. Also, a year ago his home had a
16 value of \$8.25 million. An increase in value of about 3% (the county
17 average over the last year) would give Mr. Azano \$5 million in equity in
18 his home.
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24 **B. Mr. Azano Asks This Court To Modify His Release Order And**
25 **to Reduce the Bail to \$2.5 Million**

26 Although seemingly symbolic, this Court should reduce bail to \$2.5
27 million. That would allow Mr. Azano access to the equity in his home
28 and would also more accurately reflect the seriousness of this case.
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III. CONCLUSION

This Court should grant these motions.

Respectfully submitted,

Dated: February 23, 2015

/S/ Knut s. Johnson

Knut S. Johnson
Attorney for Defendant,
Jose Susumo Azano Matsura

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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10
11 UNITED STATES OF AMERICA,) Case No. 14-CR-00388-MMA
12 Plaintiff,) **PROOF OF SERVICE**
13 vs.)
14 Jose Susumo Azano Matsura,)
15 Defendant.)
16)
17)

18 I, the undersigned, hereby declare as follows:
19

- 20 1. I am over 18 years of age, a resident of the County of San
21 Diego, State of California, counsel for the Defendant and that
22 my address is 1010 Second Avenue, Suite 1850, San Diego,
23 CA 92101;
24
25 2. That today I served the Memorandum of Points and
26 Authorities in Support of Motion to Modify Conditions of
27 Supervision on opposing counsel by causing to be delivered
28 by e-filing to the Office of the Clerk.

29 I declare under penalty of perjury that the foregoing is true
30 and correct.

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Dated: February 23, 2015

/s/ Knut S. Johnson
Knut S. Johnson
Attorney for Defendant,
Jose Susumo Azano Matsura