UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Docket No. Cr. 24-361-003 (DG)

-v.-

CHRISTIAN McKENZIE,
Defendant.

DEFENDANT'S SENTENCING MEMORANDUM

The defendant, CHRISTIAN McKENZIE, respectfully submits this Memorandum in aid of his plea for leniency at sentencing at the hearing to be held on July 14, 2026.

In summary, Mr. McKenzie objects to the calculation of the Sentencing Guidelines range proposed by the Probation Department as it contradicts in a number of ways the Plea Agreement which he entered into with the Office of the United States Attorney (which is not even referred to in the Pre-Sentence Report ("PSR"). In addition, Mr. McKenzie objects to some of the factual statements and findings by the Probation Department, particularly with respect to his role and understanding of the fraudulent scheme of which the architect was the co-defendant John Bolden (who is also Mr. McKenzie's cousin and was a New York City Police Officer). Third, Mr. McKenzie is the sole caretaker for his ten-year-old son and his disabled younger brother, and the only member of his family who is taking care of his mother's estate (she passed away last August leaving a home but also a great deal of debt, which she herself had inherited from Mr. McKenzie's father). Finally, as his participation in the Focus Forward Project shows, as well as in his own letter to this court and in letters of people who know him well, Mr. McKenzie is a modest, responsible person who has always tried to be law-abiding (he has a minimal criminal record for misdemeanor possession of an unloaded handgun in his house in 2017 [PSR p. 13, paragraph 68]). He was only lured into his cousin's scheme after being told repeatedly that there was nothing illegal about what Bolden was doing in filing the applications on behalf of Mr. McKenzie and a number of his friends for PPP forgivable loans during the Covid-19 pandemic. Mr. McKenzie is guilty of closing his eyes to the fraudulent parts of the scheme that Bolden was conducting, and of failing to correct the error once he became aware that the applications being submitted by Bolden which he prepared in a fraudulent way (as well as those of his friends whom he referred to Bolden), and for that he has entered a guilty plea and has accepted responsibility. Counsel submits that under the particular facts of Mr. McKenzie's participation, and because of the responsibilities he has, and the level of responsibility and law-abiding conduct he has shown during his 48 years of life, that a sentence that does not include a period of incarceration would be sufficient but not greater than necessary to reflect the purposes of sentence as outlined in 18 U.S.C. § 3553(a).

Objections to the Probation Department Pre-Sentence Report

Failure by the Probation Department to Recognize the Effect of the Plea Agreement:

The principal objection to the PSR is that it completely fails to recognize that Mr. McKenzie pleaded guilty pursuant to a Plea Agreement with the government, and that the agreement has several substantial differences with what the Probation Department recommends as the appropriate Guidelines calculation and sentencing range[1]. The Plea Agreement was made Court Exhibit One at the time the guilty plea was entered.

First, both the Probation Department (at page 2) and the government in the Plea Agreement (at page 2) find that the base offense level is 7 points, but the plea agreement states that the enhancement for a "Loss Exceeding $550,000 (U.S.S.G § 2B1.1(b)(1)(H) should be **14 points**, whereas the PSR states it should be 16

[1]Counsel does not recall any instance of a PSR where there was a plea agreement that does not have a section called "impact of the plea agreement" and, if Probation has a different view of the stipulated Guidelines calculation, that the differences are not discussed in the PSR.

points. Counsel notes that the information about the loss amount should have come from the U.S. Attorney's Office so the discrepancy is a bit hard to understand, unless the Government recognized that Mr. McKenzie did not have enough information about Bolden's whole scheme for him to have been able to "foresee" that the scope of the conspiracy was greater than $1,500,000 (as stated in the PSR, at page 2). Counsel will make some references to the fact portion of the PSR which are also not correct with respect to Mr. McKenzie's level of participation, but counsel agrees (as we did by signing the Plea Agreement) that the foreseeable loss was not greater than $1,500,000, though was greater than $550,000. Thus, the "Adjusted Offense Level as described on page 13, paragraph 62 of the PSR should be **23**, not 25 (consistent with the Plea Agreement at page 2).

Second, pursuant to the Plea Agreement Mr. McKenzie can request the application of a one-point "global" reduction if all of the defendants in the case disposed of the case without trial, which is what happened. (See paragraphs 2, on page 3 of the Plea Agreement, and paragraph 14, on page 7). Therefore counsel requests the application of an additional **1-point reduction** for that reason. Thus, pursuant to the Plea Agreement, the Offense Level should be 22 points (as opposed to 25 points as stated in the PSR. With the application of the two point reduction for acceptance of responsibility (paragraph 64) and the additional one-point reduction for timing entry of the guilty plea, the resulting Total Offense Level should be 19, and Criminal History Category I, for a guidelines range of 30 to 37 months, as stated in paragraph 2, page 3, of the Plea Agreement.

Other objections to the Offense Conduct section of the report:

In **Exhibit A** to this Memorandum, a letter to the Court from Mr. McKenzie, he explains at some length how he got involved in Bolden's scheme, why he thought for the first year of the conspiracy that there was nothing illegal about it (even though he worried repeatedly that it seemed too good to be true), and what his participation was. On the latter point, Mr. McKenzie referred a number of friends who also had "businesses" (like Mr. McKenzie's genuine but "off-the-books" sneaker-selling business, which will be described in greater detail later), some of whom made similar PPP loan applications through Bolden, and some of whose applications were rejected. Some of those friends referred their own friends to Bolden as well, but Mr. McKenzie did not profit in any way from those secondary referrals While Mr. McKenzie was aware that Bolden was doing these applications for other people as well, he had absolutely no way to know the scope of Bolden's operation, or the number of his other "clients," because Mr. McKenzie had nothing to do with those other applications. Therefore we object to the following statements in the PSR:

Paragraph 47, on page 10: Mr. McKenzie was NOT compensated by Bolden for making referrals to him; in fact, Bolden charged him a so-called preparation fee of $4,000 for each application. Some of the friends who were referred gave Mr. McKenzie some money as a thank-you or gratuity after they received their loans, generally amounting to $500 or $1,000, but he was not paid anything by Bolden. These friends were grateful to Mr. McKenzie for telling them about the PPP loans and made the payments, when they did, without any request being made for Mr. McKenzie, who thought he was simply helping his friends get through the financial hardships of the pandemic.

Paragraph 48, on page 11: Mr. McKenzie was absolutely not aware of the entire scope of Bolden's operation, which is probably why the government agreed to the lower loss-amount enhancement (14 points as opposed to 16 points) in the Plea Agreement. Mr. McKenzie was only generally aware that Bolden was doing this for other people, but at the time of that awareness he was not aware that it involved fraudulent activity and was not aware of how many other people it might have been, beyond the dozen or so people he personally referred to Bolden. Therefore we object to the loss amount total listed at the end of paragraph 48 as being applied to Mr. McKenzie partly because he was not aware of that level of conduct and because it is inconsistent with the Plea Agreement.

Paragraph 50, page 11: the statement that "...In his role as an intermediary McKenzie understood the scope and structure of the financial scheme and stood to financially benefit ... by referring additional individuals to Bolden." As stated, we do not agree that Mr. McKenzie understood "the scope and structure" of the financial scheme, and state that he only incidentally benefitted from the referral of friends to Bolden when they proffered an unsolicited reward or thank-you payment.

Other objections to the PSR:

For reasons not clear to counsel, Mr. McKenzie's work history prior to 2006 was not included in the PSR. (See page 19, work history ending at the end of paragraph 95.) Counsel and Mr. McKenzie are fairly sure the information was given in the interview with Probation and omitted in the report, but in any event would like to add it here. Working backward through time, and adding his off-the-books sneaker-selling business, this is the recent self-employment history of Mr. McKenzie and his employment history prior to 2006:

From approximately 2018 to the present Mr. McKenzie has run his own business buying sneakers in bulk and selling them, first to individual customers (listing them on Craig's List) and later to stores. He kept receipts from the business but did not maintain regular business records. His most profitable periods were in December when new models were released for the holidays and he would "hoard" them to resell to stores. He estimates that his income fluctuates over the years from about $20,000 a year to $50,000. During the pandemic he actually did have a substantial decrease in business because demand for the sneakers dropped as stores closed.

From 1997 to 2006 (nine years) Mr. McKenzie worked at Medical Liability Mutual Insurance Co. in East Meadows, New York, as a file clerk, full time starting at $7.00 per hour and finishing at $13.00 per hour.

Mr. McKenzie graduated from High School in 1995 (as stated in paragraph 90, page 18 of the PSR) but during the summers of 1993 and 1994 he worked for the Suffolk County Department of Labor. During the first summer he worked on cleaning up properties owned by the County and during the second year he was a school janitor.

The Offense Conduct

Attached as **Exhibit A** is a fairly lengthy letter from Mr. McKenzie to this Court. I ask that the Court read it carefully, as it explains in a way that counsel finds to be genuine how he succumbed to the entreaties of his cousin, John Bolden, even though he had many reservations about it. Mr. McKenzie is not a criminal – he did not go looking for an opportunity to defraud the government, and, as he says, has always prided himself in being responsible and law-abiding.

While the letter explains why he got so far into the scheme without realizing that it was illegal, he is not trying to deny responsibility for his crime. His realization of the criminality of it came late in the process, though, because he was not sophisticated, and could not believe – until confronted with the evidence – that his cousin – a law enforcement officer – would lie to him and draw him into the fraudulent scheme. Bolden's answers to Mr. McKenzie's questions were no doubt 90% true in terms of how the PPP program worked and how self-employed people could ameliorate their financial losses with the help of a government supplied forgivable loan. When there were no consequences of having Bolden prepare, sign, and file (with a fake Schedule C [business income schedule] tax form that Mr. McKenzie did not even understand) the first such application, Mr. McKenzie felt that it must be as Bolden had said. He sent friends to Bolden so that they could also apply for loans to cover the losses of their individual businesses because Bolden encouraged him to, but also because he thought it would be of help to the friends. He was not paid by Bolden and he did not solicit any payment from his friends, even though some of them proffered some money as a "thank you" after they received the loan proceeds.

What stands out in both the personal history section of the PSR, but also in the other letters attached hereto as exhibits, is that Mr. McKenzie sincerely tries to do right by others and to take on the responsibilities that are thrust upon him by circumstances. In particular these include the care he gives to his ten-year-old autistic son as an "single parent" – the boy's mother not wanting to have a part in taking care of him – and taking care of his younger brother who is disabled (having only one leg). It includes his having to try on his own, without the help of attorneys (because he cannot afford an attorney) to save his deceased mother's home from foreclosure due to the debts that her estate was carrying when she passed away last August, which is also the home in which he lives with his son and brother.

Mr. McKenzie's genuine expressions of remorse – not remorse that he was "caught," but remorse that he got involved and threatened the well-being and stability of the people who rely on him come through in the letter he wrote and in the way others around him perceive him.

Exhibit B is a report from the "Focus Forward Project, Inc." to which Mr. McKenzie was referred by Pre-Trial Services. It shows an extreme and genuine desire to do well in the program and to make the most of what it has to offer. More than that, it shows how supportive Mr. McKenzie has been to others in the program, and the level of empathy and compassion:

"... He always exhibited a positive attitude, an interest in learning new skills, a willingness to participate and share his journal entries, as well as compassion for his classmates, recognizing that, like him, they are looking for support as they navigate their involvement in the criminal justice system." **Exhibit B**, pp. 1 - 2. The letter notes the effect that the unexpected death of his mother had on him which had occurred just before the program began, and the difficulties that caused for his care of his son as well as his grief at losing his mother. The letter goes on: "Christian recognizes the importance of supporting his son in the best possible way and providing a stable environment. To this end, Christian demonstrated admirable perseverance in respect to his employment.... (providing specifics)." Id., page 2.

After describing difficulties caused to his employment by the breakdown of his car (needed for the delivery work he was doing), the letter notes: "It is noteworthy that when Christian pursues and considers a new job, he prioritizes the impact on his son. For example, he recognizes the benefit of additional income; however, he also considers the impact of longer hours and the resulting need to find someone who could meet his son's school bus each afternoon and care for him." Id., at page 2. [Emphasis added.]

The letter contains other relevant observations about Mr. McKenzie which are indicative of his true character. One in particular was described this way: "Christian also excelled in his support of his peers. He was an active listener. He moved beyond his own difficulties to listen to and care about the situations and challenges his classmates faced. ... [giving an example]." Id., at p. 3.

In addition to the above exhibits there are three other letters provided as exhibits to this memorandum, all of which are consistent in describing Mr. McKenzie as a devoted and responsible parent to his autistic son, a hard-worker, a compassionate person who cares for the needs of others (cf., **Exhibit C**, Letter from Angelik Bell describing volunteer work Mr. McKenzie provides to the non-profit food pantry that she co-founded).

Exhibit D, a letter from Mr. McKenzie's cousin, Stephan Auguste, reinforces the "strong work ethic" and dependability of Mr. McKenzie: not qualities one expects to find in someone who is trying to make a fast dollar by cheating the government. It also discusses the recurrent observation that Mr. McKenzie is totally devoted to caring for his son, who would, in fact, be lost without him: "One of the qualities I admire most about him is his dedication to his son. Christian raises and cares for his son on a daily basis, making sure he is fed, brought to school, and involved in activities that help him grow and succeed. I have personally seen Christian rearrange his work schedule and other obligations to ensure his son has the support he needs. His son has always been his top priority, and he consistently puts his son's needs before his own." **Exhibit D**. Mr. Auguste also discusses the issues Mr. McKenzie is dealing with regarding his mother's estate. Finally, the letter concludes with this telling observation: "I know Christian as someone who genuinely cares about the people around him. He has expressed sincere regret for the circumstances that brought him before the Court, and I believe he has learned a difficult lesson from this experience. <u>I do not believe this situation defines his character or the person he truly is</u>." <u>Id</u>.

Finally, the relevant observations about Mr. McKenzie are summed up in the letter by a friend of over 30 years, Calib Bynum. See **Exhibit E**.

<u>Defendant's Sentencing Request</u>

Mr. McKenzie asks the Court to set a sentence below the stipulated Guidelines range because the effect of sending him to jail for the relatively small role he played in this criminal scheme would be devastating to the innocent members of his family who rely on him, most particularly his son. It is not an ordinary burden of parenthood to raise a child who is on the autism spectrum, and it is clear that Mr. McKenzie has not only done it faithfully, responsibly, and well, but that there is no one else who can take his place, even for a relatively short period of time. Mr. McKenzie has expressed enormous regret for his lack of care in dealing with the offer made to him by Bolden – a man he trusted as a close relative and as a law enforcement officer – and has tried to improve himself while continuing his responsibilities to his son and brother by being a model participant in the Focus Forward Project. The fact that the mandatory restitution that he will owe far exceeds anything he actually got as a result of the applications he filed through John Bolden will financially hamper his future for years is a severely harsh penalty in itself. The fact that he will have a federal criminal record will also be a ball and chain around him for the rest of his life. The shame of having become involved in the conspiracy and having brought innocent friends into it is also a burden he will have to carry. All of these consequences will serve as a warning to any others inclined to step into an opportunity "too good to be true" and fail to step out or make it right when it turns out, in fact, to actually be too good to be true. Incarceration will severely damage the lives of innocent people who are unusually vulnerable to the loss of their reliable and responsible supporting adult, and not serve any greater purpose than has already been served by Mr. McKenzie's participation in the Focus Forward Project and by future supervision by the Probation Department.

Conclusion

For the foregoing reasons counsel strongly urges the Court to fashion a noncustodial sentence which will permit Mr. McKenzie to continue the progress he has made during the last year, continue to be able to provide for his son and brother's support and care, continue to allow him to do what he can in the Surrogate's Court to preserve the house the three of them live in, and to ensure that he will not be lead astray again by people in whom he placed his trust.

Dated: New York, New York
June 23, 2026

Respectfully submitted,

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