UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

UNITED STATES OF AMERICA	**)**	
	)	
v.	**)**	**CASE NO: 4:22-CR-084**
	)	
BERNARD OKOJIE	**)**	

GOVERNMENT'S SENTENCING MEMORANDUM

Now comes the United States of America, by and through Jill E. Steinberg, United States Attorney for the Southern District of Georgia, and the undersigned Assistant United States Attorneys, and submits this memorandum in aid of sentencing. For the reasons stated below, the Government respectfully requests that the Court overrule or, where applicable, sustain with clarification Defendant Bernard Okojie's objections to the Final Presentence Investigation Report.

I. Mr. Okojie's statement regarding paragraph 15 of the PSR requires clarification.

The Government does not dispute the facts in Mr. Okojie's statement regarding paragraph 15 of the PSR, but submits the following clarifying information: B & K Freight, LLC was last registered in 2020 and was administratively dissolved in 2021; Kojie9, LLC was last registered in 2021 and was administratively dissolved in 2022; B & K Automobile Sale, Inc. was last registered in 2020 and was administratively dissolved in 2021; Kojie8, LLC was not registered until 2021 and was administratively dissolved in 2022; and Southern A1 Preservation, LLC was last registered in 2020 and was administratively dissolved in 2022.

II. Mr. Okojie's objection to paragraph 22 of the PSR should be overruled because payments by loan recipients do not affect the calculation of loss under the Guidelines.

Mr. Okojie objects that the loss attributable to him should be offset by the payments that have been made by the non-party loan recipients. The court should reject this argument. While payments made by loan recipients may ultimately offset the restitution Mr. Okojie owes to the Small Business Administration, they do not affect the calculation of his loss amount for Guidelines purposes. *See, e.g.*, U.S.S.G. § 2B1.1, Application Note 3(A) (providing that the Guidelines loss amount "is the greater of actual loss or intended loss") and Application Note 3(E) (entitled "Credits Against Loss" and not specifying any kind of credit that would apply here).

III. Mr. Okojie's objections to paragraphs 28 and 35 of the PSR should be overruled because the loss amount includes intended loss.

Mr. Okojie objects to paragraphs 28 and 35 of the PSR, both of which calculate the loss attributable to Mr. Okojie's conspiracy crimes as being between $3.5 and $9 million. Specifically, the PSR states, the Guidelines loss amount is Mr. Okojie's *intended* loss of $4,259,376.00. Mr. Okojie does not argue that this intended loss amount was incorrectly calculated, but asserts that only *actual* loss should be used in calculating his Guidelines—despite decades-old guidance from the Sentencing Commission to the contrary. The court should reject this argument. The Commission has long defined loss to include intended loss; neither the Eleventh Circuit's recent decision in *Dupree* nor cases elsewhere provide a reason to upset that definition; and the implications of such a change for fraud cases would be dramatic.

A. The Sentencing Commission and the Eleventh Circuit have long interpreted loss to include intended loss.

For nearly forty years, the Commission has defined "loss" in fraud cases to include the larger of actual or intended financial loss. From the first version of the Guidelines, the section on "offenses involving fraud and deceit" has included a provision enhancing the offense level based on the range of loss. *See* U.S. Sentencing Guidelines Manual § 2F1.1(b) (U.S. Sentencing Comm'n 1987), *available at* https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/1987/manual-pdf/1987_Guidelines_Manual_Full.pdf, at 95. The first Guidelines commentary also included an application note clarifying that "loss" means the greater of actual or intended loss. *Id.* at 96. That note remains part of the Guidelines commentary today. *See* U.S. Sentencing Guidelines Manual § 2B1.1(b) (U.S. Sentencing Comm'n Nov. 2021), *available at* https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2021/GLMFull.pdf, at 90, 97.

Given the statutory backdrop of Section 2B1.1, the Commission's longstanding definition of "loss" in Section 2B1.1 makes good sense. Section 2B1.1 by its terms applies to all federal fraud offenses. Congress has said that incomplete fraud "shall be subject to the same penalties as those prescribed for" the completed version of the same offense. *See* 18 U.S.C. § 1349. While incomplete frauds often have no actual loss, they do have an intended one. In defining "loss" to include actual and intended loss, Section 2B1.1 implements Congress's aim to punish incomplete and completed frauds similarly.

In keeping with this longstanding guidance, the Eleventh Circuit has long interpreted loss in the context of Section 2B1.1 to include intended loss.[1] As recently as this year, an Eleventh Circuit panel affirmed the calculation of loss in a healthcare fraud case under Sentencing Guidelines § 2B1.1 based on the intended loss (amounts billed) rather than the actual loss (amounts paid). *See United States v. Scott*, 61 F.4th 855, 858 n.1 (11th Cir. 2023) (noting no clear error in loss calculation and summarily affirming on that issue); Brief for United States at 37-39, *United States v. Scott*, 61 F.4th 855 (No. 21-11467), 2022 WL 522414, at *37-*39 (explaining that loss had been calculated using amounts billed).

B. *Dupree* provides no basis for discarding this definition.

The Eleventh Circuit's decision in *United States v. Dupree*, 57 F.4th 1269 (11th Cir. 2023), a recent decision interpreting different language in a different Guidelines section, does not require the Court to disregard the longstanding definition of "loss" in the fraud Guideline. The reasoning of *Dupree*, if anything, supports that definition.[2]

In *Dupree*, the Eleventh Circuit sitting en banc held that Guidelines

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[1] *See, e.g.*, *United States v. Moss*, 24 F.4th 1176, 1190-92 (11th Cir. 2022); *United States v. Moran*, 778 F.3d 942, 973-74 (11th Cir. 2015); *United States v. Massam*, 751 F.3d 1229, 1232 (11th Cir. 2014); *United States v. Patterson*, 595 F.3d 1324, 1326-27 (11th Cir. 2010); *United States v. Willis*, 560 F.3d 1246, 1250 (11th Cir. 2009); *United States v. Nosrati-Shamloo*, 255 F.3d 1290, 1291-92 (11th Cir. 2001); *United States v. Toussaint*, 84 F.3d 1406, 1407-08 (11th Cir. 1996).

[2] Since deciding *Dupree*, the Eleventh Circuit has noted in two cases that "*Dupree* did not 'specifically and directly resolve' whether § 2B1.1's definition of 'loss' is ambiguous." *United States v. Crowther*, No. 21-12255, 2023 WL 3813509, at *3 (11th Cir. June 5, 2023) (cleaned up); *United States v. Verdeza*, 69 F.4th 780, 794 (11th Cir. 2023); *see also United States v. Corker*, 2023 WL 1777195, at *3 (11th Cir. Feb. 6, 2023) (citation omitted) (stating, post-*Dupree*, that "[w]e have also explicitly rejected the argument that Application Note 3(A) to § 2B1.1, instructing courts to calculate 'the greater of actual loss or intended loss,' contradicts the plain meaning of the Guidelines' text.").

commentary cannot "expand" the meaning of "unambiguous sentencing Guidelines." *Id.* at 1273, 1274-78. Applying that principle, the court found that the term "controlled substance offense" in Section 4B1.2(b) of the Guidelines unambiguously excludes inchoate offenses. *Id.* at 1279. The court emphasized that the Guidelines text specifically defines that term and does not list inchoate offenses among the offenses that qualify. *Id.* at 1272-73. Given the unambiguity in the text, the court had "no need to consider, much less defer to, the commentary" defining "controlled substance offense" to include inchoate crimes. *Id.* at 1279.

1. When considered in context, Section 2B1.1's definition of loss includes intended loss.

Applied here, *Dupree* points in the opposite direction. The most natural reading of the term "loss" in context is that it covers what the Guidelines commentary says it does. At minimum, the term does not unambiguously *exclude* intended loss, and thus the Court should defer to the commentary's reasonable interpretation.

First, in the overall context, the term "loss" covers intended loss. To interpret language in a Guidelines text, this Court must consider "the stated purpose of the [Guideline], as well as the broader . . . statutory context of which it is a part." *See Washington v. Comm'r Soc. Sec.*, 906 F.3d 1353, 1362 (11th Cir. 2018); *accord Kisor v. Wilkie*, 139 S. Ct. 2400, 2415 (2019) (stating that "a court must carefully consider the text, structure, history, and purpose of a regulation" in determining whether the regulation is ambiguous) (cleaned up). "Ambiguity is a creature not just of definitional possibilities but also of statutory context," and the "meaning—*or ambiguity*—of certain words or phrases may only become evident when placed in context." *Zuni*

Public Sch. Dist. No. 89 v. Dep't Ed., 550 U.S. 81, 98-99 (2007) (cleaned up); *see also United States v. Hansen*, 143 S. Ct. 1932, 1942-43 (2023) ("When words have several plausible definitions, context differentiates among them. That is just as true when the choice is between ordinary and specialized meanings, as it is when a court must choose among multiple ordinary meanings."). Even in *Dupree*, the court looked to the Guideline context, the definition of the term used in that subsection, and definitions of terms used in "sister subsections," to find the meaning of the term. *Dupree*, 57 F.4th at 1278. That exercise is vital here, because loss can mean "different things in different contexts." *United States v. Riccardi*, 989 F.3d 476, 486 (6th Cir. 2021); *see also United States v. Kirlyuk*, 29 F.4th 1128, 1137-38 (9th Cir. 2022) ("[A] review of dictionaries reveals that 'loss' can have a range of meanings.").

The context of "loss" in Section 2B1.1 is the fraud Guideline and the statutes it addresses. As noted, those background statutes confirm that Congress intended to subject incomplete frauds and completed frauds "to the same penalties," 18 U.S.C. § 1349, even though attempts and conspiracies often will not cause any actual loss. Section 2B1.1 of the Guideline covers all those crimes. For all of them, what largely drives the calculation of offense level is the range of "loss." Against that background, the term "loss" most naturally includes intended loss because there is no other category of loss for many of the crimes to which Section 2B1.1 applies. *See United States v. Penn*, 63 F.4th 1305, 1314-15 (11th Cir. 2023) (determining definition of "distributing" for purposes of ACCA by considering, in part, Congress' statutory objectives).

The General Application Principles of the Guidelines further confirm this reading. Section 1B1.3 directs courts to determine the base offense level for an offense "on the basis of . . . all harm that resulted from the acts and omissions" of the defendant as part of the offense, and "all harm that was the object of such acts and omissions." U.S.S.G. § 1B1.3(a)(3). This instruction requires courts to consider both actual and intended harms. *United States v. Williams*, No. 19-cr-315-1, 2023 WL 2613503, at *8 (D. Conn. Mar. 23, 2023) ("[A] reading that 'loss' is just 'actual loss' would be in conflict with section 1B1.3."). For fraud crimes to which Section 2B1.1 applies, that means considering both actual and intended loss.

To be sure, a few courts outside this circuit—and at least one district court in this circuit—have held that "loss" in Section 2B1.1 means only "actual loss." *See, e.g.*, *United States v. Patel*, 2023 WL 5453747, at *3 (S.D. Fla. Aug. 23, 2023). Most notably, the Third Circuit reached that conclusion last year in *United States v. Banks*, 55 F.4th 246 (3d Cir. 2022). But the *Banks* court did not consider the relevant statutory or Guidelines context, even as it acknowledged that, "in context, 'loss' could mean pecuniary or non-pecuniary loss and could mean actual or intended loss." *Id.* at 258. If "loss" can mean intended loss in particular contexts, it certainly means that here. The decision in *Banks* should not be used to upset a definition that so naturally follows from the Guidelines and statutes, and that that has guided sentencing in federal fraud and theft cases for forty years.

2. *Alternatively, the context suggests Section 2B1.1's definition of loss is ambiguous and this Court may rely on the Guidelines definition.*

Second, even if this definition of "loss" does not ineluctably follow from the Guideline and statutory context, at the very least the context demonstrates the ambiguity of the term. Unlike the term at issue in *Dupree*, the term "loss" in Section 2B1.1 is undefined. *Compare Dupree*, 57 F.4th at 1277 (quoting the Guideline text's definition of "controlled substance offense," which itemizes the offenses that qualify and excludes "attempt" from that list), *with* U.S.S.G. § 2B1.1(b) (using the term "loss" without further explanation). The omission of any definitional language is significant because the scope of the term is not immediately clear. Loss may mean many things, from the deprivation of money to financial risks that never materialize.[3] *See, e.g.*, *United States v. Lane*, 323 F.3d 568, 590 (7th Cir. 2003) (explaining that the Guidelines' definition of loss "focuses on the conduct of the defendant and the objective financial risk to victims caused by that conduct."). If "loss" in Section 2B1.1 does not necessarily cover intended loss, it does not necessarily exclude intended loss, either. In its commentary, the Commission has provided a reasonable interpretation of the term. Under *Dupree*, the Court should defer to that reasonable interpretation.

The Sixth Circuit recently applied this reasoning in rejecting *Banks*. In *United States v. You*, the court found "loss" in Section 2B1.1 to be genuinely ambiguous. 74 4th 378, 397 (6th Cir. 2023). The *You* court found the Third Circuit's "attempt to

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[3] Further, determining "loss" in any given case may, depending on the context, require answers to additional questions. For example, what is the causal standard for attributable loss? Does loss include interest? Does loss include reputational harm? These contours of the term are similarly addressed by the application notes to the Guidelines.

impose a one-size-fits-all definition" of loss without consulting the Guidelines commentary's structure, history, and purpose "not persuasive." *Id.* at 397. The *You* court went on to examine the "context and purpose of the Guidelines" to find that "loss," in Section 2B1.1, can also mean "intended loss." *Id.* at 398. The Sixth Circuit therefore affirmed the district court's consideration of intended loss in calculating the defendant's Guidelines range. *Id.*

C. Accepting Mr. Okojie's argument would mean a sea change in fraud sentencings.

Mr. Okojie's position, if adopted by this court, would have dramatic implications. If intended loss is carved out of the definition of loss in the fraud Guideline, incomplete frauds will become probationary crimes no matter how sophisticated or how much money is at stake. If Mr. Okojie is right, a thief who steals fifty million dollars from a bank may face a Guidelines range of ten years or more, while another thief whose similar crime is thwarted by an intrepid cybersecurity team will have committed a zero-dollar crime worth 0 to 6 months in prison—as if he had stolen a ten-dollar check from a mailbox.

The *You* case is a stark illustration of this risk. Defendant You was convicted of conspiracy to commit theft of trade secrets, possessing stolen trade secrets, wire fraud, conspiracy to commit economic espionage, and economic espionage, based on her sophisticated, but ultimately unsuccessful, attempt to steal confidential chemical formulas from two major U.S. companies and use them to start her own company in China. 74 F.4th at 384-85. The district court estimated You's intended loss as $121.8 million; her actual loss would have been $0. *See id.* at 387. The Sixth Circuit, affirming the district court's use of intended loss in calculating You's Guidelines, observed that

> You's interpretation would lead to vastly different sentences for similarly culpable defendants where one defendant successfully stole trade secrets but the other did not. For someone like You, who was arrested before causing actual loss, including losses that she intended is a reasonable way to gauge her culpability.

Id. at 398.

Such results would make a mockery of Congress's aim to punish attempted frauds and completed frauds similarly. And there is no need to invite those results here. *Dupree* instructs that courts should defer to Guideline commentary where the text is ambiguous. The term "loss" is ambiguous, and the Guideline commentary naturally clarifies its scope. This Court should thus determine the fraud offense level as it has been determined for nearly four decades in this circuit, using the larger of actual or intended loss.

IV. Mr. Okojie's objections to paragraphs 29, 36, and 43 of the PSR should be overruled because he used sophisticated means in carrying out his fraudulent scheme.

The Sentencing Guidelines provide for a two-level increase if "the offense otherwise involved sophisticated means and the defendant intentionally engaged in or caused the conduct constituting sophisticated means." U.S.S.G. § 2B1.1(b)(10)(C). The application notes clarify that "'sophisticated means' means especially complex or especially intricate offense conduct pertaining to the execution or concealment of an offense." U.S.S.G. § 2B1.1 Application Note 9(B). "Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or offshore financial accounts also ordinarily indicates sophisticated means." *Id.*

The Eleventh Circuit has stated that, in deciding whether the sophisticated-means enhancement applies, courts are "to determine whether the totality of the conduct sufficiently supports application of the enhancement." *United States v. Feaster*, 798 F.3d 1374, 1380 (11th Cir. 2015) (cleaned up). The Eleventh Circuit has upheld application of the sophisticated-means enhancement in cases where the defendant used altered or forged documents and fictitious companies to conceal the fraud. *See, e.g., United States v. Dawson*, 588 Fed. App'x 890, 893 (11th Cir. 2014) (affirming enhancement where defendant used forged documents and a fictitious company to defraud government); *United States v. Fuertes*, 723 Fed. App'x 733, 743 (11th Cir. 2018) (affirming enhancement where defendant used altered documents to defraud government). Similarly, the Eleventh Circuit has upheld application of the enhancement in cases where a defendant has routed money through accounts in others' names to fraudulently conceal the funds. *See, e.g.*, *United States v. Clarke*, 562 F.3d 1158, 1166 (11th Cir. 2009) (affirming enhancement where defendant committed tax fraud and concealed income by depositing his salary into accounts that were not in his own name, instructing his employer to make payments from these accounts to his personal creditors, and directing his employer to pay his insurance premiums directly to his insurance carriers); *United States v. Campbell*, 491 F.3d 1306, 1315–16 (11th Cir. 2007) (affirming enhancement where defendant committed tax fraud and used campaign accounts and credit cards issued to other people to conceal his cash expenditures).

The two-level enhancement for sophisticated means is warranted here. The conspiracies spearheaded by Mr. Okojie resulted in at least 46 fraudulent EIDL or PPP loan applications being submitted on behalf of fictitious businesses or businesses that were not operating as Mr. Okojie claimed. For several of these loan applications, Mr. Okojie submitted falsified payroll documents and fabricated tax documents that were not filed with the IRS. Mr. Okojie directed his co-conspirators, on whose behalf he completed loan applications, to make his kickbacks payable to one of his "businesses," like B&K Freight, LLC, with false memos, like "truck leasing." Mr. Okojie's loan proceeds and kickbacks were deposited into two different accounts, both in the names of his "businesses." Mr. Okojie relied on the use of his co-conspirators' names, personal identifying information, and bank accounts to carry out his schemes—he could not have perpetrated fraud on the scale he did without involving others. This combination of techniques qualifies as sophisticated means.

Mr. Okojie understood the EIDL program's and Paycheck Protection Program's eligibility requirements and the safeguards the programs had in place to weed out unqualified applications. He also understood the need for his loan proceeds and kickbacks to appear to be legitimate business proceeds. He used this knowledge and took intricate and complex steps to bypass both program protections and financial institutions' fraud protections, taking this case beyond garden-variety fraud. Thus, the two-point enhancement for sophisticated means should apply.

V. Mr. Okojie's objection to paragraph 42 of the PSR should be overruled because he was in the business of laundering funds.

Mr. Okojie objects to the application of a four-point enhancement pursuant to Section 2S1.1(b)(2)(C) of the Sentencing Guidelines, which applies when the defendant was in the business of laundering funds. The commentary to the Guidelines specifies a non-exhaustive list of factors for the court to consider in making this determination, namely:

(i) The defendant regularly engaged in laundering funds.

(ii) The defendant engaged in laundering funds during an extended period of time.

(iii) The defendant engaged in laundering funds from multiple sources.

(iv) The defendant generated a substantial amount of revenue in return for laundering funds.

(v) At the time the defendant committed the instant offense, the defendant had one or more prior convictions for an offense under 18 U.S.C. § 1956 or § 1957, or under 31 U.S.C. § 5313, § 5314, § 5316, § 5324 or § 5326, or any similar offense under state law, or an attempt or conspiracy to commit any such federal or state offense. A conviction taken into account under subsection (b)(2)(C) is not excluded from consideration of whether that conviction receives criminal history points pursuant to Chapter Four, Part A (Criminal History).

(vi) During the course of an undercover government investigation, the defendant made statements that the defendant engaged in any of the conduct described in subdivisions (i) through (iv).

Applied here, these factors weigh in favor of applying the enhancement.

First, Mr. Okojie *regularly* engaged in laundering funds, which in the Eleventh Circuit is defined as "more than isolated, casual, or sporadic activity." *United States* *v. Tabares*, 2021 WL 5279404, at *5 (11th Cir. Nov. 12, 2021) (citing *United States v. Saunders*, 318 F.3d 1257, 1265 (11th Cir. 2003)) (finding the first factor satisfied where defendant's behavior was not isolated, casual, or sporadic because the defendant cashed approximately two dozen checks). Mr. Okojie received at least nine kickback checks; this was not a one-off event.

Second, Mr. Okojie engaged in laundering funds *during an extended period of time*—approximately nine months. *See id.* (finding factor satisfied where defendant laundered funds for 15 months); *United States v. Lazo*, 491 F. App'x 942, 944 (11th Cir. Oct. 15, 2012) (four months). Again, this was no one- or two-day lark.

Third, Mr. Okojie engaged in laundering funds *from multiple sources*—at the least, from the Small Business Administration and Synovus Bank. *See Tabares*, 2021 WL 5279404, at *5 (finding third factor satisfied where defendant laundered checks *issued by* two companies); *Lazo*, 491 F. App'x at 945 ("[A]lthough the funds generated were all connected to the healthcare-fraud scheme, multiple companies . . . provided Lazo with checks to cash, and thus, the funds came from multiple sources.").

Fourth, even before accounting for the money laundered by his co-conspirators, Mr. Okojie made nearly $186,00 in kickbacks, which is a substantial amount of revenue. *See Tabares*, 2021 WL 5279404, at *5 (finding fourth factor satisfied where defendant generated $17,000 through laundering); *Lazo*, 491 F. App'x at 945 (same as to $47,613.38).

Factors five and six do not apply here. *See Tabares*, 2021 WL 5279404, at *5 (finding fifth and sixth factors inapplicable).

Further, Mr. Okojie's tax return as filed with the IRS reflects that he reported a business loss and no W-2 wages or other form of income for the year 2020, suggesting that his only source of income was the illegal activity of which he has been convicted.[4] *See Petithomme v. United States*, 2021 WL 2643017, at *3 (S. D. Fla. June 28, 2021) ("Movant's federal income from his 'legitimate business' was only $9,944 in 2016 and 2017—which is dwarfed by the over $1.5 million dollars laundered by Movant and is co-conspirators."). Finally, Mr. Okojie was convicted of a scheme depending on the participation of other people—in other words, Mr. Okojie was not a solo operator, but was engaged in a quasi-business endeavor. *See Aguilar v. United States*, 2017 WL 836249, at *5 (S.D Tex. Feb 1, 2017) (finding significant defendant's admission that "he had at least four (4) people working for him").

All of these facts support applying the four-point enhancement for being in the business of laundering funds.[5]

VI. The 3553(a) factors support a sentence at the high end of the 70- to 87-month range.

The United States respectfully requests a sentence at the high end of the 70- to 87-month range to adequately account for the 18 U.S.C. § 3553(a) factors. The nature and circumstances of the offenses of which Mr. Okojie was convicted warrant a sentence within this range. Mr. Okojie's scheme was extensive, encompassing not

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[4] This tax return was filed jointly with Mr. Okojie's wife and included a W-2 reflecting that she earned approximately $50,000 in 2020.

[5] Defendant's remaining objections ask the Court to adjust his offense levels based on the other objections addressed herein. The Government respectfully requests that these objections be overruled for the reasons stated in this memorandum. The Government has no clarification to Mr. Okojie's statement regarding paragraph 59 of the PSR.

only fraudulently obtaining loan proceeds for himself and others but also laundering those proceeds through his "businesses." The intent of his scheme was to steal more than $4.2 million from the Government. A sentence that only accounts for the nearly $2 million that was actually disbursed—less than half of what Mr. Okojie intended—does not consider the full extent of his conduct.

A sentence at the high end of the 70- to 87-month range would adequately reflect the seriousness of Mr. Okojie's offenses, promote respect for the law, and provide just punishment for these offenses. Such a sentence would provide a strong deterrent effect to other would-be defendants who might seek to defraud federal programs on behalf of themselves and others and then launder the money under the guise of operating legitimate businesses. And a sentence in this range would help to protect the public from further crimes of the defendant, who thus far has not accepted responsibility for any of his fraudulent conduct and indicated no intent to refrain from similar conduct in the future. For all of these reasons, the United States requests that Mr. Okojie be sentenced at the high end of the 70- to 87-month range.

CONCLUSION

Accordingly, the Government respectfully submits that the Defendant's objections and statements in response to the PSR should be overruled or, where applicable, sustained with clarification as set forth in this Sentencing Memorandum.

Respectfully submitted this 28th day of September, 2023.

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CERTIFICATE OF SERVICE

This is to certify that I have on this day served all the parties in this case in accordance with the notice of electronic filing ("NEF"), which will be generated as a result of electronic filing in this Court.

This 28th day of September, 2023.

JILL E. STEINBERG
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