UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
GREENEVILLE

UNITED STATES OF AMERICA,	.	DOCKET NO. CR-2-22-52
	.	CR-2-18-25
GOVERNMENT,	.	
	.	
VS.	.	GREENEVILLE, TN
	.	FEBRUARY 6, 2023
LESLIE DANIELLE BETHEA,	.	2:59 P.M.
	.	
DEFENDANT.	.	
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TRANSCRIPT OF SENTENCING/REVOCATION HEARING
BEFORE THE HONORABLE J. RONNIE GREER
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: DEPARTMENT OF JUSTICE
OFFICE OF U.S. ATTORNEY
MAC D. HEAVENER, III, AUSA
220 WEST DEPOT STREET, SUITE 423
GREENEVILLE, TN 37743

FOR THE DEFENDANT: TIMOTHY W. HUDSON, ESQ.
131 EIGHTH STREET
BRISTOL, TN 37621

COURT REPORTER: KAREN J. BRADLEY
RPR-RMR
U.S. COURTHOUSE
220 WEST DEPOT STREET
GREENEVILLE, TN 37743

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT PRODUCED BY COMPUTER.

(CALL TO ORDER OF THE COURT AT 2:59 P.M.)

THE COURT: ALL RIGHT. MS. KINGRY, CALL THIS CASE, PLEASE.

THE CLERK: CASE NUMBER 2:22-CR-52 AND CASE NUMBER 2:18-CR-25, UNITED STATES OF AMERICA VERSUS LESLIE DANIELLE BETHEA.

THE COURT: GIVE ME JUST A MOMENT TO GET TO THE RIGHT PLACE HERE.

ALL RIGHT. THE DEFENDANT APPEARS BEFORE THE COURT THIS AFTERNOON FOR SENTENCING IN THIS CASE. SHE HAS PREVIOUSLY BEEN CONVICTED BASED UPON HER GUILTY PLEA ON THE CHARGES CONTAINED IN COUNTS 2 AND 8 OF THE PRESENTENCE REPORT. IN COUNT 2 SHE WAS CHARGED WITH WIRE FRAUD, IN COUNT 8 WITH MAKING A FALSE STATEMENT IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 1001.

A PRESENTENCE REPORT WAS ORDERED. THAT REPORT WAS DISCLOSED ON DECEMBER 22, 2022. IN THE PRESENTENCE REPORT THE PROBATION OFFICER ESTABLISHES A TOTAL OFFENSE LEVEL OF 11, A CRIMINAL HISTORY CATEGORY OF IV, AND A RESULTING ADVISORY GUIDELINE RANGE OF 18 TO 24 MONTHS. BY STATUTE MS. BETHEA FACES A MAXIMUM TERM OF 20 YEARS AS TO COUNT 2 AND A MAXIMUM TERM OF 5 YEARS AS TO COUNT 8.

ALL RIGHT. MR. HUDSON, HAVE YOU RECEIVED AND REVIEWED AND READ A COPY OF THIS PRESENTENCE REPORT?

MR. HUDSON: I HAVE, YOUR HONOR.

THE COURT: AND HAVE YOU REVIEWED IT AND DISCUSSED IT FULLY WITH THE DEFENDANT?

MR. HUDSON: I HAVE, YOUR HONOR.

THE COURT: AND, MS. BETHEA, HAVE YOU RECEIVED AND READ A COPY OF THE PRESENTENCE REPORT?

THE DEFENDANT: YES, SIR.

THE COURT: AND HAVE YOU REVIEWED IT AND DISCUSSED IT FULLY WITH YOUR ATTORNEY?

THE DEFENDANT: YES, SIR.

THE COURT: AND HAVE YOU HAD SUFFICIENT TIME TO DO SO?

THE DEFENDANT: YES, SIR.

THE COURT: HAVE YOU ALSO RECEIVED AND READ A COPY OF THE ADDENDUM TO THIS REPORT?

THE DEFENDANT: YES, SIR.

THE COURT: ARE YOU FAMILIAR WITH THE OBJECTIONS THAT THE UNITED STATES HAS MADE TO THE CALCULATION OF THE GUIDELINE RANGE IN THE CASE?

THE DEFENDANT: YES, SIR.

THE COURT: ALL RIGHT, AND HAVE YOU HAD SUFFICIENT TIME TO REVIEW THOSE MATTERS AND DISCUSS THEM WITH YOUR ATTORNEY?

THE DEFENDANT: YES, SIR.

THE COURT: ALL RIGHT.

ALL RIGHT. AS I SAID, THE GOVERNMENT HAS SOME

OBJECTIONS, I BELIEVE THERE ARE THREE OF THOSE. WE'LL TAKE THEM UP IN ANY ORDER YOU WISH, MR. HEAVENER. I BELIEVE THE GOVERNMENT HAS THE BURDEN ON ALL THREE OF THEM.

MR. HEAVENER: YES, YOUR HONOR; AND, YOUR HONOR, I BELIEVE THAT THE, ALL OF THESE OBJECTIONS, I BELIEVE, ARE CONTAINED -- THE FACTUAL BASIS IS CONTAINED IN UNOBJECTED TO PARAGRAPHS IN THE PRESENTENCE REPORT. THE FIRST OBJECTION THE GOVERNMENT RAISED WAS TO THE LOSS AMOUNT, AND I'M SPECIFICALLY GROUNDING THIS OBJECTION IN PARAGRAPH 28 OF THE PRESENTENCE REPORT.

FOR THE COURT'S INFORMATION MS. BETHEA WAS ARRESTED BY COMPLAINT, THEN SHE WAS INDICTED. WHEN SPECIAL AGENT WHITEHEAD ARRESTED MS. BETHEA ON THAT COMPLAINT, POST MIRANDA SHE ADVISED THAT SHE HAD -- SHE GAVE SPECIFICS ABOUT THE FRAUDULENT PPP LOAN SHE HAD OBTAINED AND THEN SHE ADVISED SPECIAL AGENT WHITEHEAD THAT SHE HAD BEEN RECRUITING OTHER INDIVIDUALS TO THE SAME PERSON WHO ASSISTED HER IN APPLYING FOR HER PPP LOAN. SHE INDICATED THAT THERE WERE APPROXIMATELY 20 PEOPLE THAT SHE HAD REFERRED, AND SHE INDICATED THAT SHE WOULD GET AS MUCH AS $5,000 FOR A REFERRAL, AS LITTLE AS $2,000 FOR A REFERRAL. SHE ALSO INDICATED THAT THE WOMAN WHO PROCESSED THE PAPERWORK FROM THE MIAMI AREA WOULD OBTAIN $5,000 EACH. SO THIS IS A CONSERVATIVE ESTIMATE, IT'S PROBABLY MORE THAN THIS, BUT I SIMPLY TOOK 20 FRAUDULENT PPP LOANS

TIMES THE $2,000 MS. BETHEA WOULD RECEIVE, AS WELL AS 20 PPP LOANS TIMES THE $5,000 THE INDIVIDUAL IN FLORIDA WOULD RECEIVE, AND THAT GIVES YOU A TOTAL OF $140,000, YOU THEN ADD MS. BETHEA'S, WHAT WE KNOW IS HER $20,850 PPP LOAN. SO THE LOSS AMOUNT CONSERVATIVELY IS MORE THAN $150,000. IF THAT MATH IS THE FORMULA, THEN IT'S ABOUT $160,000. THAT ASSUMES THAT THE, THE LOANS THEMSELVES ONLY COVER HER CUT AND THE INDIVIDUAL IN MIAMI'S CUT. IT'S PROBABLY MORE THAN THAT, BUT THAT'S THE BEST NUMBERS THAT I THINK WE HAVE TO GO BY AT THIS POINT, YOUR HONOR

THE COURT: ALL RIGHT. LET'S TAKE THOSE ONE AT A TIME. LET ME HEAR WHAT MR. HUDSON HAS TO SAY IN OPPOSITION ON THAT ONE BEFORE WE GO TO THE NEXT ONE.

MR. HUDSON: YES, YOUR HONOR.

AS YOUR HONOR IS AWARE, I WAS A SUCCESSOR COUNSEL TO THIS CASE --

THE COURT: YES.

MR. HUDSON: -- AND WAS NOT INVOLVED IN THE PLEA AGREEMENT, BUT I DID NOTICE IN THE PLEA AGREEMENT THAT THE, THE FACTUAL -- THE FACTS SUMMARIZED BY THE U.S., AND THEY ARE IN THE PRESENTENCE REPORT, AS TO THE ACTIVITIES OF RECRUITING OTHER INDIVIDUALS, THAT ASPECT OF IT AND THAT PARTICULAR LOSS WAS NOT STIPULATED TO BY THE DEFENDANT, SO IT WAS LEFT TO BE AS INFORMATION THAT WAS, WOULD BE BROUGHT BY THE GOVERNMENT BEFORE THE COURT AT

SENTENCING AND THEN WE COULD, WE COULD ARGUE ABOUT WHETHER OR NOT IT WOULD RESULT IN ANY KIND OF ENHANCEMENT.

THE ONLY FACTUAL BASIS FOR, THE GOVERNMENT USES FOR THE ENHANCEMENT IS BASED ON A STATEMENT THAT MS. BETHEA TOLD THE INVESTIGATING OFFICERS. IT'S THE DEFENDANT'S POSITION THAT THAT DOES NOT MEET THE GOVERNMENT'S BURDEN TO, FOR THE COURT TO APPLY THE ENHANCEMENT. I WOULD SUBMIT, YOUR HONOR, IT WOULD TAKE MORE THAN THAT.

SHE RECRUITED PEOPLE TO HAVE THESE LOANS PROCESSED BY THIS INDIVIDUAL IN FLORIDA. THERE WOULD HAVE TO BE SOME SHOWING, SOME EVIDENCE, REGARDLESS WHAT SHE INTENDED AND WHAT SHE BELIEVED, THAT THOSE LOAN APPLICATIONS WERE IN FACT FRAUDULENT AND THAT THOSE INDIVIDUALS OBTAINED MONEY AND THAT WAS MONEY THAT THEY WERE NOT ENTITLED TO AND THE GOVERNMENT HAS SUFFERED AN ACTUAL LOSS. THOUGH THAT IS BEFORE THE COURT, THERE'S NO INVESTIGATIVE REPORTS, THERE'S NO EVIDENCE OF OTHER INDIVIDUALS, THERE'S NO ACCOUNTING, THERE IS NOTHING. ALL THERE IS IS MS. BETHEA'S STATEMENT. SO IT'S OUR POSITION THAT WOULD NOT MEET THE BURDEN THAT THE GOVERNMENT BEARS TO PROVE THIS CASE.

THE COURT: SO ARE YOU SUGGESTING IT'S JUST AS LIKELY THAT SHE WAS RECRUITING INDIVIDUALS TO APPLY FOR LEGITIMATE PPP LOANS?

MR. HUDSON: WELL, YOUR HONOR, SHE DOESN'T

REALLY SAY -- IT DOESN'T REALLY SAY IN THE STATEMENT, IT JUST SAYS SHE RECRUITED INDIVIDUALS TO CONTACT THIS WOMAN IN FLORIDA TO APPLY FOR LOANS. NOW, SHE MAY, SHE MAY HAVE ASSUMED THAT, SHE MAY HAVE INTENDED, EVEN INTENDED THAT; BUT WHETHER IT ACTUALLY HAPPENED THAT WAY, I THINK THE GOVERNMENT HAS TO SHOW IT BEFORE THE ENHANCEMENT APPLIES.

THE COURT: ALL RIGHT. I UNDERSTAND YOUR ARGUMENT.

WHAT DO YOU SAY TO THAT, MR. HEAVENER?

MR. HEAVENER: YOUR HONOR, I -- FIRST OF ALL, I THINK THAT CIRCUMSTANTIALLY THE FACT THAT SHE'S RECEIVING A 2 TO $5,000 RECRUITMENT FEE WOULD COUNT, COUNTER ANY SUGGESTION THAT THIS IS A LEGITIMATE PPP APPLICATION.

ALSO IN PARAGRAPH 28 IT'S NOTED THAT THE CONTACT WITH THE WOMAN IN FLORIDA CAME FROM MS. BETHEA'S PRIOR PRISON SENTENCE. I BELIEVE THE FOURTH SENTENCE SAYS SHE LEFT THE HALFWAY HOUSE IN AUGUST OF 2020, AND SHE WAS PLACED ON HOME CONFINEMENT UNTIL OCTOBER OF 2020. GOING DOWN, SHE STATED HER FRIEND DIAMOND BENTLEY TOLD HER THAT SHE KNEW SOMEONE WHO WOULD PROCESS THE LOAN APPLICATION. THE DEFENDANT SPOKE WITH JASMINE ON THE PHONE AND BY FACE-TIME. SHE PROVIDED HER NAME, ADDRESS, DATE OF BIRTH, ET CETERA. THERE'S NO INDICATION IN HERE OF ANY ATTEMPT TO OBTAIN LEGITIMATE, LEGITIMATE CLIENTELE, FOR LACK OF A BETTER WORD.

I WILL ADVISE THE COURT, COUNSEL IS CORRECT THAT WE ARE RELYING ON MS. BETHEA'S STATEMENT IN ESTABLISHING THIS, BUT I DON'T THINK THAT MAKES IT LESS THAN A PREPONDERANCE OF THE EVIDENCE. IN FACT, I THINK IT'S QUITE CONVINCING THAT IT'S HER OWN STATEMENT; SO FOR THAT REASON WE THINK THAT, AGAIN, FOR PURPOSES OF LOSS CALCULATION, IT'S AN ESTIMATE, AND WE THINK THIS IS AN ACCURATE ESTIMATE.

THE COURT: ALL RIGHT. ALL RIGHT. THIS OBJECTION DEALS WITH THE ENHANCEMENT PROVIDED FOR IN SECTION 2B1.1(B)(1) OF THE GUIDELINES. THE PROBATION OFFICER APPLIED A FOUR LEVEL ENHANCEMENT UNDER SUBSECTION 1(C), THE DEFENDANT BEING HELD RESPONSIBLE IN THE PROBATION OFFICER'S ACCOUNT FOR MORE THAN $15,000 IN LOSS, BUT NOT MORE THAN 40,000.

THE GOVERNMENT ARGUES THAT THE LOSS AMOUNT HERE WAS IN EXCESS OF $150,000 AND THAT THE MORE APPROPRIATE INCREASE IN LEVEL UNDER SECTION 2B1.1(B)(1) IS SUBSECTION (F) WHICH PROVIDES FOR A 10 LEVEL INCREASE IN OFFENSE LEVEL FOR A LOSS MORE THAN $150,000.

THE UNITED STATES RELIES HERE ON THE DEFENDANT'S OWN STATEMENTS, THAT SHE RECEIVED A REFERRAL FEE OF A VERY CONSERVATIVE $2,000, AT LEAST $2,000 FOR EACH OF 20 REFERRALS THAT SHE MADE TO HER COCONSPIRATOR IN FLORIDA; AND THAT THE PERSON IN FLORIDA RECEIVED A $5,000 FEE FOR

EACH OF THOSE LOAN APPLICATIONS AS WELL.

THE DEFENDANT ARGUES, FIRST OF ALL, THAT THIS WAS BASED ON HER OWN STATEMENT AND NOTHING ELSE. IN THE COURT'S VIEW THAT'S IRRELEVANT. THERE IS NO REQUIREMENT THAT I'M AWARE OF THAT HER STATEMENT BE CORROBORATED ON ANY OF THIS; BUT PRIMARILY THE DEFENDANT ARGUES THAT THE PROOF IS NOT SUFFICIENT FOR THE COURT TO FIND BY A PREPONDERANCE OF THE EVIDENCE, WHICH IS THE STANDARD THAT APPLIES TO THESE OBJECTIONS, THAT THESE LOANS WERE FRAUDULENT, THAT THESE FEES ACTUALLY REPRESENTED LOSS TO THE GOVERNMENT.

AS I SAID, THE COURT APPLIES A PREPONDERANCE OF THE EVIDENCE STANDARD ON THESE, MEANING THAT THE STANDARD BASICALLY IS MORE LIKELY THAN NOT. IS IT MORE LIKELY THAN NOT THAT THESE LOANS FOR WHICH SHE RECEIVED REFERRAL FEES AND FOR WHICH THE COCONSPIRATOR IN FLORIDA RECEIVED GREATER FEES ARE FRAUDULENT.

I AGREE WITH THE UNITED STATES THAT THE CIRCUMSTANTIAL EVIDENCE INDICATES THAT THESE WERE IN FACT FRAUDULENT LOANS FOR SEVERAL REASONS, BUT PRIMARILY IT'S CLEAR FROM THE CONTEXT TO ME THAT MS. BETHEA OR MS. BETHEA, I NOTICED MR. HUDSON PRONOUNCED IT BETHEA, KNEW THE CONTEXT IN WHICH SHE WAS GIVING THE STATEMENT, IT WAS IN THE CONTEXT OF A CRIMINAL INVESTIGATION; SECONDLY, I WOULD NOTE THAT THE PERSON TO WHOM THE REFERRALS WERE

MADE WAS HER COCONSPIRATOR IN FLORIDA, A PERSON ENGAGED IN THE ACQUISITION OF FRAUDULENT PPP LOANS; THIRD, I WOULD ACKNOWLEDGE THAT THAT IS A PERSON THAT MS. BETHEA SHOULD HAVE KNOWN WAS ENGAGED IN CRIMINAL CONDUCT BECAUSE, AFTER ALL, SHE MET HER IN PRISON. I THINK BY A PREPONDERANCE THE GOVERNMENT HAS ESTABLISHED HERE THAT THE LOSS IS AT LEAST $150,000 PLUS ONE, MORE THAN $150,000, AND THAT THE APPROPRIATE ENHANCEMENT UNDER THE GUIDELINE SECTION IS 10 NOT 4 AS APPLIED BY THE PROBATION OFFICER, SO THE GOVERNMENT'S OBJECTION UNDER SECTION 2B1.1(B)(1) IS SUSTAINED.

ALL RIGHT. MR. HEAVENER, ON THE SECOND ONE?

MR. HEAVENER: YOUR HONOR, THE SECOND OBJECTION IS THE FAILURE TO INCLUDE A SOPHISTICATED MEANS ENHANCEMENT. I HAVE OUTLINED WHAT WE BELIEVE THE FACTS ARE, AND THESE, AGAIN, ARE COMING FROM THE PRESENTENCE REPORT, I BELIEVE, THAT WOULD SUPPORT THAT ENHANCEMENT.

FIRST, MS. BETHEA USED OR AIDED AND ABETTED IN THE USE OF A FICTITIOUS BUSINESS; THAT WAS THE -- SHE, SHE -- THE UNDERLYING FACTS ARE THAT SHE CLAIMED THAT SHE HAD A SOLE PROPRIETORSHIP MARKETING AGREEMENT OR MARKETING AGENCY; SECOND, INFORMATION WAS PROVIDED BY HER THROUGH INTERSTATE COMMUNICATIONS WITH THE INDIVIDUAL IN FLORIDA; THIRD, THE ANONYMOUS PPP LOAN APPLICATIONS WERE SUBMITTED ON LINE, THERE WAS NO FACE-TO-FACE MEETING WITH A BANKER;

FOURTH, THE USE OF THE INDIVIDUAL LOCATED IN FLORIDA TO SUBMIT THE FRAUDULENT LOAN APPLICATIONS, OR HAVE HER APPLICATION; FIFTH, SHE INCLUDED OR CAUSED THE INCLUSION OF A FRAUDULENT IRS TAX DOCUMENT AS PART OF THIS APPLICATION, THAT'S A FRAUDULENT SCHEDULE C THAT REFLECTED INCOME SUFFICIENT TO SUPPORT HER REQUEST FOR THE LOAN THAT SHE RECEIVED; SIXTH, SHE USED A BANK ACCOUNT IN ANOTHER INDIVIDUAL'S NAME TO RECEIVE PROCEEDS OF OTHER FRAUDULENT PPP LOANS. THE STATEMENT IN PARAGRAPH 28 WAS THAT SHE WOULD RECEIVE THIS, THIS, THIS REFERRAL FEE. WE KNOW THAT THERE'S SOME RECORD AND BANK STATEMENTS THAT THERE'S ELECTRONIC TRANSFERS INTO AN ACCOUNT CONTROLLED BY ANOTHER PERSON, BUT SHE WAS IN CONTROL OF IT; SEVENTH, SHE USED A LARGE PORTION OF THE PROCEEDS FROM HER FRAUDULENT PPP LOAN IN THE STATE OF FLORIDA, WHICH, OF COURSE, MADE INVESTIGATION MORE DIFFICULT; AND THEN EIGHTH IS THE FRAUDULENT MONTHLY SUPERVISION REPORTS THAT SHE SUBMITTED TO HIDE AND CONCEAL THE FRAUDULENT PPP LOAN THAT SHE HAD RECEIVED. SO FOR THOSE REASONS WE BELIEVE THAT A SOPHISTICATED MEANS ENHANCEMENT IS PARTICULAR IN THIS CASE.

THE COURT: ALL RIGHT, MR. HEAVENER; AND, MR. HUDSON, AGAIN, WHY DO YOU SAY THAT IS NOT APPLICABLE HERE?

MR. HUDSON: YOUR HONOR, AS IS POINTED OUT IN THE DESCRIPTION OF THE PPP LOAN PROGRAM, AND THE -- AND AS

PROVIDED FOR IN THE PLEA AGREEMENT, ACTUALLY, I THINK MAYBE ALSO BECAUSE OF OUR COMMON KNOWLEDGE OF THE ADVER-TISEMENTS AND INFORMATION PROVIDED AT THE TIME DURING THE PANDEMIC, THE HALLMARK OF THE PPP LOAN WAS NOT HAVING -- WAS NOT HAVING TO FILE A SOPHISTICATED APPLICATION; THAT ANYONE WITHOUT SPECIALIZED KNOWLEDGE, SMALL BUSINESS OR WHATEVER, COULD EASILY MAKE THIS APPLICATION WITH THE IDEA THAT TO GIVE EASE TO THE PUBLIC AND SMALL BUSINESS THAT THEY COULD DO THIS EASILY, GET THEIR MONEY QUICKLY AND NOT HAVE TO CLOSE THEIR BUSINESSES OR LAY OFF EMPLOYEES.

IN THIS PARTICULAR CASE MS. BETHEA OR BETHEA?

THE DEFENDANT: BETHEA.

MR. HUDSON. BETHEA, YOUR HONOR WAS RIGHT. MS. BETHEA CLAIMED TO BE A SOLE PROPRIETORSHIP, APPARENTLY WITH NO EMPLOYEES; AND UNDER THE PPP PROGRAM A SOLE PROPRIETOR EVEN WITH NO EMPLOYEES COULD APPLY FOR A LOAN AND FOR THE LOSS OF INCOME THAT THIS SOLE PROPRIETOR, THAT THAT PERSON WAS LOSING. SO THE ONLY THING THAT WAS REQUIRED TO DO FOR HER TO DO THIS FRAUDULENTLY IS TO COME UP WITH A SCHEDULE C, WHICH IS A TWO-PAGE DOCUMENT SAYING YOU OWN THIS BUSINESS, IT'S AN APPLICATION THAT SAYS YOU OWN THIS BUSINESS, AND HAVING TO SUBMIT IT. SO THERE'S NOTHING SOPHISTICATED, YOUR HONOR, ABOUT THAT; AND I WOULD SUBMIT THERE'S NOTHING SOPHISTICATED ABOUT SETTING UP A SEPARATE BANK ACCOUNT TO RECEIVE MONEY; SO IT'S OUR

POSITION THAT THE, THE ENHANCEMENT THAT THE GOVERNMENT SEEKS FOR USE OF SOPHISTICATED MEANS SHOULD NOT APPLY.

THE COURT: DOESN'T THE ENHANCEMENT ALSO APPLY WITH RESPECT TO ATTEMPTS TO CONCEAL, AND ISN'T THAT EXACTLY WHAT HAPPENED HERE WITH THE FICTITIOUS BUSINESS ENTITY, THE FICTITIOUS NAME ON THE ACCOUNT, WHERE THE PROCEEDS ARE RECEIVED AND THINGS OF THAT SORT?

MR. HUDSON: WELL, YOUR HONOR, THAT IS AN ELEMENT THAT THE COURT, A FACTOR THAT THE COURT CAN CONSIDER; BUT LOOKING AT IT ALL, THE SIMPLICITY OF THE PROGRAM ITSELF, ANYONE WITHOUT ANY KIND OF SPECIAL, SPECIALIZED KNOWLEDGE OR BUSINESS ACUMEN COULD, COULD, COULD PARTICULARLY DO THIS; AND, UNFORTUNATELY, IT WAS DONE QUITE FREQUENTLY. BUT BEING THAT A TWO LEVELS ENHANCEMENT SHOULD APPLY, I THINK THE WAY THE GOVERNMENT LOOKS AT THIS CASE, YOUR HONOR, IS LIKE, IT'S ALMOST ANALOGOUS TO A -- THEY'RE LOOKING AT IT AS ANALOGOUS TO A DRUG TRAFFICKING CONSPIRACY. WELL, IT WASN'T THAT, YOUR HONOR. SHE WAS INDICTED IN THE FIRST COUNT WITH CONSPIRACY. IN FACT, SHE WAS NOT REQUESTED TO PLEAD GUILTY TO IT. THERE ARE NO CODEFENDANTS. THIS IS A SINGLE DEFENDANT INDICTMENT, AND SHE WASN'T -- AND WE'LL GET TO HER AGGRAVATING ROLE, WHICH IS NEXT, BUT I THINK THESE TWO, TWO OBJECTIONS OVERLAP IN THAT RESPECT, THAT IT JUST DOESN'T HAVE THE NATURE OF AN ORGANIZED CONSPIRACY.

THE COURT: ALL RIGHT, MR. HUDSON.

ALL RIGHT. AT ISSUE IN THIS OBJECTION IS SECTION 2B1.1(B)(10)(C) OF THE GUIDELINES WHICH PROVIDES FOR A TWO LEVEL INCREASE IN OFFENSE LEVEL IF SOPHISTICATED MEANS WERE USED. THE COMMENTARY TO THE GUIDELINE IN NOTE (9)(B) DEFINES SOPHISTICATED MEANS AS ESPECIALLY COMPLEX OR ESPECIALLY INTRICATE OFFENSE CONDUCT PERTAINING TO THE EXECUTION OR CONCEALMENT OF AN OFFENSE.

FOR EXAMPLE, IN A TELEMARKETING SCHEME LOCATING THE MAIN OFFICE OF THE SCHEME IN ONE JURISDICTION BUT LOCATING SOLICITING OPERATIONS IN ANOTHER JURISDICTION ORDINARILY INDICATES SOPHISTICATED MEANS; CONDUCT SUCH AS HIDING ASSETS OR TRANSACTIONS OR BOTH THROUGH THE USE OF FICTITIOUS ENTITIES, CORPORATE SHELLS OR OFF-SHORE FINANCIAL ACCOUNTS ALSO ORDINARILY INDICATES SOPHISTICATED MEANS.

I WILL ACKNOWLEDGE THAT AT FACE VALUE MY FIRST IMPRESSION WAS THAT THIS OBJECTION WAS MUCH CLOSER THAN THE FIRST ONE. I CANNOT, HOWEVER, ESCAPE THE ACTUAL CONDUCT OF THE DEFENDANT WITH RESPECT TO THIS OFFENSE. MR. HUDSON IS EXACTLY CORRECT, IT IS A SIMPLE PROCEDURE IF DONE LEGALLY. THE DEFENDANT COULD APPARENTLY HAVE FILED A SHORT, SIMPLE APPLICATION FOR A PPP LOAN. THAT IS NOT WHAT SHE DID. WHAT SHE DID WAS CREATE A FICTITIOUS BUSINESS, SHE USED A PERSON FROM ANOTHER JURISDICTION TO

SUBMIT THE APPLICATION, SHE CAUSED THE INCLUSION OF A FRAUDULENT IRS APPLICATION, OR TAX DOCUMENT, AND SHE USED A BANK ACCOUNT IN ANOTHER INDIVIDUAL'S NAME TO RECEIVE THE PROCEEDS. ALL OF THAT IS THE USE OF FICTITIOUS ENTITIES AND/OR DOCUMENTS FOR THE PURPOSE OF CONCEALING THE FACT THAT THIS WAS AN ILLEGAL LOAN APPLICATION, NOT A LEGAL ONE. THE FACT THAT IT COULD HAVE BEEN DONE SIMPLY AND LEGITIMATELY AND LAWFULLY AND WITHOUT ANY KIND OF SOPHISTICATED MEANS IS NOT THE POINT.

IN MY VIEW THE USE OF A FICTITIOUS BUSINESS ENTITY COUPLED WITH THE USE OF A FICTITIOUS BANK ACCOUNT OR BANK ACCOUNT MAINTAINED IN ANOTHER INDIVIDUAL'S NAME TO RECEIVE PROCEEDS OF FRAUDULENT LOANS IS ENOUGH BY ITSELF, BUT THERE'S MORE HERE. MS. BETHEA USED SIGNIFICANT EFFORTS OR MADE SIGNIFICANT EFFORT TO HIDE THE ILLEGAL NATURE OF THIS TRANSACTION, ALONG WITH A COCONSPIRATOR LOCATED IN THE STATE OF FLORIDA.

THE GOVERNMENT HAS MET ITS BURDEN OF ESTAB-LISHING THAT THIS OFFENSE INVOLVED SOPHISTICATED MEANS BY PROVING THAT BY A PREPONDERANCE OF THE EVIDENCE. ONCE AGAIN, THE GOVERNMENT'S OBJECTION IS SUSTAINED AND A TWO LEVEL ENHANCEMENT APPLIES HERE UNDER SECTION 2B1.1(B)(10)(C).

ALL RIGHT, AND THE THIRD ONE, MR. HEAVENER?

MR. HEAVENER: YOUR HONOR, THE THIRD ONE IS, IS

VERY BRIEF. THE GOVERNMENT OBJECTS TO THE NON-INCLUSION OF A LEADERSHIP ROLE ENHANCEMENT, AND THAT'S BASED ON MS. BETHEA'S ADMISSION THAT SHE RECRUITED OTHERS INTO THE CONSPIRACY OR INTO THE CONDUCT. I'VE RELIED ON THE COMMENTARY NOTE WHICH INDICATES THAT ONE OF THE FACTORS THE COURT CAN CONSIDER IS A RECRUITMENT OF ACCOMPLICES, AS WELL AS THE SIXTH CIRCUIT OPINION UNITED STATES VERSUS CASTILLA-LUGO IN WHICH THE SIXTH CIRCUIT HELD THAT RECRUITING OTHERS IS A LEGALLY SUFFICIENT BASIS TO APPLY THAT ENHANCEMENT.

THE ONLY ADDITIONAL FACT WOULD BE THE, THE INSTRUCTING OTHERS WHERE TO SUBMIT THEIR REFERRAL FEES, BUT I -- THAT FACTUAL RECORD WAS NOT VERY DEVELOPED AT THIS POINT, SO I'M RELYING STRICTLY ON THE RECRUITMENT, YOUR HONOR.

THE COURT: ALL RIGHT. AND WHAT IS YOUR RESPONSE TO THAT ONE, MR. HUDSON?

MR. HUDSON: WELL, YOUR HONOR, THE -- WHAT'S NOT PRESENT, YOUR HONOR, IS ALTHOUGH SHE DOES RECRUIT OTHERS WHO CONDUCT THEIR OWN ACTIVITY TO MAKE THEIR OWN LOANS, SHE DOESN'T PARTICIPATE IN DOING THAT, BUT SHE DOES RECEIVE, ACCORDING TO GOVERNMENT A, A KICKBACK OR REFERRAL FEE. SHE'S NOT PARTICIPATING WITH THESE OTHERS OTHER THAN TO RECRUIT THEM. SHE HAS NO CONTROL OR AUTHORITY OVER THEM OR WHETHER THEY DECIDE TO DO -- TO FILE, TO MAKE THIS

APPLICATIONS FOR LOANS, HOW THEY DO IT WHEN THEY DO IT, JUST TELL THEM, JUST TELL THEM WHO THEY CAN GO TO. SO IT'S OUR POSITION THAT SHE WAS NOT, AN AGGRAVATING ROLE DOES NOT APPLY IN THIS CASE. AGAIN, THIS IS NOT LIKE A COCONSPIRACY CASE WHERE SHE HAS AGENTS BEHIND OR WORKING FOR HER THAT ARE CONDUCTING ILLEGAL ACTIVITY, AND SHE'S NOT GETTING, SHE'S NOT GETTING THE GREATER SHARE OF THE PROCEEDS EITHER.

THE COURT: SECTION 3B1.1 OF THE GUIDELINES IN SUBSECTION B PROVIDES THAT IF THE DEFENDANT WAS A MANAGER OR SUPERVISOR BUT NOT AN ORGANIZER, LEADER IN THE CRIMINAL ACTIVITY INVOLVING FIVE OR MORE PARTICIPANTS OR WAS OTHERWISE EXTENSIVE INCREASE BY THREE LEVELS. THE GOVERNMENT ARGUES THAT THAT ENHANCEMENT APPLIES HERE BECAUSE THE DEFENDANT BY HER OWN ADMISSION RECRUITED 20 OTHER PEOPLE TO PARTICIPATE IN THIS FRAUDULENT SCHEME TO ACQUIRE MONEY FROM THE PPP PROGRAM.

THE APPLICATION NOTE TO THE GUIDELINE SECTION LISTS SOME FACTORS THE COURT CAN LOOK AT TO DIFFERENTIATE OR DISTINGUISH BETWEEN A ROLE OF LEADERSHIP AND ORGANIZATION FROM ONE OF MERE MANAGEMENT OR SUPERVISION.

THOSE FACTORS INCLUDE: THE EXERCISE OF DECISION-MAKING AUTHORITY. IT'S NOT AT ALL CLEAR TO THE COURT HERE THAT MS. BETHEA EXERCISED DECISION-MAKING AUTHORITY WITH RESPECT TO THIS SCHEME; SECOND, THE COURT

IS TO LOOK AT THE NATURE OF PARTICIPATION IN THE COMMISSION OF THE OFFENSE. MS. BETHEA WAS HEAVILY INVOLVED IN THIS OFFENSE, RECRUITING NUMEROUS PARTICIPANTS INTO THIS FRAUDULENT SCHEME BY PUTTING THOSE PERSONS IN TOUCH WITH HER COCONSPIRATOR AND PROVIDING BANKING INFORMATION TO OBTAIN HER REFERRAL FEE.

THE NEXT FACTOR IS SPECIFICALLY THE RECRUITMENT OF ACCOMPLICES. CLEARLY MS. BETHEA RECRUITED ACCOMPLICES HERE. THE NEXT FACTOR IS THE CLAIM OF RIGHT TO A LARGER SHARE OF THE FRUITS OF THE CRIME. CLEARLY SHE DID NOT RECEIVE THE LARGEST CUT OF THE PROCEEDS OBTAINED FRAUDULENTLY, AT LEAST SHE SIMPLY APPEARS TO HAVE RECEIVED WITH RESPECT TO THOSE SHE RECRUITED A REFERRAL FEE. I WOULD NOTE, HOWEVER, THAT SHE DID IN FACT CLAIM THE RIGHT TO A LARGER SHARE OF THE FRUITS OF HER OWN FRAUDULENT PPP LOAN. NEXT FACTOR IS THE DEGREE OF PARTICIPATION IN PLANNING OR ORGANIZING THE OFFENSE. AGAIN, I DON'T HAVE SUFFICIENT INFORMATION BEFORE ME TO MAKE ANY KIND OF DETERMINATION WITH RESPECT TO THAT ONE.

THERE'S ALSO A FACTOR THAT THE COURT IS DIRECTED TO WHICH IS THE NATURE AND SCOPE OF THE ILLEGAL ACTIVITY. IT APPEARS CLEAR FROM THE RECORD HERE THAT MS. BETHEA UNDERSTOOD FULLY THE NATURE AND SCOPE OF THE CRIMINAL ACTIVITY. FIRST OF ALL, SHE FULLY WAS INVOLVED IN THE PARTICIPATION, IN PARTICIPATION OF ACQUIRING HER

OWN FRAUDULENT LOAN, THEREFORE, IT FOLLOWS VERY CLEARLY THAT SHE UNDERSTOOD THE ROLE OF THE PEOPLE SHE RECRUITED WOULD PLAY IN THE ACQUISITION OF THEIR OWN FRAUDULENT LOANS.

IT SEEMS TO ME THAT BY THE DIRECT APPLICATION OF THE NOTE, AS WELL AS SIXTH CIRCUIT CASE LAW THIS ENHANCEMENT LIKEWISE CLEARLY APPLIES. THE GOVERNMENT'S OBJECTION HERE IS SUSTAINED. THERE IS A THREE LEVEL ENHANCEMENT IN THE OFFENSE LEVEL FOR AN AGGRAVATING ROLE UNDER SECTION 3B1.1(B).

NOW, MS. RAY, YOU MAY HAVE TO HELP ME CALCULATE IT NOW. WE'VE GOT A BASE OFFENSE LEVEL OF -- EXCUSE ME, LET ME GET TO THE RIGHT PLACE. WE'VE GOT A BASE OFFENSE LEVEL OF 7, AN ENHANCEMENT OF 10 LEVELS PURSUANT TO SECTION 2B1.1(B)(1)(F). WE HAVE A TWO LEVEL ENHANCEMENT FOR OBSTRUCTION OF JUSTICE THAT'S UNOBJECTED TO. WE HAVE A TWO LEVEL ENHANCEMENT FOR THE USE OF SOPHISTICATED MEANS, AND A THREE LEVEL ENHANCEMENT FOR HER ROLE IN THE OFFENSE, HER AGGRAVATING ROLE IN THE OFFENSE.

PROBATION OFFICER RAY: YES, YOUR HONOR.

THE COURT: AND THAT --

PROBATION OFFICER RAY: HER OFFENSE LEVEL SHOULD BE 21, THE TOTAL OFFENSE LEVEL IS 21.

THE COURT: IS 24 MINUS 3; ISN'T IT?

PROBATION OFFICER RAY: YES, 24 MINUS 3.

THE COURT: ALL RIGHT.

PROBATION OFFICER RAY: THE GUIDELINE RANGE IS 57 TO 71 MONTHS.

THE COURT: ALL RIGHT.

PROBATION OFFICER RAY: AND THE FINE RANGE IS 15,000 TO 150,000.

THE COURT: OKAY. NOW I BELIEVE WE'RE ON THE SAME PAGE ON THE MAP. SO THERE IS AN ADJUSTED OFFENSE LEVEL OF 24 BASED ON THE COURT'S RULINGS, A THREE LEVEL REDUCTION UNDER SECTION 3E1.1 FOR ACCEPTANCE UNDER -- WELL, SECTION 3E1.1, RESULTING IN A TOTAL OFFENSE LEVEL OF 21, CRIMINAL HISTORY CATEGORY OF IV, AND AN ADVISORY RANGE OF 57 TO 71 MONTHS.

MR. HEAVENER, DO YOU AGREE WITH THE MATH?

MR. HEAVENER: I DO, YOUR HONOR; AND FOR THE COURT'S NOTE I FILED A CORRECTED SENTENCING MEMO.

THE COURT: I SAW THAT EARLIER TODAY.

MR. HEAVENER: I'M NOT SURE WHAT MY ISSUE WITH MATH HAS BEEN THESE PAST COUPLE OF WEEKS.

THE COURT: I UNDERSTAND.

AND, MR. HUDSON, I KNOW YOU DON'T AGREE WITH THE COURT'S RULINGS, BUT DO YOU AGREE WITH THE MATH?

MR. HUDSON: YES, YOUR HONOR.

THE COURT: ALL RIGHT. THEN HAVING RULED ON ALL THE OBJECTIONS -- AND, BY THE WAY, WHAT YOU FILED,

WHICH HAS BEEN CHARACTERIZED AS AN OBJECTION, WAS SIMPLY A RESPONSE TO THE GOVERNMENT'S OBJECTIONS IN WHICH YOU ASSERTED THAT YOU THOUGHT THE ORIGINAL PRESENTENCE REPORT WAS CORRECT, IS THAT --

MR. HUDSON: THAT'S CORRECT, YOUR HONOR, I PROBABLY DIDN'T TITLE THAT CORRECTLY.

THE COURT: SO THERE IS NO OBJECTION FROM THE DEFENDANT.

SO HAVING RULED ON ALL THE OBJECTIONS, THEN I FIND THAT THE TOTAL OFFENSE LEVEL IS 21 WITH A CRIMINAL HISTORY CATEGORY OF IV, THE ADVISORY GUIDELINE RANGE IS 57 TO 71 MONTHS; AND WITH THOSE CHANGES, I WILL ADOPT THE PRESENTENCE REPORT AS THE COURT'S FINDINGS IN THE CASE. I WILL APPLY THE STATUTORY MAXIMUM OF 20 YEARS AS TO COUNT 2, STATUTORY MAXIMUM OF 5 YEARS AS TO COUNT 8.

ALL RIGHT. MR. HEAVENER, AS I SAID, I READ YOUR AMENDED SENTENCING MEMORANDUM, YOU SEEK A BOTTOM OF THE GUIDELINE RANGE SENTENCE HERE; CORRECT?

MR. HEAVENER: YOUR HONOR, I WILL BE REQUESTING A TOP OF THE GUIDELINE FOR THE VIOLATION OF THE SUPERVISED RELEASE.

THE COURT: TOP OF THE GUIDELINE OR STATUTORY MAXIMUM?

MR. HEAVENER: WELL, I'M SEEKING THE TOP OF THE GUIDELINE. I THINK THERE'S CERTAINLY A --

THE COURT: SO YOU'RE SEEKING 12 MONTHS ON THE REVOCATION?

MR. HEAVENER: YES, SIR. I CERTAINLY UNDERSTAND IF THE COURT EXCEEDS THAT, BUT THAT'S THE GOVERNMENT'S REQUEST.

THE COURT: ALL RIGHT. ANYTHING ELSE ABOVE AND BEYOND WHAT YOU'VE PUT IN YOUR SENTENCING MEMORANDUM?

MR. HEAVENER: YOUR HONOR, IF I COULD JUST BRIEFLY HIGHLIGHT A FEW OF THE REASONS WHY THE GOVERNMENT BELIEVES A SENTENCE OF THIS NATURE IS APPROPRIATE. I WOULD JUST ASK THE REGULAR QUESTIONS, WHO, WHAT, WHEN, WHERE, WHY, AND HOW. I MAY GET THEM OUT OF ORDER; BUT WHO IS THE DEFENDANT COMMITTED THIS OFFENSE AFTER JUST SERVING 24 MONTHS ON ANOTHER WIRE FRAUD OFFENSE FROM THIS COURT WHILE SERVING OUT THE SUPERVISED RELEASE TERM. THAT'S VERY AGGRAVATING IN THE GOVERNMENT'S VIEW.

THE VICTIM, THE WHO OF THE VICTIM IS ALSO VERY AGGRAVATING BECAUSE THIS IS ULTIMATELY THE UNITED STATES AND ITS TAXPAYERS WHO FUNDED ALL OF THIS. AND NOT ONLY IS THE UNITED STATES A VICTIM, BUT THE COURT IN A VERY REAL SENSE IS A VICTIM OF THIS OFFENSE BECAUSE OF THE FALSE PROBATION REPORT THAT WAS FILED.

THE WHAT OF THIS IS OBVIOUSLY PPP LOANS. RIGHT NOW IT'S IMPOSSIBLE TO ESTIMATE THE SCOPE OF THE FRAUD THAT TOOK PLACE IN THAT PROGRAM. THERE WAS AN NBC

ARTICLE, I THINK IT WAS PUBLISHED ON FEBRUARY 1ST, ALL WE REALLY KNOW SO FAR IS THAT THERE HAVE BEEN 1,044 PEOPLE PROSECUTED FOR COVID-RELATED FRAUD. THAT ARTICLE ESTIMATED THAT $80 BILLION OF THE OVER $800 BILLION OF PPP LOANS ARE PROBABLY GOING TO BE FRAUDULENT, SO IT IS A VERY IMPORTANT ISSUE FOR THE GOVERNMENT IN TERMS OF THE DETER-RENCE, BOTH SPECIFIC DETERRENCE TO MS. BETHEA AND GENERAL DETERRENCE FOR FUTURE PROGRAMS LIKE THIS. HOPEFULLY WE DON'T EXPERIENCE ANOTHER GLOBAL PANDEMIC IN OUR LIFE TIMES; BUT IF WE DO, IT JUST CANNOT BE COUNTENANCED.

THE WHEN OF THIS CASE INVOLVED RIGHT IN THE MIDDLE OF THE COVID PANDEMIC. MS. BETHEA WAS RELEASED FROM PRISON IN EARLY OCTOBER OF 2020, SHE COMMITTED THIS OFFENSE IN MARCH OF 2021, SO IT'S LESS THAN 6 MONTHS OF SUPERVISED RELEASE. IT WAS ALSO AFTER JUST SERVING A 24 MONTH SENTENCE FROM THIS COURT.

THE WHERE OF THE OFFENSE IS OBVIOUSLY HERE, BUT IT'S ALSO IN FLORIDA. SHE TRAVELED TO FLORIDA WHILE ON SUPERVISED RELEASE, LIED ABOUT IT, AND THEN STAYED IN THE TRUMP INTERNATIONAL HOTEL IN SUNNY ISLES, FLORIDA. THOSE ARE AGGRAVATING FACTORS.

THE HOW OF THE OFFENSE IS VERY AGGRAVATING. THE SPECIFICS OF THE OFFENSE, THE FICTITIOUS BUSINESS, THE COURT HAS INDICATED THE FRAUDULENT SCHEDULE C, SAYING ON THE APPLICATION THAT SHE HAD NOT BEEN CONVICTED OF A FRAUD

OFFENSE, THOSE ARE ALL AGGRAVATING IN AND OF THEMSELVES; BUT THEN YOU HAVE TO LAYER ON THE FALSE STATEMENT IN HER SUPERVISION REPORT. SHE MADE THREE FALSE STATEMENTS. SHE SAID THAT SHE HADN'T -- SHE HAD ONLY RECEIVED $200 A MONTH WHEN SHE GOT THIS LOAN, SAID IT WAS A PAYMENT FROM HER, THE FATHER OF HER CHILD. SHE SAID THAT SHE HAD NOT HAD ANY EXPENSES OVER $500, AND WE KNOW THAT'S FALSE FROM THE HOTEL RECEIPTS AND THE PLASTIC SURGERY RECEIPT; AND THEN SHE TOLD HER PROBATION OFFICER SHE HAD NOT TRAVELED OUTSIDE THE STATE OF TENNESSEE, AND, OBVIOUSLY, THAT WAS FALSE.

SO THEN, THEN WE ASK THE QUESTION REALLY THE WHY OF THIS, AND THIS IS WHAT REALLY IS THE MOST AGGRAVATION OF THIS CASE. THERE ARE CERTAINLY PEOPLE WHO COMMIT FRAUD AND STEAL BECAUSE THEY'RE TRYING TO MAKE ENDS MEET. THAT'S NOT WHAT THIS CASE IS ABOUT. MS. BETHEA STOLE PPP LOAN PROCEEDS AND THEN TOOK THE MONEY TO STAY AT AN INTERNATIONAL RESORT WITH HER FATHER FOR A WEEK AND ALSO UNDERWENT AN ELECTIVE COSMETIC SURGERY, ALL AT TAXPAYER'S EXPENSE. SO FOR THOSE REASONS, YOUR HONOR, THE GOVERNMENT BELIEVES A SERIOUS SENTENCE IS MANDATED. THE GUIDELINES CALL FOR 57 TO 71 MONTHS, WE'RE REQUESTING 57 MONTHS ON THE NEW OFFENSE; BUT THEN, AS I INDICATED, WE'RE REQUESTING THE TOP OF THE GUIDELINES FOR HER VIOLATION OF SUPERVISION; BELIEVE THERE'S CERTAINLY A RECORD, IF THE

COURT BELIEVES THAT'S INSUFFICIENT, IT CAN GO UP, BUT WE BELIEVE THAT A SERIOUS SENTENCE IS WARRANTED IN THIS CASE.

THANK YOU, YOUR HONOR.

THE COURT: THANK YOU, MR. HEAVENER.

ALL RIGHT. MR. HUDSON, YOUR ARGUMENT ON BEHALF OF THE DEFENDANT.

MR. HUDSON: IF THE COURT PLEASE, SUBJECT TO THE OBJECTIONS THAT I MADE TO THE GOVERNMENT'S POSITION ON THEIR NOTICE OF OBJECTIONS, THE COURT'S RULING, I -- IF THE GOVERNMENT IS ASKING FOR THE BOTTOM OF THE GUIDELINES OF 57 MONTHS, THERE'S NOTHING REALLY I CAN SAY OTHER THAN I WOULD ASK ON BEHALF OF MS. BETHEA THAT THE GOVERNMENT ACCEPT THAT RECOMMENDATION IF YOUR HONOR DECIDES TO SENTENCE HER ABOVE THE BOTTOM OF THE GUIDELINES.

I WILL ALSO POINT OUT THAT UPON HER ARREST SHE CONFESSED HER GUILT, SHE -- PURSUANT TO A CASTIGAR LETTER AND GAVE A FULL DEBRIEFING TO THE GOVERNMENT IN HOPES OF EARNING A 5K1.1 DOWNWARD DEPARTURE MOTION. THE GOVERNMENT HAS NOT FOUND THAT AT THIS POINT, IT'S SOMETHING THAT THEY'RE -- DON'T FEEL LIKE SHE'S EARNED AT THIS POINT. SO SHE HAS MADE ATTEMPTS, YOUR HONOR, TO FULLY, FULLY COOPERATE WITH THE GOVERNMENT REGARDING THIS MATTER.

AS TO THE VIOLATION, YOUR HONOR, MS. BETHEA ASKS THAT RATHER THAT SHE BE GIVEN AN ADDITIONAL -- CONSIDER HER COOPERATION, THAT SHE BE, INSTEAD OF GETTING

ADDITIONAL TIME ON THAT, THAT HER SUPERVISED RELEASE SIMPLY BE EXTENDED. THIS PROBABLY WOULDN'T HAPPEN ANYWAY, YOUR HONOR, THAT'S PROBABLY TOO MUCH TO ASK FOR, BUT SHE DOES ASK THAT I MAKE THAT REQUEST.

I THINK SHE DOES WANT TO MAKE SOME REMARKS TO THE COURT.

THE COURT: ALL RIGHT, MR. HUDSON, THANK YOU.

ALL RIGHT. MS. BETHEA, COME UP TO THE PODIUM WITH YOUR ATTORNEY, PLEASE.

ALL RIGHT. IS THERE ANYTHING YOU WISH TO SAY BEFORE I IMPOSE SENTENCE?

THE DEFENDANT: YES, SIR. FIRST I WOULD LIKE TO SAY THAT I TAKE FULL RESPONSIBILITY FOR MY ACTIONS, FOR THE CRIMES THAT I DID COMMIT, AND I KNOW THAT BY TAKING FULL RESPONSIBILITY THERE'S ACCOUNTABILITY FOR THAT.

I WOULD LIKE ALSO TO SAY THAT, YOUR HONOR, ON PAPER YOU CAN CLEARLY SEE THAT I HAVE HAD A LENGTHY HISTORY WITH MONEY. I'VE STRUGGLED WITH IT FOR QUITE SOME TIME. WHEN I WENT TO PRISON BEFORE, I HAD TO FACE A LOT OF UGLY TRUTHS ABOUT MYSELF; AND I THOUGHT, OKAY, WELL, THIS IS -- YOU KNOW, I'M DONE WITH THIS, AND THEN SHORTLY AFTER I FOUND MYSELF RIGHT BACK IN THE SAME SITUATION.

I UNDERSTOOD AT THAT TIME I HAD TO DO SOMETHING DIFFERENT, I HAD TO PUT THINGS IN PLACE, THAT IT WASN'T JUST AS EASY AS IT -- JUST GOING TO PRISON AND SAY, OKAY,

I'M DONE WITH THIS ACTIVITY. THIS IS SOMETHING THAT I HAD TRUTHFULLY ENGAGED IN FOR A VERY LONG TIME. I'M VERY ASHAMED OF IT, AND, TRULY, YOUR HONOR, I -- I DON'T WANT TO SWINDLE NO MORE. I DON'T WANT TO BE A LIAR AND A CHEAT AND ALL THE THINGS THAT I HAVE BEEN FOR SO LONG. I'M DONE WITH ALL OF THIS.

WHILE I'VE BEEN INCARCERATED THIS TIME, I HAVE EXPERIENCED LIFE CHANGING THINGS. MY STEPFATHER, WHOM I'VE KNOWN SINCE I WAS 17, THE FATHER OF MY BROTHER, PASSED AWAY UNEXPECTEDLY. I WAS NOT THERE TO SAY GOOD-BYE, I WASN'T THERE TO COMFORT MY BROTHER, MY MOTHER. SHE WAS DIAGNOSED WITH CANCER SHORTLY AFTER, SHE'S WENT THROUGH PROCEDURES, CHEMO, SURGERY; AND, YOUR HONOR, IN 40 YEARS I HAVE NOT -- I CAN'T TELL YOU ONE TIME MY MOTHER SAID SHE'S EVER NEEDED ME, AND THEN SHE TOLD ME SHE NEEDED ME, AND I'M NOT THERE, I'M NOT GOING TO BE THERE; AND THOSE ARE LIFE CHANGING THINGS. SO I'M DONE WITH THIS. I KNOW THAT, AGAIN, I TOOK RESPONSIBILITY FOR IT, AND I KNOW THERE'S ACCOUNTABILITY FOR IT, AND I'LL DO WHAT I HAVE TO DO, BUT I'M DONE WITH THIS. THANK YOU.

THE COURT: WHAT ARE YOU GOING TO DO ABOUT IT TO CHANGE IT?

THE DEFENDANT: WELL, YOUR HONOR, I -- AFTER THIS HAPPENED, I ACTUALLY SEEKED OUT COUNSELING. I KNOW THAT THE COURT DON'T ACKNOWLEDGE IT, BUT I WAS DOING

COUNSELING. THAT STARTED LATE IN 2021 UP UNTIL MY INCARCERATION TO FIGURE OUT WHAT IT WAS BECAUSE I USED MONEY AS A CRUTCH, AS A, A TOOL TO -- FOR ACCEPTANCE. SO JUST TAKING THE MONEY AWAY DIDN'T HELP, I HAD TO WORK ON MYSELF AND WORK ON THE THINGS THAT I HAD TO DEAL -- YOU KNOW, HAVE PEOPLE PLEASING AND NOT WANTING TO SAY NO AND FEELING GUILTY IF I TOLD MY CHILDREN NO, SO I WOULD JUST -- YOU KNOW, IT'S SO MUCH THAT I'VE HAD TO -- THE UGLY TRUTH OF MYSELF; AND I HAVE LEARNED TOOLS TO FIGHT THAT, AND I HAVE A GREAT SUPPORT SYSTEM, BUT IT DON'T WORK IF I LIE TO THEM; AND I'M DONE, I'M DONE LYING, I'M DONE HIDING, I'M -- I'M MAKING THE STEPS THAT I NEED TO TO FIX IT. IT'S NOT GOING TO HAPPEN OVERNIGHT BECAUSE, AS I SAID, I'VE DEALT WITH THIS FOR PROBABLY 20 YEARS TRYING TO GAIN ACCEPTANCE THROUGH WHATEVER MEANS, AND IT JUST SO HAPPENED THAT I USED MONEY TO DO IT; BUT I'M GOING TO WORK ON IT EVERY SINGLE DAY, AND THE LORD WILLING I MAY GET HOME TO HUG MY MOTHER ONE LAST TIME. IT WILL BE WORTH IT BECAUSE ALL THIS OTHER STUFF IS NOT EVEN WORTH IT. THE TIME I'VE LOST WITH HER, MY CHILDREN, IT'S NOT -- NONE OF IT IS WORTH IT.

THE COURT: WHEN YOU SAY YOU HAVE STRUGGLED WITH MONEY ALL YOUR LIFE, WHAT DO YOU MEAN BY THAT?

THE DEFENDANT: I'VE STRUGGLED WITH USING IT AS, AS A, A CRUTCH TO -- IF I FELT LONELY, MONEY BROUGHT

PEOPLE AROUND. IF I FELT GUILTY FOR STUFF THAT, WITH MY CHILDREN, MONEY APPEASED THEM. I SUFFERED WITH BODY IMAGES SINCE I COULD, MIDDLE SCHOOL, SO MONEY HELPED ME CHANGE IT. IT DIDN'T CHANGE ME ON THE INSIDE AND HOW I FELT, BUT IT -- I JUST USED MONEY AS A, AS A TOOL.

THE COURT: YOU KNOW, MS. BETHEA, I'M NOT WITHOUT SOME COMPASSION HERE, BUT FOR 22 YEARS, SINCE YOU WERE 18 YEARS OF AGE, ANY OF THOSE TITLES YOU USED, LIAR, SWINDLER, CHEAT, I WOULD ADD THE WORD THIEF --

THE DEFENDANT: YES, SIR.

THE COURT: -- COULD HAVE BEEN APPLIED TO YOU, AND RIGHTLY SO.

THE DEFENDANT: YES, SIR.

THE COURT: YOU ACKNOWLEDGE THAT ALL OF YOUR CRIMINAL HISTORY INVOLVES CRIMES OF DISHONESTY. YOU HAVE LIED TO THIS COURT ON REPORTS FILED. I GUESS WHAT I'M LOOKING FOR IS SOME ASSURANCE THAT I CAN BELIEVE ANYTHING YOU'RE SAYING NOW.

THE DEFENDANT: I UNDERSTAND, YOUR HONOR, I TRULY DO, AND I KNOW MY WORD ISN'T WORTH ANYTHING. I KNOW THAT IT HAS TO BE SHOWED BY ACTIONS, AND I'M JUST HOPING THAT I'LL HAVE THAT OPPORTUNITY BECAUSE I -- I AM, I THINK THIS OF MYSELF, DISHONEST. I'VE BEEN DISHONEST NOT ONLY WITH MY FAMILY, MY CHILDREN AND OTHERS, BUT WITH MYSELF, AND IT'S HARD -- IT'S, IT'S HARD TO LOOK IN THE MIRROR AND

SEE THIS PERSON, AND I DON'T WANT TO BE THAT PERSON ANY LONGER. WHATEVER -- AGAIN, WHATEVER ACCOUNTABILITY I HAVE TO DO AND GO THROUGH, THAT'S WHAT I HAVE TO DO, BUT I DON'T WANT TO BE THAT ANYMORE. I DON'T WANT TO BE ANY OF THOSE THINGS ANYMORE. AND PRIOR TO MY INCARCERATION, I HAD OBTAINED A JOB AND I WAS WORKING AND DOING WHAT I NEEDED TO DO. I JUST -- I DID IT TOO LATE.

THE COURT: ALL RIGHT, MS. BETHEA. EVERY SENTENCING IN A CRIMINAL CASE IS DIFFICULT FOR THIS COURT. THIS ONE IS PARTICULARLY DIFFERENT BECAUSE THERE IS SIMPLY NOTHING THAT REASONABLY EXPLAINS WHY YOU HAVE MADE THE DECISIONS YOU HAVE MADE. FOR 22 YEARS THAT THE COURT KNOWS OF YOU HAVE LIED AND CHEATED AND STOLEN FROM OTHER PEOPLE; AND I DON'T RECALL ALL THAT OCCURRED IN YOUR LAST CASE HERE, BUT I KNOW YOU WERE SENTENCED IN THE MIDDLE OF THAT GUIDELINE RANGE, NOT AT THE TOP. YOUR CRIMINAL HISTORY CATEGORY AT THAT TIME WAS I, IT'S NOW IV.

WHAT I'M STRUGGLING WITH HERE IS THAT IN A GENERAL SENSE IN SENTENCING WHAT I'M REQUIRED TO DO IS BALANCE YOUR BEST INTEREST AGAINST THOSE OF THE PUBLIC'S BEST INTEREST. I'M NOT SURE WHAT CAN BE DONE TO PROTECT THE PUBLIC HERE BECAUSE AFTER SERVING 24 MONTHS IN FEDERAL PRISON, YOU WERE WITHIN 6 MONTHS ENGAGED IN A SCHEME TO FLEECE THE GOVERNMENT; AND IT'S NOT JUST THE GOVERNMENT, WE TALK ABOUT THE GOVERNMENT, BUT IT'S TAXPAYERS. IT'S

THEFT OF FUNDS INTENDED BY THE CONGRESS AND BY THE EXECUTIVE FOR PEOPLE WHO HAD TRULY AND LEGITIMATELY BEEN HARMED BY COVID, BY THE EPIDEMIC THAT SWEPT THIS COUNTRY.

TITLE 18, UNITED STATES CODE, SECTION 3553(A) REQUIRES ME TO IMPOSE A SENTENCE HERE WHICH IS SUFFICIENT BUT NOT GREATER THAN NECESSARY TO COMPLY WITH THE PURPOSES OF SENTENCING ESTABLISHED BY THE UNITED STATES CONGRESS. THOSE PURPOSES ARE LISTED IN THAT CODE SECTION, AND THE COURT IS GIVEN A NUMBER OF FACTORS TO CONSIDER IN DETERMINING WHERE TO DRAW THAT LINE BETWEEN A SENTENCE SUFFICIENT AND ONE GREATER THAN NECESSARY.

I HAVE NOW ESTABLISHED THE GUIDELINE RANGE IN THIS CASE TO BE A RANGE OF 57 TO 71 MONTHS OF IMPRISONMENT. THAT'S ADVISORY, I'M NOT REQUIRED TO SENTENCE YOU WITHIN THAT RANGE; BUT ORDINARILY THAT GUIDELINE RANGE IS A GOOD INDICATION TO THE COURT OF WHERE WITHIN THE STATUTORY RANGE A SENTENCE SHOULD BE IMPOSED. THE REASON FOR THAT IS VERY SIMPLE, IT'S BECAUSE THE UNITED STATES SENTENCING COMMISSION WAS DIRECTED BY CONGRESS TO ESTABLISH THESE GUIDELINE RANGES, BUT TO DO SO ONLY AFTER THOROUGH CONSIDERATION OF ALL THE 3553(A) FACTORS, AND MY EXPERIENCE, WHICH IS BROAD IN THIS AREA, INDICATES THAT THE UNITED STATES SENTENCING COMMISSION IN MOST CASES HAS DONE EXACTLY THAT.

SINCE THE TIME THE SENTENCING REFORM ACT WAS

PASSED IN 1984 AND THE SENTENCING COMMISSION WAS ESTAB-
LISHED, THROUGH NOW I HAVE DEALT WITH THESE GUIDELINES IN
ONE WAY OR ANOTHER, EITHER AS AN ATTORNEY REPRESENTING
DEFENDANTS CHARGED WITH CRIME IN THE FEDERAL COURTS OR AS
A JUDGE. THAT'S A PERIOD OF ALMOST 40 YEARS. I HAVE
CERTAINLY SEEN FRAUD CASES THAT WERE MUCH MORE SIGNIFICANT
IN TERMS OF THE DOLLARS LOST THAN THIS ONE, BUT I'M NOT
SURE I HAVE SEEN A CASE OF SUCH EGREGIOUS FRAUD IN ALL THE
YEARS I'VE BEEN DOING THIS.

IT APPEARS ON PAPER, MS. BETHEA, THAT YOU HAVE
LEARNED ABSOLUTELY NOTHING SINCE THAT FIRST CONVICTION AT
THE AGE OF 18. IT CERTAINLY APPEARS TO THE COURT THAT YOU
LEARNED ABSOLUTELY NOTHING FROM THE LAST 24 MONTH SENTENCE
IMPOSED IN THIS COURT. TO USE THE GOVERNMENT'S WORDS IN
THEIR SENTENCING MEMORANDUM, YOU JUST DON'T GET IT.
THAT'S WHAT IT APPEARS.

ANOTHER REASON WHY THAT GUIDELINE RANGE IS
IMPORTANT TO ME THOUGH, ASIDE AND APART FROM THE FACT THAT
IT IS IN MY VIEW GENERALLY REFLECTIVE OF THE 3553(A)
FACTORS, IS BECAUSE A SENTENCE WITHIN THAT PROPERLY
CALCULATED GUIDELINE RANGE PROMOTES UNIFORMITY IN
SENTENCING, WHICH IS ANOTHER OF THE FACTORS CONGRESS HAS
LISTED FOR APPROPRIATE CONSIDERATION BY THE DISTRICT COURT
IN IMPOSING SENTENCE.

NOW, I WILL SAY THIS TO YOU, IN MY VIEW IT WAS

NOT A PARTICULARLY CLOSE CALL ON THE GOVERNMENT'S OBJECTIONS; BUT EVEN IF I HAD SUSTAINED -- HAD NOT SUSTAINED THE GOVERNMENT'S OBJECTIONS HERE, EVERY ONE OF THOSE ISSUES RAISED BY THE UNITED STATES IS AN AGGRAVATING FACTOR THAT IN MY VIEW WAS NOT PROPERLY ACCOUNTED FOR IN THE GUIDELINES RANGE AND EACH ONE OF THEM JUSTIFIES AN UPWARD VARIANCE OF THE GUIDELINE RANGE.

I'M REQUIRED TO CONSIDER THE SERIOUSNESS OF THE OFFENSE. THIS OFFENSE VIEWED IN A VACUUM IS NOT THE MOST SERIOUS, MOST SIGNIFICANT THAT I EVER SEE. IN FACT, MORE OFTEN THAN NOT I'M DEALING WITH DRUG DEALERS WHO HAVE DISTRIBUTED HUGE QUANTITIES, POUNDS AND POUNDS AND KILOS AND KILOS OF DANGEROUS DRUGS, OR WHO HAVE COMMITTED VIOLENT OFFENSES; BUT WHEN TAKEN IN TOTAL IN CONTEXT OF YOUR LIFE OVER THE LAST 20 YEARS, THIS BECOMES A VERY SERIOUS OFFENSE. IT'S SERIOUS BECAUSE OF THE NATURE OF IT, WHICH WAS TAKING MONEY APPROPRIATED BY CONGRESS AND INTENDING FOR VULNERABLE VICTIMS AND USING IT TO GO TO FLORIDA TO SPEND TIME AT THE TRUMP RESORT AND HAVE SOME COSMETIC SURGERY DONE, APPARENTLY.

IT'S CERTAINLY NOT THE AMOUNT OF MONEY INVOLVED HERE THAT MAKES THIS SO SERIOUS. IT IS THE WHEN, THE WHAT, THE HOW THAT MR. HEAVENER HAS DISCUSSED THAT MAKES THIS SO SERIOUS.

IN ADDITION TO CONSIDERING THE SERIOUSNESS OF

THE OFFENSE, I'M ALSO REQUIRED TO CONSIDER THE NEED FOR THE SENTENCE IMPOSED TO PROMOTE RESPECT FOR THE LAW. I WON'T DISCOUNT WHAT YOU'VE SAID TO ME TODAY, MS. BETHEA; BUT AS WE STAND HERE WITH THE PAPER RECORD BEFORE THIS COURT, YOU HAVE ABSOLUTELY NO RESPECT FOR THE LAW, OR FOR THE COURT, FOR THAT MATTER. I'LL GET TO THAT REVOCATION MATTER IN A FEW MINUTES.

AS I INDICATED, YOUR FIRST CONVICTION WAS AT THE AGE OF 18 FOR SHOPLIFTING AND FOR GIVING FALSE INFORMATION TO A LAW ENFORCEMENT OFFICER, STEALING AND LYING. YOU RECEIVED SUSPENDED SENTENCES FOR THOSE OFFENSES. AT AGE 20 YOU WERE CONVICTED OF THEFT OF PROPERTY LESS THAN $500 BY CHECK, 90 DAYS IN JAIL SUSPENDED TO 24 MONTHS PROBATION. IN 2011 -- YOU HAD A PRETTY GOOD STRETCH BETWEEN 20 AND 28; BUT THEN WHEN YOU WERE 28, CONVICTED OF ATTEMPT TO UTTER FORGED INSTRUMENTS AND THEFT OF $500 OR LESS IN THE SULLIVAN COUNTY CRIMINAL COURT. ONCE AGAIN IT WAS SUSPENDED TO PROBATION. THEN SOME TRAFFIC OFFENSES; BUT AT 33 CONVICTED OF IDENTITY THEFT, FRAUDULENT USE OF A CREDIT CARD AND IDENTITY THEFT IN HAWKINS COUNTY. THEN THE SAME YEAR, THEFT UNDER A THOUSAND DOLLARS, MULTIPLE COUNTS OF THAT, SUSPENDED TO TIME SERVED; AND THEN AT AGE 35, CONSPIRACY TO COMMIT WIRE FRAUD AND WIRE FRAUD IN THIS COURT, FOR WHICH THE COURT IMPOSED A 24 MONTH TERM OF IMPRISONMENT. YOU HAVE CLEARLY

VIOLATED THE TERMS OF YOUR SUPERVISION WITHIN A VERY SHORT PERIOD OF TIME OF BEING RELEASED FROM PRISON.

SO ALL OF THOSE DESCRIPTIVE TERMS THAT YOU USED AND THAT I USED A FEW MINUTES AGO FULLY APPLY HERE. I DON'T EVEN LIKE THOSE WORDS, LIAR, SWINDLER, CHEAT; AND NOT JUST A THIEF HERE, BUT A SERIAL THIEF WITH REPEATED THEFTS OF OTHER PEOPLE'S PROPERTY.

I COMMEND YOU FOR SEEKING COUNSELING. YOU INDICATED THAT YOU HAD TO AFTER THE PRIOR CONVICTION FACE SOME UGLY TRUTHS. I'D SUGGEST TO YOU THAT GETTING INVOLVED IN THE SAME KIND OF CONDUCT LESS THAN 6 MONTHS AFTER RELEASE IS NOT FACING THOSE TRUTHS; AND THAT UNTIL YOU FACE THOSE TRUTHS AND DEAL HONESTLY WITH THEM, YOU WILL CONTINUE TO ENGAGE IN THE SAME KIND OF CONDUCT. SO THERE HAS TO BE A SENTENCE IMPOSED HERE THAT WILL PROMOTE RESPECT FOR THE LAW ON YOUR PART.

THESE LAWS ARE WRITTEN NOT AS SUGGESTIONS, NOT AS SOMETHING YOU OUGHT TO DO UNLESS YOU FEEL LIKE DOING SOMETHING ELSE, THEY ARE BOUNDARIES ON THE CONDUCT THAT IS PERMISSIBLE IN A CIVILIZED SOCIETY.

I HAVE TO CONSIDER A RELATED FACTOR, THAT OF IMPOSING A SENTENCE THAT WILL AFFORD AN ADEQUATE DETERRENCE TO CRIMINAL CONDUCT. TWO KINDS OF DETERRENCE HERE, BOTH -- ONE IS SPECIFIC TO YOU, THE OTHER IS MORE GENERAL TO THE PUBLIC AT LARGE. AS WE STAND HERE TODAY,

IN SPITE OF WHAT YOU SAID TO ME, MS. BETHEA, I HAVE NO REAL CONFIDENCE THAT EVEN A STATUTORY MAXIMUM SENTENCE HERE WOULD DETER YOU IN THE LONG RUN FROM COMMITTING FURTHER OFFENSES. I HOPE I AM WRONG ABOUT THAT FOR YOUR SAKE.

YOU HAVE TO FIGURE OUT WHAT'S MORE IMPORTANT TO YOU IN LIFE, STEALING OR TAKING CARE OF YOUR CHILDREN AND YOUR MOM; AND ALTHOUGH THERE IS SOME SIGNIFICANT UNDERLYING MENTAL ILLNESS HERE THAT IS KNOWN, SOME SERIOUS SUBSTANCE ABUSE PROBLEMS, I DON'T HAVE ANYTHING BEFORE ME TO SUGGEST THAT THESE OFFENSES WERE EVEN CONTRIBUTED TO BY THOSE FACTORS; AND YOU WEREN'T USING THIS MONEY TO BUY DRUGS. AT LEAST IN MY EXPERIENCE I'VE NOT SEEN THESE KIND OF OFFENSES NECESSARILY TO THIS EXTENT ASSOCIATED WITH ANXIETY AND BIPOLAR WHICH ARE THINGS THAT I KNOW EXIST FROM THE PRESENTENCE REPORT.

GENERAL DETERRENCE IS AN IMPORTANT FACTOR HERE TOO. THESE ARE THEFT OFFENSES. THEFT OFFENSES OR OFFENDERS WHO COMMIT THEFT OFFENSES ARE AMONG THE HIGHEST STATISTICALLY SPEAKING REOFFENDERS. IN OTHER WORDS, THERE'S A GREATER PERCENTAGE OR A NEARLY GREATER PERCENTAGE WITH PEOPLE WHO COMMIT THEFT OFFENSES THAN THERE ARE WITH ANY OTHERS. THE MENTAL HEALTH ISSUES AND THE SUBSTANCE ABUSE ISSUES SIMPLY INCREASE THAT RISK, AND SO THERE HAS TO BE A DETERRENT EFFECT THAT IS MESSAGED TO A

MUCH BROADER AUDIENCE THAT THESE KINDS OF REPEAT OFFENSES SIMPLY WILL NOT BE TOLERATED.

CONGRESS SPECIFICALLY DIRECTED ME TO CONSIDER THE NEED TO PROTECT THE PUBLIC HERE. I HONESTLY DO NOT KNOW, MS. BETHEA, HOW TO PROTECT THE PUBLIC HERE EXCEPT TO PUT YOU IN JAIL WHERE YOU CAN OBTAIN MENTAL HEALTH TREATMENT AND AN APPROPRIATE EVALUATION, WHERE YOU CAN OBTAIN TREATMENT FOR SUBSTANCE ABUSE AND WHERE YOU CAN HOPEFULLY DEAL WITH THESE PROBLEMS BUT AT THE SAME TIME PROTECTING OTHER PEOPLE'S PROPERTY FROM YOUR CONDUCT.

I'M TOLD TO CONSIDER THE NATURE AND CIRCUM-STANCES OF YOUR INVOLVEMENT HERE. AS I SAID TO YOU, EVEN IF I HAD NOT APPLIED THE ENHANCEMENTS THAT RESULTED FROM THE GOVERNMENT'S OBJECTION, I WOULD HAVE CONSIDERED ALL OF THOSE TO BE SERIOUS AGGRAVATING FACTORS HERE, ANY ONE OF WHICH WOULD HAVE JUSTIFIED AN UPWARD VARIANCE FROM THE GUIDELINE RANGE CALCULATED BY THE PROBATION OFFICER, AND THE THREE COMBINED JUSTIFY IN A VERY, VERY LARGE UPWARD VARIANCE.

THERE WERE SIGNIFICANT LOSSES TO U.S. TAXPAYERS HERE, NOT ONLY FROM YOUR FRAUDULENT LOAN TO YOURSELF, BUT FROM THE FACT THAT YOU RECRUITED OTHERS TO ENGAGE IN THE SAME KIND OF CONDUCT. THE FACT THAT YOU'VE BEEN OUT OF PRISON FOR LESS THAN 6 MONTHS; AND I TEND TO AGREE WITH THE GOVERNMENT THAT WHAT YOU DID WITH THE MONEY HERE IS AN

AGGRAVATING FACTOR AS WELL. YOU WEREN'T STEALING MONEY TO FEED YOURSELF OR TO FEED YOUR CHILDREN, YOU WEREN'T STEALING MONEY TO PAY THE ELECTRIC BILLS OR THE WATER BILLS, YOU USED IT FOR SOMETHING ELSE; AND THE SIMPLE FACT OF THE MATTER IS THAT EVERY PRIOR CONVICTION EXCEPT FOR SOME TRAFFIC OFFENSES INVOLVES THE VERY SAME KIND OF CONDUCT.

AND I WOULD NOTE, AND I'M NOT GOING TO HOLD CHARGED CONDUCT OF DISMISSED CASES AGAINST YOU, BUT THE SAME THING CAN BE TRUE OF ALL THE CASES YOU'VE BEEN CHARGED WITH THAT WERE DISMISSED. FROM WORTHLESS CHECKS TO FORGERY, TO ATTEMPTED THEFT. I DON'T MAKE ANY CONCLUSION ABOUT WHETHER YOU WERE GUILTY OF THOSE THINGS OR NOT, I JUST NOTE THAT THEY ARE OF THE VERY SAME TYPE OF CONDUCT THAT LED TO ALL OF THESE CONVICTIONS.

I'M ALSO REQUIRED TO CONSIDER UNDER ADVISORY GUIDELINE -- WELL, NOT REQUIRED, I ALSO CONSIDER UNDER ADVISORY GUIDELINES YOUR PERSONAL HISTORY AND CHARAC-TERISTICS AS WELL. UNDER THE GUIDELINES THOSE FACTORS ARE TYPICALLY IRRELEVANT. UNDER EXISTING CASE LAW AND DE-VELOPING CASE LAW FROM THE SIXTH CIRCUIT THEY ARE REFERRED TO BY THE SIXTH CIRCUIT AS UNFAVORED. THE BOTTOM LINE IS THAT PERSONAL HISTORY AND CHARACTERISTICS TYPICALLY HAVE VERY LITTLE TO DO WITH THE SENTENCE TO BE IMPOSED.

THERE ARE CERTAINLY SOME FACTORS HERE THAT MAKE

YOU SYMPATHETIC. I MEAN, YOU HAVE THREE CHILDREN, ALL OF WHOM WHO NEED A GOOD PARENT IN THEIR LIFE. YOU'RE NOT THERE TO PROVIDE THAT. YOU HAVEN'T BEEN THERE TO PROVIDE THAT. YOUR MOTHER'S CONDITION BREAKS MY HEART. SHE NEEDS YOU, THERE'S NO QUESTION ABOUT THAT; BUT COULD SHE COUNT ON YOU? I DON'T KNOW.

YOUR AUNT'S LETTER THAT WAS SUBMITTED BY MR. HUDSON WAS SOMETHING THAT TOUCHED ME, TALKED ABOUT YOUR MOTHER'S BATTLE WITH LUNG CANCER, ASKED ME TO PUT YOU ON HOME CONFINEMENT, WHICH I CANNOT DO. MAYBE THE BETTER WAY TO SAY THAT IS WHICH I AM UNWILLING TO DO UNDER THESE CIRCUMSTANCES.

YOU KNOW, MR. HUDSON DOES POINT TO SOME POTENTIALLY MITIGATING FACTORS, AND YOU'VE TOUCHED ON SOME AS WELL. YOUR WORDS AT LEAST ADDRESS RESPONSIBILITY AND ACCOUNTABILITY FOR THE CONDUCT, BUT IT'S VERY LATE COMING.

YOU DID IN FACT ADMIT YOUR GUILT ON YOUR ARREST. YOU APPARENTLY GAVE A DEBRIEFING IN AN ATTEMPT TO COOPERATE EVEN THOUGH IT DIDN'T RISE TO THE LEVEL OF SUBSTANTIAL ASSISTANCE UNDER THE GUIDELINES. IT SEEMS TO ME, MS. BETHEA, THAT THE OVERRIDING CONCERNS HERE ARE, NUMBER ONE, THAT THE SENTENCE HAS TO PROMOTE RESPECT FOR THE LAW ON YOUR PART. THE SENTENCE HAS TO, AS BEST I CAN WITH A JAIL SENTENCE, DETER YOU FROM FURTHER CRIMINAL CONDUCT. IN OTHER WORDS, IT HAS TO STOP RIGHT HERE. IT

HAS TO PROTECT THE PUBLIC. I MEAN, OVER THE YEARS I'VE HEARD MANY VICTIMS OF PROPERTY CRIMES TELL ME THAT THEY FELT LIKE THEIR PRIVATE LIFE WAS INVADED; AND THAT -- THESE ARE NOT BURGLARIES OR ANYTHING OF THAT SORT, BUT, NEVERTHELESS, THEY IMPLICATE PEOPLE WHO LOSE MONEY, EVEN IF THEY ARE BUSINESSES OR THE GOVERNMENT, TAXPAYERS.

AND YOU WERE NOT ALONE IN THIS CONDUCT. MR. HEAVENER TELLS ME THAT THERE HAVE BEEN MORE THAN A THOUSAND PROSECUTIONS RELATED TO THIS KIND OF FRAUD, AND IT, TO SOME DEGREE, WAS ANTICIPATED BECAUSE EVERY TIME THERE IS A MASSIVE GOVERNMENT PROGRAM FUNDED OF THIS TYPE, THERE ARE PEOPLE WHO WILL TRY TO FIGURE OUT A WAY TO GET AROUND THE LAW AND GET SOMETHING FOR NOTHING.

THE UNITED STATES HAS ASKED ME FOR A BOTTOM OF THE GUIDELINES RANGE SENTENCE HERE. I DON'T OFTEN CONSIDER SOMETHING HIGHER THAN THE GOVERNMENT IS ASKING ME FOR, BUT I AM SERIOUSLY CONSIDERING IT IN THIS CASE. FRANKLY, I AM A LITTLE BIT SURPRISED THAT THE GOVERNMENT IS NOT ASKING FOR THE TOP OF THE GUIDELINES HERE AND STATUTORY MAXIMUM WITH RESPECT TO THE REVOCATION.

IN MY VIEW, MS. BETHEA, THE BOTTOM OF THE GUIDELINES RANGE SENTENCE HERE IN THIS CASE UNDER THE CIRCUMSTANCES SURROUNDING THIS CASE AND THIS CASE ALONE TO SOME DEGREE REWARDS YOUR PATTERN OF CONDUCT. IT ENDANGERS THE PUBLIC. IT DOESN'T PROPERLY PROMOTE RESPECT FOR THE

LAW. AND SO IN THIS PARTICULAR CASE I'M GOING TO DECLINE THE GOVERNMENT'S INVITATION TO IMPOSE A BOTTOM OF THE GUIDELINE RANGE SENTENCE; AND, FRANKLY, THE REASON FOR MY HESITATION A LITTLE BIT IS I'M TRYING TO THINK OF A GOOD REASON NOT TO IMPOSE THE 71 MONTH TOP OF THE GUIDELINE RANGE SENTENCE.

I DO ACKNOWLEDGE THAT YOU MADE A CONFESSION OF GUILT IMMEDIATELY UPON YOUR ARREST, AND YOU AT LEAST TRIED TO PROVIDE INFORMATION TO THE GOVERNMENT, THOSE ARE THE ONLY MITIGATING FACTORS THAT I SEE HERE, SO I WON'T IMPOSE A SENTENCE AT THE TOP OF THE RANGE HERE.

I'M GOING TO IMPOSE A SENTENCE CLOSER TO THE MIDPOINT OF THE GUIDELINE RANGE. I'M GOING TO IMPOSE A 66 MONTH TERM OF INCARCERATION AS TO THIS CASE FOR WHICH YOU STAND CONVICTED HERE. AND I HAVE TO ADMIT TO YOU, MS. BETHEA, THAT BASED ON THE RECORD, NOT BASED ON WHAT YOU SAY, BUT WHAT YOU'VE DONE, THAT THAT DOES NOT COMFORT ME IN TERMS OF PROTECTING THE PUBLIC.

SO HAVING CONSIDERED THE NATURE AND CIRCUM-STANCES OF THE OFFENSE, YOUR HISTORY AND CHARACTERISTICS, THE ADVISORY GUIDELINE RANGE WHICH APPLIES TO THIS CASE, AS WELL AS ALL OF THE OTHER FACTORS LISTED IN TITLE 18, UNITED STATES CODE, SECTION 3553(A), IT IS PURSUANT TO THE SENTENCING REFORM ACT OF 1984 THE JUDGMENT OF THIS COURT THAT ON COUNTS 2 AND 8 THE DEFENDANT, LESLIE DANIEL

BETHEA, IS HEREBY COMMITTED TO THE CUSTODY OF THE BUREAU OF PRISONS TO BE IN PRISON FOR A TERM OF 66 MONTHS AS TO COUNT 1, AND 60 MONTHS AS TO COUNT -- EXCUSE ME, NOT COUNT 1, COUNT 2, 66 MONTHS AS TO COUNT 2, 60 MONTHS AS TO COUNT 8 TO RUN CONCURRENTLY TO EACH OTHER FOR A NET EFFECTIVE SENTENCE OF 66 MONTHS.

THE ONE THING I WILL DO FOR YOU THAT HOPEFULLY WILL GIVE YOU A, THE HOPE OF HAVING THESE THINGS ALL CONCLUDED IS THAT I WILL ORDER THAT THIS SENTENCE BE RUN CONCURRENTLY TO ANY SENTENCE THAT MAY BE IMPOSED IN THE PENDING PROBATION VIOLATIONS IN HAWKINS COUNTY, TENNESSEE CRIMINAL COURT DOCKET NUMBERS CC-16-CR-199, 16-CR-200, 16-CR-204 AND 16-CR-205. THIS SENTENCE SHALL, HOWEVER, RUN CONSECUTIVELY TO THE SENTENCE TO BE IMPOSED IN THE PENDING SUPERVISED RELEASE VIOLATION IN UNITED STATES DISTRICT COURT DOCKET NUMBER 2:18-CR-25.

IT IS FURTHER ORDERED THAT YOU SHALL MAKE RESTITUTION IN THE AMOUNT OF $20,805 TO THE VICTIMS OUTLINED IN THE PRESENTENCE REPORT, AND IT HAS OCCURRED TO ME, AND I HAVE CONSIDERED WHETHER RESTITUTION SHOULD BE FOR THE FULL AMOUNT OF THE LOSS OR NOT, BUT THE LIKELIHOOD IS IT'S NOT GOING TO BE PAID IN ANY EVENT, THE GOVERNMENT HASN'T OBJECTED TO THE 20,805 NUMBER, SO THE RESTITUTION WILL BE $20,805. I FIND, HOWEVER, THAT YOU DOT NOT HAVE THE ABILITY TO PAY INTEREST ON THE RESTITUTION AND

INTEREST IS WAIVED. THE FULL AMOUNT OF RESTITUTION MAY BE ENFORCED BY THE GOVERNMENT AT ANY TIME PURSUANT TO TITLE 18, UNITED STATES CODE, SECTIONS 3612 AND 3664(M).

I WILL RECOMMEND THAT YOU RECEIVE 500 HOURS OF SUBSTANCE ABUSE TREATMENT FROM THE BOP'S RESIDENTIAL DRUG ABUSE TREATMENT PROGRAM. I WILL RECOMMEND THAT YOU RECEIVE A COMPLETE MENTAL AND PHYSICAL HEALTH EVALUATION AND NEEDED TREATMENT WHILE IN THE CUSTODY OF THE BUREAU OF PRISONS.

UPON RELEASE FROM IMPRISONMENT, YOU SHALL BE PLACED ON SUPERVISED RELEASE FOR A TERM OF 3 YEARS AS TO EACH COUNT TO RUN CONCURRENTLY FOR A NET EFFECTIVE TERM OF 3 YEARS OF SUPERVISED RELEASE.

WHILE ON SUPERVISED RELEASE YOU SHALL NOT COMMIT ANOTHER FEDERAL, STATE OR LOCAL CRIME. YOU MUST NOT UNLAWFULLY POSSESS AND YOU MUST REFRAIN FROM THE USE OF ANY CONTROLLED SUBSTANCE. YOU MUST COMPLY WITH THE STANDARD CONDITIONS THAT HAVE BEEN ADOPTED BY THIS COURT IN LOCAL RULE 83.10. IN PARTICULAR YOU MUST NOT OWN, POSSESS OR HAVE ACCESS TO ANY FIREARM, ANY AMMUNITION, A DESTRUCTIVE DEVICE OR ANY DANGEROUS WEAPON. YOU MUST COOPERATE IN THE COLLECTION OF DNA AS DIRECTED.

IN ADDITION, YOU SHALL COMPLY WITH THE FOLLOW-ING SPECIAL CONDITIONS: FIRST, YOU SHALL PARTICIPATE IN A PROGRAM OF TESTING AND TREATMENT FOR DRUG AND/OR ALCOHOL

ABUSE AS DIRECTED BY THE PROBATION OFFICER UNTIL SUCH TIME AS YOU ARE RELEASED FROM THE PROGRAM BY THE PROBATION OFFICER.

SECOND, YOU SHALL PARTICIPATE IN A PROGRAM OF MENTAL HEALTH TREATMENT AS DIRECTED BY THE PROBATION OFFICER UNTIL SUCH TIME AS YOU ARE RELEASED FROM THE PROGRAM BY THE PROBATION OFFICER. YOU MUST WAIVE ALL RIGHTS TO CONFIDENTIALITY REGARDING MENTAL HEALTH TREATMENT IN ORDER TO ALLOW RELEASE OF INFORMATION TO THE SUPERVISING UNITED STATES PROBATION OFFICER AND TO AUTHORIZE OPEN COMMUNICATION BETWEEN THE PROBATION OFFICER AND THE MENTAL HEALTH TREATMENT PROVIDER.

THIRD, YOU SHALL PROVIDE THE PROBATION OFFICER WITH ACCESS TO ANY REQUESTED FINANCIAL INFORMATION.

FOURTH, YOU SHALL NOT INCUR NEW CHARGES ON EXISTING ACCOUNTS OR APPLY FOR ADDITIONAL LINES OF CREDIT WITHOUT PERMISSION OF THE PROBATION OFFICER UNTIL THE AMOUNT OF RESTITUTION HAS BEEN PAID IN FULL. IN ADDITION, YOU SHALL NOT ENTER INTO ANY CONTRACTUAL AGREEMENTS WHICH OBLIGATE FUNDS WITHOUT THE PERMISSION OF THE PROBATION OFFICER.

IT WILL ALSO BE A CONDITION OF YOUR SUPERVISION THAT YOU PAY ANY FINANCIAL PENALTY IMPOSED BY THE COURT'S JUDGMENT. ANY AMOUNT THAT REMAINS UNPAID AT THE COMMENCE-MENT OF THE TERM OF SUPERVISED RELEASE SHALL BE PAID ON A

MONTHLY BASIS AT THE AMOUNT OF AT LEAST 10 PERCENT OF YOUR NET INCOME.

AND, FINALLY, YOU SHALL SUBMIT YOUR PERSON, PROPERTY, HOUSE, RESIDENCE, VEHICLE, PAPERS OR OFFICE TO A SEARCH CONDUCTED BY A UNITED STATES PROBATION OFFICER OR DESIGNEE. FAILURE TO SUBMIT TO A SEARCH MAY BE GROUNDS FOR REVOCATION OF RELEASE. YOU SHALL WARN ANY OTHER OCCUPANTS THAT THE PREMISES MAY BE SUBJECT TO SEARCH PURSUANT TO THIS CONDITION. AN OFFICER MAY CONDUCT A SEARCH PURSUANT TO THIS CONDITION ONLY WHEN REASONABLE SUSPICION EXISTS THAT YOU HAVE VIOLATED A CONDITION OF YOUR SUPERVISION AND THE AREAS TO BE SEARCHED CONTAIN EVIDENCE OF THE VIOLATION.

IT IS FURTHER ORDERED THAT YOU SHALL PAY TO THE UNITED STATES A SPECIAL ASSESSMENT OF $200 WHICH IS MANDATORY PURSUANT TO TITLE 18, UNITED STATES CODE, SECTION 3013, WHICH SHALL BE DUE IMMEDIATELY. I DO FIND, HOWEVER, THAT YOU DO NOT HAVE THE ABILITY TO PAY A FINE, THE COURT WILL WAIVE ANY FINE IN THIS CASE.

YOUR PLEA AGREEMENT WITH THE UNITED STATES HAS BEEN REVIEWED BY THE COURT AND IS ACCEPTED BY THE COURT. PURSUANT TO THE PLEA AGREEMENT AND UPON MOTION OF THE UNITED STATES THE REMAINING COUNTS OF THE INDICTMENT ARE DISMISSED AS TO YOU.

TITLE 18, UNITED STATES CODE, SECTIONS 3565(B)

AND 3583(G) REQUIRE MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A CONTROLLED SUBSTANCE OR A FIREARM OR FOR REFUSAL TO COMPLY WITH DRUG TESTING.

PURSUANT TO RULE 32 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE, THE COURT ADVISES YOU THAT YOU MAY HAVE THE RIGHT TO APPEAL YOUR CONVICTION OR THE SENTENCE IMPOSED IN THIS CASE. A NOTICE OF APPEAL MUST BE FILED WITHIN 14 DAYS OF THE ENTRY OF THE JUDGMENT. IF YOU REQUEST AND SO DESIRE, THE CLERK OF THE COURT CAN PREPARE AND FILE THE NOTICE OF APPEAL FOR YOU.

DOES EITHER PARTY HAVE ANY OBJECTION TO THE SENTENCE JUST PRONOUNCED BY THE COURT IN CASE NUMBER 2:22-CR-52 THAT HAS NOT BEEN PREVIOUSLY RAISED?

MR. HEAVENER: NONE FROM THE UNITED STATES, YOUR HONOR.

MR. HUDSON: NONE FROM THE DEFENSE, YOUR HONOR.

THE COURT: NOW, THERE'S ALSO PENDING BEFORE THE COURT A PETITION SEEKING REVOCATION OF YOUR TERM OF SUPERVISED RELEASE IN THIS CASE. MR. HEAVENER, I'VE HEARD THE GOVERNMENT'S POSITION ON THAT, DO YOU WANT TO BE HEARD ANY FURTHER?

MR. HEAVENER: NO, YOUR HONOR.

THE COURT: AND, MR. HUDSON, DO YOU WANT TO BE HEARD ON THAT MATTER?

MR. HUDSON: NO, YOUR HONOR.

THE COURT: YOU INDICATED THAT THE DEFENDANT'S REQUEST IS THAT I SIMPLY EXTEND THE TERM OF SUPERVISION?

MR. HUDSON: THAT'S HER REQUEST, YOUR HONOR.

THE COURT: ALL RIGHT. MS. BETHEA, IN CASE NUMBER 2:18-CR-25 I FIND BASED UPON YOUR OWN ADMISSIONS IN THE CASE THAT YOU HAVE VIOLATED THE TERMS AND CONDITIONS OF YOUR SUPERVISION AND THAT THE TERM OF SUPERVISED RELEASE IS HEREBY REVOKED.

IN DETERMINING WHAT SENTENCE TO IMPOSE I AM LARGELY GUIDED BY THE VERY SAME FACTORS SET FORTH IN TITLE 18, UNITED STATES CODE, SECTION 3553(A) THAT I HAVE DISCUSSED IN RELATION TO CASE NUMBER 22-CR-52.

THE CHAPTER 7 POLICY STATEMENT FOR GRADE B VIOLATIONS, IS IT 4 TO 10 OR 4 TO 12?

PROBATION OFFICER WELCH: FOUR TO 10, YOUR HONOR.

THE COURT: FOUR TO 10 MONTHS. I THINK I SAID 12 A FEW MINUTES AGO.

MR. HEAVENER: YOUR HONOR, I'M NOT SURE IT'S A GRADE B VIOLATION, I THINK THE NEW OFFENSE IS THE --

THE COURT: IT'S A GRADE -- IT IS A GRADE -- YEAH.

PROBATION OFFICER WELCH: YES, SIR, IT'S A GRADE B VIOLATION.

THE COURT: THAT'S RIGHT.

MR. HEAVENER: OH, I'M SORRY.

PROBATION OFFICER WELCH: CRIMINAL HISTORY CATEGORY IV MAKES IT 4 TO 10 MONTHS.

THE COURT: AND WE APPLY THE CRIMINAL HISTORY CATEGORY FROM THE PRIOR SENTENCING.

MR. HEAVENER: THE REPORT I HAVE INDICATES A REVOCATION GUIDELINE RANGE OF 6 TO 12 MONTHS.

PROBATION OFFICER WELCH: THERE WAS AN ERROR ON THE FACE SHEET OF THE PETITION, YOUR HONOR. THE CORRECT RANGE IS REFERENCED IN THE DISPOSITIONAL REPORT THAT WAS FILED.

MR. HEAVENER: GOT YOU.

THE COURT: SO IT IS 4 TO 10?

PROBATION OFFICER WELCH: YES, SIR.

MR. HEAVENER: THANK YOU, YOUR HONOR.

THE GOVERNMENT WOULD STILL PERSIST IN ITS REQUEST FOR THE TOP OF THE GUIDELINE, YOUR HONOR, AND BELIEVES THAT THERE WOULD BE GROUNDS FOR AN UPWARD VARIANCE IF THE COURT WOULD WISH TO CONSIDER THAT.

THE COURT: THE 4 TO 10 MONTH REVOCATION RANGE IS SIMPLY A POLICY STATEMENT IN THE GUIDELINES. JUST AS WITH AN ADVISORY GUIDELINE RANGE I'M NOT REQUIRED TO SENTENCE WITHIN THAT RANGE.

JUST SO YOU WILL KNOW, MS. BETHEA, THE PROBATION OFFICER HAS RECOMMENDED THAT I IMPOSE THE

STATUTORY MAXIMUM HERE, 24 MONTHS. THE GOVERNMENT DOESN'T ASK FOR 24 MONTHS, THE GOVERNMENT ASKS FOR THE TOP OF THE GUIDELINE RANGE, WHICH IS 10 MONTHS.

I CANNOT DO WHAT YOU ASKED ME, WHICH IS SIMPLY EXTEND THE TERM OF SUPERVISED RELEASE IN THE PRIOR CASE. TO DO SO WOULD SEND THE WRONG MESSAGE WITH RESPECT TO EVERY FACTOR THAT'S IMPORTANT UNDER 3553(A). IT WOULD NOT ONLY NOT PROMOTE RESPECT FOR THE LAW, IT WOULD NOT DETER YOU, IT WOULD NOT DETER OTHERS. IN FACT, IT WOULD IN MY OPINION EMBOLDEN OTHERS UNDER SUPERVISION TO VIOLATE THEIR TERMS AND CONDITIONS.

THE CONDUCT HERE GIVING RISE TO THE VIOLATIONS IS EGREGIOUS. IT APPEARS THAT YOU BEGAN VIOLATING TERMS AND CONDITIONS OF YOUR SUPERVISION EARLY ON. YOU FILED A MOTION ON NOVEMBER 3, 2021 TO TERMINATE EARLY YOUR TERM OF SUPERVISION, ABOUT THAT SAME TIME THE PROBATION OFFICER RECEIVED INFORMATION THAT YOU WERE BEING INVESTIGATED FOR THIS OFFENSE. IT WAS REPORTED TO THE PROBATION OFFICER THAT ON TWO SEPARATE OCCASIONS, AND IT LOOKS LIKE AT LEAST ON ONE OF THEM YOU ADMITTED THAT YOU TRAVELED OUTSIDE THE DISTRICT WITHOUT PERMISSION TO DO SO; AND THEN MAYBE MOST EGREGIOUS OF ALL IS THE CONVICTION IN CASE NUMBER 22-CR-52.

ONCE AGAIN, MS. BETHEA, IT IS VERY DIFFICULT FOR THE COURT TO ARTICULATE A BASIS TO IMPOSE SOMETHING

LESS THAN THE STATUTORY MAXIMUM; BUT IF I'M GOING TO MAKE A MISTAKE HERE, I'D RATHER MAKE IT IN YOUR FAVOR THAN OTHERWISE. BECAUSE THE CONDUCT HERE IN VIOLATION OF YOUR TERM OF SUPERVISION IS SO EGREGIOUS, SO BLATANT, EXHIBITS SUCH A STRONG LACK OF RESPECT FOR THE LAW, I'M GOING TO VARY UPWARD, HOWEVER, FROM THE POLICY STATEMENT GUIDELINE.

SO AFTER CONSIDERING THE GUIDELINE RANGE, AFTER CONSIDERING THE RELEVANT 3553(A) FACTORS, AFTER CONSIDERING THE STATUTORY MAXIMUM OF 24 MONTHS, IT IS THE JUDGMENT OF THE COURT PURSUANT TO THE SENTENCING REFORM ACT OF 1984 THAT THE DEFENDANT, LESLIE DANIELLE BETHEA, IS HEREBY SENTENCED TO A TERM OF 12 MONTHS OF IMPRISONMENT WITH RESPECT TO THIS REVOCATION; AND I DO THAT WITH A WHOLE LOT OF RESERVATION, AND I FEEL LIKE I AM GIVING YOU FAR GREATER BENEFIT OF THE DOUBT THAN I SHOULD. AND THAT TERM OF IMPRISONMENT IN CASE NUMBER 2:18-CR-25 WILL NOT BE FOLLOWED BY ANY ADDITIONAL TERM OF SUPERVISION.

THE SENTENCE IMPOSED IN THIS REVOCATION MATTER SHALL BE SERVED CONSECUTIVELY TO THE SENTENCE IMPOSED IN CASE NUMBER 2:22-CR-52, MEANING THAT THE EFFECTIVE SENTENCE IN THE UNDERLYING CASE AND THE REVOCATION MATTER WHEN COMBINED IS A TOTAL SENTENCE OF 78 MONTHS, 6 YEARS -- 6 1/2 YEARS, I GUESS IT IS, MY MATH IS NOT GREAT.

AND, MS. BETHEA, I HOPE WHEN YOU COMPLETE THIS TERM OF IMPRISONMENT THAT YOU HAVE TAKEN FULL BENEFIT OF

THE BOP PROGRAMS AND THAT YOU TRULY HAVE ADDRESSED WHAT-EVER ISSUE IT IS THAT IS LEADING TO THE KIND OF CONDUCT YOU HAVE ENGAGED IN. IF YOU DON'T, YOU'RE GOING TO END UP SPENDING THE GREATER PART OF THE REST OF YOUR LIFE BEHIND BARS. AS SIMPLY AS I CAN PUT IT TO YOU, YOU WALK THROUGH A RETAIL BUSINESS, KEEP YOUR HANDS OFF THEIR PROPERTY UNLESS YOU INTEND TO BUY IT. DON'T WRITE A CHECK YOU CAN'T COVER. DON'T TRY TO FLEECE THE GOVERNMENT OR ANYBODY ELSE.

PURSUANT TO RULE 32(J)(1)(B) OF THE FEDERAL RULES OF CRIMINAL PROCEDURE, THE COURT ADVISES YOU THAT YOU MAY HAVE THE RIGHT TO APPEAL THE SENTENCE IMPOSED IN THIS REVOCATION MATTER. A NOTICE OF APPEAL MUST BE FILED WITHIN 14 DAYS OF THE ENTRY OF THE JUDGMENT. IF YOU REQUEST AND SO DESIRE, THE CLERK OF THE COURT CAN PREPARE AND FILE THE NOTICE OF APPEAL FOR YOU.

AS TO CASE NUMBER 2:18-CR-25, DOES EITHER PARTY HAVE ANY OBJECTION TO THE SENTENCE JUST PRONOUNCED BY THE COURT THAT HAS NOT BEEN PREVIOUSLY RAISED?

MR. HEAVENER: NO OBJECTION FROM THE UNITED STATES, YOUR HONOR.

MR. HUDSON: NO OBJECTION FROM THE DEFENSE, YOUR HONOR.

THE COURT: MS. BETHEA, I SUSPECT THAT WHAT I'VE SAID TO YOU TODAY SOUNDED FROM YOUR PERSPECTIVE VERY

HARSH. I DIDN'T MEAN IT TO BE HARSH, BUT IT ADDRESSED REALITY. YOUR BEHAVIOR HAS TO CHANGE; AND AT LEAST AS LONG AS I AM SITTING HERE, I WILL NOT TOLERATE YOU CONTINUING TO THUMB YOUR NOSE AT THE COURT OR AT THE LAW.

HAVING SAID THAT, I WISH YOU THE BEST. GOOD LUCK TO YOU.

YOU'LL BE REMANDED TO THE CUSTODY OF THE UNITED STATES MARSHAL TO SERVE THAT SENTENCE.

MR. HUDSON: YOUR HONOR, SHE REQUESTED THAT THE COURT RECOMMEND THAT SHE BE ALLOWED TO GO TO HAZELTON.

THE DEFENDANT: ALDERSON.

THE COURT: HAZELTON?

MR. HUDSON: ALDERSON, I'M SORRY.

THE COURT: ALDERSON, ALL RIGHT. I WILL RECOMMEND TO THE BUREAU OF PRISONS THAT YOU BE DESIGNATED TO THE BOP FACILITY AT ALDERSON, WEST VIRGINIA TO SERVE THE SENTENCE, ALL RIGHT.

MR. HUDSON: THANK YOU.

THE COURT: AND I DIDN'T ADDRESS CREDIT FOR TIME SERVED EITHER. YOU WERE ARRESTED IN JUNE OF 2022 AS I RECALL?

THE DEFENDANT: YES.

THE COURT: DO YOU REMEMBER THE DATE?

THE DEFENDANT: JUNE 5TH.

THE COURT: I'LL RECOMMEND THAT YOU RECEIVE

CREDIT FOR TIME SERVED SINCE JUNE 6, 2022 AS WELL.

THE DEFENDANT: THANK YOU.

THE COURT: ALL RIGHT. GOOD LUCK TO YOU.

MR. HUDSON, MR. HEAVENER, THANK YOU ALL VERY MUCH.

MR. HEAVENER: THANK YOU, YOUR HONOR.

THE COURT: LET'S ADJOURN FOR THE DAY.

(PROCEEDINGS ARE CONCLUDED AT 4:41 P.M.)

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

KAREN J. BRADLEY/S — 03/25/2023

SIGNATURE OF COURT REPORTER — DATE