



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

September 22, 2022

BY ECF

The Honorable Jesse M. Furman
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

Re: *United States v. Michael Avenatti*, 19 Cr. 374 (JMF)

Dear Judge Furman:

The Government respectfully requests that the Court enter the attached restitution order. (See Judgment at 6-7, Dkt. No. 442; Sent. Tr. at 54:18-55:11). The Court retains power to enter this order, notwithstanding the statutory 90-day deadline to order restitution. See 18 U.S.C. § 3664(d)(5). In *Dolan v. United States*, 560 U.S. 605 (2010), the Supreme Court explained that “a sentencing court that misses the 90–day deadline nonetheless retains the power to order restitution—at least where . . . the sentencing court made clear prior to the deadline’s expiration that it would order restitution, leaving open (for more than 90 days) only the amount.” *Id.* at 607. In this case, the Court made clear not only that it would order restitution, but also the amount and the payment terms – that is, it made a timely “determination of the victim’s losses.” 18 U.S.C. § 3664(d)(5). The proposed restitution order merely provides additional details about the scope and implementation of the Court’s prior order. See also, e.g., *United States v. Gushlak*, 728 F.3d 184, 191-92 (2d Cir. 2013) (applying *Dolan*).

The Government has sent the proposed order to defense counsel, who do not object.

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The Government also notes that the proposed order directs the Clerk of Court to send payments to Ms. Daniels before payments are made to NIKE, Inc., which is a victim in *United States v. Michael Avenatti*, 19 Cr. 373 (PGG). On this point, the Government has conferred with counsel for Nike. Nike's position is that individual victims of the defendant should receive restitution before the company does.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

By: s/ _____
Matthew D. Podolsky
Andrew A. Rohrbach
Robert B. Sobelman
Assistant United States Attorneys
(212) 637-1947/2345/2616

cc: Counsel of Record (by ECF)