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9 **IN THE UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF ARIZONA**  
11

12 **UNITED STATES OF AMERICA,**  
13 Plaintiff,

14 v.

15 **JAMES PARKER, et al.,**  
16 Defendants.

**No. 10-CR-757-PHX-ROS**

**RESPONSE TO THE GOVERNMENT’S  
MOTION IN LIMINE TO PRECLUDE  
DEFENDANT FROM ELICITING  
TESTIMONY WITH REGARDS TO  
SUSPICIOUS ACTIVITY REPORTS**

17  
18 NOW COMES Defendant James Parker, by and through his counsel of record, and in  
19 response to the Government’s Motion in Limine to Preclude Defendant from Eliciting Testimony  
20 with Regards to Suspicious Activity Reports of May 18, 2012 (“Gov’t’s Suspicious Activity  
21 Reports Mot.”), states as follows.  
22

23 In addition to offering in evidence a Suspicious Activity Report or Reports made by First  
24 State Bank to the Government, the Government will call Timothy Barnes and Cerita Walker  
25 from First State Bank. The Government claims, however, that it “does not intend to elicit  
26

1 testimony on its' [sic] direct case that First State Bank filed [Suspicious Activity Reports] with  
2 regards to transactions involving defendant.” (Gov’t’s Suspicious Activity Reports Mot., at 6.)  
3 The Government suggests, “Defendant’s intent to cross-examine these witnesses ... will force  
4 these witnesses to violate the Bank Secrecy Act [but] testimony with regards to the [Suspicious  
5 Activity Reports] has no relevance ... and seems designed solely to intimidate or embarrass these  
6 witnesses.” (*Id.* at 1-2.)

7 Suspicious Activity Reports are privileged records. So are all of the federal tax records  
8 the Government is submitting. The investigation is over. So is the purpose for the privilege –  
9 but even so – the Government has offered Exhibit 76, Bates Numbers 8341 and 8342, entering  
10 evidence of the Suspicious Activity Report the Defendant has objected to. The Court has  
11 overruled Defendant’s objection and the Suspicious Activity Report will be in evidence. The  
12 Government’s real motive is that it does not want its evidence to be cross-examined.

13 There was a local prejudice during litigation in Oklahoma that the Government wants to  
14 conceal. Both Barnes and Walker discussed the Suspicious Activity Reports with counsel and  
15 their reasons for filing them.  
16

17 If the Government believes the cross-examination will embarrass anyone, it can move to  
18 seal that portion of the record, but the effort is silly.

19 Discussion of Suspicious Activity Reports in cases involving offshore issues is common,  
20 and fair game in a federal criminal case. *E.g.*, *United States v. Daly*, Nos. 05–10718, 05–10719,  
21 05–10728, 05–10729, 243 F. App’x 302, 2007 WL 2212362 (9<sup>th</sup> Cir. Aug. 2, 2007); *In re I.G.*  
22 *Servs., Ltd.*, Bankr. Nos. 99–53170–C, 99–53171–C, 2004 WL 5866105 (Bankr. W.D. Tex. Dec.  
23 22, 2004). The Government has cited no cases in which it was proper to limit cross-examination  
24 in this way in a criminal case. Rather, the Government references a letter from the Financial  
25  
26

1 Crimes Enforcement Network (“FinCEN”) of the Department of the Treasury stating FinCEN’s  
2 “desire that ... any information concerning [Suspicious Activity Reports] ... be provided by [the  
3 United States Attorney] or another government agency.” (*Id.*, Ex. B, at 2.)

4 The Government knows the number of filings was excessive and will serve to show  
5 prejudice on the part of local bankers who sided against the Parkers in the protected litigation in  
6 Oklahoma. This is the only reason the Government wants cross-examination limited. The fact  
7 that Suspicious Activity Reports were filed is part of the Government’s case. It has offered the  
8 Suspicious Activity Report, and the Court has considered the proffer and denied the Defendant’s  
9 effort to limine it out. It would be impossible to effectively cross-examine the bank officials  
10 without discussing it, particularly since it is being offered by the Government as probative  
11 evidence over the Defendant’s objection in limine.

12 Respectfully submitted on May 22, 2012.

13  
14 /s/ Michael Louis Minns

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21 - AND -

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**CERTIFICATE OF SERVICE**

On May 22, 2012 I, Ashley Blair Arnett, attorney for the Defendant, James Parker, filed the Response to the Government’s Motions in Limine *via* ECF. Based on my training and experience with electronic filing in the federal courts, it is my understanding that a copy of this request will be electronically served upon opposing counsel, Peter Sexton and Walter Perkel, and co-counsel, Joy Bertrand, upon its submission to the Court.

Respectfully submitted this 22nd day of May, 2012.

/s/ Ashley Blair Arnett

Ashley Blair Arnett

Attorney for Defendant