UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

UNITED STATES OF AMERICA v. MATTHEW SORENSEN	No. 15 CR 486-2 Judge Ronald A. Guzman

DEFENDANT MATT SORENSEN'S SENTENCING MEMORANDUM

Defendant Matthew Sorensen, through counsel, respectfully files this Sentencing Memorandum with three primary goals in mind:

(1) to present a far more complete picture of Matthew Sorensen than the format of the PSI permits;

(2) to present a far more complete picture of the circumstances of this case than the plea agreement, by definition, permits; and

(3) to discuss the Section 3553 factors the Court will consider in reaching Matt's sentence, including the parties' disagreement about the "sophisticated means" enhancement under the Advisory Guidelines.

I. MATTHEW SORENSEN

A. A Life of Public Service

Matthew Sorensen is 51 years old. He is married to Lisa Sorensen and has four children, ages 29 (Casandra), 22 (Hannah), 19 (Matthew), and 17 (Dane). Matt has lived since the age of six in the small neighboring communities of Leroy, Downs, and Bloomington, Illinois. Throughout his life, his core character traits have always been defined by his thoughtful, caring, and positive nature and his concern for others. As reflected in the numerous letters by those who know him best, his commitment to civic and charitable causes, to make his community better, has been extraordinary. The authors of the many letters written in support of defendant are effusive in their praise and description of defendant's character, particularly his warm and caring manner and actions, repeatedly emphasizing that his personality and commitment to others are

completely antithetical to the criminal conduct in which he engaged with his co-defendant, Navdeep Arora.[1]

Active in his community since at least age 15 (when he earned his Eagle Scout and became a national youth leader in the Boy Scouts of America) through the day he retired as the Chairman of the McLean County Board, it is simply impossible to overstate the degree to which Mr. Sorensen gave back to his community on a daily basis. In 1986, at the age of 20, Matt was awarded the National Distinguished Service Award from the Service Organization to the Boy Scouts of America. Matt continued to serve the Boy Scouts for seven years as a parent volunteer, two years as a Scout Master, and an additional seven years as either a District Commissioner, District Chairman, or Council Vice President. In 2013, the Council awarded Matt the adult service recognition award in their region, and in 2015, the national Boy Scouts of America awarded Matt a lifetime achievement award for outstanding service.

As a young man, Matt became active in many organizations beyond just scouting. He became active in the Kiwanis Club at age 22 and served as its President for two one-year terms. In 1990, at age 24, he helped found the LeRoy Civic Organization Inc., for which he served on the Board for six years and was an officer for three. Then, in 1992, when Matt was just 27, the 20-member McLean County Board appointed Matt to finish the term of a board member who had died. [2]

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[1] Mr. Sorensen requested that letters be sent directly to the Court. Some, but not all, of the letter-writers also sent a copy to Mr. Sorensen. Contemporaneously with this filing, Mr. Sorensen is providing to the Court, the Probation Department, and the Government, a notebook which contains a copy of each letter provided to him.

[2] Unlike the Cook County Board, the seats on the McLean County Board are not full-time, salaried positions. The part-time McLean County Board much more closely resembles a service board. General Members and Committee Chairs earned a stipend of approximately $165-$350 per month during the years that Matt served in those roles (never exceeding $4,000 per year), and the Chairman earned a stipend averaging in the $10,000-$15,000 range per year during the years Matt served. To put those amounts in perspective, the Chairman of the Cook County Board earns $170,000 per year.

The McLean County citizens then elected Matt to five four-years terms, in ’94, ’98, ’02, ’06, and ’12, as well as two-year term in ’10. Three times his peers on the Board elected him to serve as both the Chair of the Finance Committee and Vice-Chair of the Board, and then, in September 2007, when the then current Board Chair retired for health reasons, the Board members elected Matt to complete that term as Chairman. After he did so, his colleagues unanimously re-elected him in December 2008, 2010, 2012, and 2014 to continue to serve as Chair.

The entire time that Matt served on the McLean County Board, he nevertheless continued to stay active in numerous community organizations. Throughout the late ‘90s and early ‘00s, when his daughters were in scouting, Matt spent numerous years as a parent volunteer and then later served three terms on the Centrillia Council of the Girl Scouts of America. Active in his church since childhood, Matt served on the Church Council of Faith Lutheran Church (in Leroy, IL) from approximately 2006 through 2009. Matt was also active in:

> the McLean County Chamber of Commerce for approximately 16 years, and served on its Board of Directors for eight;
>
> the Bloomington-Normal Economic Development Council for 12 years, and served on its Board for almost nine; and
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> the McLean County Historical Society for five years, and served on its Board for 4.

This is an extraordinary amount of public service given the fact that in addition to his almost nightly duties as Chairman of the McLean County Board, Matt simultaneously served – in his role as County Chair – on three other governmental boards: the Metro Counties of Illinois (7 years); the Policy Board of the Downstate Illinois Job Training Council (8 years); and the Joint Education Committee for the three-county Regional Office of Education (8 years and Chairman for six).

Matt has been repeatedly lauded for the manner in which he served as Chairman of the McLean County Board and for the many accomplishments the Board achieved under his leadership. These accomplishments are set forth in detail in several of the letters that have been directed to the Court from Matt's Board colleagues. *See, e.g.*, Letters ## 3, 6, 11, 21, 22, 24. While we won't repeat all of those accomplishments here, we highlight two to emphasize the types of positive impact that Matt has had on his community through his service.

In 2006-07, Matt helped establish a Criminal Justice Coordination Council (CJCC) in McLean County, which led to the implementation of policies and programs intended to reduce the cycle time of cases in the court system and reduce overcrowding pressures on the McLean County Jail. Matt's efforts and those of other board members reduced the County's spend on outside jail services from $750,000 annually to less than $75,000 annually in just three years and then reduced that spend to zero for the next three. In 2014, Matt led the charge to enhance community mental health services in McLean County and to bring these vital issues to the forefront of public awareness. He appointed Special Advisory Committees to study the need for enhanced services and to identify and learn the best mental health practices being used around the country. Matt, along with other community leaders, attracted investment and grant dollars to the cause, including from the U.S. government. Matt worked to establish a local sales tax used exclusively to fund needed community-based mental health services and to enhance the capabilities of the local McLean County Jail to serve the growing need for behavioral health services.

In emphasizing Matt's extraordinary commitment to others, counsel does not intend to minimize the significance of his offense conduct or the regret and shame he has for that conduct. Rather, counsel submits that the life that Matt has lived outside his offense conduct must also be properly considered to determine an appropriate punishment that is "sufficient but not greater than necessary," as required by Section 3553.

B. State Farm, McKinsey, and Navdeep Arora

Matt Sorensen was a dedicated and loyal State Farm employee for more than 26 years. First hired in June 1985 as a temporary seasonal employee, Matt went on to work in the Data Processing and Tech Support Divisions, the Public Relations/Public Affairs Division, and then in 2001, was moved to the Management Planning and Information ("MPI") team, which primarily did internal consulting for the company. As part of his role on the MPI team, Matt worked closely with outside consultants, such as those from McKinsey. That job remained the same in his remaining years at State Farm, although his unit was moved into the Strategic Resources Division in 2005.

Matt first met Navdeep Arora in approximately 1996 or 1997 when Arora, who then worked as a consultant for McKinsey, began working on a project at State Farm. As Arora and Sorensen started to become friends, Arora immediately started lying to Matt about every aspect of his life in order to gain Matt's sympathy and trust. Among other things, Arora told Matt that:

(1) Arora was an orphan.
(In fact, we believe that Arora's parents were alive as recently as 2012.)

(2) Arora was an only child.
(In fact, we have since learned that Arora has a brother in Texas named Sandeep.)

(3) Arora had a son who has cystic fibrosis, and the high cost of Arora's son medical care added tremendous financial pressure on Arora.
(Arora in fact does have a son, Kevin, but on information and belief, Kevin has never had cystic fibrosis.)

(4) Arora stated that like Sorensen he too was born in 1966, so the two could celebrate their milestone 40th birthday together, which they did.
(On information and belief, Arora was born in 1964.)

(5) Arora graduated from Oxford and Cambridge.
(Arora in fact graduated from a university in India and from Kansas State University.)

Matt was the perfect target for Arora's schemes and manipulations because Matt Sorensen is the kind of person who would do anything for anybody in need. Arora soon started taking advantage of that fact, repeatedly sharing stories of his downtrodden life with Matt and asking Matt for

various favors tied to Arora's job at McKinsey, including assisting Arora on matters unrelated to the work that the two of them were performing jointly on State Farm matters.

As time progressed, Matt considered the two of them to be not just professional colleagues, but personal friends, and Matt did everything he could to try to be a supportive friend to Arora. He invited him to holiday dinners and family events. He took Arora house hunting in Bloomington. He drove him to and from Chicago on more than one occasion when Arora complained about a particularly stressful work schedule. He picked up medications for Arora and brought them to his hotel when Arora was sick. Quite simply, Arora ran his con on Matt, and Matt was an easy mark for Arora. Arora understood immediately that Sorensen was the kind of guy who provided endless support and loyalty to his friends; Arora saw this, and he used it.

None of this of course justifies or excuses Matt's decision to engage in the scheme with Arora when Arora offered it to him. None of it justifies or excuses taking money from McKinsey that Matt had not earned. Nevertheless, as Matt's counsel, I submit that it is still relevant, indeed important, to understand that Matt did not simply move from law-abiding, public-minded citizen to an admitted felon without a strong push from the new "friend" in his life, con man Navdeep Arora.

II. MR. SORENSEN'S OFFENSE CONDUCT

In 2003, Arora told Matt that he (Arora) knew of a way that Matt could make extra money for the work that he was doing to help Arora. And quite simply, Matt said yes to Arora's proposal to start sending invoices to McKinsey, to which he unquestionably should have said no. Over the next several years, Matt submitted to Arora invoices in the names of two small consulting firms with which he was affiliated, Andy's BCB and Gabriel Solutions, for work that was not in fact performed. Arora in turn submitted those invoices to McKinsey, which paid the invoices to Andy's BCB and Gabriel Solutions. Matt received a substantial portion of that money from those companies.

In February 2012, State Farm learned from McKinsey, among other things, that McKinsey's Managing Director Arora had been submitting false invoices to McKinsey and also directing that those invoices be billed to State Farm. McKinsey terminated Arora. State Farm terminated Matt. McKinsey suffered a loss in the range of $452-$490,000, of which Matt retained approximately $370,000. (For his part, Arora got credited with additional State Farm billings, on which his compensation was based. Almost immediately after discovering defendants' fabrication, McKinsey reimbursed State Farm in full, and State Farm suffered no actual loss from the offense conduct in this case.)

The government first approached Matt in 2012, and he was cooperative with the government during every step of their investigation. (Matt has also previously cooperated with the internal State Farm investigation. Indeed, it was Matt himself – and not McKinsey – who first brought Gabriel Solutions to State Farm's attention.) Matt produced documents to the government and gave an interview to FBI agents without counsel. Later, he retained counsel and was at one point in discussions with the Government about a potential prosecution deferral. In the Summer 2015, during the pendency of those discussions and unbeknownst to Matt and his counsel, the Government indicted Matt and Arora and kept the indictment under seal, never letting on to Matt or his counsel that he had been indicted or that a decision not to extend a potential prosecution deferral had been made. It was not until after Arora was arrested at Kennedy International Airport on Sunday, January 3, 2016 (trying to enter the country from England) that the Government finally informed Matt's counsel on January 4, 2016, that the Government had indicted Matt. Before counsel could even get off the phone with the Government, however, Matt learned from the online Reuters article (attached as Exhibit 1) that he had been indicted.

On January 12, 2016, Matt resigned from all of the boards with which he was associated, including the McLean County Board, on which he had served for more than 20 years. (As the Court is aware, even knowing of his offense conduct, numerous colleagues and citizens have extensively commented upon the community's loss of Matt's participation on the County Board.) Matt subsequently provided the Government with a formal proffer, agreed to plead guilty, pled guilty shortly thereafter, and agreed to wait for the Government to resolve its many issues with Arora, including whether there would be a trial or a plea.[3]

III. MANDATORY SENTENCING FACTORS OF § 3553(A).

As the Supreme Court has now repeatedly held, the primary touchstone for criminal sentencing must be the mandatory factors set forth in 18 U.S.C. § 3553(a) and not the advisory U.S. Sentencing Guidelines. *See*, *e.g.*, *Nelson v. United States*, 555 U.S. 350, 352 (2009) (*per curiam*) ("The Guidelines are not only *not mandatory* on sentencing courts; they are also not to be *presumed* reasonable.") (emphases in original). In fashioning a sentence that comports with this statutory mandate, the Court "may *not* presume that the Guidelines range is reasonable" but

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[3] Matt Sorensen repeatedly expressed to the Government his willingness to provide testimony related to Navdeep Arora. *E.g.*, Oct. 28, 2016 E-mail from Sorensen's counsel Stuart Chanen to ASA Sunil Harjani. There remained throughout the 5K1 discussions, however, a strong factual disagreement between Mr. Sorensen and the Government, a disagreement which continues to this day. The Government repeatedly insisted – and continues to state in its Sentencing Memorandum – that Matt helped Arora gain unauthorized and confidential insider information at State Farm and did so in order to assist Arora in obtaining State Farm consulting projects.

Although it likely cost him a 5K1 Government recommendation in his plea agreement, Matt Sorensen denied then and continues to strongly deny that he ever gave Arora a single piece of confidential or unauthorized State Farm information, tried to do so, or thought about doing so. The Government quotes emails on pages 4-5 of its sentencing memorandum, but without seeing those emails in context of the full email chain, in context of the full project being discussed, in context of the instructions Matt's bosses gave to Matt, and in the context of the full State Farm-McKinsey relationship with respect to each particular matter, it is ludicrous to assert that those emails *prove* – even by a preponderance – that Matt engaged in a scheme to give Arora insider information. The inferences the Government asks this Court to reach in this regard are simply not supported by the evidence. Both Mr. Sorensen and I are happy to address these allegations more specifically at the Sentencing Hearing if the Court would like us to do so.

instead "must make an individualized assessment based on the facts presented." *Gall v. United States*, 552 U.S. 38, 50 (2007). It is the Court's duty to "make its own reasonable application of the § 3553(a) factors, and to reject (after due consideration of) the advice of the Guidelines" if the result they suggest does not comport with the sentencing court's view of an appropriate sentence. *Kimbrough v. United States*, 552 U.S. 85, 113 (2007) (Scalia, J., concurring).

The Seventh Circuit has similarly stated that the sentencing court must impose an appropriate sentence under § 3553(a) "without any thumb on the scale favoring a guideline sentence." *United States v. Sachsenmaier*, 491 F.3d 680, 685 (7th Cir. 2007). The court's "choice of sentence, whether inside or outside the guideline range, is discretionary" and the court has substantial "freedom to impose a reasonable sentence" outside the advisory range. *United States v. Demaree*, 459 F.3d 791, 795 (7th Cir. 2006), *abrogated on other grounds by Peugh v. United States*, 133 S. Ct. 2072 (2013). A sentence below the advisory guideline range is appropriate as long as the reasons for selecting that sentence "are rooted in § 3553(a), sufficiently individualized to the circumstances of [the] case, and generally associated with sentencing leniency." *United States v. Wachowiak*, 496 F.3d 744, 745 (7th Cir. 2007).

Under § 3553(a), the district court's mandate is to impose "a sentence sufficient, but not greater than necessary, to comply with the purposes" as laid out in that statute. To ascertain such a sentence, the courts are directed to consider certain relevant factors, including:

(A) the history and characteristics of the offender;

(B) the nature and circumstances of the offense;

(C) the need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct;

(D) the need to provide just punishment for the offense;

(E) the need to afford adequate deterrence; and

(F) the need to protect the public from further crimes of the defendant.

18 U.S.C. § 3553.

Having already addressed Mr. Sorensen's history and characteristics (in Section I.A. above) and the nature and circumstances of the offense (in Sections I.B. and II above), we turn to the lone Guideline disagreement between the parties, which, as the Court will see, is an important component of avoiding unwarranted sentencing disparities.

C. The Need to Avoid Unwarranted Sentencing Disparities.

Having already addressed Mr. Soreness's history and characteristics and the nature and circumstances of the offense, we turn to the lone Guideline disagreement between the parties. Both the Government and the Probation Department request the Court to impose a two-level enhancement for "sophisticated means" under Guideline § 2B1.1(b)(10)(C) on the sole ground that GSI was a "fictitious entity," and that, at least in the Government's view, use of shell company automatically requires application of the sophisticated means enhancement. See Plea Agreement, Dkt.44, at ¶9.b.iii and PSI, at 8 ¶¶ 31-33. The Probation Officer, however, somewhat tempers its view regarding the enhancement when he wrote on page 2 of the Sentencing Recommendation that while he initially recommended the enhancement,

> this enhancement may overstate the sophistication of the conduct in that only one fictitious entity, Gabriel Solutions, was created or used, and the success in concealing the scheme over such a long period was due more to the role of Navdeep Arora in approving and concealing the fraudulent payments than the mere use of a fictitious entity.

USPO Sentencing Recommendation at 2, first paragraph. Moreover, as the Plea Agreement makes clear, Mr. Sorensen has never agreed that this enhancement is applicable, and he specifically reserved in the Plea Agreement the right to challenge the enhancement proposed by the Government. Plea Agreement, Dkt.44, at 6 (¶ 9.b.iii) and 7-8 (¶ 9.d).

There are two reasons the Guideline § 2B1.1(b)(10)(C) enhancement does not apply: (1) the evidence does not support the conclusion that GSI was a "fictitious" or shell company; and (2) even if GSI was a shell company (which it is not), it is incorrect as a matter of law that use of a shell company in a scheme *requires* a sophisticated means enhancement in every instance.[4]

1. GSI was an existing company at the time Arora proposed his scheme to Sorensen.

Matt Sorensen did not create Gabriel Solutions; Matt did not set up GSI to defraud McKinsey, and at no time was Gabriel Solutions a "shell company" as that term is used in the Commission Notes to the sophisticated means enhancement. The Government does not need to look past its own FBI reports to establish that GSI was created for a completely different purpose and although not an active company at the time several of the invoices were prepared, it was never a "shell company."

Early in the Government's investigation (August 28, 2012), the FBI interviewed Michael Eiter. The 302 first summarizes Eiter's stellar credentials – 16 years in U.S. Army with a tour of duty in Iraq, followed by seven years as a regional sales manager, which was then followed by service as a Major (full-time) in the Illinois Army National Guard (the "NAG"). Eiter then told the FBI agents that *he* started GSI in 2006 or 2007, that he is the 100% owner of, and President of, GSI, that he named Gabriel Solutions for his son Gabriel, and that his brother-in-law, Matt Sorensen, assisted him in setting up the business and was a subcontractor for GSI. Eiter stated that while he had hoped to expand the business after forming it, he ended up joining the NAG instead of running the business and did not invest further in growing the company. At the time of this interview, GSI was still registered to do business in Illinois in Eiter's name.

[4] Although these two arguments were unsuccessfully presented to the Government prior to the plea agreement, in fairness to Mr. Grooms, they were not timely shared with him prior to his preparation and distribution of the PSI. Therefore, like the Court, he is seeing these arguments for the first time.

Eiter also told the agents that he had organized business records for the company, but it appears that at that time the agents did not request to the see the organized business records to which Eiter had referred. In any event, the agents were already in possession of checks written on the GSI bank account. For example, the agents showed Eiter a December 2008 check from GSI to Eiter, which reimbursed Eiter for start-up expenses he had advanced and also to re-pay a small personal loan that Eiter had made to GSI to "get things going." Both Eiter and his wife Rebecca are signatories on that GSI checking account. Matt Sorensen has never been a signatory on that checking account. The FBI also confirmed that Eiter had received a "profit check" from GSI in January 2012 in the amount of $38,000 (check #223). The FBI also confirmed that Eiter purchased two laptops for GSI on his Discover card and later paid that portion of his Discover bill with a GSI check (check #213).

The Government has not offered any evidence to contradict its own 302, and the Government has not offered any evidence to suggest that the statements Mr. Eiter made to the FBI about GSI were false.

The FBI then re-interviewed Mr. Eiter more than two full years later, in October 2014, still more than 10 months before the Government sought Matt's indictment. This time Mr. Eiter was accompanied by a lawyer and therefore was no doubt very aware of his obligations to tell the truth and the potential penalties for not telling the truth under Section 1001. Eiter again made clear that GSI was *his* company, and that Matt's role in the company had been to assist him with incorporating the business, opening a bank account, and other paperwork to get the business going, and further that Matt had explained to Eiter the advantages of a C-corporation. (Mr. Eiter subsequently decided that Gabriel Solutions would be a C-corp.) Eiter also made clear in this second interview that he had paid the corporate taxes of the company and also sent IRS Form 1099s to both himself and Matt for the GSI compensation checks that had been written to them.

Somewhere near the middle of this second 302, however, the entire tone of the interview takes a dramatic shift. The FBI agent authoring the 302 begins to write a number of conclusory remarks that are simply not consistent with the evidence. For example, while it is true that Mike Eiter stated at this interview that Gabriel Solutions had no other clients other than McKinsey, the 302 is written in such a way as to ignore the fact that Eiter had previously been very clear that his original plan was to expand the business into other clients, but that he was never able to do so because he ended up joining the NAG instead and not growing the company. It also ignores the fact that in the very same 302 Eiter told them he had purchased three laptops for the company, one for his own administrative work and two "in anticipation of additional work for GS."

The 302 also attributes to Eiter the statement that "he never received any return on his [$3,000] investment," when in fact we know from the prior interview that the FBI walked Eiter through several checks that had been written to him, including one for $38,000, which Eiter described *as a dividend his company paid to him*, and another one for $4,736.31, *as profit that the company made*.

But then, an FBI Agent typed a "Statement" for Mr. Eiter to read to the grand jury. The statement begins by having Eiter repeat a number of things he had already said to the FBI – that he and Sorensen started GSI together, that GSI was a mutual decision between the two of them. The company was created as a vehicle for Eiter to make money and learn about business. Sorensen assisted Eiter in incorporating the company, setting up the paperwork, and opening a bank account. But then the Statement – just as the 302 had done before it – takes a wild U-turn, and Mr. Eiter begins to make statements that are inconsistent with the facts that he had specifically described to the FBI in the prior two interviews. Most specifically, the Statement states, "Based on my understanding and conversations with Sorensen, Gabriel Solutions was created specifically to do consulting with one client, McKinsey & Company." This is simply not consistent with what Eiter

had repeatedly said to the FBI in prior interviews, which was that the company was created to do consulting work with *multiple clients*, but due to his leaving the company for service in the National Guard, they were not able to grow the business, as planned. In short, the suggestion that the GSI was created as a shell corporation solely to engage in a "sophisticated scheme" to trick McKinsey is simply not supported by the Government's own evidence.

2. This scheme did not employ "sophisticated means" as that term is defined in the Guidelines and case law.

Moreover, even if the Government established that GSI did no other business other than with McKinsey, that hardly establishes that GSI as a shell company or that Arora and Sorensen used sophisticated means under either the Application Notes to Guideline § 2B1.1(b)(10)(C) or the Seventh Circuit's interpretation of that provision. The applicable Application Note states:

> Sophisticated Means Enhancement under Subsection (b)(10)(C).—For purposes of subsection (b)(10)(C), "sophisticated means" means especially complex or especially intricate offense conduct pertaining to the execution or concealment of an offense. For example, in a telemarketing scheme, locating the main office of the scheme in one jurisdiction but locating soliciting operations in another jurisdiction ordinarily indicates sophisticated means. Conduct such as hiding assets or transactions, or both, through the use of fictitious entities, corporate shells, or offshore financial accounts also ordinarily indicates sophisticated means.

Here, there is no good faith basis to assert that the scheme was "especially complex or especially intricate offense conduct." Indeed, the Government nowhere makes that required assertion and the Probation Office, while asserting it in the PSI, later acknowledges that the conclusion is fraught in light of other known factors about Arora's conduct.

Moreover, even if a shell, GSI was not used to "hide assets or transactions," which is the example that the drafters give in the Application Note. While GSI was definitely used to create false invoices, it was not used in the sophisticated manner that triggers the enhancement.

Most significantly, the Note states that even if an offender uses a "shell company" to "hide assets or transactions," such conduct "*ordinarily* indicates" sophisticated means, not that it

does in all circumstances. The Seventh Circuit's case law makes clear that the offender's scheme must be "notably more intricate than that of the garden-variety offense." *United States v. Maddox*, 551 Fed. Appx. 275 (7th Cir. 2014) (coconspirators defrauded federally insured banks by stealing corporate checks from the mail, incorporating shell companies with names similar to those on the checks, opening bank accounts in the new corporations' names, and withdrawing cash or purchasing cashiers' checks from those accounts or from the same individual's personal accounts, which they had hacked). *See also United States v. Bishop-Oyedepo*, 480 Fed. Appx. 431, 433 (7th Cir. 2012) (same).

Here, the indicted conduct is that Matt and Arora made up false invoices; Arora then submitted them to McKinsey (and that McKinsey in turn forwarded them to State Farm, at Arora's direction). This is hardly a sophisticated scheme or a scheme with sophisticated means, and in any event, it is highly distinguishable from the cases where the enhancement has been awarded, in which a complex series of interconnected fictitious companies and/or off-shore accounts were used. Perhaps most on point is the *Maddox* case cited above, where for every individual check that defendants stole they created an individualized fictitious company with a "like-sounding" name. Defendants then opened an individual bank account in the name of each fictitious company and made a separate deposit and withdrawal in the name of the fictitious company to gain the funds. Unlike that clearly sophisticated scheme, Mr. Sorensen has pled guilty to a garden-variety false billing scheme. There is nothing sophisticated about it. For this reason, Mr. Sorensen respectfully requests this Court not to adopt the 2-level enhancement that the Government and the Probation Office have recommended.

The parties are otherwise in agreement on the guideline calculations. If the Court were to omit the enhancement requested by the Government, then Mr. Sorensen's offense level is 16 and criminal history category of I, resulting in a sentencing guideline range of 21-27 months.

We have spent a lot of time on a guideline issue in a section that begins with the fact that the guidelines are merely advisory and the Court must apply the Section 3553 factors. We did so, however, because we believe that if the Court were to enhance Mr. Sorensen's guideline range to a level 18 and his presumptive guideline range to 27-33 months, this would not only be a guideline error but it would also create significant unwarranted sentencing disparities between Mr. Sorensen and other offenders who have no criminal history and a loss amount under $500,000. It is for this additional reason that we ask the Court to assign, for advisory purposes only, an offense level of 16 and a corresponding guideline range of 21-27 months.

D/E/F. The need to provide just punishment for the offense, to afford adequate deterrence, and to protect the public from further crimes of the Defendant.

In applying the final three factors to the three that have been discussed above, the Court is directed by Section 3553(a) to impose a sentence on Mr. Sorensen that is sufficient but "not greater than necessary" to provide for just punishment, adequate deterrence, and to protect the public from further crimes of this defendant. 18 U.S.C. § 3553(a)(2)(A-C).

As the Court is aware, the Government seeks a guideline sentence, but the U.S. Probation Office has recommended that taking all of these factors together, including Mr. Sorensen's personal history and characteristics, and the nature and circumstances of the offense, that the Court should sentence Mr. Sorensen to a term of imprisonment of a year and a day.

Defendant respectfully submits that the Court should also consider a sentence of probation with significant conditions, including consideration of home confinement and/or community service. While the Government makes clear that it strongly opposes such a sentence, at the same time, its statements that "[a] sentence involving no incarceration" would be insufficient and that a "custodial sentence" is warranted, at least suggests that a non-custodial sentence is in the realm of consideration. If the Court believes that a custodial sentence is required, Defendant certainly

agrees with the United States Probation recommendation that any period of incarceration longer than a year and a day would be greater than necessary to comply with the purposes set forth in Section 3553(a).

As for the specific issues of deterrence, recidivism, and just punishment, the need for specific deterrence is non-existent. It cannot reasonably be disputed that Matt poses no risk of recidivism. He has no criminal history and has demonstrated throughout his lifetime a sincere commitment to his fellow man. The circumstances that led to his criminal conduct are unique, and cannot be expected to be reasonably repeated in his lifetime, especially as he endures the public and private shame, embarrassment, and criminal consequences to which his conduct has led.

Second, the need for general deterrence has already been significantly served by the publicity that attended every part of this affair. The papers in Mr. Sorensen's community covered him being charged, covered him resigning from the County Board, covered him pleading guilty, all of which serve the goal of general deterrence. Any reasonable sentence that the Court gives Mr. Sorensen will also be covered and have the same deterring effect.

In sum, either a non-custodial sentence with significant conditions and community service obligations or a sentence of a year and a day would both achieve Sections 3553's goals of specific and general deterrence and just punishment, while any custodial sentence longer than a year and a day would be far greater than necessary to achieve a just punishment.

Conclusion

When a person has been convicted of fraud offenses there can be a reflexive tendency to assume that a significant period of incarceration should be imposed. In this case, however, justice does not correspond with that reflexive reaction. Matt takes full responsibility for the offense conduct in which he has engaged, and he will serve without rancor any sentence that this Court hands out. Respectfully, however, Mr. Sorensen's offense conduct must also be judged in

the light of the whole person. Matt Sorensen is not a man who discovered the joys of "public service" shortly after the FBI started sniffing around, nor is he a man who stole multi-millions of dollars and then asks for the Court's mercy because he has given millions of those dollars away to charity. This is a man who walked his true values day in and day out, always helping others and trying to make the world a better place as best he knew how; he then deviated significantly from those values; but we humbly request that the Court give his good works equal weight to the reprehensibility of his offense conduct when deciding what sentence to impose

Date: September 7, 2017

Respectfully submitted,

/s/ Stuart Chanen
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