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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 20-579-SVW-8

21 Plaintiff,

GOVERNMENT'S SENTENCING POSITION FOR
DEFENDANT VAHE DADYAN; DECLARATION
OF SCOTT PAETTY; EXHIBIT

22 v.

23 VAHE DADYAN,

Date: October 4, 2021

Time: 11:00 a.m.

24 Defendant.

Location: Courtroom of the Hon.
 Stephen V. Wilson

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 Vahe Dadyan.

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

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

11 Dated: September 27, 2021

Respectfully submitted,

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/s/

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

The government respectfully submits this sentencing position to advise the Court of its sentencing recommendation regarding defendant Vahe Dadyan ("defendant"), who was convicted by a jury of 12 federal felonies related to his participation in a cunning and cynical conspiracy to fraudulently obtain millions of dollars in COVID-19 relief funds administered through the Paycheck Protection Program ("PPP") and the Economic Injury Disaster Loan ("EIDL") program. Defendant may have had a smaller role than others, such as his cousin and co-defendant Tamara Dadyan ("T. Dadyan"), but he nevertheless played an integral part in the conspiracy. A significant custodial sentence is necessary to reflect the seriousness of his crimes and the egregiousness of his attempts to mislead the Court regarding his involvement.

As illustrated by bank records and other evidence presented at trial, defendant fraudulently obtained COVID-19 disaster relief funds for his company which did not need or use the money, wired that money to a fake tax preparation service under false pretenses, and then repeatedly followed up with his co-conspirator cousin until a second fake company wired defendant his cut of the criminal proceeds. As discussed in more detail below (and in the government's response to defendant's Presentence Investigation Report ("PSR") (ECF 966)), the government disagrees with the United States Probation and Pretrial Services Office's ("USPO") calculation of the advisory Guidelines range in this case. The government believes the applicable Guidelines range for defendant is 108-135 months' imprisonment, based on a total offense level of 31 and Criminal History Category I.

1 For the reasons stated below, the government respectfully
2 recommends that the Court sentence defendant to 108 months in
3 custody, three years of supervised release, restitution in the amount
4 of \$10,704,188.13, and a special assessment of \$1,200.

5 **II. RELEVANT PROCEDURAL HISTORY**

6 On March 11, 2021, a grand jury returned a first superseding
7 indictment against defendant and seven codefendants, charging
8 defendant with one count of conspiracy to commit bank fraud and wire
9 fraud, six counts of wire fraud, three counts of bank fraud, one
10 count of conspiracy to commit money laundering, and one count of
11 concealment money laundering. (ECF 154.)

12 After a nine-day jury trial, defendant was convicted on all
13 counts with which he was charged. (PSR ¶¶ 1-2.) During jury
14 selection, however, defendant attempted to plead guilty. But based
15 on defendant's allocution at the guilty plea hearing, the Court
16 rejected defendant's guilty plea. (ECF 966 at 4.) Defendant sought
17 to rely on certain statements he made to the Court during the
18 attempted plea colloquy in support of his post-trial motions for
19 acquittal and a new trial. (ECF 689.) Although the Court ultimately
20 denied defendant's post-trial motions on other grounds (ECF 875 at
21 12-16, n.8), the government demonstrated the falsity of those
22 statements in its opposition to defendant's motions. (ECF 789 at 8-
23 10.) Specifically, defendant's assertion to this Court that he had
24 used the fraudulently-obtained Voyage Limo PPP loan for mortgage and
25 Voyage Limo business expenses was belied by bank records for the
26 account that received the fraudulent funds from his co-conspirators.
27 (Id. at 10.) In truth, as reflected in those records, defendant used
28

1 the stolen money for personal and other expenses unrelated to Voyage
2 Limo's business. (Id.)

3 On August 30, 2021, the USPO filed the PSR in which it
4 calculated a total offense level of 27 and a Criminal History
5 Category I, resulting in an advisory Guidelines range of 70 to 87
6 months in prison. (ECF 892.) The USPO further recommended that
7 defendant be sentenced to 60 months in custody, three years of
8 supervised release, \$1,512,503 in restitution, and a \$1,200 mandatory
9 special assessment. (ECF 891 at 1-3.)

10 The government further addresses its objections to the PSR
11 (supplementing the objections it timely filed on September 13, 2021)
12 and discusses the reasons for its recommended sentence in Sections IV
13 and V below.

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

15 The following summary of defendant's offense conduct is based on
16 facts stated in the PSR ¶¶ 28-59, and includes factual revisions as
17 noted in the Government's Response to the PSR (ECF 966 at 9-14).¹
18 The fraud conspiracy in this case began in or around March 2020 and
19 continued through at least August 2020, and involved defendant and
20 his co-defendants² submitting and causing to be submitted fraudulent
21 applications for PPP and EIDL loans to lenders, including federally-
22 insured financial institutions, a non-federally insured lending

23

24 ¹ Facts taken from sources other than the PSR or ECF 966 are
noted in separate parenthetical citations.

25 ² Defendant is the cousin of co-defendant T. Dadyan and the
26 brother-in-law of co-defendant Artur Avazayan ("A. Ayvazyan"). A.
27 Ayvazyan and co-defendant Richard Ayvazyan ("R. Ayvazyan") are
brothers. R. Ayvzyan is married to co-defendant Marietta Terabelian.
28 R. Ayvazyan and Terabelian are currently fugitives from justice. The
other co-defendants in the case are Manuk Grigoryan, Edvard Paronyan,
and Arman Hayrapetyan.

1 institution, as well as the United States Small Business
2 Administration ("SBA"). Following receipt of the fraudulent loan
3 proceeds, defendant and his co-conspirators engaged in a vast money
4 laundering conspiracy that continued through at least October 2020,
5 wherein they transferred and shared the proceeds among themselves;
6 specifically, through bank accounts that they controlled either in
7 their own names or stolen or synthetic individual and business names.

8 Defendant joined the conspiracy no later than on or about May
9 18, 2020, when he and his co-conspirators, including T. Dadyan,
10 submitted and caused to be submitted a PPP loan application to Celtic
11 Bank in the name of Voyage Limo, a company solely owned and
12 controlled by defendant, seeking a PPP loan in the amount of
13 \$157,500. The application for the Voyage Limo loan falsely stated
14 that the company had 11 employees and average monthly payroll
15 expenses of \$63,000 and included fake IRS Forms 940 and 941. On May
16 20, 2020, Celtic Bank sent a wire deposit of \$157,500 to a bank
17 account in the name of Voyage Limo over which defendant had signatory
18 authority.

19 After the Voyage Limo PPP loan was approved and funded,
20 defendant wired \$155,000 of the \$157,500 to a fraudulent bank account
21 in the name of Runyan Tax Services held by "Viktorina Kauichko," an
22 alias fraudulently used by defendant's co-conspirators including co-
23 defendant Terabelian. Defendant falsely represented that the purpose
24 of the wire transfer was for "payroll"; however, the PPP money was
25 not actually used to pay Voyage Limo's payroll or any other Voyage
26 Limo expenses. Rather, nearly all of the \$155,000 wired into the
27 Runyan Tax Services account was thereafter transferred to an escrow
28

1 account to be used for defendant's co-conspirators' purchase of a
2 residential property. In support of that purchase, R. Ayvazyan and
3 Terabelian caused to be wired \$238,614 (which in part came from the
4 Voyage Limo PPP loan proceeds) to an escrow company to be used
5 towards the \$1 million purchase price of a property located on Calle
6 La Primavera, in Glendale, California. The property was purchased
7 for \$1 million in the name of "Iuliia Zhadko," another alias used by
8 defendant's co-conspirators including codefendant R. Ayvazyan.

9 In consideration of defendant having submitted the fraudulent
10 PPP loan application using his company Voyage Limo, the co-
11 conspirators later wired approximately \$75,000 back to defendant from
12 bank accounts in the name of Timeline Transport and EM Construction
13 (two fictitious companies that were used by the co-conspirators to
14 transfer illicit proceeds of the scheme amongst themselves).
15 Defendant's \$75,000 payment was deposited into an account opened in
16 the name of a new company, controlled by defendant, called "V&D
17 Limo." Approximately \$32,000 of the \$75,000 was subsequently
18 transferred to another new company named "G&D Home Health," which
19 purported to be a home health care agency for which defendant was the
20 Chief Executive Officer. Most of the remaining money was used for
21 defendant's personal benefit including checks totaling thousands of
22 dollars written to "Vahe Dadyan" or "Cash" and purchases made at
23 online retail stores.

24 Text messages between codefendants R. Ayvazyan and T. Dadyan
25 introduced at trial (GEX 10) and V&D Limo bank records show they had
26 a near-even split of the Voyage Limo PPP money with defendant; R.
27 Ayvazyan and T. Dadyan took approximately \$80,000 and defendant kept
28

1 \$75,000, as described above. Defendant directed that his cut be sent
2 to the V&D Limo bank account - not the account for Voyage Limo, the
3 name on the underlying PPP loan application - and co-defendant R.
4 Ayvazyan obliged, sending two \$25,000 wires to the V&D Limo account
5 from Timeline Transport controlled by the purported "Iuliia Zhadko."
6 Then, on August 6, 2020, defendant received an additional check for
7 \$25,000 from a bank account in the name of EM Construction, another
8 fake company. Defendant therefore received his \$75,000 "cut" of the
9 fraudulent PPP loan proceeds in three separate payments.

10 In addition to the Voyage Limo loan, during the course of
11 defendant's participation in the conspiracy, defendant's co-
12 conspirators applied for fraudulent PPP and EIDL loans that amounted
13 to \$12,535,827.13 in intended loss. (See Declaration of Scott Paetty
14 ("Paetty Decl."), Ex. 1 [victim/witness list and loans for loss
15 calculation, Vahe Dadyan]). These fraudulent loans resulted in the
16 disbursement and actual losses of \$10,704,188.13 in PPP and EIDL
17 funds. (Id.)

18 **IV. ADVISORY SENTENCING GUIDELINES CALCULATION**

19 In the PSR, the USPO initially calculated defendant's total
20 offense level at 27 based on the following: base offense level of 23
21 under U.S.S.G. §§ 2S1.1(a)(1), 2B1.1(a)(1) (consisting of offense
22 level 7 plus 16 additional levels for loss between \$1,500,000 and
23 \$3,500,000); a 2-level enhancement under U.S.S.G. § 2S1.1(b)(2)(B)
24 for defendant's conviction for conspiracy under 18 U.S.C. § 1956(h);
25 and a 2-level enhancement for sophisticated money laundering under
26 U.S.S.G. § 2S1.1(b)(2)(B).) (PSR ¶¶ 75-80, 88.)

27

28

1 The government agrees in part with the above calculations,
2 except the government respectfully submits that the PSR incorrectly
3 calculated loss and mistakenly omitted an enhancement for obstruction
4 of justice. The government thus believes that the following
5 additions to the offense level are appropriate in this case: (1) a
6 +20 level enhancement for loss (instead of +16, as noted in the PSR);
7 and (2) a +2 level enhancement for obstruction of justice (which is
8 not currently included in the PSR). With these revised enhancements,
9 the government calculates defendant's total offense level as 31. The
10 justification for these two additional enhancements is as follows.

11 **A. The Court Should Apply a 20-Level Loss Enhancement**

12 The PSR appears to attempt to limit the loss amount for offense
13 level calculation to only those fraudulent loan applications directly
14 related to the specific substantive wire fraud, bank fraud, and money
15 laundering counts for which the jury found defendant guilty, namely
16 seven PPP and EIDL loan applications for which defendant and his co-
17 conspirators obtained \$1,512,503 from three lenders, as well as the
18 SBA. (PSR ¶¶ 59-61, 65-68, 75, 160.) In the PSR, the USPO explained
19 the reasoning for the limitation as follows:

20 Based on the evidence received to date, it is not believed
21 that the preponderance of the evidence reflects the scope
22 of the jointly undertaken activities, as it relates to V.
23 Dadyan, to include all of the PPP and EIDL loan
24 applications conducted by R. Ayvazyan and T. Dadyan.
25 Similarly, based on information available to the
26 undersigned, the government has not shown that such conduct
27 was reasonably foreseeable to V. Dadyan.

28 (PSR ¶ 68 (applying USSG §1B1.3, Application Notes 1 and 2).)

 The government respectfully disagrees and submits that the PSR
should include as relevant conduct all the fraudulent loan

1 applications submitted by defendant's co-conspirators after the date
2 when defendant joined the conspiracy, which was no later than May 18,
3 2020 - the date defendant and his co-conspirators submitted and
4 caused to be submitted the fraudulent Voyage Limo PPP loan
5 application. As set forth in Exhibit 1 to the Paetty Declaration,
6 including all these fraudulent loan applications would result in a
7 finding of an actual loss of \$10,704,188.13 and an intended loss of
8 \$12,535,827.13. Accordingly, a 20-level enhancement should apply
9 pursuant to USSG §2B1.1(b) (1) (K), not the 16-level enhancement that
10 the USPO currently recommends. (PSR ¶ 75.)

11 Including as relevant conduct all the fraudulent loan
12 applications submitted after the time that defendant joined the
13 conspiracy is important to give meaning to the jury's verdict finding
14 him guilty of conspiracy to commit wire fraud and bank fraud and
15 conspiracy to commit money laundering. As currently drafted, the PSR
16 does not reflect the jury's verdict - which was based on the jury's
17 finding of guilt beyond a reasonable doubt - because it arrives at
18 the same loss calculation that it would have had the jury only found
19 defendant guilty of the substantive wire fraud, bank fraud, and money
20 laundering counts, and not the two conspiracy counts. Relatedly,
21 including as relevant conduct all the fraudulent loan applications
22 submitted after the time that defendant joined the conspiracy is
23 consistent with the Guidelines, including specifically the principles
24 set forth in U.S.S.G. §1B1.3. See U.S.S.G. §1B1.3(a) (1) (B)
25 (including as relevant conduct "in the case of a jointly undertaken
26 criminal activity" "all acts and omissions of others that were-
27 (i) within the scope of the jointly undertaken activity, (ii) in
28

1 furtherance of that criminal activity, and (iii) reasonably
2 foreseeable in connection with that criminal activity”).

3 Moreover, categorizing these loans as relevant conduct is also
4 consistent with the law of the case. In defendant’s post-trial
5 motions for acquittal and a new trial, he argued that the evidence at
6 trial was insufficient to prove beyond a reasonable doubt his
7 knowledge of the scope of the jointly undertaken activities and the
8 reasonable foreseeability of his co-conspirators’ conduct. (ECF 689
9 at 3-6.) The Court disagreed. In a detailed opinion and order, the
10 Court denied defendant’s motion, explaining that the evidence at
11 trial was sufficient to conclude that “[defendant] had reason to know
12 that (a) other conspirators besides [T. Dadyan] were involved, and
13 (b) [defendant]’s benefits depended upon the success of the entire
14 venture.” (ECF 875 at 13.) The Court reviewed the trial evidence in
15 detail, providing a summary which also substantively addressed the
16 issues of whether defendant had knowledge of the scope of the
17 conspiracy and whether his co-conspirators’ conduct was reasonably
18 foreseeable. (ECF 875 at 14.) Notably, the Court further found that
19 the fact that defendant’s co-conspirators included close family
20 members provided additional evidence supporting an inference that he
21 knew of his co-conspirators’ activities, which directly speaks here
22 to scope and foreseeability:

23 [T]he relationships between the defendants further supports
24 that inference. Vahe is Tamara’s cousin, Tamara’s husband
25 is Artur, and Artur is Richard’s brother. Simply put, these
26 four defendants (along with Richard’s wife, Marietta
27 Terabelian) are family. And they were all participating in
28 the same fraudulent activity: submitting PPP loans with
materially false information, transferring the proceeds to
one another using various accounts belonging to fake
entities, and using the proceeds for personal expenses.
Given that Vahe’s relatives were perpetrating the same
fraud that he was, a juror may have reasonably inferred

1 that Vahe knew about his relatives' participation in the
2 conspiracy and that his benefits were dependent upon his
 relatives' success.

3 (ECF 875 at 15.) Taken together, this evidence - which was
4 sufficient to support a conviction beyond a reasonable doubt - is
5 more than sufficient to show by a preponderance of the evidence that
6 defendant had sufficient knowledge of the scope of the criminal
7 activities he jointly undertook with his family members and that his
8 family members' other fraudulent loan applications were reasonably
9 foreseeable to him. Accordingly, defendant should be held
10 accountable for all the fraudulent loan applications submitted by his
11 co-conspirators after he joined the conspiracy, which would result in
12 a 20-level enhancement rather than the 16-level enhancement reflected
13 in the current PSR.

14 **B. The Court Should Apply a Two-Level Obstruction Enhancement**

15 The government also respectfully submits that the PSR should
16 have also included a two-level enhancement pursuant to USSG § 3C1.1
17 for "Obstructing or Impeding the Administration of Justice" (PSR
18 ¶ 87). As detailed in the government's opposition to defendant's
19 motion for judgment of acquittal and motion for a new trial (ECF
20 789), defendant knowingly and intentionally made false and misleading
21 statements to this Court about how he used the COVID-19 disaster
22 relief loan proceeds that he fraudulently obtained (*id.* at 4-6).

23 In sum, defendant lied to the Court during his attempted guilty
24 plea hearing on June 15, 2021, when he claimed that he used the PPP
25 funds to pay for legitimate business expenses. (ECF 966 at 2-3.) In
26 truth, and contrary to defendant's representations, the vast majority
27 of the fraudulent loan proceeds defendant received into his V&D Limo
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1 bank account were used for expenses unrelated to Voyage Limo. (Id.
2 at 3-5.) Instead, defendant transferred the money to other
3 companies, unrelated to the limousine business, including a \$32,000
4 transfer to a new company that defendant opened during the pandemic,
5 "G&D Home Health". (Id. at 5.) And defendant further
6 misappropriated thousands of dollars in PPP proceeds by withdrawing
7 funds through checks made out to himself or "Cash" and making
8 thousands of dollars in purchases from luxury online retailers like
9 Nordstrom and Gilt.com, and other online merchants like Amazon and
10 Home Depot. (Id.)

11 Defendant's lies to the Court regarding his use of the illicit
12 proceeds is a paradigmatic example of the type of conduct to which
13 the obstruction adjustment applies. U.S.S.G. § 3C1.1, Application
14 Note 4(F), provides examples of covered conduct, and expressly
15 includes "providing materially false information to a judge." That
16 is exactly what defendant did here. Indeed, the materiality of
17 defendant's false statements is evident, as they led the Court to
18 reject his attempted change of plea during the hearing. See U.S.S.G.
19 § 3C1.1 cmt. n.6 (defining "material" to mean "evidence, fact,
20 statement, or information that, if believed, would tend to influence
21 or affect the issue under determination"); see also, e.g., United
22 States v. Taylor, 749 F.3d 842, 847 (9th Cir. 2014) (affirming
23 obstruction enhancement for false statements during bond hearing,
24 explaining false statements were material under USSG § 3C1.1 cmt.
25 n.6); and United States v. Freixas, 332 F.3d 1314, 1321 (11th Cir.
26 2003) (affirming obstruction enhancement where defendant made false
27 statements under oath in support of motion to withdraw plea).

28

1 Accordingly, the Court should apply a two-level obstruction
2 enhancement to defendant's total offense level.

3 Finally, the USPO determined that defendant has zero criminal
4 history points, resulting in a Criminal History Category of I. (PSR
5 ¶¶ 98-99.) Applying the government's Guidelines recommendations,
6 defendant's total offense level should be 31 and, along with Criminal
7 History Category I, his advisory Guidelines range should be 108-135
8 months' imprisonment.

9 **C. Response to Defendant's Objections to the PSR**

10 On September 22, 2021, over three weeks after the PSR was issued
11 and more than a week past the deadline for submitting objections,
12 defendant filed his objections to the PSR. (ECF 992.) Defendant
13 raises two main arguments. First, he asserts a 10-level enhancement
14 for loss should apply (Id. at 2-6). Second, he contends that if the
15 Court adopts a more than 10-level enhancement for loss, then a 4-
16 level downward adjustment for minimal role should apply (Id. at 6-7).
17 Defendant also challenges the government's application of the two-
18 level obstruction of justice enhancement. (Id. at 7-9.)

19 1. A 20-Level Enhancement for Loss Should Apply

20 Defendant argues that he is only responsible for a 10-level
21 enhancement for loss because the scope of his jointly undertaken
22 criminal activity should be limited to the \$157,500 Voyage Limo loan.
23 (ECF 992 at 5-7, 9-10.) However, as discussed in detail above in
24 Section IV.A, defendant misconstrues the facts as applied to the
25 Guidelines and ignores the jury's verdict and the Court's prior
26 ruling on his post-trial motions - all of which support by a
27 preponderance of the evidence that the fraudulent loan applications
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1 reflected in Exhibit 1 were within the scope of the jointly
2 undertaken activity, in furtherance of that criminal activity, and
3 reasonably foreseeable to defendant in connection with that criminal
4 activity. U.S.S.G. § 1B1.3(a)(1)(B).

5 Defendant appears to contend that the government relies on a
6 Pinkerton theory for its loss calculation, asserting that "Pinkerton
7 liability and sentencing culpability are not the same." (ECF 992 at
8 5.) Defendant is mistaken and seeks to inject confusion where none
9 exists. First, as explained above, the government's theory of
10 relevant conduct for defendant's loss calculation is based upon
11 U.S.S.G. § 1B1.3(a)(1)(B), which defendant also correctly recognizes
12 is the governing standard here. (Id. at 6.) Second, the case upon
13 which defendant principally relies, United States v. Collazo, is
14 inapposite. Collazo addressed primarily the issue of the standard
15 for determining drug quantity in jury instructions for purposes of
16 deciding liability for statutory penalties in drug conspiracy cases.
17 984 F.3d 1308, 1318 (9th Cir. 2021). Collazo has no relevance nor
18 bearing on the issues at the sentencing phase of this fraud case.
19 Moreover, Collazo only reaffirms that the § 1B1.3(a)(1)(B) relevant
20 conduct standard, which the Guidelines in fact borrow from Pinkerton,
21 does apply here for assessing defendant's "offense level . . . based
22 on the conduct of co-conspirators." Id. at 1334. The additional
23 cases defendant string cites from other circuits merely reiterate the
24 relevant conduct standard as stated in § 1B1.3, which, again, the
25 government does not dispute. In any event, those additional cases
26 are not binding on this Court and, for the reasons discussed in
27
28

1 Section IV.A supra, do not contradict the government's argument for
2 the +20 enhancement in this case.

3 2. A Reduction for Minimal Role Does Not Apply

4 Contrary to defendant's assertion that he merits a minimal role
5 reduction, he was an active participant in both the fraud and money
6 laundering conspiracies. He provided his company to further the
7 fraud scheme and he willingly transferred those illicit funds back to
8 his co-conspirators to further facilitate the laundering of those
9 funds into the improper purchase of real property. Moreover, he
10 repeatedly engaged his co-conspirators to ensure that he got paid for
11 his efforts. These are not the hallmarks of a defendant who
12 "perform[ed] a limited function in the criminal activity," U.S.S.G.
13 § 3B1.2, cmt. n. 3(A). Upon a careful consideration of the law and
14 facts, the USPO correctly found that defendant does not merit a role
15 reduction. (PSR ¶¶ 82-86.) Defendant "does not appear substantially
16 less culpable than the average participant: he stood to benefit from
17 the funding of his fraudulent loan application; he falsely
18 represented the number of employees and monthly payroll expenses; he
19 wired nearly all of the money to an account in the name of a fake
20 company and falsely represented that the purpose of the wire transfer
21 was 'payroll.'" (Id. ¶ 86.) A role reduction is not appropriate
22 here.

23 3. An Obstruction of Justice Enhancement is Warranted

24 As discussed in Section IV.B above, a two-level enhancement for
25 obstruction of justice should apply, and defendant's argument against
26 application of this enhancement (ECF 992 at 9-11) should be rejected.
27 First, his claim that his lies to the Court during his attempted plea
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1 colloquy were immaterial is not supported by the record. Defendant's
2 misuse of the PPP loan proceeds was indeed material to the offense
3 conduct because the loan would not have been approved if the true
4 purpose of the funds (i.e., defendant's use of the funds for
5 personal, not business expenses) had been disclosed. Second,
6 defendant's inclusion of an additional portion of the colloquy merely
7 emphasizes the materiality of his false statements. Defendant's
8 "examples" of his purported business expenses for which he obtained
9 the loan (lease payments, car payment, gas, and mechanical expenses)
10 did not take place. Put simply, there is nothing in the record to
11 corroborate that defendant used his cut of the fraud proceeds to pay
12 these expenses. Thus, these false statements evince defendant's
13 intent to mislead the Court and, ultimately, undermine the guilty
14 plea hearing. They are material because that is in fact what
15 happened; the Court rejected the guilty plea because it took
16 defendant's lies at face value on an issue critical to the Court's
17 evaluation of defendant's guilty plea. A two-level obstruction of
18 justice enhancement is warranted.

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

20 The Court should impose a sentence sufficient, but not greater
21 than necessary, to reflect the purposes of sentencing identified in
22 18 U.S.C. § 3553(a). United States v. Carty, 520 F.3d 984, 991 (9th
23 Cir. 2008). The advisory Guidelines range provides the "starting
24 point and . . . initial benchmark" for this Court's consideration of
25 an appropriate sentence. Molina-Martinez v. United States, 136 S.Ct.
26 1338, 1345 (2016) (quoting Gall v. United States, 552 U.S. 38, 49
27 (2007)). Although the Guidelines are not binding, they "reflect a
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1 rough approximation of sentences that might achieve section 3553(a)'s
2 objectives." United States v. Rita, 551 U.S. 338, 350 (2007).

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

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

15 **A. Term of Custody**

16 In light of the relevant 18 U.S.C. § 3553(a) factors, a sentence
17 of 108 months in prison is sufficient, but not greater than
18 necessary, to achieve the goals of sentencing here.

19 1. Nature and Circumstances of the Offense and History 20 and Characteristics of the Defendant (18 U.S.C. § 3553(a)(1))

21 The fact that defendant's company, Voyage Limo, only applied for
22 one loan does not diminish the important role that defendant played
23 in enabling what, in the grand scheme, was a massive conspiracy to
24 fraudulently obtain millions of dollars of disaster relief money and
25 then distribute the proceeds among the co-conspirators. Defendant
26 was complicit in both the fraud and money laundering conspiracies,
27 and, as the Court explained in its opinion and order denying his
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1 post-trial motions, the trial evidence showed that "Vahe's benefits
2 depended upon the success of the entire venture." (ECF 875 at 13.)
3 Defendant repeatedly hounded his co-conspirators to get paid, as
4 evidenced by text messages between T. Dadyan and R. Avyazyan,
5 dutifully played his part in funneling the money back to his co-
6 conspirators, and also took active steps to hide his cut by forming
7 new companies and opening new bank accounts to aid in the transfer of
8 funds.

9 Defendant had the knowledge and ability to understand the
10 seriousness of the illegal conduct in which he engaged. According to
11 defendant, he got a high school degree, attended two years of medical
12 school, and received a dental technician certificate in Armenia.
13 (PSR ¶¶ 120-121.) After emigrating to the United States, defendant
14 found gainful employment as a commercial driver, working first for
15 taxicab companies and Uber, and then starting his own limo business.
16 (PSR ¶¶ 125-127.) Despite his ability and aptitude to work,
17 defendant chose to break the law and conspire with his family members
18 - including his cousin, who, along with R. Avyazyan, steered and
19 orchestrated the conspiracies - to steal money intended to serve as
20 the lifeline for small businesses and families in crisis as a result
21 of the pandemic and use those funds for his personal benefit.
22 Moreover, defendant actively attempted to divert attention from his
23 illegal conduct by lying to the Court to cover his tracks and
24 attempting to portray himself as an unsophisticated pawn of his
25 cousin T. Dadyan and R. Avyazyan. But defendant's knowing
26 participation in the scheme undercuts this argument, and although he
27 was not a leader of the conspiracy, he was an integral part. His
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1 company was used both to commit the fraud and to launder the
2 proceeds.

3 In recommending a 60-month sentence (ECF 891 at 1-2), the USPO
4 stated that the nature and circumstances of defendant's involvement
5 in the offense and his family circumstances may warrant a below
6 guidelines sentence (PSR ¶ 164.) The government respectfully
7 disagrees. The conspirators needed companies to facilitate the fraud
8 and defendant willingly provided his company to that end, motivated
9 by his \$75,000 cut of the stolen PPP loan proceeds. Moreover, he
10 evinced a further willingness and ability to funnel money to and from
11 his conspirators through various other companies that he controlled.
12 In other words, he was actively engaged and a knowing participant in
13 a very sophisticated scheme.

14 Moreover, his transfer of a large portion of his cut of the
15 fraud proceeds (\$32,000 of the \$75,000) to a home health company when
16 nothing in his background or personal history reflects a knowledge of
17 the healthcare industry further shows a callous disregard for the
18 true purposes of the PPP loan program. Whether defendant currently
19 acts as a caretaker for his parents (and the government notes that
20 that there is nothing in the record corroborating that he does so
21 other than defendant's and his wife's statements) does not justify
22 his misappropriation of the Voyage Limo PPP funds, mitigate the false
23 statements that he made to the Court regarding his use of the funds,
24 or warrant a sentence outside the advisory Guidelines system. See,
25 e.g., United States v. Treadwell, 593 F.3d 990, 1011 (9th Cir. 2010),
26 overruled on other grounds by United States v. Miller, 953 F.3d 1095
27 (9th Cir. 2020) (finding that defendant's lack of prior criminal

1 history, minor children, and ailing parents were not so unique that
2 it made the district court's refusal to vary his sentence downward
3 "illogical, implausible, or without support in inferences that may be
4 drawn from the facts in the record.").

5 A sentence at the low-end of the advisory Guidelines range of
6 108 months in prison is appropriate based on an individualized
7 assessment of this defendant and the circumstances of his involvement
8 in the criminal enterprise.

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

11 A significant custodial sentence is also needed in this case to
12 reflect the seriousness of the offense, promote respect for the law,
13 and provide just punishment for the offense. Defendant participated
14 in both the fraud and money laundering conspiracies that sought to
15 obtain and conceal the proceeds of a vast scheme designed to steal
16 COVID-19 disaster relief loan funds and spread the proceeds around to
17 all involved. Put another way, everyone who participated in this
18 scheme, including defendant, made money – stolen money. Those stolen
19 funds were earmarked for legitimate small businesses and their
20 employees that desperately needed them in 2020 to survive as the
21 COVID-19 pandemic paralyzed the economy. While a large swath of the
22 population was struggling to make ends meet, defendant and his co-
23 conspirators were taking and spending substantial sums of cash that
24 ultimately derived, in some or large part, from fraudulently obtained
25 PPP and EIDL proceeds.

26 Defendant may not have reaped the same amount of benefits as
27 other co-conspirators, but the amount that he did fraudulently
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1 obtain, through the loan intended for his company Voyage Limo, was
2 substantial - \$157,500. And his willingness to provide his company
3 as a conduit for the fraud provided a necessary mechanism to carry
4 out the scheme. The fact that defendant opened additional bank
5 accounts to cover the flow of funds back to other co-conspirators,
6 and then lied to the Court to further divert attention from these
7 crimes, further underscores the seriousness of defendant's conduct
8 necessitating a Guidelines sentence in this case. In light of
9 defendant's overall conduct, and the exceptional and difficult period
10 underlying the events of this case, a significant sentence is needed
11 to reflect the seriousness of the offense, promote respect for the
12 law, and provide just punishment.

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

15 There is a strong need in this case to impose a sentence that
16 will specifically deter defendant from committing fraud post-release
17 - especially in light of the fact that he lied to the Court during
18 his plea colloquy and otherwise refuses to accept any responsibility.
19 There is also a strong need to impose a sentence that generally
20 deters others from stealing COVID-19 disaster relief money earmarked
21 for small businesses and families in crisis - particularly in light
22 of the fact that the pandemic is ongoing and the possibility that the
23 federal government may continue to provide such assistance in the
24 future. It is critical to the success of these government programs
25 that others are deterred from doing what defendant did here. Like
26 the need to promote respect for the law, a significant custodial
27 sentence in a case such as this will signal to other potential
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1 wrongdoers that there are serious consequences for exploiting a
2 national emergency such as that brought on by the COVID-19 pandemic.

3 With these factors in mind, the government respectfully submits
4 that a low-end custodial sentence of 108 months in prison is
5 sufficient, but not greater than necessary, to achieve the goals of
6 sentencing in this case.

7 **B. Supervised Release, Fine, Restitution, and Mandatory**
8 **Special Assessment**

9 The government concurs with the USPO's recommended term of three
10 years of supervised release following defendant's custodial sentence.
11 The government recommends an additional special condition of
12 supervised release in light of defendant's underlying financial
13 crimes. Specifically, the government recommends that defendant shall
14 be prohibited from engaging in any financial transaction in an amount
15 of \$10,000 or greater unless he obtains prior approval from the USPO.
16 This condition is largely aimed at protecting the public from further
17 financial crimes of defendant, which is reasonably related to the
18 sentencing factors described more fully above. U.S.S.G. § 5D1.3(b).

19 As noted in the PSR, restitution is mandatory in this case
20 without consideration of defendant's ability to pay. (PSR ¶ 159.)
21 As discussed above, the government submits that the Court should
22 order defendant to pay restitution in the amount of \$10,704,188.13 to
23 the victims listed in Exhibit 1 to the Paetty Declaration. The
24 government takes no position on the imposition of a fine, including
25 the USPO's finding that defendant does not have the ability to pay a
26 fine in addition to restitution. (PSR ¶ 144.) Finally, the
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1 government concurs with the USPO's recommendation that defendant pay
2 the \$1,200 special assessment, which is also mandatory in this case.

3 **VII. CONCLUSION**

4 For the above reasons, the government respectfully requests that
5 the Court impose the following sentence as to defendant Vahe Dadyan:
6 (1) 108 months' imprisonment; (2) a three-year period of supervised
7 release; (3) restitution in the amount of \$10,704,188.13; (4) a fine,
8 if any, to be determined by the Court; and (5) a mandatory special
9 assessment of \$1,200.

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