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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 MANISH LACHWANI,

18 Defendant.

) **CASE NO. CR 21-353 CRB**

) **UNITES STATES' SUPPLEMENTAL**
) **SENTENCING SUBMISSION**

) Sentencing Dates: April 19, 2024

) Time: 10:00 a.m.

) Judge: Hon. Charles R. Breyer

1 The United States submits this supplemental sentencing memorandum, in accordance with time
2 limits under Local Criminal Rule 35-2, to address the Court’s order dated March 12, 2024. The
3 government does not agree that the Court should impose a shorter prison sentence in conjunction with a
4 larger fine. Doing so would undermine the interest of specific and general deterrence and could appear
5 to be a two-track system of justice, where wealthy defendants able to pay the maximum fines get more
6 lenient prison sentences. It risks sending a message that the worst Silicon Valley fraudsters have to fear
7 are monetary penalties, and risks incentivizing victims of fraud to pursue civil remedies rather than
8 providing information to the government. Further, while a \$1 million fine would certainly be warranted
9 in this case given Lachwani’s financial status and apparent effort to shield his assets, it is unlikely to
10 have a meaningful impact if not paired with a significant custodial sentence. A minimal or non-
11 custodial sentence is particularly unwarranted here given Lachwani’s repeated and forceful efforts to
12 push a false narrative of his conduct on the Court and minimize his own responsibility for his fraud
13 scheme. Finally, the sentence in this case should be consistent with sentences imposed for other
14 similarly situated defendants, and should reflect the seriousness of the offense, promote general
15 deterrence, and account for Lachwani’s history and characteristics.

16 **A. A One Million Fine Would Have a Minimal Impact on Lachwani and is Not Likely**
17 **to Deter Similar Criminal Conduct**

18 A \$1 million fine would have minimal impact on Lachwani, and the Court should not impose
19 such a fine in place of prison. A fine in this case is not likely to effectively support general deterrence.
20 Instead, using a fine in place of prison risks sending a clear message that the wealthy are subject to a
21 different justice system in our country; one in which the ability to pay a large fine decreases either time
22 in prison or the likelihood of prison.

23 According to the most recent account documents obtained by the government, Lachwani’s wife
24 held approximately \$39,730,000 in her brokerage accounts as of March 31, 2021, assets that prior to the
25 discovery of the fraud were in Lachwani’s own brokerage account.¹ PSR ¶ 85. The Probation Office’s
26 financial analysis identified about \$24,364,000 in total assets belonging to Lachwani and his wife and
27

28 ¹ Lachwani transferred the assets to an account in his wife’s name as “separate property” after
the fraud was discovered. PSR ¶¶ 85-86.

1 concluded Lachwani’s total net worth to be \$20,426,300. PSR ¶ 86.² Taking the most conservative
 2 number, a 4% return on assets based on Lachwani’s net worth of \$20,426,300.19 equates to passive
 3 income of \$817,052 annually. If the Court were to fine Lachwani \$1 million and reduce his net worth to
 4 \$19,426,300.19, a 4% return equates to would be \$777,052 annually. Therefore, such a fine is nothing
 5 more than a slap on the wrist—it would have minimal impact, at most, on Lachwani’s life—leaving him
 6 with a passive annual income (conservatively measured) of \$777,052, a reduction of only \$40,000 per
 7 year, even if he never works again.³ Further, if the consequences of criminal prosecution of “fake-it-‘til-
 8 you-make-it” fraud are primarily monetary, this may incentivize victims to pursue their own civil
 9 remedies in lieu of reporting crime to the government. A fine of \$1 million is also considerably less
 10 than the “upside” that Lachwani pursued with this fraud scheme, in the course of which he successfully
 11 turned his startup into a “unicorn” valued at more than \$1 billion by his duped investors. The
 12 government’s ability to deter fraud in Silicon Valley, one of the nation’s most important economic
 13 markets, depends on the courts appropriately punishing large fraud schemes.

14 **B. Lachwani’s Lack of Remorse and Presentation of False Narrative to the Court**

15 A fine in exchange for a shorter prison sentence is particularly unwarranted here because
 16 Lachwani has failed to take full responsibility for his actions; instead, presenting himself as the primary
 17 victim of his own crime. In these sentencing proceedings, Lachwani continues to assert that the
 18 government has not presented evidence of the full extent of his fraud scheme. This is not true. The
 19 government submitted declarations from nine witnesses. Most significantly, the government submitted a
 20 declaration from the person who worked hand-in-hand with Lachwani on Headspin’s financial
 21 information, and who continued at the company after Lachwani was forced to leave and thereby
 22 witnessed the extent of what Lachwani had done. The Court should give this declaration and the others
 23 submitted by the government their proper weight. In her sworn declaration, Sana Okmyanskaya

24 _____
 25 ² This government suspects that this analysis substantially undervalues Lachwani’s net worth
 26 given the fact that the S&P 500 index has gained approximately 31% in value between March 31, 2021
 27 and the present. Further, Lachwani’s financial records show he invested heavily in companies like
 28 Advanced Micro Devices, which has gained approximately 117% over the same time period. In other
 words, the \$40 million Lachwani held on March 31, 2021 has likely grown, not shrunk by over \$15
 million, in that time frame.

³ If the \$40 million Lachwani held on March 31, 2021 were used, a 4% annual passive income of
 \$1.6 million would decrease to \$1.56 million.

1 explained that Lachwani told her directly how much revenue to recognize quarterly for Headspin
2 customers, ¶ 4, failed to provide supporting documentation despite multiple requests, ¶¶ 4-5, and that
3 what Mr. Lachwani told her about channel partner relationships to discuss with a CPA was “not true,”
4 ¶ 9. Ms. Okmyanskaya also declared that she was involved in KPMG’s restatement of the company’s
5 revenue and ARR, that during this process Mr. Lachwani was afforded the opportunity to provide
6 information and documents relating to customer relationships, that based on her knowledge of company
7 information she believes KPMG’s restatement presented an accurate picture of Headspin’s revenue and
8 ARR, and “about three quarters of the revenue in the financial statements [Okmyanskaya] prepared was
9 not included in the revenue amounts in the corrected financial records because the information Mr.
10 Lachwani gave [her] was false.” *Id.* ¶¶ 10-12. This was not an issue of controls and internal
11 dysfunction. Lachwani provided information he knew was false to Okmyanskaya and purposefully
12 withheld documentary evidence of customer relationships. If Lachwani had simply provided
13 Okmyanskaya the customer contracts, Headspin’s financial records would have been accurate, and
14 would have shown less than a quarter of the revenue Lachwani instructed Okmyanskaya to recognize.
15 *See* White Decl. Exs. A & B.

16 Lachwani has submitted no declarations in response to or rebutting the facts in Okmyanskaya’s
17 declaration. Instead, he has invented a bogeyman of innocent errors in Headspin’s finances based on
18 nothing more than assertions in his brief and citations to stray documents that do not support the
19 conclusion—directly contrary to Okmyanskaya’s declaration—that there were financial errors unrelated
20 to his lies. Lachwani seeks to impose this false narrative on these proceedings.

21 To underscore the extent Lachwani is unremorseful and has presented a false narrative to the
22 Court of his conduct, the government provides the following examples, including through submission of
23 limited additional evidence (long ago produced to Lachwani) and cited below:

- 24 • Lachwani asserts (in his unsworn briefing) that the ARR spreadsheet he kept was
25 intended to be a forecasting spreadsheet and he made false representations by allowing
26 the spreadsheet to be used to populate representations to investors. This is not an
27 accurate description of his conduct. It was Lachwani—who had sole control over the
28 ARR spreadsheet—who provided the spreadsheet to investors and told them that ARR
was based on signed contracts with customers. Stern Decl.⁴ Ex. CC (Lachwani sharing

⁴ Stern Decl. refers to the Declaration of AUSA Noah Stern in Support of the United States’
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1 access to ARR spreadsheet with Investor 1); Ex. DD (Email from Investor 2 stating “I
2 have attached the latest financial[s] that we received from Manish. We also received
3 access to a google docs sheet with the customer names and revenues a while ago. I have
4 attached the Excel form of that.”). Lachwani’s unsworn argument to the contrary is
5 belied by the spreadsheet itself, which included the purported customers on a tab entitled
6 “Committed Customers,”⁵ included an amount for the “ACV signed” for each customer,
7 and listed the “% likelihood of full deployment” for each customer as 100%. *See*
8 Investor 2 Decl. Ex. A. It was not somebody else who chose these words, it was
9 Lachwani.⁶ Further, Lachwani directly and explicitly told investors that ARR reflected
10 customers with “signed contracts.” *See, e.g.,* Stern Decl. Ex. EE at 2184 & 2210
11 (investor presentation sent by Lachwani stating “Signed contracts worth \$50M+ as of Q2
12 2018” and displaying graph of ARR); Stern Decl. Ex. FF (notes of Investor 1 call with
13 Lachwani stating “ARR will be counted only when a deployment is done . . . ARR =
14 deployed ACV”); Stern Decl. Ex. GG at 1259 (Investor 1 notes describing Lachwani
15 explanations for ARR to revenue lag all of which appear to relate to Headspin beginning
16 to recognize revenue in the next calendar month (or more) from when “contract is
17 signed”); Barczak Decl. Ex. 4 (Investor 2 notes indicating Okmyanskaya representation
18 that ARR is recognized after contract signing, but before deployment). Lachwani’s
19 unsworn rationalization of his conduct should be rejected by the Court.

- 20 • Lachwani argues that the government has “declare[d] . . . by fiat” that when KPMG was
21 unable to find documentation for a deal this was because no deal existed. Def. Reply
22 Mem. at 7. Far from that, the government presented sworn evidence that Headspin
23 employees worked to “locate and provide all relevant documents . . . to KPMG,”
24 Lachwani sent “contracts, purchase orders, and invoices” that were provided to KPMG,
25 and Headspin’s bank statements were provided to KPMG. Okmyanskaya Decl. ¶ 10.
26 Further, Okmyanskaya was “not aware of any actual large agreements HeadSpin entered
27 into with customers, or any large payments received from customers, that KPMG did not
28 record as revenue based on applicable accounting rules.” *Id.* ¶ 12. KPMG also
described, in a sworn declaration, how it conducted its review, including the review of
bank statements. White Decl. ¶¶ 4-5. The evidence Lachwani submits, a statement in an
email from White stating “we are not able to accept any more information,” Def. Loss
Mem. at 9, does nothing to contradict Okmyanskaya’s assertion that KPMG’s analysis
reflected Headspin’s financial reality or the fact that KPMG *reviewed bank statements*,
White Decl. ¶ 5, and there were no large sums of cash that were not accounted for based
on accounting rules, Okmyanskaya Decl. ¶ 12.
- Lachwani provides an incomplete and misleading narrative to the Court with respect to
the American Express and Uber deals. With respect to American Express, Lachwani
says he inserted \$250,000 in the spreadsheet based on a text he received in November

Supplemental Sentencing Memorandum, filed herewith.

⁵ In some versions of this spreadsheet, this tab was entitled “Pipeline,” but in the version shared
with Investor 2, it was entitled “Committed Customers.” *See* Investor 2 Decl. ¶ 5 & Ex. A.

⁶ As Loukakos explained, only Lachwani had edit access to the spreadsheet. Loukakos Decl. ¶ 5.
Underscoring this, as the government has previously explained, Dkt. No. 103 at 21, Headspin produced
lengthy videos of the version history of the spreadsheet showing that Lachwani was the only person
making edits during the relevant time period.

1 2018 from the salesperson, Laurent Cordier, projecting the deal would “land” around
 2 that amount. Def. Reply at 8-9. Lachwani, however, leaves out the subsequent history
 3 and fails to explain why Lachwani kept this deal on the ARR spreadsheet for \$250,000
 4 after (1) Cordier clearly informed Lachwani that the deal closed at \$132,000, (2)
 5 Okmyanskaya raised the discrepancy between the deal size Lachwani provided and the
 6 amount of the actual invoice sent to Amex, and (3) Amex terminated the contract.
 7 Specifically, on December 21, 2018, Laurent Cordier emailed Lachwani that Amex was
 8 in the contract stage for “132 k\$” with “expansion possible . . . for an additional (90k\$).”
 9 Stern Decl. Ex. HH. On January 21, 2019, Cordier emailed Lachwani stating, “Amex –
 10 closed : 132 k\$ with potential extension of 95 k\$ - 1 year contract.” *Id.* Ex. II. On
 11 February 24, 2019, Lachwani emailed Okmyanskaya in regard to 2018 Q4 revenue,
 12 stating that Q4 was the same as Q3 and then listing additions to revenue, including
 13 “Annual Deal size . . . AMEX - \$220K (To be paid).” *Id.* Ex. JJ. On June 27, 2019,
 14 after receiving Amex invoices, Okmyanskaya noted a discrepancy between the invoices
 15 and the deal size Lachwani had told her: “Amex – we had them booked at 55K quarterly
 16 but actual invoice tracks at 33K quarterly. Which is correct?” Lachwani responded,
 17 “yes the first two are small invoices, next two are larger one.” *Id.* Ex. KK. On October
 18 6, 2019, Cordier emailed Lachwani, writing “Amex (lost): . . . [t]hey confirmed the
 19 termination at this stage.” *Id.* Ex. LL. Lachwani responded, “OK on AMEX. Was
 20 bound to happen.” *Id.* Despite this, in late October 2019, in advance of the Series C,
 21 Lachwani had “AMEX” listed on his ARR spreadsheet as a “Committed Customer” with
 22 an “ACV signed” of “\$250,000” and “ARR” of “\$250,000.” Investor 2 Decl. Ex. A
 23 (row 111). This entry for Amex remained on Lachwani’s ARR spreadsheet until the
 24 fraud was discovered. Tomeno Decl. Ex. BB (March 10, 2020 version of ARR tracking
 25 spreadsheet, row 138).⁷ The evidence is clear, Lachwani knew the size of the Amex deal
 26 and lied about it to inflate Headspin’s ARR. He then knowingly kept the false and
 27 inflated figure in Headspin’s ARR after the deal was terminated. There were no
 28 innocent mistakes.

- Lachwani also misleads the Court with respect to the Uber relationship. Lachwani omits the fact that Ameet Suri clearly told Lachwani the size of the Uber contract in August 2019, yet Lachwani continued to lie about the contract size to Okmyanskaya and investors. On August 16, 2019, after Okmyanskaya had stated that Headspin was booking \$360,000 of quarterly revenue for Uber on an email chain involving Lachwani and Ameet Suri, Suri removed Okmyanskaya from the chain and asked Lachwani why Okmyanskaya referred to \$360 per quarter. *Id.* Ex. MM. He continued, “Just as FYI . . . Our total billing to uber is \$480 for the complete year. In 2018, we billed them \$720K, which was \$480 for 2018 and 240 for 6 months of 2017.” *Id.* Lachwani responded, “i will discuss with [Okmyanskaya], np.” *Id.* Nevertheless, on September 9, 2019, when Okmyanskaya again asked Lachwani about recognizing \$360,000 in quarterly revenue from Uber and if the \$480K invoice she had was an annual invoice, Lachwani lied and said “480K is one invoice for UBER. [S]econd invoice coming up in Q3.” Ex. NN at 2024. He also said the invoice “covered 4 months” and ideally they would send three 480K invoices during the year but “i feel they will prune some devices in Q4.” *Id.* at 2024-25. Despite clear knowledge of the actual deal size, Lachwani also continued lying

⁷ According to metadata produced for this document by Headspin, it is entitled 202003100004-Internal - HeadSpin Revenue _ Customer Forecast Model (CONFIDENTIAL).xlsx.

1 to investors. In late October 2019, in advance of the Series C financing, Uber remained
 2 listed on Lachwani’s ARR spreadsheet as a “Committed Customer” with an “ACV
 3 signed” of \$1,440,000 and “ARR” of \$1,440,000. Investor 2 Decl. Ex. A (row 47). This
 4 entry for Uber remained on Lachwani’s ARR spreadsheet until the fraud was discovered.
 5 Tomeno Decl. Ex. BB (row 64). It is clear that Lachwani was knowingly lying about the
 6 Uber deal—he did not make an innocent mistake. Indeed, his unsworn contention that
 7 he initially did not know the real size of the deal—one of the most substantial for
 8 Headspin—or that one of the purchase orders was canceled the day after it had been
 9 issued is simply not credible. Most significantly, Lachwani omits the fact that he forged
 10 an invoice to match the cancelled purchase order. Tomeno Decl. ¶ 14 & Ex. J (showing
 11 same create date as real invoice sent to Uber but different modified date). This forgery
 12 shows Lachwani’s knowledge the cancelled purchase order was not active; if it had been
 13 active, Lachwani could have obtained a real invoice sent to Uber and provided it to
 14 Okmyanskaya. Lachwani’s credibility with respect to his unsworn argument is also
 15 undermined by the fact that he forged two additional Uber invoices that were never sent
 16 to Uber representing a renewal period that did not, in fact, exist. *Id.* ¶ 15 & Exs. K & L.

- 17 • Lachwani argues the government cited no evidence to carry its burden that Lachwani
 18 forged several invoices related to a reseller for which Lachwani inflated ARR by over
 19 \$10 million. This is wrong. *See* Tomeno Decl. ¶¶ 4-12 & Exs. A-H. As an initial matter,
 20 Lachwani *admitted in his plea agreement* that he “sent HeadSpin’s accountant invoices I
 21 knew were altered to show amounts that were not actually invoiced.” Dkt. No. 88 ¶ 2.
 22 The government submitted to the Court four real invoices emailed to an Australian
 23 reseller, Tomeno Decl. Exs. A-D, and four edited PDFs that Lachwani sent to
 24 Okmyanskaya that were never submitted to the reseller. Tomeno Decl. Exs. E-H. For
 25 example, on March 25, 2019, a real invoice, entitled INV-0008 was emailed to the
 26 reseller—the document metadata shows identical created and modified dates, 3/25/2019
 27 12:25:10 p.m. *Id.* ¶ 4 & Ex. A. On June 18, 2019, Lachwani sent a modified version of
 28 this invoice to Okmyanskaya. *Id.* ¶ 9. The modified document has the exact same create
 date as the real invoice, but has a separate modified date of 6/28/2019 at 10:30:42 a.m.,
 indicating that Lachwani took the PDF for the real invoice and modified it. *Id.* ¶ 11.
 The modified invoice, also entitled INV-0008, is identical except “AUD” was changed
 to “USD” and a “3” was placed in front of the amount that appeared on the real invoice,
 making “81,600” into “381,600.”⁸ *Id.* Ex. G. The fact that Lachwani emailed this false
 and altered invoice to Okmyanskaya is sufficient to prove that Lachwani was the person
 who altered it. In another example, Lachwani took real INV-0019, Ex. D, in the amount
 of \$243,150.00, and edited it to create fake INV-0016 (never sent to the reseller), in the
 amount of \$1,187,150.00. Ex. E. The description of items on the invoices are identical,
 but the altered invoice has a quantity of 50 for device license fees and support fees,
 instead of 10, which corresponds in the increase in dollar amount of the fake invoice. *Id.*
 The fact that it was Lachwani who altered the invoices is underscored by the fact that he
 blocked Okmyanskaya from directly accessing these invoices. At first, Lachwani told
 Okmyanskaya that he would give her access to the invoicing system the Australian sales
 team used, but then claimed technical difficulties, before blocking her request for access
 from the Australian team by asserting that he had already sent her the invoices. *See*
 Stern Decl. Ex. OO. Nor was there anyone else at Headspin who had a motive to create

⁸ The due date was also modified.

1 fake/altered invoices. The evidence is clear and Lachwani's insistence that the
2 government has failed to submit sufficient evidence on this point makes little sense.

- 3 • Further, the evidence is clear that Lachwani's representations about ARR from reseller
4 Wipro in his ARR spreadsheet were knowingly false. Lachwani's ARR spreadsheet in
5 advance of the Series C offering recorded approximately \$25.5 million of ARR from
6 Wipro. *See* Investor 2 Decl. Ex. A (rows 6-9, 13-18, 20). Lachwani knew this was false.
7 Indeed, in Summer 2018, Lachwani hired a Wipro employee, Madhu Laxmanrao, to be
8 responsible for Headspin's Wipro relationship. Stern Decl. Ex. PP at 3. According to
9 Laxmanrao, Wipro committed to generating \$5.5 million for Headspin, but Wipro was
10 not meeting this target in early 2019 and Lachwani complained to Laxmanrao that Wipro
11 was not meeting its targets. *Id.* at 4-5. Laxmanrao said that Wipro paid Headspin
12 between \$2.5 and \$3 million over two and a half years. *Id.* at 8. Laxmanrao also told the
13 government that several other deals he was involved in were substantially smaller than
14 what was represented on Lachwani's ARR spreadsheet. For example, Infosys Ally Bank
15 was \$25,000,⁹ Infosys EON was \$120,000,¹⁰ and Wipro Microsoft was less than
16 \$400,000.¹¹ *Id.* at 10-11. Lachwani's complaints to Laxmanrao that Wipro was not
17 meeting targets clearly demonstrate that Lachwani knew that what he recorded in his
18 ARR spreadsheet and provided to investors was false.
- 19 • Lachwani accuses the government of providing the Court untrue information when the
20 government stated in its sentencing memorandum that investors may have surrendered
21 restitution claims as part of the recapitalization transaction. Def. Reply Mem. at 10.
22 This is not correct. The release releases Lachwani from, among other things, "all
23 claims" or "damages" under "any . . . theory of recovery" based on "federal law or any
24 rule, regulation or authority." Stern Decl. Ex. QQ ¶ 2.3. Restitution is not excluded as
25 an exception to the released claims, although Lachwani is correct that the release does
26 not prohibit victims from providing the government with information. *Id.* ¶ 2.4 & 2.5.
27 The government has not conducted a full legal analysis of whether the language releases
28 claims for restitution; however, the government expects that victims may be concerned
that the language does prevent them from seeking restitution in this criminal case.

20 C. A 63-Month Sentence Would Avoid Unwarranted Sentencing Disparities

21 Lachwani argues that a 63-month sentence finds no analogy in cases involving similar
22 circumstances. The government disagrees. While every case has its own unique circumstances, the
23 government has identified numerous cases that demonstrate that a 63-month sentence is in line with the
24

25 ⁹ Lachwani's pre-Series C ARR spreadsheet listed it at \$1 million. Investor 2 Decl. Ex. A (row
26 10).

27 ¹⁰ Lachwani's pre-Series C ARR spreadsheet listed it at \$2.5 million. Investor 2 Decl. Ex. A
(row 12).

28 ¹¹ Lachwani's pre-Series C ARR spreadsheet listed it at \$4.5 million. Investor 2 Decl. Ex. A
(row 17).

seriousness of Lachwani's offense conduct. For example, the following sentences were imposed in cases after the defendant pleaded guilty:

Case Name (Date of Sentence)	Summary of Offense Conduct	Guidelines	Sentence
<i>United States v. Joey Stanton Dodson</i> , No. 19-cr-00703-BLF (N.D. Cal. Jan. 24, 2013)	Defendant raised approximately \$15 million in funding for oil and gas companies from more than 50 investors based on false representations and misdirected approximately \$1.3 million to pay back earlier investors or for personal expenses.	78 – 97 months	60 months
<i>United States v. John McEwan</i> , 17-cr-00545-BLF (N.D. Cal. July 24, 2018)	Defendant kept payroll processing company he operated afloat by misapplying client funds to pay disbursements of other clients, misspending approximately \$7 million from more than 10 customers.	63 – 78 months	63 months
<i>United States v. Lebnitz Tran</i> , 21-cr-00269-WHO (N.D. Cal. Nov. 3, 2022)	Defendant submitted false information and documents to obtain approximately \$8.5 million in disaster relief funds (PPP and EIDL), receiving \$3.6 million and personally netting \$1.7 million.	63 – 78 months	63 months
<i>United States v. Min Jin Zhao</i> , 21-cr-00181-VC (N.D. Cal. (Apr. 19, 2023)	Defendant defrauded two individuals of approximately \$2.46 million.	63 – 78 months	63 months
<i>United States v. Adam Rogas</i> , 20-cr-539-JPC (S.D.N.Y. Nov. 3, 2022)	Defendant CEO raised \$123 million for his company, NS8, by providing false information about customers, revenue, and assets, including false spreadsheets purporting to show customers who were paying for NS8's services, false bank statements, and providing fake documents to auditor. Defendant also personally obtained \$17.5 million through secondary tender offer.	121 – 151 months	60 months
<i>United States v. Richard Randolph</i> , 21-cr-00118-SDG (N.D. Ga. Aug. 6, 2021)	Defendant CEO of two companies that merged provided false asset and other financial information for one of the companies, obtaining a \$33 million valuation for the company and obtaining \$1.4 million from 14 investors.	78 – 97 months	78 months
<i>United States v. Daniel Boice</i> , 20-cr-00167-TSE (E.D. Va. Mar. 26, 2021)	Defendant CEO raised \$18 million from over 250 investors for his company, Trustify, through lies about the company's revenues, finances, and business relationships, as well as the use of a fake e-	97 – 121 months	97 months

Case Name (Date of Sentence)	Summary of Offense Conduct	Guidelines	Sentence
	mail account to pose as a prominent potential investors. Defendant spent at least \$3.7 million of the funds raised on himself.		

Some of the cases described above had aggravating and/or mitigating factors not present here. While a reasonable argument can be made that the 3553(a) factors here warrant a shorter sentence for Lachwani than the defendants in the above cases, there are equally reasonable arguments that the 3553(a) factors require an equal or longer custodial sentence here as compared with multiple of the above cases. All of the cases described above involved higher guidelines ranges for imprisonment than the Court concluded applies here, but the offense conduct here is significantly more serious than the Court's guidelines loss calculation accounts for and the Court should consider that in fashioning its sentence. Apart from the issue of loss amount, in several of the above cases, the guidelines were higher because of enhancements for things such as abuse of position of trust and sophisticated means.¹² The government has not advocated for the technical application of those enhancements here, but that does not mean that the conduct was not similar to the cases above. With respect to position of trust, Lachwani was the CEO of Headspin with fiduciary duties to the shareholders he was defrauding. Whether or not the enhancement technically applies, Lachwani's conduct was more serious because he was CEO and similar to that of defendants in the above cases where the Court applied the enhancement. With respect to sophisticated means, Lachwani created fake documents that he sent to Okmyanskaya in an effort to conceal his scheme and allow it to continue.

In all, Lachwani committed a significant, calculated crime over a number of years. He defrauded investors of \$92 million of investments and provided them stock worth less than a quarter of the cash the investors provided the company. Lachwani also proceeded to gamble the majority of the funds investors had infused into Headspin by purchasing stock and options in other technology companies. The fact that Headspin was able to return most of the funds fraudulently obtained from investors was largely because

¹² In one of the cases above—*Randolph*—the Court applied a four-point enhancement because the defendant was the CEO of a public company. Lachwani obviously was not—but he was the CEO of a significant privately funded Silicon Valley company with a larger valuation than many public companies.

1 this gamble paid off and his fraud was discovered shortly after Headspin received the largest influx of
2 investor funds. The fact that Lachwani’s risky investments paid off does not significantly diminish
3 Lachwani’s culpability. Further, Lachwani personally obtained \$2.5 million from an investor through a
4 secondary sale of Headspin stock. This profit is more than the defendants profited in some of the cases
5 described above.¹³

6 The government’s recommended sentence is also in line with other recent sentences handed
7 down in high profile fraud cases. Lachwani has made much in his sentencing briefing of contrasting his
8 case with the Theranos cases. The government agrees with Lachwani that Theranos involved a larger,
9 more serious fraud and the government has recommended a comparatively less significant custodial
10 sentence. Elizabeth Holmes was sentenced to over eleven years in prison and Sunny Balwani was
11 sentenced to over twelve and a half years. The government’s recommended sentence in this case—
12 slightly over five years—is less than half the sentence those defendants received and appropriately
13 accounts for the differences in the cases.

14 **V. CONCLUSION**

15 For the foregoing reasons, the government recommends that the Court sentence Lachwani to 63
16 months in prison, along with a term of supervised release with the conditions set forth in the PSR.

17 DATED: April 12, 2024

Respectfully submitted,

18 ISMAIL J. RAMSEY
19 United States Attorney

20 _____
21 /s/
22 LLOYD FARNHAM
23 NOAH STERN
24 Assistant United States Attorney

25 _____
26 ¹³ JSIN data is difficult to use in this case because the guidelines found by the Court do not
27 adequately account for the seriousness of Lachwani offense. The Court is likely to conclude that
28 Lachwani’s total offense level is 20. According to JSIN, the average prison sentence for that offense
level for §2B1.1 offenders is 25 months, with a median sentence of 27 months, and 94% of offenders
receiving a sentence of imprisonment. Offense level 28, which is more representative of Lachwani’s
offense conduct, has an average prison sentence of 62 months and a median sentence of 60 months, with
98% of defendants receiving a sentence of imprisonment.