

UNITED STATES OF AMERICA ) Criminal No. H-94-58  
 )  
 v. )  
 )  
 GLAZIER FOODS CO., ) [filed 4/26/94]  
 )  
 Defendant. )  
 )

The United States, through its undersigned attorneys, hereby responds to Defendant's Motion for Disclosure and Limine Pursuant to Federal Rules of Evidence Rule 404(b) with Legal Authorities in Support. The government does not currently anticipate introducing at trial any evidence under Fed. R. Evid. 404(b). In the event the government determines it is necessary and proper to introduce such evidence, the defendant will be given reasonable notice of the general nature of any such evidence as mandated by Fed. R. Evid. 404(b).

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920 (1979); see also United States v. Fortenberry, 860 F.2d 628, 634 n.11 (5th Cir. 1988), cert. denied, \_\_\_U.S.\_\_\_, 111 S.Ct. 1333 (1991), citing United States v. Robinson, 700 F.2d 205, 213 (5th Cir. 1983), cert. denied, 465 U.S. 1003 (1984).

Second, should the court be required to determine the admissibility of any Rule 404(b) evidence, Fed. R. Evid. 104 should be applied as it is for any other admissibility determination and as such the court will not be bound by the rules of evidence, except those with respect to privileges. Huddleston v. United States, 485 U.S. 681, 686-690, 108 S.Ct. 1496, 1500-1502 (1988); United States v. Anderson, 933 F.2d 1261, 1273 (5th Cir. 1991); United States v. Williams, 900 F.2d 823, 826 (5th Cir. 1990); see also Beechum, 582 F.2d at 916.

Finally, Rule 404(b) requires only notice of the general nature of the evidence sought to be introduced. Should the government determine in the future that it is advisable to introduce at trial any evidence pursuant to Rule 404(b), the defendant's demand for more detailed notice should be denied.

Respectfully submitted,

"/s/"

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the Government's Response to Defendant's Motion for Disclosure and Limine Pursuant to Federal Rules of Evidence Rule 404(b) with Legal Authorities in Support and proposed order has been served upon and was sent via Certified Mail-Return Receipt Requested this 25th day of April, 1994, to:

Joel M. Androphy, Esq.  
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3704 Travis Street  
Houston, Texas 77002

\_\_\_\_\_  
JANE E. PHILLIPS  
Attorney

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA            )  
  )  
                  v.                    )  
  )  
GLAZIER FOODS CO.,                 )  
  )  
                  Defendant.        )

Criminal No.   H-94-58

**O R D E R**

Upon consideration of the Defendant's Motion for Disclosure and Limine Pursuant to Federal Rules of Evidence Rule 404(b) with Legal Authorities in Support and the Government's Response,

The Defendant's Motion is hereby DENIED.

DONE AND ENTERED THIS \_\_\_\_ day of \_\_\_\_\_, 1994.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE