

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 21-60126-CR-RAR**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**GOUSMAN LEMY,**

**Defendant,**

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**DEFENDANT GOUSMAN LEMY'S SENTENCING MEMORANDUM  
AND REQUEST FOR AN ALTERNATIVE SENTENCE**

Defendant, **GOUSMAN LEMY**, through undersigned counsel respectfully submits this Sentencing Memorandum and Request for an Alternative Sentence and as grounds therefore, states as:

**I. INTRODUCTION:**

Gousman Lemy is a 43-year-old native of Haiti who emigrated to the United States in 1993 where he settled in Massachusetts and eventually became a naturalized U.S. citizen. Recently, he relocated with his three children to Broward County, Florida. This year, Mr. Lemy was awarded sole custody of his minor son, Aijwoun Lemy (age 13), from his second marriage after an extremely contentious and protracted divorce/custody battle where the court found the mother to be an unfit caretaker. His two adult daughters from his first marriage, April Lemy (age 23) and Aaliya (age 20) reside with him in Weston, FL, however, Aaliva is currently attending the University of Massachusetts-Amherst. All three children are financially dependent upon Mr. Lemy who receives no monetary assistance from either mother. Despite their differences, Mr.

Lemy's first wife, Marie Betty Alexandre and he have developed a very good relationship since their divorce approximately fifteen (15) years ago. In fact, Ms. Alexandre has written a letter of support for Gousman which is attached to this pleading as part of Composite Exhibit. Mr. Lemy has and currently owns and operated two small wholesale automobile businesses which involve two agents operating under Mr. Lemy's automobile license and who would purchase used/pre-owned vehicles at car/truck auctions. He opened Lgous Auto Sale, LLC. in 2007 located in Massachusetts, and Auto Sales of Florida, LLC in 2016, a Florida LLC, the latter of which has since been administratively dissolved in September 2021. Each business had commercial bank accounts associated with the respective entities.

As the Court will glean from the Composite Exhibit volume of letters of support, Gousman has been and continues to be a dedicated and amazing parent, family member and great friend to so many. The recurrent theme throughout this outpouring of support is that Gousman Lemy is someone that so many people have depended upon for financial, emotional, love and spiritual support; always giving of himself so that others can benefit from his guidance and assistance. Perhaps in his zealously to assist and take care of others, at some point Gousman's moral compass lost direction and he began to exercise a lack of prudent judgment by way of some extremely unfortunate and unwise decisions which led him to the crossroads he finds himself at today.

I have gotten to know Gousman quite well in the last year and throughout our many discussions I find him to be extremely remorseful, embarrassed, and regretful as to the horrendous decisions he made which he immediately accepted full responsibility for upon his arrest. He has been debriefed by the Government and has been ready, willing, and able to assist in any potential investigations and/or prosecutions of others that he may have knowledge of. In fact, Gousman has

provided the Government with the name of the individual who essentially prepared the documentation for submission to obtain the PPP and EIDL loans. This individual has apparently been soliciting and “assisting” an inordinate number of other individuals/businesses in obtaining PPP/EIDL loans more than likely by creating false and fraudulent documentation in support of their applications such as done for Mr. Lemy. The information that Gousman furnished is by no mean intended to diminish or deflect responsibility by Gousman, but simply to inform the Government that this individual was charging a hefty fee for his unscrupulous work and appears to be “flying under the radar.”

As to the offenses charged, Mr. Lemy has admitted to them by way of his guilty plea to an Information, Rule 11 Plea Agreement and the Factual Proffer he signed. He has remained on bond since his arrest and has been fully compliant with the conditions of his release.

Pursuant to *U.S. v. Booker*, 543 U.S. 220 (2005), the federal sentencing process has adopted a three-step approach. (See Fed. R. Crim. P. 11(M), amended December 1, 2007, and Amendment 741 of the Sentencing Guidelines, effective November 1, 2010). First, the Court is to determine the *advisory* guideline range. With that said, the written Plea Agreement, at paragraph 10 states the parties agree the applicable guideline is § 2B1.1 and the base offense level is 6, neither an aggravating nor mitigating role adjustment applies, and there is a 3-level decrease for Mr. Lemy’s complete and timely acceptance of responsibility. The agreed amount of intended loss is \$1,823,267.00 which mandates a 16-level increase for a loss exceeding \$1,500,000.00 but less than \$3,500,000.00.<sup>1</sup> In addition the parties agreed to a two (2) level enhancement for sophisticated means pursuant to 2S1.1(b)(10) as well as a two (2) level increase as Mr. Lemy was convicted under

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<sup>1</sup> The PSR reflects a total offense level 23, but it is disputed that he be considered in a criminal history category II, but rather category I, and should have an *advisory* guideline range of 46 to 57 months.

18 U.S.C. §1956 pursuant to 2S1.1(b)(2)(B). We will respectfully ask this Court to consider the amount of money (believed to be well below the intended loss) that law enforcement agents were not able to freeze, seize or recover by law enforcement from the proceeds of the underlying offenses. It is this amount that should be considered as the actual loss resulting from Mr. Lemy's criminal conduct as a § 3553 factors (the nature and circumstances of offense) in fashioning a "reasonable but not greater than necessary" sentence in this case while fully recognizing that he is responsible for restitution in the amount of \$1,823,267.00.

Second, the Court is to consider if there are any factors that may warrant a departure from the *advisory* guideline range. As before *U.S. v. Booker*, 543 U.S. 220 (2005), the court is to depart when it is warranted under the facts and circumstances of a particular case. "The application of the guidelines is not complete until the departures, if any, that are warranted are appropriately considered," *U.S. v. Jordi*, 418 F. 3d 1212, 1215 (11<sup>th</sup> Cir. 2005). The PSR fails to identify any factors that may warrant a downward departure from the *advisory* guideline range. Although Mr. Lemy believes such factors do exist, through counsel, he will ask this Court to consider them as sentencing factors under 18 USC § 3553(a).

Lastly, the Court is to consider all the sentencing factors of 18 USC § 3553(a) and impose a sentence which is "reasonable" and not greater than necessary to achieve the sentencing objectives set forth in 18 USC § 3553(a). As set forth more fully below, Mr. Lemy, through counsel, believes there are factors worthy of this Court's consideration.<sup>2</sup>

## **II. SENTENCING SUBMISSION AND REQUEST FOR ALTERNATIVE SENTENCE:**

Gousman Lemy has pled guilty to conspiracy to commit money laundering, in violation of 18 USC §1956(h). The PSR suggest a total offense level 23, and as a criminal history category

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<sup>2</sup> "The parties are free to argue for sentencing variances per 18 USC § 3553(a)."

II, the *advisory* guideline range is 46 to 57 months. There has been no request for a downward departure under Chapter Five of the guidelines.

Notwithstanding the above, this Court is fully aware the guidelines have been *advisory* since 2005, *U.S. v. Booker*, 543 U.S. 220 (2005), followed by *Gall v. United States*, 128 S. Ct. 586, and *Kimbrough v. United States*, 128 S. Ct. 558, both decided on December 10, 2007. *United States v. McBride*, 511 F. 3D 1293 (11<sup>TH</sup> Cir. 2007), made clear that district courts are only required to give “some weight” to the advisory guidelines, as they are to the other 18 USC §3553 factors. To that end, through counsel, offers the following:

**Speedy Resolution of Criminal Liability:** Gousman Lemy was arrested in this case in early on August 6, 2020 and shortly thereafter was willing to accept responsibility for his actions. Despite the impact of COVID-19 on our legal system, Government counsel was gracious and willing to provide pre-arraignment essential discovery so that the parties could work towards a negotiated plea in this case upon the filing of an Information in lieu of Indictment. The Defendant then plead guilty and was adjudicated guilty on September 1, 2021. As stated earlier, Gousman attempted to cooperate with the Government during a debriefing and has done all he could to quickly resolve his criminal liability in this case and is prepared to cooperate further if requested.

**History and Characteristics of Defendant:**

**1. Gousman Lemy’s Personal and Family History:**

The following are select excerpts from some of the seventeen (17) character attestation letters attached hereto as Composite Exhibit Character Attestation Letters (1-17) and which best describe Gousman’s character and the life he has lived:

**Paul Clancy, Esq. (letter #1)** - *I have known Mr. Gousman Lemy for over fifteen years, as I have represented him in matters out of the Brockton District Court, Hingham District Court and Plymouth County Probate and Family Court. During my representation of Mr. Lemy I have witnessed,*

*first hand, what a wonderful, thoughtful and caring father he is to his three children. Mr. Lemy has gone through great lengths to provide for his three children, who are completely dependent upon him, and him alone.*

*Mr. Lemy has gone through two divorces, where custody was a highly contested issue. As a result, both of his former spouses sought restraining orders and criminal complaints, out of the Brockton District Court and the Hingham District Court in an attempt to advance their respective probate matters.*

*Without making excusing for Mr. Lemy, because quite frankly, there are none, I think he found himself in a position where he was unable to provide for his children in a way they may have become accustomed to, while in his care and custody. However, he now has come to the realization that his actions not only affect him, but his three children, who rely dearly upon him.*

**Marie Betty Alexandre (letter #3)** – *I would like to introduce myself as Marie Betty Alexandre, working in the position of a wellness nurse care manager at Sunrise senior Living. Gousman Lemy and I were married for seven years; he is my ex-Husband. He is a very hard-working person and everyone in my family has immense respect for him. He is a cheerful and a very helpful person.*

*We have two kids together, and he is an excellent father to my kids. He makes sure that our kids have the best education. Our first daughter is a graduate from Framingham State University, and our second daughter is in her third year of college at UMASS Amherst. He is the one that supported them both throughout their years in high school and college. Gousman is a wonderful human being, he also helps me financially with my other kids, who are not his kids. He even helped me go back to school to become a nurse. Gousman Lemy plays a great role in my life and my kids' life, without him I don't know where we would be. He interacts*

*with our children in various capacities. Gousman is patient and understanding with our children and also his son, he was born to be a father.*

*I believe I am in a position where I can honestly speak on Gousman's moral character. I hope you will take this letter into account when making your decision. Gousman is, in short, a noble man and good-hearted. He has always been kind and generous to others. Gousman has a strong sense of duty, which he applies to his family and other people around him. He also possesses a great deal of integrity and constantly strives to make sure he is doing the right thing for his kids and family.*

**April Lemy (Letter #6)** - *When asked about who I am grateful for in life there is no doubt that, that is my father. Not many people in their lifetime get to experience having someone that they can count on whenever they need them, have their backs, or just be supportive. I'm glad I have a father who does all that and more for me. There is no doubt that he loves his children and will do anything for us. I don't know where I would be or what I would be experiencing in life if I didn't have my father around.*

*One of the qualities I really love about my father is how supportive he has been to me. I remember when I first told him how I wanted to be a fashion designer when I was about ten or eleven and a few weeks later he found a sewing school for me. He has always believed in me even when I didn't believe in myself. Because he believed and supported my dream. I went to school for fashion design and graduated and earned my bachelor's degree. My father would always encourage me to start my own business and always express that he was always there to help whenever I needed it.*

*I've always known my father to be a very giving person. He is always there whenever someone needs help with anything. For instance, he's helped my cousin pay for her school and always been like a father figure to her because her biological father was absent from my life. My father would even help my mother sometimes even if they weren't on the best of terms. His family definitely depends on him a lot, he's always been a provider.*

*I can keep going on all the good things my father has done for me and my family but like every person in this world he is not perfect. He has made mistakes but those mistakes don't define the*

*amazing man and father he is now.*

**Guichard Noel (letter #8)** - *I have known Gousman Lemy my whole life. He is a cousin, but more like my brother. Throughout my life, Mr. Lemy has been a protector and provider when needed. I once live with him in Boston Massachusetts. Being new to the country, Mr. Lemy dedicated much of his time ensuring I was adjusting and, on a path, to be successful. During this time, we grew much closer and for that I am forever grateful for his guidance and mentorship*

*Mr. Lemy is one of the best men I know. Anyone who knows my cousin will say he is kind, loyal, and dependable. The type of man to give his last to anyone in need. He is the father of three amazing children (April, Aaliyah, and Aijwoun). For many years, he has been his children's only place of stability, as well as their financial provider and their emotional counselor. He provides for his elderly mother and aunt who depend on him financially and physically and provides clothing, food, shelter, and many other everyday essentials to our family in Haiti. Devastation does not begin to explain what his children and family would feel if he were taken away from them. Simply put, Mr. Gousman Lemy is everyone's everything.*

*On today, while writing this letter, I am saddened by the thought that the situation Gousman put himself in will cost many heart ache and hard times. On many occasions Mr. Lemy has expressed his deepest remorse and has learned a lot from this experience.*

**Conclusion:** Throughout these letters as well as the many other attached, the resounding common thread is that Gousman is a very giving individual, whether it be raising his three children, helping raise his nieces and nephews as well as assisting friends, and his extremely generous time, attention and financial commitment to those in his native country of Haiti who have been suffering greatly and are in desperate need of assistance. From everything I have gleaned from the people closest to Gousman, he is a selfless, caring and extremely cherished person whose only desire and motivation is not based on greed, but rather grounded in intense, burning desire to help those in need. Whatever money he has legitimately

earned over the years, has been consistently earmarked towards the benefit of others. I strongly believe that the measure of this man is rooted in the amazing things he has consistently demonstrated that he has done for others, and not these unfortunate transgressions that he allowed himself to get caught up in and which will haunt him for the rest of his life.

Gousman Lemy is well aware that in fashioning a “reasonable” but not greater than necessary sentence in his case, this Court must consider the nature and circumstances of the offense, 18 USC § 3553(a)(1). Gousman accepted responsibility for his involvement in these offenses, he signed a written Plea Agreement and Factual Proffer, and he pled guilty. the Factual Proffer and the Offense Conduct section of the PSR. With that said, he has done all he could to quickly resolve his criminal liability in this case and he remains profoundly remorseful. He also continues to remain available to the government for additional cooperation should it be requested.

Subsequent to *Booker*, this Court must also consider the history and characteristics of the defendant, 18 USC § 3553(a)(1). Despite what the Court may view as numerous prior arrests, almost every one of these incidents were dismissed by the prosecuting authority or the court. Therefore, we ask that the Court not consider these arrests as carrying much weight in defining Mr. Lemy. Furthermore, we ask this Court to consider that as a result of accepting responsibility and pleading guilty to the Information, that he will remain a convicted felon for the remainder of his life, he will be incarcerated to some extent, and he will be subject to a restitution order which will require him to make payments for many years. Gousman Lemy’s punishment in this case will have a far-reaching impact on his life and his children beyond any term of incarceration imposed by this Court. With that said, we ask this Court to consider a sentence which will not separate him from his family any longer than is reasonably necessary.

WHEREFORE, Defendant, Gousman Lemy, prays that this Honorable Court favorably consider this Sentencing Memorandum and Request for an Alternative Sentence and deviate below the advisory guidelines to a sentence below the advisory guideline range.

Respectfully submitted,

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By: /s/ Peter S. Heller  
Peter S. Heller, Esq. (Fl. Bar No. 402222)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 28, 2021, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notice of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ Peter S. Heller