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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

UNITED STATES OF AMERICA

3:21-cr-00167-SI

v.

**GOVERNMENT'S SENTENCING
MEMORANDUM**

ERIC WADE LYSNE,

Defendant.

Defendant Eric Wade Lysne has a terrible criminal record. At just thirty-five years of age, he has already been arrested thirteen times, yielding seven felony convictions and three misdemeanors—not counting the instant case and felony theft charges still awaiting trial in Clark County, Washington. At the time he committed the offenses at issue here, Lysne was on supervision following prison terms imposed in two different state cases.

The earlier of these cases, Deschutes County Circuit Court case #16CR76925, arose from his misuse of a victim's identity in the fall of 2016 to obtain a rental car by fraud. Lysne was found several weeks later in the stolen vehicle, surrounded by drug paraphernalia and several stolen or counterfeit credit cards in two victims' names. He received a sentence of 30 months' imprisonment for that misadventure. Undaunted, Lysne stole a thousand-dollar electric generator from Costco in April 2019, just a few months after his release from prison in the earlier

case. That heist earned him a conviction for Theft in the First Degree in Washington County Circuit Court case #19CR26074, and a sentence of 13 months more in the state penitentiary. He emerged from state custody at the end of 2019, just weeks before the United States confronted the COVID-19 pandemic and the cascading series of lockdowns, business closures, and economic dislocations that ensued.

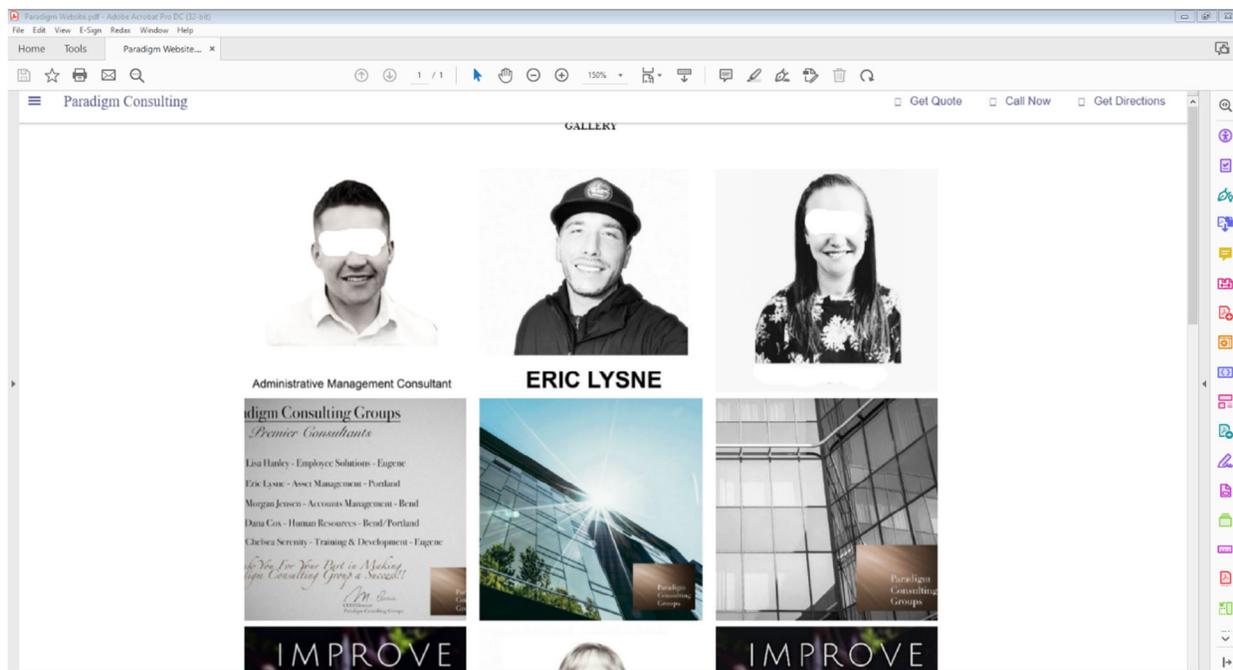
This case arises from Congress’s efforts to minimize the long-term impacts of the COVID-19 crisis through enactment of the CARES Act, among other legislation, and Lysne’s complex, yearlong scheme to take advantage of the resulting relief programs for his own personal enrichment. That scheme, as Lysne now admits, yielded nearly \$360,000 in Economic Injury Disaster Loans (“EIDLs”) and Paycheck Protection Program (“PPP”) loans, eligible to be forgiven and—if he’d had his way—never to be repaid. It was not a bad haul for someone who had spent most of his adult life in custody or under criminal supervision.

Because Lysne was deterred by neither personal scruple nor the substantial, back-to-back prison terms he had just served, this Court should impose a far more serious prison term than his most recent ones—both to protect the community from Lysne’s persistent financial predations and to deter others who may be lured by the easy money of federal disaster-relief programs. The government therefore recommends a sentence of 46 months’ imprisonment.

I. LYSNE’S OFFENSES AND PROCEDURAL BACKGROUND

As recounted in the Indictment and the parties’ plea agreement (ECF Nos. 1, 22), Lysne defrauded the SBA and four privately owned PPP lenders between May 2020 and April 2021 by filing applications for disaster-relief loans that featured numerous material falsehoods. The most brazen of these was his repeated certification that he himself had not been convicted of a felony or a fraud offense in the preceding five years. But the applications were also distinguished by

the sophisticated artifices Lysne used to give his bogus businesses an air of legitimacy: He applied to the IRS for an Employer Identification Number (“EIN”) for a straw company he called “Paradigm Consulting Groups”; he registered the company with Oregon’s Secretary of State; he created a fancy website (a portion of which is depicted below) and a matching email domain name; and he ginned up and submitted bogus tax filings to the victim lenders, reflecting robust (and purely fictional) revenues and payrolls.



As a result of his successful applications, Lysne caused fraud losses totaling \$360,467. (As part of the negotiated resolution of this case, the parties agreed to forgo consideration of Lysne’s unsuccessful applications.) He squandered some \$185,100.00 of that sum on travel, living expenses, cars, and illegal drugs.

Lysne was arrested on May 25, 2021, following the return of the indictment in this case. The indictment came less than a month after Lysne had applied to the SBA for an additional \$302,600 in federal disaster assistance for a fictitious company doing business as “Paradigm

Agriculture.” That application, mercifully, was denied. During a post-arrest interview, Lysne forthrightly admitted his misdeeds and disclosed how he’d spent the money he had stolen.

Lysne remained in the U.S. Marshal’s custody until he was released to enter drug treatment on July 20, 2021. Since his release, Lysne has regained his sobriety and complied with his conditions of supervision. He negotiated a plea agreement with the government and entered guilty pleas to the charges against him on November 4, 2021.

II. GUIDELINES APPLICATION AND RECOMMENDED SENTENCE

Base Offense Level (USSG § 2B1.1(a)(1))	7
Enhancement for loss > \$250,000 (USSG § 2B1.1(b)(1)(G))	12
<u>Enhancement for sophisticated means (USSG § 2B1.1(b)(10))</u>	<u>2</u>
Total Offense Level	21
Adjustment for Acceptance of Responsibility (§ 3E1.1)	-3
Adjusted Offense Level	18
<u>Defendant’s Criminal History Category</u>	<u>VI (15 points)</u>

The foregoing Guideline calculation—again, accounting only for *successful* frauds—yields an advisory sentencing range of 57 to 71 months’ imprisonment. Pursuant to the parties’ plea agreement and considering defendant’s prompt admission of culpability and waivers of discovery, motions, and appeal, however, the government recommends a two-level downward variance from the Guideline range and a low-end sentence of 46 months’ imprisonment on each count. The Probation Office concurs in this recommendation.

A sentence of 46 months, which is roughly equivalent to the total of Lysne’s two most recent prison sentences, is required in this case “to reflect the seriousness of the offense, . . . to promote respect for the law, . . . to provide just punishment” and—perhaps most important in this context—“to afford adequate deterrence to criminal conduct.” 18 U.S.C. § 3553(a)(2)(A)-(B).

General deterrence is essential to protecting the integrity of emergency programs like those created by the CARES Act. They were designed—necessarily—to get money to people and businesses in need as quickly as possible. In times of national calamity, the government must be able to aid to its citizens expeditiously and with minimal delays from bureaucratic scrutiny. And yet it is precisely the lack of scrutiny that Lysne so adroitly exploited. Others will be tempted to do the same in the wake of future disasters if the criminal justice system fails to demonstrate that serious penalties will be imposed when they are caught.

In addition to imprisonment, the defendant must pay restitution for the moneys he stole from the SBA, in the case of the EIDL and advance he received, and from participating lenders, in the case of PPP loans. *See* 18 U.S.C. § 3663A. The parties have stipulated that the proven extent of those losses totals \$360,467. The government agrees with the payment schedule recited in the Presentence Investigation Report (PSR ¶ 95) but urges the Court to order restitution to the SBA for accrued pre-judgment interest on the EIDL as well. That interest totals \$9,645.98 through the date of sentencing.¹

Finally, because defendant must discharge a substantial financial obligation and is admittedly addicted to multiple illegal drugs, he should be ordered to serve a three-year term of supervised release for Count 1 and a five-year term for Count 2. The term of supervised release should be served under the conditions recommended by the Probation Office.

III. CONCLUSION

For the foregoing reasons, defendant should be sentenced to 46 months' imprisonment followed by 5 years of supervised release under the conditions recommended by the Probation

¹ The Court has already entered a forfeiture order and money judgment for \$185,100 in fraud proceeds.

Office and ordered to remit a total of \$370,112.98 in mandatory restitution for the benefit of the SBA and the PPP lenders named in the PSR.

Dated: March 2, 2022

Respectfully submitted,

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/s/ *Ryan W. Bounds*

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