

SCOTT ERIK ASPHAUG, OSB #833674
Acting United States Attorney
District of Oregon
RYAN W. BOUNDS, OSB #00012
Ryan.Bounds@usdoj.gov
Assistant United States Attorney
1000 SW Third Ave., Suite 600
Portland, OR 97204-2902
Telephone: (503) 727-1000
Attorneys for United States of America

**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

UNITED STATES OF AMERICA

3:21-cr-00039-HZ

v.

**GOVERNMENT'S SENTENCING
MEMORANDUM**

JEREMY M. CLAWSON,

Defendant.

On September 16, 2021, this Court shall sentence defendant Jeremy Clawson upon his conviction by guilty plea to one count of theft of government money in violation of 18 U.S.C. § 641. The offense is a Class-C felony, punishable by up to ten years' imprisonment. Pursuant to the parties' plea agreement, the government recommends a sentence of ten months' imprisonment, which reflects the parties' recommended sentence of 24 months' imprisonment with credit (including good-time credit) for time already served on his undischarged state sentence in Baker County Circuit Court Case Number 20CR46374.

I. BACKGROUND

Defendant is a twenty-eight-year-old alcoholic and—to his continuing detriment—automotive enthusiast. Over the last eight years, he has racked up as many criminal convictions for driving unlawfully: either in high-speed flight from the police (in 2017 and 2020), or under the

influence of intoxicants (in 2016, 2017, 2019, and 2020), or without a valid license (2013 and 2019). Those convictions alone place him in the highest criminal history category under the United States Sentencing Guidelines, though they are not the full extent of his record. He was also convicted of felony fraud and burglary offenses when he was fourteen and fifteen years of age, respectively, as well as battering his wife when he was twenty-two.

But it's the cars that keep getting him into trouble. In this case, defendant took \$125,200 the United States Small Business Administration (SBA) had intended for a (fictitious) San Diego manufacturer adversely affected by the COVID-19 pandemic and used that money instead to buy or repair several vehicles: a 2016 Dodge Challenger SRT Hellcat, a 2006 Lexus IS350, a 2006 Dodge Charger, a 2000 Honda Accord, and a motorcycle. His misappropriation came to light when investigators discovered that the bank account into which the SBA's money had been deposited had been used to fund a cashier's check for nearly \$50,000 and payable to a car dealership in Eastern Oregon. That raised eyebrows.

The jig was already up, however, before federal investigators could even make their way to Eastern Oregon to make inquiries about that dubious transaction. On August 21, 2020, within ten days of the SBA's misdirected deposit, defendant had been arrested for fleeing a traffic stop in his new (to him) Dodge Challenger Hellcat. During the chase, he had blown through two stop signs and maintained illegal and unsafe speeds, all without a valid driver's license. (Indeed, the episode occurred while defendant was on probation for his *previous* conviction for driving without a valid license the year before.) This vehicular misadventure resulted in defendant's convictions for drunk driving and fleeing a police officer in the above-referenced Baker County case, yielding a state sentence of nineteen months' imprisonment. Defendant is due to be released on that sentence in December.

Federal investigators interviewed defendant in the Baker County Jail in early September while he was awaiting resolution of the Baker County case. During that interview, he forthrightly admitted that he had gotten the money for the Hellcat (as well as \$30,000 that he was carrying when he was arrested) through a woman he had met that spring on Facebook but had never met in real life. The woman, who went by the name “Angelina Walter,” had obtained his bank account information by offering to send him some money for his phone bill. More recently, she had told defendant that she needed to use his account to receive funds from her father’s trust, and soon thereafter the SBA’s deposit had appeared. Defendant immediately recognized that the deposit was from the U.S. Government, however, and ultimately determined that it must have been a fraudulently procured EIDL after researching the payor designation online. Realizing what “Angelina” was up to, defendant refused to send her the SBA’s money. But he decided to spend it himself, embarking on the automotive shopping spree that ended up with him in state prison and convicted before this Court of stealing government money.

The United States subsequently seized the Hellcat and the cash pursuant to a warrant issued by this Court, as well as another \$20,000 that defendant’s ex-girlfriend withdrew from his account after his arrest. The forfeiture of those assets has been administratively concluded, and thus no forfeiture order is necessary at sentencing.

II. GUIDELINES APPLICATION AND RECOMMENDED SENTENCE

Base Offense Level (USSG § 2B1.1(a)(2))	6
Enhancement for loss exceeding \$95,000 (USSG § 2B1.1(b)(1)(E)).....	8
Adjustment for Acceptance of Responsibility (§ 3E1.1)	-2
Total Offense Level	12
<u>Defendant’s Criminal History Category</u>	<u>VI (22 points)</u>

The foregoing Guideline calculation yields an advisory sentencing range of 30 to 37 months' imprisonment. Pursuant to the parties' plea agreement and in light of defendant's eager acceptance of responsibility and expedited resolution of the matter, as well as the fact that defendant innocently received the stolen funds rather than stealing them himself, the government recommends a two-level downward variance. Such a variance would result in an advisory Guideline range of 24 to 30 months' imprisonment.

As recited in the parties' plea agreement, the government joins defendant in recommending a 24-month sentence. Both parties believe that this sentence would properly have been imposed to run concurrently, however, and thus recommend that it be adjusted pursuant to U.S.S.G. § 5G1.3(d) to reflect the time defendant has already served in state custody and for which he cannot receive credit toward a concurrent sentence. Taking account of approximately thirteen months in state custody and assuming he would otherwise be eligible for 15% good-time credit on the time he could have served in federal custody following his arraignment on February 10, 2021, the parties agree the prospective sentence to be imposed in this case should be ten months' imprisonment. That sentence should run concurrently with his undischarged state sentence, leaving approximately eight months to be served in federal custody.

In addition to serving a prison term, defendant must pay restitution. See 18 U.S.C. § 3663A(a)(1), (c)(1)(B). The parties agree that defendant owes restitution to SBA in the amount of \$125,200—the total amount he withdrew from his bank account despite knowing the funds belonged to the United States.

Defendant should also be ordered to serve a three-year term of supervised release. As defendant's extensive criminal history makes clear, his return to society will require extensive structure and support to ensure he does not relapse on alcohol—or get too close to the steering

wheel of a car. The United States Probation Office can assist defendant in establishing such structure and support and help ensure he avails himself of them. *The government recommends that the proposed conditions of supervision include a prohibition on his driving any vehicle without the prior written permission of his probation officer.*

III. CONCLUSION

For the foregoing reasons, defendant should be sentenced to a concurrent sentence of ten months' imprisonment, followed by a three-year term of supervised release under the conditions recommended by the Probation Office and the additional condition he not drive without permission, and ordered to remit \$125,200 in mandatory restitution for the benefit of the Small Business Administration.

Dated: September 8, 2021

Respectfully submitted,

SCOTT ERIK ASPHAUG
Acting United States Attorney

/s/ Ryan W. Bounds

RYAN W. BOUNDS, OSB #00012
Assistant United States Attorney