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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. AARON ASHCRAFT, Defendant.	CASE NO. 2:22-cr-87 KJM UNITED STATES' SENTENCING MEMORANDUM DATE: December 12, 2022 TIME: 9:00 a.m. COURT: Hon. Kimberly J. Mueller

Sentencing in this matter is scheduled for December 12, 2022. For the reasons that follow, the United States requests that this Court sentence the defendant to a custodial term of 41 months, impose a three-year term of supervised release, and order the defendant to pay restitution as outlined in the restitution attachment to the Presentence Investigation Report ("PSR").

I. BACKGROUND

On April 25, 2022, the United States filed an Information charging the defendant with two counts of wire fraud, in violation of 18 U.S.C. § 1343, and five counts of bank fraud, in violation of 18 U.S.C. § 1344. Pursuant to a plea agreement, on May 9, 2022, the defendant pled guilty to one count of wire fraud and one count of bank fraud.

II. SENTENCING GUIDELINES

In the PSR, the Probation Officer calculated the defendant's sentencing range as follows:

1. Base Offense Level of 7, pursuant to U.S.S.G. § 2B1.1(a)(1).

2. 16 levels are added under U.S.S.G. § 2B1.1(b)(1)(I), because the intended loss—approximately $1.98 million—was over $1.5 million.

3. 2 levels are added under U.S.S.G. § 3B1.3, because the defendant abused a position of trust.

4. 3 levels are subtracted under U.S.S.G. §§ 3E1.1, because the defendant accepted responsibility and assisted in the prosecution of his own misconduct.

The resulting total offense level is 22, which corresponds to a sentencing range of 41 to 51 months, when considering the defendant's criminal history category of I. The United States agrees with the Probation Officer's calculation of the applicable sentencing range and requests that this Court adopt it.

III. SENTENCING RECOMMENDATION

Title 18, United States Code, Section 3553(a) provides multiple factors this Court is to consider in fashioning a sentence. In addition to the applicable guideline sentencing range, those factors include, among others, (a) the nature and circumstances of the offense and the defendant's history and characteristics; (b) the need for the sentence imposed to (i) reflect the seriousness of the offense, (ii) promote respect for the law and provide just punishment for the offense, (iii) afford adequate deterrence to criminal conduct, i.e., general deterrence, and (iv) protect the public from further crimes of the defendant, i.e., specific deterrence. Considering the Section 3553(a) factors, a custodial sentence of 41 months is justified.

As detailed in the PSR and the factual basis attached to the defendant's plea agreement, the defendant's fraudulent conduct was serious. It was extensive, protracted, and involved stealing from a pandemic-relief program and his former employer.

During the depths of the COVID-19 pandemic, the defendant defrauded the Small Business Administration and its affiliated lenders. Through the use of shell companies, falsified tax documents, and falsified financial records, the defendant fraudulently obtained almost $1 million in federal disaster relief funds from the Paycheck Protection Program ("PPP"). He tried to get more. Specifically, from approximately May 2020 through April 2021, the defendant submitted seven fraudulent PPP loan applications, seeking a total of over $1.2 million. The PPP funds the defendant sought and obtained were meant to provide relief to small businesses, many of which were struggling to keep their doors open.

Every dollar he took from the program was a dollar that could have and should have been used to keep real businesses afloat.

Not only did the defendant defraud the PPP program, he also embezzled from his former employer, Company 1. Over a period of almost three years—September 2017 through June 2020—the defendant made more than 300 fraudulent charges to Company 1's credit card accounts. Those charges totaled approximately $780,000. The defendant carried out the embezzlement while holding multiple positions at Company 1, including chief financial officer. Company 1 entrusted the defendant with its finances. He exploited that trust for his own gain.

In addition to stealing federal disaster relief funds and embezzling from Company 1, the defendant also defrauded the State of Maine. Specifically, in approximately July 2020, the defendant submitted with the Maine Department of Labor a falsified application for Pandemic Unemployment Assistance. As with the PPP loan applications, the defendant provided falsified information and tax forms. By doing so, he fraudulently obtained almost $60,000.

The government recognizes that the defendant fully accepted responsibility for his criminal conduct when he first met with law enforcement, including by providing agents a signed confession letter. Given the extensive nature of his schemes, however, the United States submits that a guideline sentence is warranted to protect the public from future crimes of the defendant.

A significant sentence also is needed to further the goal of general deterrence. While the PPP program currently is not in effect, society likely will face another crisis in the future that will require a similar response. Government programs designed to alleviate the impacts of such crises must be protected. A substantial sentence will send a message that taking advantage of a national emergency will not be tolerated.

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IV. CONCLUSION

Based on the foregoing, the government respectfully requests that this Court sentence the defendant to 41 months' imprisonment and three years' supervised release. The government also requests that this Court order that the defendant pay restitution as described in the restitution attachment.

Dated: December 5, 2022

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By: ______________________
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