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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 United States of America,)
5)
6 Plaintiff,) CRIMINAL ACTION FILE
7 v.) NO. 1:22-CR-284
8 Harrescia Hopkins,)
9 Defendant.) Sentencing
10 _____)

11 Before the Honorable Sarah E. Geraghty
12 transcript of proceedings
13 June 8, 2023.

14 APPEARANCES:

15 For the Plaintiff: OFFICE OF THE U.S. ATTORNEY
16 (By: Garrett Bradford)
17 For the Defendant: ALPER LEGAL, P.C.
18 (By: Benjamin B. Alper)

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1 P R O C E E D I N G S

2 (Atlanta, Fulton County, Georgia, June 8, 2023, in open
3 court.)

4 THE COURT: This is case number 1:22cr284, United
5 States versus Hopkins.

6 Counsel, can you please announce your appearances,
7 starting with the government.

8 MR. BRADFORD: Good afternoon, Your Honor. Garrett
9 Bradford on behalf of the United States, and I'm joined here
10 at counsel table by Special Agent Benjamin Gerrol of the
11 Department of Justice, Office of the Inspector General.

12 THE COURT: Good afternoon to you.

13 MR. ALPER: Good afternoon. Benjamin Alper here
14 with Ms. Hopkins. We also have some family members in court,
15 but I'll identify them later.

16 THE COURT: Sure. Good afternoon to you and to you,
17 Ms. Hopkins, and welcome to everyone who has come to court
18 today.

19 I see we also have a representative from the
20 probation office; is that correct?

21 MS. WATSON: Yes, Your Honor, Ashley Watson.

22 THE COURT: Okay. Good afternoon, ma'am.

23 MS. WATSON: Good afternoon.

24 THE COURT: First, I appreciate you all changing the
25 time back a half an hour. Thank you for that accommodation.

1 On August 9th, Ms. Hopkins was named in a criminal
2 indictment charging her with two counts of wire fraud in
3 violation of 18 U.S.C. 1343.

4 On December 20th, 2022, Ms. Hopkins entered a plea
5 of guilty to Counts 1 and 2 of the indictment.

6 Ms. Hopkins, the purpose of today's hearing is for
7 me to impose sentence, considering the U.S. Sentencing
8 Guidelines and a number of other factors.

9 Before I do that, I'm going to listen carefully to
10 everything said today by your lawyer, by the government's
11 lawyer, and by you, if you so choose.

12 I'll also be discussing with your lawyer and the
13 lawyer for the government, a report that the U.S. Probation
14 Office prepared about you in this case. And I'll talk to both
15 lawyers about the sentencing guidelines and how I should
16 consider them for purposes of your sentence.

17 I anticipate that the first part of the hearing
18 today will involve a pretty technical discussion of the
19 sentencing guidelines and how certain guidelines should apply
20 here.

21 After we're done with that discussion, I will move
22 on to other things, including your history and background,
23 your family circumstances, your employment history, the nature
24 of the offense, and other matters.

25 In preparation for today's hearing, I have reviewed

1 the Presentence Report and counsels' objections and
2 clarifications to that report. I've reviewed the sentencing
3 memoranda provided by counsel and the supplemental memoranda
4 provided this week, and the many letters of support that have
5 been provided to me, including those from Sheryl Hoy, Jamelea
6 Yelder, Alison Gray, Nakita McFadden, Matthew Paulk, Asiga
7 walls, Tiffany Egwa, Serenity Synder, Rachel Torrence, and
8 Charvis Buckholts.

9 Turning first to the Presentence Report, since
10 Ms. Hopkins was last before the Court, the U.S. Probation
11 Office has conducted a presentence investigation and prepared
12 a report, a copy of which has been provided to the government
13 and to Ms. Hopkins.

14 I see that a revised version was prepared in
15 March 2023. In that revised version, the probation officer
16 incorporated and/or clarified certain matters, based on
17 objections received by counsel.

18 Mr. Alper, have you and your client had the
19 opportunity to read and discuss the revised report?

20 MR. ALPER: Yes, Your Honor, we have.

21 THE COURT: All right. I understand from reading
22 the report and your supplemental sentencing memoranda, that
23 there's a disagreement on at least one guidelines issue. And
24 that is whether Ms. Hopkins should receive two points off for
25 acceptance of responsibility.

1 Putting that issue aside for just a moment, does
2 Ms. Hopkins have any objection to any of the facts set forth
3 by the probation officer in the PSR?

4 MR. ALPER: Judge, I have noted one objection
5 factually. It relates to paragraphs 47, 48 and 49 of the PSR,
6 which talked about an investigation into alleged conduct at
7 USP Atlanta, an investigation that's gone nowhere. And so I
8 don't think it needs to be included in the PSR under other
9 criminal conduct. It's not criminal, and so I'd ask that it
10 be removed from the report.

11 THE COURT: Um-hmm. Can I hear from the government
12 on that, please?

13 MR. BRADFORD: Your Honor, there is -- I'm not aware
14 of any legal basis for striking information. It is accurate
15 and related to the events in the investigation in this case
16 from the PSR.

17 I believe it is relevant because it shows how the
18 investigation came about and some of the other potential
19 conduct that -- some of the nature and circumstances of
20 Ms. Hopkins' employment at the BOP and some other questions
21 about her conduct there. So I do believe it's relevant and
22 I'm not aware of any basis, legal basis, for striking that
23 from the PSR.

24 THE COURT: All right. I have read it. I have read
25 the paragraphs. I have considered it. I saw that this came

1 up in the sentence memoranda. I'm not going to strike the
2 reference and I'm not going to do it for the following
3 reasons: I see, first of all, that the objection that the
4 defendant has made here, the understandable objection that the
5 defendant has made, it is reflected in the report itself.

6 Also, the allegations -- or the report rather is
7 clear that this conduct is uncharged. A reader of the report,
8 I think, would be aware of the fact that this is not a
9 conviction. This wasn't even charged. I think that much is
10 clear from the way that the matter was phrased in the
11 paragraphs that counsel referenced. And I do think that the
12 referenced information provides context for how the incidents
13 that are the subject of this case were discovered.

14 So I'm going to overrule that objection.

15 Does Ms. Hopkins have any other objection to the
16 revised Presentence Report?

17 MR. ALPER: No, Your Honor. Thank you.

18 THE COURT: And, Mr. Bradford, do you have any
19 objections to the Presentence Report?

20 MR. BRADFORD: Your Honor, we do have one
21 correction.

22 THE COURT: Okay.

23 MR. BRADFORD: As it counts towards the restitution
24 in particular --

25 THE COURT: Um hmm.

1 MR. BRADFORD: -- and the calculation of the loss.
2 As I mentioned in the supplemental sentencing memorandum, the
3 government has recently discovered an additional \$4000 EIDL or
4 Economic Injury Disaster Loan that Ms. Hopkins also obtained
5 through fraud. And so we believe that that \$4000 should be
6 included in the net loss amount and the restitution that was
7 ordered.

8 As far as the specific amount of restitution, the
9 EIDL was originally \$4000. There's additional interest that
10 has accrued on it since it was issued. And so the total
11 restitution would be \$46,004.04. And I have submitted to
12 chambers with a copy to defense counsel, a proposed
13 restitution order that I have included that specific amount.

14 THE COURT: All right. I have some questions about
15 this. I was going to address restitution later but now is a
16 good time to do it.

17 My understanding is that the conduct that -- to
18 which you referred to here occurred in 2020. It's not --
19 correct me if I'm wrong, counsel. It's not alleged in the
20 indictment. It's not in the Presentence Report. It's not
21 alleged or discussed in the government's initial sentencing
22 memo, and there may be very good reasons for all of that. I
23 have no reason to believe otherwise.

24 But we are -- I was first apprized of this about 48
25 hours before the sentencing hearing in this case. The plea in

1 the case occurred in December of 2022. I'm concerned about
2 the timeliness of this disclosure and the lack of notice to
3 defense counsel. So it would be helpful for me to know about
4 when the government received the documents that revealed the
5 additional loan amount.

6 MR. BRADFORD: Yes, Your Honor.

7 And the government did not receive this information.
8 Did not have any clue about it until within the past couple of
9 weeks. That's when we first found out that there may have
10 been this loan. We requested information from the Small
11 Business Administration about it. The Small Business
12 Administration is very backed up right now, and so it takes a
13 long time to get anything from them.

14 The government just received unofficial confirmation
15 of the loan within the past week. And that's when I
16 incorporated that information into the supplemental sentencing
17 memorandum.

18 We just received an official accounting of this loan
19 balance, an official certified document from the SBA, two days
20 ago. I'm sorry, I believe it was yesterday morning. The
21 document itself is dated as certified on June 6th.

22 THE COURT: Okay.

23 MR. BRADFORD: And so this is a new discovery for
24 the government. It came about because we were conducting an
25 additional -- some further financial investigation of

1 Ms. Hopkins in an effort to identify assets and her ability to
2 pay restitution.

3 As I mentioned in the sentencing memo, she has not
4 made any effort to pay restitution or even negotiate a payment
5 plan. So the government was engaging in this financial
6 disclosure investigation. It was during the course of that
7 additional investigation, which happened post plea, that we
8 discovered about this additional loan. And as soon as I
9 learned about it, even the possibility of it, I let defense
10 counsel know.

11 THE COURT: All right. Now may I hear from you, Mr.
12 Alper.

13 MR. ALPER: Certainly, Judge.

14 I share your concern about the timeliness of this
15 entire issue for a lot of reasons, Judge.

16 We took a plea, as Your Honor noted, quite a long
17 time ago. The government didn't reach out to me for financial
18 documents from Ms. Hopkins until about a week before her
19 original sentencing date. I believe it is during that time
20 that we had this issue come up with the other civil case and
21 the statements that were allegedly made, which delayed the
22 proceeding by several months, which we then complied fully and
23 provided all documentation. And they only now apparently
24 discovered this other loan, which is managed by the exact same
25 agency that the PPP program is administered by.

1 And I don't know if you can do this with the EIDL.
2 I know with the PPP you can -- anyone can go into a database
3 and search who got a PPP loan. I believe it may be similar
4 for EIDLs.

5 So I'm going to object to the timeliness of
6 including this. The -- you know, I haven't received any
7 discovery on it. I received the document yesterday that
8 Mr. Bradford discussed, but I haven't seen the loan
9 application. I haven't seen, you know, what was processed or
10 when it was paid out. So I do have concerns with it.

11 You know, again -- you know, it doesn't affect the
12 loss amount. It does not -- or the guideline or loss amount
13 because it's just a little bit more money on top of a range we
14 are already over.

15 She's going to have to pay the loan back any way.
16 She has been making payments on that and Mr. Bradford knows
17 that and has acknowledged that to me several times. She has
18 made \$80 in payments towards that. Their documents reflect
19 that. So I have a problem with him saying that. She has made
20 those payments. So she's gonna have to pay it back anyway,
21 whether she does it through restitution or through the SBA
22 program that they reached out to her about for her to engage
23 in.

24 So I don't have a problem with her being required to
25 pay it back, if they want to do it through restitution as long

1 as they don't try to double collect through SBA.

2 So, your know, I'm happy to address the issue.
3 We're kind of getting into the acceptance of responsibility
4 thing, too, as well but, you know, I guess that's how I feel
5 about it. I don't think it really impacts her sentencing
6 guidelines that much.

7 THE COURT: I just want to make sure I understand
8 your position, Mr. Alper. Are you saying -- do you -- from
9 what I understand -- are you objecting to the inclusion of the
10 additional \$4000 and change to the restitution amount? I
11 think that's kind of the basic question I need to know the
12 answer to.

13 MR. ALPER: My concern -- I guess I don't, as long
14 as the government or the SBA can somehow relinquish their
15 claim towards that money. I just don't want it double
16 counted. She's going to pay it back, so I don't have a
17 problem with that, no.

18 THE COURT: If that is the case, I'm going to --
19 my -- the sentence that I'm going to impose is going to
20 reflect the amount of \$46,000 -- \$46,004.04 as requested by
21 the government.

22 I understand and share your concern about
23 timeliness, but it sounds like at the end of the day, there is
24 an agreement that that is the appropriate amount, so that's
25 what I'll do.

1 So the -- having said that, the PSR will be updated
2 to reflect the amount just stated.

3 All right. Anything else that we need to talk about
4 with respect to the PSR from either side?

5 MR. BRADFORD: Just as a point of clarification,
6 Your Honor.

7 THE COURT: Sure.

8 MR. BRADFORD: Defense also raised an issue about
9 the upcoming guidelines amendments.

10 THE COURT: Um hmm.

11 MR. BRADFORD: AS I put in my sentencing memo, the
12 government is open to addressing that via a variance but that,
13 would, as I think you conveyed, that would be addressed after
14 the calculation of the guidelines.

15 THE COURT: That was my plan.

16 MR. BRADFORD: Thank you, Your Honor.

17 THE COURT: Yeah. Sure. To address that issue
18 under 3553. So we will get to that part.

19 All right. Hearing no further objections to the
20 Presentence Report, I adopt the findings and legal conclusions
21 in the Presentence Report has modified, to which no objections
22 have been made.

23 All right. Now that brings us to the question of
24 acceptance of responsibility. And I'd like to hear argument
25 on that issue before we -- before I make my guidelines

1 finding.

2 The government was initially in agreement with Ms.
3 Hopkins that two points should be subtracted for acceptance of
4 responsibility. That changed during the course of the
5 proceedings for reasons the government set forth in its
6 supplemental sentencing memoranda.

7 So at this point, I would invite you to make any
8 argument that you may wish to make on acceptance of
9 responsibility. I did thoroughly review your memo, but
10 anything that you may wish to say.

11 MR. BRADFORD: Thank you, Your Honor. And just to
12 clarify and expound on a couple of aspects of the argument
13 that I included in my sentencing memo, the government is
14 asking the Court to deny the two levels of acceptance of
15 responsibility in accordance with the terms of the plea
16 agreement.

17 This decision is not undertaken lightly. It is
18 rarely done but it is warranted here. And the government has
19 only made this request after multiple meetings with multiple
20 layers of supervisors. So it is -- the government does
21 understand the weight of it.

22 The primary basis for this -- and the government
23 lists several considerations in the sentencing memo. However,
24 most of those standing alone are not determinative. By far,
25 the primary basis for revocation of acceptance of

1 responsibility in this case is the false allegations and
2 inconsistent statements about Ms. Hopkins' guilt and her
3 acceptance of responsibility.

4 In this case, the false allegations that she made
5 before the Merit Systems Protection Board, before a federal
6 administrative law judge in an effort to preserve her job
7 apparently, she made false allegations about her plea in this
8 case, likely hoping that this court and the government would
9 never find out. That, in fact, backfired.

10 It was discovered and she admitted under oath in
11 this court that her plea was not the product of any coercion
12 or threats. While under oath, despite being given the chance,
13 she did not say that she had made -- she did not say that the
14 allegations -- or she did not deny making those false
15 allegations before the administrative law judge. She did not
16 say that the administrative law judge had misunderstood what
17 she was saying or tried to clarify what she was trying to say
18 in those proceedings. All that she clarified under oath was
19 that she -- that there had been no coercion in the case. No
20 threats of any kind.

21 To the extent that she now claims or implies that
22 there was a misunderstanding, I believe the language of the
23 administrative law judge was very clear. He understood the
24 significance of the allegations and he said specifically to
25 clarify the allegations that she said and then he described

1 them. And so I don't believe that there is any
2 misunderstanding. It appears that those were just false
3 statements.

4 So even after she pled guilty in this case, she was
5 continuing the fraudulent ways. She was appearing to accept
6 responsibility in this court while she was avoiding accepting
7 responsibility for her conduct before the administrative law
8 judge. And, in fact, portraying herself as a victim rather
9 than someone who had done anything wrong.

10 Now this alone is grounds to deny acceptance of
11 responsibility. But her further conduct confirms that she was
12 failing to take other measures to accept responsibility.
13 while not determinative by itself, the failure to make any
14 effort to agree to repay her fraudulent loans shows her true
15 mindset.

16 She has not made any payments on her PPP loans at
17 all. She has not attempted to do so and she has not accepted
18 the government's multiple offers to negotiate or try to
19 determine a future payment plan that she can make. That she
20 can hold on to.

21 The government asked about payment plans for
22 restitution before the first sentencing date in this case. No
23 restitution was made and no plans were made either.

24 Once the sentencing was continued, then the
25 government decided that it would have to take further measures

1 to collect restitution, since those payments would not
2 apparently be made voluntarily. That's when we engaged in the
3 additional financial investigation as contemplated by the plea
4 agreement. The government was hoping not to have to do that,
5 because she had agreed as part of the plea agreement to repay
6 the restitution. When she did not do that, we had to go down
7 that road. So that started the process of the financial
8 investigation.

9 That required the government to expend more
10 resources. We sent her a standard questionnaire that answered
11 all that questions that were incomplete and inconsistent with
12 what was in the PSR.

13 And, Your Honor, just to address one of the points
14 that defense counsel made is that she did, in fact, make \$80
15 worth of payments over the past few months. I believe that's
16 three payments to the SBA.

17 That was -- defense counsel had brought that up, the
18 possibility of some payments multiple times in the past. The
19 government asked for any kind of specific information. The
20 government offered to back that amount out of the restitution
21 that was due and asked for any kind of documentation so that
22 we could confirm that and track it down.

23 That was not provided until June 6th. It was
24 attached to the defense's responsive sentencing memorandum
25 pleading as an exhibit, Exhibit 2 -- I'm sorry -- to Exhibit 1

1 to that brief. The defense attached confirmations of those --
2 some of those payments. That was the first time the
3 government saw those documents.

4 Even though the government had made multiple
5 requests for this, we were trying to track down the loan.
6 Originally, we did not even know about the \$4000 loan, but we
7 were trying to track down the payments so that we could give
8 her credit against restitution.

9 These documents were not provided until June 6th as
10 an exhibit. Of note, one of the documents appears to be from
11 May 18th, another one from May 20th, and then another one from
12 May 30th. So the defendant had these for a couple of weeks,
13 at least before filing, knowing the government was looking for
14 them.

15 Now this is also indicative of the defendant's
16 mindset. Because these documents, once she did provide them,
17 they disclosed the \$4000 loan. These were payments on the
18 \$4000 EIDL loan, not on the PPP loans. And so, the natural
19 question is were these documents about the payments being
20 withheld to avoid disclosure of that \$4000 loan?

21 It wasn't until the government filed this
22 supplemental sentencing memo disclosing to the court about the
23 \$4000 loan that suddenly these documents were provided as an
24 exhibit.

25 So, again, I believe that that is indicative of her

1 not accepting responsibility. She did not have an affirmative
2 duty to disclose the additional criminal conduct, even if it
3 was part of the common scheme or plan. However, it shows that
4 she was taking further measures to conceal other criminal
5 conduct. She was trying to keep control of the fruits of her
6 criminal conduct and conceal them from the government. It
7 would have been easy for her to provide these documents
8 earlier on, so we could take them into account for restitution
9 but doing so would have revealed additional loans.

10 I do believe that is indicative of the lack of
11 remorse, lack of acceptance of responsibility, and a lack of
12 just trying to come clean and make the taxpayers, the SBA, the
13 government, whole for her crimes.

14 And, again, I note that Ms. Hopkins has not agreed
15 to cooperation upon her plea agreement. So there was no
16 affirmative obligation to disclose this, but she knew very
17 well that she had taken out this loan. Also knew it was
18 fraudulent. And while we were discussing restitution and
19 everything, it never once came up and these documents that
20 were in her possession for weeks, prior to disclosure show
21 that. And so I think it -- that on top of the conduct before
22 the MSPB shows a lack of remorse and lack of acceptance of
23 responsibility.

24 That's all, Your Honor.

25 THE COURT: Thank you very much. Mr. Alper.

1 MR. ALPER: Thank you, Judge.

2 Judge, as you know, acceptance -- the government's
3 promise in a plea agreement to recommend acceptance of
4 responsibility is one of the most fundamental promises that
5 they enter into with the defendant in order to get them to
6 plead guilty. It is extremely important. And for them to try
7 and break that promise two days before her sentencing, after
8 writing a lengthy sentencing memo praising her for her
9 acceptance of responsibility previously, it is just absurd.

10 I was shocked when I got the government's sentencing
11 memo, supplemental memo two days ago. The facts are without
12 question, in support of her receiving acceptance of
13 responsibility.

14 When the agents came to interview her, before she
15 was indicted and before she was charged, she admitted to her
16 illegal conduct in this case. She admitted to the PPP loans.
17 She was then indicted. She quickly entered into a guilty
18 plea. Didn't litigate any pretrial motions. She agreed. She
19 pled guilty in open court before Your Honor. She's given
20 hundreds of pages of financial documents at their request in
21 accordance with the plea agreement to give them a full
22 accounting of her assets. She's consistently complied with
23 that.

24 She is paying restitution. The SBA reached out to
25 her and said, hey, you have got this loan out here. Do you

1 want to start a payment plan on it, and she did. The
2 documents that the government is complaining about that I gave
3 them are maintained by the SBA, the agency that is
4 investigating her in this case. So the claim that they
5 couldn't find it or they didn't know it was there or that this
6 payment plan didn't exist is ridiculous.

7 Now it's true, they asked me do you have a plan for
8 payment of restitution, and I told them -- I told Mr. Bradford
9 she is paying restitution. She is doing the payment plan
10 through the government right now. Check with the SBA. And
11 then he said, well, what's your plan for the rest? I said,
12 well, I don't know because she may get incarcerated at
13 sentencing. That's going to change any kind of payment plan
14 you want.

15 But I have never in my career ever had anyone claim
16 that someone who is not early paying restitution should lose
17 acceptance of responsibility. That's not in the plea
18 agreement. That's not in the guidelines. She was not
19 required to disclose this but she did. She gave them
20 everything they asked for. And now just because they
21 discovered it two days ago, now they are claiming that just
22 because they couldn't find it, that it's her fault and she
23 should be punished more and incarcerated, more and that is
24 just ridiculous and it's offensive.

25 They cite a number of arguments in their memo and I

1 think I have rebutted them adequately but just quickly, the
2 restitution, again, the guidelines say that's not a basis for
3 revoking acceptance.

4 This EIDL, she was under no obligation to disclose
5 it, but she did everything -- she was asked any way.

6 They mentioned something about her appeal of her
7 termination to the BOP, which has nothing to do with this
8 criminal case whatsoever.

9 The statements that we've talked about for three
10 court hearings at this point that she made to -- allegedly
11 made to this administrative law judge, I have consistently
12 told the Court and the government that this was a
13 misunderstanding. So for Mr. Bradford to say, well, they
14 never said she misunderstood it, that's exactly what we said.
15 He wasn't there. I wasn't there. There is no transcript of
16 that proceeding. We have a summary of what an admin law judge
17 supposedly heard. And to base that, to revoke her acceptance
18 based on that, is ridiculous and should not happen.

19 We -- she sat in open court, I don't know, a couple
20 of weeks ago, and she said it was not coerced. I entered my
21 plea freely and voluntarily, and they were happy with that and
22 the Court was happy with that. But now because she's
23 supposedly said something months ago without counsel and
24 there's no transcript of it and no one was there to hear it
25 except for an admin law judge no one has apparently spoken

1 to, and that, they want to revoke two points on her
2 acceptance, is ridiculous.

3 The last argument they made, because I raised a
4 similarly-situated 3553 argument in my sentencing memo, they
5 said that she should lose acceptance because of that. That
6 makes no sense.

7 If they were to read my memo, it says very clearly
8 these arguments are not being made to deflect or deny or not
9 accept responsibility for her actions. But they are something
10 this Court can consider, when considering similarly-situated
11 defendants. So I think it is extremely reckless. I think it
12 is inappropriate. I think it's dangerous for the government
13 to try to take her acceptance.

14 You think this is how I'm going to deal with the
15 government from now on when I'm negotiating pleas? Oh, now we
16 have to put in a provision for every plea agreement that you
17 are not going to try to revoke her acceptance for not paying
18 early restitution, which no one thought of, which no one has
19 ever brought up until this case? This is the case that they
20 want to take acceptance from her. It makes no sense.

21 So I am strongly opposed to it, obviously. I'm
22 sorry for getting emotional, but I -- again, this is the
23 bedrock of what we do in this court in plea agreements I
24 negotiate with the government every day. And to bring this up
25 two days before sentencing is not appropriate and I think

1 should not be approved by the Court. Thank you.

2 THE COURT: Okay. Thank you, counsel.

3 All right. I've thought about this long and hard.
4 I have really studied this one, and I respectfully do not
5 agree that the government's request is absurd. I understand
6 why the government made the request it did, but I am going to
7 deny the request. And I'm going to grant the two level -- I'm
8 going to grant Ms. Hopkins two points for acceptance of
9 responsibility and I'm going to explain why I have come to
10 that decision.

11 The relevant inquiry in acceptance of responsibility
12 analysis is whether the defendant quote "clearly demonstrates
13 acceptance of responsibility for her offense." That's
14 guideline 3(e)1.1(a).

15 I looked at the application notes. Application note
16 No. 1 includes a long list of appropriate considerations to
17 assist in determining whether a person qualifies for
18 acceptance of responsibility.

19 Those include but are not limited to some of the
20 things that we have heard discussed today. So those include,
21 for example, truthfully admitting the conduct comprising the
22 offenses of conviction, truthfully admitting or not falsely
23 denying any additional relevant conduct.

24 The note does say that the defendant is not required
25 to volunteer or affirmatively admitted relevant conduct beyond

1 the offense of conviction in order to retain a reduction under
2 Subsection A.

3 I'm also advised to consider, among other things,
4 the timeliness of defendant's conduct in manifesting
5 acceptance of responsibility and factors including voluntary
6 payment of restitution prior to adjudication of guilt.

7 I want to address the statements to the Merits Board
8 first.

9 we are all by now familiar with the summary of the
10 telephonic status conference issued on April 10th of this year
11 by the administrative judge of the U.S. Merits Systems
12 Protection Board.

13 The summary document says that Ms. Hopkins quote
14 "clarified that she was alleging that her plea was coerced by
15 the U.S. Attorneys Office prosecuting her case." It also
16 reported that Ms. Hopkins felt there was a possibility that
17 the district judge would dismiss her case.

18 Again, I understand why the government had made this
19 motion here. Ms. Hopkins may very well have made statements
20 that are identical or merely identical to the statements
21 rendered in the summary document. And if she did, that is
22 highly problematic, I agree with you.

23 But therein lies the problem with me relying on --
24 it's a summary document, relying on the summary document, to
25 the defendant's detriment as to acceptance of responsibility.

1 I don't have a transcript. Perhaps there was no transcript
2 here, I don't know, but I don't have one. I don't have a
3 recording, and as we know as lawyers, words matter. The exact
4 words that Ms. Hopkins spoke matter and I don't have them to
5 rely on here. I am not comfortable relying on a summary
6 document and making an educated guess about exactly what she
7 said.

8 My other considerations are as follows: Application
9 Note 3 states as follows: Entry of a plea of guilty prior to
10 the commencement of trial combined with truthfully admitting
11 the conduct comprised in the offense of conviction and
12 truthfully admitting or not falsely denying any additional
13 relevant conduct for which she is accountable -- I'm
14 paraphrasing here -- will constitute significant evidence of
15 acceptance of responsibility for purposes of Subsection (A).

16 The note goes on to say, however, this evidence may
17 be outweighed by conduct of the defendant that is inconsistent
18 with such acceptance of responsibility. And that's the
19 argument that the government has made here, that her conduct
20 has been inconsistent.

21 A defendant who enters a guilty plea is not entitled
22 to an adjustment under this section as a matter of right, and
23 I have taken that Note into consideration.

24 Here, however, Ms. Hopkins entered a guilty plea
25 prior to the commencement of trial and truthfully admitted the

1 conduct comprising the offense of conviction.

2 She was indicted in August. She pled guilty in
3 December. She did not litigate pretrial motions or take steps
4 that would require the government to prepare for trial. She
5 provided her financial records. Accepting as true for a
6 moment that Ms. Hopkins made these statements that we have
7 discussed, they don't necessarily undermine her acceptance of
8 responsibility for her offense. That is, there is no
9 allegation here that Ms. Hopkins told the Merits Board or
10 anyone else that she didn't take out fraudulent loans or that
11 she otherwise did not actually commit the crime of which she
12 was charged.

13 And further, as Mr. Alper asserted, we had three
14 conferences in this case between the date of the plea and the
15 sentencing. Ms. Hopkins had an opportunity to move to
16 withdraw her guilty plea. She didn't do it. She chose to
17 accept responsibility. She went on the record the last we met
18 to affirm that her plea was, indeed voluntary.

19 I have to agree with Ms. Alper on the question of
20 restitution. We're in a presentencing timeframe here and I --
21 I'm not going to hold her failure to pay before sentencing
22 against her in terms of analyzing -- in terms of analyzing --
23 let me rephrase that. I'm not going to take away the two
24 points because of Ms. Hopkins' failure to pay to date.

25 With respect to the argument that the government

1 just made of the timing of the disclosure of the \$80 worth of
2 payments, the government has an argument there to be made, I
3 need to acknowledge that, but ultimately I fear that I would
4 be engaging in speculation in relying on the timing of that
5 payment and the timing of that disclosure to take away the two
6 points. And so I'm not inclined to do that either.

7 And then as far as appealing her termination from
8 employment, I get that the guidelines advisory note tells me
9 to consider whether there has been the voluntary resignation
10 of position during the commission of the offense and I have
11 considered that, but I just don't have very much information
12 about the scope or substance of the employment issue.

13 I have read the summary documented records to an
14 alleged hostile work environment. I don't know anything about
15 what is going on in this case and I don't have the kind of
16 information that I would need to be comfortable in relying on
17 that for purposes of assessing acceptance of responsibility
18 here.

19 All right. For those reasons, I'm going to decrease
20 by two levels -- the offense level by two levels for
21 acceptance of responsibility.

22 All right. Before we -- that brings me to
23 guidelines calculations.

24 Anything that we need to discuss before I pronounce
25 my guidelines calculations?

1 MR. BRADFORD: No, Your Honor.

2 MR. ALPER: No, Your Honor. Thank you.

3 THE COURT: All right. After making the preceding
4 findings, my calculations are as follows:

5 The base offense level is 7.

6 I have calculated the adjusted offense by adding six
7 levels for the specific offense characteristics under
8 guideline 2(b)1.1 Subsection (b)1(d). The adjusted offense
9 level is 13.

10 The offense level decreased by two levels due to
11 acceptance of responsibility.

12 The total offense level is 11.

13 Criminal history category is 1.

14 The recommended custody guideline range is 8 to 14
15 months.

16 The fine guideline range is \$4000 to \$1 million.

17 And the guidelines recommendation for supervised
18 release is two to five years.

19 Counsel, are there any objections to the guidelines
20 calculations or any questions about how I determined the
21 offense level and criminal history category?

22 MR. ALPER: Not from me, Judge.

23 MR. BRADFORD: Your Honor, I believe you said total
24 offense level of 11 with acceptance -- no. I'm sorry. I got
25 confused.

1 THE COURT: Are we all set, Mr. Bradford?

2 MR. BRADFORD: Yes, Your Honor. Thank you.

3 THE COURT: Because I did say that.

4 MR. BRADFORD: Yes.

5 THE COURT: Okay. All right.

6 Any other motions to make before we move on to
7 consideration of the 3553 factors?

8 MR. BRADFORD: No, Your Honor.

9 MR. ALPER: I don't know if you want to -- you want
10 to do it 3553, the two levels down so I guess we can address
11 that now or then, but I did want to highlight that I believe
12 the government and I agree that, you know, there should be a
13 two-level variance.

14 THE COURT: Okay. We will get there in just a
15 moment.

16 MR. ALPER: Thank you.

17 THE COURT: All right. So I will now invite your
18 respective perspectives on the length of any custodial
19 sentence and also an appropriate term of supervised release.
20 And if you would also, please, address -- I note the probation
21 officer has recommended certain special conditions and those
22 include mental health treatment, cognitive behavioral
23 treatment and substance abuse testing. It would help if you
24 all could address those recommendations at all. Let me know
25 if you have any input you would like me to consider.

1 Mr. Bradford.

2 MR. BRADFORD: Your Honor, just before I forget,
3 it's one item as far as the supervised release that the
4 government would request that the Court impose financial
5 disclosure requirements as part of supervised release, given
6 the nature of this case and the ongoing restitution
7 obligations.

8 THE COURT: Okay. Thank you.

9 MR. BRADFORD: And as far as sentence, the
10 government is recommending a low-end sentence, but believes
11 that strongly it should be a period of incarceration, not a
12 non-custodial sentence of probation or minimal time of
13 incarceration.

14 The government believes that a period of jail --
15 period of prison within the guidelines range would represent
16 the seriousness of the defendant's conduct without being any
17 greater than necessary to do so.

18 The government also requests that as part of
19 restitution, the Court mandate payments of at least \$350 per
20 month, because we don't have a good picture of the defendant's
21 income or assets.

22 For example, she owns two cars. There were not
23 disclosures on the PSR. And information on the financial
24 question, it was incomplete and inconsistent with the PSR. So
25 we do request that there be at least a minimum amount of \$350

1 on the restitution going forward. And that requirement is
2 incorporated into the proposed restitution order that the
3 government provided.

4 As to the sentence itself, in contemplation of the
5 factors in 3553(a), this was a very serious offense. It was
6 an offense of greed, deceit, fraud and exploiting emergency
7 programs that people in dire straits needed.

8 This was an unprecedented time of hardship in our
9 country. There were people that were losing their jobs. They
10 wanted to work. They were unable to do so. People who had
11 fought hard to start up businesses, they were losing their
12 businesses.

13 Ms. Hopkins, however, didn't need any of these
14 programs. She had a good, solid government job. A good
15 salary. There was no risk of that job going away. She got a
16 paycheck the entire time.

17 Still, unlike so many of these people that lost
18 their jobs or were having a difficult time supporting their
19 family, keeping their businesses afloat, she had a stable job,
20 a good salary, but she liked to buy things. And I'm not
21 talking about necessities. I'm talking about consumer goods.
22 And she wasn't satisfied with what she had already. She saw
23 the opportunity to lie, to exploit these emergency programs.

24 And what did she do with the money that she
25 obtained? She paid for a cruise. She paid for travel. She

1 paid for restaurants. She paid for a new approximately
2 \$50,000 car. These were not necessities. That was just a
3 spending spree, based on the fraudulent proceeds of the loan.

4 She was somebody who knew better. Despite -- she
5 did this, despite being an employee of the Department of
6 Justice. She had a degree in criminal justice from her
7 education, and she knew the ramifications of committing fraud
8 of this sort.

9 She worked with federal prisoners every day. These
10 were people who had committed crimes and were being held
11 accountable for it. She worked with them every day at work.
12 She saw what would lie in her future. She knew the
13 consequences and she signed these applications for the PPP
14 loans, reading the disclaimer that false statements on the
15 applications would render her liable to federal penalties for
16 false statements, including jail time.

17 And she did this, not just once. It was not just a
18 momentary lack of judgment. She did this on two PPP loan
19 applications. And we just recently learned that she did it,
20 she likely did it on an EIDL application, too.

21 The requirement for an EIDL application is it must
22 support a business. She admitted that she did not have any
23 business, so that is fraudulent as well.

24 So this was not an aberrant behavior of somebody who
25 just didn't understand the consequences of her actions. She

1 did this repeatedly, not just on one day over a span of
2 months, and then she went out and she spent the proceeds
3 knowingly. Not on necessities, not giving to charity. On a
4 cruise, on travel, on restaurants, on a \$50,000 car.

5 Perhaps more egregious is after she did get called
6 to account for this conduct, she admitted she -- she did admit
7 that in a way, the conduct that the government confronted her
8 with during the first interview, the PPP loans, she did admit
9 that. She said that, well, she was starting up a business,
10 and then she pled quickly.

11 However, her conduct since that plea -- well -- and
12 the government gave her the benefit of all doubt. In the
13 first sentencing memo leading up to the first sentencing date,
14 the government assume that she was going to repay restitution,
15 assumed that she was fully accepting responsibility and not
16 making statements, not denying responsibility in other venues.

17 It wasn't until after the sentencing memo was
18 filed -- the government was giving her the benefit of the
19 doubt, asking for a below-guideline sentence at that time. It
20 was after that, that we learned that that benefit of the doubt
21 had been gravely misplaced, for all -- for everything that I
22 explained with respect to acceptance of responsibility.

23 She continued that post plea, which I believe
24 demonstrates a strong lack of remorse, a lack of accepting,
25 truly accepting responsibility for the harm that she has done

1 and the wrong that she has done. She is portraying herself as
2 a victim, which I believes show a strong resistance to
3 rehabilitation and a very -- the likelihood of recidivism
4 because she -- it appears she was committing -- it appears --
5 again, we don't have a transcript or recording as the Court
6 pointed out, but it appears she was portraying false
7 information about the conduct in another venue. And so I take
8 that as a very concerning sign of her lack of remorse and
9 likelihood of recidivism. She has not learned her lesson.
10 She is continuing down this path.

11 And the same with not disclosing the additional
12 loan. She knew that we were looking to create restitution and
13 that was not disclosed. It wasn't until the government knew
14 and provided proof of it, then, the confirmation payments came
15 out. And now she's trying to claim credit for making an
16 effort of restitution for making \$80 worth of payments which
17 she concealed until this week.

18 To address briefly a couple of the defense's
19 arguments. The first argument that this case is below the
20 prosecution threshold for this offense and that she would not
21 be prosecuted -- other similarly-situated people would not be
22 prosecuted.

23 I take great exception to that. It is not true.
24 She is not under any threshold of any sort, informal or
25 otherwise, for government employees. She is a government

1 employee. She is not the standard civilian who may have
2 committed PPP fraud. She is a government employee, a member
3 of the Department of Justice. A law enforcement officer who
4 committed these crimes. There are no thresholds for that, for
5 somebody in that position of trust, committing fraud on
6 multiple occasions.

7 And I believe it's likely that the Court will see
8 more prosecutions along those lines in the future. So just
9 because it hasn't been large spread yet, hopefully there
10 aren't many government employees that have committed fraud,
11 but, again, there is no argument to be made that
12 similarly-situated defendants would not have been charged,
13 because she has not identified any other government employees
14 committing fraud of this magnitude that have not been charged.

15 THE COURT: This was not a part of the defendant's
16 argument that I felt was particularly compelling anyway.

17 MR. BRADFORD: Thank you, Your Honor.

18 The defense is requesting for non-custodial
19 sentence. As an initial matter, as a technical matter, the
20 Court cannot order a probationary sentence on this crime
21 because it is a Class B offense. However, there is no
22 mandatory minimum period of incarceration, so the Court can
23 order any kind of period if it wants. I want to make that
24 clear. And part of the plea negotiations with the defense
25 were that they could ask for anything below guidelines, and so

1 I do want to make that clear.

2 However, the government strongly believes that a
3 period of incarceration is warranted, and the government was
4 clear about that. Has been clear about that with the defense.
5 That a period of not custodial -- a period of a non-custodial
6 sentence would not adequately reflect the seriousness of this
7 crime, especially in light of the post-plea conduct.

8 It was egregious conduct. The original criminal
9 conduct was egregious, as I've explained, and post plea, she
10 exhibited a continued lack of remorse and demonstrated a risk
11 of recidivism.

12 For all these reasons, I believe that a period of
13 incarceration is strongly warranted. It was egregious
14 conduct. A serious offense by someone who was in a position
15 to know better. Few people would be in a position to know
16 better than to engage in this sort of crime than Ms. Hopkins
17 herself.

18 She understood the consequences and she did it any
19 way. She did it on three separate occasions over a period of
20 time. She spent the money when other people needed it on
21 herself, on cruises and vacations. And so we do believe that
22 a sentence of incarceration at the low end of the guidelines
23 range is warranted and no greater than necessary to address
24 the crime.

25 THE COURT: Thank you, counsel.

1 MR. BRADFORD: Thank you.

2 THE COURT: All right. Mr. Alper, if I might hear
3 from you.

4 After I hear from you, we're going to take a brief
5 recess, five minutes, no more than five minutes.

6 And Mr. Alper, if you could, before I forget this,
7 if you could address any remarks whether you had any objection
8 to the proposed restitution order that the government has
9 provided.

10 MR. ALPER: Sure, Judge. Thank you.

11 Regarding -- you just mentioned, Judge, the
12 restitution order. I'm not -- the government -- the order
13 references \$300 a month. Mr. Bradford just said 350, so I
14 wasn't sure which number he's going with.

15 Usually I believe it's 250, if I'm remembering
16 correctly, but I mean the amount of the restitution order I
17 don't have a problem with. Normally, I think it's included in
18 the judgment commitment, and so I don't know that we need a
19 separate one, but I don't have a problem with that. I would
20 ask for the 250 number, considering her employment is influx
21 and she may be incarcerated, which will obviously jeopardize
22 her ability to make those payments. That's how I feel about
23 the restitution order.

24 It's my understanding, and I just want to put it on
25 the record because I believe the government is recommending

1 four months incarceration for her, that is low end with the
2 two-level reduction.

3 THE COURT: I'm sorry. I didn't hear that from the
4 government.

5 MR. ALPER: He said low end but he didn't give a
6 number. I wanted to clarify that on the record. Am I stating
7 that incorrectly?

8 MR. BRADFORD: I did not say four months, but after
9 the two-level downward variance, the equivalent of a low end
10 at that point would be four months.

11 THE COURT: Let me look here. The guidelines range,
12 as I mentioned, is eight. Starts at eight months; right?

13 MR. BRADFORD: Yes, Your Honor.

14 THE COURT: I'm sorry. I'm having trouble figuring
15 out where the four months is coming from.

16 MR. BRADFORD: Under the guidelines, as the Court
17 announced, it's a level 11, which is 8 to 14 months. After a
18 two-level variance equivalent, that would be equivalent of a
19 level 9, which is zone, a range of four to ten months.

20 THE COURT: All right go ahead.

21 MR. BRADFORD: Thank you, Judge. So -- and I thank
22 the government for clarifying.

23 Regarding the offense in this case, unfortunately I
24 have had to do a lot of PPP fraud cases because it is so
25 prevalent and was so prevalent. And we all know how scared

1 everyone was during that time about the fate of everything,
2 frankly. And so, I agree that it is serious conduct certainly
3 and nothing that Ms. Hopkins has said, nothing that I have
4 ever said is meant to diminish that. And so I hope the Court
5 didn't see that when I was making my argument, apparently not
6 very well, but I felt she was -- not singled out. And I
7 understand Mr. Bradford's position, but if she wasn't a
8 government employee, she would not have been, I don't believe,
9 prosecuted by this office for that offense. I'm not going to
10 belabor that point, but that -- I don't want the Court to take
11 away from that that in any way we are diminishing her conduct
12 in this case.

13 But I do want the Court, as I know Your Honor will,
14 to focus on Ms. Hopkins' life as a whole. She is 34 years
15 old. She has no prior criminal history whatsoever. I don't
16 want to get into details about the -- her upbringing as
17 outlined in the PSR because there are friends and family here
18 that I think she doesn't want me to elaborate too much on
19 that, but suffice it to say, it was troubled. It was very
20 difficult at times.

21 Despite that, she graduated from high school. She
22 graduated from college. She got a masters degree. The
23 letters that were submitted on behalf of her from friends and
24 family describe her as the backbone of her family. As the
25 support system for her family.

1 She is the sole caretaker of her hundred percent
2 disabled sister. And that is admirable and I think should be
3 recognized by the Court. It also leads to a lot of stress,
4 anxiety, financial anxiety. The PSR also outlines her issues
5 with mental health, which are very serious and taken care of.

6 And so I think when you factor all of that in, you
7 see a picture of a woman who has been through a lot, who's
8 going through a lot, despite that, rose above that, took a job
9 with the Fulton County Sheriff, law enforcement, and then BOP.

10 Her goal, as one of the letters states, Judge, was
11 to sit in your chair. She wanted to go to law school and be a
12 federal judge. And, obviously, that's not going to happen now
13 and she knows it and she is deeply remorseful and feels like
14 she has let herself down, her family down, and she is strongly
15 motivated to move on from this as strongly and as responsibly
16 as she can.

17 That's why, in fact, she did engage in making
18 payments to restitution. And I do want to talk about the
19 timing of that disclosure, because I don't want anything to be
20 misunderstood.

21 I had a conversation with Mr. Bradford months ago
22 before the first sentencing hearing, explaining that she was
23 making three payments through SBA. I didn't have the
24 documents yet. I explained to him please go check with SBA
25 since it's your agency. So the fact that we were hiding these

1 or not disclosing these, I have been disclosing it for months.

2 Now, I didn't give the documents until yesterday
3 because I had other things going on and, frankly, I thought
4 that they would be able to confirm this with SBA a lot
5 quicker. But it was in no way ever, ever meant to hide or
6 conceal any type of behavior by her, and certainly not be me.
7 So I want to make that abundantly clear.

8 I do think a non-custodial sentence is appropriate,
9 Judge. If she's at -- even if you -- even including the loss
10 amount from the EIDL, that extra \$4000, Judge, she's at about
11 \$45,000, which is very close to that threshold. So she is
12 being sentenced as if she committed a fraud of \$94,000 or
13 94,999. And so I think that Your Honor can consider that the
14 loss amount or the guideline level in this case, somewhat
15 overstates the severity of the conduct. And so if she were
16 sentenced at a below 40,000 level, she would be at a zero to
17 six-month range. She would be two levels down. So I think
18 Your Honor can consider that.

19 I do think as part of supervised release, there
20 should be the need for mental health counseling. I think
21 that's appropriate, given what's in the PSR. Incarcerating
22 her is certainly not going to help that. This has been a
23 long, very stressful, very drawn-out process for her. We have
24 had a lot of very emotional conversations about this case,
25 including as recently as this morning. And I promise you, she

1 is taking it very seriously. Her family is taking it
2 seriously.

3 She has -- and I'm going to identify them in a
4 moment -- a very strong support system here and outside that
5 will help her get through these issues. Help work, help pay
6 back restitution. And certainly I think there is absolutely
7 no evidence of her likely to commit another crime again, based
8 of her long history, based on her commitment to public
9 service.

10 She made a mistake. She did and, it was a very
11 serious one and she is paying for it right now and she will
12 pay for it for the rest of her life. But I do not see a
13 reason to incarcerate her for four months as any kind of
14 needed thing that's going to help her deter anyone else from
15 engaging in this behavior. So I don't think that's
16 appropriate in this case.

17 Again I did say, Judge, that I wanted to highlight
18 the folks who are in court. She has a former supervisor of
19 hers -- and I believe all these folks wrote letters, so I
20 won't have them speak, Judge, because they have already
21 conveyed their thoughts to you. But there is a Ms. Yelder,
22 who is a foreman supervisor, a Ms. Walls, her aunt, Ms. Long,
23 her sister, Ms. Torrence, her sister, Mr. Shaw -- I'm sorry
24 Ms. Shaw, a kind of mother figure to her. Her mother is here,
25 Ms. Torrence, also a friend, Mr. Breshawn and her brother

1 Mr. Irving. So all these people have made it here today, and
2 others have written letters. And they stand with her and they
3 will help her get through this and I think that's important.

4 We talked, Judge, about whether she wanted to
5 address Your Honor directly. This is a very tough day for
6 her, and I explained to her and she just explained to me that
7 she didn't think she could get through that. So she wanted me
8 to convey to you on her behalf her apology to the Court, her
9 remorse and her apology to have the government for having to
10 go through this process.

11 So for those reasons, Judge, I do think a
12 non-custodial sentence is appropriate. And Mr. Bradford is a
13 hundred percent correct. We did discuss probation. We
14 realized because of the nature of the COVID Emergency Act
15 fraud that's not available but we do -- I think that a
16 time-served sentence with a period of supervised release is
17 appropriate. And so that's what I would ask Your Honor to
18 impose.

19 Was there anything you wanted me to address that I
20 did not?

21 THE COURT: Thank you, counsel. I don't think so.
22 I think we've covered everything.

23 We are going to take -- let me say this first.
24 Ms. Hopkins, I understand -- I heard what your counsel said
25 about not wanting to say anything. That's completely fine. I

1 just need to advise you of your right to speak at the
2 sentencing hearing, if you want to. You do not need to say
3 anything, if you prefer not to.

4 And what we're going to do right now is we're going
5 to take just a five-minute break. I'd ask for people to stay
6 in the courtroom or very close by. And so you can further
7 consider that if you would like, Ms. Hopkins, while we take a
8 break.

9 I need to consider some of what I have just heard
10 and I also -- the government raised earlier the -- its request
11 for financial disclosure, as part of supervised release, and I
12 need to put my fingers on the exact word. It's not in the
13 recommendation I have here, so I need to find that before I
14 impose sentence. So we're going to be in recess for five
15 minutes.

16 MR. BRADFORD: Your Honor.

17 THE COURT: Yes.

18 MR. BRADFORD: Just one other quick clarification
19 before we break.

20 THE COURT: Yeah.

21 MR. BRADFORD: I want to -- as far as the variance.

22 THE COURT: Yes.

23 MR. BRADFORD: The government's request for the
24 variance is contingent upon the defendant waiving her right to
25 seek a reduction in the future. And so I just wanted to make

1 sure that that aspect is on the record. I don't believe it
2 is. So without that, then the government would not object to
3 the two-level variance.

4 THE COURT: Understood. What's your position on
5 that, counsel?

6 MR. ALPER: That's fine, Judge. I mean I don't
7 think Your Honor would impose it twice any way. We will
8 absolutely waive that.

9 THE COURT: I'm going to address the issue at the
10 end of sentencing. I have made a note to do that.

11 MR. BRADFORD: Thank you.

12 THE COURT: All right. We're in recess for five
13 minutes. Take a break.

14 (Whereupon, a break was taken at 3:10 p.m.)

15 THE COURT: All right. Counsel, before we get
16 started, I need to ask a clarifying question, and it has to do
17 with the two levels for the anticipated amendment that will be
18 made to the guidelines later this year for people with a
19 criminal history category of zero.

20 So that guideline does not yet -- it's anticipated
21 but it's not yet on the books. And I want to make sure that
22 I'm understanding what the parties are asking me to do with
23 respect to that particular issue. Because it's not -- you all
24 are not moving for a downward departure. It's not part of the
25 guidelines yet; right? My understanding is that you are

1 seeking a variance.

2 And so, if that is so, why would the custody
3 guideline range not be 8 to 14 months and then the variance
4 would proceed from there? That's the question I want to make
5 sure I know the answer to.

6 MR. BRADFORD: That is correct, Your Honor.

7 THE COURT: Okay. That's different than what you
8 said before.

9 MR. BRADFORD: I was -- as far as the four months,
10 so my thinking is that the guidelines is 8 to 14.

11 THE COURT: Okay.

12 MR. BRADFORD: We added the equivalent of a
13 two-level downward variance, that would be as if the offense
14 level were 9, which would be a guidelines range of 4 to 10.

15 THE COURT: Okay.

16 MR. BRADFORD: And -- because in the plea agreement,
17 there is a provision recommending the low end of the guideline
18 so I was standing by that.

19 THE COURT: Okay.

20 MR. BRADFORD: Based on that, that's why I'm
21 recommending the low end of, I guess, the hypothetical or
22 imaginary new guidelines range.

23 THE COURT: Okay. So we are all in agreement that
24 the actual guideline range here that I am working with is 8 to
25 14 months; is that correct?

1 MR. ALPER: That's correct absent --

2 The Court: Yes.

3 MR. BRADFORD: Yes.

4 THE COURT: I wanted to make sure that I was clear.

5 MR. BRADFORD: Thank you.

6 THE COURT: And Ms. Hopkins, no pressure at all, but
7 anything that you want to say?

8 THE DEFENDANT: No, ma'am.

9 THE COURT: Okay.

10 MR. ALPER: Judge, a couple of more people did come
11 into the court. I ask to acknowledge them.

12 THE COURT: Yes.

13 MR. BRADFORD: Her co-pastor Ms. Cooper, and a
14 friend. I will give you those names.

15 THE COURT: All right. I'm now going to pronounce
16 the sentence. I'm going to say what the sentence is first and
17 then I'm going to explain my reasons and go over the
18 conditions of supervised release.

19 It's the judgment of the Court that Ms. Hopkins is
20 committed to the custody of the Bureau of Prisons to be
21 imprisoned to a term of five months as to Counts 1 and 2.

22 It's further ordered that Ms. Hopkins shall pay to
23 the U.S. the special assessment of \$200, which shall be due
24 immediately. The assessment should be paid to the Clerk of
25 the U.S. District Court for the Northern District of Georgia.

1 I find that Ms. Hopkins does not have the ability to
2 pay the fine and cost of incarceration. I waive the fine and
3 cost of incarceration in this case.

4 As part of the sentence, Ms. Hopkins is ordered to
5 make restitution in the amount of \$46,004.04 payable to the
6 Clerk U.S. District Court, Northern District of Georgia.
7 Funds will be distributed from the Clerk to victims noted in
8 the judgment. Those include MBE Capital Partners LLC, and
9 United States Small Business Administration.

10 There will be a further order of restitution that
11 will go on the docket after the hearing.

12 Restitution shall be paid in full immediately
13 consistent with constitutional limitations regarding ability
14 to pay.

15 Counsel for the government, for purposes of
16 facilitating restitution payments at the request of the
17 probation officer, I'm directing the government at its
18 earliest convenience to provide the addresses and account
19 numbers to the courtroom deputy for inclusion in the judgment.

20 In imposing the sentence, I have carefully
21 considered all of the sentencing factors in 18 U.S.C. 3553(a),
22 including but not limited to the nature and circumstances of
23 the offense and Ms. Hopkins' history and characteristics, the
24 need for the sentencing to reflect the seriousness of the
25 offense, promote respect for the law, provide punishment and

1 provide restitution.

2 I'm going to further explain my reasoning as it
3 relates to the specific facts of this case.

4 The first thing that I considered in arriving at the
5 sentence I did is the nature of the offense. To state the
6 obvious, and to -- after what we have heard today from the
7 government, the offense is serious.

8 As we've heard today, Ms. Hopkins knowingly made
9 false statements on a PPP borrower application seeking money
10 for a company that didn't exist. The loan application was
11 approved and she received a \$19,100 payment in August of 2020.

12 She then, made similar false statements on another
13 borrower application and she received another payment of
14 \$19,100 in February 2021.

15 The offense of conviction here is called wire fraud,
16 but in plain terms, what happened is that Ms. Hopkins took
17 public money for personal profit at a time of national crisis,
18 and she did so while in a position of public trust. And it
19 was my considered judgment that a non-custodial sentence would
20 not adequately reflect the seriousness of this conduct.

21 Under 3553(a), I also considered Ms. Hopkins'
22 history and characteristics. I note that Ms. Hopkins had no
23 prior criminal history whatsoever. She has a criminal history
24 score of zero. She has a very impressive employment history,
25 ranging from when she was a very young person up until today.

1 She is clearly an extremely industrious person.

2 The Presentence Report shows that she's always held
3 down a job, from working at a nursing home, to an IHOP
4 restaurant, to Walmart, and she kept up these jobs for long
5 stretches of time.

6 She worked her way up to getting a job at the
7 Sheriff's Office in Fulton County where she worked for about
8 three years before moving on to the Bureau of Prisons. And
9 when she was suspended on that latter position on account of
10 the case we're here about today, she found work as a security
11 guard. So I consider the fact that Ms. Hopkins has been a
12 hard-working individual for what looks like her entire adult
13 life.

14 I also acknowledge that Ms. Hopkins worked hard to
15 achieve all of this, despite facing some very difficult life
16 circumstances, which are reflected in the Presentence Report
17 and which I have reviewed. I'm not going to get into all of
18 that, but they include losing a loved one who was the victim
19 of a crime and other issues.

20 It's further clear to me from the materials that
21 have been presented that Ms. Hopkins has a lot of supporters
22 in her corner. And we can see that as well by those who are
23 in attendance in court today supporting Ms. Hopkins.

24 She's earned the love and respect of many colleagues
25 and friends over the years. And I'm going to talk about a few

1 of the letters that I reviewed that were provided to me for
2 consideration in sentencing today.

3 Sheryl Hoy, formerly a Lieutenant in the Fulton
4 County Sheriffs Office, remarked in the letter she sent to me
5 about how Ms. Hopkins was a very hard working, industrious
6 person who sat and achieved personal goals.

7 A Ms. Yelder also provided a letter. Ms. Yelder
8 was a General Manager at an IHOP restaurant where she worked
9 with Ms. Hopkins for five years and she talked about how
10 Ms. Hopkins showed respect for her co-workers and customers,
11 responding to people with patience and tact. And she noted,
12 too, that during their working relationship, Ms. Hopkins was a
13 full-time student and had a second job.

14 A friend of Ms. Hopkins named Ms. Bray remembered
15 that Ms. Hopkins took on a lot of family responsibilities at
16 an early age, looking after her younger sister and making
17 personal sacrifices for her siblings.

18 And Matthew Paulk, another co-worker from Fulton
19 County, referred to Ms. Hopkins as helpful and caring both at
20 work and outside work and noted that she helped him and others
21 financially in time of need.

22 And there were many more letters, and they continued
23 on in that vein, so I took all that into consideration.

24 In deciding to vary downward, I also relied on the
25 amendments to the sentence guidelines released in April 2023

1 that contemplate a two-level reduction for certain persons
2 like Ms. Hopkins with no criminal history points. Those
3 amendments are admittedly not in effect yet, but the
4 government has objected, subject to Ms. Hopkins waiving the
5 right to seek further sentence reduction.

6 The government has indicated that it does not object
7 to the downward variance, so that she gets the benefit of the
8 anticipated amendment, and I do make it clear for the record
9 that my downward variance is based in part, on the anticipated
10 amendment, and the sentence takes that into consideration.

11 In conclusion, the sentence imposed will address the
12 sentencing objectives of punishment terms and incapacitation.
13 It is a sentence sufficient but not greater than necessary to
14 comply with the statutory purposes of sentencing.

15 All right. I'm now going to go over the conditions
16 of supervised release, including the mandatory standards and
17 special conditions imposed in this case. And, Ms. Hopkins,
18 you'll receive paperwork that you can study and know what the
19 requirements are.

20 Following your release from incarceration, you will
21 be required to comply with the mandatory conditions of
22 release. Those include the following:

23 You must not commit another federal state or local
24 crime.

25 You must not unlawfully possess a controlled

1 substance.

2 You must refrain from any unlawful use of a
3 controlled substance.

4 You must cooperate in the collection of DNA as
5 directed by the probation officer.

6 The duration of your supervised release will be two
7 years.

8 As part of your supervised release, you must also
9 comply with the standard conditions of supervision.

10 These conditions are imposed because they establish
11 basic expectations for your behavior while on supervision.
12 The standard conditions of supervision will be included in
13 your judgment.

14 The special conditions that you'll be required to
15 abide by include the following:

16 You must participate in a mental health treatment
17 program and follow the rules and regulations of that program.
18 Such program may require that you submit to an evaluation and
19 or testing.

20 The probation officer, in consultation with the
21 treatment provider, will supervise your participation in the
22 program.

23 You must make full and complete disclosure of your
24 finances. So they will do an audit of your financial
25 documents, at the request of your probation officer.

1 You must provide the probation officer with full and
2 complete access to any requested financial information and
3 authorize the release of any financial information.

4 The probation office may share the financial
5 information with the U.S. Attorneys Office.

6 You must not incur new credit charges or open
7 additional lines of credit, without the approval of the
8 probation officer.

9 I'm not going not to require Ms. Hopkins to submit
10 to substance abuse testing. I saw zero indication in the PSR
11 that that was an issue for Ms. Hopkins, so I'm not going to
12 make that a condition of her probation.

13 You must submit your person, property, house,
14 residence, vehicle, papers, computers, other electronic
15 communications or data storage devices or media or office to a
16 search conducted by the U.S. probation officer. Failure to
17 submit to a search may be grounds for revocation of release.

18 You must permit confiscation and/or disposal of any
19 material considered to be contraband or any other item which
20 may be deemed to have evidentiary value of violations of
21 supervision.

22 Ms. Hopkins, a few words for you. After that, I
23 will advise you of your appeal rights.

24 We have seen each other in court on a number of
25 occasions in these last six months. And the sense I get is

1 that this experience of being in court has been very difficult
2 for you. I know that the context in which we're meeting today
3 represents only a small sliver of your fuller life story. And
4 as I have referenced earlier, a lot of that story has been one
5 of a life of hard work and ambition for the future and strong
6 relationships with your family and friends.

7 You have made a very serious mistake, and you have
8 acknowledged that by pleading guilty. Soon enough, this
9 chapter of your life is going to be behind you, and you'll
10 have finished with the custodial part of your sentence, and
11 you'll be able to return home.

12 You're a young person with a lot of life on the
13 other side of this. And my hope for you is that nothing like
14 this will ever happen again, and that you'll be able to look
15 back on this episode as a stumbling block on your way to a
16 life of greater meaning and purpose and success.

17 I do also want to say, though, that after you get --
18 one of the reasons that I have imposed the sentence that I did
19 is that I think that -- I want to make sure that you have the
20 opportunity to find employment when you are released, in part,
21 so that you can make the restitution that you owe. And that's
22 part of the reason why I have given a sentence -- the sentence
23 that I have. And I want to let you know that you will be
24 expected to make those restitution payments.

25 I hope that you and your family will be able to

1 support each other through the next period and I do wish you
2 well going forward.

3 Mr. Bradford, is there any objection to voluntary
4 surrender?

5 MR. BRADFORD: No.

6 THE COURT: Ms. Hopkins has remained on bond in this
7 case and has been fully compliant with release conditions.

8 The probation officer has recommended that she is a
9 suitable candidate for voluntary surrender and I agree.

10 Accordingly, Ms. Hopkins will surrender for service
11 of her sentence at the institution designated by the Bureau of
12 Prisons as notified by the U.S. Marshal.

13 She will remain on bond with the same conditions of
14 supervision as previously set.

15 All right. I'm going to advise Ms. Hopkins of her
16 appeal rights.

17 Before I do that, does anyone have any further
18 objections to the findings of the Court, the guidelines
19 calculations, or to the sentence or the manner in which it has
20 been announced?

21 MR. BRADFORD: Your Honor, I'd just ask you to make
22 one slight modification to the restitution order.

23 THE COURT: Okay.

24 MR. BRADFORD: It appears that all the restitution
25 should be directed to SBA, and I stated that in the -- I

1 drafted the restitution order to say that. I did not say
2 it -- I forgot to say that here today.

3 THE COURT: And so, Mr. Bradford, I want to -- just
4 to clarify, the probation officer had asked that it be
5 directed to -- in part to MBE Capital Partners and in part to
6 SBA, and that's no longer what the government is seeking here?

7 MR. BRADFORD: Correct, Your Honor. The entire
8 amount should go to the SBA.

9 THE COURT: Okay. All right. The order will so
10 reflect.

11 MR. BRADFORD: Thank you, Your Honor.

12 THE COURT: All right. And Mr. Alper.

13 MR. ALPER: We have no objections, Judge. But if
14 you could recommend a designation that's close to Atlanta for
15 BOP for her, I'd appreciated it.

16 THE COURT: I do recommend that Ms. Hopkins be
17 incarcerated at a facility in or as close to Atlanta as
18 possible.

19 MR. ALPER: Thank you.

20 THE COURT: Understanding that I have no authority
21 to designate you to any particular place. That is within the
22 authority of the Bureau of Prisons, but I do make that
23 recommendation.

24 All right. There was a plea agreement in this case,
25 if I'm not mistaken, was there not? Okay. All right.

1 Ms. Hopkins, you can appeal your conviction, if you
2 believe that your guilty plea was somehow unlawful or
3 involuntary or if there was some other fundamental defect in
4 the proceedings that was not waived by your guilty plea.

5 You also have the statutory right to appeal your
6 sentence under certain circumstances. Particularly, if you
7 think the sentence is contrary to law.

8 However, a defendant may waive those rights as part
9 of a plea agreement, and you have entered into a plea
10 agreement, which with very limited exceptions, waives most of
11 your right to appeal the sentence itself.

12 Such waivers are generally enforceable, but if you
13 believe the waiver is unenforceable, you can present that
14 theory to the appellant court.

15 With few exceptions, any notice of appeal must be
16 filed within 14 days of judgment being entered in your case.

17 If you're unable to pay the cost of your appeal, you
18 may apply for leave to appeal without payment of fees.

19 If you so request, the Clerk of Court will prepare
20 and file a notice of appeal on your behalf.

21 If you have any further questions about your right
22 to appeal, I'm sure that Mr. Alper will be happy to advise you
23 further on this matter.

24 I don't think that Ms. Hopkins spent very much time
25 in custody at the time of arrest but I am nevertheless

1 ordering the Bureau of Prisons to award all custody credit to
2 which Ms. Hopkins is entitled under statute.

3 All right. Counsel, is there anything else we need
4 to address before we adjourn?

5 MR. BRADFORD: Nothing further, Your Honor. Thank
6 you.

7 MR. ALPER: No, Your Honor. Thank you.

8 THE COURT: Okay. All right. Ms. Hopkins, I wish
9 you best of luck. This court is in recess.

10 (The proceedings concluded at 3:40 p.m.)

11 REPORTERS CERTIFICATE

12 I, Melissa C. Brock, Official Court Reporter for the
13 United States District Court for the Northern District of
14 Georgia, do hereby certify that I reported on the Stenograph
15 machine the proceedings held in open court, that said
16 proceedings in connection with the hearing were reduced to
17 typewritten form by me; and that the foregoing transcript is a
18 true and accurate record of the proceedings.

19 This the 6th day of November, 2023.

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Melissa C. Brock, RMR, RPR
/s/ Melissa C. Brock, RMR, RPR,
Official Court Reporter