

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. ) No. 08-00026-03-CR-W-FJG  
)  
TROY R. SOLOMON, )  
)  
Defendant. )

**GOVERNMENT'S SECOND SUPPLEMENTAL RESPONSE TO DEFENDANT  
SOLOMON'S SECOND SUPPLEMENTAL MOTION TO SUPPRESS EVIDENCE**

The United States files this Second Supplemental Response to Defendant Troy Solomon's Second Supplemental Motion (Doc. No. 141) to Suppress Evidence:

**I. INTRODUCTION**

On October 21, 2008, this matter came before this Court upon defense motions to suppress the evidence seized as a result of the execution of a search warrant at the South Texas Wellness Center. At that hearing, this Court ruled that defendants Christopher Elder and Delmon Johnson did not have standing to challenge the search warrant. The Court granted defendant Troy Solomon's ("Solomon") request for an additional five days to prove he had a legitimate expectation of privacy that was violated by the challenged search. On October 27, 2008, Solomon filed a supplemental motion to suppress evidence. (Doc. 138.) On November 3, 2008, the United States filed a response to Solomon's supplemental motion. Solomon has now filed a second supplement to his Motion to Suppress Evidence. (Doc. 141.) As demonstrated below, Solomon does not have standing to contest the validity of the search warrant.

## II. ARGUMENT

### 1. Solomon Does Not Have Standing to Challenge the Search Warrant.

In his second supplemental motion to suppress evidence seized from South Texas Wellness Center (STWC) pursuant to the search warrant, Solomon contends that he can prove standing to challenge the search of business because an investigative report referred to him as an owner of South Texas Wellness Center, and because he allegedly told Rostie STWC was his address. (Solomon's Second Supp. Mot. to Suppress Evid., at 2 and 3.) Again, these assertions do not prove a legitimate expectation of privacy in STWC. Just because an investigative report referred to Solomon as an owner is not evidence that he was in fact an owner.

The Court should be made aware that witness interviews were conducted of Ada Johnson and Pleshette Johnson, owners of South Texas Wellness Center. They met Solomon in 2004, because he had indicated that he wanted to invest in STWC. Solomon became an investor in STWC, but he was never considered an owner of STWC. Solomon would give Ada and Pleshette Johnson various cash amounts, ranging from \$2,500 to \$10,000. He began giving them money in April 2004. The estimated total amount of his investment was \$25,000. The money was used to pay expenses, such as utilities and salaries. It was later agreed that Solomon would get a percentage of personal injury settlements, Medicare, Medicaid, pain management and weight management from STWC. When Dr. Christopher Elder left STWC, Solomon stated he no longer wanted to be an investor because Medicare reimbursements took too long to process and personal injury cases were slow to settle. The Johnsons agreed to pay back Solomon's investment. In 2005, Ada Johnson paid him back \$10,000. According to Ada Johnson, he told her that she did not have to repay the remaining debt. On May 3, 2006, law enforcement

executed a search warrant at STWC – nearly a year after Solomon had been repaid by the Johnsons.

The Johnsons further stated that Solomon had proposed a corporate agreement drafted by his attorney, Anthony Bannwart. The Johnsons asked Phillip Parker, an attorney, to review the agreement. They then met with Solomon and his attorney, Anthony Bannwart. At this meeting, the proposal was discussed. They decided not to enter into the business venture because Solomon did not want any of the responsibilities, but wanted to partake in the money. The fact that Solomon and the Johnsons discussed a proposed business venture agreement, and that the Johnsons rejected the proposal, demonstrates beyond question that Solomon never acquired an ownership interest in STWC. Solomon never established a relationship with STWC that would give rise to a recognized reasonable expectation of privacy on Solomon's part in STWC's business premises or records. He was not an owner, employee, or manager of STWC. His cash infusions into STWC were never memorialized in writing, even in the form of a simple receipt, and certainly were never recognized in the form of any type of interest for Solomon in STWC as a business.<sup>1</sup>

Accordingly, Solomon has not demonstrated a subjective expectation of privacy in South Texas Wellness Center, which is objectively reasonable. Therefore, he does not have standing to challenge the validity of the search warrant.

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<sup>1</sup> Why then did Solomon provide cash to the Johnsons to keep STWC in business? Solomon's pharmacy, Ascensia Nutritional Pharmacy, was in the same building as STWC. The Johnsons indicated that Solomon encouraged STWC to become more active in treating pain patients and writing prescriptions for pain medications and related drugs, like Soma and codeine-containing cough syrup, which STWC patients would have filled at Ascensia. Other witnesses report, and records substantiate, that, in fact, STWC patients routinely had such prescriptions filled by Ascensia, to Solomon's financial advantage.

### III. CONCLUSION

For the reasons stated above, Defendant Troy Solomon's Second Supplemental Motion to Suppress Evidence Seized from the South Texas Wellness Center should be denied.

Respectfully submitted,

John F. Wood  
United States Attorney

By */s/ Rudolph R. Rhodes, IV*

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### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on December 3, 2008, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

Anthony Bannwart  
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*/s/ Rudolph R. Rhodes, IV*

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Assistant United States Attorney

RRR/rah

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