The Honorable Tiffany M. Cartwright

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA, Plaintiff v. FATIU ISMAILA LAWAL, Defendant.	NO. CR23-5034-RJB-01 UNITED STATES' SENTENCING MEMORANDUM

Fatiu Lawal is a Canadian resident and Nigerian citizen who stole over $1.3 million dollars in pandemic relief that should have gone to American workers suffering from the devastating economic impacts of the COVID-19 pandemic. His exploitation of a vulnerable time in our nation was the culmination of years of fraudulent activities—including the use of stolen American identities to submit fraudulent U.S. tax returns seeking refunds—while he lived in Nigeria and Canada. Lawal and Sakiru Ambali, his co-conspirator and close friend of over 20 years, were well-versed in executing sophisticated frauds and had stolen the personal identifying information of more than 14,700 unwitting Americans. At the onset of the pandemic in 2020, the pair used these stolen identities to submit more than 1,700 fraudulent claims for COVID-19 unemployment benefits in at least 27 states and to submit fraudulent applications for small business assistance. Lawal also

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used the stolen American identities to submit thousands of fraudulent U.S. tax returns seeking refunds. Lawal personally participated in the submission of over 3,791 fraudulent claims seeking American government funds.

The United States recommends that the Court sentence Lawal to 41 months of imprisonment for wire fraud (Count 3), to run consecutive to the mandatory 24-month sentence for aggravated identity theft (Count 16), for a total of 65 months of imprisonment. This sentence is necessary to reflect the serious nature of the offense and to deter others—particularly those who perpetrate fraud from abroad—from engaging in similar conduct. The Court should also impose the special conditions proposed by Probation, including that upon deportation, he may not reenter the United States without permission of the Department of Homeland Security. The court should further order Lawal to pay restitution in the amount of $1,345,472, as agreed upon in the Plea Agreement.

I. BACKGROUND

A. Lawal Has Been Defrauding the United States Since at Least 2013.

Fatiu Lawal is a seasoned fraudster who maintained thousands of email addresses to perpetrate various sophisticated fraud schemes. *See, e.g.,* PSR at ¶¶ 9, 16, 21. Since as early as 2013, Lawal utilized several Google Gmail accounts to execute these frauds under monikers such as "John Smith," "Banks Smith," and "Barbara Jenkins." *See id.* at ¶ 9. Beginning in December 2020, Lawal created an extra layer of obfuscation by creating and owning seven web domain names such as sensormargin.com, that he used to generate thousands of email addresses that funneled to central inboxes.

The contents of these email accounts reflected the breadth of fraud Lawal undertook for years. In several accounts, including js755641@gmail.com (created on November 27, 2013 under "John Smith"), the email contents included entire inboxes of unknowing victims whose accounts had been hacked to auto-forward all emails to Lawal. Sometimes these emails included personal financial information of the victim that could be exploited.

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See Ex. A, Bates USAO-00051420–23 (email of victim emailing herself images of bank statements with a blind copy to an email account Lawal controlled).

From at least 2018 until 2022, Lawal used three Gmail accounts and four custom web domains to file over 3,000 fraudulent U.S. tax returns using stolen American identities and seeking refunds totaling approximately $7.5 million. PSR at ¶ 21. The IRS disbursed refunds for three of the returns, totaling $30,000. *Id.*

B. Lawal Stole Funds Intended for American Workers Suffering From the Economic Impacts of the COVID-19 Pandemic.

Lawal's perpetration of fraud against the United States and its residents culminated at the onset of the COVID-19 pandemic. In March 2020, following presidential declarations of a nationwide emergency and major disasters in every state, the federal government enacted measures to mitigate the devasting economic impact the COVID-19 pandemic was exacting on American workers and businesses. *Id.* at ¶ 12. Among these measures was federal funding for expanded and increased unemployment benefits administered by state workforce agencies, including the Washington Employment Security Department (ESD). *Id.* at ¶ 13.

Between May 4, 2020 and at least until June 10, 2022, Lawal personally used his cache of stolen identities to submit over 790 fraudulent claims for pandemic unemployment benefits in the names of over 790 American workers to at least 28 state workforce agencies across the country, including Washington's ESD. *Id.* at ¶ 16. Lawal also submitted over 3,000 fraudulent tax returns seeking refunds using the stolen identities of real Americans. *See id.* at ¶ 11. Lawal used at least four different email accounts and four different web domain names to submit the claims, including gamework393@gmail.com and bankupdates2014@gmail.com. To circumvent fraud safeguards and prevent the state workforce agencies from recognizing that a single email account was being used for hundreds of claims, Lawal inserted periods at various places in the Gmail email addresses, e.g., g.a.mewor.k.3.9.3@gmail.com. *Id.* at ¶ 16-17. After state workforce agencies

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detected this modus operandi and blocked its usage, Lawal began purchasing custom domain names (e.g., sensormargin.com, unitedgsat.com, minderpower.com), to generate thousands of email addresses (e.g., 123@sensormargin.com, ja@sensormargin.com, jaa@sensormargin.com) that funneled to a single inbox for the domain. *See id.* at ¶ 16. To further evade detection, Lawal used tools that routed his submissions through IP addresses located within the United States.

Washington was one of the first states in the nation to implement federal pandemic unemployment benefits, and Lawal directed his earliest efforts in May 2020 to submitting fraudulent applications to Washington's ESD. Within three weeks, Lawal filed approximately 38 fraudulent claims and caused ESD to disburse benefits totaling approximately $31,324 for about six of them. Over the next two years, Lawal submitted over 700 additional of fraudulent claims to 27 additional states. In total, Lawal caused state workforce agencies to disburse over $1.3 million in pandemic unemployment benefits. *Id.* at ¶ 16.

Lawal and his co-conspirators directed unemployment benefits to be paid to money mules in the United States who then withdrew and transferred the funds according to instructions given by Lawal and his co-conspirators. *Id.* at ¶ 18.

C. Lawal's Personally Received a Significant Portion of Fraudulent Proceeds

Because the United States has limited avenues for obtaining financial records located abroad, the government does not have a comprehensive analysis of Lawal's finances. Nevertheless, relying on the contents of cloud storage and contents of email accounts Lawal controlled, the government can reasonably conclude that Lawal received a significant portion of the $1.3 million in pandemic benefits.

Specifically, the Google Drive for gamework393@gmail.com—one of the accounts Lawal used for fraudulent unemployment claims—contained a Nigerian bank statement for a child's savings accounts held in Lawal's minor son's identity. The statement shows that

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between March 1, 2020, and July 22, 2020, the balance for the account grew from the equivalent of approximately US$8.00 to US$70,000. Nearly all of the deposits originated from an account belonging to Lawal. During this same time period, the gamework393@gmail.com account was used to file over 100 pandemic unemployment claims that resulted in benefit payments of over US$80,000. *Id.* at ¶ 11. In other words, it appears that Lawal personally received 87.5% of his fraudulent proceeds. Nothing in his self-reported employment history accounts for this dramatic increase in assets during the first six months of the unprecedented global pandemic, and Lawal's attempt to hide these funds in his minor son's savings account shows consciousness of guilt. *See id. at* ¶ 70.

D. Lawal Continued His Fraudulent Activities Until His Arrest.

Incident to Lawal's arrest, with the assistance of Canadian officials, federal agents lawfully seized and searched his personal cell phone. The contents of the phone show that Lawal's fraudulent conduct was broad, sophisticated, and enlisted others. Multi-year text chains on encrypted applications contained endless exchanges of stolen personal identifying information (including Social Security numbers, dates of birth, driver's license numbers, addresses, and phone numbers) of Americans, and images of real credit or debit cards. In at least one text chain, it appears Lawal is in a supervisory position, directing an individual how to instruct a money mule (who is euphemistically referred to as a "client") to collect what appear to be debit cards issued by state workforce agencies to disburse unemployment benefits. See, e.g., Ex. B. As Probation's sentencing recommendation notes, Lawal's fraudulent efforts is likened to a full-time job. His criminal activities persisted until his arrest in Ontario, Canada on February 21, 2023.

II. PROCEDURAL HISTORY

On January 25, 2023, the Grand Jury returned a 17-count indictment charging Lawal and his co-defendant Sakiru Ambali with conspiracy (Count 1), in violation of 18 U.S.C. § 1349; wire fraud in connection with a presidentially declared emergency or major disaster

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(Counts 2-11), in violation of 18 U.S.C. §§ 1343 and 2; and aggravated identity theft (Counts 12-17), in violation of 18 U.S.C. § 1028A. Dkt. 1.

On February 22, 2023, Canadian authorities arrested Lawal pursuant to the warrant in this case, and Lawal remained in custody until Canada granted the United States' request to extradite him to this district in July 2024. PSR at ¶ 4. Lawal made his initial appearance in this district on July 12, 2024, and has been detained since then.

On September 12, 2024, Lawal pled guilty to Counts 3 (wire fraud) and 16 (aggravated identity theft). *Id.* at ¶ 2

Ambali, who was extradited from Germany approximately a year before Lawal, also pled guilty to wire fraud and aggravated identity theft. Dkt. 35. On March 14, 2024, the Honorable Robert J. Bryan sentenced Lawal to a total of 42 months of incarceration.

III. SENTENCING GUIDELINES CALCULATIONS

The United States agrees with the Probation Office on the Sentencing Guidelines calculations and has no objections to the facts contained in the PSR.

The following calculation applies for Count 3 (wire fraud):

Item	**Guideline**	**Adjustment**
Base Offense	2B1.1(a)(1)	+7
Intended Loss in Excess of $550,000	2B1.1(b)(1)(H)	+14
10 or More Victims	2B1.1(b)(2)	+2
Sophisticated Means	2B1.1(b)(10)	+2
Disaster Benefits	2B1.1(b)(12)	+2
Acceptance	3E1.1	-3
Zero-Point Offender	4C1.1	-2
Total		**22**

See PSR at ¶¶ 29-42.

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For Count 16 (aggravated identity theft), the Guideline range is the minimum required by statute, two years, which must run consecutive to Count 3. USSG § 2B1.6; *see* PSR at ¶ 28.

The defendant's criminal history category is I. PSR at ¶ 45. The resulting Guidelines range is 41 to 51 months for Count 5 (wire fraud) and a mandatory consecutive sentence of 24 months imprisonment for Count 15 (aggravated identity theft).

IV. FACTORS RELATED TO SENTENCING RECOMMENDATION

The United States recommends that the Court impose a total term of imprisonment of 65 months.

For the reasons set forth below, this recommendation is appropriate given "the nature and circumstances of the offense," and the need for the sentence "to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense," to ensure adequate general deterrence, and "to protect the public from further crimes of the defendant." 18 U.S.C. §§ 3553(a)(1), (a)(2)(A), and (a)(2)(C).

A. The Nature and Circumstances of the Offense—Lawal's Exploitation of Three Disaster Periods in the United States is an Aggravating Factor.

Because nearly five years have lapsed since the onset of the COVID-19 pandemic, it is easy to forget the chaotic, desperate, and dire circumstances facing our nation and our government's attempts to stem the catastrophic economic impact of the first six months of the COVID-19 pandemic. In March 2020, schools, businesses, and restaurants abruptly shuttered, and hospitals were overwhelmed with patients dying of COVID-19.[1] Yet, Lawal saw the pandemic and its consequences not as a public health catastrophe but as an opportunity to enrich himself through fraud.

[1] *See, e.g.,* Ariana Cha, "Faced with a crush of patients, besieged NYC hospitals struggle with life-or-death decisions," *The Washington Post* (Mar. 31, 2020), *available at* https://www.washingtonpost.com/health/2020/03/31/new-york-city-hospitals-coronavirus/.

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As Lawal began executing his scheme to use stolen identities of American workers to file fraudulent unemployment claims in May 2020, approximately 20.6 million American were unemployed, far surpassing the Great Recession's peak of 15.2 million in 2009.[2] American business owners saw their livelihoods vanish overnight. In fact, a survey in April 2020 showed that 43 percent of small businesses in the nation had at least temporarily closed, which was unprecedented in our nation's history and a far more severe economic impact than the 1918 influenza.[3]

During major disasters and nationwide emergencies, it is particularly important for the government to be able to disburse aid quickly to real victims to mitigate the impact of the crisis. The actual monetary loss to the government comes secondary to the fact that a real person or business behind each stolen identity had difficulty accessing assistance because a fraudulent claim was already paid in their identity. These difficulties were further compounded by the onslaught of fraudulent claims that clogged the infrastructure in place distribute the aid. The estimated loss from these fraudulent pandemic unemployment claims is over $100 billion.[4]

In this case, Lawal used the stolen identities of over 790 real individuals who may have qualified for pandemic assistance and may have needed it urgently. Lawal's earliest submissions to ESD began within two months of the President's declaration of a national emergency. By then, ESD had been flooded with imposter claims like Lawal's, and approximately a week after his first submissions, on May 13, 2020, ESD was forced to halt all benefit payments to more than a million people for three days.[6] Lawal had experience

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[2] U.S. Bureau of Labor Statistics, "Unemployment Rises in 2020, as the country battles the COVID-19 pandemic" (June 2021), *available at* https://www.bls.gov/opub/mlr/2021/article/unemployment-rises-in-2020-as-the-country-battles-the-covid-19-pandemic.htm.

[3] Alexander Bartik, et al., "How Are Small Businesses Adjusting to COVID-19? Early Evidence From a Survey," *Nat'l Bureau of Economic Research* (Apr. 2020), at 3, 8, *available at* https://www.nber.org/system/files/working_papers/w26989/w26989.pdf.

[4] U.S. Gov't Accountability Ofc, "More Fraud Has Been Found in Federal COVID Funding – How Much Was Lost Under Unemployment Insurance Programs" (Sept. 13, 2023), *available at* https://www.gao.gov/blog/more-fraud-has-been-found-federal-covid-funding-how-much-was-lost-under-unemployment-insurance-programs#:~:text=In%20our%20new%20report%2C%20we,paid%20out%20during%20the%20pandemic.

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using stolen American identities to commit fraud before the pandemic, but this time, his criminal conduct contributed to victimizing even people whose identities he did not steal and urgently needed assistance that could not be disbursed because of criminals like Lawal.

Notably, both Congress and the Sentencing Commission have endorsed sentencing enhancements during national emergencies and major disasters. *See* 18 U.S.C 1343 (increases maximum penalties to 30 years imprisonment and $1 million fine); USSG § 2B1.1(b)(2)(12) (two-level increase applied for offenses involving disaster fraud). Congress enacted the enhanced statutory penalty for wire (and mail) fraud in response to reports of widespread fraud and abuse in connection to disaster funds disbursed for Hurricanes Katrina and Rita. The Senate Judiciary Committee report noted:

> We want to help ensure that federal money goes to the right people and does not get stolen by criminals posing as victims. Congress wants to provide appropriate recovery and relief resources to affected States, and also ensure that these resources are protected and distributed only to the real victims–not to individuals seeking to take advantage of the disaster.

Senate Report No. 110-69, 110th Cong., 1st Session (May 22, 2007).

In this case, there are no circumstances under which Lawal—a Canadian resident and Nigerian citizen—was a real victim. Rather, he was a criminal seeking to take advantage of our nation's crisis.

B. A Substantial Term of Imprisonment is Necessary to Deter and is Just Punishment for the Offense.

The impact the sentence in this case has on general deterrence cannot be overstated. Media in Nigeria and Canada have covered the legal developments in this case. *See, e.g.,* Abby O'Brien, "Toronto men defrauded U.S. government of more than $2M using 'thousands' of stolen identities: investigators," CP24 (Jan. 4, 2024), *available at* https://www.cp24.com/news/toronto-men-defrauded-u-s-government-of-more-than-2m-using-thousands-of-stolen-identities-investigators-1.6710612?cache=%2F7.323885. Kehinde Folarin, "Two Nigerians risk 32 years in jail for allegedly defrauding US of $25m

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COVID benefits," *Politics Nigeria* (Aug. 19, 2023), *available at* https://politicsnigeria.com/two-nigerians-risk-32-years-in-jail-for-allegedly-defrauding-us-of-25m-covid-benefits/.

The evidence in this case confirms that there are thousands of individuals around the world will steal American identities to perpetrate fraud against the United States. When those criminals read the sentence imposed on Lawal, it must be substantial enough to deter them from further illegal activity and underscore that they are not beyond the reach of the United States judicial system.

Moreover, because it is not a secret that extraterritorial monetary judgments are difficult to enforce and Probation will not be able to monitor Lawal's behavior after deportation, a significant term of imprisonment may be the only assured punishment available to hold Lawal accountable for exploiting a time of crisis in the United States.

C. A 65-Month Term of Imprisonment Would Be Consistent with Sentences Imposed for Similar Conduct.

The crimes Lawal committed and the circumstances under which he committed them are nearly identical to Abidemi Rufai, who was sentenced to 60 months in prison by the Honorable Benjamin H. Settle in September 2022. *See United States v. Rufai*, Dkt. 56, Judgment, CR21-5186-BHS (Sept. 26, 2022). Like Lawal, Rufai is a Nigerian citizen who had a history of committing fraud against the United States prior to the pandemic. *Id.*, Dkt. 54, United States' Sentencing Memorandum at 6-7. Like Lawal, Rufai was also in possession of thousands of stolen American identities that he primarily used to file fraudulent pandemic unemployment claims but also used to file applications for small business assistance and U.S. tax returns seeking refunds. *Id.* Dkt. 54 at 7-9. Although Rufai had aggravating factors in his history and characteristics, the number of claims he filed and the amount of loss he caused was significantly less than Lawal. Whereas Rufai filed approximately 238 fraudulent pandemic unemployment claims and caused a total loss

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of approximately $600,000, Lawal filed over 790 fraudulent pandemic unemployment claims and caused over $1.3 million in loss.

The government recommended a sentence of 60 months for Lawal's co-conspirator, Sakiru Ambali, and Judge Bryan sentenced Ambali to 42 months. Although Lawal and Ambali pled guilty to the same offenses, sentencing Lawal to 65 months would not create an unwarranted sentencing disparity because Lawal was far more prolific in his efforts to defraud the United States, appears to have begun his fraudulent activities at least four years earlier than Ambali, and personally obtained a significant portion of the fraudulent pandemic benefits he sought.

Specifically, while Lawal filed more than 790 pandemic unemployment applications and more than 3,000 tax returns, Ambali personally submitted approximately 630 pandemic unemployment applications and eight tax returns. Lawal's submissions caused more than $300,000 more in loss to the United States.

Additionally, Lawal personally reaped greater financial gain from his criminal conduct than his co-conspirator. Ambali claimed that he only received US$6,000 of the approximately $1 million in loss that he caused. *See* Dkt. 43 at 4. While the government disputes this representation based on circumstantial evidence concerning his known expenditures and income during the relevant time period, the government has no evidence that Ambali obtained a significant portion of the fraud proceeds. In contrast, as discussed above, the government has conclusive evidence that, at least for the first six months of the pandemic, Lawal received more than 87% of the fraud proceeds he caused to be paid by submitting fraudulent pandemic unemployment applications using the stolen identities of American workers. *See supra* at 4–5. If Lawal's share of the proceeds is extrapolated for the entire duration of the fraud, he personally obtained more than $1 million in pandemic assistance intended for American workers while living unemployed in Canada and Nigeria. *See* PSR at ¶ 56.

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Accordingly, sentencing Lawal to 65 months of imprisonment would be appropriate and avoid a sentencing disparity with similarly situated defendants including Abidemi Rufai and his co-defendant Sakiru Ambali.

V. CONCLUSION

The Court should sentence Lawal to 65 months of imprisonment and the special conditions recommended by Probation, including, upon deportation, prohibiting reentry into the United States without permission of the Department of Homeland Security. The Court should further order restitution in the amount of $1,345,472, as agreed upon in the Plea Agreement.

Dated: January 21, 2024

Respectfully submitted,

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