UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v. CASE NO. 8:24-cr-461-WFJ-NHA

STEPHEN L. GURBA

UNITED STATES' SENTENCING MEMORANDUM

The United States files this sentencing memorandum to address contested issues raised in defendant Gurba's initial Presentence Investigation Report ("PSR"), and to assist the Court in assessing defendant Stephen Gurba's criminal conduct in fashioning an appropriate sentence for the crimes he has been convicted of.

I. BACKGROUND

A. Procedural History of the Case

On October 24, 2024, a federal Grand Jury sitting in Tampa, FL returned a five-count Indictment that charged the defendant with two counts of wire fraud, in violation of 18 U.S.C. § 1343, two counts of aggravated identity theft, in violation of 18 U.S.C. § 1028A, and one count of making a false statement to a financial institution in violation of 18 U.S.C. § 1014. (Doc. 1).

On January 12, 2026, the defendant's trial commenced. (Doc. 87). On January 15, 2026, the petit jury returned a guilty verdict finding the defendant guilty as charged. (Doc. 93).

Sentencing has been set for July 10, 2026, at 2.00 pm (Doc. 114).

B. <u>Factual Background</u>

According to the testimony and evidence presented at trial, between March and June 2020, defendant Gurba submitted false and fraudulent Economic Injury Disaster Loan ("EIDL") applications and supporting documentation on behalf of Big Red Express Trucking, LLC ("Big Red") and Zenith Express, LLC ("Zenith"). To obtain approval and funding for the Big Red and Zenith EIDL loans, the defendant fraudulently assumed the identity of his former business partner, R.W. who passed away on December 26, 2019, listed R.W.'s name, signature, date of birth, Social Security Number, and other means of identification on the EIDL loan applications certifying under criminal penalty that the applications were true and correct. The defendant also committed aggravated identity theft when used his R.W.'s name and forged his signature on the EIDL loan authorization agreements and loan notes he submitted to the Small Business Administration ("SBA"). During post-loan related communications with the SBA, Gurba continued to impersonate his deceased business partner. As a result of his fraudulent scheme, Gurba induced the SBA to approve and fund the Big Red and Zenith EIDL loans.

Additionally, evidence at trial established that the defendant applied for a Paycheck Protection Program ("PPP") loan on behalf of Big Red from Truist Bank ("Truist"), an FDIC-insured financial institution. The defendant certified and signed under criminal penalty that all the PPP loan proceeds would be spent on payroll, mortgages, rent, or other SBA authorized expenses. Evidence presented at trial proved the defendant used PPP proceeds at a casino, to enrich himself and family members, pay off unrelated business debts, and other impermissible expenses. As a result of Gurba's false statement, Truist approved and funded a $955,448.75 PPP loan to Big Red.

The losses caused by the defendant's criminal conduct are tragically borne by the American taxpayer.

C. <u>Guidelines Calculation</u>

On June May 29, 2026, the U.S. Probation Office prepared the initial PSR for the defendant. The initial PSR calculates the defendant's guidelines range as follows:

7	Base Offense Level (U.S.S.G. § 2B1.1(a)(2))
+14	Actual Loss in excess of $550,000, but less than $1,500,000 (U.S.S.G. § 2B1.1(b)(1)(C))
+2	The offense involved conduct described in 18 U.S.C. §

	1040 (fraud in connection with a major disaster or emergency benefits (U.S.S.G. § 2B1.1(b)(12)
-2	The defendant meets the criteria at U.S.S.G. §§ 4C1.1(a)(1)-(10), making the defendant a Zero-Point Offender, reducing his offense level by two levels
21	**TOTAL OFFENSE LEVEL**

The guidelines are correctly calculated. According to the PSR, the defendant has criminal history category I. Based on a zero-offense level and a criminal history category of I, the defendant's advisory guidelines range is presently 37 to 46 months' imprisonment for Counts One, Two, and Five. The defendant faces a mandatory 24 months' imprisonment for Count Three and a mandatory 24 months' imprisonment for Count Four.

All of the offense characteristics described in the PSR should be applied in fashioning the defendant's sentence.

II. United States' Response to Defendant's PSR Objections

A. <u>Selected Objections</u>

On June 22, 2026, counsel for Gurba sent a letter to U.S. Probation Officer Johanna Perez outlining multiple objections to the initial PSR. The United States has no objection to Gurba's objections set forth in paragraphs 45, 50,53, 54, 55, and 58. The United States is unable to take a position on Gurba's objections set forth in paragraphs 67, 70, and 71 due to lack of documentation.

As to the defendant's objection to paragraph 16, the government agrees that there were only three fraudulent loans. The ten loans represent the total number of PPP and EIDL loans the defendant's companies received from the SBA and private lenders during the COVID pandemic.

B. <u>Loss Amount</u>

The initial PSR correctly calculated $1,160,448.75 in losses caused by Gurba's criminal conduct, resulting in a 14-level increase to the guidelines calculation contained in Exhibit B. The correct loss figure is supported by the SBA certifications of losses. The correct restitution amount is $1,150,448.75. The restitution amount accounts for the $10,000 Zenith EIDL repayment after the defendant was approached by federal agents. The defendant objects to the loss amount in paragraphs 16, 19, 21, 23, 33, 38, 75, and 78. The United States urges the Court to deny the defendant's objections to each of these paragraphs for the reasons set forth below.

As a preliminary matter, Gurba incorrectly argues that the Big Red EIDL loan is $149,900. As set forth in Gov. Ex. 9B, the Big Red EIDL Loan Authorization and Agreement, the amount of the loan is $150,000. SBA witness Pandora Dysart testified that a standard $100 fee was deducted from the $150,000 loan and Gurba is still responsible for $150,000 in losses. Gurba also argues that "the $15,000" loan was paid back. As set forth in Count One of the Indictment, the grand jury returned an Indictment charging the defendant with defrauding the SBA to obtain a $10,000 Zenith EIDL loan. The $5,000 EIDL advances the defendant obtained were not charged.

Gurba's first objection to the loss calculation is based on the claim the Evelyn Gurba, the defendant's spouse, spent $342,000 of the Truist Bank $995,448.75 in PPP loan proceeds on $57,000 monthly rental payments to Zenith Express pursuant to a lease agreement. As established at trial, on June 1, 2020, Gurba transferred $300,000 from the Big Red account ending in x7751 to the Stephen and Evelyn Gurba Truist account ending in x0468 along with other transfers from the Big Red account to the joint account. Prior to the transfers of PPP funds, the joint account had a balance of $2,998.47.[1] A review of the relevant joint account bank statements does not show any $57,000 monthly rent payments or any other transfer of funds to the Zenith Truist corporate account ending in x7769.[2] Additionally, Zenith corporate bank records were obtained from a second financial institution. A review of the bank records did not show any monthly rental income deposits. The Court should deny any objections seeking a $342,000 reduction on the loss figure based on purported monthly rental payments.

[1] Exhibits 14B, 14I, and 15B
[2] Ex. 13B

Evidence shown at trial established that the defendant falsely stated that he would spend the PPP loan proceeds on permissible expenses. The evidence presented through bank statements and checks showed that defendant spent $100,000 in proceeds purchasing stocks through a Fidelity Brokerage account, $123,736 paying off a debt to a business partner for a failed venture, $20,000 to a decedent's estate, $14,891 spent at a Harley Davidson dealer, monies spent at the Hard Rock Casino, a $90,000 transfer to another business controlled by Gurba as well as other unauthorized expenditures. A Truist Bank witness testified that if the bank was aware that the defendant had not falsely stated that loan proceeds would be used only for authorized purchases, Truist would have never approved or funded the loan. The evidence shows that the defendant lied to get a $995,448.75 PPP loan. The defendant asserts that Truist forgave $716,467 of the PPP loan amount. That statement is misleading. As shown in the SBA certificate of loss, that $716,467 "forgiveness" was passed on to the SBA as a loss. The American taxpayer is responsible for the entire Big Red PPP loan loss. The defendant has failed to repay the PPP loan and is responsible for $995,448.75 in losses related to the criminal conduct he was found guilty of.

The defendant argues in his objections that the Court should lower the guidelines calculation should be lowered by 2-levels based on a revised loss figure of $278,980.94 and the amendment to the U.S. Sentencing Commission changes to § 2B1.1(b)(1)(h) set to take effect on November 1, 2026, absent congressional action. The United States urges the Court to deny this objection for two reasons: (i) The Court should apply the 2025 U.S. Sentencing Guidelines based on the date of conviction and not apply guidelines that have yet to take effect; and (ii) The PSR has correctly calculated the losses attributable to the defendant's conduct and as such, the defendant would not be entitled to a 2-level reduction even under the adopted amendments taking effect on November 1, 2026.

III. Sentencing

A. The Sentencing Process

A district court must fashion a sentence that is "sufficient, but not greater than necessary," to reflect the seriousness of the offense, promote respect for the law, provide just punishment, deter criminal conduct, and protect the public. *See* 18 U.S.C. § 3553(a). In arriving at its sentence, the district court must consider (1) the nature and circumstances of the offense and the characteristics of the defendant, (2) the kinds of sentences available, (3) the sentencing guideline range, (4) the pertinent policy statements of the Sentencing Commission, (5) the need to avoid sentencing disparities among similarly situated defendants, and (6) any need for restitution to victims. *Id.*

Furthermore, in determining a sentence, the district court must calculate the correct guidelines range, consider the § 3553(a) factors, and make "an individualized assessment based on the facts presented." *Gall v. United States*, 552 U.S. 38, 49-50 (2007).

The district court must consider all of the § 3553(a) factors at sentencing, *United States v. Shaw,* 560 F.3d 1230, 1237 (11th Cir. 2009), however, it is not required to discuss each factor on the record. *United States v. Kuhlman*, 711 F.3d 1321, 1326 (11th Cir. 2013); *United States v. Rodriguez,* 596 F. App'x 753, 756-57 (11th Cir. 2014) (noting that the district court is not required "to state on the record that it has explicitly considered each of the section 3553(a) factors or to discuss each of [them]"). The weight given to each factor is a matter committed to the discretion of the district court. *United States v. Clay*, 483 F.3d 739, 743 (11th Cir. 2007). And the district court is free to "attach great weight to one factor over others." *United States v. Rosales-Bruno*, 789 F.3d 1249, 1254 (11th Cir. 2015) (quotation omitted).

B. The Nature and Characteristics of the Defendant

The defendant's background set forth in the PSR and during trial testimony paints the picture of an extremely well educated and successful businessman.

The defendant holds a bachelor's, master's degree, and doctorate. According to the PSR, the defendant has enjoyed a successful career in the defense industry providing products and services to the United States military that were funded by the American taxpayer. The defendant is the former President of NAPC Defense, Inc., a publicly traded defense contractor based in Florida that provides military hardware, munitions, and construction services to the U.S. Military, NATO allies, the Kingdom of Saudi Arabia, and domestic law enforcement agencies.[3] The defendant was also President, CEO, and Chairman of the Board of Bulova Technologies Group, another defense contractor.

As a result of obtaining contracts from the federal government, the defendant has achieved a life of abundance. This luxurious lifestyle was illuminated through the testimony of defense witness Craig Schnee.[4] During direct examination, Mr. Schnee testified that he and the defendant had traveled the world together, gone on extensive motorcycle excursions, and were members of the Belleair Country Club, an exclusive country club located in the tony community of Belleair, FL, which was founded in 1897.[5] The defendant also lives in a $1.8 million personal residence in Belleair.

[3] https://napcdefense.com/
[4] Undersigned counsel does not have the trial transcript and is relying on his recollection and trial notes.
[5] https://www.belleaircc.com/

This leads to the inevitable questions: Why would a man of such means and education defraud the very government that made the defendant so successful through military contracts? And worse: Why would the defendant leverage the tragic death of his business partner to commit fraud?

The answer to the first question is greed. Greed is at the heart of almost every white-collar fraud case. During the COVID-19 pandemic, the federal government mounted massive public health response to save American lives from the virus. The government also rapidly developed a series of programs to save American businesses through two primary programs; PPP EIDL. The President sought and Congress appropriated hundreds of billions of dollars to these necessary programs.

Due to the rapid spread of the Coronavirus pandemic, both the EIDL and PPP programs were quickly stood up to get honest business owners the working capital to save their businesses from bankruptcy and funds to pay and retain workers, while much of the business activity in the country ground to a halt. Both the EIDL and PPP programs relied on business owners being truthful and not making materially false statements to obtain taxpayer funds they were otherwise not entitled to. The Small Business Administration and Truist Bank relied on the defendant being truthful. Sadly, that trust was misplaced.

As established at trial, the defendant's criminal activity did not apply to a single loan. His fraud was not a "one off", but rather deliberate and systematic. Gurba chose to commit fraud to steal as much money as he could as quickly as he could and he obtained over $1 million in short order.

The most disturbing aspect of the defendant's crime spree involved taking over the identity of his former business partner to defraud his victims. R.W. tragically passed away on December 26, 2019, months before the world experienced the devastating consequences of COVID-19. The defendant and R.W. were partners in multiple business ventures, including Big Red. Yet four months after R.W.'s death, Gurba made a deliberate and cold calculated decision steal his business partners identity in furtherance of his criminal activities. R.W. was listed as the primary owner and the defendant electronically signed his name to the EIDL Note, Loan Authorization Agreement for Zenith and Big Red, and other documents making a dead man financial responsible for the defendant's fraud. Why? Because as SBA attorney Pandora Dysart testified, the SBA had no legal recourse against a dead man if the EIDL loans defaulted.

After the SBA funded the Big Red and Zenith EIDL loans, the defendant wasn't finished with his scheme to defraud and continued to impersonate R.W., to conceal his fraudulent conduct. As shown through evidence presented at trial, the defendant pretended to be R.W. during customer service interactions with SBA representatives to conceal his crimes and avoid detection.[6]

At the time of his passing, R.W. had been married to C.W. R.W.'s death devastated his widow, who was also burdened with handling R.W.'s affairs and estate. As noted in C.W.'s victim impact statement to the Court, attached as Exhibit A, she cannot understand how the defendant stole her husband's identity for personal gain in the wake of his death. C.W. also cannot understand the defendant's depravity and seeks justice from the Court. Rather than being able to come to peace with her husband's death and move forward in her life, C.W. has suffered through the stress and indignation of R.W. being used in furtherance of criminal activity. The audacity as well as the nefarious and pernicious nature of the defendant's identity theft is an important consideration for the Court when fashioning a sentence.

C. The Need for Deterrence

Deterrence is of paramount importance for white-collar offenses. "Because economic and fraud-based crimes are 'more rational, cool, and calculated than sudden crimes of passion or opportunity,' these crimes are 'prime candidate[s] for general deterrence.'

[6] Exs. 8D and 9E

Defendants 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." *United States v. Martin*, 455 F.3d 1227, 1240 (11th Cir. 2006) (quoting in part Stephanos Bibas, *White-Collar Plea Bargaining and Sentencing After* Booker, 47 WM. & MARY L. REV. 721, 724 (2005)); *see also United States v. Hayes*, 62 F.3d 1300, 1308 (11th Cir. 2012) ("general deterrence is an important factor in white-collar cases, where the motivation is greed.

In this case, the defendant is facing a mandatory 2-year term of imprisonment for the aggravated identity theft convictions charged in Counts Three and Four. A sentence of 24 months for Counts Three and Four with time served for Counts One, Two, and Five would be woefully insufficient and not accomplish the goals of sentencing. Such a low sentence would not send the proper message to similarly situated successful businessmen that they cannot defraud the taxpayer with impunity.

IV. CONCLUSION

For the foregoing reasons, the United States respectfully requests the Court should impose a 61-month terms of imprisonment as follows; (i) A sentence of 37 months for Counts One, Two, and Five to run concurrently; and (ii) a term of 24 months' imprisonment for Counts Three and Four to run consecutively. The government also requests the Court impose a 5-year term of supervised release. Given the pernicious and systemic nature of Gurba's criminal activity, this sentence will adequately achieve justice pursuant to the four main objectives of 18 U.S.C. § 3553(a).

Additionally, the United States respectfully requests that the Court remand the defendant the United States Bureau of Prisons to await designation to the appropriate facility. The defendant has been out on bond since the jury returned a guilty verdict as to all counts on January 15, 2026. The defendant has highlighted several health problems to delay his prison time and unsuccessfully sought a lengthy continuance. The Bureau of Prisons has healthcare facilities to treat inmates with cardiovascular and possible oncology issues. Under no circumstances should the defendant be allowed to remain out on bond pending appeal.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: */s/ Christopher Poor*

Christopher Poor
Special Assistant United States Attorney
United States Attorney No. 152
400 N. Tampa St., Ste. 3200
Tampa, FL 33602-4798
Telephone: (813) 274-6000
E-mail: Christopher.Poor@usdoj.gov

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CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2026, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to counsel of record.

/s/ Christopher Poor
Christopher Poor
Special Assistant United States Attorney
United States Attorney No. 152
400 N. Tampa St., Ste. 3200
Tampa, FL 33602-4798
Telephone: (813) 274-6000
Facsimile: (813) 274-6358
E-mail: Christopher.Poor@usdoj.gov