IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No. 23-cr-442-RMR

UNITED STATES OF AMERICA,

Plaintiff,

v.

NOSA STEPHEN EDOKPAIGBE,

Defendant.

GOVERNMENT'S MOTION FOR A DOWNWARD VARIANCE

During an unprecedented global pandemic, the defendant utilized stolen identities to submit hundreds of fraudulent loan applications in an attempt to obtain funds that were intended to serve as a lifeline for struggling businesses. He went to extreme lengths to avoid detection, including the use of a hotspot registered to a false name to mask his online presence, a mannequin head to "pose" as loan applicants for identity verification, and bank accounts opened using the personal identifying information of identity theft victims.

Following the defendant's guilty plea to one count of wire fraud in violation of 18 U.S.C. § 1343, the United States Probation Office submitted to the Court a presentence investigation report calculating the defendant's offense level at 28 and criminal history category at I, which results in a guidelines range of 78–97 months' imprisonment. (ECF

No. 62 ("PSR") ¶¶ 63, 66–67, 94; *see also* ECF No. 62-1 at 2.) The government agrees that this is an accurate calculation of the guidelines range.

As set forth in the Plea Agreement, the government agreed not to oppose a one-level downward variance based on the difference between the defendant's intended and actual loss[1], which would bring the defendant's guidelines range to 70–87 months. (ECF No. 59 at 2.)

The defendant agreed to the entry of a stipulated judicial removal order, which will result in his uncontested deportation to Nigeria upon the completion of his criminal sentence in this case. (*See id.*) In consideration for the defendant's agreement to facilitate his deportation, the government agreed to move for a downward variance of 10 months, resulting in the government's ultimate sentencing recommendation of 60 months' imprisonment. (*See id.* at 2–3.)

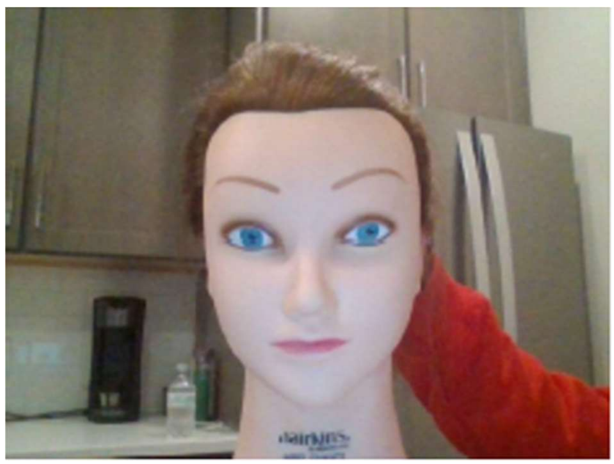
For the reasons set forth below, the government respectfully submits that a sentence of 60 months' imprisonment appropriately balances the 18 U.S.C. § 3553(a) factors, particularly the nature and circumstances of the offense, the history and characteristics of the defendant, and the need to promote respect for the rule of law and provide specific and general deterrence. The government further requests that the Court enter a restitution order in the amount of $1,408,897.16.[2]

[1] The U.S. Sentencing Guidelines contemplate that it may be appropriate to reduce a defendant's offense level where that defendant is "accountable under § 1B1.3 for a loss amount under § 2B1.1 . . . that greatly exceeds the defendant's personal gain from a fraud offense . . . ." USSG § 3B1.2, Application Note 3(A).

[2] In the Plea Agreement, the defendant agreed to pay the amount of interest accruing on the EIDL and PPP loans through the date of sentencing. (ECF No. 59 at 21.) The

<u>Nature and Circumstances of the Offense</u>

The defendant submitted hundreds of fraudulent Economic Injury Disaster Loan ("EIDL") and Paycheck Protection Program ("PPP") applications to obtain loan proceeds intended to help American small businesses stay afloat during the COVID-19 pandemic. While he submitted one fraudulent EIDL application in his own name on behalf of a business entity that he purportedly operated, he submitted *hundreds* of additional EIDL and PPP applications using stolen identities belonging to real people. Working with others, he filled out applications containing fabricated business information and false owner information, signed loan agreements using stolen identities, created fictitious documents relating to the purported businesses, and used AI images and mannequin heads to bypass PPP lenders' identity verification procedures (examples shown below):



The SBA and PPP lenders ultimately approved and funded 90 EIDLs and 22 PPP loans totaling $1,389,713. The majority of the loan proceeds were deposited into

government is still waiting to obtain the final interest amount for the EIDLs. When the government receives this calculation, it will provide this information to the Court.

Green Dot bank accounts opened in the names of the identity theft victims, and the defendant and others quickly withdrew the loan proceeds through cash withdrawals and money orders. At the time of his arrest, law enforcement seized approximately 574 debit cards from the defendant's apartment; 46 of those debit cards had received EIDL and/or PPP loans totaling $669,194 tied to this scheme. And he did not stop there. The defendant also submitted hundreds of fraudulent tax returns using stolen identities.[3]

This is a scheme that relied on volume, and fortunately, the defendant's successes represent only a fraction of his attempts. While the U.S. Sentencing Guidelines appropriately determines a defendant's offense level based on the greater of actual and intended loss, the government recognizes that the use of intended loss in this case results in a guidelines range 6 levels higher than a guidelines range driven by actual loss. Without minimizing the severity of the defendant's conduct, and considering the totality of the sentencing factors, the government believes that a sentence of 60 months' imprisonment is sufficient, but no greater than necessary, to comply with the purposes of § 3553(a).

[3] At times, the defendant re-used the same stolen identities from his EIDL loan fraud to perpetrate his tax scheme. For example, on August 4, 2020, a fraudulent EIDL submitted was submitted using N.C.'s name using the email address huns.che.rda.l.e@gmail.com. The SBA approved and funded a loan in the amount of $9,900, which was deposited into a Green Dot Bank account set up in her name (which listed the same email address). That same month, N.C.'s personal identifying information was listed in an unemployment benefits application. Thereafter, a fraudulent tax return was submitted in N.C.'s name in 2022.

History and Characteristics of the Defendant

Although the defendant appears to have had a difficult childhood in Nigeria, he came to the United States in 2016 with ample educational and job opportunities to make a living. Rather than pursue those opportunities, he dedicated his efforts towards pursuing a criminal scheme that harmed real identity theft victims, individuals actually impacted by the pandemic who were unable to secure COVID-19 relief funds for themselves, and the American taxpayer. While this is the defendant's first criminal conviction, his conduct cannot be written off as a momentary lapse of judgment or one-time mistake. With the submission of each and every fraudulent loan application and tax return, the defendant chose to enrich himself at the expense of others.

As a result of his sustained criminal conduct (which constitutes an "aggravated felony" under 8 U.S.C. § 1101(a)(43)), the defendant now faces deportation back to Nigeria. Rather than contest those proceedings, he has agreed to stipulate to the entry of a judicial order of removal, thus conserving scarce government resources and demonstrating his acceptance for the collateral consequences of his actions. Consistent with the parties' Plea Agreement, the government respectfully recommends a sentence of 60 months' imprisonment, which incorporates the ten-month variance contemplated in the Plea Agreement for the defendant's agreement to the entry of the stipulated judicial order of removal.

Deterrence and Respect for the Rule of Law

The government respectfully submits that a 60-month sentence is necessary to promote general deterrence and respect for the rule of law. Although the COVID-19 loan programs undoubtedly helped millions of struggling small businesses around the country, the need for emergency and expedited relief led to the removal of certain loan underwriting requirements and opened the door to fraud. As a result, many would-be fraudsters made the calculated decision that their COVID-19 loan fraud would go undetected and unprosecuted. *See, e.g.*, Staff Report of House Committee on Small Business, 118th Cong., *A Miscalculated Risk: Fraud Within the SBA's COVID Lending Programs* (2024), available at https://smallbusiness.house.gov/uploadedfiles/house_committee_on_small_business_-_covid-19_pandemic_loan_fraud_staff_report.pdf (estimating that approximately $200 billion from COVID-19 lending programs were distributed to fraudulent recipients).

Courts have repeatedly recognized that general deterrence can have a pronounced effect in the context of white-collar crime because individuals often make calculated determinations about the potential reward and the likelihood that they will face a significant sanction if caught. *See, e.g.*, *United States v. Sample*, 901 F.3d 1196, 1200 (10th Cir. 2018) (recognizing that "[d]efendants in white-collar crimes often calculate the financial gain and risk of loss, and white-collar crime therefore can be affected and reduced with serious punishment" (quoting *United States v. Kuhlman*, 711 F.3d 1321, 1329 (11th Cir. 2013))); *United States v. Musgrave*, 761 F.3d 602, 609 (6th Cir. 2014) ("Because economic and fraud-based crimes are more rational, cool, and calculated than sudden crimes of passion or opportunity, these crimes are prime candidates for general deterrence." (quoting *United States v. Peppel*, 707 F.3d 627, 637 (6th Cir. 2013))). Indeed, in adopting the § 3553 sentencing factors, Congress "emphasized the critical deterrent value of imprisoning serious white collar criminals, even where those criminals might themselves be unlikely to commit another offense." *United States v. Martin*, 455 F.3d 1227, 1240 (11th Cir. 2006).

Accordingly, the government respectfully submits that the defendant's sentence should demonstrate that those who take advantage of a global pandemic for their own greed will be punished. The sentence must promote respect for the rule of law and provide adequate deterrence to criminal conduct.

<u>Restitution</u>

The Plea Agreement provides that the defendant has an obligation to pay restitution on the amount of the EIDLs and PPP loans funded during the course of his scheme, as well as the $100 UCC fee paid by the SBA on each funded EIDL greater than $25,000, less any funds returned to the SBA. (ECF No. 59 at 21.) The government currently calculates this amount to be $1,408,897.16. This amount includes: (1) $936,500 of EIDLs and $453,013 of PPP loans that were approved and funded by the SBA and PPP lenders as a result of the defendant's scheme; (2) $200 of UCC-1 filing fees paid by the SBA in connection with the EIDLs; and (3) $19,184.16 of interest accrued on the PPPs through the date of sentencing.

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Conclusion

For the reasons set forth above, the government respectfully requests that the Court impose a sentence of 60 months' imprisonment, and order restitution in the amount of $1,408,897.16.

Respectfully submitted this 11th day of November, 2025.

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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of November, 2025, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record in this case.

s/ Nicole Cassidy
Assistant United States Attorney
United States Attorney's Office