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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 ANWER FAREED ALAM,
 17 Defendant.

ED CR No. 24-16-WLH

THE UNITED STATES SENTENCING
 POSITION CONCERNING DEFENDANT
 ANWER FAREED ALAM; EXHIBIT 1

Hearing Date: November 1, 2024
 Hearing Time: 9:00 a.m.
 Location: Courtroom of the
 Hon. Wesley L. Hsu

19 Plaintiff United States of America, by and through its counsel
 20 of record, the United States Attorney for the Central District of
 21 California and Assistant United States Attorney Courtney N. Williams,
 22 hereby files its Sentencing Position Concerning Anwer Fareed Alam.

23 This Sentencing Position is based upon the attached memorandum
 24 of points and authorities and Exhibit 1; the files and records in
 25 this case including the United States Probation and Pretrial Services
 26 Office's Presentence Investigation Report and Recommendation Letter;
 27 and such further evidence and argument as the Court may permit.

1 The United States respectfully requests the opportunity to
2 supplement its position or respond to defendant as may become
3 necessary.

4 Dated: October 18, 2024

Respectfully submitted,

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/s/

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

For almost three years, Anwer Fareed Alam ("defendant") and his co-schemer brother, filed over 13 thousand falsified insurance claims and profited over two million dollars at the expense of the United States Postal Service. They then used their ill-gotten gains to fund their lavish lifestyle purchasing high-end watches, expensive jewelry, and luxury duffle bags. Defendant has pleaded guilty to a violation of 18 U.S.C. § 1341.

On September 27, 2024, the United States Probation and Pretrial Services Office ("Probation") filed its Recommendation Letter ("RL," Dkt. 23) and Presentence Investigation Report ("PSR," Dkt. 24). The PSR calculated a total offense level of 18 and a Criminal History Category of I, resulting in a Guidelines range of 27 to 33 months' imprisonment. (PSR ¶¶ 42-61, 65-66, 119.)

To appropriately address the substantial harm that defendant has caused the government and the community, the United States respectfully requests that the Court impose a sentence of: (1) 27 months' imprisonment, (2) a three-year period of supervised release, (3) \$2,135,739.46 in restitution to the United States Postal Service, and (4) a \$100¹ in mandatory special assessment.

¹ The United States would recommend that the Court wait to determine whether defendant has the ability to pay a fine after he fully complies with all financial disclosure obligations. According to Probation, he has only partially completed his Personal Financial Statement and has partially provided supporting documentation including his personal and business bank statements. (PSR ¶¶ 106-107.) Also, Probation has not received all information regarding the defendant's financial status including his monthly expenses. Lastly, defendant did not provide Probation with a signed Authorization to Release Confidential Information. (*Id.*) Because the defendant has failed to fully provide all his financial information, the United

(footnote cont'd on next page)

1 This sentence is sufficient and no greater than necessary to
2 accomplish the goals of sentencing and fairly balances defendant's
3 history and characteristics, and the nature, circumstances, and
4 seriousness of the offense, among other things.

5 **II. FACTUAL BACKGROUND**

6 At his February 16, 2024 change of plea hearing, defendant
7 admitted to the following facts consistent with the factual basis of
8 the Plea Agreement. (Dkt. 6, "Plea Agreement," ¶ 10; see also PSR
9 ¶¶ 13-27.)

10 Between October 2016 and May 2019, defendant and his brother co-
11 schemer Yousofzay Fahim Alam ("Yousofzay Alam") participated in a
12 scheme to defraud the United States Postal Service ("USPS") out of
13 approximately \$2,367,033. Defendant and co-schemer Yousofzay Alam
14 purchased Priority Mail packages and postages from USPS that included
15 \$100 in insurance for the lost or damaged contents of a parcel.
16 Defendant wrapped empty packages or packages containing items of
17 little to no value, and then he sent those packages via Priority Mail
18 to fictitious recipients at fictitious addresses. Defendant used
19 aliases and fictitious business names as the sender for the packages
20 he sent via Priority Mail as part of the scheme. Defendant mailed
21 these packages knowing that he and co-schemer Yousofzay Alam intended
22 to file false insurance claims with USPS and claim that the packages
23 were either lost or damaged. After defendant sent the packages,
24 coschemer Yousofzay Alam submitted fraudulent insurance claims to
25 USPS via USPS.COM, falsely certifying that the packages contained

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27 States recommends the Court require defendant to comply with these
28 disclosures before making a determination about his ability to pay a
fine.

1 items of higher value than the packages contained and falsely
2 representing that the packages were lost and/or damaged in transit,
3 when, in fact, defendant and co-schemer Yousofzay Alam knew that
4 defendant had not actually shipped the items that co-schemer
5 Yousofzay Alam claimed had been lost or damaged, and that the claimed
6 value of the item lost or damaged far exceeded the actual value of
7 what defendant sent. To accompany the fraudulent insurance
8 application, co-schemer Yousofzay Alam also included fictitious
9 invoices that he created as well as pictures of goods that were not
10 actually in the Priority Mail parcels. As part of the application,
11 co-schemer Yousofzay Alam certified the validity of the insurance
12 claim although he knew the claims were false. Relying upon these
13 false representations as to the lost or damaged contents of the
14 Priority Mail packages, USPS issued insurance claim checks to
15 defendant or co-schemer Yousofzay Alam to cover the purported losses
16 up to \$100 in value plus the cost of the shipping. USPS sent these
17 claim checks to defendant and co-schemer Yousofzay Alam at various
18 addresses in Temecula, California to include their residential
19 addresses, their business address, and approximately 15 different
20 P.O. Boxes at two different post offices. Defendant and co-schemer
21 Yousofzay Alam deposited, or caused to be deposited, USPS insurance
22 checks into bank accounts controlled by defendant and/or co-schemer
23 Yousofzay Alam.

24 For the purpose of executing the scheme, on November 1, 2018, in
25 Riverside County, within the Central District of California defendant
26 and co-schemer Yousofzay Alam willfully caused an item to be placed
27 in an authorized depository for mail matter to be sent and delivered
28 by USPS. More specifically, USPS issued, and then mailed, a \$106.59

1 Priority Mail claim check #03112709359 in response to defendant's and
 2 co-schemer Yousofzay Alam's false and fraudulent insurance claim
 3 #5728231 that was submitted on October 30, 2018. Claim check
 4 #03112709359 was mailed to 42309 Winchester Road, Suite 1, Temecula,
 5 California. Defendant collected the check and then deposited it in
 6 his and co-schemer Yousofzay Alam's Wells Fargo account ending in
 7 1752 on or about November 27, 2018.

8 **III. THE PRESENTENCE INVESTIGATION REPORT**

9 On September 27, 2024 Probation issued its Recommendation Letter
 10 and disclosed the PSR to the Parties. (Dkts. 23, 24.)

11 **A. OFFENSE LEVEL**

12 In the PSR, Probation concluded that the appropriate offense
 13 level is 7. Probation's offense level calculation is as follows:

14 Base Offense Level:	7	U.S.S.G. § 2B1.1
15 Creating Risk of Death/Injury:	+16	U.S.S.G. § 2B1.1(b) (1) (I)
16 Acceptance of Responsibility:	-3	U.S.S.G. §§ 3E1.1(a), (b)
17 Zero Point Offender	-2	U.S.S.G. § 4C1.1
18 Total:	18	

19 (PSR ¶¶ 42-61.)

20 **B. CRIMINAL HISTORY CATEGORY**

21 The PSR concluded that defendant is in Criminal History Category
 22 I because of a criminal history score of zero. (PSR ¶¶ 64-68.)

23 **C. PROBATION'S RECOMMENDED SENTENCE**

24 The Guidelines range for a total offense level of 18 with a
 25 Criminal History Category I is 27 to 33 months' imprisonment. (PSR
 26 ¶ 119.) In its Recommendation Letter, Probation recommended the
 27 following sentence: (1) a low-end term of imprisonment of 27 months,
 28 (2) a three-year period of supervised release, (3) a mandatory \$100

1 special assessment, and (4) \$2,367,033 in restitution to the United
2 States Postal Service. (RL at 1-4.)

3 **IV. THE UNITED STATES' RECOMMENDED SENTENCE AND 3553(A) ANALYSIS**

4 The United States recommends the following sentence: (1) 27
5 months' imprisonment, (2) a three-year period of supervised release,
6 (3) \$2,135,739.46² in restitution to the United States Postal
7 Service, and a (4) \$100 in mandatory special assessments.

8 The United States believes this sentence appropriately balances
9 defendant's history and characteristics, the nature, circumstances,
10 and seriousness of the offense, and the need to promote respect for
11 the law, among other things.

12 **A. NATURE, CIRCUMSTANCES, AND SERIOUSNESS OF THE OFFENSE**

13 The defendant's conduct was serious. While it was not a
14 sophisticated scheme, it was deliberate and flagrant. Defendant had
15 an essential, integral role in the scheme. He, and his brother,
16 purchased Priority Mail packages and postage from USPS that included
17 \$100 in insurance for the lost or damaged contents of a parcel.
18 Defendant then wrapped empty packages or packages containing items of
19 little to no value, and then sent those packages via Priority Mail to
20 fictitious recipients at fictitious addresses. Defendant sent these
21 packages knowing that his brother would file a false claim.
22 Defendant, and his brother, also opened various post office boxes to
23 receive the postal checks issued pursuant to the insurance. And once
24 they received the money, both defendant and his brother went to the
25 bank to cash the checks. The money was often deposited into accounts

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28 ² As discussed below, the government has recalculated the
outstanding loss and it is less than previously believed. As such,
it is requesting this lower amount.

1 where both men had access to the money. This was not aberrant
2 behavior that occurred once or twice, but was consistent and
3 widespread fraudulent conduct. In fact, the defendant and his
4 brother completed these acts approximately 13,640 times over the span
5 of three years.

6 Once they received the money, it appears that they spent the
7 money on lavish luxury items. For example, in 2019, when law
8 enforcement executed a search warrant at the defendant's home, they
9 found approximately \$60,000 dollars in cash, and large quantity of
10 luxury consumer goods that include Patek Philippe watches, Chanel
11 handbags, Cartier gold chains, Apple MacBook Pro laptops, Louis
12 Vuitton bags and shoes, and other luxury items that retail for
13 thousands of dollars. (See Plea Agreement, Appendix A; PSR ¶ 30.)

14 Probation also noted some of defendant's luxury items in the PSR
15 after visiting his home. For example, she noted that a pair of Gucci
16 shoes were located next to the front door and multiple boxes of
17 jewelry in a safe in defendant's bedroom. (PSR ¶ 87.)

18 While having nice things is not a crime, defrauding the
19 government out of millions of dollars and using that money to buy
20 high-end luxury items most certainly is one. And the defendant's
21 sentence should reflect this illegal conduct. A sentence of 27-
22 months imprisonment is appropriate here and reflects the seriousness
23 of defendant's actions.

24 **B. DEFENDANT'S HISTORY AND CHARACTERISTICS**

25 Defendant is a college educated, multilingual, entrepreneur who
26 has been afforded every opportunity in life. (PSR ¶¶ 71-88.) He was
27 raised in a "traditional Afghan family" where his mother and father
28 have been married for over 50 years and live near him in Temecula,

1 California. (PSR ¶¶ 71, 74.) He told Probation that his parents
2 have a "healthy marriage" and "sacrificed everything" for their
3 family. (PSR ¶ 72.)

4 Despite coming from a loving and supportive family where all his
5 basic needs were met (PSR ¶ 76) and having the skills and resources
6 to maintain a legitimate and honest career (PSR ¶¶ 97-100), he and
7 his brother chose a life of crime. They chose to intentionally
8 defraud the United States year after year and would likely still be
9 defrauding the government had it not been for the efforts of the law
10 enforcement. (See PSR ¶ 31 (noting that \$7,439 in cash, computers
11 with the "fraud template", USPS labels and packaging materials, USPS
12 post office box keys, 155 pieces of mail containing USPS claims
13 checks, 100 empty USPS claims check envelopes were all found in the
14 defendant's Winchester Road business location).)

15 And while the length of the crime (approximately three years)
16 and the amount of money stolen from the government (approximately two
17 million) are aggravating circumstances warranting custodial time,
18 there are mitigating factors that warrant a low-end sentence. First,
19 the defendant has no other criminal convictions and has maintained
20 consistent employment throughout his life. (PSR ¶ 65.) Second, he
21 has a supportive wife and "close, kind, loving" relationship with his
22 siblings (PSR ¶ 74) and a positive relationship with his parents (PSR
23 ¶ 72). These familial connections will be beneficial for the
24 defendant upon release. Third, defendant also pleaded guilty early
25 and thus saved the United States valuable resources and time.

1 **C. NEED TO PROTECT THE PUBLIC, TO PROVIDE ADEQUATE DETERRENCE**
2 **AND JUST PUNISHMENT, AND TO PROMOTE RESPECT FOR THE LAW**

3 The United States' recommended sentence of 27 months'
4 imprisonment promotes respect for the law, protects the community,
5 and deters defendant and others who would seek to emulate defendant's
6 conduct. Defendant and other would-be white-collar criminals must be
7 shown that serious financial misconduct results in more than the
8 proverbial "slap on the wrist." This is even more essential when the
9 scheme runs for years and amasses millions of dollars in economic
10 loss. While the defendant and his brother defrauded the United
11 States Postal Service and not an individual, the consequences of
12 financial crimes are far-reaching and undermines the community's
13 faith in our governmental institutions. Thus, a low-end Guideline
14 sentence is thus appropriate to deter defendant, and others, from
15 engaging in similar conduct in the future.

16 **V. THREE YEARS OF SUPERVISED RELEASE SHOULD BE IMPOSED**

17 Because of the seriousness of defendant's criminal conduct, a
18 three-year period of supervised release is appropriate. Moreover,
19 and importantly, such a period provides time under supervision where
20 Probation can assure that defendant complies with his financial
21 obligations to pay the \$2,135,739.46 and special assessment.
22 U.S.S.G. § 5D1.1, comment. (n.3(A)) ("In determining whether to
23 impose a term of supervised release, the court is required by statute
24 to consider, among other factors: ... (iv) the need to provide
25 restitution to any victims of the offense.").

1 **VI. RESTITUTION**

2 The Court should order \$2,135,739.46 in restitution to the
3 United States Postal Service. In the Plea Agreement, defendant
4 agreed to pay restitution. (Plea ¶ 2.)

5 Defendant (Def. Pos. at 4) and Probation (PSR ¶ 33) agree that
6 restitution should be \$2,367,033. However, the United States Postal
7 Service has since provided an updated chart with the final
8 restitution amount. Restitution should be paid in the amount of
9 \$2,135,739.46. (Exhibit 1.) Accordingly, the Court should order
10 restitution in the amount \$2,135,739.46.

11 **VII. RESPONSE TO DEFENDANT'S SENTENCING POSITION**

12 In his sentencing position, defendant requests a split sentence,
13 9-months custodial time and 9-months of supervision and house arrest.
14 More specifically, he requests a minimal role reduction and a
15 reduction for expeditious resolution.

16 To support his request for a split sentence, defendant
17 misrepresents his post-discovery interaction with the United States,
18 incorrectly alleges the Guidelines do not properly evaluate his
19 conduct and crime and attempts to minimize the extent of his
20 involvement in the criminal scheme. The Court should reject his
21 request for a below Guidelines sentence and his request for
22 additional reductions.

23 First, the defendant claims that he worked with the government.
24 (Def. Sent. Pos. at 1.) This is patently untrue. The defendant has
25 never provided cooperation for the government or worked on behalf of
26 the government.³

27
28 ³ See Plea Agreement (Dkt 6) (containing no provisions regarding
cooperation).

1 Second, defendant seemingly tries to argue that the guidelines
2 "fail to consider the facts surrounding the offense or the
3 characteristics" of the defendant and suggests that the Guidelines
4 are too high. (Def. Sent. Pos. at 7-9.) Again, this is not true.
5 Not only do the Guidelines appropriately account for the seriousness
6 of the financial crime by including a sixteen-level enhancement for
7 loss amount, but also, the Guidelines take into consideration
8 defendant's background and criminal history by including a two-level
9 reduction for him being a zero-point offender, and a three-level
10 reduction for defendant's timely acceptance of responsibility.
11 Defendant fails to provide any case law or any facts that demonstrate
12 "exceptional circumstances" requiring a sentence below the low-end
13 Guideline range. (Def. Sent. Pos. at 10.)

14 Third, defendant claims that he had a minor role in the offense
15 and requests a minor role reduction. This is also not true. Section
16 3B1.2 of the Guidelines provides that the offense level should be
17 decreased as follows: "(a) If the defendant was a minimal participant
18 in any criminal activity, decrease by 4 levels; (b) If the defendant
19 was a minor participant in any criminal activity, decrease by 2
20 levels. In cases falling between (a) and (b), decrease by 3 levels."
21 U.S.S.G. § 3B1.2. A defendant bears the burden of proving that he is
22 a minor participant by a preponderance of the evidence. United
23 States v. Rosas, 615 F.3d 1058, 1067 (9th Cir. 2010). Whether a
24 defendant is entitled to a role reduction is a question of fact based
25 on the "totality of the circumstances;" it is "heavily dependent upon
26 the facts of a particular case." U.S.S.G. § 3B1.2 cmt. n.3(C). A
27 district court should only grant a minor-role reduction in
28

1 "exceptional circumstances." United States v. Davis, 36 F.3d 1424,
2 1436 (9th Cir. 1994).

3 To receive a role reduction, a defendant must be "substantially
4 less culpable than the average participant" in the charged criminal
5 activity. U.S.S.G. § 3B1.2, cmt. n.3(A) (emphasis added); see United
6 States v. Diaz, 884 F.3d 911, 914 (9th Cir. 2018). To determine
7 whether a defendant is substantially less culpable than the average
8 participant, a district court must (1) "identify all of the
9 individuals for whom there is sufficient evidence of their existence
10 and participation in the overall scheme;" (2) "calculate a rough
11 average level of culpability for these individuals, taking into
12 consideration the five factors in comment 3(C) to the Mitigating Role
13 Guideline," noted below; and (3) "compare the defendant's culpability
14 to that average." United States v. Dominguez-Caicedo, 40 F.4th 938,
15 960 (9th Cir. 2022) (quotation marks omitted).

16 As noted, defendant has the burden to prove that he qualifies
17 for a downward adjustment based on mitigating role. He has not
18 provided any evidence (e.g., reports, call logs, text messages,
19 declarations, etc.) to establish that he is "less culpable than most
20 other participants in the criminal activity," or that he was
21 "substantially less culpable than the average participant in the
22 criminal activity." See United States v. Dominguez-Caicedo, 40 F.4th
23 938, 960 (9th Cir. 2022). For instance, he has failed to prove that
24 his brother "was the mastermind behind the scheme" (def. sent. at 10)
25 and that there was a "disparity between the two brothers and their
26 actions." (Id.) Instead, he relies on bald, self-serving, conclusory
27 statements that he played a minor role in the offense and should be
28 afforded a two-level reduction. See United States v. Buenrostro, 868

1 F.2d 135, 138 (5th Cir. 1989) ("The district judge need not accept
2 the defendant's self-serving account of his role in the drug
3 organization."), cert. denied, 495 U.S. 923 (1990).

4 These self-serving statements are contrary to the facts and the
5 evidence in this case. In fact, as noted above, he played an
6 integral part of the scheme. He purchased Priority Mailboxes, he
7 used fictitious aliases and address to mail those boxes, he opened
8 various post office boxes to receive the postal checks and cashed
9 some of the fraudulent checks. His role was not minimal at all, it
10 was essential. Defendant neither demonstrated that his brother was
11 substantially more culpable, nor that his criminal conduct was
12 "minor" to the furtherance of the criminal enterprise. Simply put,
13 defendant played an important role, and his sentence should reflect
14 his role. A sentence of 27-months is appropriate.

15 **VIII. CONCLUSION**

16 The United States respectfully recommends that the Court impose
17 a law-end Guideline sentence of (1) 27 months' imprisonment, (2) a
18 three-year period of supervised release, (3) \$2,135,739.46 in
19 restitution to the United States Postal Service, and a (4) \$100 in
20 mandatory special assessment.

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