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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,

No. CR 20-00579-SVW-7

21 Plaintiff,

GOVERNMENT'S SENTENCING POSITION FOR
 DEFENDANT EDVARD PARONYAN; PROOF OF
 SERVICE

22 v.

23 EDVARD PARONYAN,
 aka "Edvard Paronian" and
 24 "Edward Paronyan,"

Date: September 27, 2021
 Time: 11:00 a.m.
 Location: Courtroom of the Hon.
 Stephen V. Wilson

25 Defendant.

26
 27 Plaintiff United States of America, by and through its counsel
 28 of record, the Acting United States Attorney for the Central District

1 of California, Assistant United States Attorneys Scott Paetty,
2 Catherine Ahn, and Brian Faerstein, and Department of Justice Trial
3 Attorney Christopher Fenton, hereby files its sentencing position
4 regarding defendant Edvard Paronyan.

5 The government's sentencing position is based upon the attached
6 memorandum of points and authorities, the presentence investigation
7 report, the files and records in this case, and any other evidence or
8 argument that the Court may wish to consider at the time of
9 sentencing.

10 The government reserves the right to file any supplemental
11 sentencing positions that may be necessary.

12 Dated: September 20, 2021

Respectfully submitted,

13 TRACY L. WILKISON
Acting United States Attorney

14 SCOTT M. GARRINGER
15 Assistant United States Attorney
Chief, Criminal Division

16 _____
17 /s/
CATHERINE AHN
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21 UNITED STATES OF AMERICA

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendant Edvard Paronyan pleaded guilty to committing wire fraud in violation of 18 U.S.C. § 1343, as charged in Count Six of the First Superseding Indictment. (ECF 154 (First Superseding Indictment), ECF 469 (Plea Agreement), ECF 524 (Minutes of Change of Plea)). Specifically, defendant admitted to fraudulently submitting Paycheck Protection Program ("PPP") and Economic Injury Disaster Loan ("EIDL") applications in order to obtain \$430,187 in disaster relief funds based on material false statements and omissions. (Plea Agreement at ¶ 11.) By doing so, defendant deprived vital disaster relief programs substantial amounts of money that should have gone to one of many businesses struggling, with their employees, to stay afloat during a time of economic crisis. As such, a custodial sentence is necessary to meet the sentencing goals of 18 U.S.C. § 3553(a). The government concurs with the U.S. Probation Office's ("USPO") calculation of defendant's criminal history category of III, offense level of 16, and further concurs with their recommendation that the Court impose a sentence of 27 months' imprisonment, three years' of supervised release, and order \$430,087 in restitution. (ECF 802 (USPO Rec. Letter) at 1-2, 8-10; ECF 803 (Presentence Report) ¶¶ 44-61 and 63-72.)

II. RELEVANT FACTUAL AND PROCEDURAL HISTORY

On March 11, 2021, a grand jury returned a first superseding indictment against defendant and seven codefendants, charging defendants with one count of conspiracy to commit bank fraud and wire fraud, eleven counts of wire fraud, eight counts of bank fraud, and one count of conspiracy to commit money laundering. (ECF 154.)

1 On June 11, 2021, defendant pleaded guilty to Count Six, which
2 charged defendant with committing wire fraud related to the transfer
3 of approximately \$130,187 in PPP loan proceeds from Celtic Bank as a
4 result of the submission of a fraudulent PPP application on behalf of
5 defendant's company, Redline Auto Collision. (Plea Agreement ¶ 11.)
6 Among other things, the application falsely inflated the number of
7 employees hired by defendant in order to fraudulently increase the
8 requested PPP loan proceeds. (Id.) Defendant further admitted to
9 submitting two false and fraudulent EIDL applications for \$150,000
10 each: (1) an April 2, 2020 EIDL application on behalf of Redline Auto
11 Collision, whose proceeds defendant did not use for business proceeds
12 as required and instead transferred to co-defendant Marietta
13 Terabelian's bank account; and (2) a July 16, 2020 EIDL application
14 on behalf of a fictitious business listed as "RAC" that contained
15 false statements intended, among other things, to hide defendant's
16 actual control of the purported business.¹ (Id.) As a result of
17 defendant's fraud, Celtic Bank suffered an actual loss of \$130,187
18 and the U.S. Small Business Administration ("SBA"), which administers
19 the EIDL program, suffered an actual loss of \$299,900. (Presentence
20 Investigation Report ("PSR") ¶ 40.)

21 On July 26, 2021, the USPO filed its Presentence Investigation
22 Report, in which it calculated a Criminal History Category of III
23 based on one point for a prior conviction for automobile theft and
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25 ¹ The application listed defendant's wife as the contact person
26 for "RAC," which was a reference to an acronym for Redline Auto
27 Collision. As noted above, defendant had already submitted an EIDL
28 application on behalf of Redline Auto Collision in April 2020, and
defendant used "RAC" and his wife's name in order to conceal the fact
of the earlier application when applying for a second EIDL loan in
July 2020.

1 two points for driving under the influence of alcohol ("DUI");
2 defendant's commission of the instant offense while still on
3 probation for his DUI conviction further increased his criminal
4 history points to five, resulting in an overall criminal history
5 category of III. (PSR ¶¶ 66-72.) The UPSO further calculated
6 defendant's overall offense level as 16, consistent with the parties'
7 plea agreement. (PSR ¶ 61; Plea Agreement ¶ 13.) This is based on a
8 base offense level of seven, a loss between \$250,000 and \$550,000
9 resulting in an additional twelve offense levels, and minus three for
10 acceptance of responsibility. (PSR ¶¶ 44-61.) The USPO further
11 calculated and recommended restitution be ordered in the amount of
12 \$130,187 to Celtic Bank and \$299,900 to the SBA, resulting in a total
13 restitution amount of \$430,087. (PSR ¶¶ 40, 130-131.)

14 On September 13, 2021, defendant filed his sentencing position,
15 in which he argues his criminal history category was overstated and
16 that this Court should apply a mitigating role offense level
17 reduction. Defendant further contends that this Court should
18 sentence defendant to a term of probation or house arrest. For the
19 reasons described below, the government concurs with the USPO's
20 calculation and recommendation of a low-end sentence of 27 months'
21 imprisonment to be followed by a three-year term of supervised
22 release, with restitution.

23 **III. THE GOVERNMENT'S SENTENCING RECOMMENDATION**

24 **A. Defendant's Criminal History Category Is Not Overstated**

25 Defendant's criminal history category is not overstated,
26 contrary to his assertions in his sentencing memorandum (ECF 963);
27 rather, it correctly reflects the greater concern raised by
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1 defendants who commit crimes while under supervision for a prior
2 crime. Four of the five points attributed to defendant come from his
3 prior DUI conviction; two for the underlying offense and conviction,
4 and two for the fact that he committed yet another crime - the
5 instant offense - while on probation. The guidelines are intended to
6 reflect, among other things, the concerns and goals raised in 18
7 U.S.C. § 3553(a), which include the promotion of respect for the law,
8 the need to afford adequate deterrence, and the need to protect the
9 public from further crimes of defendant. 18 U.S.C. § 3553(a)(2)(A),
10 (a)(2)(B), (a)(2)(C). Defendant was given a custodial sentence and
11 supervision in order to, presumably, reflect the seriousness of his
12 crime and ensure he complied with supervision following his fourth
13 misdemeanor conviction since the age of twenty.

14 The circumstances of the DUI offense are particularly concerning
15 - defendant was not only driving while under the influence of
16 alcohol, he was charged with doing so while driving in excess of 100
17 miles per hour. Reducing his criminal history category to II would
18 effectively erase defendant's decision to again violate the law -
19 this time with the more serious felony offense of wire fraud - while
20 still being supervised for his prior conviction. The government
21 therefore recommends that this Court adopt the USPO's calculation of
22 a criminal history category of III based on his five criminal history
23 points as correctly calculated under the Guidelines.

24 **B. Defendant Should Not Receive a Mitigating Role Reduction**

25 The PSR reflects the USPO's meaningful consideration of whether
26 to apply a mitigating role adjustment. However, as stated in the
27 PSR, such an adjustment should only apply if the defendant was
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1 "substantially less culpable than the average participant." (PSR
2 ¶¶ 53-55.) The charge at issue here is a specific wire fraud scheme,
3 not the broader conspiracy charged in the superseding indictment.
4 Given defendant's knowing participation in the specific scheme to
5 submit fraudulent PPP applications in the name of a company that he
6 owns and controls, his decision to share the criminal proceeds by
7 transferring funds to his co-defendants, and his decision to further
8 seek out more fraudulent loan proceeds through the EIDL application
9 on behalf of "RAC," defendant is not substantially less culpable than
10 the average participant. (Id.)

11 Moreover, defendant has pleaded guilty to one count of wire
12 fraud relating to the submission of the fraudulent PPP loan
13 application in his company's name, and his sentencing loss amount is
14 directly attributable to fraudulent loans he obtained on behalf of
15 Redline Auto Collision and the purported "RAC." He was neither a
16 minor nor minimal participant in this activity such that he is being
17 held accountable for loss "that greatly exceeds the defendant's
18 personal gain from a fraud offense." U.S.S.G. § 3B1.2 cmt. n.3(A).
19 Thus, defendant should not qualify for a mitigating role adjustment
20 in this case. The government recommends that the Court adopt the
21 USPO's calculation of a total offense level of 16 for defendant,
22 resulting in an advisory Guidelines range of 27-33 months'
23 imprisonment, with up to three years of supervised release. (PSR
24 ¶¶ 120, 122-123.)

25 **C. A Custodial Sentence of 27 Months' Is Sufficient But Not**
26 **Greater than Necessary to Meet the Goals of 18 U.S.C.**
§ 3553(a)

27 The Court should impose a sentence sufficient, but not greater
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1 than necessary, to reflect the purposes of sentencing identified in
2 18 U.S.C. § 3553(a). United States v. Carty, 520 F.3d 984, 991 (9th
3 Cir. 2008). The advisory Guidelines range provides the “starting
4 point and . . . initial benchmark” for this Court’s consideration of
5 an appropriate sentence. Molina-Martinez v. United States, 136 S.Ct.
6 1338, 1345 (2016) (quoting Gall v. United States, 552 U.S. 38, 49
7 (2007)). Although the Guidelines are not binding, they “reflect a
8 rough approximation of sentences that might achieve section 3553(a)’s
9 objectives.” United States v. Rita, 551 U.S. 338, 350 (2007).

10 Under 18 U.S.C. § 3553(a), in arriving at the appropriate
11 sentence, the Court should consider, among other factors, the nature
12 and circumstances of the offense and the history and characteristics
13 of the defendant, § 3553(a)(1); the need for the sentence imposed to
14 reflect the seriousness of the offense, to promote respect for the
15 law, and to provide just punishment for the offense, § 3553(a)(2)(A);
16 the need for the sentence imposed to afford adequate deterrence to
17 criminal conduct, § 3553(a)(2)(B); the need for the sentence imposed
18 to protect the public from further crimes of the defendant,
19 § 3553(a)(2)(C); the kinds of sentences available, § 3553(a)(3); and
20 the need to avoid unwarranted sentence disparities, § 3553(a)(6).

21 In light of the relevant 18 U.S.C. § 3553(a) factors, a sentence
22 of 27 months’ imprisonment is sufficient, but not greater than
23 necessary, to achieve the goals of sentencing here. Defendant
24 repeatedly submitted fraudulent loan applications seeking hundreds of
25 thousands of dollars in disaster relief funds intended to help small
26 businesses during the ongoing crisis of COVID-19. Defendant’s lack
27 of need for these funds is reflected in the fact that he transferred
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1 \$100,000 to his co-defendants after receiving money from the SBA
2 through the EIDL program. His avarice in obtaining further money -
3 despite the collapse of businesses all around the Los Angeles area
4 and the rise of homelessness from employees losing work - is
5 reflected in his submission of yet another EIDL loan, this time for
6 "RAC" in a blatant attempt to hide the true name of his business, its
7 owner, and his prior receipt of EIDL funds.

8 The nature and circumstances of this offense, the seriousness of
9 his crime, and the need to promote just punishment all require a term
10 of imprisonment. Defendant's commission of the instant offense while
11 on probation for a DUI further reflects the need for a term to deter
12 him from future crimes, promote respect for the law, and protect the
13 public. While the government understands that financial hardship may
14 result from defendant's incarceration, imprisonment under these
15 circumstances is a necessary, but just, reflection of his crime.
16 Actions breed consequences, and defendant should not be allowed to
17 escape the consequences of his serious offense. As such, a low-end
18 guidelines sentence of 27 months, followed by a lengthy term of three
19 years of supervision, is sufficient but not greater than necessary to
20 meet the goals of 18 U.S.C. § 3553(a).

21 **IV. CONCLUSION**

22 For the aforementioned reasons, the government respectfully
23 requests that the Court sentence defendant to 27 months' imprisonment
24 and three years of supervised release with the terms and conditions
25 recommended by the USPO, and further order defendant to pay \$430,087
26 in restitution along with the mandatory special assessment of \$100.