

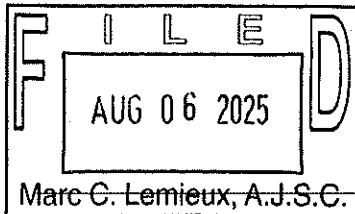
*PREPARED BY THE COURT*

STATE OF NEW JERSEY

Plaintiff,

v.

PAUL CANEIRO



Defendant.

SUPERIOR COURT OF NEW  
JERSEY

LAW DIVISION: CRIMINAL PART  
MONMOUTH

Ind. No.: 19-02-283

Case No.: 18-4915

**ORDER**

**THIS MATTER** having been opened to the court by Raymond Santiago, Monmouth County Prosecutor (Christopher Decker and Nicole Wallace, Assistant Prosecutors, appearing), and opposed by defendant Paul Caneiro (Monika Mastellone, Esq. and Andy Murray, Esq. appearing), and the court having heard arguments of counsel and for good cause shown;

**IT IS** on this 6TH day of AUGUST, 2025;

**ORDERED** that the State's motion to admit certain motive evidence is **GRANTED** subject to the limitations discussed in the court's written opinion; and it is further

**ORDERED** that the financial records and account access data from the Canada Life Trust account held at TD Bank is admitted, subject to appropriate authentication; and it is further

**ORDERED** that the home surveillance recordings and electronic communications depicting communications between Keith Caneiro and the Defendant are admitted; and it is further

**ORDERED** that the inaudible statements allegedly made by the Defendant are not admissible for their truth; and it is further

**ORDERED** that evidence of Defendant's ownership of firearms and firearm accessories is admitted. The State and Defendant shall agree on and submit a proposed limiting instruction regarding Defendant's legally-owned firearms and submit it to the court by **August 22, 2025 at 9am**; and it is further

**ORDERED** that the State and Defendant shall agree on appropriate sanitization of the testimony of State's Witness Ristrepo, and shall submit a proposed limiting instruction to the court by **August 22, 2025 at 9am**; and it is further

**ORDERED** that evidence regarding the Defendant's disability payments will be sanitized according to the terms of the July 15, 2025 consent order; and it is further

**ORDERED** that the State must notify the court within 48 hours of the entry of this opinion if they are seeking to introduce evidence of the 2008 fire at Defendant's home.

  
HON. MARC C. LEMIEUX, A.J.S.C.

NOT FOR PUBLICATION WITHOUT THE  
APPROVAL OF THE COMMITTEE ON OPINIONS

SUPERIOR COURT OF NEW JERSEY  
COUNTY OF MONMOUTH

Ind. No.: 19-02-283  
Case No.: 18-4915

Decided: August 6, 2025

STATE OF NEW JERSEY,

v.

PAUL CANEIRO

Defendant.

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FINDINGS AND CONCLUSIONS OF THE COURT ON STATE'S  
MOTION TO ADMIT EVIDENCE

CHRISTOPHER DECKER, ESQ. and NICOLE WALLACE, ESQ.,  
for the State of New Jersey Monmouth County Prosecutor's Office

MONIKA MASTELLONE, ESQ., for Defendant, PAUL CANEIRO

MARC C. LEMIEUX, A.J.S.C.

**I. INTRODUCTION**

These matters come before the Court on the State's motions in limine seeking to admit a series of financial records, communications, recordings, and other materials in its prosecution of Defendant Paul Caneiro for the murders of Keith and Jennifer Caneiro, and their two children, as well as for related counts of aggravated

arson, theft, and misapplication of entrusted property. The indictment includes, among other charges, two counts (Counts Thirteen and Fourteen) alleging that defendant diverted funds from a trust established for his brother's family and misused those funds for personal gain.

The State maintains that many of the contested materials are not collateral or extrinsic but rather constitute direct or intrinsic proof of the conduct charged. It argues that the evidence establishes a cohesive narrative that the Defendant (1) diverted trust funds entrusted to his care, (2) took active steps to conceal that conduct through falsified records and misrepresentations, (3) was confronted by the decedent shortly before the killings, and (4) possessed the means, motive, and opportunity to commit the charged offenses. The defense opposes admission of much of this material, asserting that it is speculative, remote, unduly prejudicial, or inadmissible under the New Jersey Rules of Evidence or the Confrontation Clause.

Although the State frames many of its arguments in terms of motive, the Court's task is not to assess whether the evidence advances a particular narrative, but rather to determine whether it is admissible under applicable evidentiary principles. That threshold determination turns largely on whether the materials are intrinsic to the charged offenses and therefore admissible without resort to N.J.R.E. 404(b). When evidence constitutes direct proof of a charged count or contemporaneously facilitated its commission, N.J.R.E. 404(b) does not apply.

Instead, the analysis proceeds under the ordinary standards of relevance and undue prejudice.

Considering the volume and complexity of the briefing, the Court issues this written opinion, addressing each issue in turn. The analysis proceeds in five parts:

Part II summarizes the factual record as it pertains to the issues raised. Part III sets forth the relevant procedural history, including the parties' submissions and the procedural steps that led to the present motions. Part IV outlines the governing legal principles, including the doctrines of intrinsic evidence, other crimes evidence under N.J.R.E. 404(b), hearsay and its exceptions, N.J.R.E. 403 balancing, and confrontation rights. Part V applies the legal standards to each evidentiary category, ruling on admissibility and specifying any conditions or limitations. Part VI concludes with a summary of the Court's rulings.

## **II. RELEVANT FACTUAL BACKGROUND**

Defendant Paul Caneiro (hereinafter, "Defendant") and his brother, Keith Caneiro jointly operated two businesses: Ecostar Pest Management, which they both owned in equal shares, and Square One, a consulting firm for which Keith held a 90% ownership interest. Square One's principal client, the Doris Duke Foundation, generated approximately \$127,000 in revenue per month. As of late 2018, that client's contract was set to expire.

In 1999, Keith created an irrevocable life insurance trust for the benefit of his wife, Jennifer, and their children. The Defendant was named as trustee, and Keith funded the Trust by directing payroll contributions from both Ecostar and Square One. On August 19, 1999, Keith purchased a \$3 million whole life insurance policy from Canada Life Assurance Company. Premiums for the Canada Life Assurance Policy were to be paid quarterly from a TD Bank account funded through payroll deductions from the brothers' businesses. If Keith's spouse and children predeceased him, the trust would terminate and the principal would be distributed to the Defendant and their brother, Corey, in equal shares.

At all relevant times to the present motion, the Defendant had sole control over the trust account and was solely responsible for making timely premium payments. Banking records reflect that beginning in 2017, the Defendant transferred substantial sums from the trust account into his personal checking account and into joint accounts held with his wife and daughter. In 2017, those transfers totaled at least \$33,680. In 2018, the amount increased to over \$44,000. These transfers are documented in certified TD Bank records.

During this same timeframe, the Defendant received additional income from other sources. Specifically, the Defendant received \$243,000 in disability benefits in 2017 and \$143,000 in 2018, along with reimbursements and distributions from the businesses. In total, his personal revenues approached \$500,000 in both 2017

and 2018.<sup>1</sup> Premium payments to Canada Life, however, ceased after a single \$8,500 payment made in April 2018.

According to representations made in the State's filings, the Defendant altered PDF versions of TD Bank statements prior to sharing them with Keith and the accountant, Steven Weinstein. These altered documents purportedly misrepresented withdrawals from the trust account by replacing the Defendant's name with "Canada Life" as payee.<sup>2</sup> The certified bank records from TD Bank did not reflect the Canada Life transactions shown in the PDFs. A forensic review concluded that the PDF files had been digitally altered, with metadata confirming modification dates and inconsistencies in line-item entries. The State has indicated it will rely on expert testimony to support this conclusion.

In early 2018, Keith began to raise questions about the status of the trust and its premium payments. On April 10 and 11, 2018, Keith and the Defendant exchanged electronic communications in which Keith asked why Canada Life was missing payments and whether the Defendant had mistakenly sent them to the wrong

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<sup>1</sup> Nonetheless, the State contends that the Defendant carried substantial debt, owed back taxes, maintained multiple mortgages, and he, his wife, and one of his daughters all drove Porsches. During this same period, only partial premium payments were made to Canada Life.

<sup>2</sup> The State contends that this evidence supports its theory that the defendant acted to conceal the theft of entrusted funds and to prevent discovery of the alleged misappropriation.

recipient. The Defendant responded that the checks were made out to “Pacific Lending” instead of “Pacific Life” and that he would correct the error. In subsequent communications, he apologized to Keith and stated that he would fix the issue and reimburse the trust. According to the defense, Keith did not escalate the matter at that time and appeared to accept the Defendant’s explanation.

In the following months, communications between the brothers indicate tension. In September 2018, Keith wrote in a series of electronic communications that he was considering accepting an \$850,000 offer to sell Ecostar. Specifically, on September 6, 2018, Tiffany Rivera emailed Keith advising that Defendant told her the company had not been reimbursing him properly for “two cars, Susan and his” and that defendant “would like the following done to his pay per week. Add \$396.24 per week to the new amount of \$646.15 to pay for the past.” In response, Keith confronted the Defendant about his request, ultimately telling defendant, “I’m not obligated to give Sue or anyone else anything. This is exactly why I don’t want to be in business with you or anyone else and want to go work for a company.” Keith stated, “The reason I need to sell Ecostar is because I need back the money – I just put 100k into the f\*\*king company.” Also, on September 13, 2018, multiple electronic communications between Keith and defendant reveal that Keith wanted to accept the 850,000 offer on Ecostar but the Defendant wanted to wait. During one such communication, Keith told defendant that with the sale of Ecostar he would use



the money to pay down the loan on his life insurance policy and put money into his children's savings account. Keith advised, "I have a plan for the future." On September 17, 2018, Keith advised the Defendant, "I'm done. I want out. I'm not paying you moving forward." He also wrote that the Defendant was "not entitled to anything" and should be grateful for Keith's support.

On November 5, 2018, the following exchange, in pertinent part, took place between Keith and the Defendant:

**Keith:** I also want to see if we can do something to get cash for Ecostar.

**Keith:** In case Duke doesn't renew.

**Paul:** Ok

**Paul:** How are you feeling?

**Keith:** Tired

**Paul:** Rest. We can talk tomorrow.

**Keith:** I'm thinking that if shit really goes sideways. I can cash out my 401k and insurance and get rid of my mortgage.

**Paul:** Relax

**Keith:** Even if I lose money doing that.

**Paul:** Please

**Keith:** That's me relaxing. I'm planning ahead just in case.

**Paul:** Go to sleep.

**Keith:** I have OCD. I can't help it.

**Paul:** I'll talk to you tomorrow. I'm almost asleep.

**Keith:** Ok

**Keith:** Let's see if we can get a call going with the people interested in Ecostar tomorrow.

**Keith:** Even if it is 900 . . . I would do it.

**Paul:** Fucking relax.

**Paul:** Go to sleep.

**Keith:** Ok

**Paul:** We don't need to do this tomorrow.

**Paul:** We don't know what the future is.

On November 15, 2018, Steve forwarded Keith and defendant an email from a prospective Ecostar buyer that contained an offer of 750k. Steve advised that the offer was "tremendous" and that they should take it. Keith agreed. Defendant's response was, "They said 850k."

On November 19, 2018, Keith contacted Canada Life directly and learned that the trust had not paid any premiums since April. That evening, he made multiple phone calls to the Defendant demanding access to the TD Bank account. Three of those calls were captured by a Wyze security system installed in Keith's home. In those recordings, Keith is heard stating, "Give me the login," "I need to see it now," and "Canada Life says they haven't been paid." Jennifer Caneiro, Keith's wife, is also heard interjecting, telling Paul to "stop bullshitting." Presumably, the Defendant

did not provide Keith with the credentials.<sup>3</sup> During the same call, Keith can be heard saying, “Give me the f\*ing login, Paul,” and “You don’t know your TD login?! Go find it and give it to me.” He also stated, “I need to see where the money went.” While on the phone with Defendant, Keith was actively drafting an email comparing the TD Bank statements Defendant had sent to the certified statements obtained directly from the bank.

In a separate call later that evening, Keith spoke to Susan Caneiro, the Defendant’s wife, and expressed his intent to investigate further. He also contacted their brother Corey that evening. Corey later recounted that Keith relayed the Defendant’s statement that he was suffering from a migraine.<sup>4</sup>

In the days and weeks preceding November 19, 2018, the Defendant was in regular contact with Yisel Ristrepo, a woman with whom he maintained a personal relationship. The State alleges that over a period of time, the Defendant provided Ristrepo with financial support, including covering a \$756 per month Audi lease, paying for her daughter’s college application fees, and financing international travel

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<sup>3</sup> The Wyze surveillance system installed in Keith Caneiro’s home captured only the audio occurring within the residence itself. As such, the Defendant’s responses during this exchange are not audible on the recording.

<sup>4</sup> The State does not seek to introduce the full Wyze video archive but only the three calls described above. The defense acknowledges the existence of these recordings but maintains that any statements by Keith expressing frustration or referencing past events are inadmissible hearsay and fail to meet the state-of-mind exception under N.J.R.E. 803(c)(3).

to Colombia. The State also asserts that the Defendant further searched for real estate listings in Florida and New Jersey for Ristrepo and her daughter, with the Defendant allegedly intending on living with them. Ristrepo reported that, beginning in 2018, the Defendant used her American Express card due to financial strain. On the night of November 19, 2018, the two exchanged a communication at approximately 11:00 p.m.

During a subsequent search of the Defendant's residence and vehicle, law enforcement recovered an extensive collection of firearms, ammunition, and gun-related equipment. Specifically, this included nine handguns (one of which was later identified as being utilized in the homicides), sixteen long guns and multiple boxes of Fiocchi brand 9mm ammunition (matching shell casings found at the crime scene), a Ghost Gunner CNC milling machine capable of fabricating lower receivers, and various accessories including the Laserlyte and Mantis X training systems. In addition, law enforcement located a backpack in the Defendant's vehicle that contained a suppressor, the barrel from the alleged murder weapon, matching ammunition, a FLIR One Pro thermal imaging camera, the Defendant's expired driver's license, his passport, and a laptop. With this background, the Court now turns to the procedural history of the evidentiary issues now before it.

### **III. RELEVANT PROCEDURAL HISTORY AND FILINGS<sup>5</sup>**

On November 21, 2018, Defendant Paul Caneiro (hereinafter “Defendant”) was charged with aggravated arson in connection with a fire at his residence. Eight days later, the Defendant was charged with four counts of murder, a second count of aggravated arson, weapons offenses and other crimes stemming from a separate fire at his brother’s home. That fire resulted in the deaths of Keith Caneiro, his wife Jennifer, and their two children. On February 25, 2019, a Monmouth County Grand Jury returned an indictment charging the Defendant with 16 different crimes. Of most relevance to the present motions, Counts Thirteen and Fourteen of the indictment charge the Defendant with theft by unlawful taking and misapplication of entrusted property, arising from his role as trustee of an irrevocable life insurance trust established for the benefit of Keith’s family.

#### **a. State’s Initial Notice of Intent (October 2, 2020)**

On October 2, 2020, the State filed a thirteen-page Notice of Intent to Offer Certain Evidence. The notice outlined the State’s theory that the Defendant acted in part to conceal financial misconduct and in part to obtain a contingent pecuniary

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<sup>5</sup> The Court has incorporated the parties’ respective factual representations and evidentiary positions into the procedural history section for clarity and cohesion. This approach reflects the structure and content of the parties’ submissions, many of which interweave procedural background with argument. Where necessary, the Court has identified specific filings of positions in the relevant sections of the opinion.

interest in the trust. It previewed three interrelated motive theories: (1) pecuniary gain; (2) concealment of prior misappropriation; and (3) financial pressure compounded by personal obligations. The notice identified categories of evidence the State intended to offer, including certified bank records, electronic communications, home surveillance recordings, [REDACTED] altered bank statements, past arguments between the brothers, a prior residential fire, and evidence of a romantic relationship with another woman.

The letter emphasized that the falsified records would be used to show Defendant submitted fabricated statements to the accountant to hide thefts from the trust, and that the timeline of financial conflicts between the brothers stretched from 2016 through the day of the homicides. It characterized these events as “intrinsic” to the charged conduct under State v. Rose, 206 N.J. 141 (2011), and argued that even the extramarital relationship was not N.J.R.E. 404(b) evidence but relevant motive proof that contextualized both the alleged financial pressure and Defendant’s conduct on November 20, 2018.

In short, the letter advised that some material might also be admissible under N.J.R.E. 404(b) to establish motive or intent, but it primarily framed the anticipated evidence as forming part of the direct proof of the charged theft, arson, and homicide counts. It further noted that many of the communications it sought to introduce,

namely, electronic communications and phone calls, were admissible by a party opponent and therefore, non-hearsay.

While the October 2, 2020 letter was not asserted as a formal motion, it expressly invited the Defendant to raise objections to the admission of the aforementioned evidence in advance of trial so the Court could rule on admissibility issues.

**b. Defense's Responsive Filings (May 7, 2025)**

On May 7, 2025, the defense filed a comprehensive response of the State's October 2, 2020, Notice of Intent. While conceding that the State's first motive theory (relating to the trust's contingent distribution structure) was facially relevant and likely admissible, the defendant challenged the remaining evidentiary categories on several grounds.

Specifically, the defense first objected that the proposed financial evidence, [REDACTED] would require expert explanation and risk confusing the jury. The defense specifically challenged the alleged record falsification, which it argued was not intrinsic because the documents were not used to perpetrate any theft and therefore represented a post hoc attempt to obscure discrepancies rather than facilitate the crime itself. To these points, the defense described the State's theory as a prejudicial mini-trial on defendant's financial history.

The defense further argued that evidence of an extramarital relationship would serve only to malign defendant's character and that admitting a cache of weapons would unduly inflame the jury. The defense asserted that these categories lacked a sufficient nexus to the charged conduct and should be excluded under N.J.R.E. 403 and 404(b).

The defense also raised Confrontation Clause concerns, particularly with respect to the State's intent to introduce statements by Keith Caneiro, via recorded audio, texts, or third-party recounting, without specifying which statements it would rely upon. Citing Crawford v. Washington and State v. Calleia, the defense contended that wholesale admission of such statements would violate the defendant's confrontation rights.

The defense urged the State to file specific motions identifying the evidence it intended to offer and the purpose of each.

**c. State's Supplemental Filings (May 7, 2025, June 13, 2025, and June 29, 2025)**

Also on May 7, 2025, the State filed a follow-up letter confirming its intent to proceed under the intrinsic evidence framework documented in their October 2, 2020 filing. Specifically, the State advised that the majority of the evidence it sought to admit were not offered as "other crimes" evidence under N.J.R.E. 404(b), but instead as direct intrinsic proof of the charged thefts or as contemporaneous facilitators of the charged homicides and arsons.



The Court held a status conference on May 8, 2025, at which time it directed the State to submit a more formal application of the October 2, 2020 letter to ensure the defense had a fair opportunity to respond and so the Court could adjudicate admissibility of each distinct issue appropriately.

On June 13, 2025, the State filed a twenty-seven-page brief seeking to admit the following: (1) evidence of alleged misappropriation of trust assets [REDACTED], and (2) recorded phone calls on a Keith Caneiro's home Wyze camera.

With respect to the financial evidence, the State detailed quarterly premium payments owed under the life insurance trust, the structure of the trust's contingent distributions, and defendant's role as trustee. It cited certified banking records showing transfers from the trust to the defendant's personal accounts, and alleged that the defendant had altered PDF statements to make it appear that premiums had been paid when they had not. It contended that these financial activities were intrinsic to the charged theft and misapplication counts. The State noted it would call a forensic analyst to explain how the documents were modified and how the trail of diverted funds aligned with the Defendant's personal expenses.

Regarding the Wyze recordings, the State focused on three recorded calls between Keith and defendant on November 19, 2018, and one call between Keith and Susan Caneiro. Because the Wyze system recorded from within Keith's home,

only Keith's half of the calls were captured. The State argued that Keith's statements expressing frustration, intent to audit the trust, and demands for login credentials fell within the state-of-mind hearsay exception and were non-testimonial under Crawford. More specifically, the State argued that Defendant's refusal to provide Keith access to the trust's login credentials, shortly before the murders, formed the climax of an escalating dispute and was direct proof of both the misappropriation and the events that triggered the homicides. The State additionally cited Keith's drafting of an email referencing the call and his contemporaneous discovery of alleged misappropriation as support for its argument that the confrontation was genuine and present tense.

On June 29, 2025, the State filed an additional brief expanding on its October 2, 2020 filing by addressing two distinct evidentiary categories: (1) Defendant's possession of firearms, firearm accessories, and related training equipment; and (2) his personal relationship with Yisel Ristrepo.

The State contended that the firearm collection (including the murder weapon, matching Fiocchi ammunition, and shooting training tools like Laserlyte and Mantis X) demonstrated defendant's familiarity with firearms and his ability to execute the charged homicides. It also emphasized that parts and ammunition were discovered in the defendant's car en route to the police station. The State further argued that the Defendant's possession of a Ghost Gunner CNC machine- and swappable-gun

parts showed a level of ballistics knowledge consistent with concealing the weapon used in the killings.

As to Ristrepo, the State proffered that defendant paid her rent, financed international travel, and searched for real estate for her and her daughter. It also noted that Defendant took her to shooting ranges and continued to text her throughout the night before the murders. The State stated its intent to have Ms. Ristrepo testify that Defendant used her credit card, discussed moving in with her, and described conflicts with his brother over money in the weeks leading up to the homicides. The State cited State v. McGuire to argue that the relationship is relevant in this context.

**d. Defense's Responsive Filing (June 27, 2025)**

On June 27, 2025, the defense filed a consolidated response opposing the State's prior and anticipated June 29 filings.

In response to the June 13 motion, the defense acknowledged that Defendant's disability income and employment roles were not inherently prejudicial [REDACTED]

[REDACTED] It urged the Court to sanitize all references to avoid suggesting that Defendant had engaged in other criminal acts not charged in the indictment.

In response to the June 29 motion, the defense contended that the probative value of introducing an entire firearms collection was minimal given that the murder

weapon had already been identified. It warned that such evidence would inflame the jury and invite a propensity inference. Similarly, it argued that evidence of a romantic relationship with Ristrepo was irrelevant and unfairly prejudicial, especially because the defendant's wife was aware of the relationship and continued to reside with him. The defense emphasized that references to infidelity served no legitimate purpose and could mislead the jury into a moral judgment.

The defense also challenged the admissibility of the Wyze recordings, particularly earlier communications from April and September 2018, as too remote and lacking any expression of forward-looking intent. It argued that Keith's recorded statements were inadmissible hearsay, testimonial under Crawford, and insufficiently probative to warrant introduction under R. 403.

The defense maintained that none of Keith's recorded statements qualified under the state-of-mind exception because they described past frustrations rather than future intent. It also reiterated that the Canada Life and Citibank call recordings had not been properly noticed and should be excluded in the absence of full transcripts and formal briefing.

With briefing complete, the Court now addresses each evidentiary issue raised in the parties' filings in turn.

#### **IV. GOVERNING LAW**

##### **a. Relevance (N.J.R.E. 401)**

Under N.J.R.E. 401, evidence is relevant if it has “a tendency in reason to prove or disprove any fact of consequence to the determination of the action.” This definition encompasses both probative value, meaning the logical connection between the proffered evidence and a fact at issue, and materiality, meaning the fact must bear on a substantive element or theory in the case.

Relevancy determinations are context-dependent and fall within the broad discretion of the trial court. See State v. Williams, 240 N.J. 225, 235 (2019); State v. Darby, 174 N.J. 509, 519–20 (2002). Courts may consider the “full factual setting,” including competing theories of the case, and should afford the proponent of the evidence a “certain amount of leeway.” State v. Sturdivant, 31 N.J. 165, 179 (1959); Lowenstein v. Newark Bd. of Educ., 35 N.J. 94, 105 (1961). The offered evidence need not be dispositive or strongly probative; it need only make the desired inference more probable than it would be without the evidence. State v. Cole, 229 N.J. 430, 447–48 (2017); State v. Koskovich, 168 N.J. 448, 480–82 (2001).

In criminal matters, relevance is shaped by the State’s burden to prove the elements of the offense and the defense’s right to challenge that proof or offer an alternative explanation. See State v. Fortin, 178 N.J. 540, 591 (2004); State v. Garron, 177 N.J. 147, 168–70 (2003). Courts have recognized that a broader range of evidence may be admissible where intent, motive, or mental state is at issue. See State v. Rogers, 19 N.J. 218, 228 (1955); State v. Long, 173 N.J. 138, 165 (2002).

Where the proffered evidence concerns uncharged conduct, the Court must determine whether such conduct is intrinsic to the charged offenses or constitutes “other crimes” evidence governed by N.J.R.E. 404(b).

**b. Intrinsic Evidence and N.J.R.E. 404(b)**

When evaluating the admissibility of uncharged conduct, the threshold determination is whether the conduct is intrinsic to the charged offenses. See State v. Rose, 206 N.J. 141, 179 (2011). Intrinsic evidence, as later defined, refers to uncharged conduct that is so directly connected to the charged offense that it forms part of the proof of the crime itself. See id. at 180-81. If the evidence qualifies as intrinsic, it falls outside the scope of N.J.R.E. 404(b) because its admissibility does not depend on establishing motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake. See id. at 177; see also N.J.R.E. 404(b). Accordingly, the analysis proceeds not under N.J.R.E. 404(b), but under the ordinary rules of relevance, including N.J.R.E. 401, 402, and 403. See Rose, 205 N.J. at 177-78; see also State v. B.A., 458 N.J. Super. 391, 413 (App. Div. 2019) (concluding trial court erred in assessing previous acts under both the intrinsic evidence framework and the N.J.R.E. 404(b) framework where evidence was simply intrinsic). By contrast, N.J.R.E. 404(b) governs only “other crimes, wrongs, or acts,” and has no application to conduct that directly proves, contemporaneously

facilitates, or is otherwise inextricably intertwined with the crimes charged. N.J.R.E. 404(b).

In State v. Rose, the New Jersey Supreme Court adopted a narrow definition of “intrinsic evidence,” relying on the standard set forth by the United States Court of Appeals for the Third Circuit in United States v. Green. See Rose, 205 N.J. at 180 (quoting United States v. Green, 617 F.3d 233, 248-49 (3d Cir. 2010)). Under this test, evidence is intrinsic if it either: (1) directly proves the charged offense, or (2) constitutes uncharged acts performed contemporaneously with the charged crime that served to facilitate its commission. See Rose, 206 N.J. at 180–81; Green, 617 F.3d at 248–49.

As such, “[i]ntrinsic evidence includes evidence that directly proves, or has probative value to, the charged offense.” State v. Brockington, 439 N.J. Super. 311, 333 (App. Div. 2015); see also Rose, 206 N.J. at 180–81 (“If uncharged misconduct directly proves the charged offense, it is not evidence of some ‘other’ crime.”). In other words, intrinsic evidence is that which “completes the story[;]” it encompasses not only acts that satisfy the elements of the charged offense but also acts that provide necessary context regarding how and why the events unfolded. See Rose, 206 N.J. at 180–81; see also Brockington, 439 N.J. Super. at 328

Subsequent cases have reaffirmed this standard. In State v. Cole, the Court noted that intrinsic evidence includes acts that are “so linked to the charged offense

as to be part and parcel of its commission.” 229 N.J. 430 (2017). Case law collectively instructs that the critical inquiry is whether the evidence is so closely connected to the charged offense that its exclusion would render the factfinder’s understanding of the events incomplete, distorted, or artificially narrow. See e.g., Rose, 206 N.J. at 180–81; Brockington, 439 N.J. Super. at 333. For instance, in State v. Sheppard, the Appellate Division held that a defendant’s racially motivated statement to police during an encounter contemporaneous with a charged stabbing was intrinsic to the crime. 437 N.J. Super. 171 (App. Div. 2014). Yet, in State v. B.A., the same court found that earlier, unrelated comments reflecting bias required a traditional N.J.R.E. 404(b) analysis. 458 N.J. Super. 391 (App. Div. 2019)

The Court applies this framework to determine whether the conduct in question forms part of the charged offense, facilitates its commission, or merely serves as background material. Only if the evidence does not meet the intrinsic test does a N.J.R.E. 404(b) analysis become necessary.

### **c. Hearsay and Applicable Exceptions**

Hearsay is defined as an out-of-court statement offered for the truth of the matter asserted. N.J.R.E. 801(c). The term “statement” includes oral and written assertions, as well as nonverbal conduct, provided the declarant intended such conduct to be an assertion. Id. Generally, hearsay is inadmissible unless it falls



within one of the recognized exceptions established by rule or other law. N.J.R.E. 802.

Among the exceptions to the general rule of exclusion are admissions by a party-opponent, and statements reflecting a declarant's then-existing state of mind. See N.J.R.E. 803; N.J.R.E. 803(c)(3). These exceptions apply only where the proffered statements are being offered for their truth. If they are not, the hearsay rule is not implicated, and no exception is necessary. See N.J.R.E. 801(c); State v. Coder, 198 N.J. 451, 464 (2009); Carmona v. Resorts Int'l Hotel, 189 N.J. 354, 376 (2007).

i. Party-Opponent – N.J.R.E 803(b)(1)

A defendant's own out-of-court statements, when offered against him at trial, are not hearsay under N.J.R.E. 803(b)(1), which codifies the party-opponent exception to the rule against hearsay. The rule permits the admission of a defendant's statements offered by the State as substantive evidence, provided that the statement is relevant and not otherwise excluded by law. See State v. Covell, 157 N.J. 554, 572 (1999); State v. Gore, 205 N.J. 363, 382 (2011). Because the defendant is himself the declarant, the justification for exclusion based on lack of cross-examination is absent. See State v. Kennedy, 135 N.J. Super. 513 (App. Div. 1975); N.J.R.E. 803(b)(1).

The exception applies to a wide range of defendant statements, including oral and written assertions, statements made to private individuals or law enforcement, and even adoptive admissions through conduct or silence. See State v. Mays, 321 N.J. Super. 619, 628–29 (App. Div. 1999) (telephone statements admissible upon proper authentication); State v. Gorrell, 297 N.J. Super. 142, 152 (App. Div. 1996) (adoptive admissions). However, in criminal cases, such statements are subject to a preliminary hearing under N.J.R.E. 104(c), which requires the court to determine their admissibility outside the presence of the jury and to instruct jurors that they may only consider the statement if they find it was made and is credible. See State v. Jordan, 147 N.J. 409, 425–26 (1997); N.J.R.E. 104(c).

Importantly, a defendant’s prior statements may be admitted against him regardless of whether he testifies at trial. State v. Beckler, 366 N.J. Super. 16, 26–27 (App. Div.), certif. denied, 180 N.J. 151 (2004). While the State may introduce part of a defendant’s statement, the defendant may seek to introduce other related parts under the doctrine of completeness. State v. Boyer, 221 N.J. Super. 387, 399–400 (App. Div. 1987), certif. denied, 110 N.J. 299 (1988). However, if the defendant does not testify, he may not introduce his own prior statements as exculpatory hearsay unless another exception applies. See id. at 398.

Once a statement qualifies under this exception, much like any other evidence sought to be admitted, the court must thereafter determine whether the probative

value is substantially outweighed by undue prejudice under N.J.R.E. 403. Covell, 157 N.J. at 573–74.

ii. Present Sense Impression – N.J.R.E. 803(c)(1)

Under N.J.R.E. 803(c)(1), a present sense impression is admissible as an exception to the hearsay rule if it constitutes a statement “describing or explaining an event or condition, made while or immediately after the declarant perceived it and without opportunity to deliberate or fabricate.” The declarant must have personally observed the event or condition described, and the statement must be spontaneous and contemporaneous with that observation or made within such a brief time thereafter as to preclude the likelihood of reflection or fabrication. N.J.R.E. 803(c)(1).

The Rule incorporates elements of both prior New Jersey Evidence Rule 63(4)(a) and Federal Rule of Evidence 803(1), liberalizing the earlier standard by permitting statements made not only while perceiving the event but also “immediately after,” provided that the time frame is sufficiently short to preserve reliability. See 1991 Supreme Court Committee Comment; N.J.R.E. 803(c)(1); State ex rel. J.A., 195 N.J. 324, 338 (2008); Gonzales v. Hugelmeyer, 441 N.J. Super. 451, 458 (App. Div.), certif. denied, 223 N.J. 356 (2015).

The determination of what qualifies as “immediately after” must be guided by a commonsense approach. Statements made within seconds of the observation will

generally qualify, as in Polistina v. Polistina, where a statement made contemporaneously during a car accident was deemed admissible. 183 N.J. Super. 291, 297 (App. Div. 1982). However, when there is even a short delay that allows for possible deliberation, the Rule's reliability rationale breaks down. See State v. Rochat, 470 N.J. Super. 392, 452–54 (App. Div.), certif. denied, 252 N.J. 79 (2022) (thirty-minute delay defeated admissibility); State ex rel. J.A., 195 N.J. at 338 (ten-minute delay rendered the statement inadmissible).

Courts must also consider whether the statement was genuinely contemporaneous or merely a narrative of a past event. A statement must not reflect reflective thought or constructed narrative, even if temporally close. See State v. D.R., 214 N.J. Super. 278, 287–88 (App. Div. 1986), rev'd on other grounds, 109 N.J. 348 (1988).

Importantly, even if a statement satisfies the requirements of N.J.R.E. 803(c)(1), it remains subject to exclusion if it constitutes testimonial hearsay under Crawford v. Washington, unless the declarant is unavailable and there was a prior opportunity for cross-examination. See 541 U.S. 36 (2004); State v. Branch, 182 N.J. 338, 368–69 (2005); State ex rel. J.A., 195 N.J. at 351.

iii. Excited Utterance – N.J.R.E. 803(c)(2)

N.J.R.E. 803(c)(2) permits the admission of an excited utterance. The rule refers to a statement relating to a startling event or condition, made while the

declarant was under the stress of excitement caused by the event and without opportunity to deliberate or fabricate. N.J.R.E. 803(c)(2). The Rule is substantively similar to its federal counterpart but includes the added requirement that the statement be made “without opportunity to deliberate or fabricate.” See State v. Branch, 182 N.J. 338, 366 (2005); State v. Long, 173 N.J. 138, 159 (2002).

To qualify, three elements must be established:

- (1) The statement must relate to a startling event or condition;
- (2) The declarant must have been under the stress of excitement caused by that event; and
- (3) The statement must have been made before there was a meaningful opportunity for reflection or fabrication.

See Branch, 182 N.J. at 366; State v. Cotto, 182 N.J. 316, 327–30 (2005).

The stress of excitement must be ongoing at the time the statement is made. Mere proximity in time to the event is not dispositive if the declarant had the opportunity to reflect. In Branch, for example, a child’s description of a burglar made 10 to 20 minutes after the event was deemed inadmissible, as she had spoken to multiple people and answered questions in a reflective manner. Branch, 182 N.J. at 370. Similarly, in Cotto, statements made 15 to 45 minutes after a robbery, despite the victims’ emotional state, were excluded because the intervening time allowed for deliberation. Cotto, 182 N.J. at 330–31. Courts must assess factors such as:

- (1) The lapse of time between event and statement;
- (2) The declarant’s mental and physical condition;
- (3) The nature of the event;
- (4) The shock or stress observed;

(5) Whether the statement was volunteered or in response to questioning.

See Branch, 182 N.J. at 366–67; Negron v. Melchiorre, Inc., 389 N.J. Super. 70, 87–88 (App. Div. 2006).

Statements made in response to questioning are not per se excluded, but a deliberate answer may weaken the spontaneity necessary for admission. Branch, 182 N.J. at 366–67. As with other hearsay exceptions, courts must remain vigilant that the excited utterance exception is not stretched to admit retrospective narratives that subvert the purpose of the hearsay rule. The rule must be applied narrowly, particularly when the declarant is not subject to cross-examination. Branch, 182 N.J. at 367; see also Crawford, 541 U.S. at 50–59.

iv. State-of-Mind – N.J.R.E. 803(c)(3)

Under N.J.R.E. 803(c)(3), a hearsay statement is admissible if it reflects the declarant’s then-existing state of mind, emotion, or physical condition (such as intent, plan, motive, mental feeling, pain, or health) so long as the statement was made in good faith and is not being used merely to prove a memory or belief about a past event. The underlying rationale is that such contemporaneous statements are generally reliable and trustworthy, even in the absence of cross-examination. See State v. Scharf, 225 N.J. 547, 569–70 (2016); State v. Downey, 206 N.J. Super. 382, 390 (App. Div. 1986); State v. McLaughlin, 205 N.J. 185, 201–02 (2011).

This rule frequently arises in connection with victim statements. If the declarant is unavailable, the rule permits the admission of statements concerning the declarant's fear, plans, or emotional state, so long as that state of mind is relevant to the issues being tried. See Scharf, 225 N.J. at 571–74; State v. Castagna, 400 N.J. Super. 164, 186–87 (App. Div. 2008). These statements may be admissible to provide context for the declarant's conduct, but not to prove the defendant's conduct by implication. See McLaughlin, 205 N.J. at 189; State v. Downey, 237 N.J. Super. 4, 12 (App. Div. 1989); State v. Prudden, 212 N.J. Super. 608, 613 (App. Div. 1986).

The threshold for admissibility under this rule is relevance. The declarant's mental or emotional state must pertain to a contested issue at trial. See McLaughlin, 205 N.J. at 189. Statements that do not help explain the declarant's own actions but are instead offered to suggest that the defendant harbored a particular state of mind, fall outside the exception. See State v. Downey, 237 N.J. Super. 4, 12 (App. Div. 1989); State v. Prudden, 212 N.J. Super. 608, 613 (App. Div. 1986).

The rule also encompasses expressions of present intent or plan, such as statements that reflect a contemplated future act. If offered to show that the declarant likely followed through on the stated intention, these forward-looking statements may be admissible under N.J.R.E. 803(c)(3). See Downey, 206 N.J. Super. at 390 (explaining that the rule “embraces the common notion that people often do that which they say they intend to do”); State v. Scott, 236 N.J. Super. 264, 267 (App.

Div. 1989) (upholding admission of defendant's statement that he was about to commit a robbery); McLaughlin, 205 N.J. at 201–02 (recognizing statements of intention as relevant to subsequent conduct).

The application of this rule is illustrated in Scharf, where the Court upheld the admission of the victim's statements expressing fear of the defendant and a refusal to accompany him to the cliffs. These statements were relevant because the defense theory was that her death was accidental, and her unwillingness to go to the cliffs with the defendant directly undermined that claim. In contrast, in State v. Rochat, 470 N.J. Super. 392, 454–55 (App. Div. 2022), the court excluded the victim's statement that the defendant had made a surprise visit to her shortly before her death. That statement was not used to clarify any act or decision of the victim but instead served to suggest that the defendant's behavior was suspicious.

A defendant's statement made in the present tense, such as an expression of intent, fear, or physical condition, may qualify under the rule, so long as it was made in good faith and without motive to fabricate. See State v. Baldwin, 47 N.J. 379, 393–95 (1966) (allowing admission of statements made by the defendant between the alleged offense and his discovery that the victim had died). However, courts are wary of post-hoc efforts by defendants to introduce self-serving statements made under circumstances that raise concerns about fabrication or manipulation. See State v. Williams, 106 N.J. Super. 170, 177 (App. Div.), certif. denied, 55 N.J. 78 (1969).



Finally, statements admitted under N.J.R.E. 803(c)(3) must still withstand N.J.R.E. 403 scrutiny. If the probative value of the statement is substantially outweighed by the risk of undue prejudice, confusion, or cumulative impact, it may be excluded. See Scharf, 225 N.J. at 574; Covell, 157 N.J. at 573–74.

v. Business Records – N.J.R.E. 803(c)(6)

Under N.J.R.E. 803(c)(6), a business record is admissible as an exception to the hearsay rule if (1) it was made at or near the time of the act, event condition, or diagnosis recorded (2) by, or from, a person with knowledge;<sup>6</sup> and (3) in the regular course of business. The exception further requires that the circumstances of the record's preparation do not suggest a lack of trustworthiness. See e.g., State v. Sweet, 195 N.J. 357, 370 (2008).

In contrast to its federal counterpart, N.J.R.E. 803(c)(6) follows the 1967 New Jersey rule in not requiring testimony of the custodian or other qualified witness as a condition for admission of business records. The requirement that a foundation be laid establishing the criteria for admissibility may be met by the kind of proof that would satisfy a trial judge in a hearing under Rule 104(a), including proof presented in affidavit form. Gunter v. Fischer Scientific American, 193 N.J. Super. 688, 691-692 (App. Div. 1984); see also Comment on Rule 101(a)(2)(E) and Rule 104(a).

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<sup>6</sup> The foundational witness needed not "have personal knowledge of the facts contained in the record." Hahnemann Univ. Hosp. v. Dudnick, 292 N.J. Super. 11, 17-18 (App. Div. 1996).

#### **d. Confrontation Clause**

The Sixth Amendment to the United States Constitution guarantees a criminal defendant the right “to be confronted with the witnesses against him.” In the context of a criminal trial, this Confrontation Clause bars the admission of testimonial hearsay unless two conditions are met: the declarant is unavailable to testify, and the defendant had a prior opportunity to cross-examine the declarant. Crawford v. Washington, 541 U.S. 36 (2004).

Whether a hearsay statement is “testimonial” turns on its primary purpose. A statement is testimonial if made in response to formal police questioning or other circumstances indicating that the primary purpose of the statement is to establish or prove past events relevant to a future criminal prosecution. Davis v. Washington, 547 U.S. 813 (2006). In contrast, statements made during an ongoing emergency or in non-investigative settings are generally non-testimonial. See Michigan v. Bryant, 562 U.S. 344 (2011); Ohio v. Clark, 576 U.S. 237 (2015).

New Jersey courts have repeatedly applied this framework to exclude testimonial hearsay when the defendant has not had a meaningful opportunity to confront the declarant. See State v. Basil, 202 N.J. 570, 597 (2010); State ex rel. J.A., 195 N.J. 324 (2008); State v. Watson, 254 N.J. 558, 610–11 (2023); State v. Mauti, 448 N.J. Super. 275, 309–11 (App. Div. 2017).

In contrast, if the declarant testifies at trial and is available for cross-examination before the jury, the admission of their prior testimonial statement generally does not violate the Confrontation Clause, even if the declarant is evasive, forgetful, or reluctant. See State v. Nyhammer, 197 N.J. 383, 412 (2009); State v. Harrell, 256 N.J. 590, 592–93 (2024). However, cross-examination must take place in front of the jury; pretrial hearings do not suffice. See State v. Cabbell, 207 N.J. 311, 332–33 (2011); State v. Slaughter, 219 N.J. 104, 117–18 (2014).

The Confrontation Clause also encompasses testimonial statements contained in documents prepared for trial, such as forensic reports, lab certifications, or affidavits attesting to the results of government testing. See Melendez-Diaz v. Massachusetts, 557 U.S. 305 (2009); Bullcoming v. New Mexico, 564 U.S. 647 (2011); State v. Carrion, 249 N.J. 253, 272 (2021); State v. Bass, 224 N.J. 285, 316–20 (2016).

Importantly, this right may be forfeited through misconduct. If a defendant engages in wrongdoing that causes a witness to become unavailable, the right to confrontation is deemed waived. See N.J.R.E. 804(b)(9); State v. Byrd, 198 N.J. 319, 349–50 (2009); State v. Rinker, 446 N.J. Super. 347, 359–61 (App. Div. 2016).

Finally, all proffered evidence, regardless of its relevance or categorization, must undergo Rule 403 balancing to determine whether it should be excluded due to unfair prejudice or other trial risks.

**e. N.J.R.E. 403 Balancing**

Even if relevant and otherwise admissible, evidence must also satisfy the balancing requirement of N.J.R.E. 403. N.J.R.E. 403 permits the exclusion of otherwise admissible evidence, if the probative value of the evidence is substantially outweighed by the risk of undue prejudice, confusion, waste of time, or needless presentation of cumulative proof. The balancing process requires the court to weigh both the strength of the logical connection and the need for evidence against any unfairness or distortion it may introduce. See State v. Covell, 157 N.J. 554, 574 (1999); State v. Buckley, 216 N.J. 249, 261 (2013).

Courts are particularly cautious when evidence bears the potential to evoke strong emotional reactions or to invite the jury to decide a case on an improper basis. The danger of unfair prejudice is especially acute where evidence involves uncharged misconduct, inflammatory accusations, or conduct that might trigger juror revulsion, even if it does not pertain directly to the charged crimes. See State v. Cole, 229 N.J. at 451; State v. Patterson, 435 N.J. Super. 498, 510 (App. Div. 2014).

With these legal principles in mind, the Court turns to the specific categories of evidence the State seeks to admit and assesses their admissibility under the foregoing standards.

**V. LEGAL ANALYSIS**

The State seeks to admit a broad array of evidence in support of its theory that Defendant Paul Caneiro possessed both financial motive and premeditated intent to commit the charged offenses. The evidence falls into several categories, including financial records showing alleged misappropriation of family trust assets; statements by and to members of the Caneiro family regarding intra-family disputes; Defendant's extramarital communications; and the discovery of firearms and incendiary materials at his residence. The Court analyzes each category below, applying the governing principles of relevance, intrinsic versus other-crimes evidence, hearsay, the Confrontation Clause, and N.J.R.E. 403.

**a. Financial Records Involving the Canada Life Trust Account**

The State seeks to introduce financial documents demonstrating that the Defendant maintained exclusive control over the Canada Life Trust held at TD Bank for the benefit of Keith Caneiro's family. Specifically, the evidence sought to be admitted include login credentials associated with the Defendant, account access logs from a secure TD Bank portal, and contemporaneous account activity from a device registered to the Defendant. The State further offers records showing the Defendant's alleged refusal to share login credentials with his brother Keith, allegedly made on the morning of November 19, 2018. These records also reflect transactions demonstrating the conduct of alleged misappropriation.

This category of evidence is directly probative of motive and opportunity, and thus, the Court finds it intrinsic to the charged offense, not subject to N.J.R.E. 404(b). As previously outlined, evidence is intrinsic when it either: (1) directly proves the charged offense; or (2) consists of uncharged acts contemporaneous with the charged conduct that served to facilitate its commission. Rose, 206 N.J. at 180-81; see also Cole, 229 N.J. at 448 (evidence “so linked to the charged offense as to be part and parcel of its commission” is intrinsic).

Here, the bank records serve both functions promulgated in Rose. First, the records establish a key pillar of the State’s theory of motive. Specifically, the records establish that the Defendant sought to obtain sole control over the trust by eliminating Keith and his immediate heirs. Second, they provide a mechanism of opportunity, insofar as the records show Defendant’s unfettered access and unilateral decision-making authority over the trust funds. Moreover, the financial activity itself, including the movement of funds, provides direct proof of theft and misapplication.

In this way, this evidence is directly tethered Count Thirteen, which charges Second-Degree Theft by Unlawful Taking under N.J.S.A. 2C:20-3a, and Count Fourteen, which charges Second Degree Misapplication of Entrusted Property under N.J.S.A. 2C:21-15. Both statutes criminalize the misappropriation of property belonging to another, and both require proof that the Defendant exercised unlawful

or unauthorized control. The TD Bank records, particularly those showing the Defendant's alleged sole access and his ongoing manipulation of account information, are central to proving that the Defendant knowingly handled entrusted property in a manner inconsistent with Keith Caneiro's wishes and with the trust's intended purpose. In other words, this evidence speaks directly to the elements that the State must prove beyond a reasonable doubt. Rose, 206 N.J. at 180.

The Defendant contends that these records are "uncharged conduct" evidence falling under N.J.R.E. 404(b), asserting that any financial improprieties or alterations of statements involving the trust constitute "other acts" rather than evidence of the misappropriations themselves. That argument misapprehends the scope of N.J.R.E. 404(b). As the Court in Rose made clear, "[i]f uncharged misconduct directly proves the charged offense, it is not evidence of some 'other' crime." Id.; see also Brockington, 439 N.J. Super. at 333 (intrinsic evidence includes acts that directly prove the charged offense or explain the context of its commission). Rather, it is probative of why and how the crime occurred. It also goes beyond motive by evidencing the misappropriation itself.

The TD Bank financial records are hearsay within the meaning of N.J.R.E. 801(c), as they consist of out-of-court statements (balances, activity logs, and credential histories) offered to prove the truth of the matters asserted therein. Specifically, the State seeks to rely on these records to show not only the actual

transaction log, but that the Defendant maintained exclusive control over the account, declined to share access with Keith Caneiro, and engaged in self-directed transactions in the days leading up to the homicides. Because this category of evidence contains assertions and is offered for their truth, it must qualify under a hearsay exception to be admissible.

Here, the business records exception, under N.J.R.E. 803(c)(6), applies. N.J.R.E. 803(c)(6) permits admission of a record made at or near the time of the event by a person with knowledge, so long as it was kept in the regular course of business, it was the regular practice of that business to make such a record, and the source of information or the method of preparation does not indicate a lack of trustworthiness. Courts have consistently upheld the admissibility of similar records under this exception, including bank statements, loan histories, payroll records, credit card transaction logs, and sales confirmations. See New Century Financial v. Oughla, 437 N.J. Super. 299, 322 (App. Div. 2014); Garden State Bank v. Graef, 341 N.J. Super. 241, 245 (App. Div. 2001); State v. Mazowski, 337 N.J. Super. 275, 292 (App. Div. 2001); State v. Orlando, 101 N.J. Super. 390 (App. Div.), certif. denied, 52 N.J. 500 (1968).

TD Bank's own account access logs, transaction history, and login metadata fall squarely within the type of documents businesses rely upon to manage and track customer access and financial activity. These are precisely the sort of



contemporaneously generated, system-authenticated records that courts routinely admit. See State v. Moore, 158 N.J. Super. 68 (App. Div. 1978); Stott v. Greengos, 95 N.J. Super. 96 (App. Div. 1967); Hackensack Hosp. v. Tiajolloff, 85 N.J. Super. 417 (App. Div. 1964), certif. denied, 44 N.J. 396 (1965). The foundational requirement of trustworthiness is also satisfied. TD Bank had a business duty to accurately log account access, user activity, and fund movements to preserve account integrity and regulatory compliance. That duty to record accurately is central to the basic operations of financial institutions and thus strongly supports reliability. See Phoenix Assocs. v. Edgewater Park Sewerage Auth., 178 N.J. Super. 109, 116 (App. Div. 1981), aff'd, 89 N.J. 2 (1982) (holding that the presence of a business duty to make truthful records is a key indicator of trustworthiness).

Thus, although the Trust account records are hearsay, they are admissible under N.J.R.E. 803(c)(6) as reliable business records created in the ordinary course of business, and under circumstances that do not suggest untrustworthiness.<sup>7</sup>

As for relevance under N.J.R.E. 401 and 402, the trust records plainly tend to prove facts of consequence, namely, the Defendant's exclusive access to a trust from

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<sup>7</sup> Defendant has not raised a Confrontation Clause objection to this piece of evidence nor does the record suggest one is warranted. The financial records at issue, for the reasons outlined above, were generated in the ordinary course of business and not for the purpose of litigation or criminal investigation. As such, they are non-testimonial and fall outside the scope of the Sixth Amendment. See Crawford v. Washington, 541 U.S. 36, 56 (2004); Sweet, 195 N.J. at 370-71 (routine business records not prepared for use at trial are non-testimonial).

which he stood to benefit upon the death of his brother's family. Relevance under N.J.R.E. 401 requires only that the evidence makes a fact more probable than it would be without the evidence. See State v. Williams, 240 N.J. 225, 235 (2019). The question is not whether the evidence is conclusive, but whether it contributes logically to the State's narrative. See Covell, 157 N.J. at 565 (evidence need not be strongly probative so long as it "makes the inference to be drawn more logical, then the evidence should be admitted"). Courts recognize that motive evidence, particularly when rooted in financial benefit or control, is relevant even if not an element of the charged offense. See Rogers, 19 N.J. at 228; Long, 173 N.J. at 165. Here, the probative value is evident: the Defendant's retention of trust access, paired with the deaths of alternative beneficiaries, supports an inference of financial motive and helps establish both why and how the charged crimes were committed.

Finally, under N.J.R.E. 403, the probative value of the trust records is not substantially outweighed by any risk of unfair prejudice. The Court acknowledges that evidence involving inheritance, financial benefit, and family conflict can carry emotional weight. But the relevance of this material is central to the State's theory. The Defendant's access to the trust, combined with the timing of his refusal to share login credentials, is highly probative of a motive to ensure that Keith and his family were no longer living beneficiaries. This inference is not speculative but logically supported by the sequence of events. See Cole, 229 N.J. at 451 (relevance and

probative value may be enhanced where the evidence “fills gaps” in the State’s narrative of how and why the crime occurred).

For all of these reasons, the financial records are admissible.

**b. Trust-Related Electronic Communications and Surveillance Footage**

Specifically, the State has proffered electronic communications, surveillance footage, and recorded phone calls. It argues that these materials show Keith had discovered discrepancies in the administration of the Canada Life Trust, had begun directly confronting the Defendant, and posed a clear threat to his exclusive control over the trust funds. This conduct forms the foundation of Counts Thirteen and Fourteen. The State argues that these materials are admissible as direct evidence of motive and intrinsic to the charged conduct. The defense objects on multiple grounds, including authentication, hearsay, undue prejudice, and overbreadth.

The evidence in questions consists primarily of:

- A series of electronic communications exchanged between Keith and the Defendant regarding the Canada Trust account;<sup>8</sup>

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<sup>8</sup> Based on the defense’s representations, the Court understands that the defense does not dispute the authorship of electronic communications purportedly by the Defendant, provided that the State lay an adequate foundation under N.J.R.E. 901. Specifically, the defense’s brief states the same. However, if misunderstood, the defense must raise this point within 48 hours of the issuance of this opinion.

- Communications with Steven Weinstein (the brothers' accountant) and Ronald Artiges (Keith's insurance adjuster) regarding missed premium payments;<sup>9</sup> and
- Video surveillance footage from Wyze cameras installed in Keith's home, capturing Keith's half of several phone conversations with Defendant on the evening of November 19, 2018.

During the phone calls in particular, Keith Caneiro can be heard questioning the Defendant about Canada Life's claim that no payments had been received since April 2018, despite bank statements that suggested otherwise. Keith demanded a login password to investigate the issue himself and expressed frustration with the lack of access. The Defendant's side of the conversation is not heard on the footage, but the audio captures Keith's end of at least two phone calls, including one at 3:50 PM and another series of exchanges shortly after 6:00 PM.

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<sup>9</sup> Emails authored by Keith and sent to his accountant or insurance representative, particularly those reflecting his understanding of discrepancies between the bank statements and the insurance company's records, may be admissible for the limited purpose of showing his knowledge or intent, and to the extent they establish a timeline of his investigation for largely the same reasons outlined below, deeming the electronic communications between the Defendant and Keith Caneiro intrinsic. Namely, if offered to show Keith Caneiro's course of conduct and mental state leading up to the confrontation, they may be admitted with a limiting instruction. However, if offered for their truth, they would generally be inadmissible hearsay unless they fall within N.J.R.E. 803(c)(3). While the defense objects to the admissibility of certain emails, particularly those forwarded by Corey Caneiro, on grounds that Corey is not a party to the communication and cannot authenticate the emails, and it is the defense's position that whether the materials have been altered, at trial, the State will bear the burden of establishing authenticity under N.J.R.E. 901.

Under N.J.R.E. 401, evidence is relevant if it has “a tendency in reason to prove or disprove any fact of consequence to the determination of the action.” As explained in State v. Buckley, evidence of motive “frequently sheds light on otherwise inexplicable behavior,” and courts routinely admit financial motive evidence where appropriate. 216 N.J. 249, 261 (2013).

Here, the proffered electronic communications and recordings are directly relevant to the charged theft and homicides. Counts Thirteen and Fourteen accuse Defendant of theft and misapplication of entrusted funds from the Canada Life Trust. The Wyze surveillance captures Keith identifying discrepancies, demanding answers, and requesting login credentials, interactions that speak to Defendant’s continuing misappropriation and concealment. This conduct was not prior misconduct. Rather, it is directly within the time frame of the charged theft and misapplication of entrusted funds. The evidence thus qualifies as intrinsic under Rose because it helps directly prove the commission of those crimes, and because it constitutes contemporaneous conduct that facilitated their concealment.

These exchanges also establish the financial dispute at the heart of the State’s motive theory and contextualize the timing and significance of the homicides. They reveal Keith’s attempts to access the Canada Life Trust and the Defendant’s alleged reluctance or refusal to provide transparency. The communications reinforce the

State's narrative that Defendant had a reason to prevent Keith from uncovering his alleged theft of entrusted funds.

The electronic communications and recordings are also intrinsic under Rose. Specifically, the recorded communications form part of the factual chain necessary to explain the conduct charged. See Rose, 206 N.J. at 180–81. Namely, these communications directly contextualize the defendant's alleged motive: preserving his access to approximately \$3 million in trust funds. The Wyze recordings are contemporaneous with the murders and depict Keith uncovering fraud, confronting Defendant, and attempting to access trust records. His inquiries reflect not only a deteriorating fraternal relationship but an imminent exposure of Defendant's misconduct. These circumstances are alleged to have directly precipitated the murders. As such, this evidence is not offered merely to show character or prior bad acts, but rather to illuminate the factual predicate for the four counts of murder in the indictment. In this way, these communications form an essential part of the State's overarching narrative, establishing both motive and context.

The Court therefore finds that the electronic communications and recorded surveillance communications between Keith and Defendant are intrinsic to the charged conduct and are not governed by N.J.R.E. 404(b).

To the extent the evidence includes statements by Keith, the defense contends that such statements constitute inadmissible hearsay. The Court disagrees.

First, many of Keith's statements are not offered for their truth but for their effect on the listener or to provide context for the Defendant's responses. For example, communications in which Keith asks for the trust password are not admitted to prove that he lacked access, but to demonstrate the Defendant's awareness of scrutiny and his resulting conduct. When statements are introduced to show the declarant's impact on another person, or to give context to admissible conduct, they are not hearsay under N.J.R.E. 801(c), as their admissibility hinges on non-hearsay purposes (i.e., state of mind or motive).

Second, Keith's statements expressing his own intent to review the trust, confront Defendant, or take financial action may qualify under N.J.R.E. 803(c)(3) as statements of then-existing mental state. New Jersey courts have repeatedly recognized that statements of intention (e.g., "I plan to review the trust account") are admissible to show that the declarant subsequently acted on that intention. See State v. Downey, 206 N.J. Super. 382, 390 (App. Div. 1986) ("The rule embraces the common notion that people often do that which they say they intend to do."); State v. McLaughlin, 205 N.J. 185, 201–202 (2011). Here, Keith's intent to confront Defendant and escalate the matter is central to the motive theory and probative of the immediacy of the conflict.<sup>10</sup>

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<sup>10</sup> As previously noted herein, the Defendant's responses to Keith Caneiro during these phone calls is not captured in the Wyze video surveillance. It is presently the Court's understanding that while the State seeks admission of the videos, only

Finally, under N.J.R.E. 403, the probative value of the trust records is not substantially outweighed by any risk of unfair prejudice. Here, the recordings and electronic communications are not unduly inflammatory. They do not depict violence, refer to unrelated misconduct, or suggest impermissible character inferences. Rather, they capture a dispute between brothers over money, which is a matter central to the State's case. These communications are directly connected to Counts Thirteen and Fourteen, which require the State to prove both unauthorized control over the trust assets and intent to permanently deprive the rightful beneficiary. The evidence in question sheds light on both. Their probative value is also especially high given their proximity in time to the homicides and the absence of alternative explanations for the alleged misappropriation.

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capturing Keith Caneiro's contributions to the phone calls, it does not seek the admission of the Defendant's responses, conveyed by means of third-party reiterations. However, if the State sought to introduce testimony from a third party, such as Corey Caneiro, relaying that Keith repeated the Defendant's statement about the migraine, the threshold hearsay issue is whether Keith accurately reported the Defendant's words. The original statement, spoken by the Defendant, qualifies under N.J.R.E. 803(b)(1) and courts have permitted secondhand accounts of a defendant's own words where sufficient foundation exists to establish accuracy. See State v. Mays, 321 N.J. Super. 619, 628–629 (App. Div. 1999) (admission of statements made over phone permitted if properly authenticated). What is more, in a practical sense, the statements, if offered by the State, would not be offered for the truth of the matter asserted (here, whether the Defendant actually suffered from a migraine), but rather as circumstantial evidence of delay, obstruction, and calculated control.



The defense suggests that admitting Keith's statements would create a Confrontation Clause problem. However, statements that are non-testimonial (i.e., made in private conversation or electronic communications and not in anticipation of legal proceedings) do not implicate the Sixth Amendment. See Crawford v. Washington, 541 U.S. 36, 51–52 (2004); State v. Roach, 219 N.J. 58, 74–75 (2014). The communications at issue here occurred between family members regarding business endeavors. They are plainly non-testimonial.

Thus, communication between the Defendant and Keith Caneiro are admissible as intrinsic evidence. They are relevant to prove motive, control, and concealment, and are not barred by the hearsay rule. The Defendant's own statements qualify as party-opponent admissions, and Keith's statements either fall outside the hearsay rule or qualify under established exceptions. The probative value of this evidence substantially outweighs any risk of unfair prejudice under N.J.R.E. 403.

**c. Defendant's Statements Allegedly Made During Phone Calls Captured on Wyze Surveillance Footage**

The Defendant seeks to introduce his own statements allegedly made during the same surveillance-recorded phone calls in Keith Caneiro's home. Most specifically, the defense contends that the Defendant's alleged statements of having a migraine, which was conveyed to Corey Caneiro, is admissible for numerous reasons. The defense first argues that these statements are not hearsay.

Alternatively, the defense argues, if the statements are in fact hearsay they fall within either the exception for a present sense impression or the exception for an excited utterance. Finally, the defense also argues that the admission of these statements is appropriate under N.J.R.E. 106.

As a threshold matter, the Court notes that the Defendant's alleged statements are not audible to the court by way of the video surveillance. Rather, these statements are attributed to the Defendant by Keith Caneiro, who is now deceased, and is offered through anticipated testimony from a third declarant, Corey Caneiro.

This sequence constitutes triple hearsay: (1) a statement by the Defendant to Keith; (2) a repetition of that statement by Keith to Corey; and (3) Corey's testimony relaying Keith's account. Under N.J.R.E. 805, "hearsay included within hearsay is not excluded under the hearsay rule if each part of the combine statements confirms within exception to the hearsay rule." In other words, each layer of the Defendant's purported statement must independently satisfy a recognized hearsay exception to be admissible.

The Court first addresses the core statements that the defense seeks to admit, the Defendant's alleged responses to Keith Caneiro during the recorded phone calls, to include the Defendant's assertion that he was suffering from a migraine that night. These are out-of-court assertions the latter of which is offered to explain or contextualize the Defendant's conduct during the recorded confrontation – namely,

the Defendant's refusal or inability to provide Keith Caneiro with the TD Bank login credentials. To this extent, the statements would be offered to show the truth of the matter asserted (that the Defendant did in fact have a migraine). Thus, these alleged statements by the Defendant are hearsay under N.J.R.E. 801(c).

d. Present Sense Impression under N.J.R.E. 803(c)(1)

As previously outlined herein, a present sense impression is "[a] statement describing or explaining an event or condition, made while or immediately after the declarant perceived it and without opportunity to deliberate or fabricate." N.J.R.E. 803(c)(1). The statement must be nearly contemporaneous with the event and must have been made before the declarant had time to reflect or craft a self-serving narrative. See J.A., 195 N.J. at 338; Burris, 357 N.J. Super. at 332.

While the Defendant's migraine statement arguably describes a condition he was experiencing, the context in which it was made weighs against its admission under this rule. The statement arose during a heated financial confrontation with his brother, immediately after Keith demanded login credentials to a \$3 million trust. The surrounding facts suggest a strategic explanation for noncompliance, not a spontaneous utterance. The rule is designed to exclude statements made with opportunity to deliberate or self-justify, and the timing and circumstances of this remark strongly suggest deliberation. See Gonzales v. Hugelmeyer, 441 N.J. Super. 451, 458 (App. Div. 2015) (excluding statements made after "several minutes" had

passed); *State v. Rochat*, 470 N.J. Super. 392, 454 (App. Div. 2022) (30-minute delay excluded statement under present sense impression rule).

Accordingly, the Court finds that the migraine comment was not made with the kind of spontaneity or immediacy required by Rule 803(c)(1).

i. Excited Utterance under N.J.R.E. 803(c)(2)

Nor does the statement qualify as an excited utterance under N.J.R.E. 803(c)(2). As also previously outlined here, this hearsay exception requires three elements: (1) a startling event; (2) a statement made under the stress of that event; and (3) no opportunity to deliberate or fabricate. *See Branch*, 182 N.J. at 366–67; *Cotto*, 182 N.J. at 327–30.

While the confrontation itself may have been emotionally charged, the Defendant was not reacting to a shocking or traumatic event beyond his control. He was an active participant in the exchange. The Court cannot conclude that his alleged migraine comment was made under the “stress of excitement” within the meaning of Rule 803(c)(2). New Jersey courts have consistently excluded statements made in response to questions or as part of calculated exchanges. *See Branch*, 182 N.J. at 370 (excluding even a child’s statement made 15–20 minutes after a burglary as too deliberative); *State v. Ryan*, 157 N.J. Super. 121 (App. Div. 1978) (excluding self-exculpatory statement made by defendant after arrest).

The migraine statement lacks the necessary indicia of spontaneity, shock, or involuntariness. Instead, it appears to have been a response to confrontation and a deflection of accountability.

Because the assertions sought to be admitted constitute hearsay with no applicable exceptions, the statements are inadmissible. Nevertheless, it should also be noted that even if these statements did meet a hearsay exception, the second and third levels of hearsay in this instance (Keith's repetition of the Defendant's statement and Corey's repetition of Keith's conveyance) would also require justification under independent hearsay exceptions. No such foundation has been provided. Accordingly, these statements are inadmissible.

ii. Doctrine of Completeness under N.J.R.E. 106

The Defendant also invokes the doctrine of completeness under N.J.R.E. 106. That rule provides that "[i]f a party introduces all or part of a writing or recorded statements, an adverse party may require the introduction...of any part... that in fairness ought to be considered at the same time." Courts have extended this fairness principle to oral statements, allowing additional portions of an utterance to be introduced to avoid misleading the jury or to provide necessary context. See State v. Lozada, 257 N.J. Super. 260, 270-72 (App. Div.), certify. denied, 130 N.J. 565 (1992).

Here, the Defendant argues that if the State is permitted to introduce Keith Caneiro's demand for the trust login and other statements made by Keith to the Defendant during those recorded phone calls, then fairness requires admission of the Defendant's alleged response. Of particular issue is the statement wherein the Defendant allegedly asserts that he has a migraine. However, under the doctrine of completeness, the Court must assess whether the additional statement (1) explains or places in context the admitted portion; (2) is necessary to avoid misleading the jury; and (3) carries sufficient indicia of reliability. See United States v. Soures, 736 F.2d 87, 91 (3d Cir. 1984), cert. denied, 469 U.S. 1161 (1985).

As discussed below, the Defendant's purported migraine statement is relayed only through triple hearsay and lacks adequate foundation under any hearsay exception. Moreover, the statement does not so directly explain or qualify Keith's accusations as to render its exclusion misleading. Accordingly, the doctrine of completeness does not compel its admission.

Here, the Defendant's statement that he had a migraine does not explain, qualify, or clarify Keith Caneiro's demand for the trust credentials that would render the exclusion of the Defendant's remark misleading. The doctrine of completeness, codified by N.J.R.E. 106, is not a vehicle for admitting otherwise inadmissible hearsay merely because the surrounding context is unfavorable. In Lozada, the court declined to admit an exculpatory statement that lacked a direct nexus to the

inculpatory portion already introduced. See Lozada, 257 N.J. Super at 272. Similarly, here, the Defendant's purported migraine remark is temporally and logically distinct from Keith Caneiro's demands for access. At most, it offers a benign excuse for the Defendant's failure to comply, but it does not alter the tone, meaning, or context of Keith Caneiro's recorded statements.

In accordance, the doctrine of completeness similarly does not compel the admission of the Defendant's statements.

**e. Cache of Firearms Recovered and Related Evidence**

The State seeks to admit evidence that, at the time of the investigation, law enforcement recovered a cache of firearms from the Defendant's residence. These included both legally owned weapons and, potentially, items stored in violation of applicable regulations. The State contends that this evidence is intrinsic to the charged homicides because it reflects preparation, access to deadly force, and a capacity to commit the crimes charged.

For reasons that following, the Court concludes that the evidence is admissible as intrinsic evidence of the charged murders and falls outside the scope of N.J.R.E. 404(b). The Court also finds that the evidence is not barred by the hearsay's presumption of exclusion, and its probative value is not substantially outweighed by any risk of unfair prejudice.

Under Rose, evidence is intrinsic if it “directly proves the charged offense,” or if it is “so intertwined with the charged crime that its exclusion would leave a chronological and conceptual void in the narrative.” 206 N.J. at 180-81. The Appellate Division has similarly explained that intrinsic evidence may include conduct that is part of the “unfolding of events” leading to the crime, or “explain[s] the circumstances surrounding the charged offense.” Brockington, 439 N.J. Super. at 333.

As a threshold matter, the firearms evidence satisfies the general standard for relevance under N.J.R.E. 401 and 402. The presence of multiple firearms, including one later confirmed to be a murder weapon, tends to make it more probable that the Defendant possessed both the means and the intent to commit the charged crimes. To be sure, evidence need not be dispositive to be admissible; it needs only to make a consequential fact more or less probable. See Williams, 240 N.J. at 235.

The Court distinguishes between two categories of firearms evidence. First, one handgun recovered from the home and one barrel found in the Defendant’s car were used in the murders. The same type of ammunition found at the scene of the crime was also recovered with these weapons. This subset of evidence constitutes direct proof of the offenses themselves and is therefore plainly admissible under both Rose and the threshold evidentiary rules regarding relevancy and materiality.



Second, the remainder of the firearms cache, which includes additional guns, ammunition, and component parts, is also admissible as intrinsic evidence. The State does not contend that *these* items were used in killing the victims. Rather, it seeks to introduce the firearms cache as part of the Defendant's conduct in the weeks and days leading up to the murders, demonstrating that he had both the means and the capability to carry out a multi-victim homicide, including the killing of multiple adults and children.

The evidence is thus not collateral to the crimes charged. Evidently, regarding the handgun and barrel used in the murders, it is intrinsic to the Defendant's potential culpability. As to the remainder of the firearms cache, it too proves intrinsic to understanding the Defendant's preparation, the feasibility of the offense, and the level of premeditation. As in State v. Cole, 229 N.J. 430, 448 (2017), where the Court held that weapons found in a defendant's possession shortly after a shooting were admissible as intrinsic evidence of means and opportunity, the firearms here are probative of the Defendant's ability to carry out the type of attack alleged.

Moreover, in State v. Goodman, the court affirmed the admission of a gun found at the defendant's home not because it was used in the crime, but because it rebutted his defense that he lacked access to any firearms. 415 N.J. Super. 210, 231–32 (App. Div. 2010). Here, too, the State seeks to rebut any claim that the Defendant was not armed or capable of committing a multiple-homicide offense. The presence

of these weapons also supports the State's theory that the Defendant possessed the capacity to control the crime scene without resistance.

While the defense argues that admission of the firearms is irrelevant as they were legally owned, the Court disagrees. The legality of the weapons, or any other conduct for that matter is not dispositive of relevance or whether the evidence is intrinsic. As noted in Rose and Cole, intrinsic evidence need not itself be criminal; it must simply shed light on the events and conduct that bear on the charged crimes. Moreover, the firearms evidence rebuts any claim that the Defendant lacked the means to carry out the murders, or that he would not have been prepared to use deadly force.

To the extent the defense suggests that admitting this evidence permits propensity reasoning, that argument fails under the intrinsic evidence doctrine. The weapons are not introduced to show bad character or violent tendencies, but to establish access, capability, and potentially, culpability. See State v. Lykes, 192 N.J. 519, 536 (2007) (“[T]he mere prejudicial effect of inculpatory evidence is not enough to warrant exclusion where the evidence is otherwise highly probative.”).

Finally, as to N.J.R.E. 403, the defense argues that the firearms are unduly prejudicial, as they may lead the jury to infer dangerousness or violent character. That concern is noted, but the evidence does not carry an undue risk of inflaming the jury, especially with a proper limiting instruction.

The firearms evidence is intrinsic to the charged homicides. It directly supports the State's theory of motive, planning, and feasibility, and is admissible under N.J.R.E. 401, 402, and 403.

**f. Defendant's Relationship with Ms. Ristrepo**

The State seeks to introduce evidence concerning Defendant's longstanding friendship with Yisel Ristrepo, including (1) his financial support of her and her daughter, at times, (2) the Defendant's use of her American Express card in the months preceding the homicides, (3) his statements to Ms. Ristrepo about his financial distress, and (4) Ms. Ristrepo's anticipated testimony that the Defendant took her to a shooting range and regularly worked on firearms. The State argues that this evidence is intrinsic to the charged offense and the Court agrees.

As a preliminary matter, the evidence concerning the Defendant's relationship with Ms. Ristrepo satisfies the standard for relevancy under N.J.R.E. 401 and 402. It tends to show that the Defendant had an ongoing financial obligations and expenses that coincided with the alleged misappropriation of funds from the Canada Life Trust. Likewise, the firearms-related conduct (his visits with Ms. Ristrepo to the shooting range and his work with firearm accessories) make it more probable that he possessed both the training and comfort level necessary to commit the charged offense in the manner alleged.

This evidence is directly probative of two material components of the State's case: motive and means. First, the Defendant's pattern of financial support to Ristrepo, including vacations, car payments, and assistance with her children's expenses, coincides with the alleged misappropriation of funds from the Canada Life trust. According to Ristrepo, the Defendant told her in September 2018 that he was experiencing financial difficulties and began using her credit card thereafter. This supports the State's theory that the Defendant was under financial strain in the months leading up to the murders and may have perceived the Canada Life trust as a source of relief.

Second, Ristrepo's expected testimony that the Defendant took her to a shooting range and regularly worked on firearms is intrinsic to the charged homicides. The State has alleged that the victims were shot in low-light conditions with notable precision. In that context, evidence that the Defendant maintained proficiency with firearms, forms part of the proof of means. Put differently, this evidence contextualizes the Defendant's demonstrated familiarity and ongoing comfort with firearms in a way that directly supports the State's theory of how the murders were committed.

Moreover, the connection between this testimony and the previously admitted evidence (i.e., the recovered firearm cache, the presence of a Mantis X shooting trainer, and LaserLyte cartridges) further supports the inference that the Defendant

was actively maintaining his skill level. This aligns with Brockington, which affirmed that intrinsic evidence includes acts that bear directly on the execution of the charged offenses and help "complete the story." 439 N.J. Super. at 333.

Further, this evidence also provides essential context for the State's theory of motive. It illustrates that the Defendant was financially overextended and had significant expenditures. The Defendant's expenditures and interactions with Ms. Ristrepo will help the jury understand the nature and degree of the Defendant's financial obligations and the pressures he may have felt at the time of the offenses. They are directly relevant to the theft and misapplication of entrusted property, as well as the motive for the homicides.

Lastly, the existence of communications, more specifically the phone call between the Defendant and Ms. Ristrepo on the night before the homicides may assist the jury in evaluating the State's theory of the crime timeline.

None of this evidence runs afoul to the hearsay rule.

First, phone records reflecting the timing and occurrence of communications between the Defendant and Ms. Ristrepo are not hearsay, as they do not constitute statements offered for their truth under N.J.R.E. 801(c). Rather, they are admissible as non-assertive evidence that a communication took place. See State v. Drake, No. A-0153-20, 2021 WL 6139326, at \*6 (N.J. Super. Ct. App. Div. Dec. 30, 2021) ("Electronically generated call blocking records are not statements by a person.").

Second, the Defendant's own statements to Ms. Ristrepo, such as comments about financial pressures or the use of her credit card are admissible under N.J.R.E. 803(b)(1), which allows statements of a party-opponent to be introduced against that party. This includes both direct quotes and paraphrased recollections offered through Ms. Ristrepo's testimony. See Covell, 157 N.J. at 572. Third, documentary evidence of shared expenses, such as charges for travel, educational expenses, or other purchases is not hearsay if offered for the fact of payment or the financial relationship between the two individuals. Ms. Ristrepo's testimony about receiving such payments or observing the Defendant make them also falls outside the hearsay rule, as it describes her own perceptions rather than out-of-court assertions.<sup>11</sup> Fourth, the parties' visit to a shooting range involves conduct, not verbal assertions, and is not hearsay. Any accompanying statements made by the Defendant during that visit, such as remarks about firearms, are likewise admissible under N.J.R.E. 803(b)(1).

In sum, none of the proffered evidence is excludable on hearsay grounds. The State's presentation relies largely on circumstantial evidence and the Defendant's own statements, which are either not hearsay or fall squarely within a recognized exception. No additional exceptions are required.

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<sup>11</sup> Notably, If Ms. Ristrepo testifies about what the Defendant *said* regarding these expenses (e.g., "he said he'd pay my car lease"), such statements remain admissible under N.J.R.E. 803(b)(1).

Finally, N.J.R.E. 403 does not support excluding this evidence. N.J.R.E. 403 is a rule of exclusion, but only where the risk of undue prejudice is substantial and clearly outweighs the probative force of the evidence. This rule is proactive in ensuring a jury does not reach a decision based on improper considerations, such as emotions, speculation, or moral judgment. See State v. Skinner, 218 N.J. 496, 516 (2014).

Here, the State does not seek to introduce the relationship to show propensity, character, or moral failing. Rather, the evidence is narrowly offered to demonstrate the Defendant's financial obligations to Ristrepo during the time he allegedly misappropriated funds from the Canada Life Trust, and to corroborate his familiarity with firearms. These are both facts of consequence to the case: the first bears on motive, the second on means. See State v. Fortin, 178 N.J. 540, 591 (2004) (motive evidence always relevant); State v. Long, 173 N.J. 138, 165 (2002) (means and mental state can be proved circumstantially).

The Court further finds that the potential for unfair prejudice can be effectively mitigated through sanitization. The State has not expressed any intent to introduce explicit romantic communications, or intimate details about the relationship. Instead, the anticipated testimony is limited to neutral facts: the Defendant's financial assistance, his use of Ristrepo's credit card during a time of alleged hardship, and their visits to the gun range. What is more, the relationship

between the two will be sanitized in that the relationship will be referred to as a friendship, and not a romantic relationship. In accordance, none of these facts, as they will be provided to the jury, are likely to evoke an emotional reaction.

If necessary, the Court can provide a limiting instruction to clarify that the jury is to consider the evidence solely to establish motive and firearms proficiency. This further diminishes any risk of confusion or misuse. See State v. Herbert, 457 N.J. Super. 490, 509 (App. Div. 2019) (noting that limiting instructions can reduce potential prejudice under N.J.R.E. 403).

Accordingly, the Court finds that the probative value of the evidence substantially outweighs any risk of undue prejudice. The evidence will not distract the jury from the core issues at trial, nor will it encourage impermissible character reasoning. The defense's objections under N.J.R.E. 403 are therefore overruled

**g. Prior 2008 Fire at Defendant's Residence**

In its October 2020 letter, the State referenced a prior fire at the Defendant's residence in 2008. However, based on the current record and the State's subsequent filings, the Court understand that the State does not presently intend to introduce evidence of that incident at trial. Should the State seek to admit such evidence at a later point, it shall notify the Court and opposing counsel in writing within 48 hours of the issuance of this opinion so that the matter can be addressed through appropriate motion practice or evidentiary hearing.



#### **h. Stipulated Evidence Regarding Disability Payments**

The Court notes that the parties have reached a stipulation resolving the State's proposed use of evidence related to Defendant's disability insurance.

Accordingly, the Court does not reach any evidentiary ruling regarding the disability evidence. The parties have reached an agreement and memorialized it in a July 15, 2025 consent order.

#### **CONCLUSION**

For the foregoing reasons, the Court concludes that the State's motion is **GRANTED** with the limitations noted in this opinion. Specifically:

- 1) The financial records, account access data, and related Canda Life Trust documents are intrinsic to Counts Thirteen and Fourteen. They directly prove the charged theft and the misapplication of entrusted property and are admissible under N.J.R.E. 401, 402, and 403 without resort to N.J.R.E. 404(b) and notwithstanding the hearsay rule, as they qualify under the business records exception under N.J.R.E. 801(c)(6).
- 2) The surveillance recordings, and electronic communications between Keith and the Defendant are likewise admissible. They are intrinsic to both the financial charges and the charged homicides, as they reflect the culmination of escalating scrutiny and confrontation over the trust, occurring within 24 hours of the homicides. Keith's recorded statements

qualify either as non-hearsay, as then-existing state of mind under N.J.R.E. 803(c)(3), or are admissible for non-truth purposes. The Court finds them to be non-testimonial and not barred by the Confrontation Clause.

- 3) The Defendant's alleged inaudible statements in response to Keith Caneiro's recorded statements could only be admitted as non-hearsay under N.J.R.E. 801(c)(1). When proffered by defense to assert the truth of the matter therein, the alleged statements constitute hearsay, not within any exception. Moreover, the doctrine of completeness does not require their admission.
- 4) The cache of firearms, firearm accessories, and training materials found in the Defendant's possession is intrinsic to the charged murders, as it supports the State's theory of means, preparation, and capacity. Although not all weapons were directly linked to the homicides, the evidence completes the narrative of Defendant's preparation and ability to execute the crimes. The Court will issue a limiting instruction at trial clarifying that the firearms are admitted only to show means and opportunity, and not as evidence of criminal propensity or bad character.<sup>12</sup>

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<sup>12</sup> Both parties are to provide a proposed limiting instruction to the court by 8/22/25 at 9am.

- 5) The Defendant's financial and personal relationship with Ms. Ristrepo is admissible to establish both motive and means. It supports the State's theory that the Defendant was under financial strain and sought to preserve control over the trust for personal financial reasons. Additionally, her testimony regarding Defendant's familiarity with firearms and their visits to a shooting range supports the State's theory of proficiency with weapons. This evidence is relevant and probative under N.J.R.E. 401 and 402 and is not unduly prejudicial under N.J.R.E. 403. In accordance with the parties' agreement and the Court's ruling, the relationship shall be referred to as a "close friendship," and any romantic implications shall be sanitized. The Court is prepared to issue an appropriate limiting instruction if requested.<sup>13</sup>
- 6) Evidence regarding Defendant's disability insurance is subject to the parties' stipulation as reflected in the July 15, 2025 consent order already entered by the court
- 7) Evidence of the 2008 fire at Defendant's residence is not currently being offered. The State shall notify the Court and defense within 48 hours of

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<sup>13</sup> If a limited instruction is being requested, both parties are to provide a proposed limiting instruction to the court by 8/22/25 at 9am.

this opinion should it seek to introduce that evidence, and no ruling is made at this time.

In sum, the proffered materials form a coherent, integrated narrative of financial misconduct, confrontation, motive, preparation, and opportunity. Much of this evidence is intrinsic, and the balance is admissible under traditional evidentiary standards. With proper limiting instructions where appropriate, the Court finds no risk of undue prejudice sufficient to warrant exclusion under N.J.R.E. 403.

An appropriate order of admissibility shall be entered.