IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

UNITED STATES OF AMERICA, Plaintiff, v. ROSS SYLVESTER ELENDU, Defendant.	Case No. 3:24-cr-142-PDW **UNITED STATES' SENTENCING MEMORANDUM**

The United States of America, by Nicholas W. Chase, United States Attorney for the District of North Dakota, and Matthew D. Greenley, Assistant United States Attorney, hereby recommends the following sentence in the above-captioned matter: commitment to the Bureau of Prisons for 114 months; entry of a money judgment forfeiture in the amount of $1,425,244; an Order for Restitution in the amount of $60,891.87 payable to the Small Business Administration ("SBA"); supervised release for a term of up to five years; and payment of a special assessment for each count of conviction, equal to $500.

PROCEDURAL HISTORY

The case was tried by a jury on December 8-12, 2025. The jury convicted Defendant on all six counts: five counts of wire fraud in violation of 18 U.S.C. § 1343 related to a fraudulently obtained Shuttered Venue Operator's Grant ("SVOG") and four Paycheck Protection Program ("PPP") loans, plus one count of fraud and false statements in a tax return in violation of 26 U.S.C. § 7206(1). On June 8, 2026, the Court held a *Faretta* hearing on Defendant's Motion to Proceed *Pro Se* and to Appoint Standby

Counsel. After sternly warning the Defendant regarding the dangers of self-representation and conducting a thorough inquiry into whether Defendant's motion was made voluntarily, knowingly, and intelligently, the Court granted Defendant's motion.

This matter is set for sentencing on September 23, 2026.

FACTUAL BACKGROUND

The Coronavirus Aid, Relief, and Economic Security (CARES) Act (Public Law 116-136) enacted the Paycheck Protection Program in March 2020, which provided emergency financial assistance to small businesses for job retention. The Economic Aid to Hard-Hit Small Business, Nonprofits and Venues Act ("Economic Aid Act") (Public Law 116-260) created a second round of PPP loans in December 2020. Section 1102 of the CARES Act limited the amount of each PPP loan to the average total monthly payments by the applicant for payroll costs incurred in the 1-year period before the date of the loan, multiplied by 2.5. Section 311 of the Economic Aid Act authorized "second draw loans,"—a second round of PPP loans—using the same maximum loan amount as the CARES Act. The Economic Aid Act also established Grants for Shuttered Venue Operators in Section 324. The amount of the SVOG grants was limited to 45 percent of the applicant's gross earned revenue during 2019, prior to the start of the pandemic.

Defendant applied for, and received, a SVOG in the amount of $1,374,200.00 on behalf of his talent representation business, Colossal Empire Promotions LLC ("Colossal"), two PPP loans for Colossal each in the amount of $20,800, and two PPP loans for Defendant's trucking business, Telaroice LLC ("Telaroice"),[1] in the amounts of $4,724 and $4,720—none of which had to be repaid under the terms of the loans and the grant. Central to this case, the amount of each loan and the grant was based on pre-pandemic income, i.e. 2019 income, which Defendant falsified in order to obtain nearly $1.5 million in government funds. Evidence at trial demonstrated that neither Colossal nor Telaroice earned income in 2019, contrary to Defendant's representations on five separate COVID relief applications.

Underpinning each fraudulent loan and grant application was a false and fraudulent Schedule C[2] that Defendant knowingly and willfully submitted as part of his Amended 2019 Form 1040 tax return. The fraudulent tax return was filed with the IRS, submitted to the SBA in support of the SVOG, and submitted to Aspire Bank in support of four separate PPP loan applications.

Defendant originally filed his 2019 tax return on April 8, 2020, and he did *not* report any business income, and did not even file Schedule C. Nearly a year later, on March 11, 2021, Defendant signed an Amended 2019 Form 1040, including for the first time Schedule C business income, which he filed with the IRS in April 2021. Defendant's Schedule C grossly overstated the income of Colossal and Telaroice. Bank records for Colossal Empire Promotions[3] indicated that the business had no income or

[1] Telaroice LLC was described on a PPP loan application as a trucking company. Tr. 489:8-12.
[2] Used by sole proprietors and single-member LLCs to report business income. www.irs.gov/ScheduleC.
[3] Defendant stated in response to a subpoena that Colossal had only one bank account and provided statements identical to those in Ex. 90.

expenses in 2019, yet Schedule C reflected revenue of exactly $3.1 million. Exs. 90, 131. Likewise, bank records for Telaroice indicated the business had not been in operation in 2019, (Ex. 95), but the Schedule C disclosed Telaroice earned revenue of $22,678. Between Defendant's original 2019 tax return filed in April 2020 and the Amended 2019 tax return filed in April 2021, Defendant's reported taxable income increased from $0 to $173,849.

The same day that Defendant signed the Amended 2019 Form 1040, a banker at Aspire Bank emailed Defendant blank PPP loan applications. In other words, the same day that Defendant amended his 2019 tax return—which showed a substantial increase in business income—Defendant received blank applications for PPP loans, which asked for the 2019 gross revenue for each applicant business. The dollar amount of each loan was derived directly on whatever revenue Defendant entered on that application.

SENTENCING RECOMMENDATION

The Court must fashion a sentence that is "sufficient, but not greater than necessary, to comply with the purposes set forth in [18 U.S.C. § 3553(a)(2)]."

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed education or vocational training, medical care, or other correctional treatment in the most effective manner.

18 U.S.C. § 3553(a). In addition, the Court must consider the kinds of sentences available; the United States Sentencing Guidelines and any pertinent policy statement; the need to avoid unwarranted sentence disparities; and the need to provide restitution. 18 U.S.C. § 3553(a).

I. United States Sentencing Guidelines Calculation

Defendant's crimes are economic offenses, and the guidelines are determined under United States Sentencing Guidelines (USSG) Section 2B1.1. All of Defendant's convictions are grouped for the purposes of the USSG. As calculated below, the total offense level under the USSG is 25.

- The base offense level for wire fraud is **7**. USSG § 2B1.1(a)(1).
- The actual loss, and intended loss, $1,425,244, exceeds $550,000, increasing the offense level by **14**. USSG § 2B1.1(b)(1)(H). This calculation does not change under the 2026 USSG Manual effective November 1, 2026. Defendant received all of the above funds.
    - The intended loss includes $1,374,200 (Ex. 82) from the SVOG deposited into Colossal's bank account at Gate City Bank; $41,600 in PPP loans issued on behalf of Colossal (Exs. 79, 80); and $9,444 in PPP loans issued on behalf of Telaroice. Exs. 78, 81.
    - While $1,374,200 was fortunately recovered by the SBA at the same time Defendant was trying to withdraw it, that does not mean that Defendant did not "personally enrich" himself. In fact, Defendant steadfastly maintains his right to the SVOG funds, as reflected in

Defendant's multiple demands to Gate City Bank employees to release the SVOG funds.[4] Tr. 660:9-23; Ex. 98 (24 minutes to 27 minutes). Defendant even retained an attorney to attempt to recover the SVOG funds after the funds were frozen on suspicion of fraud.

- The offense involved sophisticated means, adding **2** levels. USSG § 2B1.1(b)(10). Defendant executed his scheme by falsely amending his actual tax return to add Schedule C business revenue and expenses that did not exist. Then Defendant filed the willfully false tax return with the IRS and provided copies in applications for four PPP loans submitted to Aspire Bank as well as a copy to the SBA for the SVOG. Defendant further attempted to conceal his crimes by falsifying contracts with a non-existent artist and promoter, and provided those fraudulent documents in response to a grand jury subpoena.
- The Defendant's offenses involved conduct described in 18 U.S.C. § 1040 because President Trump declared a nationwide emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act on March 13, 2020, related to the COVID-19 pandemic, which increases the offense level by **2**. USSG § 2B1.1(b)(12).

[4] There is no audio recording of the meetings made by Gate City Bank. Tr. 667:21-668:1. Former bank officials noted that it was *Defendant* who made an audio recording of the meeting. 663:14-17.

- Defendant derived more than $1,000,000 in gross receipts from Gate City Bank, increasing the offense level by **2.** USSG § 2B1.1(b)(17)(A).
- Defendant qualifies for the adjustment for zero-point offenders, reducing his offense level by **2.**

Defendant's total offense level under the USSG is **25**, and based on Defendant's criminal history category of I, the USSG range is 57-71 months.

Defendant does not qualify for acceptance of responsibility. USSG § 3E1.1. Defendant maintains his innocence and refused to truthfully admit the conduct comprising the offenses of conviction. Instead, Defendant put the government to its burden of proof at trial. *See* USSG 3E1.1 app. note 1. Rather than voluntarily terminating criminal conduct, Defendant persisted in efforts to obtain the SVOG funds even after the funds were frozen on suspicion of fraud. *Id.* Not only has Defendant filed a motion for a new trial, but Defendant has frivolously contested the record. *See*, *e.g.*, Def Reply to Gov't Response, Doc. 120 (Defendant attempts to argue that United States violated *Giglio* because the government's grand jury witness confused the name of an actual artist with Defendant's fictitious artist "Murphy."). Lastly, Defendant's entire post-conviction litigation position involves repeated unsubstantiated claims that the United States has violated *Brady*, *Giglio*, *Jencks* and *Napue*.

II. Section 3553(a) Factors

The United States Sentencing Guidelines do not adequately reflect Defendant's recalcitrance and resolve to defraud the United States taxpayer. Defendant's frauds on the United States involved at least four layers of deception and a level of persistence well beyond the typical white-collar defendant sentenced in the District of North Dakota. (A) Defendant applied for PPP using false information; (B) when Defendant's initial applications were denied he willfully falsified his 2019 amended tax return to support a second round of false PPP applications and a false SVOG application; (C) when Defendant's SVOG application was initially denied, he appealed using misleading information to falsely portray that Colossal was actively engaged in representing live artists; and (D) finally, Defendant fabricated contracts out of whole cloth in order to try to cover up his fraudulent scheme. At each step in the multi-year scheme Defendant had an opportunity to withdraw, but Defendant contumaciously continued, sometimes lying to cover previous lies.

In summary, the Defendant's actions described below demonstrate the necessity for a sentence above the USSG range to reflect the seriousness of the Defendant's offenses; promote respect for the law, especially with regard to federal program dollars; provide just punishment, and to provide specific deterrence to protect the public from further crimes by Defendant.

A. Defendant Applied for COVID Relief Funds Using False Information

Defendant applied for PPP loans on behalf of Colossal and Telaroice from ReadyCap Lending on April 8, 2020. Trial Tr. ("Tr.") 710:23-24, 717:4-17; Exs. 109, 110. A loan officer from ReadyCap sent an email to Defendant on April 15, 2020, stating "Just reviewed your tax return and the only income reported is from wages, don't see any business income." Ex. 114. Defendant—who admitted he had never heard of a profit and loss statement—did not understand what the loan officer was saying, and he tried to justify why his tax return did not show business income by explaining that he reported all his income under his personal social security number. Tr. 758:7-14. This was a misleading at best, but it was immaterial to the loan officer who replied "your personal 2019 tax return reports wages and not a Schedule C for a business." Tr. 761:7-18. ReadyCap closed the Defendant's first two PPP loan applications on April 24, 2020, (Tr. 776:6-14) for the simple reason that without business income, the Defendant did not qualify for the loans.

In truth Defendant's businesses had no business income because they were not actively engaged in 2019. Defendant's income was generated from various oil field jobs in western North Dakota and unemployment insurance—not by operating Colossal and Telaroice. Tr. 719:14-726:15; Ex. 111. Defendant had not even opened a bank account for Colossal Empire Promotions until June 22, 2020. Ex. 89. In other words, Defendant did not have a bank account for Colossal until *two months after he applied for a Colossal PPP loan*. Not only was the business required to have been in existence prior to February 15, 2020, to qualify for PPP loans, and February 29, 2020, for the SVOG, but Colossal Empire Promotions bank account had practically no income or expenses. Ex. 90. Colossal lacked any sign of bank account activity until after the PPP loan programs launched.

Likewise, Defendant had not opened an account for Telaroice until March 25, 2021, which is more than a year beyond the last day a business could be established and still qualify for a PPP loan. Ex. 94. Again, the Telaroice bank account existed only to receive PPP loans and disburse them to Defendant. Ex. 95.

B. Defendant Willfully Falsified His Tax Return to Further Fraudulent Schemes

Despite ReadyCap's admirable diligence in denying Defendant's non-qualifying loan applications, Defendant re-applied for PPP loans on behalf of Colossal and Telaroice at Aspire Bank in Fargo, North Dakota. Tr. 465:7-467:9; 487:1-20; Exs. 84, 85. Defendant applied for these loans on March 11, 2021. *Id.*

The same day Defendant applied for new PPP loans for Colossal and Telaroice, Defendant signed an amended 2019 tax return showing business income for Colossal and Telaroice that did not appear at all on his original tax return filed a year prior. Exs. 130, 131. Defendant did not file Schedule C with his original 2019 personal income tax return, Exhibit 130, yet Exhibit 131 disclosed an added $3.1 million+ of revenue from 2019. Between the two tax returns Defendant's taxable income rose from $0 to over $173,849 for no other reason that he was applying for PPP loans that were based on *business* income. Defendant either inexplicably failed to account for over $3.1 million of revenue and $173,849 of taxable income in 2019, or he falsified changes to his tax return to support the loans and grant to which he was otherwise not entitled.

C. Defendant Submitted False and Misleading Documents to Convince the SBA to Grant His SVOG Appeal.

Defendant applied for an SVOG on behalf of Colossal in April 2021 (Tr. 292:16-24), and was initially denied. Tr. 344:10-13. The SBA invited Defendant to provide supplemental information on key eligibility questions, and he was denied a second time.

Tr. 345:10-23. Specifically, the SBA was looking for contracts, emails confirming verbal agreements, marketing materials, ledgers, income statements, box office reports or other documentation that Colossal booked or represented artists at live venues. 346:14-348:4. Colossal did not submit sufficient evidence to satisfy this request for technical information.

After Colossal failed the second time to provide sufficient evidence that Colossal qualified for the SVOG, Defendant was invited to appeal. Tr. 345:23-25. Exhibit 37 lists the documents that Defendant provided to the SBA to appeal the denial of his SVOG application. Tr. 349:24-25. That exhibit includes three and only three artist names: DJ Rash, Roddy Banks, and Shatta Wale. Ex. 37. Defendant included the artists to show that he represented them. Two of the artists testified at trial. DJ Rash is Defendant's brother Roy Elendu (Tr. 624:18-20), who testified that he never paid Colossal for services, and Colossal never booked DJ Rash. Tr. 630:3-12. Roddy Banks is Defendant's brother Rolland Elendu (Tr. 531:12-24), and he testified that Colossal never paid any money to him and never booked him. Tr. 555:21-556:5.

Thus, two out of three artists that Colossal used as proof that it represented live-performing artists were not actually generating any revenue at all for Colossal. The third artist listed in Exhibit 37 is Shatta Wale, who is a Ghanian dancehall artist. In 2019 Shatta Wale collaborated with Beyoncé (who is an influential billionaire musician who has sold more than 200 million albums) on her album *The Lion King: The Gift*, which debuted at No. 2 in July 2019 on the Billboard 200 chart.[5] Rolland Elendu testified that he agreed Shatta Wale is a "big deal" in Ghana and "for sure" pretty well-known all over Ghana, and known in the African community in the U.S.. Tr. 562:18-563:5. Despite this fame, Defendant never even mentioned representing Shatta Wale. Tr. 563:6-9. Of course, it makes no logical sense that an artist who was collaborating with one of America's biggest R&B artists would seek out Defendant's business, in Fargo, North Dakota, when Defendant's business did not have a business, a bank account, and operated out of the back of an ice rink in an industrial park.

A witness from the SBA testified at trial that the individuals reviewing SVOG applications could not independently verify all the information in the applications. The SBA had to rely in part on the attestation of the applicants that the representations made were true and correct in order to disburse emergency funds to venues affected by COVID era restrictions. Tr. 286:13-287:10. Defendant now argues that because he successfully deceived the SBA when he falsely attested to the representations in his SVOG application and won his appeal, that is proof that he did not defraud the government.

D. Defendant Engineered a Coverup that Belied His Fraud.

Following Defendant's successful appeal, SBA initiated an ACH payment scheduled for November 1, 2021, to Defendant's Colossal bank account at Gate City Bank. Ex. 82. The bank became immediately concerned about fraud because the very

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[5] https://en.wikipedia.org/wiki/Shatta_Wale (last accessed September 16, 2026); https://web.archive.org/web/20191022073035/https://www.billboard.com/articles/columns/chart-beat/8524153/ed-sheeran-no-6-collaborations-billboard-200-albums-chart-no-1-second-week (last accessed September 16, 2026).

large payment was deposited into an otherwise inactive business account, and Defendant was attempting to wire the funds out. Tr. 654:1-9. The fraud prevention officer froze the funds in the account and contacted a special agent with the SBA Office of Inspector General ("SBA OIG"). On November 2, 2021, the SBA OIG special agent requested Gate City Bank freeze the Colossal payment on suspicion of fraud. Tr. 658:2-16.

On November 8, 2021, SBA-OIG served a subpoena on Colossal that requested in part "Receipts, deposits, or other records supporting the entry on line 1 of 2019 Schedule C to Ross Sylvester Elendu's 2019 form 1040-X Amended U.S. Individual Income Tax Return indicating gross receipts of $3,100,000." In response, Colossal, through Defendant, provided a pair of contracts in exactly the amount of $3,100,000. Ex. 126. Defendant also provided a pair of invoices. One invoice from Colossal Empire Promotions to an unidentified promoter was in the amount of $3,100,000. Ex. 126. A second invoice appeared to be a bill from an artist to Colossal Empire Promotions LLC in the amount of $3,000,000. *Id.* Notably, whether the contracts and invoices were fabricated or not, by their own terms only $120,000 of the $3,100,000 was due to be paid to Defendant in 2019.

Defendant stated in the response to the subpoena to Colossal Empire Promotions that the $3,100,000 was in "accounts receivable," meaning he never received the money he claimed as revenue on his SVOG application. However, regardless of whether Defendant employed cash accounting or accrual accounting, the fact is that Colossal could not have earned more than $120,000 in 2019 under the most generous and favorable interpretation of the facts. But Colossal was not paid any money in 2019.

Moreover, the evidence at trial demonstrates that these contracts and invoices were simply a fraudulent attempt by the Defendant to paper over a fraud scheme for which the jury unanimously convicted him.

Defendant's behavior is simply egregious. He schemed to obtain nearly $1,500,000 million for doing nothing. It was fortuitous for Defendant that he had two inactive companies in April 2020 that he could use to apply for "free money" during a multi-year national emergency. The PPP loan program and the SVOG program were targeted to protect employment and businesses in the United States during a pandemic that was eliminating jobs and shuttering the live entertainment business. Defendant exploited the goodwill of the United States, and in all the documents he uploaded, emailed, and mailed, the United States could not find one legitimate dollar deposited from the business of Telaroice or Colossal.

The Defendant was not simply scheming and dishonest: he claims he is entitled to the proceeds of his scheme. The Defendant is *not* claiming that he made an error or a mistake. He brazenly maintains that he is innocent and deserves the proceeds of his scheme. Defendant's ambition to obtain fraud proceeds in this case was not deterred by regulatory rules, denials by loan officers, repeated denials by the SBA, limitations of his tax filings, bank fraud prevention, a federal criminal investigation, or a jury verdict. For these reasons the United States seeks an upward variance under 18 U.S.C. § 3553(a).

III. Forfeiture

The United States seeks a personal money judgment forfeiture for the entire amount of fraud proceeds in this case that were received by Defendant regardless of whether the funds were subsequently recovered through investigative efforts. Here that amount is $1,425,244. The United States seeks $1,374,200 for the fraud related to the SVOG, $41,600 in loan disbursements from the two Colossal PPP loans, $9,444 in loan disbursements from the two Telaroice PPP loans.

Where the United States seeks a personal money judgment under Federal Rule of Criminal Procedure 32.2, the Court must determine the amount of money that the defendant will be ordered to pay. Rule 32.2(b)(1)(A). The United States may seek forfeiture of any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of any offense constituting specified unlawful activity, as defined in 18 U.S.C. § 1956(c). 18 U.S.C. § 981(a)(1)(C). *United States v. Adetiloye*, 716 F.3d 1030, 1041 (8th Cir. 2013). Wire fraud is a specified unlawful activity. 18 U.S.C. § 1956(c)(7)(A). Proceeds include property of any kind obtained directly or indirectly as the result of the commission of the offense giving rise to forfeiture. *Adetiloye*, 716 F.3d at 1041. Forfeiture is gain based, and restitution is loss based. *Id.*

It is immaterial that Gate City Bank froze and returned $1,374,200. Tr. 652:22-653:3. $1,374,200 represents proceeds obtained as the result of wire fraud, that were deposited into Defendant's account, giving him an opportunity to attempt to wire the proceeds out. *See United States v. Newman*, 659 F.3d 1235, 1243 (9th Cir. 2011) ("We reject Newman's arguments that he is entitled to a reduction in criminal forfeiture. Because he was caught soon after the second robbery, Newman never spent any of the stolen money. But, under any definition of "proceeds," and particularly the broad definition applicable here, the "proceeds" of his bank robbery clearly equal the amount that he stole."). In *Newman*, there was no dispute that the defendant stole $5,102, and the Ninth Circuit concluded that the district court erred in failing to enter an order of criminal forfeiture in that amount.

Here, Defendant executed an elaborate scheme to obtain $1,425,244. He fabricated documents, made multiple applications to multiple entities and multiple banks. Defendant re-submitted information and appealed to obtain the SVOG. His appeal was granted, and the entire amount of proceeds was deposited into his account. All of it is proceeds.

IV. Restitution

The United States seeks restitution to the SBA for all four issued and forgiven loans in an aggregate amount of $60,891.87. That sum represents $41,600 in loan disbursements from the two Colossal PPP loans, $9,444 in loan disbursements from the two Telaroice PPP loans, plus interest and processing fees paid by SBA to Aspire Bank for the four PPP loans, equal to $9,847.87. Exs. 78-81.

CONCLUSION

Pursuant to 18 U.S.C. § 3553(a) and for the reasons set forth herein, the United States recommends the Defendant be committed to the Bureau of Prisons for a term of 114 months, or two times the low end of the USSG range. It is a term sufficient but not greater than necessary to achieve the purposes of 18 U.S.C. § 3553(a). In addition, the United States requests a money judgment forfeiture in the amount of $1,425,244, entry of an Order of Restitution in the amount of $60,891.87 payable to the SBA, payment of a special assessment in the amount of $500, and supervised release for up to five years.

Dated: September 16, 2026

NICHOLAS W. CHASE
United States Attorney

By: /s/ *Matthew D. Greenley*

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CERTIFICATE OF SERVICE

I hereby certify that on September 16, 2026, the above-named document was filed electronically with the Clerk of Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF) to the following:

Stormy Vickers

I further certify that a copy of the foregoing documents will be mailed by first class mail, postage paid, to the following non-ECF participant(s):

Ross Sylvester Elendu

Dated: September 16, 2026

/s/ Matthew D. Greenley
Matthew D. Greenley
Office of the United States Attorney