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

UNITED STATES OF AMERICA, **v.** **IBRAHEEM SAMIRAH**	**Case No. 1:25-cr-00210-MSN**

DR. IBRAHEEM SAMIRAH'S MEMORANDUM IN SUPPORT OF SENTENCING

Dr. Ibraheem Samirah comes before this Court prepared to atone for his conduct. He will make an immediate and substantial payment toward his obligations in forfeiture and restitution. His effort to repay his obligations is no small feat given the fragility of his financial situation, and this is but one of several ways in which he has demonstrated that he takes full responsibility for his conduct. As discussed in fuller detail herein, from the accounts of loved ones and from his own personal history, Dr. Samirah has engaged in painful but necessary reflection and hopes to be able to transform this deeply consequential event in his life into something positive.

And there are several reasons to believe he can. At thirty-four years old, he is still young and has demonstrated potential. He has, after much hardship, established a steady dental practice. He also served as a member of the Virginia House of Delegates, evidencing his passion for public service. Dr. Samirah has achieved all this despite deep instability in his childhood, when his family was abruptly forced to move to Jordan after his father was wrongly denied re-entry to the United

States. He has demonstrated an immense capacity to be a functioning and productive member of the community.

Dr. Samirah's potential and capacity, of course, must be discussed in connection with the conduct that brings him before this Court. In May 2020, at the height of the global COVID-19 pandemic, Dr. Samirah applied for and received a Paycheck Protection Program ("PPP") loan in the amount of $83,300 to support his fledgling dental practice. In doing so, he misrepresented his eligibility for the loan and misled the U.S. Small Business Administration and the bank that provided the loan. In the spring of 2025, he learned he was under investigation and soon thereafter pleaded guilty to one count of wire fraud. This was and is his first and only experience with the criminal justice system.

On this latter point, Dr. Samirah's timely acceptance of his guilt demonstrates insight and his capacity for change. While the Court will hear his own remarks to this effect, we submit his effort in this regard is not insignificant. As noted earlier and discussed further below, Dr. Samirah is prepared to make a substantial upfront payment toward his obligations. He also has agreed to an Order of Forfeiture against him in the amount of $83,000.

In light of the facts of this case and the many cases from around the country in which similarly-situated defendants have received a civil disposition or a term of probation, Dr. Samirah respectfully asks the Court to sentence him to the same, which will allow him to continue operating his solo dental practice and to repay his debt to the United States.

I. RELEVANT LEGAL STANDARDS

Under federal law, criminal sentences are imposed in accordance with 18 U.S.C. § 3553(a). That statute prescribes seven factors that a court must consider at sentencing. The first factor requires the court to consider "the nature and circumstances of the offense and the history and characteristics of the defendant." 18 U.S.C. § 3553(a)(1). The second factor refers to policy considerations, including whether the sentence reflects the seriousness of the offense, the need for general and specific deterrence, and the defendant's need for rehabilitation. *Id.* § 3553(a)(2). The third refers to "the kinds of sentences available," *id.* § 3553(a)(3). The fourth factor listed in Section 3553(a) refers to the Sentencing Guidelines; the fifth to relevant policy statements of the U.S. Sentencing Commission; and the sixth to "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct," *id.* § 3553(a)(4, 5, 6). Finally, the seventh factor is "the need to provide restitution to any victims of the offense." *Id*. § 3553(a)(7).

In evaluating these seven factors, a sentencing judge is not required to "robotically tick through § 3553(a)'s every subsection." *United States v. Johnson*, 445 F.3d 339, 345 (4th Cir. 2006). Instead, the judge has discretion to evaluate the factors in the manner best suited to the case at hand. The ultimate goal, as directed by Section 3553(a), is for the court to "impose a sentence sufficient, but not greater than necessary, to comply with the" policy considerations underlying the statute.

II. ARGUMENT

a. The U.S. Sentencing Guidelines Favor a Sentence of Probation

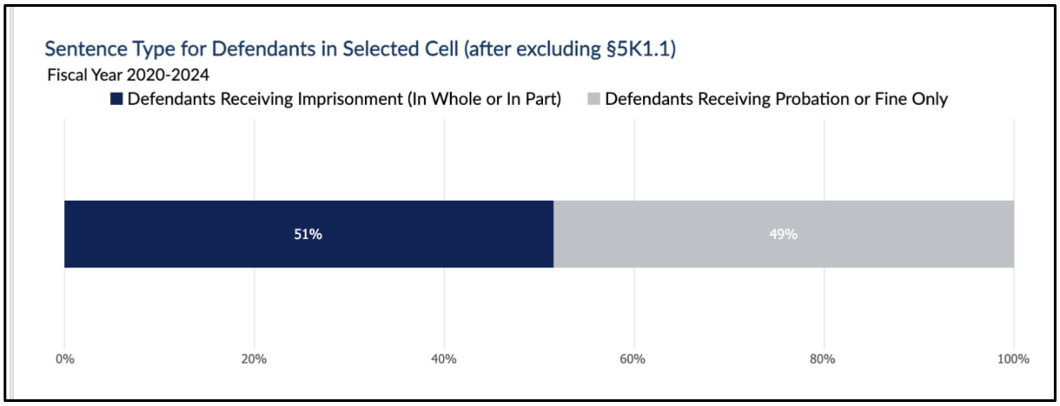
The U.S. Supreme Court has directed that, generally, the first step in the Court's sentencing analysis is consideration of the Sentencing Guidelines and the advisory Guidelines range applicable to the defendant's offense. *Gall v. United States*, 552 U.S. 38, 49 (2007) (stating that "a district court should begin all sentencing proceedings by correctly calculating the applicable Guidelines range"). However, there is no legal presumption that the Guidelines sentence should apply. *Nelson v. United States*, 555 U.S. 350, 352 (2009). Although the Court "must include the

Guidelines range in the array of factors warranting consideration" as it determines an appropriate sentence under § 3553(a), *United States v. Kimbrough*, 552 U.S. 85, 91 (2007), it is the Court's prerogative to decide how much persuasive authority the advisory Guidelines range should receive in a particular case.

Here, the Presentence Investigation Report ("PSR") recommends a sentence of 4 to 10 months' imprisonment based on the U.S. Sentencing Guidelines. We do not dispute the PSR's Guidelines analysis. As noted therein, Dr. Samirah's conviction under 18 U.S.C. § 1343 carries a base offense level of 7. *See* U.S.S.G. § 2B1.1. The loss amount attributable to his violation, $83,300, adds another six levels, increasing the offense level to 13. See § 2B1.1(a)(1). After accounting for Dr. Samirah's timely acceptance of responsibility (-2 levels) and a further adjustment because Dr. Samirah is a Zero-Point Offender (-2 levels), *see* U.S.S.G. § 4C1.1(a)(1)-(10), Dr. Samirah's total offense level is level 9. This provides an advisory Guidelines range of 4 to 10 months.

Imposing a sentence of probation in Dr. Samirah's case would be consistent with the treatment of a substantial number of similarly-situated federal defendants. After exclusion of those defendants who have received a § 5K1.1 substantial assistance departure (which is not relevant here), the Commission's Judiciary Sentencing Information ("JSIN") data provides that approximately half of 274 similarly-situated defendants received a non-custodial disposition:[1]

[1] It should further be noted that even of those defendants who are sentenced to incarceration, the median sentence length is one month and the average sentence length is 3-months' imprisonment. JSIN Data, https://jsin.ussc.gov/analytics/saw.dll?Dashboard (last checked October 21, 2025) (results for § 2B1.1, Cat I, Level 9).



Thus, a sentence of probation, when considered in light of the other factors addressed below, is fully consistent with the way the Guidelines are implemented throughout the United States and would not result in sentencing disparity.

b. <u>The Types of Sentences Available and Relevant Policy Statements Favor Probation</u>

The types of sentences available and the policies underlying the Sentencing Guidelines similarly support this request. Dr. Samirah's Guidelines calculation places him in Zone B of the Sentencing Table. Application Note 10 to U.S.S.G. § 5C1.1 explains that "[i]f the defendant received an adjustment under §4C1.1 (Adjustment for Certain Zero-Point Offenders) and the defendant's applicable guideline range is in Zone A or B of the Sentencing Table, a sentence other than a sentence of imprisonment, in accordance with subsection (b) or (c)(3), is generally appropriate. *See* 28 U.S.C. § 994(j)."[2] This commentary reflects Congress's directive to the Sentencing Commission to "ensure that the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first [time] offender who has not been convicted of a crime of violence or an otherwise serious offense . . . ." 28 U.S.C. § 994(j). In so directing the Sentencing Commission, Congress explained that

[2] The fact that the Guidelines calculation in a particular case does not call for probation does not prohibit the imposition of a probationary sentence. *Gall*, 552 U.S. at 58-59.

"sentencing decisions should be designed to ensure that prison resources are, first and foremost, reserved for those violent and serious criminal offenders who pose the most dangerous threat to society," and that "in cases of nonviolent and nonserious offenders, the interests of society as a whole as well as individual victims of crime can continue to be served through the imposition of alternative sentences, such as restitution and community service." Pub. L. No. 98-473, § 239, 98 Stat. 1987, 2039 (1984) (set forth at 18 U.S.C. § 3551 note). *See also United States v. Cabrera*, 567 F. Supp. 2d 271, 279 (D. Mass. 2008) (finding status as a first-time offender relevant to fashioning variance below guidelines based on § 3553(a) factors). These relevant policy statements strongly support the request for a probationary sentence for Dr. Samirah. *See* 18 U.S.C. § 3553(a)(3, 5). As is explained in further detail below, Dr. Samirah is the paradigmatic first-time, nonviolent offender for whom a sentence of probation is not only permissible but is undoubtedly the appropriate outcome in this case.

c. Dr. Samirah's History and The Nature of His Offense Warrant Probation

Ibraheem Samirah was born in Chicago, Illinois on August 20, 1991. He is the oldest of three children born to his mother, Sima Srouri, and father, Sabri Samirah, who immigrated to the United States from Jordan in the 1980s. During the first decade of young Ibraheem's life, Sabri Samirah was a constant and consistent presence. An academic by training, having obtained his Ph.D. from the University of Illinois, Sabri also was a leader of the Muslim community in the Chicago area, frequently organizing voter registration and community education efforts. Ibraheem's mother was a schoolteacher who worked at some of the same schools her children attended. Dr. Samirah's parents provided a healthy and supportive family structure and stressed to him from a young age the importance of education and participation in the political process.

His parents no doubt left indelible impressions that spurred many of his admirable qualities, including his commitment to public service.

Unfortunately, the stability that Dr. Samirah and his siblings enjoyed was broken in 2003. In that year, when Dr. Samirah was just eleven years old, his paternal grandmother became seriously ill and his father—who was concomitantly seeking lawful permanent resident status—sought and received permission from U.S. immigration officials, through a process known as advanced parole, to travel abroad to visit her and then re-enter the United States. While Sabri Samirah was overseas, however, the government revoked his travel permit on the ground that he was a potential national security risk, relying on what the United States Court of Appeals for the Seventh Circuit would later describe as "shadowy accusations." *Samirah v. Holder*, 627 F.3d 652, 654 (7th Cir. 2010). As a result, Dr. Samirah's father was refused reentry and forced to remain in Jordan. It took Sabri Samirah more than a decade to successfully litigate his immigration case, with the U.S. government ultimately relenting after he established his expulsion had been improper. He finally was allowed re-entry to the United States in 2014.

The eleven years in which Dr. Samirah's father was barred from returning home had a significant impact on his young life. The family was unwilling to live apart, so, in 2004, Dr. Samirah, his mother, and his brothers relocated to Jordan. Having been born and raised in Chicago, Dr. Samirah experienced severe culture shock as he tried to acclimate to the social and political environment in Jordan. The country was experiencing serious geopolitical instability and had just absorbed approximately half a million Iraqi refugees. It was not uncommon for Dr. Samirah to walk around his new neighborhood and encounter families that had suffered devastating injuries and casualties. At the same time, he struggled to fit in with his classmates. Despite his best efforts, he never developed sufficient fluency in Arabic to shake the moniker that other children gave him

– "American kid"—which bullies used to taunt him. Throughout his adolescence, at a time when social status is crucial to the development of identity, Dr. Samirah lacked a peer group and experienced profound loneliness. Dr. Samirah's father, Sabri, describes this time in Ibraheem's life as follows:

> It was a painful and confusing time for all of us. Ibraheem and his brothers were suddenly living in a country they had never known, trying to adjust to a new environment and home. They faced many challenges, both socially and emotionally, while I continued to fight my case. Ibraheem grew up in the middle of all this, watching his father struggle with a system that felt unfair and overwhelming. But he never gave up on his dreams to return to the first country he called home . . .

Exhibit ("Ex.") A: Letter of Sabri Samirah at 2.

Amidst these stressors, however, there was one undeniably bright spot: owing to his devotion to his studies, Dr. Samirah enjoyed great academic success in Jordan, enough that he was able to enroll at American University in Washington, D.C. with a significant scholarship. He arrived in the District of Columbia in the fall of 2008. At American, Dr. Samirah studied political science, following in the footsteps of his politically-conscious parents. He was politically active on campus and continued to succeed in academics. After graduation, he moved to Boston and enrolled at Boston University to pursue a doctorate in dental medicine, using federal student loans to fund his education. In 2014, when his father was finally granted permission to return to the United States, Dr. Samirah was instrumental in helping him return and begin what was a difficult, and ultimately unsuccessful readjustment, with his father returning to Jordan when he was unable to find work. No doubt spurred in part by these difficult personal experiences, Dr. Samirah continued to engage in grassroots political advocacy in Boston.

After graduating from dental school in 2017, Dr. Samirah decided to return to the seat of American politics, the Washington, D.C. area, to begin his dental practice. As is reflected in the

PSR, the early years of his career were not without challenges, as he struggled to find another dentist with whom he could build a collaborative relationship based on complementary working styles. He eventually settled down in Herndon and became immersed in Virginia state politics. In February 2019, when a member of the Virginia House of Delegates was elevated to the Virginia Senate, Dr. Samirah ran for and won her seat in a special election, to which he was reelected in the following standard election cycle. He served in that part-time position, which provided a modest salary of $17,640 per year and a stipend to cover expenses on the days he spent in Richmond, until the summer of 2021. Several additional campaigns after that time were unsuccessful.

In the meantime, in the fall of 2019, having failed to gel with prior colleagues, Dr. Samirah continued freelancing with other dental clinics but also began working on plans to open his own dental practice in Herndon, in the same area of northern Virginia he was representing in the House of Delegates and where his research indicated dentists were in the shortest supply. He incorporated Nova Healthy Smiles PLLC and began working on business plans and marketing strategies.

In March 2020, however, the world came to a halt as the COVID-19 pandemic spread around the globe. The pandemic hit dental practice harder than most industries. "Starting in March 2020, dental care utilization started to decrease and reached its nadir in April 2020, an 80.9% decrease in utilization compared to 2019, while medical visits decreased by 41.3% in the same month." Its recovery would also prove slower.[3] Dr. Samirah's financial situation became precarious, as it did for many others throughout the United States.

[3] "By June 2020, medical visits had already surpassed the prepandemic level by 11.6% and remained higher than the prepandemic level for the rest of the year, but dental visits only began to surpass the prepandemic levels in November 2020." S.E. Choi, "Impact of COVID-19 on Dental Care Utilization and Oral Health Conditions in the United States," April 23, 2021 (https://pmc.ncbi.nlm.nih.gov/articles/PMC10125887/).

In May 2020, Dr. Samirah learned about the PPP program and applied for the business loan that led to his guilty plea in this case. We do not revisit here the substance of the offense conduct, as Dr. Samirah has pleaded guilty and accepts full responsibility for his crime. There is no question that Dr. Samirah improperly sought and received a PPP loan for Nova Healthy Smiles in the amount of $83,300, which he falsely claimed was necessary to cover his payroll and other business expenses, and that after receiving the money he did not use all of it for its intended purposes. That being said, there are a few contextual facts about his violation that are worth consideration.

First, at the time he took the PPP loan, Nova Healthy Smiles was a legitimate business that Dr. Samirah intended to operate after completing the "build out operation" that he described in his application for the PPP funds. As his PSR reflects, he invested heavily in the business (which is now a successful dental practice, as described *infra*). Second, while Dr. Samirah did not use the PPP loan money for its intended purpose, he also did not use it to enrich himself or to purchase luxury goods, instead spending it to cover his own personal expenses. Dr. Samirah's net worth statement shows that he was deep in debt when he took the loan, and he is still deep in debt today. Third, Dr. Samirah paid federal payroll taxes on the money he received from the PPP loan given its intended purpose as salary payments.

Dr. Samirah's progress in developing his dental practice has been slow, for various reasons. To increase his marketability, he began using the trade name Samirah Smiles to capitalize on the name recognition he had developed while serving in the House of Delegates. Today, he uses Nova Healthy Smiles dba Samirah Smiles as the legal entity through which he provides services at external clinics. In 2022, he created a separate entity, Samirah Smiles LLC, which he used to continue developing his own independent practice, eventually settling on the trade name Community First Dental, a name that reflects his ethos and his belief in the importance of community. Over the next three years, he developed a significant patient population. Today, in addition to his contracted dental work, Dr. Samirah treats patients at Samirah Smiles dba Community First Dental seven days a week. While many dental practices refuse Medicaid patients, this underserved population represents a significant portion of the people he treats. He has one full-time employee. On average, he has been earning approximately $20,000 to $40,000 monthly.

None of this is to suggest that Dr. Samirah did not commit a crime for which he must be punished. This background is not meant to minimize his misconduct, but instead, to place it in the proper context to aid the Court's imposition of a sentence which is sufficient, but not greater than necessary given who he is. Unlike many other PPP offenses, Dr. Samirah's crime was not borne out of pure greed or an intent to hurt others, though he recognizes that his choice to take advantage of a pandemic relief program did just that. Instead, his extremely poor decision was one motivated by financial stressors and a fear that his immense financial and personal investment in his training would be for naught. As a first-time nonviolent offender who engaged in misconduct under unusual circumstances, the nature of his offense is fully consistent with a sentence of probation.

d. <u>The Goals of Sentencing Are Served By A Probationary Sentence</u>

In furtherance of 18 U.S.C. § 3553(a)'s instruction to "impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in" the statute, Congress also has directed district courts to consider four identified purposes of federal sentencing:

> (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 educational or vocational training, medical care, or other correctional treatment in the most effective manner.

18 U.S.C. § 3553(a)(2). In the present case, these goals would be well served by a sentence of probation.

First, there is no question that Dr. Samirah's criminal conviction is itself a severe punishment that reflects the seriousness of his offense and has and will continue to promote respect for the law. As early as he can remember, Dr. Samirah deeply admired and emulated his father's drive to engage with the political system to effect positive change. This led him to study political science in college, and to run for and win a seat on the Virginia state legislature, an experience that he counts as one of the most meaningful of his life. The reputation Dr. Samirah was proud of and worked hard to build, as a man who was passionate about making life in the United States better for all citizens, is now permanently sullied by his status as a convicted felon. He will never hold public office again, nor will he be able to vote in federal elections. Many within his constituency and peer group of Virginia delegates know about (or soon will) his crime.[4] The sentencing hearing in this case is the final step in a process that, through no one's fault but his own, will erase a meaningful part of his identity. Additionally, as part of his guilty plea, Dr. Samirah agreed to forfeit $83,000, which is roughly the amount of the loan he received. He is prepared to make a very significant payment towards that debt at or around the time of sentencing. That financial penalty is a significant punishment when considered alongside the restitution he also has agreed to pay, as detailed further below.

In addition, there is no doubt that a sentence of probation is a punishment with serious consequences. Probation is not a free pass. To the contrary, it is "a sentence in and of itself."

[4] To this end, it deserves some mention that the government makes a point of suggesting that Dr. Samirah's public service was affected by his conduct in the present case. But this is not a bribery or public corruption case, and there is no allegation here that his conduct with respect to PPP funds affected his term in office. We do not believe his term as state delegate is relevant in considering the nature of the offense.

U.S.S.G., Chapter 5, Part B - Probation, Introductory Commentary. The Supreme Court has endorsed the value of probationary sentences in appropriate cases, noting among other things that "[o]ffenders on probation are . . . subject to several standard conditions that substantially restrict their liberty." *Gall*, 552 U.S. at 48; *see also id.* at 48 n.4 (quoting secondary source that explained that "[p]robation is not granted out of a spirit of leniency"). In Dr. Samirah's case, it will be a profound punishment because it will prevent him from visiting his wife, who lives in Canada and is engaged in the lengthy process of securing a green card so she can legally move to the United States. As Muskaw Safi explains in a letter to the Court,

> While my husband's conviction carries legal consequences, it has also introduced personal challenges that extend far beyond that. As newlyweds, we have been navigating the spousal green card process with care and patience, fully committed to building our life together in the United States once we have been granted the benefit to do so. Like many couples in our position, we have accepted the realities of the lengthy immigration process, a process that has already been pending for over a year, and the emotional toll of living apart during this time. Until now, we have managed to stay connected through short visits to Canada and the U.S., which have been essential in helping us maintain a strong and supportive relationship despite the distance. These visits have allowed us to share important milestones and continue growing as a couple. However, with this conviction, there is now uncertainty on when my husband will have the ability to travel to Canada while we continue to wait for the adjudication and issuance of my immigrant visa. That change means our time together will be limited to the periods when I am able to travel to the United States, which can be quite difficult at times due to the demands of my full-time profession as an attorney. This adds a new layer of difficulty to an already complex situation, which the impact has been and will continue to be deeply felt. We are prepared to continue facing the challenges of a long-distance marriage, but the loss of flexibility in seeing one another makes that path more difficult. The emotional strain of separation is compounded by the knowledge that our opportunities to be together, even briefly, may now be fewer and farther between.

Ex. B: Letter of Muskaw Safi at 3.

With respect to general and specific deterrence, Dr. Samirah's conviction and a subsequent probationary sentence will easily satisfy both goals. His conviction, which is public knowledge, is a powerful badge of the seriousness with which the United States addresses misrepresentations in connection with the misuse of federal emergency assistance. The general deterrent effect of that publicity is clear even when considered alongside a non-custodial criminal sentence, as it is recognized by the National Institute of Justice that the severity of one's punishment has far less deterrent effect than does the likelihood of detection itself.[5] Moreover, as is evidenced by the probationary sentences in other cases with similar facts described in Section III.f., *infra*, there is no reason to believe that a probationary sentence in this case would not adequately deter others from engaging in fraud.

With respect to Dr. Samirah personally, specific deterrence already has been accomplished. This conviction and the sentencing process have changed his life dramatically. He understands that, due to his own bad decisions, he will be prevented from visiting his wife in Canada, will lose his civil rights, and will be significantly limited in his ability to secure loans in the future. He also will live with the consequences of his actions for the rest of his life. In a letter to the Court, Dr. Samirah's mother acknowledges the shame that comes with this conviction, recognizing it as not only a "legal violation" but also a "moral failure." Ex. C: Letter of Sima Srouri at 1. She has observed the shame that he feels first-hand and anticipates that he will "feel this way for a long time." *Id*. She adds, however, that her son is working hard "to get back his future in a way that shows the values and morals he truly believes in." *Id.* at 2. Given all he has lost and will continue to lose, Dr. Samirah is absolutely certain that he will not reoffend. There is no need to protect the public from him in the future. Quite the opposite, he wants to continue operating his practice, and providing much needed dental care, so that he can be a benefit to the public and his community.[6]

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[5] "Five Things About Deterrence," National Institute of Justice, June 5, 2016 (https://nij.ojp.gov/topics/articles/five-things-about-deterrence).

[6] The fourth purpose of federal sentencing is to provide the defendant with needed educational, vocational training, medical care, or other correctional treatment. We respectfully submit that this purpose does not apply to Dr. Samirah's case.

e. <u>A Probationary Sentence Will Facilitate Samirah's Continued Restitution</u>

Courts also are to consider a defendant's need to pay restitution when fashioning an appropriate sentence. 18 U.S.C. § 3553(a)(7). We respectfully submit that this factor is particularly important here. As part of his guilty plea, Dr. Samirah agreed to forfeit funds in the amount of $83,000, which is the amount he received through the improper PPP loan. As noted above, he is prepared to make a very significant portion of that payment now. In addition, he agreed to pay restitution to the United States. Given Dr. Samirah's negative net worth, current income, and financial obligations, it is imperative that he continue working full-time so he can make timely restitution payments.

Fortunately, over the last several years, Dr. Samirah has developed a dedicated patient base and is now earning enough money to cover his existing debts. His income also will support a monthly restitution payment as recommended in the PSR. *See* PSR at 22 (recommending restitution payment of $300 per month). Given that he is a solo practitioner, any period of incarceration would require him to close the practice. Being unable to see patients for even a short period of time would erode his patient base, making it unlikely he could reopen the practice and reestablish his current income level without a significant period of rebuilding. A sentence of probation, on the other hand, would preserve and facilitate Dr. Samirah's ability to pay his restitution obligation.

Regarding the total restitution owed by Dr. Samirah, the government seeks payment of $88,523.94, which represents the full amount he received from the PPP loan, plus processing and other fees. This figure overstates the loss to the government, however, because it does not account for the fact that Dr. Samirah paid approximately $16,798.82 of the loan principal to the Internal Revenue Service to cover employee payroll taxes for those employees reflected in the PSR. *See*

Ex. D: Paychex Document.[7] As the government stated repeatedly in its recently filed Motion for Entry of a Restitution Judgment ("Restitution Motion"), the Mandatory Victim Restitution Act (the "MVRA"), 18 U.S.C. § 3663A, requires defendants to pay restitution in the amount of the victim's actual loss. *See* Restitution Motion at 6 (stating that "[i]t is well settled that a restitution order must be based on actual loss. . . .") (quoting *United States v. Harvey*, 532 F.3d 326, 341 (4th Cir. 2008)). Here, the actual loss to the government was no more than $71,725.12, which is the amount of the loan less payroll taxes paid.

We are not aware of any decision from the U.S. Supreme Court or the Fourth Circuit that suggests the United States should be entitled to a windfall in a circumstance like this, where a defendant has returned a significant portion of the money at issue to the government but can nevertheless be required to repay the original, gross amount in full. The government identified a district court case from within the Fourth Circuit, *United States v. Stewart*, 321 F. Supp. 2d 652 (D. Md. 2004), that has said as much, but it is unpersuasive for several reasons.

In *Stewart*, the defendant pleaded guilty to conspiracy to defraud the United States after he wrongfully converted federal annuity payments that had been sent to his deceased spouse. *Id.* at 653. The district court ruled that taxes that had been withheld from the annuity payments and sent directly from the annuity fund to the IRS would be deducted from Stewart's restitution obligation, because the government never lost dominion over that money, but that tax payments Stewart had sent to the IRS using the annuity funds he received would not be deducted, because Stewart obtained control over those funds and "[a] thief is entitled to no credit for how he chooses to spend

[7] We advised the government during plea negotiations that he intended to make this argument regarding the actual loss amount. This understanding is reflected in the plea agreement, which states that the restitution amount remained to be determined. Dr. Samirah has always agreed to pay restitution in full, but the parties left open the specific amount of restitution.

purloined money, whether he gives it all to charity or uses it to pay taxes." *Id.* at 657. The control-centered distinction drawn in *Stewart,* however, is contrary to the text of the MVRA, which is silent on the issue of control and instead directs the court to order restitution "in the full amount of each victim's losses." 18 U.S.C. § 3664(f)(1)(A). The reasoning in *Stewart* is not supported by any prior decisions or even general reference to common law. It also hinges on the assumption that one "chooses" to pay taxes to the IRS but ignores the fact that such payments are mandated by law. For all of these reasons, the out-of-district decision in *Stewart* should not control here. The federal government sent Dr. Samirah $83,300 in PPP funds, and he effectively returned a portion of those funds to the IRS in payroll tax payments, reducing the government's actual loss as discussed herein. The restitution order should be in that amount.

The timing of Dr. Samirah's restitution payment(s) also is important. Dr. Samirah has been working long hours, seven days a week, for several months to save the money that he will use to satisfy the forfeiture judgment. That savings will be significantly depleted after he pays his forfeiture obligation in the amount of $83,300. The government is now asking that he also be required to pay his restitution obligation in full immediately after sentencing. Restitution Motion at 10-11. However, it is within the Court's discretion to order that restitution be paid in installments if it would serve the interests of justice to do so. *See* 18 U.S.C. § 3572(d).

Dr. Samirah believes that it would be appropriate to allow him some period of time to repay his restitution obligation. The PSR concludes that he has the financial wherewithal to pay only a nominal criminal fine, PSR ¶ 101, and recommends that he be required to make payments on his restitution obligation at a rate of $300 per month. *Id*. at 22. The government raised no objection to either of those findings. The government has focused on the fact that Dr. Samirah has some assets, particularly home equity, but that equity is easily swallowed by his significant debts, a financially precarious position that the PSR acknowledges in recommending payments over time. Dr. Samirah intends to pay his restitution obligation in full as soon as possible, but he must do so while also fulfilling his other financial obligations, including payment on his federal student loans. A reasonable payment plan is in the interests of justice as it will best facilitate him doing so.

f. A Sentence of Probation Would Avoid Unwarranted Sentencing Disparities

Finally, Section 3553 instructs the Court to consider "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." 18 U.S.C. § 3553(a)(6). In addition to the JSIN data discussed above, we provide here a survey of criminal and civil cases that involve similar facts and loss amounts. Many people found responsible for PPP fraud involving similar loss amounts have been permitted to resolve their misconduct through a civil disposition and the payment of a fine. Others have been required to enter a guilty plea and then sentenced to probation. Incarceration sentences have been reserved for cases with much more egregious facts than those present here.

By providing the tables of comparator cases that appear below, and highlighting civil dispositions in particular, we do not seek to debate the question of whether a criminal charge was appropriate here. Dr. Samirah has pleaded guilty and accepts that he is guilty. At the same time, however, the comparator cases underscore the severity of his punishment. As noted above, Dr. Samirah is now a convicted felon, whereas others will not suffer that fate. While that disparity may be due to the allocation of federal resources at the time or differences between U.S. Attorneys' offices, the disparity nonetheless exists, and the sentence rendered in the present case should take consideration of the difference.

Criminal PPP Fraud Cases

In the criminal PPP fraud cases listed below, all of the defendants were sentenced to probation, home detention, or some combination of the two, despite many involving loss amounts much greater than the loss relevant here.

Table A

Defendant	Court	Case No.	Loss Amount(s)	Disposition
Crispin Abad	E.D. Va.	24-cr-178	$41,666	2 years probation
Eduwell Jenkins	E.D. Va.	24-cr-139	$20,833	2 years probation
Malaysia Stubbs	E.D. Va.	24-cr-159	$20,833	5 years probation
Patrick Strauss	D.D.C.	24-cr-374	$304,900	4 years probation, 6 mos. home detention, 6 mos. weekend incarceration
Camille Foster	E.D. Mo.	23-cr-253	$104,163	5 years probation
Francheska Reese	E.D. Mo.	23-cr-373	$100,927	5 years probation
Christopher James Phillips	W.D. Tex.	24-cr-00007	$37,500	5 years probation
Lorenzo Gordon	E.D. Mo.	24-cr-00022	$107,074 (PPP) $165,700 (EIDL)	5 years probation, 200 hours community service
Dent Hunter	E.D. La.	23-cr-00059	$122,100 (PPP) $149,900 (EIDL)	5 years probation, 400 hours community service
Jason Lawrence Geiger (aka the Red Power Ranger)	E.D. Tex.	22-cr-00110	$400,000	5 years probation

Several of the cases included in Table A involve loss amounts similar to or larger than the loss amount in the present case. While loss amount is but one dimension for evaluating whether a case is an instructive comparator, it is a fair starting point given the emphasis that loss receives under § 2B1.1 of the Sentencing Guidelines (notwithstanding § 2B1.1's regressive structure).

The unique facts of some of the cases also warrant discussion, given their egregiousness as compared with Dr. Samirah's conduct. In *United States v. Foster*, for example, the defendant obtained PPP loans for five sole proprietorships that had little or no payroll, "falsely certified that she was not the owner of any other business, when she knew full well that she had applied for PPP loans for other businesses in her name," engaged in identity theft by obtaining one of the loans in her mother's name, and "spent the proceeds on personal, unauthorized expenses, including shopping, dining, bill payments, travel, and cosmetic surgery." *United States v. Foster*, No. 23-cr-00253-RWS (E.D. Mo. May 17, 2023), Sentencing Memorandum of the United States, ECF No. 67 at 3.

While Table A provides a relatively small sample of criminal PPP fraud cases, it reflects the challenge locating such cases involving a loss of less than $100,000. While there are surely many reasons for that which have nothing to do with the defendant's culpability, there is nevertheless something to be said about the relative dearth of these cases when considered against those that are resolved civilly, as discussed in the next section.

Civil PPP Fraud Cases

Below is a table of PPP fraud cases resolved via civil judgments or settlements in lieu of criminal charges and convictions.

Table B

Defendant(s)	Court	Case No.	Loan Amount(s)	Disposition
Stephon Brooks	E.D. Va.	22-cv-101	Loan 1: $20,832 Loan 2: $20,833 Loan 3: $20,833 Loan 4: $20,000	$488,294 default judgment
Sunu P. KC	E.D. Va.		Loan 1: $208,333 Loan 2: $208,333	$208,333 repayment, $230,414.65 judgment
Latifa Brooks	E.D. Va.	22-cv-359	Loan 1: $20,833 Loan 2: $21,768	$107,948 default judgment
Zen Solutions, Inc.	E.D. Va.	20-cv-1088	$192,727	$192,000 repayment, $31,226.53 fine[8]
Stefano Maroni, GMI USA Corp., Belovefine, Ltd.	S.D.N.Y.	23-cv-2159	GMI: Loan 1: $223,400 Loan 2: $133,825 Belovefine: Loan 1: $379,562 Loan 2: $306,535	$1,470,085 judgment
Kingwood Nat'l Resort, LLC	M.D. Fla.	20-cv-976	Kingwood Orlando Reunion Resort LLC: $2-5 million Kingwood Crystal River Resort Corp.: $350,000 - $1 million	$271,720 False Claims Act damages and penalties, $53,280 FIRREA penalties

[8] "Northern Virginia Company Settles False Claims Act Allegations of Improper Paycheck Protection Program Loan," US Attorney's Office for the Eastern District of Virginia, February 11, 2022 (https://www.justice.gov/usao-edva/pr/northern-virginia-company-settles-false-claims-act-allegations-improper-paycheck).

Darlene Johnson	N.D. Miss.	22-cv-061	$20,830	$20,916 judgment
Bailey's Trucking LLC, Xavier Bailey	N.D. Miss.	22-cv-109	$143,738	$482,329 judgment
HPM Corp., Grover Mooers, Hollie Mooers	E.D. Wash.	22-MJ-07038	$1,344,700	$2,939,400 restitution and penalties, $250,000 civil penalty, 3-year corporate DPA
Slidebelts, Inc., Brigham Taylor	E.D. Cal.		$350,000	$350,000 repayment, $100,000 in damages and penalties[9]
Mac Johnson & Sons, Mac Johnson	N.D. Fla.		$48,514	$100,000 fine
Daniel Markus, Inc., Margarita Risis	D.N.J.		$242,849	$242,849 repayment and $50,000 fine[10]

Several PPP fraud cases resolved by civil disposition in the Eastern District of Virginia warrant closer consideration. In *United States v. Sunu P. KC*, a company called KC Investments, Inc. and its sole owner, Sunu P. KC, obtained multiple first draw PPP loans despite the fact that

[9] "Eastern District of California Obtains Nation's First Civil Settlement for Fraud on Cares Act Paycheck Protection Program," United States Attorney's Office for the Eastern District of California, January 12, 2021 (https://www.justice.gov/usao-edca/pr/eastern-district-california-obtains-nation-s-first-civil-settlement-fraud-cares-act); United States and Taylor Settlement Agreement, January 12, 2021 (available at https://www.justice.gov/usao-edca/press-release/file/1352931/dl).

[10] "New Jersey Pawn Shop and its Owner Settle False Claims Act Allegations Relating to Paycheck Protection Program Loan," United States Department of Justice Office of Public Affairs, April 12, 2021 (https://www.justice.gov/archives/opa/pr/new-jersey-pawn-shop-and-its-owner-settle-false-claims-act-allegations-relating-paycheck).

the program only allowed borrowers to obtain one first draw loan.[11] KC Investments, Inc. and a defunct entity called KC Investments Group, LLC both obtained loans of $208,333. Ultimately, KC Investments, Inc. and its owner agreed to repay the second loan and to pay a money judgment of $230,414.65. The owner was not criminally charged.

United States v. Brooks, No. 22-cv-0101-CMH-JFA (E.D. Va. January 31, 2022) is another multi-draw case. In that case, Stephon Brooks was alleged to have obtained four first draw PPP loans based on his status as a self-employed real estate agent. Complaint, ECF No. 1 at ¶ 32. He did this even though he knew he was only eligible for a single draw. *Id*. at ¶ 33. As part of his scheme, he concealed his applications for multiple draws by using four different Tax Identification Numbers or Employer Identification Number numbers to apply for the loans. *Id*. at ¶ 35. He also applied to three different SBA-approved lenders to evade detection. *Id*. His case ended with a default judgment. It does not appear Mr. Brooks was ever criminally charged.

In *United States v. Brooks*, No. 22-cv-00359-LMB (E.D. Va. March 31, 2022), Ms. Latifa Brooks applied for two loans, the first as a sole proprietor seeking $20,833, and the second as an independent contractor seeking $21,768, which was a higher amount than was permitted. Complaint, ECF No. 1 at 4-8. In support of those requests, Ms. Brooks submitted fraudulent Schedule C forms. *Id.* The SBA later forgave the loans based on the fraudulent certifications. Ms. Brooks agreed to resolve her case by repaying $47,772 (the sum of the two loans amounts plus processing fees) as well as $59,575 in additional damages and penalties, but she ultimately failed to do so and a default judgment was entered against her. Order, ECF No. 13 at 1.

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[11] Virginia Company Agrees to Settle Civil Fraud Allegations for Paycheck Protection Program Loans, US Attorney's Office, Eastern District of Virginia, June 2, 2021 (https://www.justice.gov/usao-edva/pr/virginia-company-agrees-settle-civil-fraud-allegations-paycheck-protection-program).

When compared with Dr. Samirah's actions, these three cases all involved similar conduct, similar or even greater loss amounts, and similar harm. While one can debate the relative culpability of the conduct involved in each case—specifically, the means by which these businesses defrauded the PPP program—Dr. Samirah's conduct is not so different that comparison with them can be dismissed out of hand.

Even if one were to treat multiple-draw cases as somehow categorically distinct, several other cases show that civil resolutions have been similarly used in situations where defendants claimed non-existent employees and expenses or otherwise inflated expenses to obtain larger PPP loans. For example, in *United States v. Maroni*, No. 23-cv-2159-JHR (S.D.N.Y. March 14, 2023), Stefano Maroni was the sole owner of two footwear companies, GMI and Belovefine, that shared the same office space. Settlement Agreement, ECF No. 14 at 5. Both companies obtained multiple draws of PPP loans. Critically, one of the companies took two PPP loans totaling $686,097 based on the false representation that it had employees who had been paid salaries and employment taxes prior to February 15, 2020. *Id.* In truth, it had no employees, and the individuals listed in the application belonged to the other company. *Id.* The defendants therefore had double counted the employees of one company as belonging to the other, and did so for multiple draws. A civil disposition was reached.

United States ex rel. *Falzaramo v. Kingwood Nat'l Resort, LLC*, No. 6:20-cv-976-ORL (M.D. Fla.) involved a defendant who applied for and received a PPP loan but simply pocketed the funds for personal use instead of using the loan proceeds for employee salaries and business expenses. Another defendant in the case submitted a PPP loan application that claimed it employed individuals who actually worked for another company. The defendants agreed to resolve the case through a civil resolution, paying $325,000. Settlement Agreement, ECF No. 36-1 at 3.

In *United States v. Bailey's Trucking, LLC and Xavier Bailey*, No. 22-cv-109-GHD-RP (N.D. Miss. June 10, 2022), Xavier Bailey, the sole owner of his business, admitted that he made false representations about his payroll expenses – in truth, he did not have employees – in the course of obtaining a $143,738 loan. The government obtained a judgment against him and his company in the amount of $482,329. Opinion and Judgment, ECF No. 35. It does not appear Mr. Bailey was criminally charged in connection with his PPP fraud scheme.

Civil resolutions also have been made available for other forms of misconduct, including kickbacks. In *United States v. Darlene Johnson*, No. 22-cv-061-MPM-JMV (N.D. Miss. April 21, 2022), Darlene Johnson was alleged to have conspired with another individual, a bank employee, to secure a loan for a non-existent daycare business and its non-existent employees. Compl., ECF No. 1 at ¶ 14. The defendant paid the bank employee $5,000 as a reward for assisting in obtaining the loan. Ms. Johnson resolved the case civilly by entering into a consent judgment for $20,916.79. Consent Judgment, ECF No. 5.

Finally, we note the deferred prosecution agreement in *United States v. HPM Corp.*, No. 22-MJ-07038-JPH (E.D. Wash. March 23, 2022). In *HPM Corp.*, the owners of the company, Mr. and Mrs. Mooers, received a PPP loan in the amount of $1,344,700, which they certified would be used for program-eligible purposes. Instead, they held the funds for over a year, unused. Once the loan was forgiven, the $1,344,700 was transferred from their company to their personal checking accounts and distributed to various charities. Criminal Compl., ECF No. 1 at ¶¶ 19-42. Instead of a conviction, the Mooers' company was permitted to enter into a deferred prosecution agreement that required it to pay $1,344,700 as restitution and another $1,344,700 in penalties. The owners also agreed to pay an additional $250,000 fine. Deferred Prosecution Agreement at ¶ 3.[12]

These civil comparator cases underscore several key points that are relevant to the consideration of how Dr. Samirah should be sentenced. The first is that they present facts that are not all that different from Dr. Samirah's facts and, in some cases, are much more egregious and brazen. Second, by resolving their cases civilly, the defendants in the Table B cases avoided the punishment inherent in a criminal conviction which, in and of itself, apart from any sentence, is already quite significant. Third, one wonders whether the defendants in the cases involving higher loss amounts (such as in *Maroni* or *HPM Corp.*) had the benefit of being better-heeled and more sophisticated in their fraud and if so, whether that distinction ought to matter.

We are, to be clear, not suggesting that Dr. Samirah did not commit a crime by referencing the civil comparator cases discussed immediately above. Nor are we questioning the propriety of a criminal conviction here. Rather, this discussion underscores our position that a non-custodial sentence, in light of Dr. Samirah's conduct and its parity with similar cases that were resolved via civil resolution, would be a "sufficient, but not greater than necessary" sentence within the meaning of § 3553.

III. CONCLUSION

Since the inception of this case, Dr. Samirah has worked tirelessly to make things right. He has undertaken admirable efforts to repay his debt to the United States and will continue to do so. As his mother explains in her letter to the Court, he has been working seven days a week to save funds to pay as much of his debt as he can, short of being driven to bankruptcy, before or on

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[12] Available at https://www.justice.gov/usao-edwa/press-release/file/1487041/dl?inline (last accessed October 22, 2025).

the day of sentencing. To be sure, whatever the Court decides regarding his sentence, he will continue to do so to the best of his abilities and as the circumstances permit. Reality dictates, however, that a sentence of incarceration likely would force Dr. Samirah to shutter his practice, impairing, if not effectively disabling, his ability to work and ultimately jeopardizing his ability to satisfy restitution and/or forfeiture.

We suggest that in light of the facts discussed herein relevant to both the circumstances of Dr. Samirah's crime, his personal history, and comparison with the resolutions of both civil and criminal PPP cases in this district and throughout the country, a non-custodial disposition is sufficient but not greater than necessary to meet the goals of sentencing. A sentence of probation, coupled with the significant upfront payment he intends to make on or before the day of sentencing, [13] will be a significant punishment for Dr. Samirah and will signal to the public that his conduct is not acceptable and will not be tolerated, but at the same time allow him to continue to operate his practice and pay his remaining debts.

In light of the foregoing, we respectfully request that the Court impose a sentence of probation.

BLL LLP

<u>/s/ Lloyd Liu</u>
Lloyd Liu
VA Bar No. 80624

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[13] Dr. Samirah would like to pay a significant sum before sentencing toward his obligations. However, given the pending question of whether payroll taxes ought to be credited against his restitution amount, we are still discussing potential resolutions with the government. If the parties are unable to reach an agreement before sentencing, Dr. Samirah will be prepared to make payment on the day of sentencing, once this Court has resolved any remaining disputes over the amounts of restitution and forfeiture.

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CERTIFICATE OF SERVICE

I certify that the foregoing document was filed via the Court's CM/ECF service, which will cause notice of the same to be served electronically on all parties to the above-captioned action on this 23rd day of October 2025.

/s/ Lloyd Liu
Lloyd Liu