Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D29804
C/kmb

_____AD3d_____ Argued - January 4, 2011

ANITA R. FLORIO, J.P.
RANDALL T. ENG
ARIEL E. BELEN
LEONARD B. AUSTIN, JJ.

2009-06379 DECISION & ORDER

The People, etc., respondent,
v Alexander Rozenberg, appellant.

(Ind. No. 5545/06)

Stillman, Friedman & Schechtman, P.C., New York, N.Y. (Paul Schechtman of counsel), for appellant.

Eric T. Schneiderman, Attorney General, New York, N.Y. (Roseann B. MacKechnie and Jodi A. Danzig of counsel), for respondent.

Appeal by the defendant from a judgment of the Supreme Court, Kings County (McKay, J.), rendered June 30, 2009, convicting him of falsifying business records in the first degree and insurance fraud in the fifth degree, upon a jury verdict, and imposing sentence.

ORDERED that the judgment is affirmed.

In fulfilling our responsibility to conduct an independent review of the weight of the evidence (*see People v Danielson*, 9 NY3d 342; CPL 470.15[5]), we nevertheless accord great deference to the jury's opportunity to view the witnesses, hear the testimony, and observe demeanor (*see People v Mateo*, 2 NY3d 383, 410, *cert denied* 542 US 946). Here, upon the exercise of our factual review power, we are satisfied that the verdict of guilt was not against the weight of the evidence (*see People v Romero*, 7 NY3d 633).

Contrary to the defendant's contention, the Supreme Court did not erroneously admit evidence at trial of uncharged crimes (*see generally People v Ventimiglia*, 52 NY2d 350). Even if the contested testimony implied that the defendant was involved in an uncharged tax crime, admission

of the testimony was not erroneous, as it was relevant and material to the charges under consideration and was probative of the defendant's motive and consciousness of guilt (*see People v Arafet*, 13 NY3d 460, 465; *People v Alvino*, 71 NY2d 233, 241-242; *People v Johnson*, 45 AD3d 606; *People v Currus*, 266 AD2d 468). Accordingly, the probative value outweighed any potential prejudice.

FLORIO, J.P., ENG, BELEN and AUSTIN, JJ., concur.

ENTER:

Matthew G. Kiernan
Clerk of the Court