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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 SHERRI PAPINI,
15 Defendant.

CASE NO. 22-CR-00070-WBS

UNITED STATES'S AMENDED SENTENCING
MEMORANDUM

DATE: September 19, 2022

TIME: 9:00 a.m.

COURT: Hon. William B. Shubb

17 The United States respectfully submits this amended sentencing memorandum to correct
18 typographical errors appearing in its original filing submitted to the Court on September 12, 2022, and to
19 add in one additional citation to the record. This amended filing is otherwise substantively the same as
20 the government's original filing. *See* ECF 43.

21 Sherri Papini should be sentenced to eight months' imprisonment. This low-end Guidelines
22 sentence is consistent with the terms of the parties' plea agreement, fully and fairly accounts for the
23 totality of Papini's conduct and the relevant sentencing factors, and is sufficient but not greater than
24 necessary to satisfy the sentencing purposes in 18 U.S.C. § 3553(a). A lesser sentence, such as the one
25 month of imprisonment recommended by probation or home detention in lieu of incarceration, is not
26 sufficient to achieve the purposes of sentencing. *See* ECF No. 41-2 at 1, 2 (Second Revised PSR,
27 hereinafter "PSR"). Papini planned and executed a sophisticated kidnapping hoax, and then continued
28 to perpetuate her false statements for years after her return without regard for the harm she caused

1 others. As a result, state and federal investigators devoted limited resources to Papini's case for nearly
2 four years before they independently learned the truth: that she was not kidnapped or tortured. During
3 this time, Papini caused innocent individuals to become targets of a criminal investigation. She left the
4 public in fear of her alleged Hispanic capturers who purportedly remained at large. Papini not only
5 retold her false statements to law enforcement, including in August 2020 when she was confronted with
6 evidence of the truth, but also to the California Victim Compensation Board and the Social Security
7 Administration in order to obtain financial benefits to which she was not entitled. Although eight
8 months of prison time is warranted, anything more than a low-end Guidelines sentence would be more
9 than necessary to comply with the sentencing purposes in this case, which resolved early with a prompt
10 guilty plea to an information.

11 **I. THE PLEA AGREEMENT**

12 On April 18, 2022, Papini pleaded guilty to two counts of a 35-count information admitting that
13 she engaged in mail fraud, in violation of 18 U.S.C. § 1341, and made false statements in violation of 18
14 U.S.C. § 1001. ECF Nos. 23, 26.

15 In the plea agreement between the parties, the defendant stipulated, *inter alia*, to (1) a loss
16 amount of \$30,694.15 caused by her scheme to defraud the California Victims' Compensation Board;
17 (2) the applicability of Guidelines provisions, including an upward adjustment for obstruction of justice,
18 that result in a sentencing range of 8-14 months after credit for acceptance of responsibility (assuming a
19 Criminal History Category of I); and (3) restitution totaling \$309,686.33 consisting of \$30,694.15 to the
20 California Victim Compensation Board, \$127,783.50 to the Social Security Administration, \$148,866.23
21 to the Shasta County Sheriff's Office and \$2,558.35 to the Federal Bureau of Investigations. ECF No.
22 26.

23 In exchange, the government agreed: (1) to dismiss the remaining counts of the information and
24 to not bring any other charges arising from the conduct outlined in the Factual Basis to the plea
25 agreement or related to Social Security Administration disability benefits issued to Papini from
26 November 2016 through March 28 2022, based on Papini's representation that she was kidnapped; (2) to
27 recommend a reduction in the offense level for acceptance of responsibility; (3) to recommend a
28 sentence at the low end of the guideline range as determined by the Court; and (4) that Papini could

1 argue for whatever sentence she felt appropriate under 18 U.S.C. §3553(a). ECF No. 26 at 6.

2 The final revised PSR is in accord with the parties' stipulated Guidelines provisions and neither
3 party filed any objections to the final revised PSR. See ECF No. 41.

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5 II. FACTS

6 In November 2016, Papini staged her own disappearance to look like a kidnapping. Papini
7 disappeared for 22 days and despite national media attention about her disappearance, she remained in
8 hiding while her family, community, and law enforcement searched for her whereabouts. PSR ¶ 6.
9 After 22 days Papini returned. She had inflicted injuries on herself, including a brand on her right
10 shoulder, and claimed that she had been tortured. PSR ¶¶ 10, 11, 18. Over the next four-plus years,
11 Papini repeated a detailed false story about two Hispanic women taking her at gunpoint and inflicting
12 abuse upon her while holding her against her will. Papini's kidnapping hoax was deliberate, well-
13 planned, and sophisticated.

14 Papini's false reports about being kidnapped were not something she invented after her return to
15 avoid the repercussions of running away from her husband and family. Rather, the evidence shows that
16 Papini planned this hoax before her disappearance. Almost a year before her disappearance, in
17 December 2015, before her disappearance Papini began communicating with her ex-boyfriend on burner
18 phones for anonymity. PSR ¶ 15, Complaint ¶ 45. Notably, Papini spoke to other men using her work
19 or personal phone and she took steps to conceal these contacts. For instance, law enforcement found
20 men's phone numbers saved in her phone under female names. Complaint ¶ 10. But when it came to
21 the particular ex-boyfriend who seems to have unknowingly assisted in the kidnapping hoax, Papini did
22 not merely conceal his phone number in her phone, but purchased a burner phone that she used almost
23 exclusively to communicate with him, and instructed the ex-boyfriend to do the same. PSR ¶ 15. As
24 Papini described to law enforcement during an interview about her purported kidnapping, she
25 purposefully left her cell phone with strands of her hair lying along the road knowing her family would
26 find them. Although Papini intended for this statement to corroborate her kidnapping, it shows her
27 forethought and the sophistication of her plan to carry out a convincing hoax. These details, among
28 others, show Papini's hoax was contemplated well in advance of her disappearance and that she took

1 purposeful, contemplative steps to trick the public, her family, and law enforcement into believing the
2 kidnapping and torture were real.

3 For four years after Papini returned, law enforcement continued working to identify Papini's
4 abductors. In furtherance of this investigation, the FBI brought in a forensic interviewer to interview
5 Papini. PSR ¶ 9. Papini continued to make false statements. The FBI also hired someone to meet with
6 Papini and create sketches of her abductors for wanted posters.

7 On August 13, 2020, after law enforcement had evidence showing Papini had not been
8 kidnapped, a special agent with the Federal Bureau of Investigation and a detective with the Shasta
9 County Sheriff's Office met with Papini. At the outset of the meeting, they told Papini it was a crime to
10 lie to federal agents. Papini continued to claim she was kidnapped. Later in the interview, Papini was
11 again warned that it was a crime to lie to federal agents and told about the DNA and telephone evidence
12 showing that she had been with her ex-boyfriend. Yet even this second warning and evidence of the
13 truth did not deter Papini from continuing to make false statements.

14 Papini not only made false statements to law enforcement, her friends and family, and therapist,
15 but she also made false statements to the California Victim Compensation Board and the Social Security
16 Administration in order to receive benefits as a result of her alleged "post-traumatic stress" from being
17 abducted.

18 **III. UNITED STATES'S SENTENCING RECOMMENDATION**

19 The government recommends a total term of 8 months' imprisonment, followed by 3 years of
20 supervised release, no fine, and a mandatory special assessment of \$200. This sentence would satisfy
21 each of the factors set forth in 18 U.S.C. § 3553(a) and would be "sufficient, but not greater than
22 necessary" to comply with the purposes enumerated in 18 U.S.C. § 3553(a)(2). A total sentence of 8
23 months' imprisonment fully and fairly accounts for all relevant factors. The 3553(a) factors instruct the
24 Court to consider, among other things, (1) the nature and circumstances of the offense and the history
25 and characteristics of the defendant; and (2) the need for the sentence imposed to reflect the seriousness
26 of the offense, provide just punishment, deter further crimes, and promote respect for the law. *See* 18
27 U.S.C. § 3553(a)(1)-(2).

28 A low-end Guidelines sentence of eight months' imprisonment is appropriate because of the real

1 harms that Papini's actions caused. A downward variance or split sentence is not appropriate in this
2 case. Papini's criminal conduct was serious and had far reaching effects that are not captured by the loss
3 amount or Guidelines. The probation officer describes many of these effects in the sentencing
4 recommendation. Papini's crime has many societal harms such as causing the public to live in fear and
5 possibly causing law enforcement to doubt the veracity of future victims' claims. An entire community
6 believed the hoax and lived in fear that Hispanic women were roving the streets to abduct and sell
7 women. The community also rallied around Papini while she was missing for three weeks, spending
8 incalculable hours, money, and effort in the search for Papini. Additionally, when Papini defrauded the
9 California Victims' Compensation Board and law enforcement, she was taking away resources that
10 should have been used to support real victims and catch real criminals. These unnamed victims and
11 community members are not contemplated by the Guidelines calculation but should be recognized as
12 part of the real harm that occurred from Papini's actions. Additionally, the Guidelines do not fully
13 capture the financial harm from Papini's conduct, as they do not account for investigative costs incurred
14 by local and federal officers, the \$127,783.50 Papini obtained in disability benefits from the Social
15 Security Administration, or the \$49,070 that community members donated to a GoFundMe account to
16 help with the search. While appropriately not considered as part of the Guidelines calculation, these
17 costs must still be weighed as part of the determination of the seriousness of Papini's crimes. Papini's
18 sentence must hold her accountable for charged, uncharged, and even acquitted conduct that occurred
19 during the offense of conviction. *See United States v. May*, 706 F.3d 1209, 1213 (9th Cir. 2013). Just
20 punishment requires Papini receive a low-end sentence consisting of 8 months' imprisonment.

21 A sentence of eight months' imprisonment is also necessary for specific and general deterrence.
22 While it is unlikely that Papini could ever repeat a feigned kidnapping, a sentence of imprisonment is
23 necessary to deter her from defrauding the government and public by other means. This case
24 demonstrates that she is capable of carrying out sophisticated schemes and that the consequences of a
25 short term of punishment will not stop her. She maintained her hoax and received Social Security and
26 California Victims' benefits for years, demonstrating that she had no remorse for her actions even after
27 the FBI presented her with evidence of her fraud. Additionally, it is concerning that she has continued
28 to tell multiple people, contrary to her plea and sworn statement before the Court, that she was in fact

1 kidnapped. Only a term of imprisonment will deter Papini from continuing future crimes, including
2 continued false assertions that she was kidnapped.

3 Moreover, general deterrence weighs heavily in favor of a low-end Guidelines sentence served in
4 prison. This case has garnered significant media attention and the nation is watching the outcome of
5 Papini's sentencing hearing. The public needs to know that there will be more than a slap on the wrist
6 for committing financial fraud and making false statements to law enforcement, particularly when those
7 false statements result in the expenditure of substantial resources and implicate innocent people. A one-
8 month prison sentence will send the wrong message to both Papini and the public: such a *de minimis*
9 and lenient sentence would wrongly suggest that people can commit these types of crimes with near
10 impunity.

11 Papini's history, however difficult it may have been, does not warrant a downward variance or
12 split sentence, as it does not negate the need for punishment, the need to promote respect for the law, or
13 the need deter future criminal conduct. It is also not significantly different from many other criminals
14 who have been sentenced to a Guidelines term of imprisonment. Although Papini's current therapist
15 attempts to provide the Court with explanations for Papini's criminal conduct to mitigate her culpability,
16 the Court should carefully weigh the therapist's opinions against Papini's known history. Significantly,
17 Papini misled her original therapist for over four years, convincing that therapist that she had in fact
18 been kidnapped. Papini also convinced her family and friends – those who know her best – that she had
19 been kidnapped and tortured and was suffering because of the abuses that she actually committed upon
20 herself. Now that Papini is facing prison time, she has motive to do whatever is necessary to avoid
21 punishment, including making statements to her therapist and family members that she believes will
22 garner the most leniency from the Court. Papini's history and characteristics are balanced against the
23 serious nature and circumstances of Papini's crimes, making a low-end Guidelines sentence appropriate
24 in this case.

25 In fashioning its plea offer, the government accounted for the factors the PSR identifies as
26 mitigating and those factors that will likely be raised by the defendant at sentencing. Papini's past
27 trauma and mental health issues alone cannot account for all of her actions. Papini's actions were well-
28 planned and deliberately considered. She was able to evade a nation-wide manhunt, including the

1 combined forces of the FBI and local police, for 22 days until she staged her dramatic return. Papini's
2 planning of her hoax kidnapping was meticulous and began months in advance – it was not merely the
3 reaction to a traumatic childhood. Additionally, although she may have been trying to keep her husband
4 and family from discovering that she had run away to spend three weeks with her ex-boyfriend, Papini
5 took her hoax even farther when she applied for disability benefits from the Social Security
6 Administration and victims benefits from Cal VCB. Papini continued to receive these benefits until she
7 was arrested. She profited from her actions, and nothing that her therapist or other supporters have
8 stated can provide an excuse for her profiteering acts. These additional fraudulent acts suggest that
9 Papini was not, as her therapist opines, merely coping with past abuse, but calculating to create
10 additional benefits from her crimes. Papini's actions had real negative consequences for the community
11 and other victims. There needs to be just punishment for her conduct.

12 Finally, Section 3553(a) also requires the Court to minimize sentencing disparities among
13 similarly situated defendants. 18 U.S.C. § 3553(a)(6). One way of doing so is to correctly calculate the
14 Guidelines range. *United States v. Treadwell*, 593 F.3d 990, 1011 (9th Cir. 2010) (“Because the
15 Guidelines range was correctly calculated, the district court was entitled to rely on the Guidelines range
16 in determining that there was no ‘unwarranted disparity’ . . .”). Accordingly, the Government's
17 recommended sentence at the low end of the Sentencing Guidelines will minimize sentencing
18 disparities.

19 IV. CONCLUSION

20 For the foregoing reasons, the defendant should be sentenced at the low end of the Sentencing
21 Guidelines: an 8-month term of imprisonment, followed by 3 years of supervised release, no fine, and a
22 mandatory special assessment of \$200.

23 Dated: September 14, 2022

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24
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