U.S. Department of Justice

United States Attorney
Eastern District of New York

AAS:MAA
F. #2021R00963

271 Cadman Plaza East
Brooklyn, New York 11201

October 25, 2022

By ECF

The Honorable Eric R. Komitee
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Kambiz Attar Kashani
Criminal Docket No. 22-33 (EK)

Dear Judge Komitee:

The government respectfully submits this letter in advance of the defendant's sentencing for conspiring to violate the International Emergency Economic Powers Act ("IEEPA"), which is scheduled for Tuesday, November 1, 2022, and in response to the defendant's sentencing memorandum, which was filed on October 7, 2022. (See Dkt No. 29.) For the reasons below, the government respectfully submits that a sentence within the range of 70 to 87 months' imprisonment would be sufficient, but not greater than necessary, to achieve the goals of sentencing in this case. Such a sentence would constitute just punishment, reflect the severity of the defendant's offense, promote respect for the law, and provide the specific and general deterrent effect called for by the defendant's offense.

I. Background

A. Procedural Background

On June 28, 2022, pursuant to a plea agreement dated June 21, 2022 (the "Plea Agreement"), the defendant pleaded guilty before the Honorable Marcia M. Henry to conspiring to violate IEEPA. (See Dkt No. 20.) The Plea Agreement includes a stipulated statement of facts ("Exhibit A") and provides that the Court will determine the applicability of an enhancement pursuant to U.S.S.G. § 3B1.1(a) based solely on Exhibit A; Exhibit A includes only those facts relevant to the applicability of U.S.S.G. § 3B1.1(a), and not facts relating to other aspects of the defendant's offense. (See Plea Agreement ¶ 2.) The Plea Agreement also provides that the defendant waives any right to a Fatico hearing. (See id. ¶ 3.) On September 14, 2022, this Court held a supplemental plea hearing following which, on September 27, 2022, the Court accepted the defendant's guilty plea. (See Dkt No. 24; Dkt Minute Entry (Sept. 27, 2022).)

On September 16, 2022, the U.S. Probation Department ("Probation") provided a Presentence Report (the "PSR") to the parties. In the PSR, Probation recommended a sentence of 48 months' imprisonment (based on an adjusted offense level of 26, which includes a three-level enhancement for the defendant's role in the offense as a manager or supervisor pursuant to U.S.S.G. § 3B1.1(b)), two years of supervised release with certain specified special conditions, a $50,000 fine due immediately and payable at a rate of $25 per quarter while in custody and at a rate of 10% of gross monthly income while on supervised release, and compliance with any forfeiture order. (See PSR at 15; PSR Recommendation at 1.) On October 7, 2022, the government and the defendant each objected to the PSR, by letters to Probation. In its letter, the government contended that a four-level enhancement pursuant to U.S.S.G. § 3B1.1(a) is applicable given the defendant's role in the offense as a leader or organizer, such that the adjusted offense level is 27 and the range of imprisonment under the U.S. Sentencing Guidelines ("Guidelines") is 70-87 months. In the defendant's letter, he objected to various factual statements in the PSR.

Also on October 7, 2022, the defendant filed his sentencing memorandum. (See Dkt No. 29.) In that memorandum, the defendant requests a sentence of thirteen months' imprisonment, two years of supervised release (subject to the special conditions recommended in the PSR), and a $50,000 fine (due on the schedule recommended in the PSR). (See id. at 1.) With respect to the custodial sentence, the defendant argues that his conduct does not warrant any enhancement – as the government contends and Probation recommends – but rather qualifies for a two-level reduction for playing a minor role in the offense, such that the defendant argues that the applicable Guidelines range is 37-46 months' imprisonment. (See id. at 3.)

B. Factual Background

As set forth in the complaint filed on January 11, 2022 (the "Complaint"), IEEPA, 50 U.S.C. §§ 1701-1706, authorizes the President of the United States to impose economic sanctions on a foreign country in response to an unusual or extraordinary threat to the national security, foreign policy or economy of the United States when the President declares a national emergency with respect to that threat. (See Dkt No. 2 ¶ 2.) Pursuant to IEEPA, beginning in May 1995, the President has signed a series of Executive Orders imposing economic sanctions, including trade restrictions, against Iran. (See id.) The Executive Orders have prohibited the exportation, re-exportation, sale or supply, directly or indirectly, to Iran of any goods, technology or services from the United States. (See id.) Under IEEPA, it is a crime willfully to violate, attempt to violate, conspire to violate or cause a violation of any regulation issued pursuant to the statute. 50 U.S.C. § 1705. (See id.)

To implement the economic sanctions on Iran imposed by the Executive Orders, the U.S. Department of the Treasury, through its Office of Foreign Assets Control ("OFAC"), promulgated the Iranian Transactions and Sanctions Regulations ("ITSR"). 31 C.F.R. Part 560. (See id. ¶ 3.) The ITSR prohibits, among other things, the unlicensed export, re-export, sale or supply, directly or indirectly, from the United States or by a United States person, of any goods, services or technology to Iran or to the Government of Iran. (See id.) The regulations also prohibit conspiring to and attempting to evade, avoid, or violate the regulations. (See id.) The prohibitions further include the unauthorized export of goods from the United States to a third country if the goods are intended or destined for Iran. (See id.)

From around February 2019 through June 2021, the defendant and his co-conspirators perpetrated an illegal transshipping scheme through two separate United Arab Emirates ("UAE") front companies, referenced in the Complaint as "UAE Company 1" and "UAE Company 2." (See generally id. ¶¶ 6-9, 15-49.) The defendant and his co-conspirators used UAE Company 1 and UAE Company 2 to procure electronic goods and technology from four U.S. companies for an electronic banking organization based in Iran, referenced in the Complaint as "Iran Company 1," as well as other end users in Iran, without obtaining the required export licenses. (See generally id. ¶¶ 4-5, 15-49.) The defendant and his co-conspirators intentionally concealed from the U.S. companies that they intended to send the procured items to end users in Iran, falsely claiming that the UAE front companies would be the ultimate end users. (See generally id. ¶¶ 15-49.)

UAE Company 1 – which was established at the direction of and with capital from Iran Company 1 – creates computer networks to process financial transactions and is a global provider of electronic payment solutions that add value at the point-of-transaction for financial institutions, consumers, merchants, and acquirers. (See id. ¶ 5; Plea Agreement, Ex. A ¶ 3.) UAE Company 1 is a certified SWIFT service bureau, and as such has provided SWIFT services to Iranian and Iraqi banks pursuant to written agreements with them. (See Plea Agreement, Ex. A ¶ 3.) During the period of the charged conspiracy, the defendant held a variety of positions and roles at UAE Company 1. He was a partial owner, board member, and technical manager, and the company's contact person in various capacities, and also held himself out as the business development manager on at least one occasion. (See id. ¶ 6.) The defendant held the most senior role in the UAE on behalf of UAE Company 1 and regularly acted on the company's behalf, such as by managing UAE Company 1's bank account (e.g., applying for a bank account, facilitating banking transactions, serving as the contact person for the bank, meeting with bank representatives, and negotiating exchange rates), signing certain documents on behalf of UAE Company 1, holding responsibility for all technical issues relating to the SWIFT data centers and provision of SWIFT services, and communicating with certain telecommunications companies. (See id. ¶¶ 6-8.) The defendant also at times provided direction to the individual referenced in the Complaint as the "Coworker," who played a critical and ongoing role in the charged criminal conspiracy, as set forth below and in the Complaint. (See id. ¶ 10; see also Dkt No. 2 ¶¶ 10, 15-49.) The defendant used his various positions at UAE Company 1 in ways that furthered the criminal conspiracy.

UAE Company 2 – which the defendant himself established at the direction of Iran Company 1 – conducts software trading and computer and data processing. (See Dkt No. 2 ¶ 7; Plea Agreement, Ex. A ¶ 11.) UAE Company 2 sources and procures goods and services for UAE Company 1 and Iran Company 1, which are UAE Company 2's only customers. (See Plea Agreement, Ex. A ¶¶ 11, 18.) During the period of the charged conspiracy, the defendant was the founder, sole owner, and board member, and held himself out as CEO of the company on at least one occasion. (See id. 12-13.) The defendant was a signatory on UAE Company 2's bank accounts and managed those accounts (e.g., opening bank accounts, facilitating banking transactions, serving as the contact person for the banks, meeting with bank representatives, negotiating exchange rates, making in person deposits, providing online banking access to officials of Iran Company 1, and providing information to Iran Company 1). (See id. ¶ 14.) In addition, when the managing director took a leave of absence, he named the defendant as his replacement/successor,

directing specific UAE Company 1/UAE Company 2/Iran Company 1 employees to cooperate with the defendant. (See id. ¶ 15.) As with UAE Company 1, the defendant used his various positions at UAE Company 2 in ways that furthered the criminal conspiracy.

Iran Company 1 is the largest electronic banking organization in the Middle East, and provides information technology services to Iranian commercial banks and financial institutions. (See Dkt No. 2 ¶ 5; Plea Agreement, Ex. A ¶ 17.) Iran Company 1 was founded as an arm of The Central Bank of Iran ("CBI"), which is the official bank of the Government of Iran and has been recognized by the U.S. government as an agency of the Government of Iran. (See Dkt No. 2 ¶¶ 4-5; Plea Agreement, Ex. A ¶ 17.) The U.S. government further has classified CBI as a Specially Designated National ("SDN"), thereby signifying that CBI is acting for or on behalf of one or more terrorist organizations. (See Dkt No. 2 ¶ 5.) According to the U.S. government, CBI has materially assisted, sponsored and provided financial, material or technological support, goods or services to Lebanese Hizballah, a terrorist organization, and to the Qods Force of Iran's Islamic Revolutionary Guards Corps ("IRGC"), a branch of the Iranian armed forces and the Iranian government's primary means of directing and implementing its global terrorism campaign. (See id.) By virtue of its designation as an SDN, CBI itself became and now is subject to economic and trade sanctions. (See id.)

The defendant's illegal transshipping scheme involved numerous participants at UAE Company 1, UAE Company 2, and Iran Company 1. In his sentencing memorandum, the defendant admits that "CBI, [Iran Company 1], [UAE Company 1], [UAE Company 2], the Managing Director, Partner 1, the Commercial Manager, the Coworker, Mr. Kashani and other co-conspirators undertook and facilitated the export of certain U.S. origin goods, technology, and services to Iran without obtaining required licenses or authorization from the Office of Foreign Assets Control ('OFAC') in violation of U.S. law." (See Dkt No. 29 at 13.) The referenced individuals played the following roles in the criminal scheme, as set forth in Exhibit A:

- During the period of the charged conspiracy, the individual referenced in Exhibit A as the "Managing Director" was the managing director of UAE Company 1, UAE Company 2, and a commercial director (mid-level manager) at Iran Company 1. (See Plea Agreement, Ex. A ¶ 9.) The Managing Director was located in Iran and directed the activities of UAE Company 2. (See id. ¶¶ 9, 13.) The defendant reported to and took directions from the Managing Director. (See id. ¶ 9.) The Coworker also reported to the Managing Director with respect to daily activities. (See id. ¶¶ 10, 16.)
- The Coworker was an employee of UAE Company 1 from approximately 2018 until January 2020, and thereafter an employee of UAE Company 2. (See id. ¶ 10.) The defendant at times provided direction to the Coworker, who held a junior position to him, in connection with certain matters, and the Coworker reported to the defendant regarding those matters. (See id. ¶¶ 10, 16.) The Coworker reported to the Managing Director with respect to the Coworker's daily activities. (See id.) While employed by UAE Company 1, the Coworker worked in UAE Company 1's physical space. (See id. ¶ 16.)

- In or around early 2012, at the direction of Iran Company 1, the individual referenced in Exhibit A as "Partner 1" was the then-sole owner of UAE Company 1. (See id. ¶ 5.) Partner 1 transferred 20% of UAE Company 1's ownership to the defendant, in order to enable the defendant to act as UAE Company 1's contact person in the UAE. (See id.) During the period of the charged conspiracy, the defendant was authorized, by written authorization letters signed by Partner 1, to act on behalf of Partner 1 in Dubai, UAE as UAE Company 1's contact person, and as the signatory for any request or documents for UAE Company 1, for two telecommunications companies in Dubai that provided services to UAE Company 1. (See id. ¶ 7.)
- The individual referenced in Exhibit A as the "Commercial Manager" was an employee of UAE Company 1 from approximately 2018 until January 2020, and thereafter an employee of UAE Company 2. (See id. ¶ 10.) While employed by UAE Company 1, the Commercial Manager worked in UAE Company 1's physical office. (See id. ¶ 16.)

Iran Company 1 – at times acting directly on behalf of CBI – tasked the defendant and his co-conspirators to purchase the U.S. goods and technology and arrange their transshipment to Iran by Iran Company 1. As examples of the technology the defendant and his co-conspirators conspired to export to Iran without the required licenses:

U.S. Company 1

- The defendant, around 2016, purchased from a U.S.-based technology company, referenced in the Complaint as "U.S. Company 1," subscriptions to a proprietary computer software program for commercial use, as well as annual renewals for the program through 2021. (See generally Dkt No. 2 ¶¶ 15-27.) The defendant provided his account login information to Iran Company 1 to enable Iran Company 1 to access the program. (See id. ¶ 16.) At one point in 2019, an Iran Company 1 employee emailed the defendant, the Coworker, and others, requesting renewal of the program subscription, to which the Coworker responded that, according to the defendant, the subscription would renew automatically and a UAE Company 1 invoice would be generated, but that the defendant could not provide the exact amount until after the payment was completed. (See id. ¶ 17.) At another point, in 2020, a CBI employee expressly requested "immediate renewal" of the program, emphasizing the importance of renewing the program before it expired because of the difficulty of again obtaining the program due to sanctions ("regeneration w[a]s practically impossible due to the sanctions"). (See id. ¶ 20.) That email was forwarded to the defendant's UAE Company 1 and UAE Company 2 email accounts. (See id.) The defendant subsequently responded that the subscription already had been renewed for another year and requested that the purchase price be paid to him. (See id.)
- The defendant, in 2021, purchased a digital content platform from U.S. Company 1. (See id. ¶ 24.) On the date of purchase, U.S. Company 1 sent an email to the defendant's UAE Company 1 email address, alerting him that

someone had logged into his U.S. Company 1 account (which the defendant had provided to Iran Company 1 in order to enable Iran Company 1 to access the proprietary computer software program referenced above) from Iran. (See id.) The email from U.S. Company 1 stated "[T]his download was initiated from Iran," and instructed that, if the defendant had not initiated the download, he should contact U.S. Company 1. (See id.) The defendant did not contact U.S. Company 1 in response to the email. (See id.)

- In 2021, an Iran Company 1 employee sent an email to the defendant requesting non-Iranian SIM cards so that Iran Company 1 employees could use U.S. Company 1 software, which was prohibited in Iran. (See id. ¶ 25.)

U.S. Company 3

- In 2019, at the request of Iran Company 1, the Coworker purchased from a U.S. software company, referenced in the Complaint as "U.S. Company 3," renewals for two subscriptions to U.S. Company 3's operating system. (See id. ¶¶ 37-38.) In correspondence related to the renewals, the Iran Company 1 employee suggested that the Coworker "check with Mr. Kashani" regarding payment. (See id. ¶ 38.) The Coworker subsequently provided the UAE Company 1 username and password for the subscriptions to an employee of Iran Company 1 to enable Iran Company 1 to access the subscriptions. (See id. ¶ 39.)
- In 2020, U.S. Company 3 disabled UAE Company 1's accounts because it had discovered that U.S. Company 3 software associated with UAE Company 1's license was being accessed from Iran and that one of the email addresses associated with the account belonged to an Iranian domain. (See id. ¶ 40.) A U.S. Company 3 employee subsequently emailed the Coworker to inform the Coworker that the UAE Company 1 account had been disabled because it appeared to violate U.S. export regulations; the Coworker forwarded that email to employees at Iran Company 1 and UAE Company 2. (See id.) The Coworker subsequently set up a new account with a U.S. Company 3 supplier using the Coworker's UAE Company 2 email address, rather than the Coworker's UAE Company 1 email address. (See id. ¶ 41.) The Coworker used the new UAE Company 2 account to request quotes for several products, including two subscriptions to the U.S. Company 3 operating system, representing that UAE Company 2 was the end user. (See id.) The Coworker subsequently notified employees at Iran Company 1 and UAE Company 2 that U.S. Company 3 would not send the requested quotes because U.S. Company 3 had determined that UAE Company 2 was related to UAE Company 1, which previously had been blocked because U.S. Company 3 had learned that the previously purchased licenses had been accessed in Iran. (See id. ¶ 42.)

U.S. Company 2

- In 2020, the Coworker purchased from a company that sells a variety of goods widely used in commercial, industrial, and military applications, referenced in the Complaint as "U.S. Company 2," devices ("fixed attenuators") found in various electronic equipment with uses including extending the range of certain

equipment and preventing signal overload in transmitters and receivers. (See id. ¶¶ 28-31.) U.S. Company 2 expressly informed the Coworker that the goods could not be shipped to Iran. (See id. ¶ 30.) Subsequently, in connection with the purchase, the Coworker signed an end user form in which the Coworker attested that the goods would not be exported or re-exported except in compliance with U.S. law. (See id. ¶ 31.) The Coworker falsely represented on the form that UAE Company 2 was the end user and requested shipment to UAE Company 1, though the goods in fact – as clear from emails between the Coworker and Iran Company 1 – were destined for Iran Company 1. (See id. ¶¶ 29, 31-33.)

- In 2021, an Iran Company 1 employee requested that the Coworker and others ship U.S. Company 2 goods to an Iran Company 1 location in Iran. The Coworker confirmed receipt of the email. (See id. ¶ 34.)

U.S. Company 4

- In 2019, the Coworker, using the Coworker's UAE Company 1 email address, procured six power supplies for Iran Company 1 from a U.S. technology company, referenced in the Complaint as "U.S. Company 4." (See id. ¶¶ 45-46.) The Coworker facilitated shipment of the power supplies from UAE Company 1 to Iran Company 1, via a third-party courier. (See id. ¶ 46.)
- In 2020, the Coworker facilitated shipment of U.S. Company 4 network storage systems from a company in Denmark to Iran for Iran Company 1. (See id. ¶¶ 47-48.)

The defendant's claims in his sentencing memorandum that he was "not personally and directly" involved in the conduct alleged with respect to U.S. Company 2, U.S. Company 3, and U.S. Company 4 (see Dkt No. 29 at 7, 14), ignores his role in and knowledge of the conspiracy. There is no dispute that the defendant was aware of the conspiracy to illegally transship goods and technology to Iran. During the plea hearing before Judge Henry, the defendant admitted that, with respect to the various technology and goods listed in the Indictment that were (illegally) shipped to Iran – specifically, the two subscriptions to a proprietary computer software program, several fixed attenuators, two subscriptions to operating software, six power supplies, and several storage systems – he was "aware" that they were "part of [his] conspiracy." (See Tr. 42:3-15.) Moreover, the defendant's admission in his sentencing memorandum that "CBI, [Iran Company 1], [UAE Company 1], [UAE Company 2], the Managing Director, Partner 1, the Commercial Manager, the Coworker, Mr. Kashani and other co-conspirators undertook and facilitated the export of certain U.S. origin goods, technology, and services to Iran without obtaining required licenses or authorization from the Office of Foreign Assets Control ('OFAC') in violation of U.S. law" (see Dkt No. 29 at 13) itself indicates the defendant's knowledge of the purpose and scope of the criminal conspiracy. Indeed, the Complaint includes allegations regarding the roles of only certain of these individuals in the conspiracy. In addition, the Complaint alleges, with respect to U.S. Company 3, that the defendant – at a minimum – was aware that the Coworker was facilitating Iran Company 1's access to U.S. Company 3's operating system, given an email from an Iran Company 1 employee asking the Coworker to "check with Mr. Kashani" regarding payment. (See Dkt No. 2 ¶ 38.)

Further, the defendant – an educated and sophisticated businessman, who, among other things, held himself out as CEO of and acted as managing director of UAE Company 2 – was familiar with U.S. sanctions laws with respect to Iran and agreed to comply with those laws. (See, e.g., id. ¶¶ 14, 22-23.) During a post-Miranda interview following his arrest, the defendant stated, in sum and substance, "I know sanctions and I know banking sanctions . . . because it's my job." During the interview, the defendant also acknowledged that Iran Company 1 itself could not purchase the U.S. Company 1 software subscriptions described above, because Iran Company 1 was in a sanctioned company ("They [U.S. Company 1] do not give to uh, companies belong to under sanctions companies, countries. So, they [Iran Company 1] cannot get it."). The defendant's statements demonstrate his understanding – and knowing violation – of the Iranian sanctions regime.

Moreover, as set forth in the Complaint and Exhibit A, the defendant took various measures to conceal his business dealings with Iranian individuals and companies, itself indicating his familiarity with the sanctions regime. For example, in 2020, the defendant advised the Managing Director that a UAE Company 2 account at a UAE bank had been blocked, and speculated that the account had been blocked due to two recent payments by UAE Company 2 to an Iranian UAE Company 2 employee. (See Dkt No. 2 ¶ 14; Plea Agreement, Ex. A ¶ 14.) The defendant further speculated that the payments had aroused suspicion given the high sensitivity toward accounts associated with Iranian passports, and suggested not further pursuing the blocked account with the bank. (See id.) The defendant subsequently sent an email to the Managing Director, requesting that the Managing Director stop payment on a check that had been issued to the same Iranian UAE Company 2 employee from the same UAE Company 2 bank account. (See id.) The defendant referenced the problem with the UAE Company 2 bank account and suggested that, to avoid problems with the account, the check be re-issued in the name of a different UAE Company 1 employee – one who was not Iranian. (See id.) Separately, in 2020, the defendant signed a "Sanctions Assessment Questionnaire" for a UAE bank, in which he represented that, to the best of his knowledge, UAE Company 2 did not have any current or planned business activity in Iran; UAE Company 2 and its connected/related parties did not have a presence in Iran and were not then targeted for sanctions administered by, among others, OFAC, and none of UAE Company 2's sales or revenue were derived from Iran. (See Dkt No. 2 ¶ 14.) Each of these statements was false. UAE Company 2 in fact had business activity in Iran and sales or revenues derived from Iran, as the defendant well knew. (See id.) In fact, as explained above, UAE Company 2 sources and procures goods and services for only two companies, one of which is Iran Company 1, in Iran. And Iran Company 1 and CBI, both of which are connected/related parties to UAE Company 2, clearly had a presence in Iran, and CBI is targeted for sanctions by OFAC.

II. Applicable Law

The Supreme Court has explained that the sentencing court "should begin all sentencing proceedings by correctly calculating the applicable [Guidelines] range. Gall v. United States, 552 U.S. 38, 49 (2007). The Supreme Court further has explained that "[a]s a matter of administration and to secure nationwide consistency, the Guidelines should be the starting point and the initial benchmark." Id. The sentencing court "should then consider all of the [18 U.S.C.] § 3553(a) factors to determine whether they support the sentence requested by a party." Id. at 49-50. In doing so, the court "may not presume that the Guidelines range is reasonable," but "must

make an individualized assessment based on the facts presented." Id. at 50 (internal citation omitted).

Title 18, United States Code, Section 3553(a) provides, in part, that in imposing a sentence, the court shall consider:

> (1) the nature and circumstances of the offense and the history and characteristics of the defendant; [and]
>
> (2) the need for the sentence imposed--
>
> > (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
> >
> > (B) to afford adequate deterrence to criminal conduct;
> >
> > (C) to protect the public from further crimes of the defendant; [and]
> >
> > (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

18 U.S.C. § 3553(a). "[I]n determining whether to impose a term of imprisonment, and, if a term of imprisonment is to be imposed, in determining the length of the term, [the court] shall consider the factors set forth in section 3553(a) to the extent that they are applicable, recognizing that imprisonment is not an appropriate means of promoting correction and rehabilitation." 18 U.S.C. § 3582(a).

At sentencing, "the court is virtually unfettered with respect to the information it may consider." United States v. Alexander, 860 F.2d 508, 512-13 (2d Cir. 1988). Indeed, "[n]o limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence." 18 U.S.C. § 3661.

III. Sentencing Calculation

The government respectfully submits that the appropriate calculation of the defendant's adjusted offense level, as set forth in the Plea Agreement, is:

Base Offense Level (§ 2M5.1)	26
Plus: Organizer or leader of a criminal scheme with 5 or more participants or that was otherwise extensive (§ 3B1.1(a))	+4
Total Offense Level:	30
Less: Acceptance of Responsibility (§§ 3E1.1(a) and (b))	-3
Total Adjusted Offense Level:	27

(See Plea Agreement ¶ 2.)

Assuming the defendant falls within Criminal History Category I, this level carries a range of imprisonment of 70-87 months. (See id.)

As noted above, Probation recommends a three-level enhancement pursuant to U.S.S.G. § 3B1.1(b). (See PSR at 15.) The defendant disputes the applicability of any enhancement, and instead contends that a two-level reduction is appropriate, pursuant to U.S.S.G. § 3B1.1.2(b), for what the defendant argues was a minor role in the charged conspiracy. (See Dkt No. 29 at 3.) For the reasons below, the government respectfully submits that the Court should find the four-level enhancement pursuant to U.S.S.G. § 3B1.1(a) applicable.

IV. Argument

The government respectfully submits that an enhancement pursuant to U.S.S.G. § 3B1.1(a) is appropriate, and that a sentence within the resulting Guidelines range of 70-87 months' imprisonment would be sufficient, but not greater than necessary, to achieve the goals of sentencing in this case. Such a sentence would constitute just punishment, reflect the severity of the defendant's offense, promote respect for the law, and provide the specific and general deterrent effect called for by the defendant's offense.[1]

A. Applicability of U.S.S.G. § 3B1.1(a)

The government respectfully submits that an enhancement pursuant to U.S.S.G. § 3B1.1(a), which provides for a four-level increase in the defendant's offense level "[i]f the defendant was an organizer or leader of a criminal activity that involved five or more participants or was otherwise extensive," is appropriate. Prior to imposing a leadership enhancement pursuant to U.S.S.G. § 3B1.1(a), a sentencing court must make "specific factual findings that (i) the defendant was an organizer or leader, and (ii) the criminal activity involved five or more participants, or was otherwise extensive." United States v. Si Lu Tian, 339 F.3d 143, 156 (2d Cir. 2003). In the Plea Agreement, the defendant disputed the applicability of the enhancement pursuant to U.S.S.G. § 3B1.1(a), but agreed that the Court would determine applicability of the enhancement based solely on the stipulated facts in Exhibit A, and without a Fatico hearing. (See Plea Agreement ¶¶ 2-3.) The stipulated facts establish that the enhancement pursuant to U.S.S.G. § 3B1.1(a) is appropriate.

First, as the Second Circuit has explained, whether the defendant is considered a leader "depends upon the degree of discretion exercised by him, the nature and degree of his participation in planning or organizing the offense, and the degree of control and authority exercised over the other members of the conspiracy." United States v. Paccione, 202 F.3d 622, 624 (2d Cir. 2000) (district court did not clearly err in determining defendants "played a crucial role in the planning, coordination, and implementation of a criminal scheme," where they "planned

[1] The government takes no position on the schedule for payment of the $50,000 fine agreed upon in the Plea Agreement and agrees with Probation regarding the recommended special condition. There is no forfeiture or restitution in this case.

the arson and enlisted [a third individual's] assistance in moving valuables out of the club" and the court credited testimony that "at least two other individuals participated directly in the arson, and found that whoever set the fire must have had the [defendants'] permission in order to gain access to the club"); see also United States v. Valdez, 16 F.3d 1324, 1335 (2d Cir. 1994) (district court did not clearly err in applying leadership enhancement where evidence demonstrated defendant "gave workers instructions, paid salaries, collected drug proceeds, disbursed money for bills, and handled customers," and "maintained the organization's drug records," and that the district court's finding was not undermined by the fact that defendant did not actively participate in a particular drug transaction with undercover agent). The Guidelines direct that factors the court should consider include "the exercise of decision making authority, the nature of participation in the commission of the offense, the recruitment of accomplices, the claimed right to a larger share of the fruits of the crime, the degree of participation in planning or organizing the offense, the nature and scope of the illegal activity, and the degree of control and authority exercised over others." See U.S.S.G. § 3B1.1, Comment, App. Note 4. Notably, the Second Circuit has held that, "[i]n order to qualify as a leader or organizer [pursuant to U.S.S.G. § 3B1.1(a)], a participant in a criminal activity need only lead or organize one other participant." United States v. Serrano, 297 F. App'x 70, 71 (2d Cir. 2008) (summary order); see also U.S.S.G. §3B1.1, Comment, App. Note 2. The Second Circuit also has held that "when a business's top officer knows of corruption in the business and implicitly approves it by participating in the corruption, a four-level enhancement under § 3B1.1(a) is proper." United States v. DeRiggi, 72 F.3d 7, 9 (2d Cir. 1995) (citing United States v. Duncan, 42 F.3d 97 (2d Cir. 1994)).

As set forth above and in the stipulated facts in Exhibit A, during the period of the charged conspiracy, the defendant held a variety of positions and roles at both UAE Company 1 and UAE Company 2. The defendant, using those positions, acted on behalf of the companies in ways that furthered the criminal conspiracy. The defendant's attempts in his sentencing memorandum to minimize his roles at UAE Company 1 and UAE Company 2 by claiming that he "was a relatively junior level employee indirectly working for [Iran Company 1]," "had no decision making authority," and "merely conducted tasks assigned to him upon specific direction and instruction from another participant in the conspiracy" (see Dkt No. 29 at 7) lack credibility and are belied by the record. In addition to his many high-level titles at UAE Company 1 and UAE Company 2 – including founder, owner, board member, and CEO – and various responsibilities at those companies, it is particularly significant that when the Managing Director took a leave of absence from UAE Company 2, he named the defendant as his replacement/successor. (See Plea Agreement, Ex. A ¶¶ 5-6, 12-13, 15.) As set forth in Exhibit A, the activities of UAE Company 2 were directed by the Managing Director, and the Coworker – who, as described above, played a critical and ongoing role in the conspiracy – reported to the Managing Director with respect to daily activities. (See id. ¶¶ 10, 13, 16.) In connection with the defendant assuming the role of managing director, three UAE Company 1/UAE Company 2/Iran Company 1 employees were directed to cooperate with the defendant. (See id. ¶ 15.) Notably, one of these employees was the Commercial Director, whom the defendant has admitted was a co-conspirator in the criminal scheme. (See Dkt No. 29 at 13.) Much as the defendant would like to portray that he did nothing more than "naïve[ly]" share a few software subscriptions with individuals in Iran, even though he knew doing so was illegal because he read the licensing agreement – and that, in doing so, he was merely carrying out assigned tasks – that vastly understates the defendant's role in and knowledge of the criminal conspiracy. (See, e.g., id. at 2, 6-7, 13.)

As a specific example of the defendant's role as a leader or organizer, as described above, in July 2020, the defendant sent an email to the Managing Director advising that a UAE Company 2 bank account had been blocked due to two recent payments by UAE Company 2 to an Iranian UAE Company 2 employee, and speculating that the accounts were blocked because the payments had aroused suspicion given the high sensitivity toward accounts associated with Iranian passports. (See Dkt No. 2 ¶ 14.) The defendant suggested that the Managing Director stop payment on a check that had been issued to the same Iranian UAE Company 2 employee and, to avoid problems with the account, instead re-issue the check in the name of a different UAE Company 2 employee who was not Iranian. (See id.) Concealing UAE Company 2's (and UAE Company 1's) illegal business dealings with Iranian individuals and companies is at the heart of the criminal conspiracy, and this example demonstrates that the defendant was not merely taking direction from others in perpetrating the scheme – he exercised discretion in elevating the issue to the Managing Director and proposing a (seemingly illegal) solution, and he planned, coordinated, and implemented an elaborate measure to conceal the company's dealings with an Iranian individual. See Paccione, 202 F.3d at 624; Serrano, 297 F. App'x at 71.

In addition, the defendant's activities in managing UAE Company 1 and UAE Company 2 were critical to perpetrating the criminal scheme. See Valdez, 16 F.3d at 1335. It is of no moment that Iran Company 1 directed activities of UAE Company 1 and UAE Company 2, that the defendant reported to others, or that others might also have been leaders or organizers of the criminal scheme. See U.S.S.G. § 3B1.1, Comment, App. Note 4 ("There can, of course, be more than one person who qualifies as a leader or organizer of a criminal association or conspiracy."); see also United States v. Garcia, 936 F.2d 648, 656 (2d Cir. 1991) ("[E]ven if Reinoso were an organizer, the district court would not be precluded from finding Garcia to have been an organizer as well."); Duncan, 42 F.3d at 106 n.6 (finding "comparative analyses are irrelevant, since one conspirator's leadership role is not dispositive on the question of whether another was also a leader"). Nor is it dispositive that Exhibit A does not reflect that the defendant recruited accomplices or had the ability to craft his pay to the amount of his liking (see PSR ¶ 60) – those are merely factors the court should consider as part of the analysis. (See U.S.S.G. § 3B1.1, Comment, App. Note 4.) Here, the defendant's participation in the criminal conspiracy was extensive and his role as a leader or organizer is reflected in other respects contemplated by the Guidelines (see id.), including with respect to exercising discretion; planning, organizing, and implementing the criminal conspiracy; and exercising control over others (including individuals the defendant has admitted were co-conspirators) in certain regards. See Paccione, 202 F.3d at 624.

Moreover, the defendant was a "top officer" (even if not the top officer) at UAE Company 1/UAE Company 2 and – at a minimum – "kn[ew] of corruption in the business and implicitly approve[d] it by participating in the corruption," which itself warrants applying the enhancement pursuant to § 3B1.1(a). See DeRiggi, 72 F.3d at 9; see also Duncan, 42 F.3d at 105-06 (affirming district court's application of § 3B1.1(a) enhancement where business's top officer knew of and implicitly approved corruption over which he had control, even though he might have been "merely a passive participant"). As set forth above, the defendant acted as a leader and held himself out as such. The defendant has admitted – during his plea allocution before Judge Henry and during his post-arrest interview – that he both knew about and participated in the criminal

scheme. And there is no dispute that the defendant himself illegally exported technology from U.S. Company 1 to Iran.

Second, there also is no dispute that the charged conspiracy involved five or more participants. As the defendant admits in his sentencing memorandum, "the Managing Director, Partner 1, the Commercial Manager, the Coworker, Mr. Kashani and other co-conspirators undertook and facilitated the export of certain U.S. origin goods, technology, and services to Iran without obtaining required licenses or authorization from the Office of Foreign Assets Control ('OFAC') in violation of U.S. law." (See Dkt No. 29 at 13.) Notably, the defendant properly is included in this count. See Paccione, 202 F.3d at 625 (holding defendant may properly be included as participant when determining whether criminal activity "involved five or more participants" for purposes of § 3B1.1 enhancement). And, as explained above, U.S.S.G. § 3B1.1(a) does not require that the defendant himself was the organizer or leader, or the manager or supervisor, of the five participants. Rather, he need only have been the organizer or leader of one or more other participants. See Serrano, 297 F. App'x at 71; U.S.S.G. §3B1.1, Comment, App. Note 2. As stipulated by the parties and described above, the defendant provided direction to the Coworker – who played a critical and ongoing role in the conspiracy, and facilitated the illegal export of goods from U.S. Company 2, U.S. Company 3, and U.S. Company 4, as set forth in the Complaint – in connection with certain matters, and the Coworker reported to the defendant regarding those matters. The defendant also acted as managing director of UAE Company 2 while the Managing Director was on leave, during which time the Managing Director directed specific UAE Company 1/UAE Company 2/Iran Company 1 employees – including the Commercial Director, whom the defendant has admitted was a co-conspirator in the scheme – to cooperate with the defendant. (See Plea Agreement, Ex. A ¶ 15.)

Third – although only relevant if the Court finds that the defendant was an organizer or leader, but the scheme did not involve five participants, see United States v. Kent, 821 F.3d 362, 368 (2d Cir. 2016) – the scheme was extensive. As described above, the charged conspiracy involved an elaborate, multi-year scheme to use UAE Company 1 and UAE Company 2 to evade U.S. export laws and sanctions, and involved numerous participants, types of illegally exported goods, and victim companies.

Accordingly, the government respectfully submits that a four-level enhancement pursuant to U.S.S.G. § 3B1.1(a) is appropriate. In the alternative, if the Court determines that such an enhancement is not applicable, the government respectfully requests that the Court apply the three-level enhancement pursuant to U.S.S.G. § 3B1.1(b), as Probation recommends. U.S.S.G. § 3B1.1(b) provides for a three-level increase in the defendant's offense level "[i]f the defendant was a manager or supervisor (but not an organizer or leader) and the criminal activity involved five or more participants or was otherwise extensive." See U.S.S.G. § 3B1.1(b). "A defendant may properly be considered a manager or supervisor if he 'exercise[d] some degree of control over others involved in the commission of the offense." United States v. Blount, 291 F.3d 201, 217 (2d Cir. 2002). As detailed above, the defendant at certain times exercised control over lower-level employees of UAE Company 1/UAE Company 2, including two individuals the defendants have admitted were co-conspirators in the scheme, i.e., the Coworker and the Commercial Director. And, as described above, the scheme involved five or more participants or was otherwise extensive.

Finally, given the defendant's extensive role in the criminal scheme set forth above, the government respectfully submits that the defendant's requested two-level reduction pursuant to U.S.S.G. § 3B1.2(b) for being a minor participant is not appropriate. The government also notes that, in arguing for a reduction pursuant to U.S.S.G. § 3B1.2(b), the defendant draws a number of unreasonable inferences. First, for example, the defendant asserts that his "board membership and banking signature authority on behalf of [UAE Company 1] and [UAE Company 2] was in name only and did not signify any leadership or authority." (See Dkt No. 29 at 6.) That is contradicted by the record. Exhibit A, which was stipulated by the parties, states that the defendant was one of two signatories on UAE Company 1's bank account, and that both signatures were required to initiate activity from the account. (See Plea Agreement, Ex. A ¶ 8.) The defendant, at the direction of Iran Company 1, managed the bank account for and on behalf of UAE Company 1, such as by facilitating banking transactions, serving as the contact person for the bank, meeting with bank representatives, and negotiating exchange rates. (See id.) The defendant also was a signatory on UAE Company 2's bank accounts and, at the direction of Iran Company 1, opened and managed the bank accounts, such as by facilitating banking transactions, serving as the contact person for the banks, meeting with bank representatives, negotiating exchange rates, making in person deposits, providing online banking access to officials of Iran Company 1, and passing on information he received to Iran Company 1. (See id. ¶ 14.) Further, with respect to UAE Company 2, as described above, the defendant raised to the Managing Director that UAE Company 2's bank account had been blocked, speculated that it was due to recent payments to an Iranian UAE Company 2 employee, and proposed stopping payment on a check that had been issued to that Iranian employee and instead re-issuing the check in the name of a different UAE Company 2 employee who was not Iranian. (See id.) The defendant's responsibilities and voluntary conduct in these regards hardly constitute signature authority "in name only," and do in fact demonstrate his leadership and authority.

Second, the defendant asserts that, with respect to the 20% of UAE Company 1 shares and 100% of UAE Company 2 shares he owned, he "was at all times and in all respects acting at the direction and on behalf of [Iran Company 1] and did not control the shares he owned in the companies." (See Dkt No. 29 at 6.) There is no support for the defendant's statement and it is not included in Exhibit A, and therefore not properly before the Court in determining whether a reduction pursuant to U.S.S.G. § 3B1.2(b) is applicable, given that such analysis necessarily also implicates whether an enhancement pursuant to U.S.S.G. § 3B1.1(a) is applicable.

Third, the defendant asserts that he "was paid an industry appropriate salary for his job location, responsibilities, and experience, did not exercise or benefit from any indicia of share ownership, and did not benefit monetarily from the criminal activity – he neither invested nor received any money from either [UAE Company 1] or [UAE Company 2], other than his salary." (See Dkt No. 29 at 6-7.) Again, there is no support for the defendant's statements and they are not included in Exhibit A, and therefore they are not properly before the Court as part of the U.S.S.G. § 3B1.2(b) analysis. The government also notes that, given that UAE Company 1 and UAE Company 2 were used to illegally transship goods and technology to Iran and seemingly existed solely for that purpose, the salary the defendant received in fact did constitute monetary benefit from his criminal activity. The government further notes that, as stipulated in Exhibit A, Iran Company 1 – which tasked the defendant and his co-conspirators with the illegal activity – paid for the defendant's health care benefits, personal U.S. income taxes attributable to his ownership

of shares in UAE Company 1 and UAE Company 2, and his legal representation in the instant case. (See Plea Agreement, Ex. 1 ¶ 20.)

B. Analysis of Sentencing Factors Under 18 U.S.C. § 3553(a)

As set forth above, 18 U.S.C. § 3553(a) requires courts to consider a number of factors in imposing a sentence, including the nature and circumstances of the offense, the history and characteristics of the defendant, the need for the sentence to serve as a deterrent, and the need to avoid unwarranted sentencing disparities. For the reasons below, analysis of these factors supports imposing a sentence within the Guidelines range.

i. The Nature and Circumstances of the Offense

The Executive Branch has determined, as a matter of foreign policy and U.S. national security, that the threat posed by the government of Iran is so severe that only sanctions and a trade embargo on certain U.S.-origin goods, technology, and services are adequate to protect the interests of the United States. That determination is within the sound judgment of the Executive Branch. The Sentencing Commission, in turn, has highlighted the seriousness of violations of U.S. sanctions against Iran by assigning a base offense level of 26 to the offense. The government respectfully submits that the Court should give considerable weight to the Sentencing Commission's determination when fashioning a sentence in this case.

The application notes to U.S.S.G. § 2M5.1 outline relevant factors courts may consider when evaluating the nature and circumstances of a sanctions violation. Those factors are: (1) the degree to which the violation threatened a security interest of the United States; (2) the volume of commerce involved; (3) the extent of planning or sophistication; and (4) whether there were multiple occurrences. See U.S.S.G. § 2M5.1, Comment, App. Note 2. If any of these are present in an extreme form, a departure may be warranted. See id.

Analysis of these factors supports the imposition of a sentence within the Guidelines range. The defendant's criminal conduct was serious and implicated the security interest of the United States: the defendant knowingly participated in an illegal and sophisticated multi-year scheme – involving the use of two front companies in the UAE, and numerous knowing participants – to export a variety of goods and technology from four U.S. companies to Iran, a country that sponsors international terrorism and that has been subject to a comprehensive trade embargo because of the extraordinary threat it presents. Indeed, certain of the items were exported to or for the benefit of CBI, which the U.S. government has designated as an SDN, signifying that CBI is itself acting for or on behalf of one or more terrorist organizations. Strengthening the economy of a country that supports international terrorism is precisely what the Embargo was designed to avoid. See United States v. Homa Int'l Trading Corp., 387 F.3d 144, 146 (2d Cir. 2004) ("The obvious purpose of the [President's Executive Order prohibiting certain transactions with Iran] is to isolate Iran from trade with the United States"). Here, the defendant's illegal scheme was intended to – and did – thwart the Embargo and sanctions regime. In doing so, the defendant undermined U.S. sanctions against Iran and the Executive Branch's repeated declarations that the actions of the government of Iran are a threat to national security.

ii. The History and Characteristics of the Defendant

The defendant does not have any criminal history and the government does not contest the assertions of those who have written letters concerning the defendant's personal history and character.

iii. The Need for the Sentence to Serve as a Deterrent

The seriousness of the defendant's offense warrants a term of imprisonment that would deter others from undermining U.S. foreign policy and national security interests by flouting export restrictions and sanctions regimes such as those against Iran. Sentences in "white-collar"-type cases can have a substantial deterrent effect, arguably more so than in any other area of criminal law. See United States v. Bergman, 416 F. Supp. 496, 500 (S.D.N.Y. 1976) (crimes that are "deliberate, purposeful, continuing, non-impulsive, and committed for profit are among those most likely to be generally deterrable by sanctions most shunned by those exposed to temptation"). Through its just punishment of the defendant in this case, the Court can send an appropriate message that export violations are – as Congress and the President designed them to be – grave matters that warrant real punishment.

The government respectfully submits that a sentence within the Guidelines range would promote both general and specific deterrence. In contrast, the sentence of thirteen months' imprisonment that the defendant seeks would not promote general deterrence, even if it might promote specific deterrence.

iv. The Need to Avoid Unwarranted Sentencing Disparities

The Court should avoid unwarranted sentencing disparities by imposing a term of imprisonment that is in line with the following sentences imposed upon similarly-situated defendants:

- United States v. Kuyumcu, No. 16-CR-308 (E.D.N.Y.): Judge Irizarry imposed a within-Guidelines range custodial sentence of 57 months (the high end of the Guidelines range) on a defendant who pleaded guilty to exporting specialty metals to a private company in Iran.

- United States v. Zhang, No. 12-CR-666 (E.D.N.Y.): Judge Garaufis imposed a within-Guidelines custodial sentence of 57 months (the high end of the Guidelines range) on a defendant who pleaded guilty to attempting to export carbon fiber to China.

- United States v. Phillips, No. 11-CR-757 (E.D.N.Y.): Judge Townes imposed a within-Guidelines range custodial sentence of 92 months on a defendant who pleaded guilty to attempting to export carbon fiber to Iran.

- United States v. Wang-Woodford, No. 03-CR-70 (E.D.N.Y.): Judge Johnson imposed a within-Guidelines range custodial sentence of 46 months (the high

end of the Guidelines range) on a defendant who pleaded guilty to exporting aircraft components to a customer in Iran.

- United States v. Ali Reza Parsa, No. 14-CR-710 (S.D.N.Y.): The court imposed a custodial sentence of 36 months on a defendant who pleaded guilty to purchasing high-tech electronic components for export to Iran.

- United States v. Hashemi, No. 12-CR-804 (S.D.N.Y.): The court imposed a within-Guidelines range custodial sentence of 46 months on a defendant who pleaded guilty to exporting carbon fiber to a customer in Iran.

- United States v. Tamimi, No. 12-CR-615 (S.D.N.Y.): The court imposed a within-Guidelines range custodial sentence of 46 months on a defendant who pleaded guilty to exporting helicopter components to a customer in Iran.

- United States v. Arash Ghahreman, No. 13-CR-4228 (S.D. Cal.): The court imposed a custodial sentence of 78 months on a defendant after he was convicted at trial of attempting to export marine navigation equipment and military electronic equipment for end users in Iran.

- United States v. Liang, No. 10-CR-116 (C.D. Cal.): The court imposed a within-Guidelines range custodial sentence of 46 months on a defendant who pleaded guilty to exporting camera equipment to China.

- United States v. Homa Int'l Trading Corp., 387 F.3d 144 (2d Cir. 2004): The court upheld a 70-month custodial sentence imposed after the defendant was convicted at trial of, inter alia, transferring approximately $277,000 to Iran.

- United States v. McKeeve, 131 F.3d 1 (1st Cir. 1997): The Circuit upheld a within-Guidelines range custodial sentence of 51 months that the court imposed after the defendant was convicted at trial of sending computer products to Libya.

These cases demonstrate that a sentence within the Guidelines range would avoid unwarranted sentencing disparities with sentences imposed on similarly-situated defendants.

In contrast, the cases the defendant describes in his brief as supporting a below-Guidelines sentence (see Dkt No. 29 at 22-25) generally involve defendants who are not similarly situated.[2] For example, in at least two of the cases, the government agreed to seek a below-Guidelines sentence. See United States v. Fonseca, No. 16-CR-89 (D.D.C.) (parties agreed as part of plea agreement to below-Guidelines custodial sentence, pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C)); United States v. Hassanshahi, No. 13-CR-274 (D.D.C.) (parties agreed as part of plea agreement that government would not seek above a specific below-Guidelines

[2] The government was not able to access the underlying materials for certain cases cited by the defendant.

custodial sentence). In a third case, the defendant offered to cooperate with the government, thus meriting a lowering sentence. See United States v. Hashemi, No. 19-CR-254 (C.D. Cal.). In two of the cases, at least one defendant was charged but did not receive a custodial sentence, such that a lower sentence avoided sentencing disparities within the particular case. See United States v. Mohamadi, No. 17-CR-236 (N.D. Oh.) (two other individual defendants were charged, each of whom also pleaded guilty but was not sentenced to custodial terms); United States v. Hashemi, No. 19-CR-254 (C.D. Cal.) (a second defendant was charged, against whom the government ultimately dismissed all charges). And in United States v. Mojtahedzadeh, No. 19-CR-235 (N.D.N.Y.), the court sentenced the defendant, a 74-year-old non-U.S. citizen who pleaded guilty to an information, to time served, which totaled more than 14 months in custody.[3] The transactions at issue, if structured properly, would have been lawful because of a change in sanctions law. The government, although seeking a Guidelines sentence, sought one at the bottom of the Guidelines range. In United States v. Zadeh, No. 10-309 (D.D.C.), the government similarly sought a sentence at the low end of the Guidelines range.

V. Conclusion

For the forgoing reasons, the government respectfully submits that the calculation of the defendant's offense level should include a four-level enhancement pursuant to U.S.S.G. § 3B1.1(a), such that the defendant's adjusted offense level is 27 and the Guidelines range of imprisonment is 70-87 months. The government further submits that, given the serious nature of the criminal conspiracy and the defendant's role in that conspiracy – and the threat to U.S. national security posed by the actions of the defendant and his co-conspirators – a sentence within the Guidelines range is appropriate.

Respectfully submitted,

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[3] The defendant appears to have provided the incorrect citation in his sentencing memorandum; the citation the government believes is correct is included herein. The defendant's sentencing submission also states that the defendant was sentenced to 24 months' imprisonment, as contrasted with time served.