IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, **Plaintiff,** **v.** **ALETA NECOLE THOMAS,** **Defendant.**	**Case No. 21-CR-239-GKF**

Response in Opposition to Defendant's
Motion for Sentencing Variance

The Court should deny Aleta Thomas's request for a sentence which is years below her advisory Sentencing Guidelines range (Doc. 97), and instead sentence her to imprisonment consistent with Presentence Investigative Report ¶¶ 48-9. This sentence of imprisonment and the advisory guidelines range accurately reflects the lengthy and escalating loan fraud that Ms. Thomas perpetrated while being a pillar of her church community and the matriarch of her family. As a part of her loan fraud scheme, Ms. Thomas not only subjected herself to serious consequences, but recruited other friends and family members to commit fraud and eventually to suffer criminal consequences of their actions. This sentence of imprisonment reflects the seriousness of Ms. Thomas's continued violation of the law even after she knew she was under investigation for loan fraud. Finally, this sentence of imprisonment will deter people like Ms. Thomas who encourage other people to violate the law and would misuse their reputations as trusted members of their communities. Consequently, Ms. Thomas's request for an approximately 16-level sentence reduction should be denied.

1. The guidelines range accurately reflects Ms. Thomas's lengthy and escalating fraud scheme to obtain money from banks and the government that was intended to support legitimate businesses in their ongoing employment of workers.

Consistent with 18 U.S.C. § 3553(a)(1), the nature and circumstances of Ms. Thomas's year-long fraud scheme that included thirty-three fraudulent loan requests to six different banks with a total actual loss of $795,158.50 supports a prison sentence and the sentence calculated in the PSR.

a. To the extent Ms. Thomas attempts to mitigate her conduct by alluding to businesses she purportedly operated, the facts belie her claims.

Ms. Thomas's sentencing variance suggests that Ms. Thomas owned and operated real businesses, and that the PPP funds she fraudulently obtained were used to pay expenses and employees of those businesses. Although the government has no way of independently verifying Ms. Thomas's philanthropic efforts in the community and gifts to others, the facts and evidence do not support Ms. Thomas's continued claims that she operated a legitimate home daycare business or nonprofit that were eligible to receive Paycheck Protection Program ("PPP") loans. *See* PSR ¶ 44; Doc. 97, pp. 22-3.

Rather, Ms. Thomas's own 2018, 2019, and 2020 personal income tax returns reflect no income from these purported businesses and instead merely list Social Security Disability benefit payments with no other income or withholdings. Nor did

Ms. Thomas ever file or pay taxes on behalf of her alleged businesses or withhold federal taxes and social security payments for or issue W-2s to her purported employees. Disc. pp. 2074-95. During her own testimony before the grand jury, Ms. Thomas claimed she operated an unlicensed daycare and claimed to pay her purported employees in cash. Thomas Tr. at 12-13. Further, when investigators requested Ms. Thomas provide them records to substantiate the existence of her businesses – financial records, bank statements, employee applications, work schedules, name of employees and children enrolled in her daycare business from 2016-2021— Ms. Thomas only provided a list of approximately 25 children enrolled in her daycare, the majority of whom were the dependents of her purported daycare workers. Nor did Ms. Thomas provide investigators with the contact information for the sponsor of Coming Correct Community Ministries, the nonprofit she allegedly operated with Tulsa Bethel Seventh-day Adventist Church. Disc. pp 2103-6.

Instead, the facts of this case show that May 4, 2020, Ms. Thomas submitted her first fraudulent PPP loan to Tulsa Federal Credit Union for a business she identified as Lead Us Kids. In this application, Ms. Thomas claimed she had an average monthly payroll of $32,000, used a fake employer identification number and fake tax returns, and denied owning any other businesses. PSR ¶ 11. In subsequent loan applications, on behalf of various forms of her daycare and nonprofit organization, Ms. Thomas claimed to employ almost 100 employees in businesses with more than $1,000,000 in annual payroll and more than $1,400,000 in gross receipts or sales. Doc. 48. Ms. Thomas also submitted forged bank statements and fake Gusto payroll reports containing nonexistent addresses for people such as her grandmother's friend, Edna Jones, and Ms. Thomas's niece, Danee Thomas. Thomas Tr. p. 34; GJ Ex. 6. Ms. Thomas's personal relationships with these two purported employees is significant because Ms. Thomas claims a stranger, Jonyiah Harrison, prepared these fake documents. It is highly unlikely that the fake Gusto payroll report would have named Ms. Thomas's real family members if Ms. Thomas had not created it.

During her year-long fraud scheme, Ms. Thomas continued to fraudulently apply for PPP loans even after federal law enforcement interviewed her about her loans on November 24, 2020, and even after she testified before the grand jury on February 19, 2021. For example, on April 1, 2021, Ms. Thomas boldly and intentionally applied for and received another $120,717 from Arvest Bank for her purported home daycare, continuing to use fake tax returns and a fake employer identification number. On March 10 and 31, 2021, Ms. Thomas even applied for two PPP loans as a "self-employed individual" and received the maximum allowable loan amount of $20,833 per loan. During the spring of 2021, Ms. Thomas recruited and assisted her close friends and family members with their PPP applications, obtaining the maximum allowable PPP assistance for self-employed individuals $20,833 for nearly every applicant.

After TFCU froze Ms. Thomas's bank accounts, Ms. Thomas asked her friends and family members to notify the government that they authorized Ms. Thomas to deposit their PPP loan proceeds into her bank account. In email communications to the case agent, as well as during multiple subsequent interviews, Thomas's friends, family, and co-defendants stated they voluntarily gave Thomas their personal identifiable information so Thomas could type their loan applications on her laptop computer, apply for loans on their behalf, and then deposit the loan proceeds into Thomas's bank account.[1] Interviews with witnesses and co-defendants also reveal Thomas was the one who notified other people about the PPP loan program and that they could apply for money from it.

b. Nor should Thomas escape liability for her own conduct by blaming total strangers who may not exist.

Ms. Thomas's continued insistence that she received help applying for PPP loans during May and June 2020 from women she identifies as Joniayah Harrison and Gail Jackson is a red herring. It defies common sense that Ms. Thomas sought help applying for a PPP loan from complete strangers she just met on Facebook when she had an existing banking relationship at Tulsa Federal Credit Union, where she also received a PPP loan. Further, most people would not share their bank account information and other personal information with total strangers who refused to provide a telephone number. But even if Harrison and Jackson assisted Ms. Thomas with her loans during 2020, Thomas, not Harrison or Jackson, is a responsible for the false statements she made in her loan application which she herself signed and

[1] Disc. pp. 3019-49 *Aleta Thomas Email Correspondence MOA_Final 04-09-2021*; Katrina's West's May 18, 2021 Interview Disc. pp. 6713-73; West Tr. pp 7-8, lns. 312-318; Danee Thomas Interview Disc. pp. 6685-99; Thomas Tr. p 4, lns. 145-152; p5 lns 212-222; Jayveon Hudson Interview Disc. pp. 8249-69; J. Hudson Tr. p. 2 lns. 50-61; p.7, lns. 721-5; Kyren Pittman Interview Disc. pp 8284-9320, Pittman Tr pp. 2-3 lns. 50-56; 107-113; Kennedy Hudson Interview Disc. pp 9433-9461, Hudson Tr. p. 10-14.

submitted these using her own computer. Thomas GJ Tr. p. 60, lns. 7-18, p.68, lns. 1-12. Not only was it Thomas who signed the loan applications and received the loan proceeds, but it was Thomas who certified that all the information in the loan applications were true and correct in every material respect.

Even more important, during this same timeframe that she allegedly sought help from Harrison and Jackson, Ms. Thomas used her Facebook Messenger account to recruit other people to apply for PPP loans.[2] For instance, on April 29, 2020, Thomas messaged Heather Overstreet "Yal need to apply for the sba grant" and offered to help Overstreet complete the application. Facebook Search Warrant return, p. 9549. Thomas then sent Overstreet a link to a website and explained the difference between the SBA's Paycheck Protection Program and Economic Injury Disaster Loan program.

In another Facebook Messenger communication on June 30, 2020, with ShaRita Yarbrough, Ms. Thomas and Yarbrough exchanged messages about the PPP loan program. Yarbrough asked Thomas what she needed to provide Thomas, and Thomas responded, "Voided check your ein soc bday name address." Thomas volunteered, "I'll do tax stuff." Later, on July 5, 2020, after Yarbrough reported

[2] The timeframe of Ms. Thomas's first four fraudulent PPP loan applications includes May 4 until June 16, 2020. The Facebook Search Warrant return includes Facebook Messenger communications sent to and from Ms. Thomas between April 1, 2020, to September 1, 2020, in which Ms. Thomas encouraged others to apply for PPP loans with her help. Disc. p. 9591.

someone else offered to help her in exchange for half of the loan, Thomas messaged Yarbrough "I can do it I do 30 %". *Id*. pp. 11978-8.

c. Thomas herself knowingly created the situation where she may be unavailable to care for her adopted children and grandmother.

Although Ms. Thomas offers a dire perspective about what may happen to her grandmother and six children should she be incarcerated, Thomas herself chose to create this risk by knowingly engaging in criminal conduct that would jeopardize the well-being of her loved ones. Even with her caregiving responsibilities, Ms. Thomas undertook a lengthy and extensive fraud scheme involving herself and many of her young nieces and nephews, subjecting them to potential criminal liability for making false statements in their PPP loans, thus calling into question how seriously Ms. Thomas takes her family obligations. In one case, Ms. Thomas took advantage of Jayveon Hudson, a young man who suffers from a learning disability, ADHD, and other major health problems and who explained to investigators that he was unable to manage his own money. J. Hudson Interview Tr. at 3, 4, 12.

Furthermore, it must be noted that Ms. Thomas adopted two of the six young children on October 25, 2021, after she had already been indicted in this case. Ms. Thomas also adopted two of the other children on May 18, 2021, while she knew she was under investigation, had just recently testified before the federal grand jury, and when her bank had just frozen her bank accounts. Her decision to adopt four children when she knew she was facing federal prosecution and possibly incarceration for lengthy fraudulent scheme should not insulate her from the consequences of her actions.

In any event, Ms. Thomas has many other young and able-bodied nieces, nephews, and family members. Together, these many family members can aid Ms. Thomas's elderly grandmother and adopted children in Ms. Thomas's absence. One of these nieces, Danee Thomas, is the biological mother of one of Ms. Thomas's adopted children. Ms. Thomas takes issue with the separation of her children as they face the potential for placement in separate foster homes; however, Ms. Thomas adopted children fully knowing she faced a potential prison sentence because of her wrongdoing.

2. A prison sentence reflects the seriousness of these offenses, promotes respect for the law, and ensures deterrence from Ms. Thomas's continued criminal fraud.

Consistent with 18 U.S.C. § 3553(a)(2), a prison sentence will reflect the seriousness of Ms. Thomas's offenses, promote respect for the law, protect the public and discourage others from committing fraud. Ms. Thomas took advantage of a nationwide state of emergency caused by the global coronavirus pandemic. Thomas exploited a loan program intended to combat the economic fallout and widespread unemployment caused by the pandemic. Ms. Thomas was the go-to person in her family and community for processing family members' tax returns and quickly learned the art of applying for PPP loans. Even though Ms. Thomas is not college educated, she is savvier and more capable than her sentencing variance contends. Ms. Thomas grew up without her parents and cared for her grandmother and brother even as a youth. Ms. Thomas later served as the president of her church organization where she was a leader in many different roles. As noted in Ms. Thomas's sentencing variance and many, many letters of support: people look up to Ms. Thomas. Sentencing Ms. Thomas to a period of supervised release without a prison sentence will send a message to a wide audience of impressionable young people that repeatedly lying to banks and the government to steal money is societally acceptable and goes unchecked.

A troubling aspect of Ms. Thomas's sentencing variance is that she appears unrepentant. Ms. Thomas described her numerous fraudulent PPP loan applications submitted over a year-long period a time as an "error in judgment." Doc. 97, p. 23. Many criminals have stood before the judges of this district court at sentencing acknowledging their guilt, expressing their sorrow, and promising to do better. Their attitude and humility, even if insincere, is more reassuring and more admirable than Ms. Thomas's sentencing variance, which downplays her responsibility for her own criminal conduct by claiming she suffered a lapse in judgment and gave away the loan proceeds and attempts to redirect blame to Harrison and Jackson.

The letters of support also give pause about whether Ms. Thomas has truly taken responsibility for her crimes. As one writer stated "I am not fully acquainted with the circumstances and details of the situations . . . ." In fact, only one supporter acknowledges that Ms. Thomas was charged with crimes and sees the errors of her ways. Meanwhile the other writers appear to be completely unaware of the facts of this case or even that Ms. Thomas has pleaded guilty to serious crimes.

Consequently, a sentence of imprisonment will underscore the seriousness of Ms. Thomas's fraud scheme, promote respect for the law, and ensure other people are not encouraged to lie to receive government-sponsored loans.

3. A prison sentence will help avoid unwarranted sentencing disparities among defendants charged in this district with PPP-related fraud charges and who unlawfully obtained far less money than did Ms. Thomas.

Sentencing Ms. Thomas to a time-served supervised release sentence creates *unwarranted* sentencing disparity between Ms. Thomas and other people charged with PPP-related loan fraud charges in this district. Here, Ms. Thomas is responsible for $795,158.50 in actual economic harm caused to banks and taxpayers amassed during a year-long fraud scheme that involved 33 fraudulent loan application. Ms. Thomas's total intended loss, taking into consideration her unfunded loan applications, is $1,842,068.50. In *United States v. Etuk, et al* 20-CR-100-CVE, the court sentenced Ms. Teosha Etuk to one year and a day in prison despite her relatively minor role she played in comparison with her husband's more significant fraud. Judge Eagan imposed this sentence despite Ms. Etuk's three young children who lived at home with her and despite her husband's consent to his deportation as a part of his own sentence. Ms. Etuk was responsible for submitting seven fraudulent PPP loans to six different banks with an actual loss of $150,000. In the same case, Mr. Etuk was sentenced to four years in prison after he devised a scheme to fraudulently apply for PPP loans and received just $300,000 after submitting six fraudulent loan applications to five separate bank all during a two-month long period of time. Likewise, Judge Eagan sentenced Olusola Ojo to 48 total months in prison for his part of the bank fraud conspiracy in which Mr. Ojo unlawfully obtained just $150,000 after he submitted six loan applications to multiple banks.

In *United States v. Adam James*, 20-CR-327-GKF, this Court sentenced Mr. James to two years in prison for aggravated identity theft in a case in which James used other peoples' identities to secure a $125,000 PPP loan. James submitted four total loan applications with an intended loss of $750,000. In *United States v. Benjamin Hayford*, 20-CR-88-CVE, Judge Eagan sentenced Mr. Hayford to two years of prison after he promptly pleaded guilty to two counts of bank fraud involving two PPP loan applications with an actual loss of approximately $165,000 and an intended loss of $4,400,000.

By contrast, Ms. Thomas's actual loss of $795,158.50 amassed over the course of 12 months, combined with Ms. Thomas's role in recruiting and assisting at least ten other people to violate the law, strongly merit a prison sentence in this case. As the defendants and sentences described above illustrate, similarly situated defendant charged with PPP-related loan fraud in this district have experienced prison sentences for submitting fewer fraudulent loan applications and obtaining far less money than did Ms. Thomas, even defendants like Ms. Etuk, who had young children who relied on her. Therefore, a prison sentence consistent with the range described in the plea agreement and the PSR would prevent an unwarranted sentencing disparity.

In short, the Court should deny Ms. Thomas's request for a time-served sentence. That sentence would not reflect Ms. Thomas misuse of her status as a pillar of her church community and a matriarch of her family to commit a year-long loan fraud scheme during which she recruited and aided at least ten close friends and family members in committing loan fraud. Instead, a sentence of imprisonment reflects the seriousness of Ms. Thomas's continued violation of the law even after she knew she was under investigation for loan fraud and had testified before the grand jury. Finally, a sentence of imprisonment will deter a wide audience of people who witnessed Ms. Thomas's fraud from committing similar crimes in the future. For these reasons, this Court should deny Ms. Thomas's request for an approximately 16-level sentence reduction and sentence her to a term of imprisonment.

Respectfully submitted,

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Certificate of Service

I hereby certify that on the day of May 23, 2022, I served the foregoing document via electronic email, on the following:

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