UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA **v.** **CHYNNA SAVATH,** **Defendant**	**CRIMINAL No. 21-cr-10269-RGS**

GOVERNMENT'S SENTENCING MEMORANDUM

The United States of America, by Rachael S. Rollins, United States Attorney, and Alyssa B. Tochka, Special Assistant United States Attorney for the District of Massachusetts, submits its sentencing memorandum. Consistent with the Probation Office's calculation of the Defendant's advisory guideline range in Zone B of the Sentencing Table, the government recommends that the Court sentence the Defendant to a term of 36 months of probation, a restitution amount of $34,391, a $200 special assessment and forfeiture in the amount of $34,391 in United States currency. As conditions of probation, the government recommends those set forth on pages 13 and 14 of the Presentence Investigation Report, in addition to two special conditions: that the Defendant be prohibited from applying for a message therapist license and that the Defendant seek or maintain employment. The government respectfully requests that the Court accept the plea agreement.

I. FACTUAL BACKGROUND

Since in or around 2017, Chynna SAVATH owned the Thai Body Work and Deep Tissue LLC (Thai Body Works Spa), a massage parlor in Franklin, Massachusetts. SAVATH employed up to four employees and, at times, SAVATH herself also worked at the Thai Body Works Spa. . *See* PSR at ¶ 7.

With SAVATH's knowledge and consent, employees of the Thai Body Work Spa—including SAVATH—provided sexual services for a fee to many customers. Employees discussed the sexual services they provided openly with SAVATH, and in some instances SAVATH encouraged employees to provide sexual services. A search warrant at the Franklin Spa revealed used condom wrappers and during interviews, customers admitted to receiving sexual services. The sexual services included penetrative sex. Customers paid $80 for a one-hour massage session, and SAVATH received $45 for each one-hour session. SAVATH's employees kept the remaining $35 and any tips. *See* PSR at ¶ 8.

Despite running a business that provided illegal services, SAVATH applied for COVID-relief funds for her business. *See* PSR at ¶ 9.

On July 1, 2020, SAVATH submitted false and fraudulent Economic Injury Disaster Loan (EIDL) and Paycheck Protection Program (PPP) loan applications. In the EIDL application, SAVATH certified, "Applicant is not engaged in any illegal activity (as defined by Federal guidelines)." In the PPP application SAVATH certified, "The Applicant is not engaged in any activity that is illegal under federal, state, or local law." These statements were false because SAVATH was violating several state laws, including deriving support from prostitution and procuring prostitution. SAVATH submitted the applications with these false statements willfully, knowingly and voluntarily. *See* PSR at ¶ 10.

SAVATH received $4,746 under the PPP and $24,900 under the EIDL program on July 2 and July 27, 2020, respectively. SAVATH did not use the proceeds to pay her employees who were out of work from March – July 2020. In the months after receiving the SBA loans, SAVATH spent money on personal expenses and at casinos including Foxwoods. *See* PSR at ¶ 11.

On February 2, 2021, Homeland Security Investigations Special Agents and Task Force Officers, along with the Franklin Police Department and the United States Postal Inspection Service executed a federal search warrant at Thai Body Works Spa. That same day, SAVATH was interviewed by Special Agents. On February 13, 2021, SAVATH received a second disbursement under the PPP in the amount of $4,745.00. *See* PSR at ¶ 11a.

II. ADVISORY SENTENCING GUIDELINES

Neither the government nor the Defendant had any objections to the Presentence Investigation Report, which calculated SAVATH's advisory guideline sentencing range of 4-10 months of imprisonment, as set forth below. *See* PSR at ¶¶ 18-25.

Base Offense Level:	7 (U.S.S.G. § 2B.1.(a)(e))
Specific Offense Characteristics:	+ 4 (U.S.S.G. § 2B1.1(b)(1)(C))
Acceptance of Responsibility:	-2 (U.S.S.G. § 3E1.1(a))
Total Offense:	9

Total Offense Level 9 + Criminal History Level I: 4-10 months

III. CONDITIONS OF SUPERVISION

The government recommends that the Court order certain mandatory, standard and special conditions on the Defendant while under the Probation Office's supervision.

As for mandatory conditions of supervision, the government recommends the eight conditions described on pages 13 and 14 of the Presentence Investigation Report, which are set forth below:

1. The Defendant must not commit another federal, state or local crime.
2. The Defendant must not unlawfully possess a controlled substance.

3. Drug testing conditions are suspended based on the Court's determination that the defendant poses a low risk of future substance abuse.

4. The Defendant must cooperate in the collection of DNA as directed by the probation officer.

5. The Defendant must make restitution in accordance with 18 U.S.C. §§ 2248, 2259, 2264, 2327, 3663, 3663A and 3664.

6. The Defendant must pay the assessment imposed in accordance with 18 U.S.C. § 3013.

7. If a fine is imposed, the defendant must pay the fine in accordance with the Schedule of Payments sheet of judgment.

8. The Defendant must notify the court of any material changes in the defendant's economic circumstances that might affect the defendant's ability to pay restitution, fines or special assessments.

As for standard conditions, the government recommends the standard conditions that have been adopted by the Court which are described at USSG §5D1.3(c) (supervised release) and USSG §5B1.3(c) (probation).

The government recommends five special conditions. The Court may impose additional conditions of supervision to the extent that such conditions are reasonably related to the nature and circumstances of the offense and the history and characteristics of the defendant and involve only such deprivation of liberty or property as are reasonably necessary for the purposes indicated in 18 U.S.C. § 3553(a)(2) (See 18 U.S.C. §§ 3563(b) and 3583(d)). The five special conditions are detailed as follows:

1. The Defendant must pay the balance of the fine or restitution imposed according to a court-ordered repayment schedule.

2. The Defendant is prohibited from incurring new credit charges or opening additional lines of credit without the approval of the Probation Office while any financial obligations remain outstanding.

3. The Defendant must provide the Probation Office access to any requested financial information, which may be shared with the Financial Litigation Unit of the U.S. Attorney's Office.

4. The Defendant is prohibited from applying for a message therapist license.
5. The Defendant must seek or maintain employment.

The proposed special conditions of probation serve the statutory sentencing purposes of deterrence, public protection, rehabilitation, reflecting the seriousness of the offense, promoting respect for the law, and providing just punishment for the offense. 18 U.S.C. § 3553(a)(2)(A)-(D). Furthermore, these conditions enable the probation officer to satisfy statutory requirements to keep informed as to the conduct and condition of the Defendant; to report the Defendant's conduct and condition to the sentencing court; and to aid the Defendant and bring about improvements in her conduct and condition. 18 US.C. §§ 3603(2)-(3).

IV. SENTENCING FACTORS

In determining a defendant's sentence, the court must consider the Sentencing Guidelines and determine the advisory sentencing guideline range which, once calculated, establishes the court's "starting point" or "initial benchmark." *See Gall v. United States*, 522 S. Ct. 38, 49 (2007). Next, the court should consider the various factors set forth in 18 U.S.C. § 3553(a). Only after consideration of those factors should the court reach its ultimate determination. *See United States v. Martin*, 520 F.3d 87, 91 (1st Cir. 2008). In weighing the § 3553(a) factors, the First Circuit has emphasized that an individualized determination is, at all times, the touchstone: while a deviation from the guidelines may be warranted in certain instances; in other instances, it will not be.

Based upon a total offense level of 9 and a criminal history category of I, the guideline imprisonment range is 4 to 10 months. The guideline range is in Zone B of the Sentencing Table and as such, the minimum term may be satisfied by (1) a sentence of imprisonment; (2) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in USSG

.§5C1.1(e), provided that at least one month is satisfied by imprisonment; or (3) a sentence of probation that includes a condition or combination of conditions that substitute intermittent confinement, community confinement, or home detention for imprisonment according to the schedule in USSG § 5c1.1(e).

The government believes that the Rule 11(c)(1)(C) plea agreement's 36-month probationary period is sufficient, but not greater than necessary under the § 3553(a) factors, providing adequate deterrence to criminal conduct, the defendant's history and circumstances, and the seriousness of the offense.

First, a low-end guideline sentence of 36 months probation is sufficient, but not greater than necessary, to comply with the purposes of sentencing under 18 U.S.C. § 3553(a).

The recommended sentence affords adequate deterrence to criminal conduct. 18 U.S.C. § 3553(a)(2)(B). As of March 10, 2022, the Department of Justice efforts against COVID-19 fraud

> have resulted in criminal charges against over 1,000 defendants with alleged losses exceeding $1.1 billion; the seizure of over $1 billion in Economic Injury Disaster Loan proceeds; and over 240 civil investigations into more than 1,800 individuals and entities for alleged misconduct in connection with pandemic relief loans totaling more than $6 billion.

Justice Department Announces Director for COVID-19 Fraud Enforcement, https://www.justice.gov/opa/pr/justice-department-announces-director-covid-19-fraud-enforcement, last accessed May 13, 2022. Here, although the loss amount is relatively modest ($34,391) compared to that caused by other individuals, see, for example, Department of Justice press release on April 6, 2022 *Woman Pleads Guilty for $43.9 Million COVID-19 Relief Fraud Scheme*, https://www.justice.gov/opa/pr/woman-pleads-guilty-438-million-covid-19-relief-fraud-scheme, last accessed May 13, 2022, the fact that the fraud is being prosecuted provides general deterrence to other criminals, especially those responsible for smaller fraud amounts. In terms of specific deterrence, the investigation has shut down the Defendant's illicit business. *See also* PSR at ¶ 51.

The Defendant's history and circumstances also support a low-end guideline sentence. 18 U.S.C. § 3553(a)(1). The Defendant is part of a vulnerable population as a transgender individual and a longtime sex worker. *See* PSR at ¶ 35. In 2009, in Watertown, Massachusetts, the Defendant was charged with providing a sexual service for a fee to an undercover police officer. *See* PSR at ¶ 28. Historically, individuals from these backgrounds have regularly suffered abuse, violence, and discrimination.

Finally, the government believes the proposed sentence reflects the seriousness of the offense and provides just punishment for the offense. 18 U.S.C. § 3553(a)(2)(A). A 36-month probationary sentence with an order of restitution for the total loss of $34,391 is a significant one.

V. CONCLUSION

For all of these reasons, the Government submits that the recommended sentence of 36 months of probation, a restitution amount of $34,391, a $200 special assessment and forfeiture in the amount of $34,391 in United States currency is both necessary and appropriate.

Respectfully submitted,

RACHAEL S. ROLLINS
United States Attorney

By: */s/ Alyssa B. Tochka*
Alyssa B. Tochka
Special Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Alyssa B. Tochka
Alyssa B. Tochka
Special Assistant United States Attorney

Date: June 3, 2022