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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF ARIZONA

9 United States of America
10 Plaintiff,
11 v.
12 Jacqueline L. Parker,
13 Defendant.

CR-10-757-PHX-ROS

**UNITED STATES' RESPONSE TO
DEFENDANT JACQUELINE
PARKER'S MOTION TO
PRECLUDE THE ADMISSION OF
PRIVILEGED ATTORNEY-CLIENT
COMMUNICATIONS**

14 Defendant Jacqueline Parker has moved to preclude the admission of unspecified
15 communications with one or more lawyers. The pleading in many respects is too nebulous to
16 address. The Motion also is remarkably inconsistent with the advice of counsel/good faith
17 defense jury instructions defendant proposed and lodged in this matter. (CR 73.) Equally
18 important is that there does not appear to be anything for this Court to consider and rule upon,
19 and without more, there certainly is no reason to hold a hearing. ^{1/}

20 The sum and substance of the motion is that “the defendant makes this objection out of
21 concern that their prior counsel may have disclosed confidential communications to
22 investigators...” (Motion at page 2, lines 19-23.) The Motion then goes on to state that
23

24 ^{1/} Because defense counsel has raised an advice of counsel/accountant defense in the jury
25 instructions that were lodged with the Court, the government intends to move for disclosure and
26 discovery to learn what legal and accounting advice they purportedly relied upon. The
27 government is permitted to learn whether the defendants turned over all relevant information to
28 the accountant or lawyer they claim provided them with professional advice to which they
purportedly relied upon in good faith. *United States v. Bishop*, 291 F.3d 1100, 1107-08 (9th Cir.
2002) (“We hold that *Cheek* does not change the rule that a defendant claiming good faith
reliance of a tax professional must have made full disclosure of all relevant information to that
professional.”)

1 defendant Jacqueline Parker is unaware of any actual disclosures of privileged communications,
2 but is simply concerned that something might have been disclosed by prior counsel. Again, the
3 non-specific nature of this “concern” does not warrant the relief defendant seeks.

4 In addition, it should be noted that defendant Jacqueline Parker’s argument is inconsistent
5 in at least one respect. She claims that one attorney represented both she and her husband
6 (Motion at page 2), but then appears to switch on page 3 to the argument that the attorney
7 represented only her husband. For example, on page 2, she refers to “*their* prior counsel,” and
8 “*their* counsel.” (Motion at page 2, lines 19-23.) Thereafter, the Motion states “this concern is
9 implicated by Mrs. Parker, who is charged with signing documents that Mr. Robinson appears
10 to have prepared *in the course of representing her husband.*” ((Motion at page 3, lines 1-2.)
11 Therefore, if she is claiming the attorney represented her husband only, she appears to lack
12 standing to raise her “concerns” in this Motion.

13 Defendant’s Motion does not raise a cognizable issue for this Court to decide. Until there
14 is something more substantive to consider, the Motion should be denied without prejudice.

15 Respectfully submitted this 9th day of May, 2011.

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18 *S/Peter Sexton*

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22 Certificate of Service: I hereby certify that on this day , I electronically transmitted the attached
23 document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice
24 of Electronic Filing to the following CM/ECF registrants: Joy Bertrand, John McBee, and
25 Michael Minns.
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