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18 UNITED STATES DISTRICT COURT

19 FOR THE CENTRAL DISTRICT OF CALIFORNIA

20 UNITED STATES OF AMERICA,

21 Plaintiff,

22 v.

23 RICHARD AYVAZYAN,

24 Defendant.

No. CR 20-579-SVW-1

GOVERNMENT'S SENTENCING POSITION FOR  
 DEFENDANT RICHARD AYVAZYAN

Date: November 15, 2021

Time: 11:00 a.m.

Location: Courtroom of the Hon.  
 Stephen V. Wilson

25  
 26 Plaintiff United States of America, by and through its counsel  
 27 of record, the Acting United States Attorney for the Central District  
 28 of California, Assistant United States Attorneys Scott Paetty,

1 Catherine Ahn, and Brian Faerstein, and Department of Justice Trial  
2 Attorney Christopher Fenton, hereby files its sentencing position  
3 regarding defendant Richard Ayvazyan.

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

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

11 Dated: November 10, 2021

Respectfully submitted,

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15 /s/  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

The government respectfully submits this sentencing memorandum to advise the Court of its sentencing position regarding defendant Richard Ayvazyan ("defendant"), who was convicted by a jury of 23 felony counts.

Defendant is the most culpable participant in a horrendous fraud. As soon as the federal government declared a national emergency and began to take action to respond to the crisis caused by the COVID-19 pandemic, defendant started scheming to steal the relief funds intended to save small businesses from going bankrupt. As the experienced leader of a loan fraud ring, he directed several co-conspirators to relentlessly steal millions of dollars using the identities of dead people, elderly semi-retired business owners, and others. In one instance, he opened bank accounts and applied for loans using the identity of his wife's deceased father, who had passed away only three days earlier. Rushing to pocket and launder as much money as he could before federal funding ran out, he upgraded from his old mansion (that was the subject of a loan fraud scheme for which he was previously convicted) to a new mansion, which he then filled with gold coins, luxury watches, and imported furniture using the stolen COVID-19 disaster relief funds. After he was arrested, tried and convicted along with several of his co-conspirators, defendant absconded and abandoned his young children.

For the reasons stated below, the government respectfully recommends the Court sentence defendant to at least 348 months' imprisonment, consisting of a sentence of 324 months on Counts 1-20 and 240 months on Count 26 to be served concurrently, and 24 months

1 on Count 21 and 22 to be served consecutively to the terms imposed on  
2 Counts 1-20 and 26. The government further recommends five years of  
3 supervised release,<sup>1</sup> restitution in the amount of \$16,464,071.26,  
4 forfeiture consistent with the Court's previous preliminary orders of  
5 forfeiture as to defendant (ECF 1083, 1087), and a special assessment  
6 of \$2,300.

7 **II. RELEVANT PROCEDURAL HISTORY**

8 At the height of the pandemic, on October 20, 2020, the  
9 government made a probable cause arrest of defendant and his wife,  
10 co-defendant Marietta Terabelian upon their return to the United  
11 States from a luxury vacation in Turks & Caicos. Within hours, they  
12 were charged in a detailed complaint for their role in a massive  
13 fraud ring. (ECF 1.) At the time of his arrest, defendant was in  
14 possession of various credit cards in the names "Iuliia Zhadko" and  
15 "Viktoria Kauichko," which were synthetic identities that had been  
16 used to steal COVID-19 disaster relief funds and launder the proceeds  
17 of the same. (GEX 76.a, 115, 116.)

18 Approximately two weeks later, on November 5, 2020, the  
19 government executed a search warrant on a home that defendant had  
20 purchased using stolen COVID-19 disaster relief loan money, and  
21 seized two smartphones belonging to defendant that contained evidence  
22 showing he had already violated his conditions of release by  
23 continuing to possess images of credit cards, driver's licenses and  
24 other financial instruments in the names of other purported  
25 identities (including Zhadko, Kauichko, and other individuals and  
26

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27 <sup>1</sup> This term consists of five years on each of Counts 1 through  
28 20, three years on Count 26, and 1 year on each of Counts 21 and 22,  
all to be served concurrently.



1 businesses he used to perpetrate the fraudulent scheme). (See, e.g.,  
2 GEX 19.b, 19.c, 19.d, 56.d.)<sup>2</sup> Agents also found a grocery bag  
3 containing approximately \$450,000 that co-defendant Terabelian had  
4 hidden in the bushes as law enforcement approached the house. (See,  
5 e.g., ECF 188-9, 188-10.)

6 On November 17, 2020, a grand jury returned an indictment  
7 against defendant and his co-conspirators for conspiracy to commit  
8 wire fraud and bank fraud, wire fraud, bank fraud, and aggravated  
9 identity theft (as to defendant only). (ECF 32.)

10 On March 9, 2021, a grand jury returned a superseding indictment  
11 against defendant and his co-conspirators for conspiracy to commit  
12 wire fraud and bank fraud, conspiracy to commit money laundering,  
13 aggravated identity theft, wire fraud, bank fraud, and money  
14 laundering. (ECF 154.)

15 On June 25, 2021, following a nine-day trial, a jury convicted  
16 defendant on 23 felony counts, including conspiracy to commit wire  
17 fraud and bank fraud (Count 1), wire fraud (Counts 2-12), bank fraud  
18 (Counts 13-20), aggravated identity theft (Counts 21-22), and  
19 conspiracy to commit money laundering (Count 26).<sup>3</sup> Defendant's wife  
20 was also convicted of nearly all counts.

21 The government moved to remand defendant pending sentencing. In  
22 response, defendant assured the Court he did not present a flight  
23

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24 <sup>2</sup> These and other identities found on his phone on November 5,  
25 2020 had been used to fraudulently obtain COVID-19 disaster relief  
26 funds and launder the proceeds. (See GEX 115, 116; Declaration of  
27 Catherine Ahn in support of the Government's Sentencing Position for  
Marietta Terabelian ("Ahn Decl."), Ex. 1 (a chart titled "Loans for  
Loss Calculation - Richard Ayvazyan and Marietta Terabelian").)

28 <sup>3</sup> Defendant was acquitted of five counts of money laundering the  
government alleged he had committed while on pre-trial release.

1 risk because, according to him, "[h]is family, children, church, and  
2 business relationships are all [in the LA area]" and "he lacks the  
3 resources to flee the jurisdiction even if he wanted to". (ECF 603  
4 at 3-4.) Defendant lied. While on release awaiting sentencing, he  
5 declined to be interviewed by the United States Probation and  
6 Pretrial Services Office ("USPO"), failed to make the mandatory  
7 financial disclosures, and as soon as the Court denied his post-trial  
8 motions (ECF 874, 875), absconded with his wife (ECF 1094).

9 Counsel immediately attempted to withdraw its representation of  
10 defendant and indefinitely continue defendant's sentencing, claiming  
11 - without evidence - that defendant may have been abducted. (ECF  
12 942, 954, 1062.) The Court denied counsel's motions and determined  
13 to proceed with sentencing defendant in absentia. (ECF 980, 1094.)

14 On November 8, 2021, the USPO filed its second revised PSR (ECF  
15 1121, 1122), which addresses the parties' respective responses to the  
16 initial and first revised PSR. In the second revised PSR, the USPO  
17 calculated a total offense level of 39 (with respect to Counts 1-20  
18 and 26) and a Criminal History Category I, resulting in an advisory  
19 Guidelines range of 262 to 327 months' imprisonment for Counts 1-20  
20 and 26. (ECF 1120, 1121, 1122.) Taking into account a 24-month  
21 mandatory consecutive sentence for Counts 21-22,<sup>4</sup> the USPO thus

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22  
23 <sup>4</sup> The Court is required to run the mandatory 24-month sentence  
24 under 18 U.S.C. § 1028A(a)(1) consecutive to "any other term of  
25 imprisonment imposed on the person under any other provision of law."  
26 18 U.S.C. § 1028A(b)(2). Here, defendant was convicted of two counts  
27 of aggravated identity theft under 18 U.S.C. § 1028A(a)(1), for which  
28 the Court maintains discretion to run "concurrently, in whole or in  
part," as to each other. 18 U.S.C. § 1028A(b)(3). In other words,  
the Court must impose at least one 24-month consecutive sentence (for  
Count 21) to defendant's other convictions for Counts 1-20 and 26,  
but the Court has discretion as to whether it imposes an additional  
24-month consecutive sentence (for Count 22) or runs that 24-month  
sentence for Count 22 concurrent to that of Count 21.

1 calculated the effective advisory Guideline range as 286 to 351  
2 months' imprisonment. The USPO recommends defendant be sentenced to  
3 a term of 286 months' imprisonment (consisting of 262 months on  
4 Counts 1-20 and 240 months on Count 26 to be served concurrently,  
5 followed by the mandatory consecutive 24-months sentence on Counts 21  
6 and 22 to be served concurrently with each other), five years of  
7 supervised release, restitution of \$16,464,071.26, and a \$2,300  
8 mandatory special assessment. (ECF 1120.)

9 The government agrees with the second revised PSR in nearly all  
10 respects. In Sections IV and V below, the government addresses its  
11 one remaining objection, and discusses the reasons for its  
12 recommended sentence.

13 **III. DEFENDANT'S OFFENSE CONDUCT**

14 Beginning as soon as the federal government made COVID-19  
15 disaster relief loans funds available in March 2020 through the  
16 Paycheck Protection Program ("PPP") and the Economic Injury Disaster  
17 Loan ("EIDL") program, defendant created an assembly line for  
18 preparing and submitting fraudulent loan applications. As the  
19 ringleader of a conspiracy involving his wife, brother, sister-in-  
20 law, and several others, defendant worked with and directed his co-  
21 conspirators to use dozens of stolen, fictitious, and synthetic  
22 identities of other individuals in order to submit fraudulent  
23 applications for PPP and EIDL loans and launder the funds (see, e.g.,  
24 GEX 10, 13.b, 13.c, 13.d, 13.e, 13.f, 13.h, 19.b, 19.c, 19.d, 24.a,  
25 24.b, 24.d, 24.e, 56.d, 57.a, 57.c, 57.d, 57.e, 57.f, 57.g, GEX 115,  
26 GEX 116). The names used included dead people (e.g., Nazar  
27 Terabelian, Olaf Landsgaard, Alak Mikaelian), elderly individuals who  
28

1 owned local businesses whose names were stolen (e.g., Jack Runyan,  
2 Mark Zindroski, Donald Sabala), foreign exchange students who spent  
3 only months in the United States and then never returned (e.g., Anna  
4 Dzukaeva, Viktoria Kauichko, Liudmyla Kopytova, Anton Kudiumov,  
5 Iuliia Zhadko, Medet Murat), and dozens of other synthetic or stolen  
6 individual identities and fictitious or misappropriated business  
7 names (e.g., Roza Avakian, Hagop Bartoumian, Mykhail Diuzhenko, Ara  
8 Haritunian, Armen Inijian, Diana Saakyan, Leoncio Galver, Am & Am  
9 Financial Services, Continual Closings, Escrow Doc Co., Fiber One  
10 Media, LK Design, MD Acquisition Services, Meds Abrank, Montadrath,  
11 Mod Interiors Inc., New Acre Farm Produce Inc., Runyan Tax Service  
12 Inc., Sabala Construction, Six Star Farms Inc., Top Quality  
13 Contracting). Defendant also created a vast network of bank accounts  
14 opened under false pretenses using fake and stolen identities, which  
15 he used to launder the criminal proceeds. Defendants used the money  
16 to purchase luxury homes, gold coins, diamonds, jewelry, luxury  
17 watches, and other luxury items.

18 **IV. ADVISORY SENTENCING GUIDELINES CALCULATION**

19 The government agrees with the advisory Guidelines calculation  
20 for Counts 1-20 and 26 as set forth in the second revised PSR in  
21 nearly every respect. Specifically, the government agrees with: a  
22 base offense level of 7 pursuant to USSG § 2B1.1(a)(1); a 20-level  
23 enhancement pursuant to USSG § 2B1.1(b)(1)(K) for losses greater than  
24 \$9,500,000; a two-level enhancement for sophisticated means pursuant  
25 to USSG § 2B1.1(b)(10); a two-level enhancement because the offenses  
26 involved more than 10 victims in accordance with USSG § 2B1.1(b)(2);  
27 a four-level aggravating role adjustment based on the fact that  
28

1 defendant was a leader/organizer in accordance with USSG § 3B1.1(b);  
2 a two-level "vulnerable victim" adjustment pursuant to USSG §  
3 3A1.1(b)(1); and a two-level adjustment for obstruction of justice  
4 pursuant to USSG § 3C1.1. (ECF 1121 ¶¶ 58-73.)

5 The government respectfully submits that a two-level enhancement  
6 should also apply pursuant to U.S.S.G. § 2B1.1(b)(11) for the reasons  
7 set forth in its sentencing memorandum for co-defendant Artur  
8 Ayvazyan, incorporated here by reference. (ECF 1133.) The  
9 government therefore believes the applicable guidelines range for  
10 defendant on Counts 1-20 and 26 is 324 to 405 months' imprisonment,  
11 based on a total offense level of 41 and Criminal History Category I.  
12 At least a 24-month mandatory consecutive term of imprisonment is  
13 also required on Counts 21 and 22, resulting in an effective advisory  
14 Guidelines range for all counts of 348 to 429 months' imprisonment.

15 **A. The PSR Correctly Applied a Four-Level Aggravated Role**  
16 **Adjustment**

17 The evidence overwhelmingly proves defendant is the most  
18 culpable participant and the ringleader of both fraud and money  
19 laundering conspiracies. When determining whether a defendant was a  
20 leader or organizer, the "[f]actors the court should consider include  
21 the exercise of decision making authority, the nature of  
22 participation in the commission of the offense, the recruitment of  
23 accomplices, the claimed right to a larger share of the fruits of the  
24 crime, the degree of participation in planning or organizing the  
25 offense, the nature and scope of the illegal activity, and the degree  
26 of control and authority exercised over others." USSG § 3B1.1,  
27 Application Note 4. Each of these factors support the USPO's finding  
28 that defendant was a leader and organizer here.

1           Text messages between defendant and co-defendant Tamara Dadyan  
2 show that defendant came up with the idea to file fraudulent COVID-19  
3 disaster relief loan applications (GEX 10 at 1), developed the  
4 “formula” for successfully defrauding the SBA and its lenders (id. at  
5 10), took the lead in filing fraudulent applications (id. at 4-5 (“I  
6 did 7 apps last night and 4 of them got email that it’s funded ... I  
7 didn’t sleep all night I was working 24 hours straight”)), and  
8 provided co-defendant Tamara Dadyan with directions and advice on  
9 where to focus her efforts and when (id. at 4-5 (“Go to bluevine.com  
10 right now and apply”)). Defendant also provided her with information  
11 about many of the identities being used as part of the conspiracies.  
12 (See, e.g., id. at 6 (“Use the bank statement I gave you for  
13 iuliia[.]”); id. at 13 (providing PII for Viktoria Kauichko and Fiber  
14 One Media); id. at 40 (directing her to use the Top Quality  
15 identity).) Defendant thus exercised decision making authority, was  
16 extensively involved in the commission of the fraud, planned and  
17 organized the fraud, and defined the scope of the illegal activity.  
18 Government Exhibit 116 further demonstrates that defendant provided  
19 his co-conspirators with the raw materials they needed to prepare and  
20 submit fraudulent loan applications - the summary chart shows how the  
21 fake documentation defendant and co-defendant Tamara Dadyan discuss  
22 in the texts was later used in support of fraudulent applications  
23 submitted by other co-defendants.

24           These texts also show defendant’s role as a leader and organizer  
25 of the money laundering conspiracy. Defendant repeatedly explained  
26 the steps he took to open and use bank accounts in various names and  
27 directing co-defendant Tamara Dadyan to take certain steps in  
28

1 furtherance of the money laundering conspiracy. (See, e.g., GEX 10  
2 at 14 (explaining “Will have the account open next week [for  
3 Runyantax.com]. Just in case u need to use it for something[.]”);  
4 id. at 20 (“I’m getting everything ready to give so they can open for  
5 us. Email me everything on whatever you need to open[.]”); id. at 21  
6 (“Tam you keep track of your portion I got to much shit going in and  
7 out[.] Or you just use the business and I will use the personal[.]”);  
8 id. at 30 (“Have art go buy those blank ones from Office Depot and  
9 just buy the software [...] For every bank”).

10 Government Exhibit 115 further demonstrates that defendant  
11 directed the lion’s share of the criminal proceeds to his own family,  
12 buying the \$3.25 million mansion defendant moved into at the height  
13 of the pandemic in 2020, which he filled with gold coins and luxury  
14 watches he bought with stolen disaster relief funds. (GEX 115.)

15 Defendant’s leadership role in the money laundering conspiracy  
16 is further confirmed by his direction of the efforts to use the  
17 criminal proceeds to purchase real estate using the conspirators’  
18 aliases, as reflected in GEX 115 and the voluminous escrow records  
19 offered into evidence at trial. (GEX 30.f, 30.j, 33.f, 33.h, 33.i,  
20 33.j, 33.k, 33.l, 33.m.) The texts between defendant and co-defendant  
21 Tamara Dadyan also show them working together to direct the real  
22 estate transactions. (GEX 10 at 20, 40-41.)

23 In its sentencing memorandum, defendant argues that the  
24 government’s evidence at trial “reaffirmed that defendant was on even  
25 footing with other participants” because, among other things, the  
26 other participants also used some of the same identities in  
27 furtherance of the fraud and money laundering. (ECF 1105 at 8-9.)

28

1 Defendant is wrong. The evidence defendant cites is proof that the  
2 co-conspirators worked together with, and at the direction of,  
3 defendant, not evidence that defendant was an average participant.

4 Defendant also asserts that the Court should not apply a role  
5 adjustment for defendant because the government is not seeking an  
6 aggravated role adjustment for co-defendant Tamara Dadyan and it  
7 would create a sentencing disparity. (ECF 1105 at 16.) He is  
8 incorrect. The government is seeking a three-level aggravating role  
9 adjustment because she managed and supervised the criminal activity.  
10 (ECF 1001 at 3-7; ECF 1135 at 9-11.)

11 Defendant also argues that, to the extent the Court applies an  
12 aggravated role adjustment, it should be limited to a two-level  
13 increase because the conspiracy involved a small group of friends and  
14 family, not a large criminal organization. (ECF 1105 at 16-17  
15 (citing United States v. Smith, Case No. 20-cr-196-1 (E.D. Wis.).)  
16 However, the sentence in Smith, upon which defendant relies, was  
17 based on the extent of the scope, planning and preparation of the  
18 scheme, not the size of the group. (See Gov't Sentencing Memo.,  
19 United States v. Smith, Case No. 20-cr-196-1 (E.D. Wis.) (ECF 99).)

20 In Smith, the defendant (who pleaded guilty) helped friends and  
21 family submit nine fraudulent PPP loan applications using the names  
22 of businesses they actually owned. (Id.) Each business name was  
23 used for a single application. (Id.) The total loss was around \$1  
24 million. (Id.) Based on this record, the court described the crime  
25 as a "short-term and opportunistic" scheme by "a group of people who  
26 kinda came together over a short period of time." (United States v.  
27 Smith, Case No. 20-cr-196-1 (E.D. Wis.) (ECF 116), at 10-11.)



1 Contrary to defendant's suggestion that the cases are "nearly  
2 identical" (ECF 1105 at 17), the facts in this case are very  
3 different from those in Smith. Here, defendant organized a massive  
4 conspiracy which required extensive planning and preparation to  
5 fraudulently seek tens of millions in pandemic relief funds using  
6 dozens of fake, stolen, and synthetic identities and launder the  
7 proceeds through a vast network of bank accounts opened under false  
8 pretenses. If anything, Smith underscores why a four-level increase  
9 is appropriate here.

10 **B. The PSR Correctly Calculated Loss**

11 The PSR correctly found that defendant and his co-conspirators  
12 attempted to obtain \$20,107,392.26. (ECF 1121 ¶ 59.) This finding  
13 is based on binding Ninth Circuit precedent that, at sentencing, a  
14 defendant is responsible for "all reasonably foreseeable acts and  
15 omissions of others in furtherance of the jointly undertaken criminal  
16 activity, that occurred during the commission of the offense of  
17 conviction, in preparation for that offense, or in the course of  
18 attempting to avoid detection or responsibility for that offense."  
19 United States v. Lloyd, 807 F.3d 1128, 1142-45 (9th Cir. 2015)  
20 (citing U.S.S.G. § 1B1.3(a)(1)(B)). As such defendant is accountable  
21 for the conduct of his co-conspirators that are: "(i) in furtherance  
22 of the jointly undertaken criminal activity; and (ii) reasonably  
23 foreseeable in connection with that criminal activity." Id. (quoting  
24 United States v. Blitz, 151 F.3d 1002, 1012 (9th Cir. 1998)). See  
25 also United States v. Treadwell, 593 F.3d 990, 1002 (9th Cir. 2010).

26 Defendant argues that his loss should be measured in terms of  
27 the amount of stolen money that he spent, which he estimates to be  
28

1 \$1,144,391. The Court already rejected a similar argument when  
2 sentencing co-defendant Vahe Dadyan. And for good reason.  
3 Defendant's argument is inconsistent with how relevant conduct is  
4 analyzed in the scope of jointly undertaken criminal activities, like  
5 the conspiracy counts for which defendant was convicted. See Lloyd,  
6 807 F.3d at 1142-1143. The fact that defendant was convicted on two  
7 counts of conspiracy therefore means he is liable for the entire loss  
8 amount reasonably foreseeable within the scope of his conspiratorial  
9 agreement, and not just for his own activity. See, e.g., United  
10 States v. Wells, 804 F. App'x 515, 518 (9th Cir. 2020) (citing  
11 Treadwell, 593 F.3d at 1002-03 ("[T]o comply with USSG §  
12 1B1.3(a)(1)(B), a district court is not required to proceed item-by-  
13 item through a complete list of all losses attributed to a criminal  
14 conspiracy and to then make an individualized determination whether  
15 or not each item was within the scope of the defendant's 'joint  
16 undertaking' and was 'reasonably foreseeable' to that defendant.").)

17 The evidence against defendant is overwhelming, including the  
18 evidence of the scope of his agreement with his co-conspirators:

- 19 • defendant's texts with co-defendant Tamara Dadyan  
20 detailing the inner workings of the conspiracy, including  
21 texts and attachments specific to many of the synthetic  
22 identities that were central to the crimes charged  
(including Iuliia Zhadko, Viktoria Kauichko, Anton  
Kudiumov, and Liudmyla Kopytova). (GEX 10 at 1-70.)
- 23 • the volumes of physical and digital evidence discovered in  
24 the homes where defendant and his co-defendants (including  
25 his brother and sister-in-law) lived, including the  
26 components of the assembly line defendant built together  
27 with his co-defendants to defraud lenders and the SBA  
(see, e.g., GEX 13.b, 13.c, 13.d, 13.e, 13.f, 13.h, 13.i,  
19.b, 19.c, 19.d, 24.a, 24.b, 24.d, 24.e, 56.d, 57.a,  
57.e, 57.g);

28

- 1 • the summary evidence tracing the flow of funds between  
2 defendant and his co-conspirators (GEX 115); and
- 3 • the summary chart evidence demonstrating how the  
4 fraudulent supporting documents defendant and his co-  
5 conspirators created were used to prepare and submit  
6 dozens of fraudulent loan applications submitted as part  
7 of the conspiracy (GEX 116).

8 Even were a loan-by-loan analysis required (which it is not), there  
9 is no serious question the evidence overwhelmingly ties defendant to  
10 well over \$9.5 million in fraudulent COVID-19 disaster relief loan  
11 applications. (Ahn Decl. Ex. 1.)

12 Defendant attempts to discount the amount of loss for which  
13 defendant is liable by shifting the blame to defendant's co-  
14 conspirators, arguing that they also used the Zhadko identity to  
15 commit fraud and launder the proceeds. (ECF 1105 at 13-14.)  
16 Defendant's argument lacks merit. Regardless of whether defendant or  
17 one of his co-conspirators used the Zhadko identity to apply for a  
18 particular loan or launder an amount of money is irrelevant because,  
19 under Ninth Circuit law, defendant is responsible for all foreseeable  
20 losses caused by his co-conspirators as part of the conspiracy.<sup>5</sup>

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21 <sup>5</sup> Defendant also argues that because co-defendant Manuk  
22 Grigoryan took responsibility for specific loans that he personally  
23 submitted as part of his agreement pleading guilty to certain  
24 substantive offenses, the Court should only hold defendant for the  
25 amount of stolen money that defendant personally spent. (ECF 1105 at  
26 7, 14-15.) This is an apples-to-oranges comparison that is not  
27 supported by the law. It is also not supported by the facts. A jury  
28 found defendant guilty in connection with his involvement in a  
conspiracy to fraudulently obtain COVID-19 disaster relief loan funds  
and a second separate conspiracy to launder the criminal proceeds.  
And Grigoryan admitted in his plea agreement factual basis and at  
sentencing that defendant directed his involvement in the conspiracy  
in any event. As explained above, the law and the facts support  
holding defendant accountable for the entire loss amount.

1           **C.     The PSR Correctly Applied a Two-Level Enhancement Based on**  
2           **the Number of Victims**

3           The government incorporates by reference here the sentencing  
4 memorandum for co-defendant Marietta Terabelian, which addresses the  
5 same objections about the applicability of the enhancement for ten or  
6 more victims. (ECF 1147 at 13-16.)

7           **D.     The PSR Correctly Applied a Two-Level Vulnerable Victim**  
8           **Adjustment**

9           Defendant and his co-conspirators stole the identities of  
10 recently deceased people (e.g., Nazar Terabelian, Olaf Landsgaard)  
11 and foreign exchange students who had briefly visited the United  
12 States on J-1 visas several years ago.<sup>6</sup> The USPO agreed the  
13 “vulnerable victim” adjustment applies, and made findings with  
14 respect to Nazar Terabelian and Iuliia Zhadko. (ECF 1013 ¶¶ 62-64.)

15           Defendant argues that deceased people are “invulnerable to  
16 identity theft”. (ECF 1105 at 18-19.) The Ninth Circuit disagrees.  
17 United States v. Maciel-Alcala, 612 F.3d 1092, 1101-02 (9th Cir.  
18 2010) (“[Defendant] fails to appreciate the significance—legal and  
19 personal—of one's identity even after one dies; theft of these  
20 identities is not a victimless crime.”) Moreover, the Ninth Circuit  
21 has affirmed the application of the “vulnerable victim” adjustment  
22 where a defendant used the identity of a deceased person to  
23 fraudulently obtain a credit card in the deceased's name. United  
24 States v. Cuellar, 165 F.3d 918 (9th Cir. 1998). This is because  
25 stealing the identity of a deceased person may cause harm to the

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26           <sup>6</sup> See, e.g., Nazar Terabelian (deceased) (GEX 2o, GEX 75), Olaf  
27 Landsgaard (deceased) (GEX 10 at 40, GEX 74), Iuliia Zhadko (foreign  
28 exchange student) (GEX 35a, GEX 6j, GEX 6l, GEX 44), Viktoria  
Kauichko (foreign exchange student) (GEX 44 at 11, 32), and Anton  
Kudiumov (foreign exchange student) (GEX 2m, GEX 10 at 40, GEX 44).

1 deceased's friends and family, who, because of their loss, may be  
2 particularly susceptible. Maciel-Alcala, 612 F.3d at 1101-02;  
3 Cuellar, 165 F.3d 918. Here, Nazar Terabelian died on July 18, 2020.  
4 (GEX 75.) Only three days later, defendant used his name to open a  
5 bank account (GEX 1.q, 115), and fraudulently apply for a COVID-19  
6 disaster relief loan (GEX 5.m, 116). The (non-criminal) members of  
7 Nazar Terabelian's family would have been particularly susceptible at  
8 that time to defendant's fraud. The same would have been true for  
9 the family of Olaf Landsgaard, who died only one year before  
10 defendant stole his name in order to launder stolen COVID-19 disaster  
11 relief money by purchasing luxury homes. (GEX 74, (GEX 30.f, 30.j,  
12 33.f, 33.h, 33.i, 33.j, 33.k, 33.l, 33.m.)

13 In addition, defendant mistakenly claims the USPO did not accept  
14 the government's argument that the "vulnerable victim" adjustment  
15 applies here based on defendant's victimization of foreign exchange  
16 students. (ECF 1105 at n. 12.) Defendant is wrong. The USPO did  
17 accept the government's argument and made a specific finding based on  
18 facts unique to the real Iuliia Zhadko.<sup>7</sup> (ECF 1013 ¶¶ 62-64.)

19 **E. The PSR Correctly Applied a Two-Level Obstruction**  
20 **Adjustment**

21 Defendant claims the obstruction adjustment "does not apply  
22 because it would violate the double jeopardy clause". (ECF 1105 at  
23 19.) This is not true. As defendant admits, the Ninth Circuit has  
24 expressly held double jeopardy principles do not bar the government

25 \_\_\_\_\_  
26 <sup>7</sup> Defendant asserts - without evidence - that Ms. Zhadko sold  
27 her identity to defendant. (ECF 1105 at 18 n.12.) As the USPO  
28 points out in the second addendum to the PSR, nothing in the record  
supports his effort to shift blame to the victim. (ECF 1122 at 2.)

1 from both seeking a sentencing enhancement now and later charging  
2 defendant for failure to appear. See United States v. Jernigan, 60  
3 F.3d 562, 563 (9th Cir. 1995). In any event, even if it had merit,  
4 his double jeopardy claim would not be actionable until he was later  
5 charged.

6 **F. A Two-level Enhancement in Accordance with U.S.S.G.  
7 § 2B1.1(b) (11) Should Apply**

8 The government incorporates by reference here Part III.A.2.b of  
9 its sentencing memorandum for co-defendant Artur Ayvazyan (ECF 1133),  
10 which explains the government's recommendation that the Court apply  
11 the enhancement based on U.S.S.G. § 2B1.1(b) (11) (A) (ii), as affirmed  
12 in United States v. Ovsepien, 739 Fed. Appx. 448 (9th Cir. 2018).  
13 The reasoning set forth therein applies equally to defendant.

14 **V. SECTION 3553 (a) FACTORS**

15 The Court should impose a sentence sufficient, but not greater  
16 than necessary, to reflect the purposes of sentencing identified in  
17 18 U.S.C. § 3553(a). United States v. Carty, 520 F.3d 984, 991 (9th  
18 Cir. 2008). The advisory Guidelines range provides the "starting  
19 point and . . . initial benchmark" for this Court's consideration of  
20 an appropriate sentence. Molina-Martinez v. United States, 136 S.Ct.  
21 1338, 1345 (2016) (quoting Gall v. United States, 552 U.S. 38, 49  
22 (2007)). Although the Guidelines are not binding, they "reflect a  
23 rough approximation of sentences that might achieve section 3553(a)'s  
24 objectives." United States v. Rita, 551 U.S. 338, 350 (2007).

25 Under 18 U.S.C. § 3553(a), the Court should consider, among  
26 other factors, the nature and circumstances of the offense and the  
27 history and characteristics of the defendant, § 3553(a) (1); the need  
28 for the sentence imposed to reflect the seriousness of the offense,

1 to promote respect for the law, and to provide just punishment for  
2 the offense, § 3553(a)(2)(A); the need for the sentence imposed to  
3 afford adequate deterrence to criminal conduct, § 3553(a)(2)(B); the  
4 need for the sentence imposed to protect the public from further  
5 crimes of the defendant, § 3553(a)(2)(C); and the need to avoid  
6 unwarranted sentence disparities, § 3553(a)(6).

7 **VI. GOVERNMENT'S SENTENCING RECOMMENDATION**

8 **A. Term of Custody**

9 In light of the relevant 18 U.S.C. § 3553(a) factors, a sentence  
10 of at least 348 months in prison is sufficient, but not greater than  
11 necessary, to achieve the goals of sentencing here.

12 1. Nature and Circumstances of the Offense and History  
13 and Characteristics of the Defendant (18 U.S.C.  
§ 3553(a)(1))

14 Defendant's history and characteristics and the nature and  
15 circumstances of his many offenses weigh heavily in favor of a  
16 significant sentence of imprisonment.

17 Defendant has a history of committing loan fraud. (ECF 1121 ¶¶  
18 81, 85.) Defendant pleaded guilty to conspiring with co-defendant  
19 Marietta Terabelian between 2007 and 2011 to fraudulently obtain a  
20 home economic line of credit; defendant was convicted in this case of  
21 conspiring with co-defendants Marietta Terabelian, Artur Ayvazyan,  
22 and Tamara Dadyan in 2020 to fraudulently obtain pandemic relief  
23 loans and launder the proceeds; and defendant has been charged with  
24 conspiring with co-defendants Artur Ayvazyan and Tamara Dadyan  
25 between 2014 and 2020 to use stolen identities to fraudulently obtain  
26 mortgage and green loans for eco-friendly home projects. (Id.)

27 Defendant began stealing disaster relief funds as soon as the  
28

1 money became available in March 2020, when the country was grappling  
2 with a public health crisis and faced the very real prospect of an  
3 economic collapse. And he continued through the height of the  
4 pandemic until he was arrested; indeed, defendant was relentless in  
5 his efforts to steal as much as possible. He specifically expressed  
6 an understanding that the amount of disaster relief money was  
7 limited, explicitly discussed the urgency to act quickly, and openly  
8 joked about the federal government running out of money:

- 9 • “[laugh my ass off] they ran out of money and can’t fund.  
10 Just got an email. Thi is bullshit” (GEX 10 at 3);
- 11 • “Fuck man signed loan docs this morning for 180k and got  
12 email hour after saying we are out of money” (id. at 3);
- 13 • “I did 7 apps last night and 4 of them got email that  
14 it’s funded ... I didn’t sleep all night I was working 24  
15 hours straight” (id. at 4-5); and
- 16 • “Good cause you know this program is over by end of the  
17 month so get as much as you can” (id. at 14).

15 Defendant labels his words as “plain-spoken”, “not pretty”,  
16 “sometimes vulgar”, and “mean”. (ECF 1105 at 10.) This is an  
17 understatement. These and other statements defendant made throughout  
18 the pandemic reveal unbridled greed and cruelty toward fellow  
19 citizens who actually needed this money to survive.

20 Also highly relevant to the nature and circumstances of the  
21 offense is how defendant used the money earmarked for persons in  
22 need: he upgraded mansions, moving from the mansion he used in  
23 connection with his earlier fraud into a new, larger mansion, and he  
24 splurged on gold coins, diamonds, luxury watches and fine imported  
25 furniture. (GEX 115.) Defendant gloated about his excessive  
26 acquisition of wealth:

27 T. Dadyan: “love u my big brother in truely happy for your  
28 kyank for this new achievement in your Life.. god



1 knows you deserve it. Fuck any one of the loser  
2 who have their eye on you ..."

3 R. Ayvazyan: "Tnx kyank it's not just me trust me you, Art  
4 everyone I care about plays a big role in my  
5 life that drives me to achieve."

6 (GEX 10 at 16.) What defendant viewed as something he had "achieved"  
7 was, in reality, fraud and theft on a massive and unmitigated scale.

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2. Seriousness of the Offense, Respect for the Law, and  
Just Punishment (18 U.S.C. § 3553(a)(2)(A))

A custodial sentence within the advisory Guidelines range is  
also needed to reflect the seriousness of the offense, promote  
respect for the law, and provide just punishment for the offense.

The record shows defendant simply has no respect for the law  
whatsoever. He is a repeat fraud offender who lied to the Court,  
violated his conditions immediately upon pretrial release, and  
absconded from supervision on the eve of sentencing. Defendant has  
no intention of ever being held accountable for his many crimes.

Moreover, the scope and execution of defendant's crimes and  
relevant conduct make plain the seriousness of the offenses.  
Defendant and his co-conspirators sought and stole finite relief  
funds necessary to the survival of the country's small businesses and  
working families at the height of the pandemic. The extensive  
planning and coordination of the scheme which defendant and his co-  
conspirators carried out against the backdrop of an unprecedented  
public health and economic crisis reflect a significant lack of  
respect for the law and the need for just punishment in this case.

Defendant's lack of respect for the law is further underscored  
by his disregard for the impact his actions had on his fellow  
citizens and those who were trying to provide aid to them. Among

1 other things, defendant joked with co-defendant Tamara Dadyan about  
2 the possibility that the federal government may run out of money and  
3 file for bankruptcy, writing "lmao" (which means "laugh my ass off")  
4 upon learning that a bank had run out of PPP money. (GEX 10.)

5 3. Affording Adequate Deterrence and Protecting the  
6 Public from Further Crimes of the Defendant (18 U.S.C.  
7 § 3553(a)(2)(B) and (C))

8 There is a strong need in this case to impose a sentence that  
9 will specifically deter defendant from committing fraud post-release  
10 and protect the public from further crimes of defendant: he was  
11 previously convicted for a similar crime together with his wife and,  
12 after being given probation, they together committed the same crime.

13 There is also a strong need to impose a sentence that generally  
14 deters others from stealing disaster relief money earmarked for small  
15 businesses and families in crisis. Like the need to promote respect  
16 for the law, a significant custodial sentence in a case such as this  
17 will signal to other potential wrongdoers that there are serious  
18 consequences for exploiting a national emergency such as that brought  
19 on by the COVID-19 pandemic. This case is particularly significant  
20 to the government's effort to deter pandemic fraud because it is  
21 amongst the most egregious examples prosecuted to date, and defendant  
22 the most culpable participant. It is necessary for potential  
23 wrongdoers to understand that, although submitting any number of  
24 fraudulent disaster relief loan applications constitutes a serious  
25 crime and will result in the imposition of a sentence of  
26 imprisonment, submitting dozens or hundreds of fraudulent loan  
27 applications will result in substantially greater prison time. In  
28 light of the fact that the tools required to commit these crimes,

1 namely Internet access and a bank account, are available to almost  
2 anyone, it is critical that the Court send a message that a defendant  
3 who is engaged in a vast scheme involving dozens of fake, stolen and  
4 synthetic identities, over 140 fraudulent disaster relief loan  
5 applications, and a vast network of bank accounts opened under false  
6 pretenses, will be sentenced in a way that is meaningfully different.

7 In the name of unwarranted sentencing disparities, defendant  
8 advocates for a sentence of no more than 72 months' imprisonment  
9 based on defendant's purported analysis of precedent from PPP/EIDL  
10 loan fraud defendants from around the country. (ECF 1105 at 20-21.)  
11 In an effort to give weight to the median or mean (which defendant  
12 wishes to use as a starting point), defendant lists some one-off  
13 features this case may share with others that have been recently  
14 sentenced. (Id.) This exercise misses the point. The Ninth Circuit  
15 has specifically instructed that "sentencing disparity is only one  
16 factor a court considers in crafting an individualized sentence under  
17 § 3553(a) [and] [a] district court need not, and, as a practical  
18 matter, cannot compare a proposed sentence to the sentence of every  
19 criminal defendant who has ever been sentenced before. Too many  
20 factors dictate the exercise of sound sentencing discretion in a  
21 particular case to make the inquiry [defendant] urges helpful or even  
22 feasible." Treadwell, 593 F.3d at 1012. To the contrary, federal  
23 sentences are required to be individualized. Id.

24 Here, the government recommends a Guidelines sentence based on a  
25 calculation with which the USPO concurs in nearly all respects.  
26 Defendant does not point to any cases that are actually similar to  
27 this fraud in all material respects, nor does he identify any  
28

1 already-sentenced defendants who are similarly situated to defendant.  
2 And even if he could, the Court's consideration of the § 3553(a) in  
3 this remarkable case should render any disparities here entirely  
4 warranted, chief among them being the strong interest in protecting  
5 the public from another disaster relief loan fraud ring like the one  
6 led by defendant Richard Ayvazyan.

7 **B. The Court Should Deny Ayvazyan's Request to Modify the**  
8 **Money Judgment of Forfeiture**

9 Defendant also moves the Court to reduce the Court's October 28,  
10 2021, Money Judgment of Forfeiture to zero. In substance,  
11 defendant's position is that effectively no funds came to rest with  
12 him other than those forfeited at trial. This position is wrong.

13 At the outset, defendant's claim that "[t]he government has not  
14 reduced its request by the amount of property forfeited in order to  
15 avoid double-counting" is simply false. (ECF 1105 at 35). The  
16 government's application for a Money Judgment of Forfeiture (the  
17 "Application" or "App.") went into extensive detail calculating  
18 deductions where funds were spent on specific forfeited assets. See,  
19 e.g., App. at 13 (deducting \$82,000 transferred to purchase luxury  
20 watches forfeited at trial); id., at 15 (deducting \$238,960  
21 transferred to purchase a gold coins forfeited at trial).<sup>8</sup>

22 But defendant seeks to go much further, and asks the Court  
23 deduct the total value of all of his forfeited property, even where  
24 those forfeitures had nothing to do with the calculations underlying

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25 <sup>8</sup> In fact, the Application was overly conservative in this  
26 respect, and deducted traced funds even where only part of the  
27 property bought with such funds were forfeited. See App. at 15, n.8  
28 (deducting full \$238,960 transferred to gold merchant despite having  
never recovered multiple kilograms of gold purchased with part of  
these funds).

1 the amount of the money judgment. Defendant has simply misunderstood  
2 the state of the law post-United States v. Thompson: the government  
3 is not permitted to forfeit more than the total value of the gross  
4 amount of criminal proceeds, when considering both specific property  
5 forfeited and a money judgment for unrecovered tainted property. 990  
6 F.3d 680, 685 (9th Cir. 2021).<sup>9</sup> Here, the total criminal proceeds  
7 exceed \$17 million (App. at 8), and the money judgment is nowhere  
8 near that amount. Thompson simply dictates that the government must  
9 establish what share of the total came to rest with a defendant,  
10 which is exactly what the government has done.<sup>10</sup>

11 For example, defendant asks to deduct the entire \$451,185 in  
12 forfeited cash, but as the government addressed in the Application  
13 (App. at 14, n.6), there is no basis for crediting this one defendant  
14 with the entirety of this forfeiture. There certainly is no risk the  
15 government will over-recover, because the gap between the total  
16 amount in proceeds (roughly \$17 million) and the amount of the money  
17

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18 <sup>9</sup> Notably, all of defendant's cited precedent predates Honeycutt  
19 v. United States, 137 S. Ct. 1626 (2017), see generally App. at 9-10,  
20 when the government would regularly obtain joint and several money  
21 judgments for the full value of tainted proceeds against all  
22 conspirators, and thus the government risked over-recovering if  
23 specific forfeited property was not discounted. Post-Honeycutt and  
24 Thompson, this previous case law has been largely rendered  
unpersuasive, as the government can no longer obtain joint and  
several forfeiture judgments up to the total loss amount, and must  
trace individual proceeds to obtain a money judgment, and thus over-  
recovery is far less of a risk. As described herein, there is  
certainly no risk over over-recovery here.

25 <sup>10</sup> Defendant's position would also lead to absurd results: If a  
26 defendant hypothetically stole a million dollars, and wasted \$250,000  
27 on lavish living while spending another \$250,000 on a luxury vehicle  
28 subsequently forfeited at trial, under defendant's math, these  
amounts would offset, and the government would have no way of  
recovering the value of the wasted funds. Nothing in Thompson  
obligates the government to trace every last dollar of tainted funds  
simply in order to obtain a money judgment.

1 judgment (\$1,420,199) is enormous. On the present record, the  
2 \$1,420,199 traced in the Application did not result in property which  
3 was forfeited, and as noted above, the government was conservative in  
4 making deductions when there was a risk of double recovery.<sup>11</sup>

5 Defendant also points the finger at co-defendant Manuk Grigoryan  
6 - who has pleaded guilty, expressed remorse, and has not absconded -  
7 claiming that Grigoryan might have received the funds the government  
8 has traced in the Application. (ECF 1105 at 38-39). The jury  
9 rejected these arguments in convicting defendant on the conspiracy  
10 charged in Count One, and the Court should as well. The FSI alleged  
11 that defendant controlled the Zhadko accounts, including for Top  
12 Quality Contracting, Turing Info Solutions Inc., and Timeline  
13 Transport (App. at 3), and the jury convicted on the conspiracy count  
14 incorporating these allegations. Even assuming that co-defendant  
15 Manuk Grigoryan may have had some access to these accounts, the  
16 jury's conviction on Count One is more than sufficient to find that  
17 these accounts belonged to defendant, whether or not he allowed  
18 others to access them. Indeed, in Thompson, the Ninth Circuit  
19 specifically said a defendant could be liable for the entire amount  
20 of a jointly held account. 990 F.3d at 691.

21 Ultimately, the Ninth Circuit was clear in Thompson that, in  
22 determining whether and what funds came to rest with any co-  
23 conspirator, a trial court need not be exact, and may take into  
24 account the questionable nature of how criminals hide criminal

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25  
26 <sup>11</sup> While it is theoretically possible that some of funds traced  
27 in the Application may have ended up in the bag of cash, some  
28 approximation is permitted under Thompson, and as stated in the  
Application, at most defendant should be credited a *pro rata* share of  
\$53,398, as there is no way to know how much of the tainted cash came  
from any one defendant's share of the fraud proceeds.

1 proceeds. 990 F.3d 680, 692 (9th Cir. 2021) (“The numbers used  
2 throughout this opinion of course may be approximate because  
3 swindlers and other criminals may be less than honest...”). This is a  
4 textbook case of the soundness of the circuit’s holding in Thompson:  
5 these defendants used a web of stolen identities used to launder  
6 fraud proceeds. They intentionally did not keep assets in their own  
7 names, for the very reason that they wanted to conceal their  
8 ownership of these assts. Some approximation is inevitable, and the  
9 money judgment signed by the Court reflects just such a reasonable  
10 approximate in light of the scheme for which defendant was convicted.

11 **C. Supervised Release, Fine, Restitution, and Mandatory  
12 Special Assessment**

13 The government concurs with the USPO’s recommendation that  
14 defendant be sentenced to five years of supervised release,  
15 restitution of \$16,464,071.26, and a \$2,300 mandatory special  
16 assessment.<sup>12</sup> (ECF 1120.)

17 **VII. CONCLUSION**

18 For the above reasons, the government respectfully requests that  
19 the Court impose the following sentence as to defendant Richard  
20 Ayvazyan: (i) at least 348 months’ imprisonment, consisting of 324  
21 months on Counts 1-20 and 240 months on Count 26 to be served  
22 concurrently and 24 months on Counts 21 and 22 to be served  
23 concurrently to each other and consecutively to the terms imposed on  
24 Counts 1-20 and 26; (ii) 5 years of supervised release (explained in  
25 footnote 1); (iii) restitution in the amount of \$16,464,071.26, (iv)  
26 forfeiture consistent with the Court’s prior preliminary orders of  
27 forfeiture; and (v) a special assessment of \$2,300.

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28 <sup>12</sup> The government takes no position on the imposition of a fine.