

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES OF AMERICA)	
)	Case No. 20 CR 40
Plaintiff,)	
v.)	
)	Judge Elaine E. Bucklo
ROB GORODETSKY)	
)	
Defendant.)	

DEFENDANT ROB GORODETSKY’S SENTENCING SUBMISSION

I. The Offense Conduct

The Government’s Version of the Offense accurately summarizes what Defendant Rob Gorodetsky did. The defendant agrees that he knowingly participated in a scheme to defraud Individual A, which initially involved stock investments and later sports betting. He agrees that he benefited from the scheme and that Individual A lost over \$7 million. He recognizes there is no excuse for his conduct, and he is ashamed of it.

II. Rob Gorodetsky’s History

a. Family background

Rob was born in Evanston, Illinois to emigres from the former Soviet Union, Dr. Alexander and Natalya Gorodetsky. Natalya, born in Russia, and Alexander, born in Ukraine, both faced religious persecution in their native countries for being Jewish. (See Exhibit 3, Character Letter of Natalya and Alexander Gorodetsky).

In the late 1980s, Natalya and Alexander both fled their native countries to Estonia, where they met while attending medical school. They married in 1988. With the help of the Jewish Federation, Alexander came to Chicago as a refugee with his parents and sister in 1989. In 1990,

Natalya, traveling alone, fled the Soviet Union through Warsaw, Poland, and joined Alexander in Chicago, where she was granted political asylum. Rob's older sister Alice immigrated to the United States and joined her family in 1992. Rob was born in Chicago shortly thereafter, on May 16, 1992.

Alexander and Natalya tried to forget their painful pasts, and to create a new life for their family in Chicago. Despite his prior medical training in Estonia, Alexander had to start from scratch. He attended the University of Illinois at Chicago and earned both an undergraduate degree and Doctor of Medicine. During medical school, Alexander worked three different jobs to put himself through school and provide for his family. After his residency and fellowship, Alexander worked in a hospital and an outpatient facility until he opened his own radiological practice in 2008. Natalya also worked various jobs, while also taking care of the children.

b. Rob's early years

Rob was an incredibly shy child who enjoyed spending his free time with his grandparents at their retirement facility, playing chess, and teaching them English. As he entered his adolescent years, Rob suffered from undiagnosed attention and behavioral disorders. However, he never consulted with a doctor nor sought treatment for these issues because his parents thought it was shameful. To this day, he has struggled with digesting information, studying, and staying focused. In school, he often got into trouble and was disciplined. Rob's schools likely recommended an independent education plan, but because Rob did not want to be singled out as a special education student, he never had one.

c. Origins of Rob's gambling addiction

During middle school, Rob was introduced to poker. Rob was hooked immediately and gambled whenever he had the opportunity to do so, taking bets from his classmates in school and

sneaking into casinos with fake identification. When he won, he felt on top of the world. He was no longer the introverted teenager people typically knew him to be. Winning gave him a rush and made him feel unstoppable. And when he lost, he was determined to feel that high of winning again.

As his gambling craving grew into obsession, Rob was introduced to stock trading. Trading was an opportunity to make money quickly – much like gambling at the casino – and provided Rob with the same rush that gambling did.

Rob's undiagnosed behavioral disorders, coupled with his rapidly-growing addiction to gambling and trading, affected his performance in school. He didn't care about school, he didn't care about graduating, and he certainly didn't care about going to college. Rob could only concentrate on one thing: the rush he felt from his gambling wins. Rob did not understand so at the time, but by his early teenage years, he was already in the grips of a crippling addiction that he never dealt with until this case. Eventually, Rob was suspended from school for taking his classmates' money at poker games and setting up a gambling hall in high school. As his high school advisor said, "he definitely burned a lot of bridges here." See Exhibit 1, USA Today article.

d. Attempts to go to college fail

Rob barely scraped through high school, and to the relief of his parents, graduated in 2010 – albeit with a 1.96 grade point average. He had no interest in anything other than being a professional gambler, but his parents insisted that he go to college. He enrolled at the University of Arizona in Tucson to study business but dropped out within a semester to gamble. He moved back in with his parents in Illinois. At the urging of his parents, he tried to go back to school, attending a semester at Oakton College and another semester at Western Illinois University. However, Rob was consumed by his addiction and dropped out again to pursue a career in

gambling against his parents' wishes. (See Exhibit 3, Character Letter of Natalya and Alexander Gorodetsky).

e. Rob's gambling "career"

Rob's obsession with being a professional gambler had two fundamental root causes. One, of course, was that even as an adolescent, he was a compulsive gambler who was addicted to the highs of winning a bet. The other was that Rob felt that he needed gambling to cease being an outcast. Rob had never fit in at school, either academically or socially. He was a profoundly lonely teenager with low self-esteem and believed that gambling provided an opportunity to reinvent himself as a fearless, swashbuckling, bigger-than-life persona. Gambling in all of its forms had taken over Rob's life and put him on a destructive path.

In December 2013, at the age of 20, Rob briefly moved to New York to be with his girlfriend. His then-girlfriend introduced Rob to her father, Individual A, a successful ophthalmologist in New Jersey. Over time, Rob and Individual A formed a relationship, bonding over their shared interests in trading and sports. In February 2014, Rob and Individual A agreed that Rob would invest funds in the stock market and they would split the profits and losses. (Gov't Version at 2). However, Rob did not have any money to contribute. Worse, he invested only a portion of the funds provided by Individual A, using the remainder as the seed money to begin creating his alter-ego, "Big Rob."

In March or April 2014, when Rob was almost 21 years old, he moved to Las Vegas with the vain hope (yet no actual plan) to make something of his life. He became a human meme, "Big Rob Style," living in casino hotels and creating an Instagram persona "Big Rob." When he won a big bet, or got a cash infusion from Individual A, he would immediately go out and buy expensive cars, sometimes two at a time, which he would just as promptly have to return or sell to raise cash.

He bought expensive jewelry and talked his way into being seen at exclusive events with celebrities and models. He literally had piles of cash, but only for short periods of time until he blew it all on his expensive lifestyle and losing bets. “Big Rob Style” was a living lie. Rob could not actually afford his lavish lifestyle, and his distorted self-image only served to feed his destructive addictions.

While in Las Vegas, Rob convinced Individual A that he could make more money betting on sports than investing in the stock market. Individual A agreed and sent Rob huge sums of money to bet on various sports games. Rob bet staggering sums on single games—sometimes up to \$100,000—and frequently posted Instagram photos of winning tickets.

As his grandiosity took hold and fed on itself, Rob expanded to crazier and crazier types of bets. One of his favorites was a parlay—an extremely risky bet that involves correctly predicting the outcome of multiple games. For instance, Rob might place a parlay bet on the outcome of three baseball games and two hockey games on a single night. To win such a bet, he had to correctly choose the winner of all five games; getting four out of five right was a total loss. Winning a parlay bet of that type is akin to being struck by lightning, but a gambling addict like Rob believes that if you dare the lightning enough times and with enough bravado, eventually it will strike. It is critical that the Court understand just how aberrant and distorted Rob’s thinking was at the time. He now understands that he was in the grips of an all-consuming addiction and could not stop without professional help.

f. Rob’s self-destructive obsession with being “Big Rob” brought him down

Rob’s irrationality and psychosis eventually led to him agreeing to let a USA Today reporter follow him around for a week. (Exhibit 1). Rob hoped the article would lead to him

becoming a famous gambler. In fact, it precipitated his downfall. The USA Today piece provides remarkable insight into Rob's personality disorder:

But Gorodetsky isn't hiding his ostentatious ways. In fact, with momentum building to legalize sports gambling outside of Nevada, Gorodetsky and his inner circle think he could emerge as America's leading sports bettor and sell his advice to gamblers across the country.

"When it goes legal, we're going to be billionaires," said Elo Hankham, one of Gorodetsky's confidants. "We're the No. 1 entity, and we're going to have a market share of at least 5% of a \$150 billion industry."

Gorodetsky's introduction to America's sports gamblers figures to be memorable. A few months ago, for instance, he told a reporter to meet him at his unofficial office, the High Limit Lounge at the Aria Resort & Casino. He arrived with all the subtlety of a royal flush.

Sporting his GAMBLR. cap, he also wore a red-and-white Louis Vuitton hoodie, black Louis Vuitton high tops and a Hublot watch that warranted a price check. The hoodie cost \$6,000 and the high tops ran \$2,500, according to Gorodetsky, who said he was so drunk when he bought the watch he couldn't remember the price.

So with a visitor in tow, he walked into Radiance, a watch and jewelry store across from the High Limit Lounge where he bought the watch, and asked for a copy of the receipt.

"I thought I paid \$37,000," Gorodetsky said, looking at the receipt, "but it was actually \$47,000."

Reminiscent of *Entourage*, the HBO comedy series, Gorodetsky rolls with a colorful crew that includes a financial manager, a pickup artist and an enforcer.



Rob Gorodetsky, with his Louis Vuitton hoodie, shows off a portrait of himself.

(Photo: Jason M Ogulnik, USA TODAY Sports)

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See Exhibit 1, USA Today Article.

The report also showed that Rob had no system and was wildly wagering money on games he literally knew nothing about:

Reclining on a couch in a luxury suite at the Aria, Gorodetsky monitored the Colorado State-New Mexico football game Oct. 20 on which he'd wagered \$100,000.

The bet was a parlay, and cashing it would require the NBA's Washington Wizards to beat the Detroit Pistons (which had happened earlier that night) and for Colorado State to beat New Mexico.

"I can't name one (expletive) player on the field," Gorodetsky said. "I can't name a quarterback, I can't name anybody."

He added, in case there was any doubt, "It's sick, right?" As he put it later in the same article:

"At a certain point, you start to feel like you have a sickness, that you have something wrong with you," he said. "But betting, once you start, you never quit. People are like, 'I'm done.'

"But you're never done."

Rob also described the history of his compulsive gambling behavior dating to adolescence:

His own act, Gorodetsky said, started in middle school when he was taking bets from his classmates. In high school, Gorodetsky said, he organized poker games and was suspended when school administrators learned students were losing lots of money — to Gorodetsky.

"And I got in a little trouble for cheating, too," he said. "I never did the homework. I ran a gambling hall. I've been gambling since I was 13 years old."

g. The image of "Big Rob" comes crumbling down

The USA Today story quickly led to his undoing. He was banned by casinos and became the subject of investigations by the Nevada Gaming Commission and the FBI. When defense

counsel met him in the spring of 2018, he was still gambling compulsively with whatever money he could scrape together. But the Big Rob image was no more. Counsel got to know the same introverted, mumbling, monosyllabic person that this Court saw at the guilty plea hearing. With enormous effort from his parents, Rob finally got psychiatric help and treatment for his gambling addiction. He has taken responsibility for his criminal actions, faced his demons head-on, and sought to turn his life around.

III. GUIDELINES CALCULATIONS

On February 5, 2020, Rob pled guilty to one count of wire fraud in violation of 18 U.S.C. § 1343 and one count of filing a false tax return in violation of 26 U.S.C. §7206(1). The Government calculates the advisory guidelines at 51 to 63 months' imprisonment, based on an offense level of 24 and criminal history category of I. Probation calculates the advisory guidelines at 41 to 51 months' imprisonment, based on a total offense level of 22 and a criminal history category of I. (PSI at ¶¶23, 79).

IV. PROBATION WITH THE FIRST YEAR ON HOME CONFINEMENT IS SUPPORTED BY THE SECTION 18 U.S.C. § 3553(a) FACTORS

The defense respectfully submits that a sentence of probation with the first year to be served in home confinement is appropriate under Section 3553(a).

Section 18 U.S.C. § 3553(a) requires that the Court impose a sentence “sufficient, but not greater than necessary” to comply with the purposes of sentencing. While the Guidelines are the starting point and “initial benchmark” for any sentencing analysis, all the factors set forth in 18 U.S.C. § 3553(a) must be considered. *Gall v. United States*, 552 U.S. 38, 49 (2007). The Court “must not presume that the Guidelines range is reasonable.” *Id.* at 50 (upholding a sentence of probation where the guideline range was 30-36 months).

A. The History and Characteristics of the Defendant

There is no doubt that Rob acted unlawfully. However, the Court “must consider not only the seriousness of the offense but also the nature and circumstances of the offense.” *United States v. Warner*, 792 F.3d 847, 859 (7th Cir. 2015). These circumstances are not meant to justify or minimize Rob’s conduct, but instead aid the Court in fashioning a reasonable sentence.

1. Lack of criminal history and supportive family

Rob is 28 years old with no prior criminal history. He grew up in a loving, supportive, close-knit family. His immigrant parents fled religious persecution in the Former Soviet Union and worked tirelessly to achieve the American Dream for their family. With the help of this support network and continued psychiatric treatment, Rob stands a chance to truly change his ways and turn his life around.

2. Rob’s mental illness

Rob’s conduct and mindset were the product of what is demonstrably a mental illness. Before pleading guilty, Rob began attending Gamblers Anonymous meetings weekly. He also enrolled in the Williamsville Wellness Partial Hospitalization Programs, one of the country’s best programs to treat severe gambling disorders.¹ (See Exhibit 2, Letter from Lyndon Aguiar, Clinical Director of Williamsville Wellness, LLC). In this program, Rob was diagnosed with severe Gambling Disorder, Major Depressive Disorder, and Generalized Anxiety Disorder. Dr. Aguiar writes that Rob’s gambling disorder is pathological in nature, which “manifested in poor impulse control, poor judgment, poor decision-making, and avoidance behavior.” (Exhibit 2).

“Pathological gambling, also known as compulsive gambling or disordered gambling, is a recognized mental disorder characterized by a pattern of continued gambling despite negative

¹ Due to the COVID-19 pandemic, Rob was unable to travel to Virginia to complete the intensive inpatient program as originally planned.

physical, psychological, and social consequences.” T.W. Fong, *The Biopsychosocial Consequences of Pathological Gambling*, Psychiatry 2005 Mar; 2(3): 22–30.²

As Dr. Fong explains, pathological gambling causes physical changes in the brain itself that exacerbate the illness and the pathological gambler’s conduct:

Neuroimaging work by Potenza suggests that the brain regions involved in pathological gambling, namely anterior cingulate, orbitofrontal cortex, and the midbrain reward circuitry, are similar to the one involved in substance use disorders. Neurochemical studies have implicated alterations in the dopamine, serotonin, and norepinephrine systems of pathological gamblers. Bergh reported that concentrations of dopamine were lower in the cerebrospinal fluid of pathological gamblers as compared with controls, but that levels of its metabolites 3,4-dihydroxyphenylacetic acid and homovanilic acid were higher, suggesting increased release of dopamine in the brain. The results of studies on serotonin in pathological gamblers have been mixed, with some studies showing increased levels and others showing decreased metabolism. Roy found increased noradrenergic activity in pathological gamblers through increased levels of the metabolite of noradrenaline, 3-methoxy-4-hydroxyphenylglycol, in the CSF of pathological gamblers. Exactly how these neurochemical differences contribute to pathological gambling behavior requires further study, but they are thought to affect individual responses to reward, impulsivity, learning, and self control.

None of this is to say that Rob is not criminally responsible for his conduct. He plainly is, and he will explain to the Court at sentencing the depth of his recognition of that fact. Yet, the fact remains that Rob was consumed with his gambling addiction and has worked hard to address is mental illness through continued treatment.

3. Rehabilitation Efforts

Rob is ashamed and remorseful and wants to make amends for his reprehensible conduct. Before, Rob was in denial about his addiction, but he has since acknowledged it and is taking steps

² The article is available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3004711/#:~:text=Pathological%20gambling%20is%20a%20disorder,disease%2C%20and%20peptic%20ulcer%20disease.>

to get better and to become a contributing member of society. See *Pepper*, 131 S. Ct. at 1242 (sentencing court considered evidence of defendant's rehabilitation).

This six-week intensive outpatient program consisted of Rob attending full-day gambling treatment programs, with multiple individual and group sessions throughout the day, and medication management with Dr. Joan Plotkin. Programming was conducted by impulse control and gambling addiction specialists, a variety of therapists, and certified gambling counselors. Through his treatment, Rob learned how to "engage in his support system and ask for help when needed." He has worked "to develop new coping skills and strategies to manage his cravings, triggers and warning signs." (Exhibit 2).

The Williamsville Wellness program helped Rob to develop a "keen understanding of the role of emotional helplessness, anxiety, and depression in his gambling behavior." Rob is "committed to leading a life that is healthy, productive and free of any gambling." After completion of the Partial Hospitalization Program, Rob then completed an additional six-week intensive outpatient treatment program through Williamsville Wellness. (Supp. PSI ¶5). Rob currently attends outpatient therapy with Nicasa Behavioral Health Services weekly, outpatient psychiatric treatment for medication management, and virtual 12-step gambler anonymous meetings. (Supp. PSI ¶5).

Outside of treating his addiction, Rob started working as an assistant to an instructor, providing physical therapy and exercise activities to residents at a retirement community. (PSI ¶70). Rob also was prepared to start volunteering at the Community Circle in Glenview. (PSI ¶72) However, both Rob's employment and volunteer plans were suspended due to the COVID-19 pandemic. (PSI ¶70, 72). Rob plans to earn his college degree and pursue a career in business.

4. Character letters

As the heartfelt letters to the Court show, Rob was not always obsessed with his self-image. Instead, he was a quiet, kind person who cared for others. Now that Rob has worked to overcome his addictions and “Big Rob” is no more, Rob believes he can get back to being the person he was before he began gambling.

Rob’s parents, Natalya and Alexander write that they “cannot describe how much pain is in [their] hearts.” (Exhibit 3). Rob was a “kind and loving child” who “would always be first to offer help.” Natalya and Alexander fondly remember when Rob was 3 years old at nursery school through their synagogue, he helped the teacher to tie all his classmates’ shoelaces before their daily outside walk since he learned to tie his shoes earlier. Later, when Rob was in high school, Alexander and Natalya recall that Rob played basketball with the special-needs students despite jokes from his classmates.

In their letter, Natalya and Alexander describe Rob’s close relationship with his grandparents. Every day after school, Rob took the Metra to visit his grandparents at their retirement community and taught them English. Rob acted as their translator and helped them wherever they went such as to the grocery store or to doctor appointments. Rob also “eagerly” helped the other elderly individuals living in the community and organized chess tournaments for the residents. When Rob’s grandfather suffered a stroke approximately two years ago, Natalya and Alexander remember that Rob flew in to visit that night so that he could stay and pray with his family in the hospital. Rob remains close with his grandparents today and they fear that if Rob were incarcerated, he would never see his grandparents again.

Rob’s parents describe how he developed a “severe gambling addiction.” Because of his addiction, his normal functioning suffered. Now, Rob lives with his parents and the three of them

spend every day together. Natalya and Alexander can see how remorseful and ashamed Rob is of his actions and for the pain he has caused. They see that Rob wants to change and he has taken steps to fight his addiction. Natalya and Alexander recognize that Rob needs their help and support “to kick this addiction for good,” and they are dedicating their life to helping Rob rehabilitate himself so he can become “a productive member of our society.” They hope that one day Rob “will be in a position to help other people who have become victims to addiction and need a second chance in life.”

Rob’s sister Alice Gorodetsky writes “I can’t even begin to express the pain and sadness I feel in writing this letter.” (Exhibit 4). Alice described Rob as her “best friend” and “one of the kindest people” she has ever met. Rob has always “protected [her], listened to [her], cried with [her], and held [her] when [she] needed it.” Their parents tried their hardest to provide the best for Alice and Rob growing up and to instill strong family values.

Alice described Rob as her “voice of reason.” Rob has always been there for Alice, whether it be answering the phone and listening to her at any given time, providing advice, or even spending the night at her apartment so she was not alone. Alice and her husband had a son last year. Watching Rob be an uncle has been one of the “highlights” of Alice’s life. It has been such a joy for Alice to watch Rob spend time with his nephew and she cannot wait for her son to grow up so Rob can play chess and basketball with him.

Alice never thought addiction could affect her family. It pains her to see how her brother was “lured into this fantasy life of gambling.” Rob’s choices have not only impacted his life, but also his family’s. But Alice has seen Rob take steps to fight his addiction by enrolling in treatment programs to “change his life for the better.” Rob spends every day with his parents, and Alice can see he has changed and wants to turn his life around. Alice added that with their parents’ “constant

support and love,” Rob is becoming a better man and that he is opening up more through family therapy. Alice asks for “compassion, leniency and mercy” from this Court in sentencing Rob.

Long-time family friend Dr. Svetlana Belsky wrote a letter to the Court on Rob’s behalf. (Exhibit 5). Dr. Belsky has known Rob since birth. She too is from a family of immigrants from the former Soviet Union. Dr. Belsky saw Alexander and Natalya struggle to emigrate to the United States because of their “refusnik” status in Ukraine. Once in Chicago, Dr. Belsky saw Alexander work three jobs to build a life for his family. Dr. Belsky describes Rob as a “kind boy . . . whose natural instincts are always toward generosity.” Dr. Belsky recalled Rob’s involvement with the elderly residents of his grandparents’ apartment building. Rob provided an opportunity for them to “socialize, become intellectually stimulated, [and] have a great time.” Rob “create[ed] a community and [brought] joy to those around him.” Dr. Belsky, too, asks for mercy and compassion in sentencing Rob.

Cynde Munzer, another long-time family friend, also pleads this Court for mercy, compassion, and leniency. (Exhibit 6). Cynde met the Gorodetsky family when Natalya sold her home at “one of the lowest points” in her life. Cynde’s daughter and Rob became close friends over their shared love of basketball. Rob became a friend and mentor to her daughter, who eventually played college basketball. Cynde feels “blessed to have remained good friends with the Gorodetsky family for nearly 17 years.” Cynde understands that Rob has acknowledged his addiction, and with the help and support of his family friends, is ready to overcome this “tragic hurdle.” Cynde is “confident that Rob will not only overcome this hurdle, but he will also find a way to make this bad circumstance into something good.”

Lester Coney asks this Court for compassion, leniency and mercy when imposing a sentence. (Exhibit 7). Lester has been a family friend for almost 17 years after meeting Natalya

and Alice at a Women's Achievement Luncheon. Lester describes Rob's "immense love for his family" and that he has always tried to include his family in his love of sports. Over the years, Lester invited Rob and Alice to various events in the city. At those events, Lester saw how close Rob is to his sister and that their love for each other was "immeasurable." Lester knows that Rob is "a kind, compassionate, loving man" who made mistakes. If given the opportunity, Lester believes that Rob will come out of this "stronger, lesson learned and an even larger desire to give back to his community to make sure other people choose the right path in life."

Dr. Bianna and Mark Pazin have known Rob since he was five years old. (Exhibit 8). They too describe Rob as a "kind and generous kid," who "always expressed his readiness to help his parents." Mark and Bianna's daughter took taekwondo classes with Rob when he was 11 years old and specifically recall Rob quitting the sport because he believed it was "too violent and he might accidentally hurt his opponent." Mark and Bianna were "pleasantly surprised" by how Rob was "caring, sensitive and thoughtful" towards other kids. Although Mark and Bianna understand the "horrible mistake" Rob has made, they beg this Court to give him a second chance to become "a trustworthy member of our community."

Rob's friend, Anthony Thomas, also asks this Court for mercy and leniency in sentencing Rob. (Exhibit 9). Anthony became friends with Rob while playing poker when they lived in Las Vegas. When Anthony was having a "tough" time in between jobs, Rob was always there for him as a friend. Anthony describes Rob as "a good man, always willing to share and help out." Anthony believes that Rob has the "correct family structure and foundation" to get back on track in life.

Lastly, CEO and owner of SPYRL, Sharon Burack, urges this Court for compassion and leniency when considering Rob's sentence. (Exhibit 10). Prior to the COVID-19 pandemic, Rob was hired to assist with wellness activities provided by SPYRL to residents at an assisted living

facility. Sharon describes Rob as “proactive” and “cheerful,” and that he “exhibited a great amount of patience and compassion for the residents.” Rob was “kind” to the elderly residents and was a “punctual and very responsible” employee. While disappointed in Rob’s past choices, Sharon is confident that with the proper treatment and family support, Rob will “embark on a new chapter of his life,” doing good for the community.

B. A Sentence of Probation with the First Year on Home Confinement Reflects the Seriousness of the Offense, Affords Adequate Deterrence and Protects the Public

Section 18 U.S.C. §3553(a)(2) requires that a sentence imposed (a) reflects the seriousness of the offense, promotes respect for the law, and provides just punishment, (b) affords adequate deterrence, (c) protects the public from further crimes of the defendant, and (d) provides the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner. A sentence of probation with the first year on home confinement meets these sentencing requirements. A sentence of incarceration will disrupt the intensive outpatient and therapy treatment Rob is currently pursuing.

Rob is not at risk to recidivate. Rob’s post-indictment rehabilitative steps, including intensive treatment, Gamblers Anonymous meetings, and therapy, demonstrate his desire and ability to make permanent changes in his life. Rob is addressing his addiction head-on and working to make amends for the pain and shame he caused himself, his family, and Individual A. Additionally, before the COVID-19 outbreak, Rob found work at an assisted living facility, helping elderly residents with exercises and activities and had a regular volunteering opportunity in place. Even though the pandemic disrupted his ability to work and volunteer, these steps further support Rob’s desire to rehabilitate himself. Once this case is behind him, Rob intends to go back to college, earn a degree in business, and make an honest living.

Lastly, probation with the first year on home confinement is a safer sentence in our current COVID-19 world. The possibility of imprisonment during a COVID-19 pandemic causes great concern for Rob and his family. Rob has asthma and is prescribed a Fluticasone HFA 110 MCG/ACT Aerosol inhaler and a Ventolin HFA inhaler. (Supp. PSI at ¶2). According to the Centers for Disease Control and Prevention, those with moderate to severe asthma may be at an increased risk for severe illness if infected with COVID-19.³

Prisons are hotbeds for COVID-19 outbreaks. According to the Bureau of Prisons website, at least 15,500 federal inmates and at least 1,900 staff members have either had or currently have COVID-19, and at least 126 inmates and 2 staff members have died.⁴ However, these numbers do not fully depict the full extent of COVID-19 cases in prisons because of the lack of testing. There are just under 126,700 inmates in BOP custody, but only 63,111 inmates have been tested.⁵ According to ABC News, of those tested, there is an astronomical 35% positivity rate.⁶ The BOP is not equipped to handle an outbreak and has been heavily criticized by lawmakers for being unprepared to protect their inmates and staff from the virus.⁷ In fact, Attorney General William Barr has released two memos, dated March 26, 2020 and April 3, 2020, respectively, urging the BOP to prioritize placing inmates on home confinement. (See Exhibits 11 & 12).

If sentenced to incarceration, Rob is at an increased risk of not only being infected with COVID-19, but from suffering severe illness because of his asthma. These extraordinary circumstances warrant a sentence of probation with the first year on home confinement.

³ https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fneed-extra-precautions%2Fgroups-at-higher-risk.html

⁴ <https://www.bop.gov/coronavirus/>

⁵ *Id.*

⁶ <https://abcnews.go.com/Politics/tested-federal-inmates-positive-coronavirus/story?id=71275461>

⁷ <https://www.judiciary.senate.gov/meetings/examining-best-practices-for-incarceration-and-detention-during-covid-19>

CONCLUSION

Rob recognizes that his conduct was criminal and devastating to Individual A. He is ashamed and remorseful for the damage he has done to Individual A's life. He has been forced to face both his criminal conduct and his addiction and to take steps to make amends for his conduct. Rob is not a bad man and wants a chance to become a productive member of society. A sentence of probation with the first year on home confinement meets the sentencing goals, would allow Rob to continue with treatment, and would protect him from the health dangers associated with the increased likelihood of COVID-19 exposure in the BOP.

Dated: October 13, 2020

Respectfully Submitted,

/s/ Chris Gair

Chris Gair

Carly Chocron

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CERTIFICATE OF SERVICE

The undersigned certifies that he filed the foregoing *Sentencing Memorandum* via this Court's CM/ECF system on October 13, 2020.

/s/ Chris Gair