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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10 UNITED STATES OF AMERICA,) Case No. 20CR1916-BAS
11)
12 v.) **UNITED STATES’**
13) **SENTENCING MEMORANDUM**
14 YISROEL GOLDSTEIN,)
Date: January 4, 2022
15 Defendant.)
16)

17 **I**

18 **INTRODUCTION**

19 Rabbi Yisroel Goldstein engaged in a series of schemes over many years that
20 defrauded United States taxpayers, three Fortune 500 companies, the California Office of
21 Emergency Services, and the Clarence Brooks Foundation, among others. There is no
22 question his conduct was willful and serious, particularly given his status as a Rabbi for
23 Chabad of Poway and as a community leader within the larger San Diego Jewish
24 community. On the other hand, Rabbi Goldstein was the victim of a terrible anti-Semitic
25 hate crime targeting his synagogue, his community, and his faith. He lost one of his
26 fingers and has suffered lasting symptoms of PTSD. In light of the extraordinary
27 circumstances of this case and this defendant, the United States is requesting a significant
28

1 departure from the Guidelines. The United States recommends a sentence of **8 months’**
2 **home detention, as a condition of 4 years’ probation.**

3 II

4 STATEMENT OF FACTS

5 The facts of Rabbi Goldstein’s offense are laid out in great detail in the PSR. In
6 sum, Rabbi Goldstein engaged in a series of tax and fraud schemes over a period of many
7 years. First and most significantly, Goldstein engaged in a “90/10” tax fraud scheme with
8 at least 18 different donors. PSR ¶ 8. Donors gave Rabbi Goldstein a sum of money,
9 purportedly as a donation to the Chabad or another entity controlled by Goldstein, such as
10 the Friendship Circle. *Id.* Rabbi Goldstein would then secretly funnel back approximately
11 90% of those funds, provide the donor with a fraudulent donation receipt to enable the
12 donor to falsely take the full deduction on their taxes, and keep the rest for himself. *Id.*
13 In at least one instance, Rabbi Goldstein funneled the funds back by providing a donor
14 with approximately \$1 million in gold. *Id.* at 15.

15 Goldstein also engaged in a corporate matching wire fraud/tax fraud scheme
16 involving at least three Fortune 500 companies with corporate matching programs. PSR
17 ¶ 49. In this version of the scheme, Goldstein, and others, would solicit donors to make a
18 contribution to a purportedly non-sectarian organization controlled by Goldstein. *Id.*
19 Goldstein, directly or indirectly, would return the full amount of the original donation to
20 the donor, usually in cash. *Id.* The donor would submit the purported donation to their
21 employer, thereby inducing the company to match the “donation.” *Id.* Goldstein would
22 then create fraudulent donation receipts for these donors, many of whom took the
23 deduction for the fraudulent donation on their taxes. *Id.* This scheme involved at least
24 five fraudulent donors. *Id.* at ¶ 49-64.

25 Rabbi Goldstein additionally assisted his brother Mendel Goldstein (charged
26 elsewhere) and Bruce Baker (charged elsewhere) in hiding income from the IRS. *Id.* at
27 ¶ 69.

1 The United States has determined that the total tax loss inflicted as a result of all of
2 Rabbi Goldstein’s schemes was \$1,829,366. The United States has additionally
3 determined that as a result of Rabbi Goldstein’s corporate matching scheme Company 1
4 was defrauded out of \$64,730¹, Company 2 was defrauded out of \$59,200, and Company
5 3 was defrauded out of \$20,775.

6 In addition to the tax fraud and related schemes, Goldstein fraudulently obtained
7 hundreds of thousands of dollars in relief funds and grants in conjunction with Alexander
8 Avergoon (charged elsewhere). PSR ¶ 78. Using false or inflated claims, Goldstein and
9 Avergoon obtained over \$937,000 in grant funds, of which they misappropriated
10 \$860,537. Goldstein additionally obtained fraudulent documentation from Avergoon to
11 allow him to apply for and obtain mortgages and a construction loan. *Id.* at 105-08.
12 Goldstein made payments on all of these loans and there was no loss to any mortgage
13 lender or bank as a result of this fraudulent conduct. *Id.*

14 Finally, Goldstein provided letters to Avergoon and others falsely claiming that
15 Avergoon and his associates had completed volunteer hours at the Chabad, in order to
16 allow them to comply with Court ordered criminal sentencing requirements for
17 community service. PSR ¶ 109-110.

18 **III**
19 **SENTENCING GUIDELINES**

20 Pursuant to the plea agreement negotiated between the parties, the United States
21 recommends the following Guidelines calculations:

- 22 1. Base Offense Level [§ 2T1.9(a)(1); §2T4.1(I)]22
- 23 2. Abuse of a Position of Trust [§ 3B1.3]+2
- 24 3. Acceptance of Responsibility [§3E1.1]-3

25 _____
26 ¹ Since Goldstein signed his plea agreement, the United States has identified
27 two additional donors in the corporate matching scheme, who induced Company 1 to
28 match an additional \$15,000 in fraudulent donations. Of those, the United States learned
that one donor did not receive cash back. The fraud/loss amount for Company 1 therefore
increased by a net of \$10,000.

1 4. Substantial Assistance [§ 5K1.1].....-4²
2 5. Departure/Variance [§5K2.0/3553(a)].....-6

3 **Total Offense Level 11**

4 At Offense Level 11 and criminal history category I (PSR ¶ 49), Goldstein’s Guidelines
5 range is 8-14 months.³

6 **IV**

7 **ADDITIONAL SENTENCING FACTORS UNDER § 3553(a)**

8 After calculating the applicable Guidelines, the United States turns to the sentencing
9 factors. In this case, after considering the § 3553(a) factors, and consistent with the
10 parties’ plea agreement, the United States recommends a low-end sentence of **8 months’**
11 **home detention, as a condition of 4 years’ probation,** to account for Defendant’s
12 personal history and the remaining goals of sentencing.

13 The Guidelines calculations for the offense are significant, as they should be. Over
14 a period of decades Rabbi Goldstein engaged in multiple fraud schemes that were
15 extensive in their scope, duration, and dollar amounts involved. Rabbi Goldstein, who
16 was in a position of leadership and trust, even enabled congregants and others to break the
17 law. His conduct has no excuse.

18 Here, although the PSR lays out in great detail the offense conduct, which was
19 extremely serious, it does not lay out what occurred on April 27, 2019 at Chabad of Poway,
20 which was also serious, and a driving factor behind the extraordinary departure and
21 sentencing recommendation of the United States. On that date, the last day of Passover,
22 a man armed with an assault rifle walked into Sabbath services at Chabad of Poway and
23 started shooting. Intending to kill as many Jews as possible, the shooter tragically killed
24 one congregant, and wounded three others, including Rabbi Goldstein. As a result of that

25 ² See Appendix.

26 ³ The United States Probation Office recommended enhancements for
27 Obstruction of Justice and Aggravated Role. The United States believes that its
28 recommended Guidelines calculations properly capture Goldstein’s conduct and does not
recommend those enhancements.

1 shooting, Rabbi Goldstein lost one finger and suffered injuries to another. Following the
 2 shooting, Rabbi Goldstein repeatedly spoke out about the attack, and was the face of the
 3 community both locally and nationally, despite his injury and PTSD.

4 Given all of the factors together, the United States believes that a substantial
 5 departure/variance of six levels is appropriate to account for the extraordinary
 6 circumstances of the Chabad of Poway shooting and its aftermath. Weighing all of the
 7 sentencing factors, the United States therefore believes that a sentence of **8 months’ home**
 8 **detention, as a condition of 4 years’ probation** is appropriate.

9 **V**

10 **FORFEITURE, RESTITUTION, AND FINE**

11 **A. FORFEITURE**

12 The Court has already entered a preliminary order of forfeiture. Dkt. 14. The United
 13 States requests that the Court enter a final order of forfeiture at sentencing.

14 **B. RESTITUTION**

15 As set forth in Defendant’s plea agreement, the parties agree that a restitution order
 16 is appropriate in this case. Goldstein should be ordered to pay restitution of \$2,834,608
 17 as follows:

Victim	Amount
IRS	\$1,829,366 ⁴
California Office of Emergency Services	\$260,537 ⁵
Clarence Brooks Foundation	\$600,000 ⁶

23 _____
 24 ⁴ This amount is joint and several with charged donors Bruce Baker, Stuart
 25 Weinstock, Mendel Goldstein, Bijan Moossazadeh, Yousef Shemirani, Boris Shkoller,
 26 Rotem Cooper, and Igor Shtilkind. The United States is requesting that the Court issue an
 order of restitution in the full amount, with the understanding that Rabbi Goldstein will be
 credited the \$992,463 already paid by his co-conspirators.

27 ⁵ This amount is joint and several with Alexander Avergoon (charged elsewhere).

28 ⁶ \$300,000 of this amount is joint and several with Alexander Avergoon (charged
 elsewhere).

1	Qualcomm, Inc.	\$64,730 ⁷
2	Johnson & Johnson	\$59,200
3	Northrop Grumman	\$20,775 ⁸
4	TOTAL	\$2,834,608

5 **C. FINE**

6 In light of the substantial restitution order, the United States does not recommend
7 any fine be imposed.

8 **VI**

9 **CONCLUSION**

10 For the foregoing reasons, the United States respectfully requests that this Court
11 impose a sentence of 8 months' home detention, 4 years' probation, and order restitution
12 in the amount of \$2,834,608.

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14 RANDY S. GROSSMAN
United States Attorney

15
16 12/28/2021

17 *s/ Michelle L. Wasserman*
MICHELLE L. WASSERMAN
Assistant U.S. Attorney

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23 _____
24 ⁷ This amount is joint and several with charged donors Jason Ellis and Rotem
25 Cooper. The United States is requesting that the Court issue an order of restitution in the
26 full amount of \$64,730 to Qualcomm, with the understanding that Rabbi Goldstein will
27 be credited with the \$45,330 already paid by his co-conspirators.

28 ⁸ This amount is joint and several with charged donor Igor Shtilkind. The United
States is requesting that the Court issue an order of restitution in the full amount of \$20,775
to Northrup Grumman, with the understanding that Rabbi Goldstein will be credited with
the \$17,500 already paid by his co-conspirator.