IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	**Case No. 15-CV-324-GKF-TLW**
REAL PROPERTY COMMONLY KNOWN AS 7208 EAST 65TH PLACE, TULSA, OKLAHOMA; et al.,	)	
	)	
Defendants.	)	

MOTION TO DISMISS CLAIMS AND ANSWERS FILED BY
MAUREEN LONG AND CAMELOT CANCER CARE, INC.

The United States of America, by undersigned Counsel, moves pursuant to Title 28, United States Code, Section 2466, to dismiss the claims and answers filed by Maureen Long and Camelot Cancer Care, Inc. on the ground that Maureen Long is a fugitive from justice. In support of its motion, the United States says the following.

FACTS

On December 17, 2014, a Grand Jury in the District of Kansas returned an indictment charging Maureen Long, d/b/a Camelot Cancer Care, Inc., with 13 counts of wire fraud. *United States v. Maureen Long*, No. 14-40151-01-DDC (D. Kan.). (Exhibit A). Among other things, the indictment alleged that the defendant perpetrated a scheme to defraud persons seeking a cure for cancer by falsely representing that she would provide certain treatments and medications that were approved by the FDA and were effective for the stated purpose when in fact the treatments and medications were neither FDA-approved nor effective.

Based on the indictment, the District Court for the District of Kansas issued a warrant for Long's arrest (Exhibit B), and scheduled her initial appearance and arraignment for December

30, 2014, but Long did not appear. *See United States v. Maureen Long,* No. 14-40151-01-DDC (D. Kan. Jan. 22, 2016) (Dkt. # 14) (order denying motion for change of venue), at 2. She remains a fugitive from justice residing in Mexico where she continues to operate her cancer-care clinics. *See* Printout from Camelot Cancer Care website, http://camelotcancercare.is, dated March 11, 2016. Attachment 3 to Declaration of Rick Holden (Exhibit C).

On June 8, 2015, the United States filed the instant civil forfeiture action against three parcels of real property and various personal assets. In each case, the complaint alleges that the property is subject to forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) as the proceeds of a wire fraud scheme and pursuant to 18 U.S.C. § 981(a)(1)(A) as property involved in money laundering as alleged in the sealed affidavit of Deputy Marshal Holden filed on June 8, 2015, in support of the forfeiture complaint. The Kansas indictment alleges a wire fraud scheme involving approximately nine Kansas residents and seeks a criminal forfeiture money judgment for proceeds of such offense.

Between August 28 and September 1, 2015, four claims were filed to the property subject to forfeiture in this district: Heather and John Lyons, Defendant's daughter and son-in-law, filed a claim to the real property located at 7208 East 65th Place, Tulsa, OK ("65th Place"); Maureen Long and an entity known as the Camelot Trust filed claims to all of the real and personal property *other than* 65th Place; and Camelot Cancer Care, Inc. filed a claim to the bank account held in its name. (Dkt. ## 20, 18 and 19, respectively). The Camelot Trust claim was filed by Heather Lyons on behalf of the Trust; the Camelot Cancer Care claim was filed by Maureen Long as "President of Camelot Cancer Care, Inc."

On January 22, 2016, Hon. Daniel Crabtree, Judge of the District Court of the District of Kansas, denied Defendant's motion for a change of venue in her criminal case on the ground that

as a fugitive from justice, Defendant was barred by the fugitive disentitlement doctrine from filing such a motion until she surrenders to face the criminal charges. (Exhibit D) In addition to finding that she failed to appear for her Rule 5 hearing, the court found that "Ms. Long knew about the charges against her in this case no later than October 6, 2015" when her counsel entered his appearance. *Id.* at 2.

Finally, on February 22, 2016, the parties to the instant civil forfeiture action filed a Joint Status Report in which Maureen Long admitted that she is aware of the criminal charges pending in Kansas, and that she has not returned to the United States to face them. (Dkt. # 39) Her representation to the court on that point was as follows:

> Maureen Long asserts that she was out of the country when she learned of the indictment and that, before she could make arrangements to return she learned that the State Department had cancelled her passport. She has since hired criminal defense counsel who has entered his appearance in the Kansas case, and will be dealing with the logistics of her return.

Joint Status Report at 2. *See also* Declaration of Maureen Long, filed as Dkt. # 15-2 in *United States v. Maureen Long,* 5:14-cr-40151-DCC (D. Kan. Feb. 19, 2016) (Exhibit E).

DISCUSSION

The Fugitive Disentitlement Doctrine

Congress enacted Section 2466 to codify what is commonly known as the fugitive disentitlement doctrine.[1] The statute provides that the court where a civil forfeiture action is

[1] *See Collazos v. United States,* 368 F.3d 190, 198-99 (2d Cir. 2004) (explaining that § 2466 was Congress's response to the Supreme Court's decision in *Degen v. United States,* 517 U.S. 820, 828 (1996), which held that the fugitive disentitlement doctrine was not a rule that judges could impose on their own without the approval of the legislature); *United States v. All That Tract . . . 5054 Stony Point Lake,* 731 F. Supp.2d 1345, 1349-50 (N.D. Ga. 2010) (Congress "legislatively superseded" *Degen* when it enacted § 2466, which "effectively reinstated the use of the fugitive disentitlement doctrine" which is now "alive and well"); *United States v. One 1988 Chevrolet Cheyenne Half-Ton Pickup Truck,* 357 F. Supp. 2d 1321, 1326 (S.D. Ala. 2005) (section 2466 is a "forceful legislative response" to the void created by *Degen*).

pending may disallow any challenge to the forfeiture if the United States establishes five elements: (1) that a warrant or similar process has been issued for the claimant's apprehension; (2) that the claimant has knowledge of the warrant; (3) that the warrant was issued in a criminal case that is "related" to the civil forfeiture case; (4) that the claimant is not being confined or held in custody overseas, such that he is prevented from voluntarily surrendering on the criminal warrant; and (5) that the claimant deliberately avoided prosecution by leaving or declining to "enter or reenter" the United States or otherwise is evading the jurisdiction of the court where the criminal case is pending. *Collazos*, 368 F.3d at 198.[2]

Because the fugitive disentitlement doctrine goes to the right of the claimant to assert *any* defense to the forfeiture action, a motion filed by the United States to strike the claim under Section 2466, like a challenge to the claimant's standing, must be addressed before the court considers any motion filed by the claimant.[3] And if the court determines that the five statutory

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[2] *See United States v. $671,160.00 in U.S. Currency,* 730 F.3d 1051, 1055-56 (9th Cir. 2013) (adopting the list of elements from *Collazos*); *United States v. $6,976,934.65 Plus Interest*, 554 F.3d 123, 128 (D.C. Cir. 2009) (adopting the five *Collazos* elements, and discussing each in detail); *United States v. Salti*, 579 F.3d 656, 663 (6th Cir. 2009) (adopting the *Collazos* elements).

[3] *See $671,160.00,* 730 F.3d at 1059 (because invocation of the fugitive disentitlement doctrine means claimant cannot litigate any issue, district court correctly declined to consider claimant's motion to suppress before granting United States' motion to strike); *United States v. $6,976,934.65 Plus Interest*, 478 F. Supp. 2d 30, 45 (D.D.C. 2007) (because applying the fugitive disentitlement doctrine will bar a claimant from contesting a forfeiture on any ground, the court must rule on the United States' section 2466 motion before addressing any motion filed by the claimant); *United States v. $6,976,934.65 Plus Interest*, 486 F. Supp. 2d 37, 39 (D.D.C. 2007) (same case, denying motion for reconsideration on this issue, and holding that the United States' motion under section 2466 must take precedence over any threshold motion that would favor the fugitive, including a motion to dismiss for improper venue), rev'd on other grounds, 554 F.3d 123 (D.C. Cir. 2009); *United States v. All Funds...Held in the Name of Kobi Alexander*, 2007 WL 2687660 (E.D.N.Y. 2007) (applying the fugitive disentitlement doctrine will mean that claimant will not be able to contest the forfeiture on Eighth Amendment grounds; by maintaining his fugitive status, claimant has waived his right to press his excessive fines claim).

requirements are satisfied, it may strike the claimant's claim and enter a default judgment as to her interest in the defendant property without considering the claim on the merits,[4] even though there may be other claims to the same property that will remain in effect.[5]

In addition, the fugitive disentitlement doctrine applies equally to individual claimants who are fugitives and to corporations that a fugitive controls.[6] Thus, if a claim is filed by a corporation of which a fugitive is a majority shareholder, or if a fugitive filed the claim on behalf of the corporation, the corporation's claim may be dismissed along with the claim of the individual claimant.[7]

Finally, application of the fugitive disentitlement doctrine under Section 2466 is discretionary, but courts generally have not been sympathetic to fugitives who have refused to

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[4] *See United States v. Technodyne LLC*, 753 F.3d 368, 377 (2d Cir. 2014) (the United States may move to strike the claim; it need not file a motion for summary judgment, and the court need not apply the summary judgment standard); *United States v. All Assets Listed in Attachment A (MegaUpload, Ltd.)*, 89 F. Supp.3d 813 (E.D. Va. 2015) (the vehicle for enforcing the fugitive disentitlement doctrine is a motion to strike the claim; if granted, the court will enter a default judgment).

[5] *United States v. All Funds on Deposit at Old Mutual of Bermuda, Ltd.*, 2014 WL 1689939, *7 (S.D. Tex. May 1, 2014) (that the civil forfeiture case would go forward in any event because the fugitive's wife is also a claimant is not a reason to decline to strike his claim if § 2466 applies).

[6] 28 U.S.C. § 2466(b).

[7] *All Assets Listed in Attachment A (MegaUpload, Ltd.)*, 89 F. Supp.3d 813 (granting motion to strike claims of five corporations of which fugitive was the majority shareholder who filed the claims); *United States v. $526,695.24 Seized from JP Morgan Chase Bank Investment Account*, 2015 WL 2239071, *4 (N.D. Ohio May 12, 2015) (dismissing claim of corporation 100 percent owned by fugitive who declined to return to U.S. to avoid prosecution); *United States v. Real Property Known as 479 Tamarind Dr.*, 2005 WL 2649001, at *4 (S.D.N.Y. Oct. 14, 2005) (granting United States' request for discovery to determine relationship between fugitive and corporate claimants; if fugitive is a majority shareholder of either corporation, that corporation's claim will be dismissed under section 2466(b)).

enter or re-enter the United States to answer criminal charges.[8] As one district court explained, the exercise of discretion in favor of the United States under Section 2466 is necessary to protect the integrity of the judicial system.[9]

Applying the Five Elements of Section 2466

Each of the five elements of Section 2466 is satisfied in this case.

The first element – that a warrant or similar process has been issued for the claimant's apprehension – is satisfied simply by showing that the claimant has been indicted and/or a warrant has been issued for her arrest by any state or federal court.[10] Here, Maureen Long was

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[8] *See Technodyne,* 753 F.3d at 387-88 (district court did not abuse its discretion in granting United States' motion based on circumstantial evidence); *$671,160.00,* 730 F.3d at 1058 (district court did not err in declining to exercise its discretion in favor of the claimant where, contrary to claimant's argument, there was no evidence of collusion between the state and federal prosecutors to use the state criminal case to trigger the fugitive disentitlement doctrine); *All Assets Listed in Attachment A (MegaUpload, Ltd.),* 89 F. Supp.3d 813 (declining to exercise discretion in favor of the claimant despite concern that the default judgment that will be entered if the claim is stricken may not be enforced by the foreign government where the defendant property is located, or that the MLAT between the U.S. and foreign country prohibits punishing a person who opposes extradition).

[9] *Real Property Known as 479 Tamarind Dr.*, 2005 WL 2649001, at *3 (a fugitive shows such disrespect for legal process that he should not be allowed to use the court's resources to pursue a civil forfeiture claim; the exercise of discretion is necessary to protect the integrity of the judicial process). *See All Funds...Held in the Name of Kobi Alexander*, 2007 WL 2687660 (unless there is some evidence that the United States filed the criminal charges in bad faith—e.g., so that it could use the fugitive disentitlement doctrine in the civil forfeiture case—the strength or weakness of the United States' case should not be a factor in deciding whether to apply the doctrine; nor should the court be concerned that applying the doctrine will penalize claimant for fighting extradition); *One 1988 Chevrolet Cheyenne Half-Ton Pickup Truck*, 357 F. Supp. 2d at 1328-32 (even if all five elements are satisfied, the court has the discretion to decline to apply the fugitive disentitlement doctrine; but exercise of discretion in favor of the claimant is not warranted just because claimant is anxious and afraid that he might be convicted in the criminal case, or because claimant thinks the United States' case is weak; if anything, a weak case would provide an incentive for claimant to return to the United States to clear his name and reclaim his property).

[10] *See United States v. $6,190.00 in U.S. Currency*, 581 F.3d 881, 888 (9th Cir. 2009) (disentitlement doctrine is not limited to cases involving fugitives from federal criminal charges

indicted in the District of Kansas on December 17, 2014, and a warrant for her arrest was issued on December 16, 2014. A copy of the warrant is attached as Exhibit B.

The second element – that the claimant has knowledge of the pending criminal charges and the warrant for her arrest – may be established with both direct and circumstantial evidence.[11] Indeed, several courts have held that if the claimant's attorney is aware of the pending criminal charges, it may be assumed that the claimant is aware of them as well.[12] In particular, if the defendant has hired defense counsel to negotiate her return to the United States to face the criminal charges, it is obvious that she is aware of them.[13]

Here, there is no doubt that ~~the~~ both the Defendant and her attorneys are aware of the pending criminal charges. Among other things, the Defendant has filed several motions in the criminal case, including a motion for change of venue; the district court in the criminal case found that she was aware of the criminal charges and denied the motion for change of venue on the ground that Defendant was a fugitive; and Defendant admitted, in both the Joint Status

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but applies equally to fugitives from state criminal charges); *$671,160.00*, 730 F.3d at 1059 (following *$6,190.00* and applying § 2466 with respect to a state prosecution).

[11] *All Funds...Held in the Name of Kobi Alexander*, 2007 WL 2687660 (circumstantial evidence that claimant was aware of the arrest warrant is sufficient; such evidence included the significant publicity surrounding the case, claimant's arrest on a fugitive warrant in Namibia, and the likelihood that he had discussed his status with his attorney).

[12] *See All Funds on Deposit at Old Mutual of Bermuda, Ltd.*, 2014 WL 1689939 (claimant whose attorney is aware of the criminal indictment is presumed to be aware as well); *United States v. All Right, Title and Interest...Trump World Towers*, 2004 WL 1933559, at *2 (S.D.N.Y. Aug. 31, 2004) (letter sent to defense counsel in criminal case put claimant on notice that he was a fugitive). *Cf. United States v. $1,278,795.00 U.S. Currency*, 2006 WL 870364, at *1 (S.D. Tex. Mar. 30, 2006) (United States' motion under § 2466 informed claimant, if he was not already aware, that there was a warrant for his arrest).

[13] *See Collazos*, 368 F.3d at 201 (defendant, whose counsel in the criminal case advised the AUSA that defendant would not return to the United States unless granted pretrial release, was obviously aware of the criminal indictment).

Report filed in the instant civil forfeiture case and in a subsequently-filed Declaration in the District of Kansas, that she was "out of the country *when she learned of the indictment*" and that she has "hired criminal defense counsel who has entered his appearance in the Kansas case, and will be dealing with the logistics of her return." Jt. Status Rep. at 2 (emphasis added). *See also* Declaration of Maureen Long. (Exhibit E).

The third element – that that the arrest warrant was issued in a criminal case that is "related" to the civil forfeiture case – is satisfied if the criminal and civil case each arose out of the same facts and circumstances.[14] Here, the charges in the Kansas indictment are based on a scheme with the same facts and circumstances as those on which the civil forfeiture of all of the defendant property is based. *See* Affidavit of Deputy U.S. Marshal Richard Holden, incorporated into the Verified Complaint.

The fourth element is that the claimant is not being confined or held in custody overseas, such that she is prevented from voluntarily surrendering on the criminal warrant. By its terms, this element applies only if there is evidence that the claimant is not free to come to the United States because she is being physically restrained or barred from traveling by the state action of a foreign government.[15] Defendant, however, makes no such assertion. To the contrary, in the

[14] *See $6,976,934.65 Plus Interest*, 554 F.3d at 131 (the test is whether "the facts that underlie the prosecution being evaded also form the basis for the forfeiture action; because the forfeiture and the criminal case were based on the same money laundering violation, the test was satisfied); *Real Property Known as 479 Tamarind Dr.*, 2005 WL 2649001, at *2 n.4 (S.D.N.Y. Oct. 14, 2005) (criminal case charging fugitive with health care fraud offense was related to pending civil forfeiture based on money laundering offense involving the proceeds of the same health care fraud); *United States v. $138,381 in U.S. Currency*, 240 F. Supp. 2d 220, 226 (E.D.N.Y. 2003) (criminal prosecution for CMIR offense, and civil forfeiture of undeclared funds, are "related" for purposes of § 2466).

[15] *See Collazos*, 368 F.3d at 201 (holding that the fourth element is satisfied where there is "nothing in the record" indicating that the claimant "was ever confined, incarcerated, or otherwise unable to travel to the United States of her own volition").

Declaration that she filed in the Kansas case on February 19, 2016, the Defendant stated that she was out of the country when she learned of the criminal indictment, that her passport was subsequently revoked, and that she has been endeavoring since that time to retain counsel to negotiate the terms of her return to the United States. Declaration of Maureen Long (Exhibit E). Moreover, she continues to operate her cancer-care facility in Mexico. Attachment 3 to Declaration of Richard Holden (Exhibit C).

The Fifth Element: the Claimant's Motive in Refusing to Return

Finally, under the fifth element, the United States must show that the claimant's motive in leaving the United States, or in refusing to return to the United States, was to avoid prosecution. These are disjunctive alternatives: if the United States proves that the claimant is refusing to reenter the U.S. to avoid prosecution, it doesn't matter why she left in the first place. A claimant who happened to be out of the United States for unrelated reasons when an indictment was returned, would still be considered a fugitive if she declined to return to the United States upon learning of the criminal charges.[16]

For these reasons, Defendant's assertion that she was out of the United States attending to business when she learned of the criminal indictment is beside the point: what matters is whether she is now refusing to return to the United States to avoid facing the criminal charges.

While the burden is on the United States to prove that the claimant's motive in refusing to return to the United States is to avoid prosecution, it need not show that it is her only motive.[17]

[16] *See Technodyne*, 753 F.3d at 383 (2d Cir. 2014) (if United States proves that defendant refused to reenter the U.S. to avoid prosecution, it doesn't matter why he left in the first place); *$671,160.00*, 730 F.3d at 1056-57 (that defendant left the U.S. merely to return home to Canada was not dispositive; his failure to re-enter the U.S. once criminal charges were filed is what makes him a fugitive).

[17] *See Technodyne,* 753 F.3d at 382-83 (avoidance of prosecution need only be one motive in refusing to reenter the U.S.; it need not be the sole, dominant or principal reason).

In other cases, claimants have offered a variety of benign reasons for declining to return to the United States after learning that they have been indicted, such as the need to resolve business issues,[18] the need to care for an ailing family member,[19] and the desire to remain at home in their native country.[20] But in all of those instances, courts have held that as long as a desire to avoid criminal prosecution was one reason among others for the claimant's refusal to return to the United States, the "motive element" was satisfied.

The defendant's reasons for refusing to re-enter the U.S. may be established with circumstantial evidence.[21] In *Technodyne* for example, the Second Circuit held that the

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[18] *See Technodyne,* 753 F.3d at 386-87 (listing several explanations including financial considerations offered by claimants for their failure to return to the U.S. from India); *United States v. $526,695.24 Seized from JP Morgan Chase Bank Investment Account,* 2015 WL 2239111 (N.D. Ohio May 12, 2015) and 2015 WL 2239071 (N.D. Ohio May 12, 2015) (following *Technodyne*; avoidance of criminal prosecution need not be the only reason for claimant's refusal to reenter the U.S.; that he had business to attend to in the foreign country is not dispositive; that the avoidance of prosecution was one reason among others is sufficient).

[19] *See United States v. One Parcel . . . 66 Branch Creek Dr.*, 2014 WL 6473212 (W.D. Tenn. Nov. 18, 2014) (denying § 2466 motion without prejudice pending United States' proof that the reason claimant declined to return to the U.S. was to avoid facing criminal charges and not as claimant alleged because he was caring for an ailing family member).

[20] *See $671,160.00,* 730 F.3d at 1057 (avoiding the criminal charges need not be claimant's only motive in remaining outside the U.S., that he preferred to remain in his home country does not mean that he was not also refusing to return to the U.S. to avoid prosecution); *All Assets Listed in Attachment A (MegaUpload, Ltd.),* 89 F. Supp.3d 813 (evading prosecution need not be the sole reason claimant is declining to come to the U.S.; that he, as a foreign national, would prefer to "stay home" is not dispositive).

[21] *See $671,160.00,* 730 F.3d at 1057 (distinguishing *$6,976,934.65*; a foreign national cannot defeat application of § 2466 by claiming that he merely chose to remain at home where his "self-imposed absence" contrasted with this prior travel to the U.S., he invoked the Fifth Amendment in response to special interrogatories in the civil case; and he admitted that the bail set in the criminal case made it "impossible" for him to return to the U.S.); *United States v. All Funds on Deposit at Old Mutual of Bermuda, Ltd.,* 2014 WL 4101212 (Report and Recommendation), adopted by the district court 2014 WL 4101215 (S.D. Tex. Aug. 18, 2014) (claimant's frequent travel to the U.S. prior to his indictment was sufficient to show, for purposes of the fugitive disentitlement doctrine, that his decision to remain in Mexico was motivated by a desire to avoid facing the criminal charges); *All Assets Listed in Attachment A*

claimants' transfer of their assets from the United States to India at about the time they left the United States, their refusal to cooperate with the government's investigation, and their attempt to negotiate the terms of their pre-trial release on bond if they returned, was sufficient to establish that their motive in refusing to return to the United States was to avoid prosecution. *Technodyne,* 753 F.3d at 386-87. In particular, the court said this about the significance of the claimants' attempt to negotiate their return to the United States only on their own terms:

> [T]he record is clear that Claimants' attorneys, in the months following the indictment of Claimants, made attempts to secure a promise from the Government that if [Claimants] returned to the United States the Government would not oppose their release on bail. *The district court was easily entitled to view those requests, evincing [Claimants] desire to face prosecution only on their own terms, as a hallmark indicator that at least one reason [Claimants] declined to return in the absence of an opportunity for bail was to avoid prosecution.*

753 F.3d at 386 (emphasis added).

Similarly, in *Collazos,* the seminal case on the application of Section 2466, the claimant's insistence on pre-trial release as a condition of her return to the United States was sufficient to show that she remained outside of the United States with the intent to avoid prosecution on the pending criminal charges. *United States v. Contents of Account Number 8108021 Held in the Name of Stella Collazos,* 228 F. Supp.2d 436, 443 (S.D.N.Y. 2002), aff'd *Collazos,* 368 F.3d at 201 (holding that the totality of the circumstances indicated that the claimant "made a conscious choice not to enter or reenter the United States to face the criminal charges pending against her").

Here, it is equally clear from the circumstantial evidence that Maureen Long's purpose in remaining outside of the United States is to avoid prosecution on the pending criminal charges.

(MegaUpload, Ltd.), 89 F. Supp.3d 813 (fugitive disentitlement doctrine applies to a person who has never been to the U.S. and is residing in his home country, but is either fighting extradition, declining to travel to any country from which he might be extradited, or simply choosing not to come to the U.S. for fear of being arrested).

First, immediately after her indictment in December 2014, the Defendant moved her business from the United States to Mexico where she continues to operate it beyond the jurisdiction of the United States. *See* Declaration of Richard Holden (Exhibit C) (stating that Camelot Cancer Care's website first advertised the movement of its business from the United States to Mexico sometime between December 2014 and January 2015). In the Declaration that she filed in the Kansas criminal case, Defendant herself confirmed the timing and motive for relocating her business when she said that she was advised by her attorney to "move the business out of the United States to a venue where it is legal and would be beyond FDA jurisdiction," and that "I was out of the country doing just that at the time the indictment was unsealed." Declaration of Maureen Long (Exhibit E) at 2. Indeed, the current website states that "Camelot Cancer Care Inc. is currently battling FDA persecution" from "selected Mexican clinics." (Exhibit C-3).

Finally, it's worth noting that for whatever reason, Camelot has changed the domain name on its website from camelotcancercare.com to camelotcancercare.is. The ".is" appellation indicates that the domain name is now registered in Iceland rather than the United States. Holden Declaration at 2.

Just as the claimants' transfer of their assets from the United States to India in *Technodyne* was one of the factors signaling their intent to remain outside of the United States to avoid prosecution, Maureen Long's transfer of her business from the United States to Mexico contemporaneously with the return of the indictment against her, her continued operation of the business from that location for the express purpose of evading the jurisdiction of the FDA, and her transfer of the registration of her business's website from the United States to Iceland, signal a clear intent to remain outside of the United States to avoid prosecution.

Second, like the claimant-defendants in *Collazos* and *Technodyne*, Maureen Long has expressed her determination to return to the United States, if at all, only on her own terms.

In her Kansas Declaration, she stated, "I am unable to return home to weigh in for this battle, unless I surrender and face the trauma and humiliation of doing so in chains and handcuffs." Exhibit E, Declaration of Maureen Long, at 1. Later in the same document, the Defendant complained that the Assistant U.S. Attorney in Kansas "sends me letters, emailed through my KS defense counsel Dan Viets, making it clear that they will request detention, and disengenuously (*sic*) asking when am I going to address my fugitive status." *Id.* at 2.

Finally, in the Joint Status Report filed with this court on February 22, 2016, the Defendant stated that she has hired a defense attorney to "deal[] with the logistics of her return" to the United States. Dkt. # 39 at 2.

Criminal defendants do not have the option of entering or not entering the United States to face pending criminal charges on their own terms. Whether the United States will seek pretrial detention is up to the prosecutor to decide; whether such detention will be imposed is for the court to decide. A person who remains outside of the United States for fear that the decision regarding pretrial detention will not be to her liking, and that she may "face the trauma and humiliation of [returning] in chains and handcuffs," is no less a fugitive than any other person who declines for any reason to surrender to answer criminal charges in a court of law.

Obviously, the Defendant in this case, like the claimant-defendants in *Collazos* and *Technodyne*, is hoping to delay her return to the United States until such time as the attorney hired to "deal with the logistics of her return" is able to negotiate her release on bond. But as the other courts have held, such resistance to one's return to the United States except "on her own terms" is a "hallmark" of the desire to avoid prosecution. *Technodyne*, 753 F.3d at 386.

Accordingly, given the totality of the circumstances, including the time of the Defendant's relocation of her business to Mexico, her outspoken defiance of the jurisdiction of the FDA, and her evident resistance to returning to the United States unless and until the United States agrees to her return on terms that she finds acceptable, the court should find that the fifth requirement for the application of the fugitive disentitlement doctrine under Section 2466 is satisfied.

Application of Section 2466 to the Claim of Camelot Cancer Care, Inc.

As mentioned earlier, Section 2466(b) makes the fugitive disentitlement doctrine applicable to "any claim filed by a corporation if any majority shareholder or individual filing the claim on behalf of the corporation is a person to whom" the statute otherwise applies. Because, for all of the reasons set forth herein, the fugitive disentitlement doctrine applies to Maureen Long, it applies equally to Camelot Cancer Care, Inc., on whose behalf Maureen Long filed the corporation's claim. (Dkt. # 21).

CONCLUSION

For all of these reasons, the claims and answers filed by Maureen Long and Camelot Cancer Care, Inc. should be dismissed pursuant to 28 U.S.C. § 2466, and default judgments as to the interests of both claimants should be entered in favor of the United States.

RESPECTFULLY SUBMITTED,

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