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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA Plaintiff, vs. KARLA L. PADILLA-REYNA, Defendant.	Case No. 22-cr-2059-MKD-1 SUPPLEMENT TO SENTENCING MEMORANDUM

COMES NOW the defendant, Karla L. Padilla-Reyna, through her attorneys, Robin C. Emmans and Ulvar W. Klein, of 2nd Street Law PLLC, and submits this supplement to her sentencing memorandum. This memorandum will provide updated financial information, proof of restitution funding availability, and a survey of similar cases sentenced within the Eastern District of Washington.

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1. Updated financial information.

In the PSIR interview, working from memory, Ms. Padilla estimated some financial assets incorrectly, though the net effect is the same. A table of corrected account balances follows:

Solarity Checking	$20,302
Solarity Savings	$1,100
Solarity Safety Deposit Box	Closed
Solarity Line of Credit (Debt)	$213,00
Hapo Checking	$9,982
Hapo Savings	$1,620
Fidelity IRA	$53,952
Vanguard IRA	$14,500

The PSIR interview was conducted February 2nd. Meeting with counsel today, Ms. Padilla was able to log into her various accounts and provide updated data, with retirement account balance estimates based on the most recent statements. In the PSIR interview, Ms. Padilla incorrectly asserted that she had $120,000 in retirement accounts. See p. 15 and p. 19, paragraph 95. There are two accounts, Fidelity and Vanguard, and their balances are similar to the balances she had reported in

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November of 2022. There is not a separate account worth $120,000. A small portion of retirement was liquidated to put toward restitution. The cash held in a safety deposit box was removed to put toward restitution. Property on Q street in Yakima, subject of civil forfeiture, is estimated at closer to $150,000 (see PSIR paragraph 98), and sale negotiations are under way with a specific buyer.

2. Proof of restitution availability.

Counsel is currently holding $300,000 in a dedicated trust account. See attached statement. Half of that amount, $150,000, will be paid to the court immediately on sentencing. With the court's approval, half of that amount will be held by counsel pending the sale of the Q street property. Pursuant to the Plea Agreement Addendum, once that property is sold, Ms. Padilla will forfeit the proceeds to the United States, which will then request that restitution be adjusted to reflect that amount as paid toward the total stipulated restitution. Any remaining balance will be paid by counsel from the amount held in trust.

3. Similar cases in the Eastern District of Washington.

As referenced in the sentencing memorandum, the type of sentence requested by the defense, of probation rather than incarceration, fits the facts of this case and is also proportional to other similar cases in this district. The government announced its "strike force" dedicated to COVID-19 fraud on March 17, 2022. Since then, through

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similar press releases, defense counsel has been able to identify nine targets other than Ms. Padilla, six of whom have been sentenced or otherwise resolved their cases.

The largest fraud, of nearly 3 million dollars, was settled with a deferred prosecution in which the entity promised restitution and the individual owners pledged a hefty amount out of their own resources. Little information is available regarding the extent or duration of the fraud. See March 22, 2022 press release, https://www.justice.gov/usao-edwa/pr/hpm-corporation-and-owners-accept-responsibility-agree-pay-nearly-3-million-restituti-0, attached.

In US v. Thomas, 22-cr-35-RMP, the defendant, who had significant criminal history, was also terminally ill. According to court records, his range was 10-16 months. He was sentenced on 8/17/2022 to probation with restitution of $54,900. He had made three applications over two years.

In US v. Jackson, 22-cr-89-TOR, the defendant was sentenced on 1/5/2023 to probation, with restitution of $54,900, and an order granting relief from interest on restitution. According to court records, he had made 2 loan applications, both of which were disbursed. He had no criminal history. He was compliant with pretrial release conditions. His sentencing range was 6-12 months. Both parties recommended probation.

In US v. Murphy, 22-cr-84-TOR, married defendants were sentenced individually on 4/26/23 to probation and restitution. According to court documents,

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they had made 3 loan applications over time, all of which were disbursed, resulting in $62,499 being paid out. The husband had prior criminal history related to drug addiction. The wife also had a history of drug addiction. Both did well on pretrial release. Their range is not clear from the court record, nor is the government's recommendation.

In US v. Opsal, 22-cr-53-TOR, the defendant was sentenced on 5/10/23 to 6 months' incarceration and restitution of $61,247 after failing to comply with conditions of pretrial release in the context of drug addiction. According to court records, that defendant had made 11 loan applications over two years, including 3 PPP loans and 8 EIDL loans. Three were disbursed. Her range was 12-18 months. The government recommended low end, the defense requested probation.

One more defendant, in US v. Cain, 22-cr-6042-MKD, is awaiting sentencing on a case with $337,267 in restitution. According to court records, this defendant made two loan applications with a later request for additional funds on one of them. Based on the dollar amount, her sentencing range is likely to be 18-25 months if she has no prior criminal history. Other subjects have not been located, but have been indicted.

As the above survey makes clear, sentencing ranges on financial crimes are tied to the amount of loss rather than the individualized acts of defendants. While this is an attempt to develop objectivity in sentencing guidelines, judges are given vital

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discretion in sentencing precisely because such sentencing structures can obscure the individual characteristics of defendants so essential to the sentencing task. Of especial note is the case of a corporation and individuals who would have been defendants facing an extraordinarily high sentencing range had they not taken the opportunity to enter settlement negotiations during the investigation of their fraud. As it is, they will not even face conviction. Unfortunately for Ms. Padilla, when she was given the opportunity to enter into a similar negotiation with the government, she was not able to secure functional representation in time to explore settlement pre-Indictment.

Like several defendants above, Ms. Padilla has no prior criminal history, and she was open with law enforcement just as she was with probation about the choice to engage in fraudulent loan applications. Similarly, she has done well on pretrial release, continuing to work and be productive for as long as she can. She is distinctive in that she didn't actually spend a significant chunk of the loans disbursed, and she has been able to provide restitution funds for counsel to hold pending sentencing.

DATED: May 15, 2023

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CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following: SAUSA Frieda K. Zimmerman, AUSA Tyler Tornabene, and AUSA Dan Fruchter.

s/ Robin Emmans

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