



United States Department of Justice

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February 14, 2022

By ECF

Hon. Glenn T. Suddaby
Chief U.S. District Judge
Federal Building and U.S. Courthouse
P.O. Box 7367
Syracuse, New York 13261

RE: *United States v. Sean M. Andre*, No. 1:21-CR-165 (GTS) (N.D.N.Y.)

Dear Chief Judge Suddaby:

We write to briefly address certain representations made in the defendant's sentencing submissions. The defendant asserts that most of the funds loaned to his companies went to pay employees of those companies. *See* Dkt. # 56 at 8. Beneath the superficial appeal of this claim lies a more concerning reality.

On September 17, 2020, the defendant's co-conspirator, Jean Lavanture, was arrested and the Government's investigation of Lavanture became overt. Earlier that day, when the defendant encountered federal agents searching Lavanture's New Jersey mansion, the defendant lied to investigators, telling them that he had never engaged in any financial transactions with Lavanture and knew nothing of Lavanture obtaining CARES Act loans. *See, e.g.*, Dkt. # 1 ¶ 28.

Lavanture's arrest should have been a major red flag that caused the defendant to stop spending proceeds of the loans, totaling more than \$1.3 million, that the defendant personally obtained. And yet nearly all of the "payroll" – hundreds of thousands of dollars – the defendant documented in his submissions to the Court came *after* he was questioned by federal agents and *after* Lavanture's arrest was made public. Before September 17, 2020, the defendant made few "payroll" payments, but they mainly went to himself and his ex-girlfriend and occupy less than half a page on the 45 pages of purported payroll records that the defendant submitted to the Court. This is despite the fact that the defendant received his loans in June and July 2020 (*i.e.*, several months before Lavanture's arrest). What did the defendant use the loan proceeds for prior to Lavanture's arrest? Among other things, a Mercedes. *See, e.g.*, PSIR ¶ 5(cc).

The defendant fraudulently applied for loans in the names of companies that had no employees at the time of the applications, and then spent the ill-gotten gains on purported payroll only after Lavanture was arrested, as part of a misguided effort to make it seem as though his companies were legitimate. After Lavanture's arrest, the defendant should not have spent any of the loaned funds in his possession, knowing full well they were the product of his own fraud.

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In sum, the defendant's payroll records provide no basis for the Court to impose the extraordinarily lenient sentence requested by the defense; if anything, they support the Government's position that the defendant is a troubling fraudster whose behavior, unfortunately, necessitates a period of incarceration.

Respectfully submitted,

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By:



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cc: Andrew J. Frisch, Esq. (counsel to the defendant; by ECF)