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May 3, 2022

-VIA ECF-

The Honorable Kiyo A. Matsumoto
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *United States v. Kevin Lipsitz*
1:20-cr-00394-KAM

Defendant's position regarding restitution

Dear Judge Matsumoto:

Our office represents Mr. Kevin Lipsitz who is scheduled to be sentenced on Thursday, May 5, 2022 at 11:00 AM before this Court. The court has directed that a restitution hearing be held concurrently.

Mr. Lipsitz acknowledges that restitution is mandatory for his offense of conviction, pursuant to the Mandatory Victims Restitution Act ("MVRA"), 18 U.S.C. § 3363A(c); U.S.S.G. § 5E1.1(a)(1). As to the appropriate amount and based on the information known to us to date, it is our position that restitution should be ordered in the sum of \$100.00 (One Hundred Dollars).

The U.S. Probation Office (EDNY), upon order of the court, has initial responsibility for providing a report containing information sufficient for the court to fashion a restitution order, including an accounting of losses to each victim, any restitution owed pursuant to a plea agreement, and the economic circumstances of a defendant. See 18 U.S.C. § 3664(a). The officer is also responsible for providing notice to victims of the date, time and place of the restitution hearing, and of their opportunity to submit information to the probation officer concerning the amount of their losses. See 18 U.S.C. § 3664(d)(2).

The presentence investigation report ("PSR") in this matter was prepared on February 25, 2022 and provided to the parties immediately thereafter. As contained in the PSR, Probation Officer Jameka Bing sent Affidavits of Loss to the various victims of the instant offense; however, only one victim had returned the Affidavit, requesting \$100 in restitution. See PSR

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dated 02/25/2022 at ¶ 97. Since then, an Addendum to the Presentence Report (the “Addendum”) dated April 28, 2022, was prepared and sent to the parties. Nothing contained therein refers to any additional victims having submitted Affidavits of Loss seeking restitution after 02/25/2022, through the present date.

Accordingly, since only one victim has chosen to seek restitution, we respectfully submit that the specific amount of the Court’s Restitution Order be limited to \$100.

Thank you for your attention.

Respectfully submitted,

/s/ Joseph Caldarera
Joseph Caldarera, Esq.

JV

Cc: AUSA Andrew Wang (via ECF)