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16
17 **IN THE UNITED STATES DISTRICT COURT**
18 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
19 **(THE HONORABLE ANTHONY J. BATTAGLIA)**

20 United States of America,	) Case No. 23-CR-2352-AJB
21 Plaintiff,	)
22 v.	) Defendant Thomas Zolezzi's
23 Thomas Zolezzi,	) Sentencing Memorandum and
24 Defendant.	) Motion for Downward
	) Departures
	) Date: January 21, 2025
	) Time: 10:00 a.m.

25 **I.**

26 **18 U.S.C. § 3553(a) Factors**

27 **1. The Nature and Circumstances of the Offense**

28 Agents interviewed defendant Thomas Zolezzi on suspicion of
29 fraudulently obtaining loans under the Paycheck Protection Program
30 ("PPP") and Economic Injury Disaster Loans ("EIDL") between May
14, 2020, and December 14, 2021. The loans totaled \$2,939,749.99.

1 Mr. Zolezzi participated in a mixed, or commingled, fraud. He
2 used some of the loan funds on personal expenses, some on
3 unauthorized business expenses for Casamar Seychelles (including
4 facility upgrades, nets, and other infrastructure needs), and some went
5 to payroll of employees primarily located in the Seychelles. Exhibit A,
6 Redevelopment plan. The PPP and EIDL funds were not intended to
7 be used for this variety of business expense. Mr. Zolezzi also loaned
8 the company a large sum of money to complete the business upgrades.
9 The director operating the Seychelles business stole a considerable
10 amount of the money and fled the country. Finally, two large cash
11 payments went to other participants in the offense for assisting in the
12 fraudulent loan applications.
13
14

15 Mr. Zolezzi's illegal conduct represented a desperate effort to
16 save his failing business. He misrepresented the number of company
17 employees, the annual income, and the uses for which the money would
18 be spent. Unlike many of the PPP fraud cases, Mr. Zolezzi was
19 responsible for an actual company and was motivated to save his
20 company. However, he made the very misguided decision to use the
21 PPP and EIDL funds to salvage the company and to keep his overseas
22 employees working. Casamar Seychelles has approximately 40 to 50
23 full-time employees.
24
25

26 Mr. Zolezzi negotiated a pre-charge plea agreement and bail
27 package, waived indictment, and pleaded guilty to Wire Fraud, in
28 violation of 18 U.S.C. § 1343, on November 16, 2023. He saved the
29 government and Court significant time and resources by resolving the
30

1 case expeditiously and without litigating. He was booked and released
2 on the same day and has remained in compliance on bail to this day.

3 **2. History and Characteristics of Mr. Zolezzi**

4 Mr. Zolezzi is a 62-year-old man from San Diego. He was raised
5 by both parents in a loving and stable home. The loss of his mother in
6 2017 and his father in 2020 have profoundly influenced his life in the
7 past eight years, and his father's passing left him emotionally
8 unprepared to navigate the business he inherited from his dad. He is
9 the youngest of the five children, who all reside in California. Mr.
10 Zolezzi has been married over 40-years and has raised three children
11 into adulthood. He and his wife still care for their oldest child due to a
12 health issue.
13

14
15 Numerous letters submitted by family and friends describe Mr.
16 Zolezzi as a family man that always worked hard to support his wife
17 and three children by making months-long sacrifices out at sea as a
18 tuna boat captain to earn a living. Exhibit B, letters. He helps others
19 in times of need. He cares deeply for his community and has donated
20 time and money to community projects in Little Italy and Point Loma.
21 The fraudulent conduct is antithetical to the person he has always been
22 and the life he has lived. He is ashamed, remorseful, and quickly
23 accepted responsibility.
24

25
26 Mr. Zolezzi captained a tuna boat captain soon after graduating
27 from high school at University City High. He worked for his father's
28 company and traveled for months at a time in the South Pacific. He
29 loved working on the boats for over 25 years. In the past two decades
30 he helped his father run various ventures related to the tuna business,

1 as well as some local businesses, although none were particularly
2 successful. PSR ¶¶ 97- 99.

3 Mr. Zolezzi took over Casamar in 2014 when his father retired.
4 The company makes and repairs nets for tuna fishing. He earns a
5 modest income. The problem is that the fishing business is highly
6 competitive, and the company was losing money because it needed to
7 be moved, expanded, and modernized. Mr. Zolezzi desperately wanted
8 to prove to his father that he could run the business successfully. This
9 desperation is what prompted him to commit the fraud in question.
10

11 The COVID-19 pandemic exacerbated the company's financial
12 troubles because of mandated shutdowns. The PPP/ EIDL measures
13 became, for Mr. Zolezzi, the lifeline to keep the company in business.
14 He lacked appreciation of the compliance requirements. He relied
15 upon other criminal participants to help prepare the fraudulent
16 applications. He knew the information contained in the applications
17 was false and yet knew no other way to keep the business running. He
18 did not set out to simply fund a lavish lifestyle; rather, he looked to
19 salvage a floundering business during the pandemic and made a
20 desperate decision to commit the fraud to save his company.
21

22 To say that Mr. Zolezzi is embarrassed and ashamed of the harm
23 his actions caused and the reputational damage to his family is a
24 massive understatement. His desperation stemmed from wanting to
25 take care of his family and the company's employees in the Seychelles.
26 He tarnished the legacy of his own reputation and the family business.
27

28 The vast majority of the fraudulent conduct arose after the
29 passing of Mr. Zolezzi's father on Thanksgiving of 2020, as the original
30

1 \$11,354 PPP loan was not inconsistent with Casamar USA's needs.
2 Mr. Zolezzi nevertheless admitted he obtained the loan improperly and
3 did not use all of the funds as required. Lost in grief and desperate,
4 Mr. Zolezzi's mental health deteriorated after his father's passing and
5 contributed to his poor choices. This left him susceptible to being
6 manipulated by the other criminal participants that were not affiliated
7 with the company to seek these high value PPP/ EIDL loans. These
8 participants took a significant portion of the loan proceeds (an
9 estimated \$360,000.00) as a commission for preparing the fraudulent
10 applications, and Mr. Zolezzi provided false information and submitted
11 the applications.
12

13
14 Mr. Zolezzi's mental health has continued to suffer ever since.
15 Depression, anxiety, and fear of what remains of his life have led him
16 to a nervous breakdown and various physical health ailments. He has
17 struggled to complete basic tasks, such as completing the financial
18 forms for U.S. Probation.¹ He suffered from ADHD since childhood and
19 the stress of this criminal case have left him scattered, confused, and
20 extremely anxious.
21

22 Even today Mr. Zolezzi is subject to constant distraction and
23 being overwhelmed as the stress of his shame and the embarrassment
24 of the public nature of his conviction. He constantly worries of the
25 collapse of his four-decades-long marriage, the loss of respect of his
26 children, the failure of the family business that was established in
27 1989, and the prospect of being bankrupt at retirement age with a
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¹ These forms were finally submitted on January 13, 2025.

1 massive restitution obligation. These are tremendous consequences for
2 a man that has never spent a day in jail in his life.

3 **3. The Need to Reflect the Seriousness of the Offense & Just**
4 **Punishment**

5 Mr. Zolezzi committed a serious offense. He defrauded lenders
6 with fraudulent PPP/ EIDL loan applications to the tune of nearly
7 \$3,000,000.00. He acted out of desperation and a sense that he needed
8 to save his business. Business failures are devastating because they
9 suggest that all of the hard days, long nights, blood, sweat, and tears
10 was for nothing. The prospect of failure of Casamar was particularly
11 ruinous for Mr. Zolezzi because he inherited the company from his
12 father and would be a failure in his father's eyes.

14 Just punishment can be achieved with the recommended
15 sentence of 18-months custody. This is a grave consequence for a proud
16 man that will be repaying restitution for the rest of his life. The reality
17 is that Mr. Zolezzi has little prospect of finding a high paying job at his
18 age with a high school diploma and an abundance of experience as a
19 tuna boat captain.
20

21 **4. The Need for Deterrence and Protection of the Public**

22 Mr. Zolezzi is deterred by the label of convicted felon, by the press
23 releases that revealed his misdeeds to the only community he has ever
24 called home, by the shame of harming the company's and his family's
25 reputations, and by the possibility the business will fail due to his
26 criminal acts. The sentencing recommendation provides ample general
27 deterrence, as Mr. Zolezzi represents a defendant that negotiated a
28 plea agreement before even being charged with the crimes he
29
30

1 committed. He expects to go to prison when he should have been
2 looking forward to retirement. With the ill-gotten gains of his fraud,
3 he did not live a life of luxury. Instead, he put much of the loan
4 proceeds back into the proverbial sinking ship. And due to his illegal
5 conduct, Mr. Zolezzi is the captain that will go down with his ship when
6 he should have walked away from a failing business or sought a
7 traditional loan. He is not a threat to the public.

9 **5. The Need for Educational Training and Medical Care**

10 Mr. Zolezzi has significant health issues, as detailed in the sealed
11 filings and the PSR. He does not have any educational needs to
12 address.

13 **6. The Kinds of Sentences Available, the Sentencing Range,
14 Policy Statements, and Avoidance of Disparities**

15 A sentence of 18-months is recommended. Mr. Zolezzi's
16 Guidelines range at adjusted offense level 17 and Criminal History
17 Category I is 24 to 30-months in custody. This range is slightly greater
18 than necessary, as he is a zero-point offender, much older than the
19 average defendant, suffers from significant health issues, and very
20 unlikely to recidivate. His intent to was to save his company, rather
21 than obtain money for a fictional company as happened regularly in
22 PPP fraud cases. His compliance on pretrial supervision for the past
23 14-months suggests he can return to the community and make positive
24 contributions. No disparity results from the recommended sentence.

27 **7. The Need to Provide Restitution**

28 Mr. Zolezzi agreed to restitution totaling \$2,939,794.99. ECF 8.

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1 II.

2 **U.S.S.G. Motion for Departures**

3 **1. Zero-Point Offender (U.S.S.G. § 4C1.1)**

4 Mr. Zolezzi is a zero-point offender. He has no scoring criminal
5 history. PSR ¶¶ 70- 73. The offense did not involve any of the
6 disqualifying offenses from U.S.S.G. § 4C1.1. There was no violence
7 alleged or firearms. There was no serious bodily injury or death. No
8 financial hardship to any lender resulted from his conduct. Finally, he
9 did not have an aggravated role. He requests two-level downward
10 adjustment, as recommended by Probation. PSR ¶ 63.

12 **2. Mental & Physical Health Departure (U.S.S.G. §§ 5H1.3,**
13 **5H1.4)**

14 The Guidelines state that, “[m]ental and emotional conditions
15 may be relevant in determining whether a departure is warranted, if
16 such conditions, individually or in combination with other offender
17 characteristics, are present to an unusual degree and distinguish the
18 case from the typical cases covered by the guidelines.” U.S.S.G. §
19 5H1.3. Additionally, “[p]hysical condition . . . may be relevant in
20 determining whether a departure is warranted, if the condition or
21 appearance, individually or in combination with other offender
22 characteristics, is present to an unusual degree and distinguishes the
23 case from the typical cases covered by the guidelines.” U.S.S.G. §
24 5H1.4.
25

26
27 Mr. Zolezzi has long suffered from mental health issues. *Sealed*
28 Exhibit C, evaluation. These mental health issues, in conjunction with
29 the death of his father, made him vulnerable to the recruitment effort
30 to obtain most of the fraudulent loans in question. He neglected to

1 research the requirements for the loans and appropriate expenditures.
2 A considerable portion of the funds were used on unauthorized
3 equipment and infrastructure expenses for his business. He grossly
4 misstated his annual earnings to justify larger loans because he was
5 trying to rescue a floundering business and because the other
6 participants completed the applications that he signed and submitted.
7 He certainly received and used the funds knowing he lied on the
8 applications.
9

10 The stress of attempting to save the business, Mr. Zolezzi's
11 depression, anxiety, ADHD, and grief of losing his father contributed
12 to his decision to sign the prepared documents to receive funds that we
13 neither payroll nor rent payments for American-based operations, as
14 required. His mental health conditions contributed to his poor decision
15 making, as these massive fraudulent loans would have been easy to
16 spot for trained investigators given his company's actual earnings.
17

18 In addition, Mr. Zolezzi suffers from Type 2 diabetes, related
19 neurological pain in his arms and legs (polyneuropathy), high
20 cholesterol (hyperlipidemia), and high blood pressure (hypertension).
21 *Sealed* Exhibit D, Medical documents. In 2024 he suffered from toxic
22 encephalopathy. He was highly disoriented, and his wife took him to
23 the hospital. It is believed that he experienced a diabetic crash
24 (hypoglycemia) and took the wrong combination of prescribed
25 medications due to a loss of focus and fatigue. Though this was the
26 most serious episode, he has had regular bouts of disorientation. Mr.
27 Zolezzi believes the anxiety and stress from his legal and financial
28
29
30

1 situation has exacerbated his physical health issues. All of these health
2 issues, given that he is 62-years old, warrant a modest departure.

3 **3. Combination of Circumstances (U.S.S.G. § 5K2.0)**

4 Mr. Zolezzi requests this Court impose a departure based on a
5 combination of circumstances not adequately taken into consideration
6 by the Guidelines. U.S.S.G. § 5K2.0, *cmt. n. 3(A)*. The parties
7 recommend a three-level departure for an expeditious resolution of the
8 case. Application Note five states:

10 Even though a departure may not be based merely on the
11 fact that the defendant agreed to plead guilty or enter a plea
12 agreement, a departure may be based on justifiable, non-
13 prohibited reasons for departure as part of a sentence that
14 is recommended, or agreed to, in the plea agreement and
15 accepted by the court.

16 U.S.S.G. § 5K2.0, *cmt. n. 5*.

17 Mr. Zolezzi negotiated a felony plea agreement with the
18 government prior to charges being filed. He executed the Plea
19 Agreement prior to his initial appearance and without first having
20 access to the discovery. The value of his conduct is that he not only
21 saved considerable expense of foregoing his right to grand jury
22 presentment and production of discovery, but he also signaled his
23 intent to plead guilty at such an early stage as to allow the government
24 to focus on other investigations. Moreover, it evidences an incredibly
25 early acceptance of responsibility before appearing in court and having
26 the gravity of the situation spelled out with pretrial detention.
27

28 Additionally, the parties negotiated a charge and joint Guideline
29 recommendations based on Mr. Zolezzi's conduct that did not include
30

1 some of the provisions recommended in the PSR. PSR ¶¶ 55, 56. He
2 agreed to not file substantive challenges and waived various defenses
3 based on the Plea Agreement, and he did so without the benefit of
4 discovery. ECF 8, pgs. 2- 3.

5
6 In line with the lack of a recommendation for these specific
7 offense characteristics, this was a form of mixed or commingled fraud.
8 Mr. Zolezzi used some of the illegal funds for payroll, sick leave, office
9 leases, and production costs; however, he also used a large portion
10 towards infrastructure and equipment in the Seychelles. Some of the
11 loan proceeds went towards personal expenses, and commissions for
12 the coparticipants that prepared the fraudulent loan applications. Mr.
13 Zolezzi's guilty plea acknowledges that he fraudulently obtained the
14 money and owes the restitution in full. He did not ask for an accounting
15 of credits against losses (U.S.S.G. § 2B1.1, *cmt.* n. 3(D)) because the
16 majority of employees were overseas. He asks that these additional
17 enhancements (PSR ¶¶ 55, 56) not be imposed because of the comingled
18 expenditures on both legitimate and illegitimate business expenses,
19 improper personal expenses, and substantial fees of other criminal
20 participants.
21
22

23 Additional circumstances warranting this departure (or a
24 variance) include the collateral consequences of his felony conviction.
25 This felony offense can neither be reduced nor expunged. He will
26 necessarily lose the right to vote, possess a firearm, hold public office,
27 and serve on a jury. He may face obstacles in obtaining contracts or
28 outright debarment in his industry. He has suffered personal
29 reputational harm following the press releases but also has harmed the
30

1 reputation of his company and family. His ability to secure a business
 2 loan in the future, given his conduct and the restitution owed, is
 3 unlikely. The restitution he agreed to repay ensures that he will be in
 4 debt for the rest of his life. His business faces the prospect of failing
 5 while he is in prison.
 6

7 Finally, as detailed in the many sentencing letters, Mr. Zolezzi
 8 has contributed to public works in the community throughout his life
 9 and has shown a willingness to give with nothing expected in return.

10 **4. No Fine Should Be Imposed**

11 A fine should not be imposed in this case. Mr. Zolezzi owes nearly
 12 \$3,000,000.00 in restitution. *See* U.S.S.G. § 5E.12(d)(4); *cmt.* at note 3.
 13 He is 62-years old and facing custody. His company is again struggling
 14 due to theft by its director, to Mr. Zolezzi's conduct, and the uncertainty
 15 associated with his impending incarceration. It will take decades to
 16 repay the restitution.
 17

18 **III.**

19 **Request for a Self-Surrender Date**

20 The Federal Bureau of Prisons' ("BOP") Inmate Security
 21 Designation scoring system reduces the score of an inmate by 3-points
 22 for "Voluntary Surrender."²
 23

24 This item allows for the subtraction of three points from the
 25 Security Point Total, Item 15, when the Judgment indicates
 26 the inmate was allowed to voluntarily surrender. For
 27 purposes of this item, voluntary surrender means the
 28 inmate was not escorted by a law enforcement officer to
 either the U.S. Marshals Office or the place of confinement.

29 ² *See* U.S.D.O.J./ Fed. B.O.P., Program Statement No. P5100.08, ch. 4,
 30 pg. 5 (Sept. 12, 2006): http://www.bop.gov/policy/progstat/5100_008.pdf
 (last visited Jan 6, 2025).

Additionally, this item applies only to post-sentencing voluntary surrender, and does not include cases where the inmate surrendered to the U.S. Marshals on the same day as sentencing.

Ibid.

Mr. Zolezzi requests a self-surrender date approximately 90-days following sentencing. He hopes to lower his security classification and also wants to resolve his personal and business affairs before serving a custodial sentence. He has remained on bond for over 14-months without incident.

IV. Conclusion

Mr. Zolezzi requests that this Court impose an 18-month sentence, three-years supervised release, and restitution (without an order for interest) totaling \$2,939,749.99. He also requests that this Court recommend and designation to Terminal Island to facilitate family visitation and based on his medical needs. Finally, he requests a self-surrender date of 90-days.

Respectfully recommended,

Dated: 13 January 2025

/s/ Domenic, J. Lombardo & Emerson Wheat

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