IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA v. IBRAHEEM SABRI SAMIRAH, Defendant.	Criminal No. 1:25cr120

MOTION FOR ENTRY OF
A RESTITUTION JUDGMENT

Comes now the United States of America, by counsel, and moves this Honorable Court to enter a restitution judgment as to the defendant, Ibraheem Samirah. The defendant pleaded guilty to wire fraud, but informed the government that he would not agree to the government's proposed restitution amount. By way of this motion, the government respectfully moves for the entry of a restitution judgment against the defendant in the amount of $88,523.94, representing the extent of the victim's losses. The Presentence Investigation Report (the "PSR"), Statement of Facts, and the Small Business Administration's (SBA) Certificate of Indebtedness, which is attached as Exhibit A, support the restitution the government seeks.

FACTUAL BACKGROUND

Unless otherwise indicated, the following facts are taken from the PSR (ECF 12) and Statement of Facts (ECF 8) and are relevant for the purposes of this motion:

The defendant applied for a PPP loan of $83,300 for his business, NOVA Healthy Smiles (NHS) on or about May 12, 2020. On the loan application form, Samirah listed himself as the primary contact for the loan. He falsely represented that NHS had four employees and an average monthly payroll of $33,333.32 and that the purpose of the loan was for payroll, lease/mortgage interest, and utilities. He made other false certifications throughout the loan application. PSR at ¶¶ 24-25.

Samirah took multiple steps to execute this fraud scheme. He submitted several supporting documents with the fraudulent PPP loan application, including W-4 forms (Employee's Withholding Certificate), Payroll Journals, and Paychex payroll reports for January and February 2020. Samirah falsely represented that NHS paid the four purported employees' payroll in January 2020 and February 2020 and backdated documents to support his fraud scheme. Specifically, the defendant issued paychecks for "Salary for January" purportedly dated "1/31/2020" and "Salary for February" purportedly dated "2/29/2020," even though NHS did not have its financial account established until May 7, 2020, and did not run payroll journals for those periods until May 2020. PSR at ¶¶ 27-29.

Samirah then caused the individuals that he sent the monies to, the purported Employee 1, Employee 2, and Employee 3, to transfer the fraudulent funds back to him. In short, the defendant used these three individuals' accounts to launder the fraud funds. *See* PSR ¶¶ 31-36.

On or about August 16, 2021, the defendant electronically signed and transmitted the PPP forgiveness application to Sonabank. Sonabank submitted the PPP forgiveness application to travel to the SBA's cloud-based platform, Summit, via a cloud server located in Oregon. PSR at ¶ 37. The defendant's fraud scheme caused a loss of approximately $83,000. *Id.* at ¶ 39.

PROCEDURAL HISTORY

On July 21, 2025, the government initiated this case through the filing of a criminal information. ECF 1. That same day, the defendant pleaded guilty to one count of wire fraud. ECF 6, 7.

Notably, the defendant's plea was made pursuant to a written plea agreement (ECF 7). In that plea agreement, the defendant (1) "agree[d] that restitution is mandatory" and "agree[d] the entry of a Restitution Order for the full amount of the victims' losses"; and (2) "agree[d] to forfeit all interests in any fraud-related asset," to include "property that constitutes the proceeds of the offense and property used in or involved in the offense" (id. ¶¶ 9, 10). Within his plea agreement, the defendant also agreed that his conduct caused a loss between $40,000 and $95,000. *Id.* at ¶ 4.

RESTITUTION SOUGHT

On behalf of the victim in this case, the government seeks a restitution judgment in the amount of $88,523.94, representing the actual loss amount that the SBA sustained from the wire fraud scheme which the defendant executed and to which the defendant pleaded guilty.

STANDARDS GOVERNING RESTITUTION

I. The imposition of restitution in this case is not a matter of judicial discretion, and the Court must order restitution for the full amount of the victims' losses.

Full restitution in this case is required by the Mandatory Victim Restitution Act (the "MVRA"), 18 U.S.C. § 3663A. The MVRA provides that a district court "shall order . . . that the defendant make restitution to the victim of the offense" upon conviction for any "offense against property under [Title 18]." 18 U.S.C. § 3663A(a)(1), (c)(1)(A). The MVRA defines "victim" broadly, to include:

> [A] person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.

18 U.S.C. § 3663A(a)(2). When the defendant is convicted of an offense against property, the sentencing court must order a convicted defendant to either "return the property to the owner" or,

if the property cannot be returned, "pay an amount equal to the greater of the value of the property on the date of the damage, loss, or destruction; or the value of the property on the date of sentencing, less" the value of any property returned by the defendant to the victim as restitution. 18 U.S.C. § 3663A(b)(1). Pursuant to 18 U.S.C. § 3664, the restitution procedures statute, "[i]n each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant." 18 U.S.C. § 3664(f)(1)(A) (emphasis added); see also United States v. Roper, 462 F.3d 336, 337–58 (4th Cir. 2006) (noting that the MVRA removed the district courts' discretion to order restitution in anything less than the full amount of the victims' losses regardless of a defendant's financial situation).

Notably, Congress enacted the MVRA:

> [W]ith the purpose that courts order full restitution to all identifiable victims of covered offenses, while guaranteeing that the sentencing phase of criminal trials do not become fora for the determination of facts and issues better suited to civil proceedings. The Senate Report [accompanying the passage of the MVRA] pointed out that this legislation [wa]s needed to ensure that the loss to crime victims is recognized, and that they receive the restitution that they are due. It is also necessary to ensure the offender realizes the damage caused by the offense and pays the debt owed to the victim as well as society.

United States v. Newsome, 322 F.3d 328, 340 (4th Cir. 2003) (internal quotation marks and citations omitted).

To that end, the Fourth Circuit has recognized that while there may be some penal element to the MVRA, its purpose and function are primarily compensatory. See United States v. Ritchie, 858 F.3d 201, 214 (4th Cir. 2017) (explaining that "at its core," the MVRA is both "compensatory and penal"); see also Paroline v. United States, 572 U.S. 434, 456 (2014) ("The primary goal of restitution is remedial or compensatory, but it also serves punitive purposes."). Given that the

MVRA is focused on making victims whole, it does not generally confer substantive rights on defendants because its "intended beneficiaries are the victims, not the victimizers." United States v. Grimes, 173 F.3d 634, 639 (7th Cir. 1999); see also Dolan v. United States, 560 U.S. 605, 613–14 (2010) (discussing that the primary purpose of the MVRA's timing provisions is to ensure victims receive restitution and that any benefits to the defendant are secondary).

A sentencing court may not consider a defendant's financial situation before determining if the imposition of restitution is appropriate. Prior to the enactment of the MVRA in April 1996, federal criminal restitution was governed by the Victim Witness Protection Act ("VWPA"), 18 U.S.C. § 3663, which necessitated a district court to consider a defendant's finances and financial needs as well as the harm to the victim when deciding if the imposition of restitution was appropriate at all. See United States v. Alalade, 204 F.3d 536, 539 (4th Cir. 2000) (explaining the discretionary nature of restitution under the VWPA and the factors to be considered in its imposition). Notably, "[t]he MVRA differs from the VWPA by 'mak[ing] clear that a district court is *required* to order a defendant to make restitution to the victim of a covered offense in the full amount of each victim's loss.'" United Sates v. Roper, 462 F.3d 336, 338 (4th Cir. 2006). The Fourth Circuit has explained:

> The critical difference between the statutes rests in the sentencing court's discretion: The VWPA authorizes a sentencing court to impose restitution, but requires the court to "consider the financial resources of the defendant" in determining whether, and in what amount, to award restitution to victims of certain federal offenses. By contrast, the MVRA mandates restitution in the full amount of the victim's loss caused by certain federal offenses, irrespective of a defendant's financial condition or ability to pay.

United States v. Ritchie, 858 F.3d 201, 207 (4th Cir. 2017) (internal quotations and citations omitted). In short, the Court must impose restitution in this case for the full amount of the victim's loss. The defendant's purported financial situation is irrelevant to this loss determination.

When determining loss for restitution purposes, the defendant's gain or intended loss may not be considered. Although under the Sentencing Guidelines, these measures may be substituted for actual loss under certain circumstances, see U.S.S.G.§ 2B1.1, this kind of substitution is impermissible when calculating loss for restitution purposes. As the Fourth Circuit has observed: "It is well settled that a restitution order must be based on actual loss. . . . [A]lthough gain may be used to a determine a defendant's offense level under the Guidelines (if it more closely reflects actual harm than actual loss does), it is not an appropriate estimate of loss when determine the amount of restitution." United States v. Harvey, 532 F.3d 326, 341 (4th Cir. 2008) (quoting United States v. Galloway, 509 F.3d 1246, 1253-53 (10th Cir. 2007)). Similarly, the Fourth Circuit interprets 18 U.S.C. § 3664(f)(1)(A) "to require that an order of restitution be based on 'actual loss' rather than 'intended loss.'" Harvey, 532 F.3d at 339 (collecting cases).

Also, unlike loss calculations under the Sentencing Guidelines, restitution calculations are unconcerned with "relevant conduct." Indeed, "[t]he MVRA does not focus on 'relevant conduct' as defined by the Sentencing Guidelines but rather on the 'offense of conviction' when describing the losses subject to a restitution order." United States v. Newsome, 322 F.3d 328, 341 (4th Cir. 2003).

II. The government must prove loss by a preponderance of the evidence.

The government bears the burden of proving the victims' losses by a preponderance of the evidence, 18 U.S.C. § 3664(e), but need not do so with exactitude. United States v. Manlapaz, 825 F. App'x 109, 118 (4th Cir. 2020) ("[T]he MVRA does not require absolute precisions so long as there is a basis for reasonable approximation."). The district court must "attempt to come to a reasonable determination of appropriate restitution by resolving uncertainties with a view towards achieving fairness to the victim." United States v. Burdi, 414

F.3d 216, 221 (1st Cir. 2005) (internal quotation marks omitted). "The [g]overnment must demonstrate the amount of such loss with evidence bearing sufficient indicia of reliability to support its probable accuracy." United States v. Singletary, 649 F.3d 1212, 1217 n.21 (11th Cir. 2011).

The evidence proffered by the government and ultimately relied upon by the Court may come from many sources and may include hearsay if it "bears minimal indicia of reliability so long as the defendant is given the opportunity to refute that evidence." United States v. Johnson, 680 F. App'x 194, 200 (4th Cir. 2017) (internal quotation marks and citations omitted). The government may also "rely upon information found in a defendant's presentence report unless the defendant affirmatively shows that such information is inaccurate or unreliable." United States v. Delmonte, 444 F. App'x 695, 697–98 (4th Cir. 2011) (citing United States v. Gilliam, 987 F.2d 1009, 1013 (4th Cir. 1993)).

III. The defendant bears the burden of proving that the loss is less than that proven by the government by a preponderance of the evidence.

"[O]nce the Government has satisfied its burden to offer evidence supporting its restitution calculation, the burden shifts to the defendant to dispute that amount with her own evidence." United States v. Stone, 866 F.3d 219, 227 (4th Cir. 2017). A defendant seeking to challenge that calculation in a contested restitution hearing must "specify . . . which restitution amounts he continues to challenge . . . [and] specify which facts he considers in 'material dispute' such that an evidentiary hearing is necessary." United States v. Ziadeh, 104 F. App'x 869, 874 (4th Cir. 2004). In the absence of credible evidence put forth by the defendant to challenge the government's restitution calculation, the government's proven loss amount must stand. See id. (rejecting challenge to court's restitution finding when supported by adequate government evidence in the absence of proof from defendant indicating lower loss amount).

IV. The Court must specify the manner of payment.

A strong preference exists that restitution be paid in full immediately. See 18 U.S.C. § 3572(d). If a defendant demonstrates that he cannot pay the full amount of restitution immediately, the sentencing court must set a payment plan. Id. A sentencing court may "mitigate the impact that a restitutionary order might have on the defendant, but only in two respects. It may relax the 'manner' of payment based on the defendant's financial resources, and it may apportion the payment among defendants if more than one defendant has contributed to the loss." Newsome, 322 F.2d at 341 (citing 18 U.S.C. § 3664(f), (h)). If the Court sets a payment plan, 18 U.S.C. § 3572(d)(2) is clear that the payment plan "shall be the shortest time in which full payment can be reasonably made." See also 18 U.S.C. § 3771(a)(6) (Crime Victims' Rights Act, which gives victims "[t]he right to full and timely restitution"). Once entered, an order of restitution may be enforced in the same manner as a fine or "by all other available and reasonable means." 18 U.S.C. § 3664(m)(1)(A)(i)-(ii).

V. Restitution may be enforced against all of a defendant's interests in property.

18 U.S.C. § 3613 describes the civil remedies available for the enforcement of a fine and, by way of 18 U.S.C. § 3664(m), a restitution order. Among those remedies is a broad lien that arises at the time a sentence including restitution is imposed. See United States v. Frank, 8 F.4th 320, 328 (4th Cir. 2021) ("The MVRA expressly specifies that a restitution order is a lien in favor of the United States ... as if the liability of the person fined were a liability for a tax assessed under the Internal Revenue Code."); United States v. Kollintzas, 501 F.3d 796, 802 (8th Cir. 2007) ("An order of payment for restitution becomes a lien on all property and rights to property of the defendant upon entry of judgment."); 18 U.S.C. § 3613(c) ("The lien arises on the entry of judgment . . . ."). A restitution order may be "enforced against all property or rights

to property" of a defendant "[n]otwithstanding any other Federal law." 18 U.S.C. § 3613(a). Subsection 3613(c) similarly provides for "a lien in favor of the United States on all property and rights to property of the person fined as if the liability of the person fined were a liability for a tax assessed under the Internal Revenue Code of 1986." 18 U.S.C. § 3613(c). "By its use of the 'all property or rights to property' language, Congress has made quite clear that the totality of defendants' assets will be subject to restitution orders." United States v. Novak, 476 F.3d 1041, 1046 (9th Cir. 2007); accord Frank, 8 F.4th at 327 (the text of the MVRA "makes quite clear that absent an express exemption, all of a defendant's assets are subject to a restitution order"). Interpreting this language in the context of a tax lien, the Supreme Court agrees, explaining that it "is broad and reveals on its face that Congress meant to reach every interest in property." United States v. Nat'l Bank of Commerce, 472 U.S. 713, 719-20 (1985) (citing 26 U.S.C. § 6321).

Restitution liens have the same scope as a tax lien and may be similarly enforced. 18 U.S.C. § 3613(c) ("[A]n order of restitution . . . is a lien in favor of the United States on all property and rights to property of the person fined as if the liability of the person fined were a liability for a tax assessed under the Internal Revenue Code of 1986."); Frank, 8 F.4th at 328 ("The MVRA makes clear that restitution orders operate in the same manner as tax levies . . ."); United States v. Berry, 951 F.3d 632, 635 (5th Cir. 2020) (explaining that the MVRA makes "a restitution order enforceable to the same extent as a tax lien"); Novak, 476 F.3d at 1050–51 (restitution can be enforced to the same extent that tax liens can be enforced pursuant to 26 U.S.C. § 6334(c); the similarities between 18 U.S.C. § 3613 and 26 U.S.C. 6334(c) support understanding that enforcement operates in the same manner). For this reason, courts looking to understand the enforcement of restitution orders have looked to the case law governing federal tax liens. See, e.g., Novak, 476 F.3d at 1051 ("[C]ourts generally interpret similar language in different statutes in a like manner when the two subjects address a similar subject matter." (Citing Metro. Life Ins. Co. v. Taylor, 481 U.S. 58, 65 (1987)).

ARGUMENT

Restitution is mandatory in this case. And the defendant owes a restitution judgment regardless of his ability to pay. For the reasons that follow, the Court should enter a restitution judgment against the defendant in the amount of $88,523.94, in addition to the forfeiture order that has already been entered in this case. *See* ECF 9.

I. Restitution is mandatory.

Pursuant to the MVRA, the Court must impose restitution in this case for the full amount of the victim's losses without taking into account the purported financial situation of the defendant. 18 U.S.C. § 3663A(a)(1), (c)(1)(A)–(B). As noted above, it is the government's initial burden to prove the amount of the victim's losses by a preponderance of the evidence. 18 U.S.C. § 3664(e). The government respectfully submits that it has met this burden through the attached Exhibit A. See United States v. Steele, 897 F.3d 606, 615 (4th Cir. 2018) (reversing and remanding district court's restitution judgment where district court ordered restitution based solely on the victim's unsubstantiated estimate of its product replacement costs and noting that, to meet its threshold burden, government would only have had to produce business records documenting the losses claimed).

Exhibit A, the attached SBA Certificate of Indebtedness, details the SBA's loss from the fraudulent loan provided to the defendant's company, NHS. The United States is seeking $88,523.94 based on the following calculations:

Forgiveness Principal	$83,300.00
Forgiveness Interest	$1,058.94
PPP Processing Fee	$4,165.00

To be sure, the SBA's Certificate of Indebtedness provides the Court with much more than a "basis for reasonable approximation," which is all that is required for the government to meet its initial burden. See Manlapaz, 825 F. App'x at 118 ("The MVRA does not require absolute precisions so long as there is a basis for reasonable approximation.").

Where, as here, the government has adequately proven the victims' actual losses by a preponderance of the evidence, Fourth Circuit case law provides that the burden shifts to the defendant to dispute that amount by offering his own evidence. Stone, 866 F.3d at 227. In the absence of credible evidence to challenge the government's restitution calculation, the government's proven loss amount must stand. Ziadeh, 104 F. App'x at 874 (rejecting challenge to court's restitution finding when that finding was supported by adequate government evidence in the absence of proof from the defendant indicating a lower loss amount). The Court should thus enter a restitution order in the aggregate amount of $88,523.94, thereby allowing the government to begin its enforcement efforts with the ultimate goal of achieving full restitution for the victim of the conspiracy. See 18 U.S.C. § 3771(a)(6) (according victims the right to full and timely restitution).

CONCLUSION

For the foregoing reasons, the government respectfully requests that the Court enter a restitution judgment against the defendant in the amount $88,523.94. A proposed restitution order is attached for the Court's consideration.

Respectfully submitted,

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By: __________/s/________________

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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to all counsel of record.

By: __________/s/__________________
Kathleen E. Robeson
Assistant United States Attorney