

STATE OF MICHIGAN
IN THE 54B DISTRICT COURT

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

v

Judge Molly Hennessey Greenwalt
No: 23-0877-FY

ANNE MARIE MINARD,

Defendant.

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

v

Judge Molly Hennessey Greenwalt
No: 23-0876-FY

ROBERT LOUIS MINARD,

Defendant.

**OPINION AND ORDER GRANTING MOTION FOR BINDOVER
AND DENYING MOTION TO EXCLUDE EVIDENCE**

Defendants Anne and Robert Minard are charged with multiple felonies based on allegations that they stole over \$600,000 from non-profit organizations and independent political action committees. After a preliminary examination, the assistant attorney general moved to bind the matter over to the circuit court on the charges in the complaint. Defendants opposed the motion. Defendants also challenged the constitutionality of a search warrant executed on defendants' home and argued that, under MCR 6.110(D)(2), the Court must exclude evidence obtained in the allegedly illegal search.

Having considered all the evidence presented and the parties' written and oral arguments, the motion to bind over is GRANTED and the motion to exclude evidence is DENIED. It is SO ORDERED.

I. DEFENDANTS' MOTION TO EXCLUDE EVIDENCE

MCR 6.110(D)(2) provides in relevant part: "If, during the preliminary examination, the court determines that evidence being offered is excludable, it must, on motion or objection, exclude the evidence." In advance of the preliminary examination and again at the hearing, defendants moved to exclude evidence obtained in a search of their home pursuant to the execution of a search warrant. Specifically, defendants argue that the affidavit supporting the search warrant failed to establish a nexus between the place to be searched and the evidence sought. At the hearing, the Court took defendants' motion under advisement and conditionally admitted the evidence obtained in the search of their home subject to a written ruling. The Court now denies defendants' motion to exclude the evidence.

The Fourth Amendment requires a magistrate to "make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit . . . , there is a fair probability that contraband or evidence of a crime will be found in a particular place." *Illinois v Gates*, 462 US 213, 238 (1983); see also *United States v Carpenter*, 360 F3d 591, 594 (CA 6, 2004) ("To justify a search, the circumstances must indicate why evidence of illegal activity will be found in a particular place. There must, in other words, be a nexus between the place to be searched and the evidence sought.") Like other probable cause determinations, whether a sufficient nexus exists is a fact specific question requiring consideration of the totality of the circumstances. *Gates*, 462 US at 238.

In this case, the challenged affidavit identified the defendants' marital home as the particular place to be searched and the evidence to be sought as "any and all records, including electronic records" for "any and all" Political Action Committees (PACs) and 501C4s "that are under the control of, or were created for the benefit of Lee Chatfield." The affidavit provided a non-exhaustive list of seven PACs and 501C4s for which records were specifically sought.

The Court determines that a practical and common-sense consideration of the totality of the circumstances set forth in the affidavit provides probable cause to believe that these records would be found at defendants' home. In coming to this determination, the Court highlights the following averments in the affidavit:

- that a person with knowledge "had been to the Minard residence . . . on multiple occasions and has seen their home office which is located on the first floor of the residence with a desk and business records;"
- that "Anne Minard typically uses an Apple laptop computer while working from home;"
- that "Anne and Robert Minard own and operate a political consulting firm known as Victor Strategies, LLC that operates out of their home;"
- that "Anne Minard managed the PACs and 501C4s for Chatfield;"
- that "Anne Minard of [home address], Bath, Michigan" was listed as treasurer of five of the seven PACs and 501C4s specifically identified in the affidavit;
- that "Robert Minard of [home address], Bath, Michigan" was listed as president of one of the PACs specifically identified in the affidavit;

- that six of the seven PACs and 501C4s specifically identified in the affidavit used a registered mailing address of “P.O. Box 1013, East Lansing;”
- that “P.O. Box 1013, East Lansing is leased by Robert Minard of [home address], Bath, Michigan;” and
- that “Anne Minard works from home.”

The totality of these facts – along with the affiant’s averments based the investigative team’s knowledge and expertise – sufficiently explains why law enforcement expected to find the PACs and 501C4s records that they were seeking at defendants’ home. Because the affidavit provides probable cause to believe “that evidence of a crime would be found in a particular place,” *People v Kazmierczak*, 461 Mich 411, 417-418 (2000); see also *Gates*, 462 US at 238 (1983), the Court can discern no Fourth Amendment violation and the evidence obtained in the search of defendants’ home is not excludable under MCR 6.110(D)(2).¹ Accordingly, all exhibits conditionally admitted at the preliminary examination subject to the Court’s ruling on defendants’ motion to exclude are hereby admitted.²

¹ Defendants also challenge the search warrant based on their claim that certain facts in the affidavit were stale. The Court is not persuaded by this argument given the totality of facts highlighted above and the ongoing nature of the alleged crimes being investigated through the execution of the search warrant.

This Court’s determinations regarding the search warrant do not preclude defendants from obtaining a determination of these issues in the trial court. MCR 6.110(D)(2).

² At the preliminary examination, Anne Minard also objected to certain evidence (People’s Exhibits 25-27d) on hearsay grounds, arguing that there was no independent proof of a conspiracy to allow for admission of the evidence under MRE 801(d)(2)(E). Having taken this objection under advisement, the Court overrules the objection. Considering the totality of the evidence, the Court finds sufficient independent proof of a conspiracy between Anne and Robert Minard to permit admission of this evidence under MRE 801(d)(2)(E).

II. MOTION FOR BINDOVER

“[A] magistrate’s duty at a preliminary examination is to consider all the evidence presented, including the credibility of witnesses’ testimony, and to determine on that basis whether there is probable cause to believe that the defendant committed a crime.” *People v Anderson*, 501 Mich 175, 178 (2018). Evidence is required “as to each element of the charged offense that would cause a person of ordinary prudence and caution to conscientiously entertain a reasonable belief of the defendant’s guilt.” *People v Magnant*, 508 Mich 151, 161 (2021).

“[T]he probable-cause standard at the preliminary examination is not a very demanding threshold.” *People v Lewis*, 509 Mich 1052 (2022). “[W]here there is a conflict of evidence or where there is a reasonable doubt as to a defendant’s guilt, there generally will be probable cause to bind over a defendant, even if the magistrate may have had reasonable doubt that defendant committed the crime.” *Anderson*, 501 Mich at 186.

In making its bindover determination, the Court considers the evidence presented in People’s Exhibit 1 through Exhibit 130 and the uncontroverted testimony of the People’s lay and expert witnesses, all of whom the Court found to be credible. Considering this evidence and the elements of each offense, the Court determines that there is probable cause to believe that the defendants committed the crimes charged. See *Anderson*, 501 Mich at 178. In support of this determination, the Court adopts the reasons set forth in the People’s Consolidated Preliminary Examination Bench Memorandum and oral argument for bindover.

Defendants challenge bindover on the charge of conducting a criminal enterprise (racketeering), arguing that the “enterprise” alleged is insufficient for purposes of the racketeering statute, MCL 750.159f *et seq.* It is undisputed that an “enterprise” at issue is Victor Strategies,

LLC, a political consulting firm formed and operated by defendants. “Enterprise” is statutorily defined to include, in relevant part, “a limited liability company.” MCL 750.159f(a). Because Victor Strategies, LLC, is a limited liability company, it is – by definition – sufficient for purposes of Michigan’s racketeering statute, and defendants’ argument to the contrary is inconsistent with the controlling statutory language and Michigan caselaw. See MCL 750.159f(a); see also *People v Kloosterman*, 296 Mich App 636, 641-642 (2012) (“[T]he statute requires the prosecution to show that the enterprise was either a separate and distinct individual *or any other legally distinct entity falling within the definition of ‘enterprise.’*”) (Emphasis added.); *People v Haynes*, 338 Mich App 392, 427 (2021) (holding that evidence that a defendant worked through his own company was sufficient to establish that he was employed by or associated with an “enterprise” for purposes of the racketeering statute).³

Additionally, defendants challenge bindover on all charges, arguing that probable cause is lacking to show the requisite intent – i.e., the intent to defraud, see MCL 750.218 (larceny by false pretenses); MCL 750.174 (embezzlement); MCL 205.27(2) (tax fraud). Specifically, defendants suggest that “bad accounting” and “math errors” are not crimes. For purposes of preliminary examination, the Court concludes that there is sufficient evidence for a person of ordinary

³ Defendants’ reliance on federal caselaw, see e.g., *800537 Ontario Inc v Auto Enterprises, Inc*, 113 F Supp 2d 1116 (ED Mich, 2000), is not persuasive given the plain language of MCL 750.159f(a) and the controlling Michigan authorities. Moreover, it appears that the proposition of law defendants invoke from the federal cases – i.e., that the “hallmark of a RICO enterprise is its ability to exist apart from the pattern of wrongdoing,” *Ontario*, 113 F Supp 2d at 1121 – is applicable to establish “an association-in-fact enterprise,” and not a “legal entity enterprise.” Where, as here, the “enterprise” alleged is a “legal entity,” this proposition of law does not appear applicable under federal or Michigan law. See 18 USC 1961(4) (defining “enterprise” under the federal racketeering statute as including “any individual, partnership, corporation, association, *or other legal entity*, and any union or group of individuals associated in fact although not a legal entity;” MCL 750.159f(a) (defining “enterprise” to include an individual, sole proprietorship, partnership, corporation, limited liability company, trust, union, association, governmental unit, *or other legal entity* or a group of persons associated in fact although not a legal entity.”) (Emphasis added.)

prudence and caution to believe that defendants' actions were animated by their intent to defraud and not by innocent, albeit sloppy, accounting practices.

The volume of the evidence presented by the Attorney General at the preliminary examination supports this conclusion. But so too do the details. Specifically, the Court notes the evidence showing: (1) that when requesting reimbursement for rental cars Anne Minard did not consistently request payment in the amount of the "total estimated charge" or the "authorized charged," but rather requested whatever amount was higher; (2) that when Robert Minard took a trip to Hawaii, with his flight and ground transportation paid for by non-profit entities, he nonetheless requested and received personal reimbursement as if he paid for these expenses; and (3) that when Anne Minard requested reimbursement for expenses for a conference at a hotel, she requested the full amount from a non-profit entity and then days later instructed the hotel to put some of these same expenses on a credit card not belonging to her or her husband, even though she had just requested personal reimbursement for the full amount. Finally, the Court notes the documentary evidence showing that on campaign finance records, Anne Minard inaccurately reported payments made between an independent PAC and a vendor in a manner that would mask the precise amounts of checks written from that PAC to Victor Strategies, LLC, the defendants' political consulting firm. An ordinary, reasonable person could conclude that these actions are inconsistent with innocent accounting mistakes and rather are indicative of defendants' intent to defraud various entities for their own personal financial gain.

III. CONCLUSION

For these reasons, the assistant attorney general's motion to bind the matter over to the circuit court is GRANTED and defendants' motion to exclude evidence is DENIED. Circuit Court

arraignment is September 25, 2024. This date will be waived by local administrative order unless preserved. It is SO ORDERED.

DATED: 09/12/24

Molly Hennessey Greenwalt P73583
District Court Judge