

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA	:	CASE NO. 3:19cr138 (JCH)
	:	
v.	:	
	:	
DANIEL LION	:	September 26, 2019
	:	

GOVERNMENT'S SENTENCING MEMORANDUM

Introduction

On May 22, 2019 the defendant pleaded guilty to one felony count of wire fraud. The PSR concluded that the total offense level is 14, the CHC is I, and the defendant is exposed to a term of incarceration of 15-21 months.<sup>1</sup> PSR ¶¶ 27, 30. This calculation mirrors the parties' estimation contained the plea agreement. After reviewing the Presentence Report and reviewing the defendant's brief, the government believes that there are no disputed issues of law or fact in this case. The Court must determine what is a fair and just sentence under 18 U.S.C. § 3553(a).

For the reasons stated below, the government believes a sentence that includes a term of incarceration is warranted in this case. The Court should also

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<sup>1</sup> At sentencing, because the defendant has assisted authorities by timely notifying the Government of his intention to plead guilty, the Government intends to make an oral motion that the Court award the third point for acceptance of responsibility under U.S.S.G. § 3E1.1(b).

impose a restitution order. As of September 26, 2019, the victim reported that it not received any restitution payments from the defendant.

Sentencing is scheduled for October 4, 2019.

### **Offense Conduct**

Over a period of about 13 years, the defendant manipulated New Haven's payroll system to provide himself with extra paychecks. Some New Haven employees are paid on a weekly basis and typically use direct deposit for their paychecks. New Haven had a policy where employees could get paid in advance if they were about to take approved vacation leave. Lion would access the system and create paper checks to pay himself for vacation time rather than use direct deposit. Lion would print these checks, but then delete the computer entries so he would still receive his regular pay.

Lion endorsed the fraudulently issued checks and deposited the proceeds into his credit union accounts. As the scheme progressed, he started to create multiple checks at one time. He would often simultaneously deposit two checks into either his savings or checking accounts in his credit union. Sometimes he would make multiple deposits into different accounts at different times on the same day.

Lion's theft, like many fraud schemes, escalated over time. The first fraudulent check was issued in 2002 for about \$2000. The next fraudulent check was not issued until 2006. From 2006-2011, Lions took slightly less than \$3000 per year. By 2013, the yearly amount climbed to almost \$12,000 and in 2017 he took almost \$23,000. In all, Lion took \$102,947.44 from the City of New Haven.

### **Analysis of the § 3553(a) Factors**

Section 3553(a) directs the district court to consider number of factors in imposing a fair and just sentence. Each criminal case is different and emphasizes different combinations of § 3553(a) factors. In this matter, the government believes the most important § 3553(a) factors are the (1) the specific nature and circumstances of the offense, (2) promoting respect for the law, (3) providing just punishment, and (4) general deterrence.

### **The Nature and Circumstances of the Offense**

The defendant's crime constitutes a serious offense. At its essence, it is a breach of trust. He was employed by the City of New Haven for 42 years, holding a variety of positions. For about the last eighteen years he worked in the payroll office and was entrusted with access to the City's payroll systems. PSR ¶ 58.

With this access, the defendant designed a scheme by which he created extra paychecks for himself. The scheme involved multiple steps and was dependent on the access he had to New Haven's payroll system by virtue of his employment. Lion's fraud worked well and went undetected for over a decade. In the last several years, he began to steal more and more money from New Haven. In the final year of the scheme, he took approximately \$23,000. At the time of the offense, he earned about \$84,000 per year.

While the defendant refers to his criminal activity as “aberrant conduct” in his memo, the facts suggest it is anything but. Def’s Brief at 1. His deliberate manipulation of the payroll system not aberrant and occurred over a period of many years. The scheme involved multiple steps to generate each check and cover his tracks. And he created numerous checks. The deliberate execution of such a multi-faceted scheme over a period of years reveals the defendant’s deliberate intention to defraud the city of New Haven and not get caught. This was not impulsive or aberrant behavior; actions speak louder than words.

**The Sentence Must Promote Respect for the Law, Reflect a Just  
Punishment and Offer General Deterrence**

The sentence in this case must reflect the seriousness of the offense committed by the defendant and promote respect for the law. And the punishment must be just. The amount of money the defendant stole – over \$100,000 -- is substantial in itself. And the crime is made even more serious because he exploited the computer access he enjoyed as the result of his employment. He was trusted with access to the City’s payrolls systems. Further, he was a city employee who stole public money that could have been used for other municipal programs to benefit the taxpayers of New Haven. Just punishment for such a crime warrants a term of incarceration.

Also, a term of incarceration will offer general deterrence in that others who contemplate similar crimes – that is embezzlement of taxpayer funds by government employees– will know that such actions will result in imprisonment.

**Conclusion**

After considering the Sentencing Guidelines and the other sentencing factors under 18 U.S.C. § 3553(a), the Court should impose a sentence that includes a term of incarceration.

Respectfully submitted,

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/s

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CERTIFICATE OF SERVICE

This is to certify that on September 26, 2019 a copy of the foregoing Memorandum was filed electronically. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail on anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

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/s

Ray Miller  
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