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 10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,
 14 Plaintiff,
 15 v.
 16 JEANETTE BERNADETTE PAREDEZ,
 17 Defendant.

ED CR No. 20-603-JAK

UNITED STATES' SENTENCING POSITION

SENTENCING DATE: July 15, 2021, at
 8:30am

19 Plaintiff United States of America, by and through its counsel
 20 of record, the Acting United States Attorney for the Central District
 21 of California and Assistant United States Attorney Benjamin J. Weir,
 22 hereby files its Sentencing Position.

23 The government's Sentencing Position is based upon the attached
 24 memorandum of points and authorities, the files and records in this
 25 case, the Presentence Report, and any other evidence or argument that
 26 the Court may wish to consider at the time of sentencing.

27 ///

1 The government reserves the right to file a response to any
2 sentencing position filed or submitted by defendant and to file any
3 supplemental sentencing position(s) that may be necessary.

4 Dated: July 1, 2021

Respectfully submitted,

5 TRACY WILKISON
6 Acting United States Attorney

7 SCOTT M. GARRINGER
8 Assistant United States Attorney
9 Chief, Criminal Division

10 JERRY C. YANG
11 Assistant United States Attorney
12 Chief, Riverside Branch Office

13 /s/ Benjamin J. Weir

14 BENJAMIN J. WEIR
15 Assistant United States Attorney

16 Attorneys for Plaintiff
17 UNITED STATES OF AMERICA

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. INTRODUCTION**

3 Defendant Jeanette Bernardette Paredez ("defendant") was
4 employed by the Cal Poly Pomona Foundation, Inc. ("CPPF") from 2000
5 through 2020 as an accounting specialist. As part of her job, she
6 was responsible for receiving, verifying, and authorizing payment of
7 invoices. Defendant created fraudulent invoices, which were issued
8 in the name of defendant's mother, that were purportedly received for
9 work performed on CPPF's behalf. However, no such work was ever
10 performed. Nevertheless, defendant approved payment on the invoices
11 and caused CPPF to make \$925,486.99 in fraudulent payments to
12 defendant's mother. Defendant received the bulk of these funds.

13 In addition to bilking CPPF, defendant failed to pay federal
14 income taxes on her ill-gotten gains. For tax years 2013 through
15 2019, defendant underreported her income by a total of \$807,741.80.
16 This resulted in a tax loss to the federal government of \$180,027.

17 Defendant was indicted on December 2, 2020, and subsequently
18 pleaded guilty to violating 18 U.S.C. § 1341 (Mail Fraud) and 26
19 U.S.C. § 7206(1) (Making and Subscribing to a False Income Tax
20 Return). The United States Probation and Pretrial Services Office
21 ("PPSO") has issued a Presentence Report ("PSR") (Dkt 29). The PSR
22 calculates a total offense level of 20, a criminal history category
23 of I, and a guidelines sentencing range of 33 to 41 months'
24 imprisonment. (Dkt 29 at 3).

25 The government has no objections to the facts contained within
26 the PSR, the guideline calculations, or the criminal history
27 category. However, the government additionally recommends a two-
28 level downward variance for early acceptance during a global pandemic

1 which lessened the burden on the judicial system.

2 If the Court grants the government's request for a two-level
3 variance, the new total offense level would be 18. This would result
4 in a guideline range sentence of 27 to 33 months' imprisonment. The
5 United States respectfully recommends that the Court impose a
6 sentence of 27 months' imprisonment, restitution to the CPPF in the
7 amount of \$925,486.99, restitution to the Internal Revenue Service in
8 the amount of \$180,027 (for a total restitution amount of
9 \$1,105,513.99), three years of supervised release, and the mandatory
10 \$200 special assessment.

11 **II. BACKGROUND**

12 On December 2, 2020, defendant was indicted on five counts of
13 violating 18 U.S.C. § 1341 (Mail Fraud), and six counts of violating
14 26 U.S.C. § 7206(1) (Making and Subscribing to a False Income Tax
15 Return) (Dkt. 1). On February 18, 2021, defendant's plea agreement
16 was filed with the Court. (Dkt. 2.) On March 4, 2021, defendant
17 pleaded guilty to counts 5 (mail fraud) and 11 (False Income Tax
18 Return), which carry maximum sentences of 20 and 3 years,
19 respectively. (Dkt. 29 ¶ 1.)

20 During the change of plea hearing, and in the factual basis of
21 the plea agreement, defendant admitted that:

22 From approximately 2000 to February 2020, defendant was employed
23 by CPPF in Los Angeles County. Defendant served as an accounting
24 specialist for the Kellogg West Conference Center and Hotel ("Kellogg
25 West"), a facility that CPPF owned and used for conventions and
26 events, also in Los Angeles County. Defendant's responsibilities as
27 an accounting specialist included receiving invoices from Kellogg
28 West vendors, verifying the invoices, and authorizing payment of the

1 invoices. Defendant was then responsible for ensuring that the
2 invoices were entered into the CPPF processing system that generated
3 payments for those invoices.

4 Scheme to Defraud

5 Beginning in July 2010 and continuing through February 2020, in
6 Los Angeles County, defendant, knowingly and with intent to defraud,
7 devised, participated in, and executed a scheme to defraud CPPF as to
8 material matters, and to obtain money from CPPF, by means of
9 materially false and fraudulent pretenses, representations, and
10 promises, and the concealment of material facts.

11 The fraudulent scheme operated and was carried out, in
12 substance, in the following manner:

13 • Defendant entered, or caused to be entered, her mother,
14 A.D., into the CPPF processing system as a Kellogg West vendor.
15 Defendant generated fraudulent invoices stating that A.D. had
16 performed services for Kellogg West, which was owned and operated by
17 CPPF, when, in fact, A.D. had not performed any such services for
18 either Kellogg West or CPPF. Defendant authorized payments on those
19 fraudulent invoices and entered the invoices into the CPPF processing
20 system that generated payments on the invoices. Defendant took hard
21 copies of the fraudulent invoices intended for payment to A.D. to the
22 CPPF Accounting Department.

23 • In reliance on the fraudulent invoices, the CPPF Accounting
24 Department generated checks drawn from a Wells Fargo Bank checking
25 account ("CPPF Wells Fargo account") and made payable to A.D.
26 ("fraudulent checks"). Defendant picked up the fraudulent checks
27 from the CPPF Accounting Department, or the CPPF Accounting
28 Department mailed the fraudulent checks to defendant at Kellogg West.

1 • Defendant would then have the fraudulent checks mailed to
2 A.D.'s address in Rowland Heights, California, where she would pick
3 them up. Defendant forged A.D.'s signature to endorse the fraudulent
4 checks. Defendant deposited the fraudulent checks with the forged
5 endorsements into a joint JPMorgan Chase Bank, N.A. checking account,
6 ending in 9900 and held by defendant and A.D. ("Chase Bank Account
7 9900").

8 • Defendant used the funds deposited in Chase Bank Account
9 9900 for her own mortgage payments, credit card payments, cash ATM
10 withdrawals, and personal purchases.

11 As a result of this scheme, checks totaling approximately
12 \$925,486.99 were deposited in Chase Bank Account 9900.

13 On or about January 15, 2016, defendant mailed or caused the
14 mailing of a check in the amount of \$2,874.55, made payable to A.D.,
15 and drawn from the CPPF Wells Fargo account.

16 On or about January 26, 2017, defendant mailed or caused the
17 mailing of a check in the amount of \$2,897.03, made payable to A.D.,
18 and drawn from the CPPF Wells Fargo account.

19 On or about January 16, 2018, defendant mailed or caused the
20 mailing of a check in the amount of \$2,997.81, made payable to A.D.,
21 and drawn from the CPPF Wells Fargo account.

22 On or about January 11, 2019, defendant mailed or caused the
23 mailing of a check in the amount of \$4,998.55, made payable to A.D.,
24 and drawn from the CPPF Wells Fargo account.

25 On or about January 22, 2020, defendant mailed or caused the
26 mailing of a check in the amount of \$4,998.99, made payable to A.D.,
27 and drawn from the CPPF Wells Fargo account.

28

Personal Income Tax Returns for Years 2013 Through 2019

In addition, in San Bernardino County, defendant willfully made and subscribed to materially false United States Individual Income Tax Returns, using either Form 1040 or 1040A (the "tax returns"), for calendar years 2013 through 2019, which defendant verified by written declarations, stated that the declarations were made under penalty of perjury, and filed and caused to be filed the tax returns with the Internal Revenue Service. In making, subscribing, and filing the tax returns, defendant did not believe them to be true and correct as to every material matter contained therein. Specifically, defendant falsely claimed in the tax returns, which she filed jointly with her husband, that her total income received during the indicated calendar years was the amount indicated below, when, as defendant then knew, her total income received during the indicated calendar years was substantially more than the amount of total income she claimed, as indicated below:

Year	Total Income Reported	Total Income Received	Unreported Income
2013 (tax return filed on 2/7/2014)	\$33,181.00 (reported in Form 1040A)	\$93,787.62	\$60,606.62
2014 (tax return filed on 2/6/2015)	\$34,428.00 (reported in Form 1040A, line 15)	\$100,880.12	\$66,452.12
2015 (tax return filed on 2/12/2016)	\$81,331.00 (reported in Form 1040A, line 1)	\$161,818.51	\$80,487.51
2016 (tax return filed on 2/10/2017)	\$83,788.00 (reported in Form 1040, line 22)	\$185,554.70	\$101,766.70
2017 (tax return filed on 2/23/2018)	\$92,383.00 (reported in Form 1040, line 22)	\$212,715.65	\$120,332.65

1	2018 (tax return filed on 2/21/2019)	\$90,366.00 (reported in Form 1040, line 6)	\$243,603.12	\$153,237.12
2				
3	2019 (tax return filed on 2/21/2020)	\$99,054.00 (reported in Form 1040, line 7(b))	\$323,913.08	\$224,859.08
4				
5	Total	514,531.00	\$1,322,272.80	\$807,741.80

6
7 In total, defendant underreported her income by \$807,741.80 on
8 her returns, resulting in a tax loss of \$180,027.

9 **III. SENTENCING GUIDELINES CALCULATION**

10 The PPSO has determined that defendant has a total offense level
11 of 20, which is based upon a base offense level of seven pursuant to
12 U.S.S.G. § 2B1.1(a) (1), plus 14 levels based on the loss amount
13 pursuant to U.S.S.G. § 2B1.1(b) (1) (H), plus two levels for her
14 abusing a position of trust pursuant to U.S.S.G. § 3B1.3, minus three
15 levels for acceptance of responsibility under U.S.S.G. § 3E1.1. (PSR
16 ¶¶ 31-42). The PPSO also determined that defendant has zero criminal
17 history points, which results in a Criminal History Category I. (PSR
18 ¶¶ 44-47.) The government concurs with the PPSO's offense level
19 calculation and the criminal history category. As discussed below,
20 however, the United States additionally moves for a two level
21 reduction for defendant's early acceptance of responsibility during a
22 global pandemic. Should the court grant this request, the total
23 offense level would be 18.

24 **IV. THE GOVERNMENT'S POSITION**

25 **A. ABUSE OF POSITION OF TRUST ENHANCEMENT**

26 U.S.S.G. § 3B1.3 provides that a plus two enhancement applies if
27 a defendant abused a position of private trust. Application Note 1
28 states that this applies if the defendant has "professional or

1 managerial discretion," which is shown when the defendant is "subject
2 to significantly less supervision than employees whose
3 responsibilities are primarily non-discretionary in nature."

4 Here, defendant had been given a position of trust regarding her
5 employer's finances and took advantage of that trust. Defendant was
6 employed as an accounting specialist. (Dkt. 29 ¶ 13.) She was
7 responsible for verifying invoices and authorizing payment for those
8 invoices. (Id. ¶ 14.) After she authorized payment, invoices were
9 entered into an accounting system that would generate payment for
10 those invoices. (Id.) As part of the scheme, defendant created
11 fictitious invoices, entered them into the accounting system, and
12 approved payment for those fraudulent invoices. Defendant stated in
13 her interview with the probation officer that she was able to operate
14 her scheme because she was "given so much authority" and was "not
15 being monitored." (Id. ¶ 24.)

16 The plus two enhancement for abuse of position of trust should
17 be applied. Defendant was given authority over her employer's
18 coffers, and readily took advantage of that authority.

19 **B. THE RECOMMENDED SENTENCE IS REASONABLE GIVEN THE HISTORY**
20 **AND CHARACTERISTICS OF THE DEFENDANT**

21 Defendant's criminal conduct was serious and protracted. She
22 designed, and carried out, a scheme that bilked her employer (a non-
23 profit, public-benefit charitable-educational organization) out of
24 nearly \$1 million. The scheme was not quick; defendant engaged in
25 this conduct for nearly ten years. She also failed to report her
26 ill-gotten gains as income on her federal income tax returns for tax
27 years 2013 through 2019. She thus shirked paying \$180,027 in federal
28 income taxes over these six years.

1 In mitigation, defendant has no previous criminal history. She
2 also readily admitted her conduct shortly after indictment, thereby
3 significantly saving judicial and prosecution resources during a
4 global pandemic.

5 **C. Restitution**

6 Defendant agreed to make full restitution to the CPPF
7 (\$925,486.99) and the Internal Revenue Service (\$180,027) in her plea
8 agreement for a total amount of \$1,105,513.99. (Dkt. 22
9 ¶¶ 2(i); 11.) Restitution should thus be award in these amounts. 18
10 U.S.C. § 3663A; U.S.S.G. § 5E1.1.

11 **D. Two-Level Variance for Early Acceptance During the Global
12 Pandemic**

13 Based on the agreement between the parties (Dkt. No. 99 ¶ 4(e))
14 and the nature of defendant's acceptance of responsibility, the Court
15 should apply a two-level downward variance to further reduce
16 defendant's total offense level. This variance is appropriate
17 because of defendant's early acceptance of responsibility at a time
18 when the justice system was in an unprecedented crisis associated
19 with a global pandemic and a backlog of cases.

20 **V. CONCLUSION**

21 The government respectfully recommends that the Court impose a
22 sentence of 27 months' imprisonment, three years of supervised
23 release, and a mandatory special assessment of \$200.

CERTIFICATE OF SERVICE

I, Stephanie Ascencio, declare:

That I am a citizen of the United States and a resident of or employed in Riverside County, California; that my business address is the Office of United States Attorney, 3403 Tenth Street, Suite 200, Riverside, California 92501; that I am over the age of 18; and that I am not a party to the above-titled action;

That I am employed by the United States Attorney for the Central District of California, who is a member of the Bar of the United States District Court for the Central District of California, at whose direction I served a copy of: UNITED STATES' SENTENCING

POSITION

- | | |
|--|---|
| <input type="checkbox"/> Placed in a closed envelope for collection and inter-office delivery, addressed as follows: | <input type="checkbox"/> Placed in a sealed envelope for collection and mailing via United States mail, addressed as follows: |
| <input type="checkbox"/> By hand delivery, addressed as follows: | <input checked="" type="checkbox"/> By email delivery, as follows: <u>SEE ATTACHED</u> |
| <input type="checkbox"/> By messenger, as follows: | <input type="checkbox"/> By Federal Express, as follows: |

This Certificate is executed on **June 1, 2021**, in Riverside, California. I certify under penalty of perjury that the foregoing is true and correct.

/s/
Stephanie Ascencio
Legal Assistant

ATTACHMENT

U.S. Probation Officer Maytee Zendejas
maytee_zendejas@cacp.uscourts.gov

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