STATE OF RHODE ISLAND

KENT, SC. **SUPERIOR COURT**

(FILED: December 16, 2020)

STATE OF RHODE ISLAND	:	
	:	
V.	:	**C.A. No. K1-2019-0673A**
	:	
JEFFREY T. BRITT	:	

DECISION

PROCACCINI, J. In 2016, all seventy-five seats in the Rhode Island House of Representatives were up for election.[1] One of the most competitive races that year was between Speaker of the House Nicholas Mattiello, a Democrat, and his Republican challenger Steven Frias who were vying to represent House District 15 located in the City of Cranston.

The Defendant, Jeffrey T. Britt (Defendant), a well-known political consultant in Rhode Island, was hired by the Mattiello campaign to garner Republican support in District 15. After Speaker Mattiello beat Steven Frias by a close margin of eighty-five votes, a highly publicized inquiry ensued over a campaign mailer sent to voters in District 15 in which Republican candidate Shawna Lawton endorsed Speaker Mattiello, rather than her fellow Republican Steven Frias to whom she had just lost the primary. Allegations soon arose that the mailer was illegally funded by the Mattiello campaign and thus not an independent endorsement by Ms. Lawton.

Following a full investigation and written report by the Rhode Island Board of Elections recommending no action against the Defendant, the Board referred this matter to the Department

[1] *Rhode Island House of Representatives elections, 2016*, BALLOTPEDIA, https://ballotpedia.org/Rhode_Island_House_of_Representatives_elections,_2016 (last visited Oct. 22, 2020).

of Attorney General for an investigation. A grand jury returned a two-count indictment charging the Defendant with the crimes of money laundering in violation of G.L. 1956 § 11-9.1-15(a)[2] and making a prohibited contribution in violation of G.L. 1956 § 17-25-12.[3]

Prior to the commencement of this trial, the Defendant waived his right to a trial by jury. This Decision follows the trial of this matter by the Court.

I

Facts and Travel

Over the course of a one-week bench trial, the State presented seven witnesses and introduced twenty-seven full exhibits. The defense presented three witnesses and introduced an additional fourteen full exhibits.

The State's first witness was Shawna Lawton. She testified that she was a political newcomer who ran in the 2016 Republican primary for the state representative seat in District 15

[2] Section 11-9.1-15(a) states:

> "(a) Whoever conducts or attempts to conduct a financial transaction: (1) with the intent to promote the carrying on of specified unlawful activity; or (2) with the intent to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or (3) with the intent to avoid a transaction reporting requirement under state law; or (4) knowing that the transaction is designed in whole or in part: (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or (ii) to avoid a transaction reporting requirement under the laws of this state or of the United States; shall be punished by a fine of not more than five hundred thousand dollars ($500,000) or twice the value of the property involved in the transaction, whichever is greater, or by imprisonment for not more than twenty (20) years, or both."

[3] Section 17-25-12 states:

> "No contributions shall be made, and no expenditure shall be made or incurred, whether anonymously, in a fictitious name, or by one person or group in the name of another, to support or defeat a candidate in a primary, general, or special election. No treasurer or candidate shall solicit or knowingly accept any contribution contrary to the provisions of this section."

in the City of Cranston. Ms. Lawton's husband served as her campaign treasurer and neither she nor her husband had any experience in campaign finance law.

In preparation for the primary, Ms. Lawton held a fundraiser in July seeking a donation of $20 or $25 per person. She recalled this event was attended by mostly family, friends, and fellow HPV anti-vaccine advocacy group members. She also recalled one individual she had not met previously, Victor Pichette, who attended the event and in a brief conversation told her that he shared her conservative viewpoint and was interested in her campaign.

Ms. Lawton testified that she had one opponent in the primary, Steven Frias, and on September 13, 2016, she lost the primary to Mr. Frias. On October 16, 2016, Ms. Lawton received a message via Twitter from the Defendant, who she was familiar with, stating that if she ever wished to meet to talk about the issues that arose in her campaign, he was willing to get together. A few days later, Ms. Lawton contacted the Defendant and met him at a restaurant in the City of Cranston. They discussed a range of topics which included the frustration Ms. Lawton was feeling about not being treated fairly by the Republican party and that she had been "ganged up on" by the party. [4]

Another topic discussed at this meeting was the positions taken by Speaker Mattiello on various issues which were unknown to Ms. Lawton and which provoked a positive reaction and a desire on her part to share this information with others.

During this meeting, after being surprised and impressed with what she had just learned about Speaker Mattiello, Ms. Lawton recalled several suggestions she made to assist Speaker Mattiello's campaign. She offered to walk with him, canvas with him, and vaguely recalls a

[4] Tr. Vol. I at 23:14-15, Oct. 5, 2020 (Tr. Vol. I).

discussion about a mailer but has no specific recollection of how that topic arose or whose idea it was.

Approximately one or two weeks later, following some phone calls and texts, Ms. Lawton and the Defendant met a second time at a coffee shop in the City of Warwick. The discussion centered around a mock-up of a mailer and how it would be paid for since she made it known that there was no money in her campaign account to cover its cost.

A third meeting followed at the same coffee shop during which two checks representing donations to Ms. Lawton's campaign account were received from the Defendant. In return, Ms. Lawton provided a check to the Defendant from her campaign account to cover the costs of the mailer. Ms. Lawton's explanation as to why she provided a check from her campaign account was her belief "that is what I thought was the right thing to do."[5] She further stated, "I don't remember having like a specific conversation around how I was supposed to do it. I think I just understood it as a candidate that was putting out a mailer that I was supposed to run it through my campaign finance account."[6]

The checks presented to Ms. Lawton were from two donors, Victor Pichette and Teresa Graham, with each contributing $1000 to her campaign account. Ms. Lawton further maintained that she had no recollection of conversations with the Defendant about why these donations were made, and she assumed that they were from other Republicans that wanted to support her efforts.

Following the third meeting between Ms. Lawton and the Defendant, she deposited the two checks into her campaign account on October 20, 2016. Approximately one week later, following her appearance on the Dan Yorke radio show during which she endorsed Speaker Mattiello, she

[5] Tr. Vol. I at 35:3.
[6] Id. at 35:5-9.

was informed that a complaint had been filed with the Rhode Island Board of Elections. The complaint related to the recent mailer sent to voters in District 15 where Ms. Lawton expressed her support for Speaker Mattiello's re-election.

In attempting to respond to the complaint, Ms. Lawton indicated that she was contacted by Richard Thornton, who served as the campaign finance compliance officer for the Board of Elections. Mr. Thornton was seeking a campaign finance report with names and addresses of donors related to the mailer. Ms. Lawton acknowledged she had never filled out a campaign finance report previously and, after attempting to comply with Mr. Thornton's request, was informed she had reported the information incorrectly. Ms. Lawton then decided to obtain the assistance of legal counsel and eventually was subpoenaed to testify before a grand jury which was investigating the circumstances surrounding the creation and funding of the mailer. Prior to her appearance before the grand jury, the Department of Attorney General offered Ms. Lawton immunity from prosecution in return for her grand jury testimony.

The State's second witness was Edward Cotugno who testified that he was retired but operated two businesses; Winning Ways—a political consulting business, and an automobile sales business.

In 2016, Mr. Cotugno provided consulting services to Speaker Mattiello and during that time worked with the Defendant. Mr. Cotugno and the Defendant had worked on a number of campaigns together since the mid-2000s. He received a call from the Defendant seeking his services in a couple of House of Representative primary races involving colleagues of Speaker Mattiello. Shortly after those primary elections, Mr. Cotugno recalled the Defendant asking if he would work on Speaker Mattiello's behalf in the upcoming general election. His work focused on mail ballots and voter identification.

Mr. Cotugno identified Leo Skenyon as Speaker Mattiello's chief of staff and the person in charge of the Speaker's campaign. He also identified another member of the Speaker's staff, Matt Jerzyk, as the *de facto* manager of the campaign, despite that title being held by another individual.

Mr. Cotugno was asked to recall a meeting that occurred prior to the general election with the Defendant and Mr. Jerzyk. Mr. Cotugno stated he could not remember the day or whether anyone else was there. He did remember that the Defendant asked if he would write a check for Ms. Lawton's campaign and he agreed. A short time later, after the Defendant conversed with Mr. Jerzyk, Mr. Cotugno recalled the Defendant asking if his wife, Teresa Graham, could write the check rather than him.

Ms. Graham wrote a check to the Lawton campaign account as requested. Mr. Cotugno emphatically denied knowledge of what the money his wife had contributed was being used for. He further maintained he was never reimbursed by the Defendant for the $1000 contribution made by his wife.

The State's next witness was Teresa Graham. She has been in a twenty-two-year committed relationship with her "significant other," Edward Cotugno.

Ms. Graham was asked questions in several areas of interest to the State, including why she wrote the check to the Lawton campaign; who she communicated with prior to writing the check; whether she had a memory of writing the check; and could she identify this financial transaction from her bank records.

The substance of Ms. Graham's testimony to questions in these areas of inquiry is repeatedly peppered with the following responses: "I don't really remember"; "It was a long time ago"; "I'm not good with dates"; "I don't know"; "I don't recall"; and "I have no idea."

The most clear and concise reply to any question posed by the State was this:

> "[Prosecutor]: What led up to the writing of that check?
> "[Graham]: Shawna was not being treated very well by her opponent. I didn't like the way she was being treated. I was asked to make a donation which I did make donations all of the time, nothing out of the ordinary."[7]

Victor Pichette was the fourth witness called by the State. He described his present employment as a semi-retired private investigator who presently operates a small boutique marketing business.

Mr. Pichette first met the Defendant around 2014 when they were both presenters at the Clean Government Candidate School. He performed a small amount of work for the Defendant prior to 2016. He testified that he was contacted during the summer of 2016 by the Defendant who requested that he perform some work for the Mattiello campaign. The Defendant asked Mr. Pichette to conduct opposition research and surveillance on Speaker Mattiello's opponent, Steven Frias. When asked what the arrangement for payment was for these services, Mr. Pichette replied: "I can't give the exact numbers or exact times, but a $1,000 retainer was probably given to me in cash, not a check."[8] He stated that his hourly rate was $75 an hour plus expenses. Mr. Pichette also testified that he considered himself to be working for the Defendant rather than the Mattiello campaign regarding these services.

During the summer of 2016, Mr. Pichette recalled the Defendant asking him to attend a Shawna Lawton fundraiser. He purchased a $25 ticket and, while at the event, offered his assistance to her campaign if she needed it.

[7] Tr. Vol. I at 155:2-6.
[8] Tr. Vol. II at 180:2-4, Oct. 6, 2020 (Tr. Vol. II).

Turning to Mr. Pichette's testimony concerning the circumstances surrounding his $1000 donation to Ms. Lawton's campaign account, he expressed a vague recollection of reaching out to Ms. Lawton following her loss in the primary election.

Mr. Pichette testified to receiving a phone call from the Defendant asking if he could assist Ms. Lawton in promoting Speaker Mattiello through a mailer. He recalls being asked to make a $1000 donation. He responded that he did not have the money. The Defendant replied that he would give him the money to put in his account and he could then write a check to Ms. Lawton's campaign account.

Mr. Pichette struggled to accurately relate the details surrounding this conversation with the Defendant. When asked if this discussion of a donation to Ms. Lawton's campaign was accomplished in one phone conversation, he stated: "It could have been. Again, it is a long time ago but it probably was in one conversation. Doing the best I can to remember four years ago."[9] When Mr. Pichette was asked if the Defendant said anything else at the time he requested this check, he answered: "I don't think so. Once that was done, it was, I really don't recall that I had any tie with anybody in Jeff or anybody else."[10] Finally, when asked what happened after he agreed to write this check, he stated: "Well, that is where I just don't remember how I got it back to him."[11]

Mr. Pichette testified that the $1000 he was given by the Defendant was cash that was deposited the following day at Bank Rhode Island. Immediately following this testimony, he was shown records identifying a $1000 deposit to a different financial institution, Centerville Bank.

[9] Tr. Vol. II at 185:20-22.
[10] Id. at185:25-186:2.
[11] Id. at 186:13-14.

This prompted him to change his testimony, stating to the best of his knowledge that the deposit reflected on the Centerville Bank records was the cash he had received from the Defendant.

On October 19, 2016, Mr. Pichette wrote a check payable to Friends of Shawna Lawton. He has no recollection, however, of how it was delivered to Ms. Lawton.

During cross-examination, Mr. Pichette readily acknowledged that he had an intense dislike of Mr. Frias, that he had made those feelings known publicly, and that he did not want him to win the House District 15 election.

Mr. Pichette was also questioned about the financial details related to the opposition research he did on Mr. Frias. After agreeing he had received a $1000 cash retainer for this work, he had a total failure of memory of the other basic details of this work, including the inability to recall the total amount of compensation he received, which defense counsel suggested was $3500; and how long he had worked on the opposition research project, which defense counsel suggested was from June to August 2016.

Mr. Pichette also confirmed that he had no corroborating business correspondence or records of any kind relating to the work claimed to have been performed for the Defendant on behalf of the Mattiello campaign. He conceded that he maintained no invoices, no cancelled checks, no bills, no ledgers, no notes, and no records of any form of communication with the Defendant related to this work.[12]

Another area of inquiry during cross-examination was a series of deposits to Mr. Pichette's bank account between October 19 and October 29, 2016 totaling $5300 which could not be identified by him. He had no recollection of who made these payments to him or what services he provided for these cash payments.

[12] Tr. Vol. II at 213:3-25.

Cross-examination of Mr. Pichette also suggested a much closer and longer relationship with the Defendant dating back to 2013 during which he was comfortable making a request to borrow $2000 from the Defendant and made inquiries regarding a possible position for employment with the State of Rhode Island as an investigator.

In October 2019, Mr. Pichette made two appearances before the grand jury. Between the first and second appearance, the Department of Attorney General granted Mr. Pichette immunity from prosecution.

The next two witnesses called by the State were Brad Dufault, owner of Checkmate Consulting Group, and Paul Sasso, owner of All the Answers, a printing, mailing, and addressing service company. These companies provided coordinated services for the Mattiello campaign in producing the Lawton mailer supporting Speaker Mattiello's re-election. Mr. Dufault's company was responsible for the graphic design and printing of the mailer and Mr. Sasso was responsible for the actual mailing of it.

Mr. Dufault's testimony established that most of the communication related to the mailer was between him and Mr. Jerzyk, including the final approval of the mailer and who it should be sent to. He further stated that even though his company made the decisions related to the mailer's design, the Mattiello campaign requested the mailer and directed the distribution of it.

In late October, the mailer was about to be sent to a list of 3399 recipients. Mr. Dufault's contact with the Defendant regarding the mailer was limited. He received several inquiries from Defendant related to when the mailer would "hit," what company would be responsible for the mailing, and several messages related to managing the negative publicity that surrounded the release of the mailer.

Paul Sasso's testimony confirmed the nature of his business, its participation in addressing the Lawton mailer, and the method of payment received for the work on the mailer. He also stated he did not know, meet, or speak to the Defendant in 2016.

The seventh and last witness for the State was Richard Thornton, who has held the position of Director of Campaign Finance at the Rhode Island Board of Elections since 2003. His duties include overseeing compliance with Rhode Island's campaign finance law by candidates seeking election to state or municipal offices. He conducted the investigation that was undertaken in response to a complaint filed with the Board of Elections by Brandon Bell and the Rhode Island Republican Party regarding the Lawton mailer.

Initially, Mr. Thornton reached out to Ms. Lawton seeking bank statements and supporting documentation for the time period surrounding the creation and distribution of the mailer. Ms. Lawton promptly responded to his request by providing the documents requested and confirming the receipt of checks from Mr. Pichette and Ms. Graham along with their addresses.

During cross-examination, Mr. Thornton acknowledged that the subject of his investigation on behalf of the Board of Elections was whether there had been coordination between Ms. Lawton and the Mattiello campaign. He further confirmed that the Defendant was not the subject of the investigation.

Mr. Thornton also sought documents from Mr. Pichette during the course of his investigation. Mr. Pichette replied that he had no documents responsive to his request and further claimed that he did not know the Defendant. Mr. Thornton then proceeded to issue a subpoena for these documents which was never successfully served upon Mr. Pichette and no further effort, such as alternative service of the subpoena, was pursued.

Regarding the scope and procedures followed in this investigation, Mr. Thornton testified that he never personally questioned Speaker Mattiello or Mr. Skenyon in the course of his investigation or, for that matter, anyone else involved. He communicated with those involved by email correspondence which posed specific questions or sought documents from certain individuals. Interestingly, Mr. Thornton admitted that this investigative approach conflicted with a specific Board of Elections provision which requires that testimony obtained in an investigation shall be taken under oath. None of the information received and relied upon in Mr. Thornton's report was provided by an individual placed under oath.

Mr. Thornton prepared a six-page report for review by the Board of Elections (Exhibit TT). The report resulted in no sanctions of any kind against Ms. Lawton personally, Mr. Pichette, Mr. Jerzyk, or Ms. Graham, and a contempt citation filed against the Defendant was dismissed. The only sanctions issued by the Board of Elections were warnings to the Mattiello and Lawton campaigns.

Subsequent to receipt of Mr. Thornton's report and adoption of its recommendations, the Board of Elections took the highly unusual step of referring the Defendant to the Department of Attorney General for further investigation and prosecution.[13]

The Defendant presented three witnesses, Speaker Mattiello, Mr. Jerzyk, and Mr. Skenyon.

The Court has reviewed the testimony of Speaker Mattiello and finds it is of little assistance to the Court. Virtually all of his testimony establishes that he was distant from and not materially involved in any of the circumstances surrounding the creation and distribution of the Lawton

[13] Mr. Thornton testified that over the seventeen and one-half years he has worked at the Board of Elections, less than half a dozen individuals have been referred to the Department of Attorney General. Tr. Vol. II at 334:15-18.

mailer. His description of his campaign's operations clearly identified Mr. Jerzyk and Mr. Skenyon as managing all aspects of his campaign, including mailers.

The testimony of Mr. Jerzyk and Mr. Skenyon explained the authority structure within the Mattiello campaign—Mr. Skenyon being in charge of the overall operations and Mr. Jerzyk managing the daily operations of the campaign. Mr. Jerzyk was also specifically involved in creating and overseeing the production of thirty to forty mailers that were distributed during the campaign.

The testimony of both Mr. Jerzyk and Mr. Skenyon was vague as to the nature of their relationship with the Defendant and the extent of their participation in the creation and distribution of the Lawton mailer. Mr. Jerzyk had no recollection regarding who approached Ms. Lawton about the mailer; whether Mr. Skenyon had to approve the mailer; and had no memory of text messages he was shown on these subjects. Mr. Jerzyk also insisted that he was clearly supervised by Mr. Skenyon and had no independent decision-making authority on campaign matters.

Mr. Skenyon, Speaker Mattiello's chief of staff, testified that he worked on the Mattiello re-election campaign "almost" every day and reported only to Speaker Mattiello. Mr. Skenyon explained the campaign's approval process for mailers. He stated that a group of four to five people[14] would review and edit mailers and then send them to Checkmate Consulting Group for printing and distribution. When specifically asked if he had participated in the creation and distribution of the Lawton mailer, he replied that he had no involvement. When he was shown a three-way text message between himself, Mr. Jerzyk, and the Defendant that requested he sign off on the Lawton mailer, he denied having any memory of that text message.

[14] Mr. Skenyon identified a group of nine individuals who participated at various times in the creation of mailers—himself, Larry Berman, Speaker Mattiello, Patti Doyle, Brad Dufault, Frank Montanaro, Lynne Urbani, Matt Jerzyk, and occasionally, the Defendant.

This Court notes with interest that the individual with overall responsibility for the Mattiello campaign, Mr. Skenyon, was not contacted by the Board of Elections during its investigation and was not contacted to testify before the grand jury convened by the Department of Attorney General.

II

Standard of Review

According to the United States Constitution, in a criminal trial the State has the burden of proving every element of the charged offense beyond a reasonable doubt. *See, e.g., State v. DelBonis*, 862 A.2d 760, 765 (R.I. 2004); *State v. Hazard*, 745 A.2d 748, 751 (R.I. 2000). Accordingly, this Court is aware and mindful of the high threshold required to establish guilt beyond a reasonable doubt. In a jury trial, this Court typically explains the concept as follows:

> "[Guilt beyond a reasonable doubt] is a strict and heavy burden. It does not require, however, that a defendant's guilt must be proved beyond all possible doubt. Rather, it requires that evidence exclude any reasonable doubt concerning a defendant's guilt. A reasonable doubt is one that would make a reasonable person hesitate to act in regard to some transaction of importance and seriousness. A reasonable doubt may arise not only from the evidence produced but also from a lack of evidence. Reasonable doubt exists when, after weighing and considering all the evidence, using reason and common sense, the jury cannot say that it has a settled conviction of the truth of the charge."

Additionally, in cases tried without a jury, the trial justice is duty-bound to follow the standard set forth by our Supreme Court in *State v. McKone*, 673 A.2d 1068 (R.I. 1996). When called upon to evaluate and weigh the sufficiency of the State's evidence, the Supreme Court stated that a motion to dismiss, rather than a motion for judgment of acquittal, is the appropriate motion to test the sufficiency of the State's evidence. The Court further stated that a trial justice, in ruling upon a motion to dismiss, acts as the factfinder and "is required to weigh and evaluate the trial evidence, pass upon the credibility of the trial witnesses, and engage in the inferential process, impartially,

not being required to view the inferences in favor of the nonmoving party, and against the moving party." *McKone*, 673 A.2d at 1072-73. Consequently, this Court must carefully examine, weigh, and sift the evidence offered by the State. After the trial justice makes such findings, he or she will conclude whether the evidence is sufficient to establish guilt beyond a reasonable doubt and rule accordingly. *See id*. at 1073. This standard is much broader than that required in a motion for acquittal in a jury trial which requires the trial justice to view all evidence in the light most favorable to the nonmoving party and against the moving party, drawing all inferences in favor of the nonmoving party without passing on the credibility of their witnesses. *See State v. Harnois*, 638 A.2d 532, 536 (R.I. 1994); *State v. Clark*, 603 A.2d 1094, 1097-98 (R.I. 1992); *State v. Lamoureux*, 573 A.2d 1176, 1180-81 (R.I. 1990).

This Court bears these principals in mind as factfinder in this matter.

III

Analysis

A

The History of Money Laundering in the United States

Prior to addressing the specific money laundering charge filed against the Defendant, this Court finds it necessary and enlightening to first address the history and practical application of the crime of money laundering in the United States criminal justice system.

Money laundering is "[t]he act of transferring illegally obtained money through legitimate people or accounts so that its original source cannot be traced." Black's Law Dictionary 1205 (11th ed. 2019). Money laundering is a significant problem that plagues the global economy. With the rapid developments in technology and communication that have allowed money to move anywhere in the world with speed and ease, it comes as no surprise that criminals have resorted to

money laundering as a mechanism to hide, move, and access the proceeds of their crimes.[15] "The U.N. Office on Drugs and Crimes estimates that annual illicit proceeds total more than $2 trillion globally, and proceeds of crime generated in the United States were estimated to total approximately $300 billion in 2010. . ."[16]

The practice of money laundering is as old as crime itself as "individuals have laundered money or made illegally-gained proceeds appear legal since 4000 BCE." Gabriel J. Greenbaum, *What to Do with All This Green: Using Casino Regulations As A Model for Cannabis Industry Banking*, 58 Washburn L.J. 217, 229 (2019). Yet, the actual term "money laundering" is of recent origin. In fact, the term was not used in a published decision by an American Court until the federal Court of Appeals for the Second Circuit published a decision in 1976 that used the term in relation to a witness' testimony. *See United States v. Papa*, 533 F.2d 815, 822 (2d Cir. 1976) ("[A] witness . . . gave testimony about a money 'laundering' service he performed for Papa whereby Papa was able to convert millions of dollars of small bills (street money) into large bills.").

Many people associate the term with notorious American gangster Alphonse Capone or the vocabulary of drug traffickers "who speak of 'washing' their 'dirty money' to give it an air of legitimacy." Steven Mark Levy, *Federal Money Laundering Regulation: Banking, Corporate and Securities Compliance* § 1.02 HISTORY OF MONEY LAUNDERING (2nd ed. 2020). However, the term actually "derive[d] from a market manipulation technique from pre-1930s Wall Street, where swindlers created fictitious stock quotations by secretly engaging in both sides of the same

[15] Steven M. D'Antuono, *Combating Money Laundering and Other Forms of Illicit Finance: Regulator and Law Enforcement Perspectives on Reform*, FBI, (Nov. 29, 2018), https://www.fbi.gov/news/testimony/combating-money-laundering-and-other-forms-of-illicit-finance (last visited Oct. 22, 2020).
[16] *Id*. at 1.

transaction, through different brokers, resulting in a washed sale." *Id*. This market manipulation technique "was often referred to as 'washing securities,' or doing 'laundry work.'" *Id*.

Similar to market manipulation, "money laundering involves a series of 'wash' transactions—deposits, withdrawals, wire transfers—conducted solely for appearance's sake rather than for any true banking or investment purpose." *Id*. The typical money launderer follows a three-step process:

> "(i) placement--the launderer places criminally-derived money into a legitimate enterprise; (ii) layering--the launderer places the money in various pretextual transactions to obscure the original source; and (iii) integration--the launderer transforms the funds into non-cash instruments recognized in the legitimate financial world, such as bank notes, loans, letters of credit, or any number of recognizable financial instruments." Joseph Lanuti, *Money Laundering*, 56 Am. Crim. L. Rev. 1173, 1173 (2019).

Once the illegally gained funds are transformed into legitimate funds, the launderer "can effectively use the funds to finance illicit activities such as illegal narcotics trafficking, illegal weapons sales, human trafficking, fraud, political corruption, child pornography, and terrorism." *Id*. at 1173-74.

The Bank Secrecy Act (BSA), also known as the Currency and Foreign Transactions Reporting Act, was enacted by Congress in 1970 to fight money laundering in the United States. The act required financial institutions "to report domestic transactions of currency or its equivalent in amounts of more than $10,000, currency or monetary instruments taken into or out of the country of more than $10,000, and foreign bank accounts with more than $10,000." S. Rep. No. 99-433, at 2 (1986). The act was the primary tool utilized by law enforcement and government agencies to detect and prevent money laundering. *See id*.

Yet, as more money launderers began to devise and rely on complex techniques to conceal the true source of their proceeds, law enforcement was quickly outstripped of its ability "to keep

pace with effective prosecution under the existing law." *Id*. Prosecutions were few and far between because "the Currency Transaction Report [CTR], Currency or Monetary Instruments Report [CMIR], and Foreign Bank Account Report [FBAR] requirements were not rigorously enforced." *Id*. at 3. Moreover, courts faced with the challenge of interpreting the reporting requirements of the BSA were reluctant to interpret the requirements to apply to customers as well as financial institutions. *See id*. By limiting the application of reporting requirements to financial institutions, courts paved the way for customers, who intentionally structured transactions to avoid reporting requirements, to evade prosecution under the BSA. *See id*.

Money laundering came to the forefront of congressional debate after the Commission on Organized Crime issued a report in 1984 that "illustrated the steady growth and pervasiveness of money laundering in the United States and the nexus between money laundering and organized criminal activity." *Id*. at 2. The report made it abundantly clear that recent efforts to combat narcotic trafficking were being impeded by the steady growth of money laundering. *See id*. at 2, 4. Recognizing the crucial need for money laundering legislation, Congress criminalized money laundering by enacting § 1352 of the Money Laundering Control Act of 1986 which was signed into law as part of the Anti-Drug Abuse Act of 1986. "Unlike the provisions of the BSA which dealt with the problem of money laundering . . . the new criminal provisions, codified at 18 USC 1956 and 1957, directly prohibited certain types of transactions used to launder the funds derived from illegal activity." ¶ 52-201 Introduction to Money Laundering, Fed. Bank. L. Rep. P 52-201 (2019).

For example, the Act "create[d] substantial financial and criminal penalties for persons who knowingly 'conduct or attempt to conduct' a financial transaction involving proceeds from unlawful activity 'with the intent to promote the carrying out of specified unlawful activity.'"

Greenbaum, *supra* at 222. "Section 1956 generally concerns the *knowing* transaction, transportation, or transfer of unlawfully derived 'proceeds,'" while Section 1957 "addresses *all* financial transactions involving unlawfully derived property exceeding $10,000." Rachel Zimarowski, *Taking A Gamble: Money Laundering After United States v. Santos*, 112 W. Va. L. Rev. 1139, 1145 (2010).

Since the enactment of 18 U.S.C.A. §§ 1956 and 1957, many scholars have debated the overall purpose and scope of the statutory scheme. *See id*. The congressional debates relating to the passage of 18 U.S.C.A. §§ 1956 and 1957 illustrate that Congress intended this law to stop the growth of money laundering in narcotic trafficking and organized crime. During the congressional debate on the bill which eventually became § 1956, Senator Joseph Biden, now President-elect Joseph Biden, stated:

> "*Money laundering is a crucial financial underpinning of organized crime and narcotics trafficking*. Without money laundering, drug traffickers would literally drown in cash. Drug traffickers need money laundering to conceal the billions of dollars in cash generated annually in drug sales and to convert his cash into manageable form . . . *Regrettably, every dollar laundered means another dollar available to support new supplies of cocaine and heroin on the streets of this country*." S. Rep. No. 99-433 at 4. (Emphasis added.)

In light of the legislative history supporting the bill, proponents of a narrow interpretation of the Act have argued that the legislation was meant to be applied to cases of drug trafficking and organized crime and not "to be used to 'tack on' separate money laundering charges for economic crimes outside of these areas." Zimarowski, *supra* at 1144. Meanwhile, "[s]upporters of a broader view argue that the Act was meant to criminalize money laundering activity in all of its forms." *Id*.

Despite differing interpretations of the Act, courts and Congress have slowly expanded the Act's reach to cover "financial transactions involving the 'proceeds' of over 250 underlying predicate offenses and is capable of being applied as an additional charge to almost all economic

or white-collar crimes." *Id*. at 1144–45; *see, e.g*., *United States v. Jackson*, 935 F.2d 832, 842 (7th Cir. 1991) (The defendant, a pastor, was convicted of money laundering after he had the church secretary deposit the proceeds from his crack cocaine sales into the church's bank account so he could write checks from the account on his personal behalf.); *United States v. Robins*, 673 F. App'x 13, 16 (2d Cir. 2016) (Defendant was convicted of money laundering after he accepted payment for a vehicle even though he knew that the amount paid was the proceeds of illegal drug money.); *United States v. Reed*, 908 F.3d 102, 124 (5th Cir. 2018), *cert. denied*, 139 S. Ct. 2655 (2019), and *cert. denied*, 139 S. Ct. 2658 (2019) (Defendant was convicted of money laundering in light of evidence that showed he was aware that $5000 he received from a caterer at his father's political campaign event was fraudulently derived from campaign funds and that his father arranged for that transfer with intent to obscure its origin.).

However, some federal courts have narrowly circumvented the reach of the money laundering statute by engaging in a downward departure in sentencing when the defendant's conduct falls outside of the heartland of a typical money laundering case. *See United States v. Sidhom*, 142 F. Supp. 2d 150, 157 (D. Mass. 2001). In *United States v. Hemmingson*, the circuit court held that the district court did not abuse its discretion when it concluded that the Defendants' conduct — "money-laundering for purposes of concealing a corporate contribution to a defeated candidate"— fell outside of the heartland of the money laundering guideline. *Hemmingson*, 157 F.3d 347, 363 (5th Cir. 1998). The court emphasized that the district court articulated relevant facts and valid reasons for the departure from the money laundering guidelines. *Id*. In particular, the district court "not[ed] that the defendants were not seeking to legitimize a stream of illegal income into the mainstream economy" and that "the source of the money was corporate funds rather than drug proceeds, or proceeds from some other unlawful activity." *Id*. Moreover, "[t]he

district court relied on a Department of Justice manual, Federal Prosecution Of Election Offenses (6th ed. 1995), as evidence that it is highly unusual, given the facts of this case, to prosecute under the money-laundering statutes." *Id*. at 362. The manual expressly stated that conduit contributions should be prosecuted as a misdemeanor.[17] *Id.*

Many state legislatures have used 18 U.S.C. § 1956 as a guide in enacting their own money laundering offenses. For example, Florida and New York have substantially modeled their statutory definitions of money laundering after 18 U.S.C. § 1956. *See* Fla. Stat. Ann. § 896.101; N.Y. Penal Law §§ 470.00 to 470.20 (McKinney 2011). The statutory definitions in these jurisdictions, like those found in 18 U.S.C. § 1956, require an individual to have knowledge that the property involved in the financial transaction represents the proceeds of some form of unlawful activity. *See id*. Additionally, New York has gone one step further by categorizing its money laundering offenses by degree according to the severity of the unlawful activity involved and the value of the item at issue.[18] N.Y. Penal Law §§ 470.03 to 470.20 (McKinney 2011).

B

Rhode Island's "Laundering of Monetary Instruments" Statute

Count 1 of the indictment charges the Defendant with violating § 11-9.1-15—Laundering of Monetary Instruments.[19]

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[17] The most recent Department of Justice Manual states that "conduit crimes aggregating between $2,000 and $10,000 are one-year misdemeanors." *Federal Prosecution of Election Offenses*, 142 (Richard C. Pilger, 8th ed. 2017) (citing 52 U.S.C. § 30122(d)(1)(A)(i)).

[18] New York's money laundering statutes set forth four degrees of money laundering. The amount specified in these differing degrees range from an amount in excess of $5000 for a crime defined in money laundering in the fourth degree to an amount in excess of $1,000,000 for a crime defined in money laundering in the first degree.

[19] Although it is not dispositive to the issues in the Court's Decision, the Court cannot ignore that the State failed to properly draft Count 1 of the indictment. The indictment conflated multiple subsections of § 11-9.1-15 even though the State only set out to prove subpart (4)(ii) at trial. The

At trial, the State's theory was that the Defendant came up with an elaborate scheme to "launder" campaign funds in order to avoid the campaign reporting requirements found in § 17-25-7. Section 17-25-7—Contents of reports to be filed by treasurers of candidates and committees—requires each campaign treasurer to make a report that shows "all contributions received, and expenditures made, by it in excess of a total of one hundred dollars ($100) from any one source within a calendar year, in furtherance of the nomination, election, or defeat of any candidate. . ." The campaign treasurer is required to report "the name, address, and place of employment of each person or source from whom the contributions and expenditures in excess of one hundred dollars ($100) were received or made and the amount contributed or expended by each person or source."

This Court does not have guiding Rhode Island case law interpreting the reach or application of the money laundering statute. Yet, it is well settled that this Court, in passing on an enactment of the legislature, is obligated to ascertain the legislative intent of the statute. *State v. DelBonis*, 862 A.2d at 766. "One of the first and elementary rules of statutory construction dictates that we distinguish between remedial legislation and a penal statute." *Id.* "It is the function of this Court to examine a penal statute in a light different from remedial legislation." *State v. Carter*, 827 A.2d 636, 643 (R.I. 2003). While "it is appropriate to construe a remedial statute in its broad and general sense," the Court, in construing "a statute that is penal in nature, [must read the language of the statute] narrowly and the defendant must be given the benefit of any reasonable doubt as to whether the act charged is within the meaning of the statute." *DelBonis*, 862 A.2d at 766 (internal citations omitted).

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offense set forth in Count 1 is contrary to the language and structure of the statute and is ultimately misleading to the Defendant.

i

Vagueness

Our Supreme Court has stated that "[a] penal statute is void for vagueness in violation of the Fourteenth Amendment Due Process Clause if it fails to provide the kind of notice that will enable ordinary people to understand what conduct it prohibits[,] or authorizes and even encourages arbitrary and discriminatory enforcement." *State v. Russell*, 890 A.2d 453, 459 (R.I. 2006) (internal brackets and citations omitted). "This constitutional principle is based on our judicial system's concept of fairness." *Id*. "If a criminal act is set forth in a statute in uncertain terms, the innocent may be trapped by inadequate warning of what the state forbids." *State v. Authelet*, 120 R.I. 42, 45, 385 A.2d 642, 644 (1978). "Thus, the Legislature must draft a criminal statute 'to provide an ordinary citizen with the information necessary to conform his or her conduct to the law.'" *Russell*, 890 A.2d at 459 (quoting *State ex rel. Town of Westerly v. Bradley*, 877 A.2d 601, 605 (R.I. 2005)). "These minimal requirements for enforcement of penal laws prevent standardless sweeps that allow policemen, prosecutors, and juries to pursue their personal predilections." *Bradley*, 877 A.2d at 605 (internal citations omitted).

However, "[a]bsent some other constitutional concern, if the facts show that a defendant is given sufficient notice that his conduct is at risk we see no reason to speculate whether the statute notifies a hypothetical defendant." *State v. Sahady*, 694 A.2d 707, 708 (R.I. 1997). "This method of generally examining vagueness challenges only as they apply to a particular defendant's factual circumstances furthers our long settled practice of construing 'legislative enactment[s] of the General Assembly to be constitutional and valid * * * whenever such a construction is reasonably possible.'" *Id*. (quoting *State v. Fonseca*, 670 A.3d 1237, 1240 (R.I. 1996)).

To determine whether a statute is unconstitutionally vague as to this Defendant, the Court has stated previously that the standard employed "is whether the disputed verbiage provides adequate warning to a person of ordinary intelligence that his conduct is illegal by common understanding and practice." *Authelet*, 120 R.I. at 45, 385 A.2d at 644. Accordingly, this Court, in assessing whether § 11-9.1-15 is void for vagueness, must decide whether the statute is sufficiently definite to furnish the Defendant with the information necessary to conform his conduct to the law and whether the statute permits or encourages arbitrary enforcement.

This Court fails to see how the Defendant in this case could appreciate that soliciting campaign contributions on behalf of a defeated candidate was prohibited conduct that would subject him to prosecution and a potential felony conviction for money laundering under the Rhode Island statute.

Our Legislature chose to take a much broader approach when it enacted § 11-9.1-15. The statutory definitions in that section, unlike those found in other jurisdictions such as New York and Florida, do not require a person to have knowledge that the financial transaction represents or involves the proceeds of unlawful activity. Section 11-9.1-15. The statute, as written, only requires someone to "conduct[ ] or attempt[ ] to conduct a financial transaction." *Id*. The statute defines "conducts" as "initiating, concluding, or participating in initiating or concluding a transaction." *Id*. It also defines "financial transaction" as "a transaction involving the movement of funds." *Id*. Our Legislature has essentially criminalized any financial transaction regardless of whether it involves the proceeds of criminal activity so long as the scenario involved falls under one of the four subparts. *See id*. Accordingly, a person can be charged with money laundering if they conduct or attempt to conduct a financial transaction:

"(1) with the intent to promote the carrying on of specified unlawful activity; or
"(2) with the intent to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or
"(3) with the intent to avoid a transaction reporting requirement under state law; or
"(4) knowing that the transaction is designed in whole or in part:
"i. to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or
"ii. to avoid a transaction reporting requirement under the laws of this state or of the United States." *Id.*

The Court finds compelling that subsections (1), (2), and (4)(i) of the statute require some form of specified unlawful activity to be involved. *Id*. The statute defines "specified unlawful activity" as any act or activity declared a felony, or any act or activity prohibited by the Rhode Island Racketeer Influenced and Corrupt Organizations Act (RICO). *Id*. Meanwhile, subsections (3) and (4)(ii) which refer to transaction reporting requirements do not require specified unlawful activity to be involved.[20] *Id*. The Court finds that the lack of a specified unlawful activity requirement in these subsections to be problematic given that the penalty for this offense is a maximum fine of $500,000 or a maximum imprisonment of twenty years, regardless of which subsection fits the facts of the scenario involved. *Id.* Moreover, the Legislature has declined to define "transactional reporting requirement" under the laws of Rhode Island or the United States. One is only left to ponder what type of conduct would result in a money laundering conviction based on a financial transaction conducted for the purpose of avoiding a transaction reporting requirement.

[20] Under the federal money laundering statute, a person is guilty of money laundering when that person

"knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity knowing that the transaction is designed in whole or in part to avoid a transaction reporting requirement under State or Federal law." 18 U.S.C.A. § 1956 (a)(1)(B)(ii).

Furthermore, given the historical underpinnings of money laundering, an ordinary citizen would most likely associate the practice with turning ill-gotten gains into money that is deemed legal. The most classic form of money laundering involves illegal proceeds obtained through large scale drug operations. Moreover, the most common reporting requirements associated with money laundering offenses are Currency Transaction Reports (CTR) and Suspicious Activity Reports (SAR) both of which drug traffickers usually try to avoid by structuring their financial transactions. This Court finds it hard to believe that an ordinary person, such as the Defendant, would associate campaign finance reporting requirements, a violation of which would result in a misdemeanor charge, with the reporting requirement found in the money laundering statute in light of traditional notions of money laundering.

Additionally, the statute at issue does not set forth in plain language what conduct comes into the purview of the money laundering offense. The plain language does not supply sufficient standards to allow judges and factfinders to apply the law to the facts of a particular case. The statute, as written, gives prosecutors, judges, and factfinders unfettered power to determine what reporting requirements are within the scope of the money laundering offense even if the underlying financial transaction involves legal activity or fails to rise to the level of a felony. Accordingly, this Court finds that the lack of guidance found in § 11-9.1-15 permits as well as encourages arbitrary enforcement in violation of our well-established constitutional principles.

As judge and legal philosopher Learned Hand once simply and eloquently stated: "The language of the law must not be foreign to the ears of those who are to obey it." This Court is not satisfied that, as applied to the facts in this case, the Defendant was reasonably informed as to the nature of the conduct that was prohibited under the money laundering statute. Therefore, Defendant's motion to dismiss this charge is granted.

ii

The State Has Failed to Meet its Burden of Proof

While the Court's conclusion that § 11-9.1-15 is unconstitutionally vague because it fails to provide the Defendant with proper notice of what conduct is prohibited is dispositive of the money laundering charge, this Court believes it prudent and necessary to address whether the State met its burden at trial in respect to the money laundering offense. The State bears the burden of proving each and every element necessary to the charge of money laundering in violation of § 11-9.1-15 beyond a reasonable doubt. *See Hazard*, 745 A.2d at 751 (every element necessary to constitute the crime charged must be proven beyond a reasonable doubt and the State cannot be relieved of this burden).

The State was required to prove at trial that the Defendant conducted a financial transaction knowing that the transaction involved was designed in whole or in part to avoid a transaction reporting requirement under state law. The Court finds that the State failed to meet its burden of proof in proving that the Defendant knew he was conducting a financial transaction for the purposes of avoiding a reporting requirement under state law.

As this Court commences its analysis of the testimony offered by the State's witnesses in light of the State's burden of proof, it is troubled by the patchwork of suggested facts and circumstances intentionally woven into the framework of the direct examination of its witnesses through the use of leading questions.[21] It is this Court's firm belief that while leading questions

[21] This Court acknowledges that virtually all of the leading questions posed were not objected to by defense counsel. That decision—whether tactical, strategic, or not—does not change this Court's conclusion that the State's version of events was spun through the suggestive leading questioning of witnesses.

are acceptable in a number of circumstances under our procedural rules and caselaw, [22] the use of leading questions aimed at shaping and developing the operative facts[23] of an alleged criminal offense should be examined with greater scrutiny.

This Court is not alone in its concern and skepticism toward overreliance on the use of leading questions in developing testimony during direct examination. The Rhode Island Supreme Court has acknowledged that "[t]he danger of a leading question is that it may suggest to the witness the specific tenor of the reply desired by counsel and such a reply may be given irrespective of actual memory." *State v. Girouard*, 561 A.2d 882, 888 (R.I. 1989). The United States Court of Appeals for the First Circuit has also recognized that "[t]he evil of leading a friendly witness is that the information conveyed in the questions may supply a false memory," and further observed that leading questions "skirt[ ] the fine line between stimulating an accurate memory and implanting a false one. . ." *United States v. McGovern*, 499 F.2d 1140, 1142 (1st Cir. 1974) (internal quotation omitted).

At trial, the State's theory was that the Defendant asked Mr. Pichette and Ms. Graham to make donations to Friends of Shawna Lawton to avoid his name appearing on Ms. Lawton's

[22] Rule 611 of the Rhode Island Rules of Evidence states that leading questions should only be used on direct examination when the party is calling a hostile witness, an adverse party, or a witness identified with an adverse party. The Rhode Island Supreme Court has further stated "[a]lthough leading questions are generally prohibited on direct examination, such questions may be allowed for the limited purposes of guiding the testimony of a hostile or [purportedly] forgetful witness, or of an emotionally distraught juvenile witness reluctant to relate the necessary facts." *State v. Boillard*, 789 A.2d 881, 887 (R.I. 2002); *see also State v. Rivera*, 987 A.2d 887, 908 (R.I. 2010) (holding that leading questions may be used to direct the testimony of witnesses who have a developmental disability).

[23] "Operative fact[s]" are defined as "fact[s] that [are] directly relevant to deciding some question of law. When a legal question is governed by fact-driven rules, operative facts may be thought of as variables that are plugged in to those rules so that the right answer can be obtained." *Cornell Legal Information Institute*, Wex, https://www.law.cornell.edu/wex/operative_fact (last accessed December 3, 2020).

campaign finance report. Ms. Graham's testimony, as well as Mr. Pichette's testimony, indicate that the Defendant did in fact conduct a financial transaction according to § 11-9.1-15, as the Defendant initiated a transaction involving the movement of funds when he asked both Ms. Graham and Mr. Pichette to write out $1000 donation checks to Friends of Shawna Lawton. However, the Court declines to find that the Defendant orchestrated this scheme to avoid his name appearing on Ms. Lawton's campaign finance report.

Ms. Lawton testified during the trial that she submitted her campaign finance report in accordance with the requirements found in § 17-25-7. In her campaign finance report, Ms. Lawton listed Ms. Graham and Mr. Pichette as donors and identified their addresses as well as the amount of their donations. Ms. Lawton's testimony regarding her campaign finance report does not provide much insight as to whether the Defendant orchestrated this scheme to prevent himself from being listed as a donor on her report. The only evidence that addresses the Defendant's potential knowledge of a reporting requirement is a text exchange between Ms. Lawton and the Defendant. Ms. Lawton sent a text to the Defendant claiming that certain individuals were coming after her because she should have filed an independent expenditure form with the Board of Elections. The Defendant replied that he had no idea about her reporting obligations. He also replied "[k]eep me informed… u can just file later after election and pay 100 fine if u have too." (Exhibit BBB).

The Court does not find this text exchange to be compelling evidence that the Defendant had knowledge of the reporting requirement and was subsequently trying to evade it. The independent expenditure reporting requirement that was the subject of this text exchange is entirely separate from the campaign finance reporting requirement found in § 17-25-7. Consequently, it does not have any bearing on whether the Defendant had knowledge of the campaign finance reporting requirement or that he was purposefully trying to use the donations from Ms. Graham

and Mr. Pichette to avoid it. Therefore, the Court cannot conceivably find, based on Ms. Lawton's testimony or her text exchange with the Defendant, that the Defendant had knowledge of the campaign finance reporting requirement or that he was purposefully trying to use the donations from Ms. Graham and Mr. Pichette to avoid it.

Additionally, the Court cannot rely on Mr. Pichette's testimony as fact finder on this issue. It is a well-established principal that the Court, in assessing the testimony of an immunized witness, must examine and weigh the witness's testimony with greater care than the testimony of someone who is appearing in court without the need for such an agreement with the government. *See United States v. Winter*, 663 F.2d 1120, 1134 (1st Cir. 1981) (holding that it was proper for the district court judge to instruct the jury that they should examine the testimony of the immunized witness with greater care than the testimony of an ordinary witness); *United States v. McNeill*, 728 F.2d 5, 14 (1st Cir. 1984) (finding that "the very need for the immunity and compulsion orders in this case undercut the credibility of these [immunized] witnesses"). After evaluating and weighing Mr. Pichette's testimony with great care, this Court finds Mr. Pichette's testimony to be far from credible. Much of Mr. Pichette's testimony was guided by the State through leading questions, and his testimony ultimately demonstrated that he did not have a reliable recollection of what transpired between him and the Defendant. Additionally, Mr. Pichette could not affirmatively remember whether the Defendant asked him to make the donation in person or over the phone, whether the Defendant gave him $1000 in cash, what bank he was using at the time, or how the check ultimately made it to Ms. Lawton.

This Court was also troubled by Mr. Pichette's testimony that "[o]ver time I have learned more and more about it but at that time—I think the first Grand Jury, I had no clue what I

remembered back then and I still have not."[24] Accordingly, this Court has little confidence or trust in Mr. Pichette's testimony that the Defendant said he could not make the donation because it would not look right and that the Defendant told him to tell the Board of Elections I paid you for a job and you made a donation. The Court finds it inconceivable that Mr. Pichette could recall and testify about Defendant's allegedly inculpatory statements regarding the transaction but could not recall other specific details about the actual transaction.

The great American writer and humorist Mark Twain once observed: "If you tell the truth, you don't have to remember anything." His sage words aptly capture Mr. Pichette's struggle to provide accurate and reliable testimony to this Court. Considering that Mr. Pichette was given immunity in exchange for his testimony, was frequently directed to adopt facts couched in leading questions, and his lack of independent knowledge regarding the overall transaction, this Court finds he is not a credible witness. Consequently, this Court cannot accept Mr. Pichette's testimony in deciding whether the Defendant knew about the campaign reporting requirement in § 17-25-7 and whether he asked Mr. Pichette to make the donation in order to avoid his name appearing on Ms. Lawton's campaign finance report.

In the absence of evidence showing that the Defendant knew of the reporting requirement found in § 17-25-7 and purposefully orchestrated this scheme to avoid it, the Court finds that the State failed to prove beyond a reasonable doubt that the Defendant committed money laundering in violation of § 11-9.1-15.

[24] Tr. Vol. II at 219:19-21.

C

Prohibited Campaign Contributions

Count 2 of the indictment charges the Defendant with violating § 17-25-12—Prohibited Contributions.

The State during trial was tasked with proving beyond a reasonable doubt that the Defendant made a contribution in the name of another to support or defeat a candidate in a general election. *See* § 17-25-12. The State relied upon the testimony of three witness—Mr. Cotugno, Ms. Graham and Mr. Pichette—and several bank records which were admitted into evidence as full exhibits.

This Court finds no credible evidence that the Defendant used Ms. Graham nor Mr. Pichette to make a "straw donation" to Lawton's campaign.

First and foremost, the State did not prove that the Defendant reimbursed Ms. Graham or Mr. Cotugno for the $1000 donation to the Lawton campaign. In fact, Mr. Cotugno testified during the trial that he and Ms. Graham were never reimbursed for their $1000 donation to Ms. Lawton's campaign. Accordingly, the Defendant cannot be found guilty of Count 2 based upon Ms. Graham's donation.

In regard to the donation made by Mr. Pichette, this Court finds that the State failed to prove beyond a reasonable doubt that he was reimbursed by the Defendant for his donation to Ms. Lawton's campaign account. As previously discussed, the Court found Mr. Pichette's testimony to be unavailing and ultimately not credible. Furthermore, it is unclear from Mr. Pichette's testimony whether the Defendant actually gave Mr. Pichette the $1000 specifically for the donation or whether the Defendant gave Mr. Pichette the $1000 as payment for ongoing work he performed for the Mattiello campaign. The State also could not produce any records to support or contradict

the amounts Mr. Pichette billed the Defendant and any payments he received from the Defendant for his work. Mr. Pichette testified that he did not keep any records—no invoices, no bills, and no notes—pertaining to his work for the Defendant despite his customary practice of keeping records involving his work for other clients. Mr. Pichette also could not testify as to how much money the Defendant owed him at the time of the transaction in question. Thus, this Court cannot find that the Defendant gave Mr. Pichette $1000 expressly for the purpose of him making a donation to Ms. Lawton's campaign.

Moreover, while Mr. Pichette's bank records show a deposit of $1000 cash and a $1000 check subsequently written to Ms. Lawton's campaign, this Court cannot find that the cash deposited came from the Defendant. On direct examination, Mr. Pichette was unable to recall the details surrounding the deposit and could not affirmatively say that this deposit was the $1000 the Defendant gave him. Mr. Pichette's bank records encompass several deposits and withdrawals, all of which he failed to corroborate with specific details during his testimony. Accordingly, these records are of little assistance to the Court as factfinder in this matter.

Based upon this evidence, this Courts finds Defendant not guilty as to making a prohibited campaign contribution.

IV

Conclusion

This Court concludes that the State's case relied upon witness testimony that was, to varying degrees, tentative, evasive, inconsistent, and based upon poor memory or the complete absence of memory regarding critical facts and circumstances related to the offenses charged. Moreover, the two witnesses central to the State's case, Ms. Lawton and Mr. Pichette, testified

with shields of immunity from prosecution and provided fragile testimony spun through the use of leading questions.

Notwithstanding the significant efforts of the State to develop credible evidence from the witnesses presented, this Court is constrained to conclude that the evidence falls woefully short of establishing the offenses charged.

As to the two charges filed against the Defendant, this Court finds: As to Count 1—Laundering of Monetary Instruments—this charge shall be dismissed on the ground that the statute is unconstitutionally vague and, alternatively, that the State has failed to prove Defendant's guilt beyond a reasonable doubt and is therefore found not guilty; and as to Count 2—Prohibited Campaign Contribution—the Defendant is found not guilty.

RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE:	**State of Rhode Island v. Jeffrey T. Britt**
CASE NO:	**K1-2019-0673A**
COURT:	**Kent County Superior Court**
DATE DECISION FILED:	**December 16, 2020**
JUSTICE/MAGISTRATE:	**Procaccini, J.**

ATTORNEYS:

For Plaintiff:	**John M. Moreira, Esq.**
For Defendant:	**Christopher N. Dawson, Esq.** **Robert Corrente, Esq.**