



U.S. Department of Justice

United States Attorney
Eastern District of New York

SME:JKW/NMA
F. #2018R01064

271 Cadman Plaza East
Brooklyn, New York 11201

July 29, 2025

By ECF

The Honorable Rachel P. Kovner
United States District Court
Eastern District of New York
Brooklyn, New York 11201

Re: United States v. Gentile, et al.
Criminal Docket No. 21-54 (RPK)

Dear Judge Kovner:

The government respectfully submits this letter in response to the defendant David Gentile's July 28, 2025 notice of his intent to introduce expert testimony from Marti P. Murray on the compensation Gentile received for the services he provided to GPB Capital LLC in light of industry custom and practice. A copy of Gentile's disclosure is attached hereto as Exhibit A. As set forth below, the proffered testimony is irrelevant to the question of forfeiture and there is no justification for Gentile's late notice. Accordingly, the government respectfully requests that the Court preclude Ms. Murray's testimony.

I. Ms. Murray's Proffered Testimony is Irrelevant

The Court should also preclude Ms. Murray's testimony because it is wholly irrelevant to forfeiture.

Gentile intends to call Ms. Murray to testify that "Gentile's compensation fell within the range of market rates for the services he provided to GPB Capital." Ex. A. at 1. But the reasonableness of Gentile's compensation—presumably vis a vis other fund managers who have not been convicted of fraud—is entirely irrelevant to whether he received "proceeds" of the offense. Section 981(a)(1)(C) requires forfeiture of "[a]ny property, real or personal, which constitutes or is derived from proceeds traceable to . . . any offense constituting 'specified unlawful activity,'" which includes, as here, wire fraud and fraud in the sale of securities. 18 U.S.C. § 981; 18 U.S.C. § 1956(c)(7) (defining "specified unlawful activity" by cross-reference to 18 U.S.C. § 1961, which includes wire fraud and "Fraud in the sale of securities"). The term "proceeds" is further defined in Section 981(a)(2)(B) to mean "money acquired through the illegal transactions resulting in the forfeiture, less the direct costs incurred in providing the goods or services." 18 U.S.C. § 981(a)(2)(B). Whether Gentile's compensation would have been "within the range of

market rates” had he not perpetrated a massive fraud is of no moment. A jury determined that he did, and the proceeds of his crimes are forfeitable.

As set forth in the government’s reply brief in support of its motion for forfeiture money judgments, the compensation Gentile received from Holdings I, Holdings II and Automotive Portfolio (the “Relevant GPB Funds”) during the conspiracy period is not deductible as a “direct cost” because it derived from illegal activity. ECF Dkt. No. 628 at 4–5. Gentile appears to proffer Ms. Murray’s testimony to support an argument that his compensation from GPB Capital LLC—not just the Relevant GPB Funds—is “legitimate compensation” because the amount he made is in line with what other private equity fund managers make. Just because the amounts align, however, does not mean that Gentile’s compensation was for providing legitimate services to investors. Gentile’s argument essentially amounts to the following: Gentile worked as a private equity manager. Private equity managers get paid somewhere between \$3.4 million and \$13 million per year. Gentile’s compensation was within that range and therefore, his compensation was legitimate and is not forfeitable. That argument disregards the inescapable fact that a jury found him guilty of defrauding investors in the private equity funds he was running. An analogy highlights the absurdity of this position: Licensed doctors in the palliative care field make on average \$275,000 per year by managing pain and other symptoms of individuals with serious illnesses. A licensed doctor running an illegal pain clinic (i.e., prescribing pain medication without medical necessity) is paid \$275,000 per year in kickbacks. He is convicted of illegally distributing narcotics in exchange for cash and argues that his compensation of \$275,000 per year is legitimate and therefore not forfeitable because it is in line with salaries for doctors that are not committing crimes. What other doctors—who have not been convicted of crimes—receive in compensation is completely irrelevant to the question of what the defendant-doctor earned from his offense. So too is the question of what other fund managers earn irrelevant to the determination of “proceeds” from Gentile’s offense.

The suggestion that compensation of private equity managers more broadly is relevant misapprehends the forfeiture process; the forfeiture hearing is not intended to determine whether the defendants overpaid themselves relative to some hypothetical peer group (notwithstanding the fact that a peer group of law-abiding fund managers is entirely inapposite where the defendants have been convicted of defrauding their investors). The forfeiture hearing is designed to identify criminal proceeds—that is, funds derived from the defendant and his co-conspirators’ fraud. Private equity “norms” and “customs” around compensation have no bearing on that calculation.

Accordingly, the Court should preclude Gentile from presenting irrelevant evidence about what is “reasonable” compensation for a private equity fund manager. Gentile was not a law-abiding private equity fund manager, and this testimony has no bearing on the issues the Court must determine to impose forfeiture.

II. There Is No Legitimate Justification for Gentile’s Failing to Comply With the Court’s Original Disclosure Deadline

Gentile’s supplemental notice was filed more than one month after the Court-ordered deadline of June 24, 2025. There is no legitimate reason for his failure to comply with the Court’s original disclosure deadline.¹

The government first produced Mr. Petron’s tracing slides on April 30, 2025. On May 30, 2025, the government provided the defendants with an Excel spreadsheet, which listed withdrawals from four bank accounts associated with GPB Capital, AAS, Ascendant Capital, LLC, and DJ Partners (the “Relevant Accounts”) that Mr. Petron determined included monies sent from the GPB Funds between March 2015 and December 2018. On June 23, 2025, the government produced a revised version of this spreadsheet, which listed the amount of criminal procedures contained in every listed withdrawal from the Relevant Accounts (the “Revised Spreadsheet”).

On June 24, 2025, Gentile provided the government with a woefully inadequate disclosure, which stated, in relevant part, that Ms. Murray would testify about the “reasonableness of compensation and fees received by Mr. Gentile in accordance with industry norms and customs.” ECF Dkt. No. 617-2 at 2. In his “disclosure,” Gentile unilaterally reserved the right to supplement his disclosures following the resolution of his pending motion to compel Mr. Petron’s workpapers (which was later denied by the Court) and in light of Mr. Petron’s Revised Spreadsheet. Id. at 1–2. The government moved to compel Gentile to produce a proper expert disclosure. ECF Dkt. No. 617. In response, Gentile essentially argued that he did his best to meet the original expert disclosure deadline but his experts’ analyses of Mr. Petron’s work “might change” in light of the information in the Revised Spreadsheet. ECF Dkt. No. 619 at 2.

This argument does not pass muster. Ms. Murray’s proffered testimony on industry compensation standards has nothing to do with Mr. Petron’s tracing analysis, nor did it hinge on how the Court came out on the defendants’ motion to compel Mr. Petron’s workpapers. The only conceivable purpose for Gentile’s late disclosure is to prejudice the government and potentially delay the forfeiture hearing. With the forfeiture hearing in less than one week, the government cannot retain a rebuttal expert who could prepare a report on the expert topic contained in Gentile’s disclosure. To be clear, the government is not seeking an adjournment of the forfeiture hearing. The defendants have sought to delay at every turn in this litigation—most recently, in their effort to delay their surrender dates. The victims of the defendants’ crimes deserve closure, and the government does not intend to allow Gentile’s gamesmanship to create a further burden on the Court by rescheduling the hearing. As such, the government will forego retaining a rebuttal expert to ensure the forfeiture hearing proceeds as scheduled on August 5, 2025, and because, as set forth

¹ This is not the first time Gentile has failed to comply with Court’s expert disclosure deadlines. Three weeks before trial in this matter the defendants filed cursory and inadequate expert disclosures. The government moved to preclude the defense experts based on non-compliance with Federal Rule of Criminal Procedure 16 and the parties engaged in needless motion practice during trial. Ultimately, the Court agreed with the government that the disclosures were deficient. See Order, ECF Dkt. No. 393. Notwithstanding, the Court gave the defendants an opportunity to supplement the disclosures to remedy these deficiencies, see id., which necessitated a second round of briefing on a dismissibility questions once the government received the revised disclosures. See ECF Dkt. No. 406, 409, 412.

