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FOR PUBLICATION:

BY: MR
DEPUTY CLERK OF COURT

**IN THE SUPERIOR COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS,**

Plaintiff,

v.

CLARISSA M. CASTRO,

Defendant.

CRIMINAL ACTION NO. 11-0151

**ORDER GRANTING
EX PARTE MOTION TO APPOINT
AN ACCOUNTING EXPERT**

THIS MATTER came before the Court on Clarissa M. Castro’s Ex Parte Motion to Appoint an Accounting Expert. Castro is represented by Assistant Public Defender Benjamin K. Petersburg.

Castro cites to *Commonwealth v. Perez*, 2006 MP 24, where the Supreme Court held that “the Sixth Amendment affords defendants the . . . ‘right to the effective assistance of counsel’ . . . [which] includes the right to expert testimony if testimony is the gravamen of the defense.” *Id.* at ¶ 11 (internal citation omitted). The Supreme Court also held that “effective assistance of counsel includes furnishing the indigent defendant’s counsel with all the ‘basic tools of an adequate defense.’” *Id.* at ¶ 12 (citing *Ake v. Oklahoma*, 470 U.S. 68, 77 (1985)).

The test for granting an indigent defendant an appointed expert is that the indigent defendant “must establish that there exists a reasonable probability that (1) an expert would be of assistance to the defense and (2) the denial of expert assistance would result in a fundamentally unfair trial.” *Id.* at ¶ 14

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In this case, Castro has established that accounting principles will be a significant issue at trial and, therefore, an accounting expert will be of necessary assistance to Castro's counsel. Castro has established that an accounting expert is necessary to help her in the determination and valuation of over 70 pages of receipts, tape receipts, and ledgers, and could be vital to Castro's defense. Castro has further established the without the help of an accounting expert, Castro may be deprived of her right to a fair trial.

For the foregoing reasons, Castro's Ex Parte Motion to Appoint an Accounting Expert is granted. At this point the Court is capping the amount of expert fees to \$500.00. This amount could be increased by motion upon the showing of necessity.

IT IS SO ORDERED this 6th day of August, 2014.



ROBERTO C. NARAJA, Presiding Judge