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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

vs.

ARMAN HAYRAPETYAN,
DEFENDANT.

CASE NO.: CR 20-579(A)-SVW-6

**NOTICE OF MOTION AND
MOTION FOR
REVIEW/RECONSIDERATION OF
ORDER SETTING CONDITIONS OF
RELEASE/DETENTION**

Defendant, Arman Hayrapetyan, by and through the undersigned Counsel of record, hereby
submits the following memorandum in support of reconsideration of detention.

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I. INTRODUCTION

Defendant Hayrapetyan has been indicted for allegedly participating in a scheme to obtain moneys, funds, credits, assets, and other property owned by, and in the custody and control of, federally-insured financial institutions by means of material false and fraudulent pretenses, representations, and promises, and/or the concealment of material facts. These allegations stem from incidents outlined in the Government's first superseding indictment, filed March 9th, 2021 [Dkt. 154]. There, the Government describes 64 Overt Acts spanning in time from April, 2020 to August, 2020. [*Id.* at 11-26] Of these 64 Overt Acts, Arman Hayrapetyan is only alleged to have participated in seven acts total. [*Id.* at 11-13] These seven acts are alleged to have occurred between April 16th, 2020 and May 4th, 2020. For his part, the Government claims that Mr. Hayrapetyan—in concert with his coconspirators—used the name and social security of real persons—M.H. and D.S.—to submit false applications for PPP loans. As will be stressed in the discussion portion below, the indictment—and what I have been able to review of the accompanying discovery¹—does not indicate how this personally identifiable information was acquired, who was in control of the PII, who prepared and submitted the PPP documents, and who had express control off the bank accounts associated with these fictitious businesses. Instead the Government relies on alleging that all the defendants acted in concert with one another. Thus, that Mr. Hayrapetyan's name appears on fraudulent documents—and fictions bank accounts—such association is sufficient to impute criminal liability. Though it is not this motion's primary purpose to discuss the veracity of the

¹ The Government has provided my office with about 15 volumes of discovery containing approximately 163 GB worth of material.

1 Government's indictment, it is important to stress these deficiencies, as they directly relate to the
2 Defendant's petition to re-evaluate his detention.

3 Upon learning of the allegations made against him, Mr. Hayrapetyan contacted my office to
4 facilitate his self-surrender. On March 25th, 2021, Mr. Hayrapetyan willingly surrendered to the US
5 Marshall's Office, and a bail hearing was scheduled for later that day, before the Honorable Maria
6 A. Audero. [Dkt. 254; 255] During the hearing, the Magistrate Court, held that Mr. Hayrapetyan
7 posed a flight risk and ordered that the Defendant be placed in detention. Namely, the Court had
8 significant concerns surrounding the possibility of Mr. Hayrapetyan using stolen or fraudulent PII to
9 flee to Armenia. Ultimately, the Court was in agreement with both the Government, and Pre-Trial
10 services, that no conditions of release could adequately assure the appearance of the defendant and
11 protect the public from potential future harm.
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13 Defendant is now offering a surety to sign on his behalf and will happily surrender his
14 Armenian passport.
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16 **II. LEGAL STANDARD**

17 The Bail Reform Act provides that a defendant shall be detained only if a judicial officer finds
18 that no condition or combination of conditions will reasonably assure the appearance of the
19 defendant as required for the safety of any other person and the community. 18 U.S.C. § 3142(e).
20 Title 18 U.S.C. § 3142(g) "specifies the various factors to determine whether the court may impose
21 conditions of release that will reasonably assure the appearance of the person." *United States v.*
22 *Keeton* (E.D.Cal. 2020) 457 F. Supp. 3d 855, 858.) These factors are (1) "the nature and
23 circumstances of the offense charged;" (2) "the weight of the evidence against the person;" (3) "the
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1 history and characteristics of the person” including, among other factors, family ties, employment,
2 financial resources, length of residence in the community, community ties, past conduct, history
3 relating to drug or alcohol abuse, criminal history, and record concerning appearance at court
4 proceedings; and (4) “the nature and seriousness of the danger to any person or the community that
5 would be posed by the person’s release.” 18 U.S.C. § 3142(g) The “weight of the evidence has the
6 least force in the court’s analysis, in recognition of the presumption of innocence that attaches to
7 defendant at the pretrial stage of a criminal proceeding.” *United States v. Keeton* (E.D.Cal. 2020)
8 457 F. Supp. 3d 855, 859 (citing *Bell v. Wolfish*, 441 U.S. 520, 533 (1979)).
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10 11 **III. DISCUSSION**

12 **A. DEFENDANT’S DETENTION IS NOT APPROPRIATE: HE IS NEITHER A** 13 **FLIGHT RISK NOR A DANGER TO THE COMMUNITY**

14 **a. DEFENDANT IS NOT A DANGER TO THE COMMUNITY**

15 As noted above, the Government’s indictment outlines an incredibly complex fraud
16 executed over several months. It involves both fraudulent and stolen PII, fictitious businesses,
17 forged documents, falsified tax returns, wire transfers, purchase of properties, cryptocurrencies, and
18 a myriad of other dubious dealings. Based on the indictment and accompanying discovery, it is fair
19 to say that Mr. Hayrapetyan is neither the architect of this intricate scheme, nor its primary
20 beneficiary.
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22 Arman Hayrapetyan immigrated to the United States from Armenia in 2019. Prior to his
23 move, he served in the Armenian military for 17 years. He moved to the United States hoping, like
24 many similarly situated immigrants, for a better life. To this day, Mr. Hayrapetyan speaks little to
25 no English, does not own a computer, and requires assistance navigating his smart phone. He is
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1 unacquainted with most, if not all, the financial institutions and governing bodies that are implicated
2 in this fraud. The suggestion that Mr. Hayrapetyan could be complicit to the same degree as his co-
3 defendants, is a disingenuous proposition that overestimates this defendant's acumen. The
4 Government's discovery suggests that one or two of Mr. Hayrapetyan's co-defendants acted
5 together to obtain, create, disseminate, and subsequently control all the PII information, bank
6 accounts, loan document, and all other material needed in the execution of this scheme. They, along
7 with a handful of others, then became the primary beneficiaries. Mr. Hayrapetyan's association to
8 this alleged conspiracy is far less direct than almost all of the other co-defendants. Accordingly, it is
9 unclear why all of Mr. Hayrapetyan's co-defendants have been afforded pre-trial release, while Mr.
10 Hayrapetyan remains in detention.
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12 Unlike most of his co-defendant's Mr. Hayrapetyan has no criminal history. He has no
13 pattern of lavish spending or opulence. He works two modest jobs as a driver—primarily for P&I
14 Medical Transportation, but with Postmates on the side. The Pre-Trial report prepared by Probation
15 Office Dalayna Ecklund, expressly notes that “although the instant allegations are concerning, as
16 they involve a large loss amount and an economic danger to the community, the defendant has no
17 criminal history. Furthermore, the defendant does not have any substance abuse issues or mental
18 health history. Therefore, Pretrial Services believes conditions could be imposed to mitigate the risk
19 of danger to the community.” (PSR, pg. 5) Mr. Hayrapetyan is entirely willing to abide by any
20 conditions suggested by Pretrial Services to abate any concern about his potential danger to the
21 public.
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24 As such, given the Government finds the release of all other Defendant's harmless, they
25 should find the same for Mr. Hayrapetyan.
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1 **b. DEFENDANT IS NOT A FLIGHT RISK**

2 Both the Government, and Pretrial Services, suggest that because Mr. Hayrapetyan's ties lie
3 primarily in Armenia, he poses a risk of non-appearance. This argument is flawed for a number of
4 reasons. First, it takes an incredibly dismissive attitude towards Mr. Hayrapetyan's decision to self-
5 surrender. The Government's fear that Mr. Hayrapetyan will flee the Country, if given the chance,
6 should be entirely assuaged by the fact that Mr. Hayrapetyan—fully knowing the gravity of the
7 charges lodged against him—chose to surrender to the US Marshall's office². The idea that Mr.
8 Hayrapetyan would elect to flee from the U.S., only after self-surrender, is an illogical suggestion.
9 Mr. Hayrapetyan's decision to turn himself in should be given ultimate deference when considering
10 whether he poses a risk of non-appearance.
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12 Second, that Mr. Hayrapetyan only has family ties to Armenia is an imbalanced burden he,
13 as an immigrant, must bear. Mr. Hayrapetyan cannot change the fact that he was born in a different
14 country, however that should not be the principal focus when positing if he poses a risk of
15 nonappearance. Instead, this Court should look to Mr. Hayrapetyan's actions since entering the
16 United States. Mr. Hayrapetyan immigrated to this country in 2019. He did so legally, and with
17 every intention to pursue citizenship. Mr. Hayrapetyan has applied for a Green Card and, prior to
18 his arrest, was making concerted efforts to bring his wife and daughter over to start their application
19 for citizenship. As the Pretrial Services Report notes, since his arrival Mr. Hayrapetyan left the U.S.
20 once to visit Armenian between May of 2020-September of 2020.³ While this is true, what the
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24 ² Mr. Hayrapetyan came to my office after the indictment was made public. During our meeting, I explained to Mr.
25 Hayrapetyan the language of the indictment and the full scope of what he was facing. He was expressly aware of what
26 he was facing when he chose to self-surrender.

³ This was the first time Mr. Hayrapetyan had seen his parents since leaving in 2019.

1 report does not mention is that Mr. Hayrapetyan was given approval from the Government to go
2 home during this time. Mr. Hayrapetyan has been very transparent and forthcoming with the U.S.
3 Government regarding his stay in this country.

4 Both the Government and Pretrial Services make note of the fact that Mr. Hayrapetyan sends
5 money home to support his family. The families' financial dependency on Mr. Hayrapetyan should
6 further assure the Government he is determined to remain in the United States. In the fall of 2020,
7 Mr. Hayrapetyan's younger brother passed away during the Armenia-Azerbaijan conflict. As a
8 result Mr. Hayrapetyan is now the sole caretaker for his elderly parents in addition to his wife and
9 daughter. In no uncertain terms: Mr. Hayreapetyan cannot afford to leave this country. His entire
10 family is financially dependent on his ability to sustain steady work in America, because it is not
11 feasible to do so in Armenia. Prior to his arrest Mr. Hayrapetyan had both steady employment and a
12 stable residence. While he is not financially capable of obtaining bail resources for a high bond
13 amount, he can sign an unsecured appearance bond ranging from \$50,000 to \$75,000. Additionally,
14 a third party surety has come forward and offered to sign an appearance bond on Mr. Hayrapetyan's
15 behalf. It is our belief that the unsecured appearance bond should be sufficient, however the third
16 party surety is available in the alternative.

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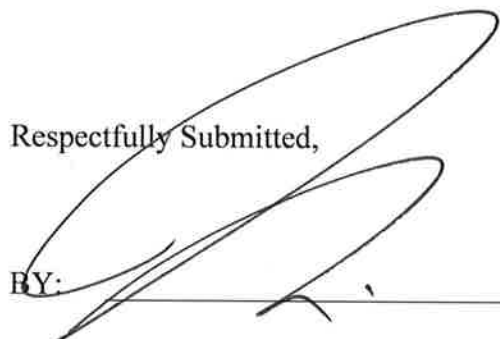
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IV. CONCLUSION

Mr. Hayrapetyan is neither a fraudster nor a fugitive. He is a well-meaning immigrant whose faith in his own people was unfairly taken advantage of. Mr. Hayrapetyan has given the Government every indication he can that he has no intention of evading justice. He is neither a flight risk, nor does he pose a threat to the general public. For the foregoing reasons, Arman Hayrapetyan, respectfully requests that this Honorable Court grant the proposed bond package. The defense also respectfully ask that the Court grant oral briefing/arguments for the reconsideration of the bond.

Dated: April 7th, 2021

Respectfully Submitted,

BY: 

JILBERT TAHMAZIAN,
Attorney for Defendant