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February 28, 2025

BY ECF

Honorable Federic Block
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Anuli Okeke
22 Cr. 20 (FB)

Dear Judge Block:

Defendant Anuli Okeke ("Okeke") respectfully submits this letter as a Sentencing Memorandum for the Court's consideration in determining her appropriate and reasonable sentence. Defendant objects to the United States Sentencing Guidelines ("Guidelines") calculation and the factual assertions set forth in the Presentence Investigation Report ("PSR") in the manner discussed below. For all the reasons set forth in detail in this memorandum, defendant respectfully submits that a below guidelines sentence is sufficient, but not greater than necessary, to satisfy the sentencing goals set forth in 18 U.S.C. § 3553 and is just in this case.

INTRODUCTION

The story of Okeke's life prior to the events of this case was a one of a young woman immigrating to the United States and through hard work and a sense of responsibility achieving success as a professional and paving the way for a better life for her younger brother and sister. Along the way, Okeke consistently prioritized the needs of others over her own. Though she was born in New York City, Okeke grew up primarily in Nigeria, raised by a Nigerian family. As soon as she was able, Okeke came back to the United States and dedicated herself to education and hard work. She successfully put herself through college and a master's program and also served as the foundation for the immigration and education of her highly motivated and ultimately very successful siblings. First, she supported the immigration of her younger sister and facilitated her educational pursuits, which culminated in a medical degree from Harvard Medical School and a promising career as an endocrinologist. Next, she made it possible for her brother, the youngest sibling, to emigrate to the United States and she helped him in his studies, which resulted in a successful career in architecture. In between, she married briefly and supported her similarly successful husband during their marriage as he pursued his academic pursuits, which culminated in his attending the Wharton School of Business at the University of Pennsylvania. Along the way, Okeke continually put her own educational and professional aspirations aside to enable her to assist others, but she, too, ultimately completed a master's degree in marketing and went to work in bank branch services, eventually rising to the level of branch manager, a job in which she took great pride.

Okeke has many great accomplishments, as she is reminded every time she sees her siblings and their wonderful families, which now include a new generation of nieces and nephews in whose lives she continues to play an integral part. Nevertheless, her career in banking is over, and she has had to support herself over the last few years by taking jobs for which she is vastly overqualified, including working as a salesperson in a furniture store. She is keenly aware that her own decisions have contributed to the current position in which she finds herself, and she has a great deal of regret for the pain she has caused her loved ones. She looks forward to demonstrating to the Court and the community that she is far more than the actions and events of this case and continuing to be a benefit to her family, friends, and social sphere.

PERSONAL BACKGROUND

Okeke was born to Nigerian immigrant parents in New York in 1972. PSR ¶ 51. Her father worked as a civil engineer and her mother worked in accounting. PSR ¶ 54. When she was eight years old, the family moved back to Nigeria in large part to be closer to her ill grandmother. *Id.* The move drastically affected the family's financial situation because her parents' earnings were significantly reduced in Nigeria, and it was not always easy for them to provide for the family. *Id.* Okeke writes in her letter to the court that the family lacked regular access to water, electricity, and basic amenities.[1] Okeke and her younger brother and sister struggled with the move back to Nigeria both because of the financial hardships and because of difficulty assimilated culturally, including learning the language. PSR ¶ 54. This assimilation was particularly difficult for Okeke since she had spent the first eight years of her life in the United States.

For as long as she can remember, Okeke vowed to return to the United States as soon as she was able, and she did so, without her family, after high school (in approximately 1992) when she came to New York to study. *Id.* She has remained in the city ever since. *Id.* She writes that life "was challenging" in those early days of her time in New York and that she "had to work various jobs while attending school, including at Caldor department store and at McDonald's," but she was "determined to graduate and persevere."

Her sister, Eyiuche Okeke, in her letter of support[2] writes that, Okeke, while herself a student at CUNY, invited her after she graduated high school in Nigeria to come to New York in 1993. Eyiuche accepted her sister's invitation, and the two lived together while both attended CUNY, working nights, weekends, and summers to make ends meet. Eyiuche recalls being

[1] Okeke's letter to the Court is attached as Exhibit A.
[2] Letters of support from family and friends are attached collectively as Exhibit B.

"nervous when I first shared about my dream of going to medical school because this meant that I could no longer contribute as much financially" because "I needed to take time to study more and explore opportunities that could prepare me for a career in medicine like hospital volunteer work and medical research." Okeke, as she has so often done in her life, was "excited" to put her sister's needs before her own, as Eyiuche writes that she "encouraged me to go" and "took fewer classes during the semester so that she could work more." Okeke recalls that due to the demands of her sister's studies, Okeke "had to take care of [both of] us," which she did without complaint. The result was that they both graduated college in the same year even though Okeke had started earlier. According to Eyiuche, Okeke continued to support her emotionally and financially during medical school, and would come to Boston to be supportive whenever she was needed.

In 1996, Okeke again facilitated the arrival from Nigeria of a sibling, her younger brother Nnadozie Okeke. Nnadozie writes that from that time on, Okeke "has continued to act as our mother in the US and will not hesitate to give us the shirt off her back" and as the "backbone of the family who as the eldest child, has always been there to support her parents and younger siblings throughout their lives." PSR ¶ 53. Okeke's longtime friend, Obonne Obiaya, writes that "Anuli is the most generous friend in our friend group, noting, among other things, her support of her siblings, and writing that she "allowed her younger brother to pursue his architectural studies unencumbered" and allowing him to become "a successful architect in New York." In addition to a prosperous career, Nnadozie would go on to marry and start a beautiful family in the New York area.

Okeke's friend, Obiaya, notes that several years later Okeke again became a provider, this time for her then-husband. She writes that Okeke was "the sole breadwinner," allowing her spouse "to complete a 4 year [degree] in three years debt free" and "supported him all the way to the Wharton School of Business." Obiaya notes that unfortunately the marriage came to an end shortly after Okeke's husband completed his MBA, though Okeke "remained a steadfast friend and exhibited no bitterness" thereafter. [redacted] PSR ¶ 60. Since that time, she has turned to spiritual guidance through her church in times of great stress. *Id.*

While aiding those around her, Okeke also worked tirelessly on her own educational and professional journey. She graduated from York College CUNY with a bachelor's degree in economics in September 1998. PSR ¶ 62. She attended and graduated with a master's degree in marketing from Mercy University in New York in 2006. *Id.* While still in school, Okeke writes that she worked as a bank teller, initially for Greenpoint Bank and Capital One Bank. Later, she moved to Washington Mutual and subsequently she worked for Chase Bank, which acquired the branch in which she had worked and at which she became a branch manager. PSR ¶ 68. In 2012, Okeke left Chase for Popular Bank where she worked as a branch manager until she was fired in late 2020 as a result of the events of this case.

Sopia Okeke, Nnadozie's wife and Okeke's sister-in-law, writes of Okeke's warmth and devoted commitment to her family, noting how when Sophia began her relationship with Nnadozie, "Anuli welcomed me as a sister and friend, teaching me about Nigerian culture and the family's traditions." Sophia also notes how "invaluable" Okeke has been in caring for her nieces and nephews. She writes that when her twins were born in 2014, Okeke "stayed overnight in our home, helped feed the twins, and gave me much-needed rest during a challenging time" and that "[h]er care and guidance helped me navigate the overwhelming experience or becoming a mother. Sophia writes that Okeke has continued to be "a dedicated and loving aunt who is always present" including during the birth of Sophia and Nnadozie's third child in 2018. Chisom Nwazojie, Eyiuche's husband and Okeke's brother-in-law, concurs with this assessment. He writes that Okeke is "a pillar of the family," recalling that "she always visited to care and encourage [our] kids to be the best versions of themselves." He continues, "I will always be indebted to Anuli for being a constant source of strength for my wife and I."

Okeke's role in her family has only increased in recent years as she has been called upon to help care for her mother. In 2016, Okeke's father, [redacted], died at age 76. PSR ¶ 51. Since that time, Okeke's mother, [redacted] has become increasingly reliant on Okeke. *Id.* Eyiuche writes that Okeke "has taken over [their] mom's household in Nigeria." Nnadozie writes Okeke acts as "a major caregiver for our ailing mother," including arranging her regular trips to the United States for medical appointments. Okeke's lifelong friend, Ada Offurum, writes that Okeke "has been a devoted caretaker for her family," "caring for her late father until his passing and continuing to care for her mother."

Various supporters note the critical role the Catholic Church plays in Okeke's life and the charitable work she has done in connection with her faith. Offrum writes that Catholicism "plays a central role" in Okeke's life and credits Okeke for being "instrumental in encouraging my own spiritual growth." Eyiuche writes that her sister "is deeply religious and actively participates in her church community and in the Igbo community." Sophia notes that Okeke "is a woman of strong Christian faith and regularly attends Times Square Church and St. Francis of Assisi in Manhattan" and "contributes actively to her church community with dedication and compassion. Chisom writes that "[h]er faith is her moral compass and it guides her daily actions and choices. He also notes that Okeke's "kindness and generosity" and her participation "in our annual charity events at My Brother's Keeper Christmas Assistance [and] Summer MBK Family Walk." Okeke writes that she also actively contributes to the Nigerian church community. Obiaya writes that Okeke "administers prayers for the sick [and] volunteers on the bereavement committee providing comfort to the newly bereaved with home visits."

Okeke, reflecting on all that she has done and the damage it has caused, writes that she sincerely regrets her conduct and the manner in which she has let down those things to which she is most "deeply committed," her "family, faith, friends, and community." She further notes that she "failed to meet the expectations of a bank officer, and as a result, I have lost my reputation and career." The past five years have been a tremendous struggle for Okeke. Though she was never remotely affluent, she had finally reached a point in her career where she could live relatively comfortably on her branch manager salary of $89,000 per year in her one-bedroom apartment in the Bronx. PSR ¶¶ 55, 67. Since losing the ability to work in banking, Okeke spent a substantial period of time unemployed before obtaining employment as a salesperson at Macy's and more recently at Ashley Furniture in the Bronx, making less than $30,000 in annual salary plus commissions. PSR ¶¶ 63-66. Nevertheless, Okeke has turned to her faith and family for support and remains resolute and optimistic regarding the future. She writes of her appreciation for the Court: "Thank you for your professionalism and treating me with dignity throughout this process."

VAGARIES OF THE FRAUD GUIDELINES

Okeke respectfully submits that the vagaries of the Sentencing Guideline section applicable to fraud offenses, U.S.S.G. § 2B1.1, commonly referred to as the "fraud guideline" are a well-recognized and important circumstance of her offense that warrants a considerable downward variance. Section § 2B1.1 is not tethered to any empirical data and "amount of loss" mechanically drives the offense level generated by the fraud guideline.

The inherent inequities in the robotic application of the fraud guideline were discussed in detail by the Second Circuit in *United States v. Algahaim*, 842 F.3d 796, 800 (2d Cir. 2016). In *Algahaim*, the Court agreed with the long-standing criticisms of the guideline, finding that the Sentencing Commission, in promulgating Section 2B1.1, "let the amount of loss, finely calibrated into sixteen categories, become the principal determinant of the adjusted offense level and hence the corresponding sentencing range" thereby causing an "unusualness . . . that a sentencing court is entitled to consider" in determining the appropriateness of a non-Guidelines sentence. *Id.* While recognizing that the Sentencing Commission was "entitled" to use this approach, the Court expressed its concern regarding this method of calculating an appropriate criminal sentence and noted that it lacked any precedential support. *Id.*

In *United States v. Johnson*, No. 16 Cr. 457 (NGG), 2018 U.S. Dist. Lexis 71275, at *11-13 (E.D.N.Y. Apr. 25, 2018) (*available at* https://casetext.com/case/united-states-v-johnson-2478), Judge Nicholas Garaufis of this Court heeded the Second Circuit's admonition, explaining, in part, his rationale for a below-Guidelines sentence for a defendant convicted of a large-scale fraud as follows:

> As far as this court can tell, the Sentencing Commission's loss-enhancement numbers do not result from any reasoned determination of how the punishment can best fit the crime, nor any approximation of the moral seriousness of the crime. It is no wonder that Judge Stefan Underhill, concurring in a recent Second Circuit opinion, called the loss enhancement Guideline "fundamentally flawed, especially as loss amounts climb." *United States v. Corsey, 723 F.3d 366, 380 (2d Cir. 2013)* (Underhill, J., concurring); see also *United States v. Gupta*, 904 F. Supp. 2d 349, 351 (S.D.N.Y. 2012) (Rakoff, J.) ("By making a Guidelines sentence turn, for all practical purposes, on [loss enhancement], the Sentencing Commission ... effectively guaranteed that many such sentences would be irrational on their face."). Given the feeble underpinnings of the loss enhancement, it is particularly galling that this factor is often more or less solely responsible for a white-collar offender's Guidelines sentence. Accordingly, Judge Underhill opined that, because the loss Guideline "was not developed by the Sentencing Commission using an empirical approach based on data about past sentencing practices . . . district judges can and should exercise their discretion when deciding whether or not to follow the

> sentencing advice that guideline provides." See *Corsey*, 723 F.3d at 379 (op. of Underhill, J.). I agree with Judge Underhill, and refuse to mechanistically impose such an illogical sentence. That this situation continues unabated is a great shame for the many offenders sentenced under this Guideline who do not receive a sentence that makes any sense for the actual crime of conviction.

Id.

The undiscerning application of this loss amount enhancement to Okeke, which increases her Guidelines sentencing range by over six times (from 18-24 months to 108-135 months), clearly implicates the concerns expressed by the Second Circuit in *Algahaim* and Judge Garaufis in *Johnson.* The sixteen loss categories that are set forth in §2B1.1 are not based on any empirical data or any logical policy concerns. This lack of proportionality is the exact reason that the Second Circuit identified this bracketing procedure as "unusual." *Id*. The Sentencing Commission has arbitrarily attributed certain loss amounts to trigger an increase in a defendant's offense level. However, these attributions are based on nothing. For example, a fraud that involved more than $6,500 increases the offense level by 2 points, and a loss of over $15,000 increases it by 4 points. Absent is any policy or explanation as to why a difference of $8,500.00 doubles the increase. Equally perplexing is the fact that the next two-point increase does not occur until the fraud causes greater than $40,000 of loss. Thus, when looking consecutively at two of the sixteen "finely calibrated" categories, an $8,500 difference in loss amount has equal importance and effect as a $25,000 difference. Taking this analysis to the extreme, the difference between a scheme involving a loss amount of $6,500.01 and one involving a loss amount of $15,000.01 is two offense levels. The difference between a scheme involving a loss amount of $250,000,000.01 and one involving a loss amount of $550,000,000.01 is also two offense levels. As a result, a delta of $8,500 and $300,000,000 may have an identical impact on a Guidelines calculation. This absurdity is the practical result of essentially random loss attributions made by the Sentencing Commission in §2B1.1.

This inequity is exacerbated when separate upward adjustments such as the § 3B1.1(a) "Role in the Offense" is applied, as is the case here. The 4-level leadership enhancement applied to Okeke increased her offense level from 70-87 months to 108-135 months, a near 3 year increase at the bottom of the Guidelines range. Were the loss enhancement not applied, the increase for leadership role would be an increase from 18-24 months to 30-37 months, a 1-year increase at the bottom of the range. As a result, the random valuation of loss amount causes an identical (non-loss amount) enhancement to trigger entirely inequitable increases in a defendant's total offense level.

Okeke respectfully submits that the mechanical application of § 2B1.1 results in an inequitable Guidelines calculation. She respectfully submits that this substantial inequity is a nature and circumstance of the offense that warrants a downward variance pursuant to 18 U.S.C.

§ 3553(a).

OBJECTIONS TO THE PSR

In paragraph 24 of the PSR, Probation states, "The defendant utilized sophisticated means as part of this scheme by requiring borrowers to sign "starter" checks, which were used to purchase cashier's checks, which were used to pay defendant unauthorized commissions. As such, a 2-level enhancement is warranted pursuant to USSG § 2B1.1(b)(10(C)." As an initial matter, defendant denies that she "required" borrowers to sign starter checks or that the checks were used to cause her to receive unauthorized commissions. However, even assuming the accuracy of these facts, *arguendo*, the use of starter checks is hardly indicative of sophisticated means. In fact, use of starter checks is indicative of a lack of sophistication. *See, e.g.*, "Paper is becoming extinct: why checks are now the dinosaurs of payments," *RBC Capital Markets* (available at https://www.rbccm.com/en/story/2024/08/paper-is-becoming-extinct-why-checks-are-now-the-dinosaurs-of-payments); Cassie Bottorff, "Paper checks are dying. Here's what you should use instead," *Fortune*, Jan. 23, 2025 (available at https://fortune.com/article/paper-checks-are-dead-what-to-use-instead/); Jessica Dicker, "The death of the personal check: As retailers move toward 'check zero,' here's what that means for you," *CNBC*, Jul. 19, 2024 (available at https://www.cnbc.com/2024/07/19/the-death-of-the-personal-check-retailers-move-toward-check-zero.html).

"Sophisticated means" requires "especially complex or especially intricate offense conduct pertaining to the execution or concealment of the offense." USSG § 2B1.1, Application Note 9. Additionally, the enhancement is limited to cases where a "defendant engaged in or caused the conduct constituting sophisticated means," and the basis of the enhancement must be the defendant's own conduct. U.S Sentencing Commission, *Amendments to the Sentencing Guidelines 25* (April 30, 2015), http://www.usssc.gov/sites/default/ files/pdf/amendment-process/reader-friendly-amendments/20150430_RF-Amendments.pdf. The act of providing account holders a check is simply not complex or intricate conduct, much less "especially" complex or intricate. Additionally, no evidence exists that Okeke caused others to obtain starter checks. For these reasons, the conduct identified by Probation in Paragraph 24 of the PSR is not a sufficient basis for the application of an enhancement pursuant to USSG § 2B1.1(b)(10(C).

Paragraphs 16-22 of the PSR describe offense and other conduct allegedly committed by Okeke. Because Okeke pled not guilty and the case proceeded to trial, she respectfully objects to the factual allegations in these paragraphs.

CONCLUSION

For the above-stated reasons, Okeke respectfully submits that there are numerous 18 U.S.C. § 3553(a) factors that each taken individually, and with greater impact, in the collective, warrant a below-guidelines sentence.

Thank you for Your Honor's consideration of this letter.

Very truly yours,

Sanford Talkin
Sanford Talkin
Noam Greenspan

Cc: AUSA Chand Edwards-Balfour (by ECF)
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