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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,)	CASE NO. 21-CR-00143-CRB
14 Plaintiff,)	UNITED STATES' SENTENCING
15 v.)	MEMORANDUM
16 CAESAR OSKAN,)	Hearing Date: February 23, 2022
17 a/k/a Sezer Ozkan)	Time: 10:00 a.m.
18 Defendant.)	Judge: Hon. Charles Breyer

19 **I. INTRODUCTION**

20 In April and May of 2020, while the COVID-19 pandemic was devastating families and businesses
21 across the country, Caesar Oskan submitted fraudulent applications for Paycheck Protection Program
22 (PPP) loans and Economic Injury Disaster Loans (EIDL) loans and Advances and received \$1.7 million
23 in funds. Caesar is a day-trader and used much of the fraudulent proceeds to invest in cryptocurrency.
24 Caesar took advantage of the availability of government funds to aid small businesses struggling due to
25 the pandemic for his own personal gain.

26 Caesar started paying back his PPP loans in July 2020, even before he was aware of the
27 government's investigation into his conduct. Since a search warrant was executed at his home in
28

1 September 2020, Caesar has been very cooperative. He participated in multiple interviews, quickly
2 admitted to his conduct, and voluntarily forfeited funds sufficient to pay back his fraudulent PPP and
3 EIDL loans before he pleaded guilty. *See* ECF 5 (under seal due to bank information). On May 19, 2021,
4 Caesar pleaded guilty to Count One in the Superseding Information charging him with making a false
5 statement to a financial institution in violation of 18 U.S.C. § 1014. *See* ECF 7.

6 In recognition of Caesar's cooperation, the government recommends a below-Guidelines
7 sentence of 27 months' imprisonment, a fine of \$50,000 dollars¹, 3 years' of supervised release,
8 restitution in the amount of \$1,493,904.00 (+ any interest), forfeiture of any profits derived from
9 investing the fraudulent funds in cryptocurrency in an amount to be determined before sentencing, and a
10 special assessment.

11 **II. BACKGROUND**

12 **A. Caesar's PPP and EIDL Loan Fraud Scheme**

13 In March 2020, Caesar began submitting fraudulent applications to two federal relief programs
14 designed to protect employees and provide financial relief for small business suffering due to the
15 COVID-19 pandemic. PSR ¶ 6. PPP loans are administered by the Small Business Administration
16 (SBA) through approved lenders and are designed to assist small business owners with expenses such as
17 payroll costs, rent, and utilities so that businesses can maintain their workforce during the COVID-19
18 crisis. The loan money comes directly from the approved lenders to the applicant and is guaranteed by
19 the SBA. To qualify for a PPP loan, the applicant's business must have been in operation on February
20 15, 2020, have employees, and have average monthly payroll costs. Further, the applicant may not have
21 been currently delinquent, or defaulted within the last 7 years, on a direct or guaranteed loan from SBA
22 or any other federal agency.

23 EIDL loans and Advances are administered and funded by the SBA. EIDL Advances are
24

25 ¹ The government recommended the maximum fine of \$1 million dollars in the related
26 prosecution of Caesar's twin-brother, Ester Oskay. In that case, the maximum fine was appropriate
27 because of the \$6 million dollar cryptocurrency fortune Ester accumulated by using the fraud proceeds
28 to pay off other expenses, leaving his cryptocurrency untouched. These funds were not forfeitable
because they were not directly traceable to the fraud. Here, even though the fraud amount is larger, a
smaller fine is justified because Caesar will be forfeiting the profits he earned from investing the funds
in cryptocurrency and the government is not aware of any substantial additional assets.

1 designed to give emergency assistance to small business that are experiencing a temporary loss of
 2 revenue due to the COVID-19 pandemic. EIDL Advances are completely forgivable emergency grants
 3 up to \$10,000 that are issued almost immediately at the time of the application. EIDL loans are issued
 4 up to \$150,000 per entity. Applicants for EIDL Advances and loans must meet the same above-
 5 mentioned criteria as PPP loans.

6 Caesar knew that the PPP and EIDL loans were intended to assist small businesses struggling
 7 due to the COVID-19 pandemic. PSR ¶ 15. Nevertheless, in March and April of 2020, Caesar submitted
 8 the following fraudulent PPP and EIDL loan and Advance applications and received a total of
 9 \$1,719,504 in fraudulent funds (PSR ¶ 7):

Loan Type	Borrower Name	Lender	Loan Amount
PPP	Bake and Wrap LLC	Fountainhead SBF	\$98,600.00
PPP	Bake and Wrap LLC	Customers Bank	\$22,137.00
PPP	Bake and Wrap LLC	Customers Bank	\$22,137.00
PPP	CNK Commerce LLC	Bank of America	\$41,700.00
PPP	Comfort Plus Transportation LLC	Redwood CU	\$94,900.00
PPP	CTC Trade LLC	Customers Bank	\$268,719.00
PPP	Fast Food Plus LLC	Customers Bank	\$11,872.00
PPP	Fast Food Plus LLC	Customers Bank	\$11,872.00
PPP	Fast Food Plus LLC	Cache Valley Bank	\$127,500.00
PPP	Healthy Comfort Food LLC	Customers Bank	\$225,676.00
PPP	HHL Products Sales LLC	Customers Bank	\$17,247.00
PPP	Pide LLC	Customers Bank	\$52,372.00
PPP	SKD Commerce LLC	Customers Bank	\$166,018.00
PPP	SKD Commerce/ SKD Product Sales LLC	BSD Capital LLC	\$155,000.00
EIDL	Bake and Wrap LLC	Small Business Administration (“SBA”)	\$112,500.00
EIDL	CNK Commerce LLC	SBA	\$64,500.00
EIDL	Comfort Plus Transportation LLC	SBA	\$129,000.00
EIDL	CTC Trade LLC	SBA	\$150,000.00

1	EIDL	Fast Food Plus LLC	SBA	\$11,500.00
2	EIDL	Healthy Comfort Food LLC	SBA	\$150,000.00
3	EIDL	SKD Commerce LLC/SKD Product LLC DBA SKD LLC	SBA	\$47,000.00
4				
5	EIDL Advanc e	Fast Food Plus	SBA	\$8,000.00
6				
7	EIDL Advanc e	CTC Trade	SBA	\$10,000.00
8				
9	EIDL Advanc e	Healthy Comfort	SBA	\$10,000.00
10				

11 For several of the fraudulent applications, Caesar registered completely fictitious businesses with
12 the California Secretary of State for the sole purpose of obtaining the fraudulent PPP or EIDL loan.
13 PSR ¶ 8. Caesar then modified the California Secretary of State documents to make it appear as though
14 the business was created prior to February 15, 2020, which is the date by which a business must have
15 been operational by to qualify for a EIDL or PPP loan. *Id.* Caesar also created fake IRS tax documents,
16 such as IRS Form 940s (Employer's Annual Federal Unemployment (FUTA) Tax Return) and IRS W-3s
17 (Transmittal of Wage and Tax Statements), which he created by downloading PDFs off the internet and
18 filling them in. These fake IRS tax documents contained false statements regarding the number of
19 employees, the payroll costs, and the wages paid to employees, among other things, for the various
20 businesses he used to submit fraudulent PPP and EIDL applications. Caesar misrepresented the number
21 of employees and the payroll costs because he knew that the amount of the PPP and EIDL loans was tied
22 to the number of employees employed by a business and the payroll costs associated with a business.
23 Caesar also misrepresented information regarding the date of creation and whether the businesses were
24 operational on the PPP and EIDL applications he submitted that involved the fictitious business he
25 created.

26 Count One in the Superseding Information (ECF 6) charges Caesar with making a False
27 Statement to a Financial Institution in violation of 18 U.S.C. § 1014 in relation to his fraudulent
28 application for a \$268,719 PPP loan on behalf of CTC Trade LLC. The application was submitted on

1 June 1, 2020 to Customer's Banks, a bank that is insured by the Federal Deposit Insurance Corporation
2 (FDIC). PSR ¶ 10. On the PPP loan application, Caesar stated that CTC Trade LLC was created prior to
3 February 15, 2020 and was operational, that it employed 17 employees, and that it had an average
4 monthly payroll of \$107,468. *Id.* Each of these statements was false; CTC Trade LLC was a fictitious
5 company created on May 6, 2020 solely for the purpose of submitting a fraudulent loan application.
6 Caesar also created and submitted a fraudulent IRS Form W-3 for the year 2019. *Id.*

7 The money Caesar received from the fraudulent loan applications was initially deposited into
8 various bank accounts. PSR ¶ 12. \$579,191.16 of the fraud proceeds received was still in these accounts
9 when the search warrant was executed in this case. *Id.* Caesar paid back \$105,600 of the loans before he
10 became aware of the federal investigation into his conduct. Caesar loaned \$120,000 to his twin-brother,
11 Ester Oskay, who was simultaneous engaged in similar PPP and EIDL fraud. Both brothers claim they
12 did not coordinate their fraud schemes and although the cases are related, they have not been charged as
13 co-defendants. Ester agreed to add the \$120,000 loan to his restitution amount and already forfeited the
14 funds sufficient to pay it. Caesar invested the rest of the money in cryptocurrency and traded it
15 extensively. *Id.*

16 **B. Procedural Background**

17 A search warrant was executed at Caesar's house in September 2020. In November 2020 Caesar
18 was interviewed multiple times by law enforcement and the U.S. Attorney's Office regarding his fraud.
19 Caesar admitted to his criminal conduct and has been cooperative throughout the investigation. On May
20 12, 2021, Caesar was charged in the Superseding Information with one count of False Statement to a
21 Financial Institution in violation of 18 U.S.C. § 1014 and the Court ordered, pursuant to the parties'
22 stipulated consent forfeiture agreement, that \$1,493,904.00 in assets located in various bank accounts, an
23 attorney trust account, and a Coinbase account be forfeited to the United States to pay restitution in this
24 case. ECF 5. On May 19, 2021, Caesar waived indictment and pleaded guilty pursuant to a plea
25 agreement to Count One in the Superseding Information.

26 **C. Sentencing Guidelines Calculation**

27 The guideline for a violation of 18 U.S.C. § 1014 is USSG §2B1.1. The base offense level is 7.
28 Because the Caesar caused pecuniary losses of more than \$1,500,000, a 16-level increase pursuant to

1 U.S.S.G. § 2B1.1(b)(1)(G) is required. Because Caesar derived more than \$1,000,000 in gross receipts,
2 an additional 2-level increase is warranted. After a reduction for acceptance of responsibility, Caesar's
3 final adjusted offense level is level 22. The parties and Probation agree on this calculation. The PSR
4 scores Caesar's CHC as II. The resulting advisory guideline range is 46-57 months imprisonment.

5 **D. Restitution**

6 On May 12, 2021, the Court ordered, pursuant to the parties' stipulated consent forfeiture
7 agreement, \$1,493,904.00 in assets located in various bank accounts, an attorney trust account, and a
8 Coinbase account be forfeited to the United States to pay restitution in this case. ECF 5. The agreed-
9 upon restitution amount of was calculated by taking the total fraud proceeds (\$1,719,504), subtracting
10 the amount that Caesar had already paid back (\$105,600) and further subtracting the loan he gave to
11 Ester (\$120,000.00), which Ester has paid back as part of the judgment in his case. The forfeited funds
12 are currently in IRS custody and will be paid back to the victim banks once judgment in this case is
13 entered. The government has contacted the victim banks for loan pay-off statements as Caesar may also
14 owe interest in an amount to be determined on the outstanding PPP and EIDL loans.

15 **E. Forfeiture**

16 The parties are working to determine the precise amount of any profits that Caesar realized from
17 investing the fraud proceeds in cryptocurrency. Caesar has been cooperative and is assisting the
18 government in its efforts. The parties expect that they will agree to an amount and submit it to the Court
19 at sentencing.

20 **III. LEGAL STANDARD**

21 The Court should impose a sentence sufficient, but not greater than necessary, to reflect the
22 purposes of sentencing that Congress identified in 18 U.S.C. § 3553(a)(2): to "reflect the seriousness of
23 the offense, promote respect for the law, and provide just punishment; to afford adequate deterrence; to
24 protect the public; and to provide the defendant with needed educational or vocational training, medical
25 care, or other correctional treatment." *United States v. Carty*, 520 F.3d 984, 991 (9th Cir. 2008). The
26 Court should begin the process of determining an appropriate sentence by calculating the correct
27 sentencing range under the Guidelines. *Id.* After determining the appropriate Guidelines calculations, the
28 Court should then evaluate the sentence for substantive reasonableness in light of the factors set out in

1 Section 3553(a). *Carty*, 520 F.3d at 991–93. In arriving at the appropriate sentence for the defendant, the
2 Court should consider the factors set forth under 18 U.S.C. § 3553(a) applicable to this case, to include:

- 3 (1) the nature and circumstances of the offense and the history and characteristics of the
4 defendant;
- 5 (2) the need for the sentence imposed to reflect the seriousness of the offense, to promote
6 respect for the law, and to provide just punishment for the offense;
- 7 (3) the need for the sentence imposed to afford adequate deterrence to criminal conduct;
- 8 (4) the need to avoid unwarranted sentence disparities among defendants with similar records
9 who have been found guilty of similar conduct.

10 **IV. ARGUMENT**

11 A sentence of 27 months’ imprisonment, a \$50,000 dollar fine, 3 years’ supervised release, and
12 restitution of \$1,493,904.00 (plus any interest), and forfeiture in an amount to be determined is
13 sufficient, but not greater than necessary considering the 3553(a) factors.

14 **A. The government’s recommended sentence adequately reflects the nature and 15 circumstances of the offense and the characteristics of the offender.**

16 Caesar used the COVID-19 pandemic as a tool for his own personal gain. The government made
17 PPP and EIDL loans easily available so that struggling small businesses could quickly get the money
18 they needed to stay in business and keep paying their employees during an unprecedented shut-down of
19 activity. Caesar took advantage of this time of national hardship and uncertainty to commit fraud, not
20 just once, but 24 times. Caesar created multiple completely fictitious businesses to aid in the fraud. This
21 conduct is extremely serious and justifies a 27-month custodial sentence.

22 Despite the seriousness of the offense, the government is recommending a below-guidelines
23 custodial sentence of 27-months because of Caesar’s cooperation and willingness to take responsibility
24 for his actions. Caesar paid back some of his loans and attempted to re-pay others *before* he learned that
25 he had been caught. Since the search warrant was executed on his home, Caesar has been cooperative,
26 remorseful, and eager to re-pay his PPP and EIDL loans. Caesar voluntarily forfeited the money
27 sufficient to pay restitution in May and pleaded guilty shortly after. Caesar’s cooperation warrants a
28 below-guidelines term of imprisonment.

