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21 March 2025

<u>VIA ECF</u>
Richard D. Bennett, Judge
United States District Court
for the District of Maryland
101 W. Lombard Street
Baltimore, Maryland 21202

RE: *United States v. David Epstein*
Case No. *RDB-23-210*

Dear Judge Bennett:

In its sentencing letter, the Government references sentences rendered by Your Honor in other PPP loan cases as well as one by Judge Bredar. ECF 32, at 5. Because the facts of those cases are so vastly different from, and unrelated to, Mr. Epstein's case, this response is necessary to complete the record before the Court.

As the Court is aware, Mr. Epstein pled guilty in relation to a PPP loan for his business, PEI Staffing, Inc. PEI was, and is, an ongoing, fully functioning business. For the relevant year of 2019, PEI filed the required, and truthful, quarterly tax forms, (941 forms) that showed the monies paid for payroll and number of persons employed by PEI. See ECF 30, Exhibits 3-6. The Government does not contest the truthful nature of these filings or that PEI was a staffing agency and had been for years before 2019.

By stark contrast <u>none</u> of the other cases cited by the Government in ECF 32 involved actual legitimate companies or true 941 forms. As a result, the facts of those cases, other than involving PPP loan, bear almost no relationship to Mr. Epstein's case.

- *United States v. Sary*, RDB-23-344. According to the criminal complaint, ECF 1-1, Sary "submitted applications on behalf of businesses that did not exist in any legitimate capacity." *Id*., at 6. Further, "loan applications were supported by false IRS forms" and the defendant filed nine separate false loans over an 8 month period. *Id*., at 7.

- *United States v. Walker*, RDB-22-290. The defendant filed for PPP loans for "Nutscola" but per the Government's sentencing memorandum, ECF 30, at p. 2, "Nutscola had no employees at the time and was not in operation." Further, "The IRS Form 940 was not legitimate, and the information within it was false; Nutscola did not pay any wages to or withhold federal income tax from any employees during the 2019 tax year—as confirmed by IRS records."

- *United States v. Hopkins*, RDB-23-216. Per the Government's sentencing memo, ECF 14, pp. 2-3, the defendant filed three loans from June, 2020 to March 2021, for three different companies. For all of the claimed companies, the defendant filed false 941 forms and no wages were ever paid to anyone. And, he was involved in a conspiracy with a kickback to person helping defendant to get loans. *Id.*

- *United States v. Gillespie*, RDB-23-321. In addition to being a conspirator with Mr. Sary, above, defendant "engaged in a bribery scheme in which he abused his position of trust as a public official—an employee within the Baltimore City Department of Finance, Revenue Collections Department—for his own personal gain. During this eight year period, Defendant routinely accepted bribes from various property owners in the City whose property was subject to various financial obligations and, if the obligations remained unpaid, tax sale. He accepted these bribes in exchange for removing or extinguishing these financial obligations owed to the City, including for citations, tax obligations, and water obligations—thereby causing losses to the City." Government's sentencing memo in *Gillespie*, ECF 32, p.1. And, Gillespie also filed false PPP applications for a company named JAG Investments with false tax forms: "The IRS Form 940 was not legitimate, and the information within it was false. In fact, JAG Investments had no employees and did not report paying any wages to or withholding federal income tax from any employees during the 2019 tax year…" *Id*.

- *United States v. Qureshi*, JKB-22-330. The defendant filed a"loan application to Cross River Bank for Yazee, Inc., an ersatz business for which Qureshi was the President. This business was not legitimate: it had no employees and no real operations." Instead, "Mr. Qureshi was employed by a pizza shop in Baltimore and worked as a delivery driver for another business at this time." Government sentencing memo, ECF 59, at 1.

And, I can add another PPP loan fraud case, prosecuted by AUSA Marty Clarke -*United States v. Longley*, JKB-23-349. Mr. Longley received a sentence of 21 months for filing 42 PPP loan applications, nearly all of which claimed funds for non-existent companies and included false tax forms.

None of these cases involved an actual, ongoing company, like PEI. None of these cases had evidence that the company actually paid wages, like PEI did; PEI borrowed $1.3MM and paid $1.4MM in actual wages. All of the cases cited by the Government involved the filing of false IRS forms to support the application; PEI's 941 forms were all truthful. To the extent that the Government's cases are relevant here, they show that jail sentences were appropriate where the defendant lied about having a company at all or paying any wages whatsoever. These factors are not present in Mr. Epstein's case.

Thank you for considering this information.

Very truly yours,
/s/
Richard Bardos, Of Counsel

RBB:rb
CC: via ECF to AUSA Paul Riley