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August 1, 2025

By ECF and Electronic Mail

The Honorable Hector Gonzalez  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *United States v. Mina Tadrus*, 23-CR-393 (HG)

Dear Judge Gonzalez:

For his entire life, Mina Tadrus has been consumed by an obsession with perfection—as a son, as a student, as a father, and most recently as a professional investor. For Mina, perfection is not simply an aspirational idea. It is something he obsesses over, setting standards for himself that are impossible to attain. During this case, he learned that this isn’t just a personality quirk, but a mental health disorder: he has been diagnosed with obsessive compulsive personality disorder (OCPD).

That need to have everything exactly right—and his inability to move on when it was not—is what brought Mina before this Court. He developed an exaggerated, but sincere, vision of building an algorithm that would revolutionize the investment industry and uplift his community. His dream became Tadrus Capital, and he attracted dozens of investors, many of whom were his family and friends. He allowed his obsession with developing the perfect algorithm to overpower his common sense. Even after he began accepting investor funds, he continued testing and tweaking his algorithm, refusing to deploy it until it met his impossible standards. His rigid and obsessive thinking kept him from recognizing that he was in over his head. Unable to bring himself to invest with the algorithm until he was satisfied that it was flawless, Mina instead used investor funds to make “interest payments” to investors when they were due.

Looking back, Mina can clearly see how wrong his actions were. As a result of his actions, the SEC began investigating and eventually brought a civil case against him and Tadrus Capital in 2023. All investor funds were immediately frozen and have

remained so since that time, which has caused considerable stress and financial strain to investors, including his closest family.

We are writing in advance of Mina Tadrus's sentencing scheduled for August 18, 2025 for investment adviser fraud in violation of 15 U.S.C. §§ 80b-6 and 80b-17. For the reasons set forth below, the defense respectfully requests that the Court sentence Mr. Tadrus to five years of probation—the maximum allowable by statute—along with restitution to the investors in his company.

The defense recognizes that this request is a significant departure from the guideline range of 60 months (the statutory maximum) calculated in the PSR, *see* PSR ¶ 69, and the range advocated by the defense of 57-60 months. *See* ECF No. 58. However, several aspects of this case demonstrate why incarceration is not the appropriate response. First, the PSR itself highlighted the huge impact Mr. Tadrus's incarceration would have on his family and his exceedingly difficult childhood as possible reasons for a downward variance. *See* PSR ¶¶ 82-83. Both of these are good reasons not to send Mr. Tadrus to prison. Dozens of Mina's family members, friends, and community members attest to his kindness, sincerity, and care for others around him.<sup>1</sup> Mina is a devoted husband and father of two young children and his elderly mother's caretaker. Incarceration would have a devastating impact on his family. As his wife describes him, he is the family's "rock."

Second, Mina worked hard at Tadrus Capital, and while he ultimately failed spectacularly, that wasn't his plan. That is evidenced by the fact that he didn't use the majority of investor funds. By the SEC's own estimates, over the roughly three years his fund was operational, Mina used approximately \$400,000 of the approximately

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<sup>1</sup> We received 65 pages worth of letters in support of Mr. Tadrus, from approximately 30 people, including from approximately 11 investors, 3 of his priests, his extended family, and many many friends. These letters uniformly spoke of his generosity, his love and support for his family (and that he defines "family" in the broadest terms, as including anyone in his community in need of love, warmth, or support), and their unwavering support for him, even though many who submitted letters have been financially impacted by him. We are attaching a small portion of those letters here, so as not to overwhelm the Court. This outpouring of letters of support is more than either counsel in this matter has ever received.

Attached to this letter as Exhibit A are letters from: Jessica Tadrus, Mr. Tadrus's wife; Laila Tadrus, his mother; Mariham Tadrus, his sister; Victor Awdalla, his uncle; Kyrollos Awdalla, his cousin; Maher Andrawis, his uncle; Peter Andrawas, his cousin; Madlun Brasom, his mother-in-law; and Stephen Andrawis, his cousin.

\$5.7 million in investor funds for personal expenses. And after being served with an SEC subpoena, Mina communicated with his investors, disclosed the existence of the SEC inquiry, offered investors the opportunity to withdraw their funds, and cooperated with the subpoena process. He is doing everything he can to make investors whole, most importantly by reaching an agreement with the SEC that will result in judgment being entered against him in the civil case and the frozen money being returned to the investors.

Third, he has and will continue to face punishment. He will be banned from ever again operating as an investor-advisor and could face additional civil penalties in addition to the sentence this Court imposes. Mr. Tadrus has been permanently labeled a felon, has had his reputation irreparably damaged, and faces crippling financial penalties. He has learned an extremely painful lesson—one that requires no prison time to sink in.

#### **I. Mr. Tadrus is devoted to his family, church and community.**

Mr. Tadrus gives his whole self to his family. He is all in as a dad, a husband, and a son. As the PSR describes, his own childhood was fraught with abuse. He goes above and beyond to make sure his children have a happy childhood and will never experience what he went through. Every single letter of support that we received emphasized how kind, caring, and loving Mr. Tadrus is as a father. As his wife describes his relationship with his young children:

Chloe and Christian absolutely adore him. They follow his every move. Wherever he goes, they go. Our nightly routine always includes Mina playing with them, fully present and engaged, no matter what's going on in his world. It's their favorite part of the day.



Mina with his children.

As wife explains, “His definition of success is simple: a warm, welcoming home where children laugh after dinner and families spend time together on the couch.” In this type of wealth only, Mina is rich.



Mina with his wife and children.

Mr. Tadrus is also the sole caretaker for his mother, who is unable to drive or take care of herself since her husband (Mina’s father) died tragically in a car accident in February 2024. After his father’s death, Mr. Tadrus moved with his family to live with his mother. As his sister writes, after his father’s death, “Mina didn’t hesitate. He became [their mother’s] sole provider, managing her daily needs, household responsibilities, and emotional well-being with quiet strength and unwavering dedication.” As his mother writes to the court:

He had more than enough on his plate, yet he put his own life on hold to be there for me. He does everything for me. He prepares my breakfast and brings it to me in bed. He takes me to my doctor appointments. Mina is the one who cooks, cleans, tends the backyard, takes out the trash, does the laundry, pays the bills — everything. I rely on him entirely. He is my support system. His dedication and selflessness during such a difficult time is something I will never forget.

Mr. Tadrus is also devoted to the Coptic Christian community. He was born in Egypt and is a Coptic Christian, a religious minority in Egypt. He and his family go to church every Sunday and to other church meetings during the week. For a couple of years leading into the pandemic, he taught Sunday school at his church in Brooklyn. Now, in Florida, he bakes the communion bread for the church. This used to be his father’s duty, but Mina stepped in when his father died last February. The communion

bread is used in services throughout the week, and every Monday night, Mina, his cousin and his uncle bake the communion bread together for the following morning. He is also a church deacon and helps the priests during some services.



Mina at church.

Helping his community has also always been one of his goals. Coptic Christians are a minority religion in Egypt and suffer oppression and violence.<sup>2</sup> His family has personally suffered violence due to their religion: his aunt had acid thrown at her on the street. For a time in his twenties, Mr. Tadrus wanted to work security for Coptic Christian churches and applied for a law enforcement job, but he failed to get hired due to traffic tickets. After this setback, he decided this wasn't the best plan; he is far from a large or intimidating figure.

Because of this background, he has been crushed by the accusation that he targeted his own community to steal their money. This was far from his intention. His intention was the opposite: he intended to build wealth for others in his community and he sincerely believed he would be able to do that.

## **II. Mr. Tadrus worked extremely hard on his company and the algorithm.**

Mr. Tadrus's grand idea for Tadrus Capital was to elevate his community. He became convinced that if he just worked hard enough, he would create the perfect

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<sup>2</sup> See e.g., Heba Habib, *Palm Sunday church attacks: Egypt's 'worst day of violence'*, Apr. 8, 2022, <https://www.aljazeera.com/news/2022/4/8/palm-sunday-church-attacks-egypts-worst-day-of-violence> (explaining long history of church arsons, bombings, and other attacks against Coptic Christians in Egypt).



algorithm that would bring financial security and even wealth to his family and his community, which would bring them a measure of safety and security. Mr. Tadrus's investors were his closest family, including his parents, his brother, his in-laws, and friends. His own mother and father were his first investors. Many of the other investors were from their church.

Tadrus Capital all started with a Google search. Mr. Tadrus taught himself coding while in law school. As he put it in conversations with the defense team, he “went down a rabbit hole,” feeling as though he could “master” coding. He had no significant experience in stock trading—he was employed with T3 Trading Group for less than a year—but eventually Googled templates about how to start his own investment fund. His future goal was to create a bank, specifically for his community.

Mr. Tadrus worked extremely hard at his goals. As his wife Jessica explained in a September 16, 2024 call,

He worked 24/7 on his code. He lived and breathed this code, and was always trying to make it better. He worked all day and night. It didn't bother him working all those hours. He loved it.

As Jessica explained it, she would go to sleep, and he would still be working on his laptop. They would go out with friends, and he would bring his laptop. He was also frequently writing in notebooks. The only thing that would get him to reliably put his work aside was when his nieces or nephews came over. He just did “so much work.”



Mina working while his baby sleeps.

At the same time, he wasn't investing much money. Instead, he was "running simulations" to try to "perfect[ ] the code." When reflecting now, Jessica thinks that he didn't start using his algorithm to make investments because he was "too scared to run it because it wasn't perfect."

His brother Matt echoed these same sentiments. As he said in a call on September 18, 2024, Mina was "constantly on his laptop, trying to work on his trading strategies." "Family gatherings, during holidays, weekends, he was always on his laptop writing code, developing the algorithm, taking about modifying it, different strategies, running tests, backtesting the algorithm." As Matt explains it, when he "get[s] into something, he really dedicates himself to it."

Jessica's and Matt's observations about Mr. Tadrus's work habits are not hyperbole. Mr. Tadrus was constantly analyzing the performance of specific stocks and bonds, writing code for the algorithm and various trading strategies, testing and backtesting the algorithm, and updating it to newer versions which he would then test all over again. Mr. Tadrus would sometimes seek help from the interns he hired, but he would do much of the work himself so he could be sure it met his standards.

The below spreadsheets are just two examples of the huge amount of data Mr. Tadrus was collecting to work on his algorithm, one from 2018-19 and one from 2021:

optimization date start	optimization date end	total winning trades	total losing trades	win/lose ratio	maximum drawdown	buy stop loss	sell stop loss	ending balance (opt)	HPR (optimization)
9/3/2018	3/2/2019	120	191	0.628	4686.4	80.00	40.00	102,901.57	0.0290157
9/10/2018	3/9/2019	60	94	0.638	1110.11	20.00	20.00	102,184.21	0.0218421
9/17/2018	3/16/2019	118	217	0.544	2340.2	60.00	60.00	100,622.50	0.006225
9/24/2018	3/23/2019	177	312	0.378	2063.05	20.00	20.00	102,812.31	0.0281231
10/1/2018	3/30/2019	125	191	0.654	4708.84	80.00	40.00	103,846.20	0.038462
10/8/2018	4/6/2019	121	211	0.573	2342.67	60.00	60.00	101,919.25	0.0191925
10/15/2018	4/13/2019	76	125	0.608	2760.28	80.00	20.00	102,368.26	0.0236826
10/22/2018	4/20/2019	179	323	0.554	2741.67	20.00	20.00	102,024.75	0.0202475
10/29/2018	4/27/2019	82	131	0.626	2291.48	60.00	80.00	102,770.55	0.0277055
11/5/2018	5/4/2019	73	121	0.603	2291.04	60.00	80.00	102,021.77	0.0202177
11/12/2018	5/11/2019	73	117	0.624	2291.03	60.00	80.00	102,237.30	0.022373
11/19/2018	5/18/2019	74	127	0.583	2290.28	60.00	80.00	101,534.16	0.0153416
11/26/2018	5/25/2019	73	129	0.566	2290.28	60.00	80.00	101,143.78	0.0114378
12/3/2018	6/1/2019	50	90	0.5555555556	2204.08	20.00	80.00	100,444.64	0.0044464
12/10/2018	6/8/2019	73	119	0.6134453782	2273.42	60.00	80.00	101,578.89	0.0157889
12/17/2018	6/15/2019	68	107	0.6355140187	2290.28	60.00	80.00	102,170.05	0.0217005
12/24/2018	6/22/2019	73	115	0.6347826087	2515.62	80.00	20.00	103,228.04	0.0322804
12/31/2018	6/29/2019	88	131	0.6717557252	2301.45	40.00	20.00	104,039.98	0.0403998
1/7/2019	7/6/2019	133	237	0.5611814346	2442.2	40.00	40.00	102,477.45	0.0247745
1/14/2019	7/13/2019	139	241	0.5767634855	2839.01	40.00	40.00	103069.48	0.0306948
1/21/2019	7/20/2019	133	237	0.5611814346	2839.01	40.00	40.00	102430.70	0.024307
1/28/2019	7/27/2019	127	224	0.5669642857	2457.2	40.00	40.00	102697.11	0.0269711
2/4/2019	8/3/2019	134	245	0.5469387755	2576.4	40.00	40.00	101570.64	0.0157064
2/11/2019	8/10/2019	77	107	0.7196261682	1561.91	40.00	80.00	104347.56	0.0434756
2/18/2019	8/17/2019	82	111	0.7387387387	1497.81	40.00	80.00	104946.19	0.0494619
2/25/2019	8/24/2019	175	313	0.5591054313	2299.56	40	40	103096.21	0.0309621
3/4/2019	8/31/2019	183	326	0.5613496933	2298.44	40	40	103353.99	0.0335399
3/11/2019	9/7/2019	50	65	0.7692307692	1384.6	100	60	103312.95	0.0331295
3/18/2019	9/14/2019	61	81	0.7530864198	1171.22	100	40	103893.51	0.0389351
3/25/2019	9/21/2019								
		101.12	170.12	0.599	2480.2288	50.40	52.80	102,227.67	0.024554936

[illegible]

Each of these numerous spreadsheets had multiple tabs, with new calculations. For example, the below spreadsheet had 11 tabs, more than even fit in one computer window.

[v9.1 GF](#)
[V9.1 RRR=0.2 / Multiplier =12](#)
[Perfect GF](#)
[V9.3 Setup Research](#)
[Bar Strategy Variations Test](#)
[v 9.3 Lite Trend - RRR 0.5](#)
[v 9.3 Lite Trend - 11/15/21](#)
[v.9.3 -Setup](#)
[Bar Strategy](#)

Today, Jessica still has full confidence in Mr. Tadrus, as does Matt. As Matt explained it to counsel, “I do not blame Mina.” Matt has money in the fund, and Jessica’s parents and her sisters have money invested with Mr. Tadrus. Jessica’s family invested to “support her and her family.” Matt invested because he was sure Mina would do all he could possibly do to succeed. Today, Jessica’s family and Matt still support them. Matt just had a baby and Mina has been traveling to Virginia to visit. The family is all still close because they all believe in his good intentions. As his mother-in-law writes to the Court, “Even now, after all that’s happened, I have no regrets about welcoming him into our family. I still thank God for him, and I always will—because I’ve seen his heart, and I know the kind of man he is.”

**III. Mr. Tadrus's preoccupation with perfecting his algorithm, and his failure to deploy it, is consistent with his diagnosis of Obsessive Compulsive Personality Disorder.**

During the pendency of this case, Dr. Jason Krellman, a board certified neuropsychologist and Associate Professor of Neuropsychology at Columbia



University, diagnosed Mr. Tadrus with obsessive-compulsive personality disorder.<sup>3</sup> Mr. Tadrus's constant work to perfect his algorithm, and his reluctance to deploy it until he was convinced it was flawless, is based on much more than the mere desire to do good work. It is a pattern of behavior consistent with his diagnosis of OCPD. OCPD is not the same as the more well-known OCD. Individuals with OCPD "work compulsively and tirelessly, even to the detriment of themselves and their loved ones, to earn respect and success." Krellman Report at 9. A person with OCPD generally has an "obsessive nature [that] ultimately causes them to abandon goals because they cannot achieve the perfection they seek and/or fail to achieve goals because they think rigidly and tend to focus on irrelevant details." *Id.* In addition to genetic factors, Mr. Tadrus likely developed OCPD in part due to the "rigid, compulsive, highly demanding parenting" he received. *Id.*

As Dr. Krellman explains, Mr. Tadrus's OCPD diagnosis is highly relevant to this case. In particular, his OCPD helps explain Mr. Tadrus "believing he had developed a revolutionary method of trading and advertising his method as such to his clients despite his average intellectual functioning and a pervasive, lifelong pattern of rigid thinking and lofty, unachieved educational and occupational goals." *Id.* This diagnosis is also consistent with Mr. Tadrus's genuine, rigid, and deeply held belief about the capabilities of his algorithm and his inability to consider evidence that it was not as revolutionary as he sincerely believed. Mr. Tadrus's inability to seek help or delegate tasks to others is another manifestation of his need for control and obsession with perfection, which are symptoms of OCPD. And crucially, Dr. Krellman noted that "affected individuals often go to extreme lengths, even taking substantial risks, to avoid being 'below par' or 'a failure.'" *Id.*

Dr. Krellman also states that his examination of Mr. Tadrus did not show a person intending "to defraud his clients to achieve a quick, ill-gotten reward." *Id.* at 10. Rather, as Dr. Krellman states:

I believe that his mental illness caused him to develop a lofty goal and a grandiose vision for its success. His obsessional and rigid thinking, fueled by a powerful desire to avoid failure, kept him using and working on his trading algorithm, believing fervently but incorrectly in its eventual success, and advertising the algorithm as tried and true to his clients even when he saw evidence that his algorithm was not working as he envisioned. This pattern of thinking and behavior is highly characteristic of OCPD and undoubtedly led to the instant offense.

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<sup>3</sup> Dr. Krellman's report is attached to this letter as Exhibit B and is being filed under seal to protect Mr. Tadrus's confidential medical information.

*Id.* at 10.

Dr. Krellman also included two other critical aspects of Mr. Tadrus's OCPD diagnosis in his report. The first is that this diagnosis does not predispose an individual toward committing crimes, which supports our contention that this conduct was aberrational. *Id.* Second, OCPD can be treated with a combination of psychotropic medication and psychotherapy. *Id.* Indeed, Dr. Krellman strongly suggested that Mr. Tadrus start seeking out a psychologist with whom he can begin a treatment regimen.

Since his diagnosis, Mr. Tadrus has been in therapy. He was relieved to receive a diagnosis that explains his personality and values the treatment he has started receiving. The defense has provided documentation of Mr. Tadrus's mental health treatment to the Probation Office for inclusion in the PSR.

#### **IV. Other aspects of his conduct also warrant a downward variance.**

1. Mr. Tadrus preserved the vast majority of investor funds and wants to make his investors whole.

This case is nothing like other Ponzi-type cases, where all the investors' money is lost. Mr. Tadrus did not lose the vast majority of the money he had solicited for investment. According to the most recent information from the SEC, Mr. Tadrus raised about \$5.7 million, paid out about \$1.7 million to investors (including paying some investors more than their original investment), and personally used about \$400,000. The majority of the money—over \$3.3 million—is still in the Tadrus Capital accounts, ready to be returned to his investors. He wants nothing more than to make them whole by returning those funds and repaying the lost money. Indeed, Mr. Tadrus recently reached an agreement with the SEC that will result in the entry of judgment against him and will subject him to additional civil consequences. The SEC will then be able to commence the unfreezing and return of investor funds.

Moreover, since the inception of the civil case, the investors' money has been a primary concern for Mr. Tadrus. When the SEC began investigating Tadrus Capital, he sent all investors a letter offering to return their funds.<sup>4</sup> In this letter, he explained that he was “reaffirm[ing] your ability to withdraw funds from Tadrus Capital should you choose to do so.” Mr. Tadrus's decision to reach an agreement with the SEC,

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<sup>4</sup> This letter was provided to counsel in discovery with the bate stamp of Tadrus 11009.

which we anticipate will result in judgment being entered against him, only reaffirms his desire to ensure that investors' funds are returned to them.

Also, atypically for Ponzi-style schemes, Mr. Tadrus did not live a lavish lifestyle while running Tadrus Capital. Mr. Tadrus and his wife received very little money from Tadrus Capital until 2021, when they received about \$32,000. In 2022, they received the most money, but still this amount was under \$200,000. That same year, he also donated \$10,000 to his church. He did use money to go to dinners with investors, to join a social club to meet potential investors, and to invest in his business; but the family did not live lavishly. As his wife explains, he drove cars that were two decades old before briefly leasing a Mercedes. He never owned his home.

## 2. Not all investors consider themselves victims.

The presentence report classifies all investors as victims, but this is not how all the investors view themselves. As the government's disclosure letter from January 16 indicates, some investors—not only his close family—are standing by Mr. Tadrus and remain confident in his good intentions. For example, Albert Rizk told investigators that he received \$90,000-\$100,000 in returns and thought that Mr. Tadrus “may have been in over his head,” but did not think he intentionally deceived people. Mikhael Potros likewise received regular monthly returns and stated that he believes Mr. Tadrus is a genuine person, a sentiment echoed to investigators by Mina Mossad.

During the course of our investigation, the defense team also spoke with several investors, each of whom expressed confidence that Mr. Tadrus was generally well-intentioned and stated that they did not believe prison time would be a just outcome for Mr. Tadrus. For example, in a September 4, 2024 phone call, Stephan Andrawis, Mr. Tadrus's cousin, stated that Mr. Tadrus did not pressure him to invest, but instead said that it was “up to him and his decision.” Mr. Andrawis believes that Mr. Tadrus had good intentions with his company, and stated that he felt it would be inappropriate to send Mr. Tadrus to prison. Mina Mossad expressed similar sentiments, explaining that Mr. Tadrus was always responsive to his questions or concerns, and that he believes Mr. Tadrus had good intentions. Mr. Mossad stated that he did not believe prison time would be appropriate, but rather that it would be enough if he paid back the investors.

In a letter to the court, Mr. Andrawis explains that he “take[s] great pride in writing this [letter] to show that even as an investor with Mina, and though I am weary and anxious, Mina's true intentions were not malicious. If you knew Mina you would know Family and friends is what he lives for.” He added that Mr. Tadrus “has

shown me how to be patient, gentle, and loving even when life is throwing flames at you.”

### 3. The impact of this prosecution on Mr. Tadrus’s family

Today, Mr. Tadrus’s life is small. He plays with his children and tries to teach them as much as possible, including Arabic. He even started trying to teach his four-year-old daughter coding on a leapfrog device. He sees his extended family; he recently taught a nephew to cook. He cooks for his family. He is very health-oriented, trying to optimize their vitamins and minerals, while experimenting with spices and flavor. He also likes to garden. He takes his mother to her doctor’s appointments. He has been caring for his father’s mango trees in her yard. But even in what would be a leisure activity for others, his perfectionism shows: as his wife explains, he has been trying to make the garden “perfect,” using all sorts of tools to test the humidity, the soil, the water, to optimize the fruit. He is doing that to honor the memory of this father.

Losing him to prison would be devastating for the entire family, as the PSR recognizes. As his sister writes,

The thought of him being unable to fulfill this [caretaking] role is deeply unsettling. His absence would leave a void not only in our mother’s daily care but in the emotional stability of his entire family. Mina is the foundation they stand on, and without him, that foundation would be shaken.

Mina’s wife Jessica is still “traumatized” from the Marshals arresting Mina at home while the family was asleep. Every time she hears an unexpected sound by the door, she “jumps up and prays.” She is a calm woman: she was a New York City public school employee, who worked with District 75 children with learning disabilities. On the phone, she repeatedly peacefully soothed her baby and toddler. However, when talking about the impact of this case on her, she started to cry. Now, the family depends on their relatives for their “kids’ basic needs.” They have very little money and rely on family for everything.

That is because Mr. Tadrus has had an exceedingly hard time finding work since this case started. This is not from lack of trying, but—likely because of his case being in the news—he has had trouble. He worked in a garden nursery for a few months, but the store didn’t have enough customers to keep him. He recently started working at a kitchen supply store. He desperately wants to be able to provide for his children and his mother and have the necessary income to fully pay back his investors.

Unfortunately, his felony conviction will make this job search even harder. Many fields have felony bars to employment. New York alone has 191 laws restricting areas of employment from people with a felony. *See* Nat'l Inventory of Collateral Consequences of Conviction, Collateral Consequences Inventory, [shorturl.at/xUV15](http://shorturl.at/xUV15). Even more restrictions are imposed privately. With a felony conviction, for example, Mr. Tadrus cannot even drive for Uber or Lyft, work in construction for a public work contractor, work for most childcare agencies, and so forth. The vast majority of jobs that could meaningfully support Mr. Tadrus are out of reach.

**V. The fraud Guidelines' advisory range is empirically unfounded and the Court should downwardly vary, as most district courts have done in similar cases.**

The Court must consider the sentence recommended by the Sentencing Guidelines in imposing sentence. But it may vary from it, especially where there are policy reasons to doubt the Sentencing Commission's recommendation. This case represents an example where the guidelines' recommendation is indefensibly high. Section 2B1.1, the fraud Guideline, is empirically unsupported and routinely generates advisory sentencing ranges that exceed what is necessary to punish a defendant. The Court should exercise its discretion under § 3553(a) and impose a significant downward variance.

There are two aspects of the fraud Guideline that are unusual and yield unjust sentencing outcomes. The first is the heavy weight the Guideline assigns to the loss amount over any other sentencing factor. Here, using the PSR's calculation, the fraud Guideline calls for an 18-level enhancement based on its calculation of the total loss, an increase that is *triple* the base offense level. In *United States v. Algahim*, 842 F.3d 796 (2d Cir. 2016), the Second Circuit observed that the fraud Guideline's structure—setting a low base offense level and then dramatically enhancing it based upon the loss amount—is “unknown to other sentencing systems” and “its unusualness is a circumstance that a sentencing court is entitled to consider” *Id.* at 800. Specifically, “[w]here the Commission has assigned a rather low base offense level to a crime and then increased it significantly by a loss enhancement, that combination of circumstances entitles a sentencing judge to consider a non-Guidelines sentence.” *Id.*

The fraud Guideline is not only anomalous, however. It is also empirically unfounded. In *United States v. Corsey*, 723 F.3d 366 (2d Cir. 2013), Judge Stefan Underhill, sitting by designation, observed that “[t]he loss guideline . . . was not developed by the Sentencing Commission using an empirical approach based on data about past sentencing practices.” *Id.* at 379 (Underhill, J., concurring). Rather, the loss table was produced by the Sentencing Commission in a series of amendments directed



by Congress, each of which contributed to the upward inflation of the recommended sentence. *Id.* at 379-80. Because the loss table was the product of legislative fiat rather than the Commission’s usual methodology, “district judges can and should exercise their discretion when deciding whether or not to follow the sentencing advice that guideline provides.” *Id.* at 379; *accord United States v. Dorvee*, 616 F.3d 174, 184-86 (2d Cir. 2010) (holding that district courts may vary from the child-pornography Guideline for similar reasons). Indeed, Judge Underhill warned that, due to the guideline’s unusual pedigree and design, “[t]he higher the loss amount, the more distorted is the guideline’s advice to sentencing judges” and “the guidelines calculations in such cases are of diminished value to sentencing judges.” *Corsey*, 723 F.3d at 380 (Underhill, J., concurring) (internal quotation marks omitted).

Proof of the fraud Guideline’s diminished value can be observed in sentencing practice nationally and in the Eastern and Southern Districts of New York, specifically. According to the Sentencing Commission’s most recent snapshot of securities and investment fraud sentencings across the nation, based on data for fiscal years 2019-2023, approximately one-half of all defendants received downward variances. *See* Ex. C at 2 (showing that, of 53% of securities and investment fraud defendants who received variances, 96.2% received downward variances). For this sub-cohort, the average sentence reduction was 46.9%, meaning that the average downward variance resulted in a sentence of about half the guidelines’ bottom range. *Id.* Fewer than 20% of securities and investment fraud defendants received sentences within their Guideline ranges. *See id.* (showing that, of 47% of defendants sentenced under the Guidelines, only 40.4% were sentenced within guidelines range, with remaining 59.6% receiving downward departures).

This trend bears out locally with respect to defendants sentenced under the fraud Guideline—a broader cohort beyond just securities and investment fraud. In the Eastern and Southern Districts of New York, within-Guideline sentences are infrequently imposed in cases, like Mr. Tadrus’s, where the defendant is sentenced under § 2B1.1 and has a criminal history category of I. The table below, and appended in larger formatting as Exhibit D, shows that, since 2019, more than one-half of all similarly situated defendants have received downward variances, either as requested by the defense or the government.<sup>5</sup> Another 15 to 20% received downward departures,

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<sup>5</sup> This table was produced using the United States Sentencing Commission’s Interactive Data Analyzer. *See* <https://ida.usc.gov/analytics/saw.dll?Dashboard>. Specifically, this was obtained under the Guideline Application field using the following filters: Fiscal Year: 2015 - 2024; Circuit: All; State: All; District: New York, Eastern, New York, Southern; Race: All; Gender: All; Age: All; Citizenship: All; Education: All; Crime Type: All; Guideline: §2B1.1; Drug Type: All; Criminal History: I; Career Offender Status: All.

mostly for substantial assistance under § 5K1.1. Less than a quarter received sentences within the advisory range.

Sentence Imposed Relative to Guideline Range																				
Sentence Range	2015		2016		2017		2018		2019		2020		2021		2022		2023		2024	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Grand Total	375	100.0%	366	100.0%	312	100.0%	260	100.0%	283	100.0%	191	100.0%	215	100.0%	271	100.0%	328	100.0%	308	100.0%
Within Range	80	21.3%	90	24.6%	71	22.8%	66	25.4%	61	21.6%	35	18.3%	39	18.1%	45	16.6%	38	11.6%	73	23.7%
Upward Departure	-	-	-	-	-	-	2	0.8%	-	-	-	-	-	-	-	-	1	0.3%	-	-
§5K1.1 Substantial Assistance	77	20.5%	90	24.6%	87	27.9%	36	13.8%	54	19.1%	29	15.2%	33	15.3%	35	12.9%	59	18.0%	45	14.6%
Downward Departure Govt Motion	-	-	7	1.9%	1	0.3%	4	1.5%	-	-	-	-	4	1.9%	6	2.2%	3	0.9%	1	0.3%
Non-Govt Downward Departure	19	5.1%	24	6.6%	11	3.5%	12	4.6%	7	2.5%	4	2.1%	4	1.9%	6	2.2%	3	0.9%	9	2.9%
Upward Variance	2	0.5%	1	0.3%	4	1.3%	1	0.4%	4	1.4%	2	1.0%	1	0.5%	1	0.4%	3	0.9%	2	0.6%
Downward Variance Govt Motion	7	1.9%	8	2.2%	14	4.5%	13	5.0%	13	4.6%	15	7.9%	14	6.5%	25	9.2%	34	10.4%	25	8.1%
Non-Govt Downward Variance	190	50.7%	146	39.9%	124	39.7%	126	48.5%	144	50.9%	106	55.5%	120	55.8%	153	56.5%	187	57.0%	153	49.7%

To give just one example of this skepticism in action, the Court should consider Judge Garaufis’s opinion in *United States v. Johnson*, 2018 WL 1997975 (E.D.N.Y. Apr. 27, 2018), where he explained why he sentenced the defendant to two years’ imprisonment, despite facing a fraud guideline range of 87-108 months. Judge Garaufis adopted the reasoning of *Algahim* and Judge Underhill’s *Corsey* concurrence, *id.* at \*4, and concluded that, even despite the defendant’s abuse of trust and obstruction of justice, a sentence of nearly one-quarter of the bottom of the guidelines range was sufficient. In particular, the court stressed that two years’ imprisonment was “a serious amount of prison time” and enough punishment when “combined with the expense and emotional harm that may have resulted from this prosecution,” “the disgrace of having been convicted of a felony,” and the high likelihood that the defendant would never reoffend because “financial institutions will never again trust him to particulate in the financial-services industry.” *Id.* at \*5.

*Johnson* and the above sentencing data are telling. They show that, locally and nationally, district judges tend to view the fraud guideline as excessive for securities and investment fraud defendants—especially for people like Mr. Tadrus who fall within the guidelines’ lowest criminal history category. The Court should be similarly skeptical of the fraud guideline’s application here. Indeed, it should conclude, as most district courts do, that § 2B1.1 goes far beyond what is necessary to achieve the purposes of sentencing.

## VI. A sentence of probation will provide adequate specific and general deterrence.

Although having a system of punishment exerts a deterrent effect, the research shows that marginally greater sentences do not effectuate marginally greater

deterrence for individual defendants. *See* The Honorable Peggy Fulton Hora & Theodore Stalcup, Drug Treatment Courts in the Twenty-First Century: The Evolution of the Revolution in Problem-Solving Courts, 42 GA L. Rev. 717, 724 (2008).<sup>6</sup> Harsher punishment and extended prison terms in fact often have the opposite of the intended effect—rather than deterring crime, an overly punitive response destabilizes the life of the defendant. For Mr. Tadrus, this destabilization would be particularly stark. The fact that Mr. Tadrus was prosecuted at all will provide sufficient deterrence; incarceration is not required.

The same is true for general deterrence. Studies have proven that more severe sentences do not result in greater general deterrence. *See* Michael Tonry, Purposes and Functions of Sentencing, 34 Crime And Justice: A Review Of Research 28–29 (2006) (“[I]ncreases in severity of punishments do not yield significant (if any) marginal deterrent effects. . . . Three National Academy of Science panels, all appointed by Republican presidents, reached that conclusion, as has every major survey of the evidence.”). Evidence-based studies strongly support the conclusion that it is the certainty of being prosecuted rather than the severity of punishment that deters crime. The fact that Mr. Tadrus was prosecuted and punished will provide sufficient general deterrence. A period of incarceration is not required.

This applies equally in the fraud context. The very long sentences driven by the loss table are far afield from what was envisioned in creating the fraud Guidelines in the first place, *i.e.*, that “a short but definite period of confinement might deter future [white-collar] crime more effectively than sentences with no confinement condition.” Stephen Breyer, *The Federal Sentencing Guidelines and the Key Compromises Upon Which They Rest*, 17 Hofstra L. Rev. 1, 22 (1988).

## VII. Conclusion

Mina Tadrus is incredibly remorseful for his crime. He is filled with regret for what he has put his family and his investors through with his actions, and knows that

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<sup>6</sup> “Imaginable increases in severity of punishments do not yield significant (if any) marginal deterrent effects.” Michael Tonry, *Purposes and Functions of Sentencing*, 34 Crime & Justice: A Review of Research 28-29 (2006) (summarizing finding of three National Academy of Sciences panels and “every major survey of the evidence”); *see also* Francis T. Cullen, et al., *Prisons Do Not Reduce Recidivism: The High Cost of Ignoring Science*, 91 The Prison Journal 48S (2011) (surveying research which yields evidence that imprisonment tends to increase rather than reduce recidivism); U.S.S.C., *Measuring Recidivism: The Criminal History Computation of the Federal Sentencing Guidelines* (May 2004), at 15 (finding that individuals sentenced to prison are more likely to re-offend than those sentenced to probation).

he must face the consequences of his actions. But a prison term is not the appropriate sentence for Mr. Tadrus. In this case, imprisonment will not meaningfully achieve deterrence, rehabilitate Mr. Tadrus, or make Tadrus Capital's investors whole. Nor is it necessary for just punishment or to protect the public. Mr. Tadrus has already been punished economically and reputationally for his crime. He is committed to making his investors whole, and by reaching an agreement with the SEC, has taken a large step toward that end. For these reasons and those discussed above, we respectfully request that the Court impose a sentence of five years of probation and restitution to the victims.

Thank you for your consideration of this matter.

Respectfully Submitted,

/s/

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Federal Defenders of New York  
Inc.

cc: AUSA Jonathan Lax  
USPO Nicole Gervase