UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEITH MITSUYOSHI KANESHIRO (1),
DENNIS KUNIYUKI MITSUNAGA (2),
TERRI ANN OTANI (3),
AARON SHUNICHI FUJII (4),
CHAD MICHAEL MCDONALD (5),
SHERI JEAN TANAKA (6),

Defendants.

Case No. 1:22-cr-00048-TMB-NC

ORDER ON THE UNITED STATES' MOTION *IN LIMINE* NO. 13
(Dkts. 699 and 714)

[UNREDACTED]

**** FILED UNDER SEAL ****

I. INTRODUCTION

Before the Court is the United States' Motion *in Limine* No. 13: To Admit Evidence of Dennis Mitsunaga's Witness Tampering ("United States' Motion No. 13"), largely pertaining to witnesses Rudy Alivado ("Alivado") and Mitsunaga and Associates, Inc. ("MAI") employee J.K.[1] Defendants Keith Mitsuyoshi Kaneshiro, Terri Ann Otani ("Otani"), Aaron Shunichi Fujii, Chad Michael McDonald ("McDonald"), and Sheri Jean Tanaka ("Tanaka") (collectively, "Codefendants") responded ("Codefendants' Response").[2] The United States replied ("United States' Reply").[3] Defendant Dennis

[1] Dkts. 699 (United States' Redacted Motion No. 13), 714 (United States' Sealed Unredacted Motion No. 13).
[2] Dkt. 719 (Codefendants' Response).
[3] Dkt 727 (United States' Reply).

Mitsunaga ("Mitsunaga") initially informed the Court he does not oppose.[4] On April 23, 2024, the Court conducted a hearing on the matter. The matter is fully briefed. For the following reasons, the Court **GRANTS** the United States' Motion No. 13, such that evidence of Mitsunaga's witness tampering may be admitted subject to a limiting instruction.

II. BACKGROUND

Given the voluminous litigation in this matter, the Court assumes the Parties are familiar with the factual and procedural history of the case. The Court incorporates by reference the factual and procedural history included in its Order at Docket 484.

A. United States' Motion No. 13

Relevant here, the United States "formally moves to introduce evidence of Mitsunaga's tampering with Alivado."[5] The United States alleges that "Alivado's testimony against Laurel Mau at her civil trial was false," obtained in 2014 through coaching by Tanaka.[6] However, the United States alleges, in 2021, "Alivado revealed that Mau had not committed theft from him (or MAI)" in testimony before the grand jury and "expressed surprise that he was a named victim in the theft Information filed against Mau by Defendant Kaneshiro's office."[7]

[4] Dkt. (absence).
[5] Dkt. 699 at 2.
[6] *Id.*
[7] *Id.*

Now, the United States alleges, "Mitsunaga [has] tried to bury the lie at last" mid-trial by directing "an intermediary—in violation of the Court's no-contact order—to confront Alivado and wrongfully attempt to alter Alivado's upcoming testimony (or prevent it entirely)."[8] Specifically, the United States alleges that Mitsunaga met MAI employee J.K. at her home and directed her to give Alivado annotated transcripts from his 2014 civil trial testimony and 2021 grand jury testimony, giving an outline of instructions including pointing out inconsistencies and conveying which facts would benefit Mitsunaga.[9] Also, the United States alleges, Mitsunaga directed J.K. to convey that Mitsunaga would like Alivado to plead the Fifth because it would be "safer" for both Alivado and Mitsunaga, and she wrote in contemporaneous notes that he "should plead the Fifth in regards to Dennis Mitsunaga, Laurel Mau, Mitsunaga & Associates, and Sheri Tanaka."[10] Further, the United States alleges that "Mitsunaga instructed J.K. to give these transcripts to Alivado by concocting a false cover story" about "inspect[ing] equipment affiliated with one of Mitsunaga's companies that was being stored at Alivado's farm."[11]

According to the United States, the evidence demonstrates that J.K., "[c]onsistent with Mitsunaga's instructions," met with Alivado at his farm the next day, took pictures of the equipment "to maintain the ruse," and delivered both transcripts with Mitsunaga's instructions to review the transcripts and that it would be "safer" for Alivado to plead the

[8] *Id.*
[9] *Id.* at 8–9.
[10] Dkt. 714 at at 8.
[11] *Id.* at 9.

Fifth.[12] Further, the Government indicates that "J.K. also gave Alivado a warning 'something like' that if he did not plead the Fifth, 'five or six attorneys may come at him or go after him or words to that effect,' and that these attorneys may get Alivado to perjure himself on the stand if he testified."[13] Later, J.K. met Mitsunaga for lunch outside the courtroom, and Mitsunaga inquired "multiple times whether Alivado understood what he was supposed to do" regarding the testimony instructions.[14] Finally, the United States suggests that Alivado has confirmed his meeting with J.K. at his farm, that he received the transcripts and the message to change his testimony and plead the Fifth, and that he gave the transcript and copies to his attorney.[15]

Now, the United States seeks to admit testimony from Alivado and J.K., "phone records of contact, text messages, J.K.'s notes of Mitsunaga's instructions, [and] photographs taken of Alivado's farm."[16] Citing Ninth Circuit and sister circuits' caselaw, it suggests that this evidence is admissible "because it shows [Mitsunaga's] consciousness of guilt of the underlying crimes," which is "direct evidence of the conspiracy," or "at the very least inextricably intertwined evidence."[17]

The United States does not primarily seek admission of this evidence as "other act" evidence subject to Rule 404(b).[18] But it argues that this evidence would be permitted under

[12] *Id.*
[13] *Id.* at 9–10.
[14] *Id.* at 10.
[15] *Id.*
[16] *Id.* at 10–11.
[17] *Id.* at 11–12, 15.
[18] *Id.* at 13–15.

Rule 404(b) "if necessary" because it is material to Mitsunaga's consciousness of guilt, "not too remote in time" since it occurred during this trial," and sufficiently supported by evidence.[19] Further, the United States argues that pretrial notice of Rule 404(b) should be excused for good cause as the witness tampering occurred mid-trial and the United States provided notice as early as April 12, 2024.[20]

B. Codefendants' Response

The Codefendants do not challenge the admissibility of the evidence as to Mitsunaga but raise concerns about "the risk of guilt-by-association" for the Codefendants.[21] First, they describe the allegations as "inflammatory and if proven . . . likely [to] have a strong impact on the jury," and asserts "there will be **no evidence** that any other defendant in this case was involved with, or had any knowledge of, Mitsunaga's alleged conduct."[22] However, it notes that the United States' Motion No. 13 mentions the Codefendants several times, which they describe as "gratuitously drag[ging] the other defendants into an episode which, if true, concerns Mitsunaga and only Mitsunaga."[23] The Codefendants cite references to Tanaka, Otani, and McDonald and describe these statements as "smears, pure and simple in the context of Mitsunaga's alleged witness tampering."[24]

[19] *Id.* at 15–16.
[20] *Id.* at 16–17.
[21] Dkt. 719 at 2.
[22] *Id.* (emphasis in original).
[23] *Id.*
[24] *Id.* at 3.

The Codefendants first argue that the evidence should be excluded under Rule 403 due to its risk of spillover prejudice as to the Codefendants, which they do not believe could be cured by a limiting instruction.[25] Alternatively, the Codefendants argue that the Court should rule on "*specific* pieces of evidence relating to the alleged witness tampering . . . because some have a greater prejudicial effect than others."[26] They also request that the Court order the United States "not to mention the name of any other defendant in connection with this alleged incident," "to advise its witnesses not to mention those names in that context either," and to proffer any "credible evidence that implicates any defendant in Mitsunaga's alleged witness tampering" outside the presence of the jury.[27] The Codefendants note that they are not moving to sever, but may consider moving to sever after review of the Court's ruling.[28]

C. The United States' Reply

In the United States' Reply, it asserts that evidence of Mitsunaga's conduct would not create "unfair prejudice" to the Codefendants because "for several years, the conspirators have been endeavoring to keep Alivado from revealing the truth about the underlying facts" and "Mitsunaga's mid-trial efforts to silence Alivado are simply the most recent."[29] First, the United States observes that "the witness testimony Mitsunaga tampered with more directly implicates defendants Tanaka, Otani, and McDonald than himself"

[25] *Id.* at 3–4.
[26] *Id.* at 4 (emphasis in original).
[27] *Id.* at 5.
[28] *Id.* at 5 n.2.
[29] Dkt. 727 at 2.

because "Alivado is expected to testify that Tanaka coached him to lie at the civil trial" while "other evidence then shows that Tanaka, Otani, and McDonald seized on Alivado's false testimony to fabricate felony charges against Mau."[30] Given the interconnectedness of the efforts and the evidence, the United States argues, it should not be excluded or admitted only as to Mitsunaga.

Further, the United States suggests that the evidence should not be excluded under Rule 403 given its "high probative value," observing that the Codefendants "do not cite a single case in their entire brief" and "fail to engage in any analysis of probative value."[31]

Finally, the United States suggests that if the evidence is admissible only as to Mitsunaga, "the proper response is to give a limiting instruction, not exclude the evidence."[32] The United States proposes the following limiting instruction based on Ninth Circuit Model Instruction 2.10:

> You are about to hear [or have heard] evidence that Defendant Dennis Mitsunaga allegedly attempted to influence the testimony of a witness, Rudy Alivado. This evidence [was] [will be] admitted only for limited purposes. You may consider this evidence only for its bearing on the question of Defendant Mitsunaga's knowledge and/or consciousness of guilt of the offenses charged in the Indictment and for no other purpose.
>
> Do not consider this evidence for any other purpose.
>
> Of course, it is for you to determine whether you believe this evidence and, if you do believe it, whether you accept it for the purposes offered. You may

[30] *Id.* at 2 n.1.
[31] *Id.* at 3.
[32] *Id.* (citing *United States v. Escalante*, 637 F.2d 1197, 1201–02 (9th Cir. 1980) ("The prejudicial effect of evidence relating to the guilt of codefendants is generally held to be neutralized by careful instruction by the trial judge. . . . [O]ur court assumes that the jury listened to and followed the trial judge's instructions.")).

> give it such weight as you feel it deserves, but only for the limited purposes that I described to you.

The remainder of the United States' Reply is dedicated to the issue of severance.[33] As discussed below, the Court will not reach the issue. But relevant to the issues before the Court, the United States argues that "the threat of a severance request in this lengthy trial—with dozens of witnesses, hundreds of exhibits, voluminous acts of obstruction, and ample proof of guilt as to all defendants—is not a basis for excluding the highly probative evidence of Mitsunaga's witness tampering."[34]

D. Motion Hearing

At the hearing on April 23, 2024, the parties argued their positions and discussed their proposed limiting instructions to guide the jury's consideration of evidence of Mitsunaga's witness tampering. Mitsunaga, through counsel, also for the first time orally objected to the admission of any evidence of witness tampering under Motion No. 13, though Mitsunaga filed no objection or response by the Court's deadline.[35]

III. LEGAL STANDARD

A. Motions in Limine

"A motion *in limine* is a procedural device to obtain an early and preliminary ruling on the admissibility of evidence"[36] and may be used to request evidence be either excluded

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[33] *Id.* at 4–8. There is no Motion to Sever before the Court, and the Court therefore does not reach the parties' arguments regarding severance.
[34] *Id.* at 8.
[35] *See* Dkt. (absence).
[36] *Barnard v. Las Vegas Metro. Police Dep't*, No. 2:03-cv-01524-RCJ-LRL, 2011 WL 221710, at *1 (D. Nev. Jan. 21. 2011); *Research Corp. Techs. v. Microsoft Corp.*, No. CV-01-658-TUC-RCJ, 2009 WL 2971755, at *1 (D. Ariz. Aug. 19, 2009).

or admitted before trial.[37] Motions *in limine* are appropriate when the "mere mention of evidence during trial would be highly prejudicial."[38] "*[I]n limine* rulings are not binding on the trial judge, and the judge may always change his mind during the course of a trial."[39]

A party seeking to exclude evidence through a motion *in limine* must satisfy a "high standard" and show the evidence is inadmissible on all potential grounds.[40] Otherwise, "evidentiary rulings should be deferred until trial so that questions of foundation, relevancy and potential prejudice may be resolved in proper context."[41]

B. Relevance and Prejudice

Relevant evidence is that which "has any tendency to make a fact more or less probable than it would be without the evidence[] and . . . the fact is of consequence in determining the action."[42] Relevant evidence is admissible unless the United States Constitution, a federal statute, the rules of evidence, or the Supreme Court provide otherwise; irrelevant evidence is inadmissible.[43] However, relevant evidence may still be excluded under Rule 403 "if its probative value is substantially outweighed by a danger of

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[37] *See* Fed. R. Evid. 103; *United States v. Williams*, 939 F.2d 721, 723 (9th Cir. 1991) (affirming district court's ruling *in limine* that prosecution could admit impeachment evidence under Fed. R. Evid. 609).
[38] *Barnard*, 2011 WL 221710, at *1 (quoting BLACK'S LAW DICTIONARY 1109 (9th ed. 2009)); *Research Corp.*, 2009 WL 2971755, at *1.
[39] *Ohler v. United States*, 529 U.S. 753, 758, n.3 (2000).
[40] *Barnard*, 2011 WL 221710, at *1 (citations omitted); *BNSF Ry. Co. v. Quad City Testing Lab'y, Inc.*, No. CV-07-170-BLG-RFC, 2010 WL 4534406, at *1 (D. Mont. Oct. 28, 2010) (citations omitted); *Research Corp.*, 2009 WL 2971755, at *1 (citations omitted).
[41] *Barnard*, 2011 WL 221710, at *1 (citations omitted); *BNSF*, 2010 WL 4534406, at *1 (citations omitted); *Research Corp.*, 2009 WL 2971755, at *1 (citations omitted).
[42] Fed. R. Evid. 401.
[43] Fed. R. Evid. 402.

one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence."[44]

C. Evidence of Consciousness of Guilt

"[T]he concealment of evidence subsequent to a commission of a crime or evidence of conduct designed to impede a witness from testifying truthfully may indicate consciousness of guilt and should be placed before the trier of fact."[45] Further, the Ninth Circuit has stated that efforts to intimidate witnesses into "withholding information . . . shows consciousness of guilt—second only to a confession in terms of probative value."[46] Further, the Ninth Circuit has held that evidence of witness tampering is admissible relative to other charges where it is "part and parcel of the allegations."[47]

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[44] Fed. R. Evid. 403.

[45] *United States v. Brashier*, 548 F.2d 1315, 1325 (9th Cir. 1976); *see also United States v. Collins*, 90 F.3d 1420, 1428 (9th Cir. 1996) ("[E]vidence of the [defendants'] attempts to induce witnesses to lie is indicative of consciousness of guilt and may be placed before the jury."); *United States v. Castillo*, 615 F.2d 878, 885 (9th Cir. 1980) ("An attempt by a criminal defendant to suppress evidence is probative of consciousness of guilt and admissible on that basis.").

[46] *United States v. Meling*, 47 F.3d 1546, 1557 (9th Cir. 1995).

[47] *United States v. Ho*, 651 F. Supp. 2d 1191, 1200–02 (D. Haw. 2009); *see, e.g.*, *United States v. Begay*, 567 F.3d 540, 552 (9th Cir. 2009), *on reh'g en banc*, 673 F.3d 1038 (9th Cir. 2011) (finding evidence that defendant intimidated two government witnesses was admissible to show consciousness of guilt); *Meling*, 47 F.3d at 1558 (affirming district court's determination that an attempt to intimidate witnesses is admissible to show "consciousness of guilt—second only to a confession in terms of probative value"); *see also United States v. Rock*, 282 F.3d 548, 552 (8th Cir. 2002) (affirming denial of the defendant's motion to sever felon-in-possession charge from witness tampering charge; stating "[w]here evidence that a defendant had committed one crime would be probative and thus admissible at the defendant's separate trial for another crime, the defendant does not suffer any additional prejudice if the two crimes are tried together" (internal quotations and citations omitted)); *United States v. Gatto*, 995 F.2d 449, 454 (3d Cir. 1993) ("It is well-established that evidence of threats or intimidation is admissible under Rule 404(b) to show a defendant's consciousness of guilt . . . ."); *United States v. Balzano*, 916 F.2d 1273, 1281 (7th Cir. 1990) (applying general rule in affirming trial court's denial of motion to sever that "evidence of a defendant's attempts at intimidation of a witness or of a person cooperating with a government investigation is admissible to demonstrate a defendant's 'consciousness of guilt' of the charges which were the subject of the witness' testimony or cooperation"); *United States v. Fagan*, 821

D. Rule 404(b)

Under Federal Rule of Evidence ("Rule") 404(b)(1), evidence of a defendant's prior conviction, wrong, or act is inadmissible "to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character."[48] "This prohibition reflects the 'underlying premise of our criminal justice system, that the defendant must be tried for what he did, not for who he is.'"[49]

Rule 404(b) "is inapplicable, however, where the evidence the government seeks to introduce is directly related to, or inextricably intertwined with, the crime charged in the indictment."[50] Courts have found evidence is "inextricably intertwined" with the crime charged "and therefore need not meet the requirements of Rule 404(b)" where (1) the evidence "constitutes a part of the transaction that serves as the basis for the criminal charge" or (2) the evidence is necessary for "the prosecutor to offer a coherent and comprehensible story regarding the commission of the crime."[51]

Further, under Rule 404(b)(2), evidence falling within the scope of Rule 404(b) "may be admissible for another purpose, such as proving motive, opportunity, intent,

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F.2d 1002, 1007 (5th Cir. 1987) (explaining that evidence of mail fraud is admissible in a trial for witness tampering to show motive, while evidence of witness tampering is admissible in a trial for mail fraud to show "guilty knowledge"); *United States v. Monahan*, 633 F.2d 984, 985 (1st Cir. 1980) (stating that "[e]vidence of threats to witnesses can be relevant to show consciousness of guilt," particularly where a defendant's conduct "implies a knowledge and fear of particular and damaging testimony intimately related to the prosecution at hand").

[48] Fed. R. Evid. 404(b)(1).

[49] *United States v. Verduzco*, 373 F.3d 1022, 1026 (9th Cir. 2004).

[50] *United States v. Lillard*, 354 F.3d 850, 854 (9th Cir. 2003) (citing *United States v. Williams*, 989 F.2d 1061, 1070 (9th Cir. 1993)).

[51] *United States v. Vizcarra-Martinez*, 66 F.3d 1006, 1012–13 (9th Cir. 1995).

preparation, plan, knowledge, identity, absence of mistake, or lack of accident."[52] To introduce evidence under Rule 404(b)(2),

> [t]he Government carries the burden to prove that the proposed evidence satisfies four requirements:
>
> (1) the evidence tends to prove a material point (materiality); (2) the other act is not too remote in time (recency); (3) the evidence is sufficient to support a finding that defendant committed the other act (sufficiency); and (4) [in certain cases,] the act is similar to the offense charged (similarity).[53]

If the Court finds these requirements are met, it must then determine, under Rule 403, whether the "probative value [of the evidence] is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence."[54]

IV. DISCUSSION

The Court concludes that evidence related to witness tampering is admissible as to Mitsunaga as direct evidence of consciousness of guilt. Thus concluding, at this time, the Court does not reach whether it is also admissible as "other act" evidence under Rule 404(b). Finally, the Court proposes a limiting instruction directing the jury to consider any evidence of Mitsunaga's witness tampering only as to Mitsunaga, not to any other defendant.

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[52] Fed. R. Evid. 404(b)(2).
[53] *United States v. Charley*, 1 F.4th 637, 647 (9th Cir. 2021).
[54] Fed. R. Evid. 403; *see also United States v. Vo*, 413 F.3d 1010, 1018 (9th Cir. 2005).

A. Evidence of Mitsunaga's witness tampering is admissible as direct evidence to demonstrate consciousness of guilt.

First, the Court determines that the United States' listed evidence related to Mitsunaga's witness tampering is admissible as direct evidence of Mitsunaga's consciousness of guilt. Ninth Circuit law is clear that such evidence is admissible for this purpose as highly relevant and strongly probative evidence of consciousness of guilt, and neither Mitsunaga nor the Codefendants have pointed to any legal authority to the contrary.

Second, the Court is unpersuaded by the Codefendants' argument, unsupported by any legal citation, that any testimony or evidence from Alivado should exclude all mention of the Codefendants' names.[55] Rather, while the evidence of witness tampering is admissible specifically to demonstrate Mitsunaga's consciousness of guilt, Alivado's testimony may establish other facts as well, including whether Tanaka "coached" him before the civil trial.[56] As the United States argues, efforts to alter Alivado's testimony "are proof of the existence of the underlying conspiracy and need not be cabined to Mitsunaga,"[57] though Mitsunaga's witness tampering should be considered only as to his own consciousness of guilt, which can be addressed in a limiting instruction.

For example, evidence elicited from a witness that Tanaka "coached" Alivado in 2014 to lie or testify untruthfully, and that Otani and McDonald's used that "coached" testimony, would be direct evidence of the charged conspiracy as an attempt to influence

[55] *See* Dkt. 719 at 5.
[56] Dkt. 699 at 2.
[57] Dkt. 727 at 2.

witness testimony in a conspiracy to prosecute Mau, independent of the evidence of Mitsunaga's witness tampering mid-trial. Further, Alivado's reference to Codefendants may be critical for the United States to form a complete narrative regarding Alivado's inconsistent statements between his 2014 civil trial and 2021 grand jury testimony. Moreover, consistent with the Court's prior rulings, the admissibility of evidence regarding Otani and McDonald's use of the 2014 civil trial testimony is determined regardless of Mitsunaga's witness tampering.[58] Therefore, the Court declines to impose such a restriction on any testimony and evidence offered regarding Mitsunaga's witness tampering. Rather, the Court will deliver a limiting instruction crafted to guide the jury to consider the evidence properly against each defendant.

B. The Court adopts the following limiting instruction.

The Court will issue a limiting instruction consistent with its direction to the parties, and requested that the parties propose language either jointly or separately after an attempt to reach agreement. In its Reply, the United States initially proposed the following:

> You are about to hear [or have heard] evidence that Defendant Dennis Mitsunaga allegedly attempted to influence the testimony of a witness, Rudy Alivado. This evidence [was] [will be] admitted only for limited purposes. You may consider this evidence only for its bearing on the question of Defendant Mitsunaga's knowledge and/or consciousness of guilt of the offenses charged in the Indictment and for no other purpose.
>
> Do not consider this evidence for any other purpose.
>
> Of course, it is for you to determine whether you believe this evidence and, if you do believe it, whether you accept it for the purposes offered. You may

[58] *See, e.g.*, Dkt. 661 (Order on United States' Motion *in Limine* No. 11).

> give it such weight as you feel it deserves, but only for the limited purposes that I described to you.

Later, the Defendants jointly submitted the following:

> You are about to hear or have heard evidence relating to Dennis Mitsunaga's alleged conduct involving contact with Joanna Lau Kameoka and her subsequent contact with Rudy Alivado in March of 2024. I instruct you that this evidence is admitted for your consideration only as it relates to Mr. Dennis Mitsunaga, and shall not be considered by you as to, or against, any other defendant.

At the hearing, the parties argued for their respective limiting instructions. The Court then distributed the following proposed limiting instruction:

> You are about to hear [or have heard] evidence that Defendant Dennis Mitsunaga allegedly attempted to influence the testimony of a witness, Rudy Alivado. This evidence [was] [will be] admitted only for limited purposes. You may consider this evidence only for its bearing on the question of Defendant Mitsunaga's knowledge and/or consciousness of guilt of the offenses charged in the Indictment.
>
> Of course, it is for you to determine whether you believe this evidence and, if you do believe it, whether you accept it for the purposes offered. You may give it such weight as you feel it deserves, but only for the limited purposes that I described to you.
>
> Do not consider this evidence for any other purpose. I instruct you that this evidence is admitted for your consideration only as it relates to Dennis Mitsunaga, and shall not be considered by you as to, or against, any other defendant.

The parties were given a deadline to object to the proposed limiting instruction.

C. The Court does not rule on the admissibility of evidence of Mitsunaga's witness tampering under Rule 404(b).

Although the United States argues that evidence of Mitsunaga's witness tampering would be alternatively admissible under Rule 404(b), the Court has ruled that it is

admissible as direct evidence for consciousness of guilt. Therefore, at this time, the Court will not rule on its admissibility on that basis.

V. CONCLUSION

For the foregoing reasons, the Court **GRANTS** the United States' Motion No. 13 at Dockets 699 and 714, subject to a limiting instruction.

IT IS SO ORDERED.

Dated this 23rd day of April, 2024.

/s/ *Timothy M. Burgess*
TIMOTHY M. BURGESS
UNITED STATES DISTRICT JUDGE