



*United States Attorney  
Northern District of California*

*11<sup>th</sup> Floor, Federal Building  
450 Golden Gate Ave., Box 36055  
San Francisco, CA 94102-3495*

*(415)436-7200  
FAX: (415) 436-7234*

October 26, 2015

Hon. Molly Dwyer  
Clerk, U.S. Court of Appeals for the Ninth Circuit  
P.O. Box 193939  
San Francisco, California 94119-3939

Re: *United States v. Susan Su*, Appeal No. 14-10499  
October 21, 2015, Argument Calendar  
Judges Silverman, Christen, and Duffy (S.D.N.Y.)

Dear Ms. Dwyer:

I write this letter to bring my misstatement during oral argument to the Court's attention.

In response to questions from Judges Silverman and Christen about whether any purchase with stolen money was money laundering, I answered by referencing concealment and the money laundering crime at 18 U.S.C. § 1956 ("Section 1956"). This was an error, because the money laundering crimes charged against defendant Su were violations of 18 U.S.C. § 1957 ("Section 1957"), not Section 1956. Under Section 1957, using more than \$10,000 of criminally-derived property to engage in a "monetary transaction" is a crime. Unlike Section 1956, concealment is not an element.

Section 1957(f) defines "monetary transaction" to include a "deposit, withdrawal, transfer, or exchange" through or to a "financial institution," including in a "financial transaction," as defined in Section 1956(c). Those definitions, in turn, include the purchase of a vehicle or real property. Thus, Su's purchases of a car and real estate — but not any purchase using stolen money — were money laundering under Section 1957.

I regret this error. Since the focus of defendant's argument on appeal was merger, and not the scope of financial transactions covered by Section 1957, I would welcome the opportunity to submit supplemental briefing on the subject if the Court has any additional questions.

Very truly yours,

BRIAN J. STRETCH  
United States Attorney

BARBARA J. VALLIERE  
Assistant United States Attorney  
Chief, Appellate Division

/s/ Owen Martikan

---

OWEN P. MARTIKAN  
Assistant United States Attorney

cc: John Jordan, Esq. (Via ECF)

9th Circuit Case Number(s) 14-10499

**NOTE:** To secure your input, you should print the filled-in form to PDF (File > Print > PDF Printer/Creator).

\*\*\*\*\*

CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) 10/262015 .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format) /s/ Hui Chen, Paralegal

\*\*\*\*\*

CERTIFICATE OF SERVICE

When Not All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) .

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

[Empty box for listing non-CM/ECF participants]

Signature (use "s/" format)

[Empty box for signature]