

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 6:21-cr-98-ACC-GJK

JOHNSON W. EUSTACHE

UNITED STATES' SENTENCING MEMORANDUM

Between November 2017 and April 2019, the defendant, who was not an attorney, engaged in the unauthorized practice of law and falsely represented to victims that he was a lawyer, inducing them to provide him with thousands of dollars in “legal fees.” PSR ¶¶ 51-53. This conduct resulted in economic losses to a number of victims, including E.S., M.V.P, N.S.S., M.M., C.C., S.J., K.C., R.S., G.C., P.R, and H.M. *Id.* As a result, in December 2019, the defendant was convicted by the State of Florida of three counts of unauthorized practice of law and three counts of organized fraud and was placed on a five-year term of probation. *Id.*

This did not deter the defendant from fraud—rather while the defendant was on probation the scope of his fraud increased dramatically. Beginning in March 2020, *i.e.* just three months after beginning his term of probation, and continuing through April 2021, the defendant submitted *thirteen* different fraudulent applications for pandemic-related emergency benefits, some of

which he submitted in his own name and some of which he submitted in the names of unwitting relatives. Moreover, during this same time period, the defendant prepared and submitted numerous false tax returns to the IRS, resulting in further losses to the government and additional stresses for the taxpayers in whose names he prepared these returns. PSR ¶¶ 24–29. In total, in this federal case alone, the defendant caused losses to the victims of more than \$1.4 million—an amount that would have been much higher had several of the fraudulent loan applications not been detected and denied.

As set forth below, a guidelines sentence of seven years (72 months) is necessary to reflect the nature and circumstances of the instant offense—which is serious in scope, effect, and lasting impact. A guidelines sentence is also necessary given the history and characteristics of the defendant, who has an established track record of fraud. Neither his prior convictions, nor his term of probation, nor even warnings from law enforcement in this very case, deterred the defendant from engaging in further fraudulent activities. A substantial term of imprisonment is thus necessary to promote respect for the law and to protect the public

I. The Nature and Circumstances of the Offense

The nature and circumstances of the offenses committed by Eustache, which are set forth in the PSR, weigh in favor of the seven-year sentence

requested by the United States. *See* 18 U.S.C. § 3553(a)(1). The pandemic-related loan fraud that the defendant engaged in was particularly serious.

First, it is serious because of its scope—the defendant submitted not one, but 13 fraudulent loan applications over the course of more than 12 months:

1. Fraudulent application dated March 27, 2020, using business name of First Shooting Film Production, for EIDL loan of unspecified amount.
2. Fraudulent application dated March 30, 2020, using business name of Paradise Center A&R Immigrant Inc., for EIDL loan of \$2,100.
3. Fraudulent application dated April 1, 2020, using business name of Needfulchild, Inc., for EIDL loan of \$160,000.
4. Fraudulent application dated April 3, 2020, using business name of First Shooting Film Production, LLC, for PPP loan of \$191,972.50
5. Fraudulent application dated April 20, 2020, using business name of Paradise Center A&R Immigrant Inc., for PPP loan of \$50,366.
6. Fraudulent application dated April 23, 2020, using business name of Needfulchild, Inc., for PPP loan of \$272,500.
7. Fraudulent application dated April 24, 2020, using business name of Paradise Tax Center Bank, LLC, for PPP loan of \$137,355.
8. Fraudulent application dated May 3, 2020, using business name of Paradise Center A&R Immigrant Inc., for PPP loan of \$241,757.
9. Fraudulent application dated May 19, 2020, using business name of Home Refresh Handyman Inc., for PPP loan of \$165,000.
10. Fraudulent application dated June 17, 2020, using business name of Home Refresh Handyman Inc., for EIDL loan of \$160,000.
11. Fraudulent application dated August 6, 2020, using business name of Heritage Blue Builder, for EIDL loan of \$150,000.
12. Fraudulent application dated February 21, 2021, using business name of Needfulchild, Inc., for PPP loan of \$413,784.
13. Fraudulent application dated April 5, 2021, using business name of Heritage Blue Builder, for PPP loan of \$226,692.50.

Doc. 4 at 26–27.

Each of these 13 loan applications contained material misstatements about the businesses on behalf of which the defendant purported to be seeking the loans. *Id.* at 27. For instance, in each of these loan applications, the defendant made false representations regarding the business’s number of employees and amount of payroll. *Id.* In many of these loan applications, the defendant also falsely indicated that he was not currently on probation for any felony offense and that he had not been convicted of a felony for the past five years. *Id.*

Perhaps most significantly, the defendant submitted the last of these fraudulent loan applications on April 5, 2021, nearly a month *after* Federal law enforcement agents interviewed him (on March 8, 2021) regarding his prior fraudulent applications, warned him, and issued him a target letter. *See* Doc. 4 at 27, 33. The defendant disguised the fact that he had submitted this last loan application by submitting it in the name of his girlfriend without her consent or knowledge. *See cf. id.* at 26. That the defendant continued to engage in this serious fraud to obtain emergency relief funds despite being on probation, and after being put on notice of his fraudulent activities, shows that the defendant is unlikely to be deterred by any warnings, term of probation, or short-term sentence that this court could impose.

This offense is also serious because of its impact on the victims, which, in effect, include not only government and financial institutions, but also the individuals whose names the defendant used to submit applications and engage in the fraud. The defendant's own uncle, in whose name one of the loan applications was submitted, explains the anguish he has experienced as follows:

[I]t is a very scary situation that involved me [and] my wife's name, and my business. My small business is the best way I put bread on the table. And I don't want people to . . . capitalize on its bad involvement. . . . [by] mak[ing] me work for very little money or not pay[ing] me when I finish to work, or even not giving a job at all. I feel confused and scared because it may put a bad reputation on my wife[,] my business and me. And it is very stressful to me.

PSR at page 27.

II. The History and Characteristics of the Defendant

The defendant's history and characteristics weigh in favor of a high-end Guidelines sentence. 18 U.S.C. § 3553(a)(1). As explained, he has prior convictions for organized fraud and unlawful practice of law resulting in losses to a large number of victims. *See* PSR ¶ 51– 53. After being convicted for these violations and being ordered to abide by probationary conditions, the defendant's fraudulent activities have only intensified and worsened. To be sure, the defendant has had economic challenges in his life. But many individuals have such economic challenges and do not resort to a life of crime.

III. Just Punishment, Adequate Deterrence, Respect for the Law, and Protection of the Public

A high-end Guidelines sentence is also necessary to meet the sentencing goals of adequate deterrence, respect for the law, protection of the public and just punishment in this case. “The more serious the crime and the greater the defendant’s role in it, the more important it is to send a strong and clear message that will deter others.” *United States v. Irely*, 612 F.3d 1160, 1212 (11th Cir. 2010). Here, the defendant is solely responsible for the submission of numerous fraudulent loan applications and tax returns with intended losses of more than \$2.2 million, most of which consisted of emergency funding related to the COVID-19 pandemic. A substantial sentence will help deter others from engaging in the same conduct, thereby helping to ensure that sufficient funding exists for true victims during future emergencies.

The United States thus requests that this Court sentence the defendant to a Guidelines sentence of 72 months.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following:

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