IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

BLUEFIELD DIVISION

UNITED STATES OF AMERICA

v. **Criminal No. 1:25-cr-00056**

APRIL ELICK

DEFENDANT'S SENTENCING MEMORANDUM

Defendant, April Elick, by her counsel, submits this Memorandum outlining the various 18 U.S.C. § 3553(a) factors for this Court's consideration at her upcoming October 6, 2025, sentencing hearing.

A. Legal Objections:

On June 2, 2025, Ms. Elick appeared before this Court and tendered her guilty plea to the offense of theft of government funds in violation of 18 U.S.C. § 641. Ms. Elick has no objections to the Probation Officer's calculations for her total offense level (8) or her criminal history category (I). The advisory guideline range for Ms. Elick is zero to six months which falls within Zone A of the Sentencing Table. The total amount of restitution which Ms. Elick owes is $99,330.08 which includes ongoing interest charges on her EIDL and PPP loans as well as $5,000 in loan processing fees.

B. 18 U.S.C. § 3553(a) Factors for Consideration

Ms. Elick would ask this Court to consider imposing a sentence which follows the Sentencing Commission's recommendations for those individuals who qualify for the U.S.S.G. § 4C1.1 zero point offender reduction and whose advisory guideline range falls within Zone A. (*See* U.S.S.G. § 5C1.1, Application Note 10(A)). Ms. Elick would request consideration for the imposition of a five year term of probation that would include the special condition that the first six months be spent on home detention. The suggested sentence would provide for a longer period of time during which Ms. Elick would be required to make monthly payments towards her restitution obligation than if she were to receive a term of imprisonment with a three year term of supervised release.

Given Ms. Elick's current financial status and for the reasons explained later in this Memorandum, she would ask this Court to set her monthly restitution payment to the Clerk's office at $369.00. This amount is the same as the monthly installment payment which Ms. Elick is contractually obligated to make under the terms of the modified EIDL Loan to the U.S. Small Business Administration ("SBA"). Ms. Elick would further request that this Court, pursuant to 18 U.S.C. § 3612(f)(3), waive the collection of any statutory post-judgment interest on the restitution obligation.

Ms. Elick would rely upon the following 18 U.S.C. § 3553(a) factors in support of the suggested sentence:

(1) This Court can consider the nature and circumstances of Ms. Elick's offense conduct as not necessarily warranting a custody sentence. In 2020, Ms. Elick was self-employed as a home health care aide who assisted elderly clients living in Mercer and McDowell Counties. Ms. Elick had been working in this capacity for the

past ten years and had called her business "Home Health Care Needs." When the country started shutting down in March of 2020 as a result of the COVID-19 pandemic, Ms. Elick felt that she could no longer safely provide personal care to her clients because of the threat of potentially exposing them to the virus. She took a part-time job with Alorica, which allowed her to work from home. However, the company laid Ms. Elick off as a result of the loss of its business from the pandemic. With this loss of income and having the responsibility of providing for herself and her two minor children at home, Ms. Elick turned to assistance from the federal government programs that were advertised as being generally available to anyone adversely affected by the pandemic.

In 2021, Ms. Elick submitted applications for two separate PPP loans. In the spring of 2021, Ms. Elick was considered by an SBA approved lender as being eligible for both PPP loans. There were two electronic deposits in the amount of $7,260 made into Ms. Elick's bank account. Some of the proceeds were used by Ms. Elick to pay for her personal expenses, as opposed to any business-related expenditures from the home health care business.

In October of 2020, Ms. Elick completed an online application for an EIDL loan for her business. On October 20, 2020, SBA sent Ms. Elick a letter indicating that her application had been rejected on the grounds that her economic injury was not sufficiently substantiated. The letter indicated that Ms. Elick was free to request reconsideration of SBA's denial. During the late fall of 2021, Ms. Elick made several calls to the SBA requesting reconsideration of her application. In January of 2022, SBA decided that Ms. Elick had met the eligibility requirements for an EDIL loan and approved her to receive $61,000. The loan was subsequently increased to $69,700, a figure which SBA decided upon without any requests for that specific amount being requested by Ms. Elick. Once the proceeds of the loan had been deposited in her bank account, Ms. Elick spent the majority of these funds over several months on personal expenditures for herself or other family members, as opposed to operating expenses for her business.

Ms. Elick did not fully comprehend the scope of the future obligations to which she was committed as a result of obtaining an EIDL loan. Unlike the PPP loans, the EIDL loan was not forgivable and was subject to an annual interest rate. The repayment terms for the loan required Ms. Elick to start paying $369 per month upon the two year anniversary of the loan's issuance.[1] The annual interest rate on the loan was fixed at 3.75%. Each payment made by Ms. Elick would first be applied to accrued interest with the remaining balance being applied to principal. Ex. A. This repayment schedule for the EIDL loan would remain in place for the next thirty years. Ex. A.

Ms. Elick has not made any of the payments towards reducing the principal balances owed on the EIDL or PPP loans. As a result, she has already incurred accrued interest charges of nearly $9,500 over the past three and a half years.[2] The

---

[1] The first page of the April 28, 2022, Amended Loan Authorization and Agreement between SBA and Ms. Elick has been attached as Exhibit A.

[2] A copy of the SBA's calculation of interest charges for purposes of determining the restitution amount for sentencing was attached to the final PSR.

annual interest which Ms. Elick is charged for the EIDL loan is $2,613.75 ($69,700 x .0375%). Ms. Elick's proposed monthly payment of $369 towards her restitution obligation coincides with the agreed upon repayment schedule for the EIDL loan. Even if Ms. Elick makes these payments over a twelve month period, she will only be reducing the principal amount of the loan each year by $1,814.25.[3] Given Ms. Elick's current hourly wage of $5.00 with tips as a member of the wait staff at the Outback Steakhouse, Ms. Elick understands that she will likely have to work into her seventies in order to satisfy this debt. As such, this Court should recognize the financial burden placed upon Ms. Elick will likely remain for the rest of her life.

(2) Ms. Elick's personal history and characteristics would support the proposed probation sentence. Ms. Elick was born in Columbus, Ohio, and did not have the benefit of being raised by either of her parents. Ms. Elick's mother was not married and she does not know the name of her father, who was never involved in any aspect of her life. She was raised by her grandmother because her mother's intellectual difficulties prevented her from maintaining custody. Ms. Elick has an older sister who was born with developmental disabilities who currently lives in an assisted living center in Columbus.

When her grandmother could no longer care for Ms. Elick, she and her siblings were placed in Ohio's foster care program for about a year. Ms. Elick recalls when she was eight or nine years old, a great aunt adopted her into the family and she

[3] Twelve monthly payments of $369 comes to $4,428. With the annual interest charge of $2,613.75 being applied first, the remaining balance applied to principal would be $1,814.25.

moved to her new home in West Virginia. Ms. Elick was active in extra-curricular activities at school and at her church during her youth. She left high school at the end of the eleventh grade and obtained her GED while serving a custody sentence for forgery related offenses in Virginia.

The majority of the conduct resulting in Ms. Elick's prior state convictions occurred more than 20 years ago during her young adult years. At age eighteen, Ms. Elick wrote a series of fraudulent checks from her grandmother's account as well as from two other bank accounts from individuals that she knew. As her conduct resulted in checks getting cashed on both sides of the West Virginia/Virginia border, she received felony convictions in both jurisdictions. When Ms. Elick was 20 years old, she ran away from a police station after she was arrested for engaging in another pattern of writing forged checks. This conduct resulted in additional escape and forgery convictions in Virginia. Ms. Elick remained in state custody in Virginia from 2001 through mid-December of 2005 when she was released on probation. Since her release from custody, Ms. Elick's only encounter with law enforcement was in 2019 when she wrote a bad check to pay for a veterinary bill.

Ms. Elick is ashamed of her conduct for misusing the loan proceeds and acknowledges that the financial hardship which she experienced during the pandemic does not justify the same. Ms. Elick has two sons, ages seventeen and eight, who reside with her at home. Ms. Elick is solely responsible for their welfare as both of her sons' fathers are deceased. Ms. Elick's oldest son will graduate from Graham High School in Bluefield, Virginia, in May of 2026 and hopes to attend college through a football scholarship to a Division II program. Ms. Elick is proud of both her sons' accomplishments, and a probation sentence will allow her to continue to raise her young son at home.

(3) The suggested probation sentence with a six month term of home detention would serve as a sufficient but not greater than necessary punishment for Ms. Elick. Ms. Elick does not have any history of addiction to drugs or alcohol. This conviction as well as her prior convictions have limited the types of employment opportunities open to her. Ms. Elick fully understands that a probation sentence would provide her with an opportunity to remain in the community and work to make amends toward the significant restitution obligation. Ms. Elick is well aware that if she were to fail to abide by all of the terms and conditions of probation that this Court would likely re-sentence her to a custody sentence. Ms. Elick would request this opportunity to show this Court that she can resume a law abiding life and follow all of the imposed conditions for probation.

Respectfully submitted this 30th day of September, 2025.

APRIL ELICK
By Counsel

WESLEY P. PAGE
FEDERAL PUBLIC DEFENDER

s/David R. Bungard
David R. Bungard, Bar Number: 5739
Assistant Federal Public Defender
Office of the Federal Public Defender
300 Virginia Street, East, Room 3400
Charleston, West Virginia 25301
Telephone: (304) 347-3350
Facsimile: (304) 347-3356
E-mail: david_bungard@fd.org