

Local Attorney, John Lee, will plead the 5th in Bolton tax evasion trial according to court documents.



Prominent Hattiesburg attorney, John Lee, will take the 5th if made to testify in tax evasion trial.

John Lee, a prominent local attorney, has now been named in court filings related to the tax evasion charges of Charles and Linda Bolton. Lee's attorney informed the court that he will take the fifth amendment if called to testify. Invoking the 5th amendment will protect Lee from possible self incrimination.

Lee is a close friend of the Boltons, and according to the US Attorney, wrote "many" checks to Sports 22 and their package store. The checks were not claimed as income by the Boltons, yet they were reported as expenses by Lee's law firm. According to the filings, Lee designated the payments as

supplies and other goods and services, not loans as claimed by the Boltons.

Local attorneys Jim Dukes and Bud Holmes also wrote checks to the Boltons. They have since been removed by Judge Starrett as Linda Bolton's defense council; since they will likely be called as witnesses in the trial. It's not clear if they also plan to plead the 5th if called to the stand.

In a filing by the court, the US Attorney states,

The United States intends to introduce business records, checks, check registers, and tax returns of John W. Lee, an attorney and friend of the Boltons. These records are admissible under the hearsay exception as business records. Lee's attorney has informed the government that Lee will invoke his Fifth Amendment right against testifying in the Boltons' trial and will be unavailable to testify. In lieu of Lee's testimony, the United States intends to admit the records as business records through stipulation and, possibly, through other witnesses with personal knowledge of the records. Therefore, the United States seeks an order precluding the defense from arguing that the government has a duty to call Lee, controls whether Lee testifies, or the fact that the government did not call Lee is a weakness in the government's case against the Boltons

Here, the Lee records will establish that many of the checks that Lee wrote to the Sports 22 Restaurant were designated in his business records as for "supplies" or other goods and services. Many of the check registers and memo lines in the checks from Lee to Sports 22 Restaurant record the checks as being for goods and services. The government will also seek to

admit Lee's tax returns for the years 2009-2013 to show that Lee also claimed deductions for the checks he wrote to Sports 22 Restaurant and Hall Avenue Package Store because the checks were for supplies or goods and services. The checks, check registers, and tax returns are relevant because they tend to establish that the Lee checks were, for goods and services (income to Sports 22 or Hall Avenue Package Store), and not loans or income to Lee.

Attorney's for the Boltons have notified the court that Lee will not be able to testify due to health constraints and the US Attorney wants to make sure the Boltons don't attempt to use that to their advantage. The US Attorney argues,

*"The Court should preclude defendants from arguing that the government must call Lee as a witness. The government believes that when it offers Lee's business and public records, the defendants may argue that the government needs to call Lee to testify about the records, or that Lee's unavailability suggests something adverse about the government's case. **The Court should prevent the defendants from making these arguments for several reasons.** First, the government has no control over whether Lee invokes his Fifth Amendment right not to testify. Once a defendant invokes this right, the government cannot compel a witness to testify and incriminate himself. See *Salinas v. Texas*, 133 S. Ct. 2174, 2179 (2013) ("The privilege against self incrimination is an exception to the general principle that the Government has the right to everyone's testimony.") (internal citations omitted)."*

Second, because the records the government seeks to introduce

are business and public records, firmly rooted in hearsay exceptions, no

Case 2:16-cr-00007-KS-MTP Document 49-1 Filed A8l22lt6 Page 4 of 5 confrontation clause issue is implicated. United States v. Holmes, 406 F.3d 337,348 (5th Cir.2005) (confrontation clause is triggered only with respect to "testimonial" evidence, not to non testimonial evidence that falls into a firmly rooted hearsay exception). Therefore, the defendants should be precluded from arguing that Lee must testify so that the Boltons can have an opportunity to cross-examine Lee, that they are prejudiced by the government's failure to call him, or that the government is hiding something or has a weak case because Lee is unavailable.

Lee is said to be fighting cancer at this time, and will not be available to testify in the case. Below are the court documents

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