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16 Attorneys for Plaintiff
 17 UNITED STATES OF AMERICA

18 UNITED STATES DISTRICT COURT

19 FOR THE CENTRAL DISTRICT OF CALIFORNIA

20 UNITED STATES OF AMERICA,

21 Plaintiff,

22 v.

23 ARTUR AYVAZIAN,

24 Defendant.

No. 2:20-cr-579(A)-SVW-4

GOVERNMENT'S OBJECTION TO THE
 PRESENTENCE INVESTIGATION REPORT
 FOR ARTUR AYVAZIAN

Sentencing: November 15, 2021
 Time: 11:00 a.m.
 Location: Courtroom of the
 Hon. Stephen V. Wilson

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1 Plaintiff United States of America, by and through its counsel
2 of record, the Acting United States Attorney for the Central District
3 of California, Assistant United States Attorneys Catherine Ahn, Scott
4 Paetty, and Brian Faerstein, and Department of Justice Trial Attorney
5 Christopher Fenton, hereby files its initial response, pursuant to
6 Federal Rule of Criminal Procedure 32(f), to the Presentence
7 Investigation Report ("PSR"), prepared by the United States Probation
8 and Pretrial Services Office ("Probation"), for defendant ARTUR
9 AYVAYZAN ("defendant") (ECF 994).

10 The government concurs with the United States Probation Office's
11 ("USPO's") calculation of defendant's criminal history category as I,
12 but respectfully submits that the PSR should be amended to include
13 the following enhancement necessary to reflect the scope of
14 defendant's crimes and conduct for which he was convicted: a two-
15 level victim-related adjustment based on the fact that many of the
16 victims were vulnerable and could not protect against defendant and
17 his co-conspirators' use of their names, in accordance with U.S.S.G.
18 § 3A1.1(b)(1). This would result in a total offense level of 37,
19 which yields an advisory Guidelines sentencing range of 210 to 262
20 months, plus the mandatory consecutive 24 month sentence required for
21 his conviction for count 24 (violating 18 U.S.C. § 1028(A)(a)(1)).

22 **The PSR Should Apply a Two-Level Victim-related Adjustment**

23 The government recommends that defendant's offense level be
24 increased by two because he "knew or should have known that a victim
25 of the offense was a vulnerable victim." U.S.S.G. § 3A1.1(b)(1). As
26 discussed in detail in the Government's Response to the Presentence
27 Investigation Report for Tamara Dadyan (ECF 1001 at 3-11), the
28 evidence found at defendant's Weddington residence and evidence found

1 on his phone, as well as his wife and co-defendant Tamara Dadyan's
2 phone, show that he and his co-conspirators deliberately targeted
3 individuals who were vulnerable to their information being exploited
4 for use in the fraud. This included foreign exchange students who
5 had left the United States years before COVID-19 and were therefore
6 unable to protect their identities from exploitation, as well as the
7 deceased.

8 This enhancement applies to individuals that are "unusually
9 vulnerable due to age, physical or mental condition, or who is
10 otherwise particularly susceptible to the criminal conduct."
11 U.S.S.G. § 3A1.1(b) (1) App. Note 2. The purpose of the adjustment is
12 to punish and deter criminals like defendant from victimizing those
13 who cannot protect themselves:

14 The "vulnerable victim" sentencing enhancement is intended
15 to reflect the fact that some potential crime victims have
16 a lower than average ability to protect themselves from the
17 criminal. Because criminals incur reduced risks and costs
18 in victimizing such people, a higher than average
19 punishment is necessary to deter the crimes against them. .
20 . . Defrauders who direct their activities not against
21 banks, insurance companies, or large investors, but instead
22 against people [with] . . . mental or educational
23 deficiencies, . . . do not need to take as many precautions
24 against the discovery of their scheme by the intended
25 victims and in any event are less likely to be prosecuted,
26 because the victims are less likely to know that they have
27 been defrauded or if they know to have the know-how and
28 initiative required to press a criminal complaint or bring
a civil suit.

23 United States v. Etoty, 679 F.3d 292, 296 (2012) (quoting United
24 States v. Grimes, 173 F.3d 634, 637 (7th Cir.1999)).

25 The number of J-1 visa-related documents found at the Weddington
26 residence shows that defendant and his co-conspirators deliberately
27 targeted foreign visitors who, once they left the United States,
28 would have little to no capacity to identify and protect their name

1 from use in a U.S. government supported disaster relief loan program.
2 In United States v. Cuellar, 165 F.3d 918 (9th Cir. 1998)
3 (unpublished), the Court affirmed the district court's application of
4 a two-level "vulnerable victim" enhancement where defendant used the
5 identity of a deceased individual to fraudulently obtain a credit
6 card in the deceased's name. "In determining whether a victim is
7 'particularly susceptible' within the meaning of section 3A1.1(b), a
8 sentencing court must consider the characteristics of the defendant's
9 chosen victim, the victim's reaction to the criminal conduct, the
10 circumstances surrounding the criminal act, and whether the defendant
11 could reasonably have anticipated the victim's reaction." Id. at 918
12 (citing United States v. Peters, 962 F.2d 1410, 1417 (9th Cir.1992)).

13 In the instant case, the foreign exchange students targeted by
14 defendant and his coconspirators were particularly susceptible to the
15 fraudulent use of their identities. They had prior legal status in
16 the United States, with valid identification documents and activity.
17 However, these victims had departed years prior to the onset of
18 COVID-19 to return to their countries of origin, with that time and
19 distance making it particularly difficult to detect and address the
20 theft and use of their names in a crisis-induced federal loan
21 program. Given the length of time since the victims were in the U.S.
22 and their immigrant status, defendant could have anticipated their
23 reasonable reaction to the use of their identities - or, in this
24 case, the lack thereof. The two-level enhancement should be applied.

25 **Corrections and Clarifications**

26 The government provides the following corrections to the PSR:

- 27 • In paragraph 6, the description of Count 24 should be
28 amended to state that, "A. Ayvazyan and co-defendant Tamara

1 Dadyan (T. Dadyan), each aiding and abetting the other,
2 knowingly transferred, possessed, and used, and willfully
3 caused to be transferred, possessed, and used, without
4 lawful authority means of identification . . .” (underline
5 added to emphasize revision).

- 6 • On page 2 under “release status” and in paragraph 9 under
7 “Adjustment under Pretrial Supervision,” the description of
8 defendant’s terms of pretrial release should be revised to
9 reflect that defendant’s \$100,000 bond, which was initially
10 supported by signature bonds of \$50,000 each provided by
11 Lilit Malyan and Greta Akopyan, was replaced by the deeding
12 of property located on Lemac Street in Van Nuys, California
13 by Abraham Tatoyan. (See ECF 5, 112.)
- 14 • Paragraph 2 should be amended to reflect that Artur
15 Ayvazyan was found guilty by jury trial on June 25, 2021,
16 not June 28, 2021. Similarly, paragraphs 11 and 18 under
17 the section titled “Status of Co-Defendants” should be
18 corrected to state that co-defendants Richard Ayvazyan and
19 Vahe Dadyan were found guilty by jury trial on June 25,
20 2021, not June 28, 2021.
- 21 • Paragraph 17 under the section titled “Status of Co-
22 Defendants” should be revised to reflect that codefendant
23 Edvard Paronyan was sentenced to 30 months in prison on
24 September 27, 2021.
- 25 • In footnote 2 appended to paragraph 29, the last sentence
26 should be revised to read, “On May 12, 2020, T. Dadyan
27 texted R. Ayvazyan that they ‘need to do the max’ now as
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