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FILED
10 o'clock A m
OCT 2 - 2009
JEANNE HICKS, Clerk
BY Deputy

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IN THE SUPERIOR COURT OF STATE OF ARIZONA

IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA, **Plaintiff,** **v.** **STEVEN CARROLL DEMOCKER,** **Defendant.**	**Cause No: P1300CR20081339** **Division 6** **STATE'S RESPONSE TO DEFENDANT'S MOTION TO RECONSIDER MR. ECHOLS' TESTIMONY AND LIMIT DR. KEEN'S TESTIMONY TO MATTERS PREVIOUSLY DISCLOSED**

The State of Arizona, by and through Sheila Sullivan Polk, Yavapai County Attorney, and her deputy undersigned, respectfully submits its Response to Defendant's Motion to Reconsider Mr. Echols' Testimony and Limit Dr. Keen's Testimony to Matters Previously Disclosed.

The State has been diligent in its attempt to disclose items in a timely manner. The State is currently preparing its 39th Supplemental Disclosure and, to date, has disclosed 13,264 documents and dozens of CDs containing interviews, photographs and other data. The State has expended great effort to ensure that each and every item or document provided to the defense team is Bates stamped and properly identified on either a Bates Stamp Log or an Audio/Video Log which is provided to the defense team with each supplemental

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disclosure. Defendant's complaint regarding a draft of Detective McDormett's supplemental report (Bates 10599) is somewhat petty given the document was clearly identified on the corresponding Bates Log.

I. This Court has issued its ruling regarding Dr. Keen's testimony.

This Court properly denied Defendant's request to limit Dr. Keen's testimony. As the medical examiner who performed the autopsy on Carol Kennedy, Dr. Keen is the most qualified expert to offer testimony regarding the violent nature of the crime. In addition, his expert opinion forms the basis of probable cause regarding the State's allegation pursuant to A.R.S. 13-703(f)(6)[1]. Dr. Keen has testified in numerous cases in Yavapai County as to the cause and nature of homicides and is an accepted expert on these matters. Defendant's request to reconsider limiting Dr. Keen's testimony regarding the nature of Carol Kennedy's death should be denied.

II. This Court should not limit Mr. Echols' testimony.

The State's case against Defendant is based upon a financial motive. The State has alleged that Defendant killed his ex-wife for both pecuniary gain and to prevent her from offering information regarding false financial figures and statements Defendant gave to the court during the divorce proceedings and false financial figures he submitted to the IRS. Mr. Echols has been a Certified Public Accountant since 1974 and is a Certified Fraud Examiner as well as being certified in Financial Forensics. (CV attached) He also teaches financial crime investigation to law enforcement agencies in all eight Rocky Mountain States. Clearly,

[1] Renumbered as A.R.S. § 13-751 effective January 1, 2009. This pleading refers to statutory numbering effective in 2008.

Mr. Echols possesses the training, experience, and expertise that qualify him as an expert witness regarding the Defendant's and Carol's financial health in the months proceeding Carol's brutal murder, and the fact that Defendant filed fraudulent financials affidavits with the court in the divorce proceeding and a fraudulent income tax return.

Mr. Echols has been tasked with reviewing thousands of financial documents belonging to Defendant and Carol Kennedy. These include tax returns, earning statements, bank statements, credit card statements, as well as documents related to investments and IRAs. These documents do not easily reveal their importance and the process of review is painstakingly slow. Mr. Echols has issued a synopsis of his findings and the State expects more detailed reports in the weeks to come.

Defendant would have the Court exclude Mr. Echols' testimony in a probable cause hearing in which Mr. Echols is perfectly competent to give testimony regarding these issues. *See Gaston v. Hunter,* 121 Ariz. 33, 51, 588 P.2d 236, 344 (Ariz. App. 1978). The State requests that Defendant's request to exclude Mr. Echols from offering testimony regarding the financial circumstances of Defendant and Carol Kennedy should be denied.

RESPECTFULLY SUBMITTED this 28th October, 2009.

Sheila Sullivan Polk
YAVAPAI COUNTY ATTORNEY

By: _____
Joseph C. Butner
Deputy County Attorney

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COPIES of the foregoing delivered this 28th day of October, 2009 to:

Honorable Thomas J. Lindberg
Division 6
Yavapai County Superior Court
(via email)

John Sears
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(via email)

Larry Hammond
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By: Deb Cornell

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Richard Echols, CPA, CFF, CFE

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EDUCATION AND CERTIFICATIONS

Arizona State University, Tempe, AZ ▪ 1973
Bachelor of Science in Accounting

Certified Public Accountant ▪ 1974

Arizona Regional Police Academy, Phoenix, AZ ▪ 1995
Honors: Academic Valedictorian, Honorable Recruit

Certified Fraud Examiner ▪ 2007

Certified in Financial Forensics ▪ 2009

Continuing Education ▪ 1973 – 2009
I have participated in over 40 hours of continuing education each year since 1973. This continuing education is in the fields of accounting, auditing, fraud examination, computer science and computer accounting software.

TEACHING EXPERIENCE

Instructor – American Institute of Certified Public Accountants ▪ 1980-1995
I taught classes on "Services to Clients" for Doctors, Attorneys, Construction Industry, Medical Billing, and Computer Hardware and Software.

Instructor – Rocky Mountain Information Network ▪ 2008 - present
I teach Financial Crimes Investigations, a class designed to teach Detectives and analyst how to perform basic financial crime investigations. This class is certified by POST and is being taught in all 8 Rocky Mountain States. I also teach the Basic Criminal Intelligence Analysis class for beginning analyst and new detectives.

RELATED EXPERIENCE

I started my career working for a local CPA firm after graduation. I became a partner at that firm in 1976. I became managing partner in 1980. I managed the firms 3 partners and 14 employees. We specialized in High income clients, Tax Planning, Estate Planning and Retirement plan design and management. I also audited several municipalities in Arizona and designed and wrote computer software for emerging personal computers during this time.

I sold my accounting firm in 1995 and attended the Arizona Regional Police Academy. I graduated number one in my class. I began my investigations career with the City of Phoenix Police Department after graduation.

I moved to Missouri and continued my investigations and accounting experience. There I performed services for the Texas County Sheriff's office, the Texas County Attorney's office and the Missouri Auditor General. I took the Missouri exam and was a sworn Deputy with the Texas County Sheriff's Department. I continued to do investigative and auditing work while there. Most of my fraud investigation work was for private parties dealing with embezzlement and litigation support.

I moved back to Arizona to continue employment in the Law Enforcement arena because I enjoy fraud examination work, although I have continued to have a small accounting practice.

I currently work for the Rocky Mountain Information Network (RMIN), an Agency working under a grant of the US Department of Justice, performing fraud examinations for the Law Enforcement Agencies in the 8 Rocky Mountain States. As a part of my job, I also teach classes in Financial Crime Investigation, designed to teach Detectives and analyst how to perform basic financial crime investigations. I am currently working with the US Attorney, Arizona Attorney General's office, DEA, DHS, ICE, US Postal Service, US Department of Agriculture, and multiple County Sheriffs on cases of financial crime. I have served as an Expert Witness (mostly in Arizona) on cases involving Accounting and Criminal Fraud.

PUBLICATIONS AND PAPERS

- "Using 'DIY' To Combat Identity Theft"
  Rocky Mountain Information Network Bulletin, December 2008 ▪
- "Counterfeit Sales Lead to Huge Profits"
  Rocky Mountain Information Network Bulletin, March 2008 ▪
- "Crooks Aren't Leaving Home Without It"
  Rocky Mountain Information Network Bulletin, July 2009 ▪

MEMBERSHIPS

American Institute of Certified Public Accountants

Association of Certified Fraud Examiners

Arizona Chapter of CFE's