



**OFFICE OF THE COUNTY PROSECUTOR
COUNTY OF MONMOUTH**

132 JERSEYVILLE AVENUE
FREEHOLD, NJ 07728-2374

(732) 431-7160

RAYMOND S. SANTIAGO
MONMOUTH COUNTY PROSECUTOR

June 5, 2025

The Honorable Marc C. LeMieux, A.J.S.C.
Monmouth County Courthouse
71 Monument Park
Freehold, New Jersey 07728

Re: State of New Jersey v. Paul Caneiro
Indictment No. 19-02-0283; Case No. 18004915
Motion To Preclude Financial Crimes/Motive Evidence
Returnable: June 30, 2025

Dear Judge LeMieux:

Please accept the following letter in response to the above-captioned motion, by way of which the defendant seeks an order from this Court precluding the State from presenting its financial motive evidence.

Here, defendant is not making this request for preclusion pursuant to N.J.R.E. 404(b), but due to the alleged absence of necessary expert testimony to explain that which is made plain in numerous discovery documents and personally known by several lay witnesses, and not just Detective Debra Bassinder, i.e., the victim's accountant, employee, insurance adjuster, and attorney. Because defendant's request is unsupported by the facts set forth in

the State's several motive evidence briefs and the law, the State respectfully requests this Court deny defendant's motion.

The error in defendant's request for relief begins with his contention that of "approximately 30,000 pages of financial documents and other evidence," the only important document to establishing his motive for murder and familial annihilation is the trust agreement, see DaA. According to defendant, this preeminent document is both unintelligible without expert testimony and also so intelligible as to be clear to him – without a defense expert – that it, in fact, proves that no theft occurred. See Db4-7.

As the State has and will continue to demonstrate for this Court by way of its motion to admit motive evidence, its evidence establishing defendant's financial motive for murder far exceeds just the trust agreement and, significantly, includes bank records – both legitimate and those forged by the defendant to hide his thefts – and communications from the victim accusing the defendant of theft, as well as testimony of witnesses with personal knowledge of the victim's finances. None of the State's motive evidence will require expert witness testimony to explain to the jury.

"Witnesses, including police officers, testify in a variety of roles." State v. Miller, 449 N.J. Super. 460, 470 (App. Div.), rev'd on o.g., 237 N.J. 15 (2019). "A fact witness is one who testifies as to what 'he or she perceived

through one or more the senses” and “consist[s] of a description of what the [witness] did and saw.” Ibid. (quoting State v. McLean, 205 N.J. 438, 460 (2011)). Fact witness testimony “includes no opinion ... and does not convey information about what the [witness] ‘believed,’ ‘thought’ or ‘suspected,’ but instead is an ordinary fact-based recitation by a witness with first-hand knowledge.” McLean, 205 N.J. at 460.

Expert witnesses, on the other hand, “explain the implications of observed behaviors that would otherwise fall outside the understanding of the understanding of ordinary people on the jury.” Ibid. To be admissible, expert testimony “should ‘relate[] to a relevant subject that is beyond the understanding of the average person of ordinary experience, education, and knowledge.’” State v. Sowell, 213 N.J. 89, 99 (2013) (quoting State v. Odom, 116 N.J. 65, 71 (1989); N.J.R.E. 702. Where the matter is “within the competence of the jury, expert testimony is not needed.” Ibid.

Classifying testimony or evidence as “financial” does not place it outside the competence of the jury. “A witness provides ‘factual statements’ when he gives a ‘summary of financial record,’ ... and explains how the records were created.” United States v. Toll, 804 F.3d 1344, 1354 (11th Cir. 2015) (quoting United States v. Ransfer, 749 F.3d 914, 938 (11th Cir. 2014); accord United States v. Hamaker, 455 F.3d 1316, 1331-32 (11th Cir. 2006) (finding

testimony that “factually described [the business’s] records and then matched a small subset of the voluminous payroll, accounting, and invoice records” did not require expert testimony: “To prepare for his testimony, [the witness] simply added and subtracted number’s from a long catalogue of ... records, and then compared those numbers in a straightforward fashion ... while his expertise and the use of computer software may have made him more efficient at reviewing ... records, his review itself was within the capacity of any reasonable lay person”); United States v. Madison, 226 Fed. Appx. 535, 543-44 (6th Cir.), cert. denied, 552 U.S. 891 (2007) (“merely examin[ing] the records of transactions ... and accounts and stat[ing] the origin and the destination of funds” did not require expert testimony); United States v. Milkiewicz, 470 F. 3d 390, (1st Cir. 2006) (“The invoices, checks, and other documents were routine financial records, and creating summaries of the data took patience but not expertise”).

New Jersey law is in accord. See Miller, 449 N.J. Super. at 471 (finding testimony about a forensic investigation of defendant’s laptop and report as to what was found did not require the detective to testify as an expert or provide an expert opinion). While unpublished, State v. Talafous, 2020 N.J. Super. Unpub. LEXIS 1107 (App. Div., certif. denied, 244 N.J. 451 (2020), is exemplary of the application of the above law in a financial context in a New

Jersey court. The Talafous court found the detective investigating a lawyer's thefts from clients "did not give any expert or lay opinion testimony" when detailing his investigation for the jury where "[h]e gave no conclusions or opinions about the legality of defendant's conduct," but did explain "the contents of the financial records." Talafous, 2020 N.J. Super. Unpub. LEXIS 1107 at * 28. The detective's testimony "did not become expert testimony merely because he performed simple mathematical calculations, totaling the amounts defendant had withdrawn from various clients accounts and deposited in his own accounts" or because he "testified to the results of his investigation into defendant's accounts, including amounts taken from client accounts and deposited into defendant's accounts, and the amounts defendant reported as income." Id. at * 29.

Despite defendant's suppositions to the contrary, the State has no intention of proffering testimony that exceeds these legal mandates in its motive evidence. The State will present the contents of the various business records – something it can lawfully do through the testimony of Detective Bassinder, as well as through the other witnesses with personal knowledge of the victim's and defendant's finances, i.e., accountant, employee, insurance adjuster, attorney, along with the victim's own statements – and then ask in its presentations to the jury that it find such evidence supportive of defendant's

motive to kill his brother and his brother's family. All of this is permissible in a New Jersey courtroom, just as it is permissible for defendant to cross examine the State's witnesses, present his own witnesses, and ask the jury to come to the opposite conclusion, presumably akin with that contained in his motion brief. That is the appropriate forum for defendant's current request – cross examination and argument to the jury – and not suppression of highly relevant, and long admissible motive evidence.

Even assuming this Court were to disagree, the remedy is not the preclusion of the State's motive evidence. If this Court were to find that an expert witness is necessary, despite the wealth of precedent to the contrary, the State can and will qualify its witnesses as experts, see Miller, 449 N.J. Super. at 471-72. Despite defendant's protestations to the contrary, there is more than sufficient time for the State to comply with the requirements of R. 3:13-3(b)(1)(I), which requires expert-related discovery be furnished no later than "30 days in advance of trial." The defendant's filing of a flurry of belated motions has ensured that his trial is now more than 30 days in the future.

For the reasons and authorities set forth herein, and relying on the facts presented and to be presented in support of the State's motion to admit motive

evidence, the State respectfully requests the defendant's Motion To Preclude Financial Crimes/Motive Evidence be denied.

Respectfully submitted,

RAYMOND S. SANTIAGO
MONMOUTH COUNTY PROSECUTOR

/s/ Monica do Outeiro

By: Christopher J. Decker, 038272003
Deputy First Assistant Prosecutor and

Nicole D. Wallace, 037582008
Trial Team Leader
Assistant Prosecutor
Of Counsel and

Monica do Outeiro, 041202006
Assistant Prosecutor
Director, Appellate Section
On the Letter

c Monika Mastellone, A.D.P.D.

