

1 TRACY L. WILKISON  
 United States Attorney  
 2 SCOTT M. GARRINGER  
 Assistant United States Attorney  
 3 Chief, Criminal Division  
 THOMAS F. RYBARCZYK (Cal. Bar No. 316124)  
 4 Assistant United States Attorneys  
 Public Corruption and Civil Rights Section  
 5 1500 United States Courthouse  
 312 North Spring Street  
 6 Los Angeles, California 90012  
 Telephone: (213) 894-8452  
 7 Facsimile: (213) 894-0141  
 E-mail: thomas.rybarczyk@usdoj.gov  
 8

9 Attorneys for Plaintiff  
 UNITED STATES OF AMERICA  
 10

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,  
 Plaintiff,  
 14  
 v.  
 15 HELIOS RAPHAEL DAYSPRING,  
 16 aka "Bobby Dayspring,"  
 17 Defendant.  
 18  
 19  
 20

No. CR 21-343-AB

GOVERNMENT'S SENTENCING POSITION  
FOR DEFENDANT HELIOS RAPHAEL  
DAYSPRING

Hearing Date: May 27, 2022  
 Hearing Time: 1:30 p.m.  
 Location: Courtroom of the  
 Hon. André Birotte  
 Jr.

21 Plaintiff United States of America, by and through its counsel  
 22 of record, the United States Attorney for the Central District of  
 23 California and Assistant United States Attorney Thomas F. Rybarczyk,  
 24 hereby files its sentencing position with respect to defendant HELIOS  
 25 RAPHAEL DAYSPRING.

26 The government's sentencing position is based upon the attached  
 27 memorandum of points and authorities, its separately-filed, under-  
 28 seal motion pursuant to U.S.S.G. § 5K1.1, the Presentence

1 Investigation Report, the files and records in this case, and such  
2 further evidence and argument as the Court may permit.

3 Dated: May 13, 2022

Respectfully submitted,

4 TRACY L. WILKISON  
United States Attorney

5 SCOTT M. GARRINGER  
6 Assistant United States Attorney  
Chief, Criminal Division

7  
8 /s/ Thomas F. Rybarczyk  
THOMAS F. RYBARCZYK  
9 Assistant United States Attorney

10 Attorneys for Plaintiff  
11 UNITED STATES OF AMERICA  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

1

2 MEMORANDUM OF POINTS AND AUTHORITIES.....1

3 I. INTRODUCTION.....1

4 II. FACTUAL BACKGROUND.....2

5 A. County Supervisor 1 Bribery Scheme.....2

6 1. After Providing a Steady Stream of Cash and

7 Benefits to County Supervisor 1, Defendant Asked

8 for and Received County Supervisor 1's Vote on a

Critical Issue affecting Defendant's Cannabis

Farms.....3

9 2. County Supervisor 1 Protected Defendant's

10 Businesses while He Received Cash and other

Benefits from Defendant.....4

11 B. Attempted Mayor 1 Bribery Scheme.....5

12 C. Defendant's Falsely Subscribed His Tax Returns.....6

13 III. THE UNITED STATES SENTENCING GUIDELINES CALCULATION.....6

14 IV. A SENTENCE OF 27 MONTHS' IMPRISONMENT IS WARRANTED.....8

15 A. The Nature and Circumstances and Seriousness of the

16 Offense, Seriousness of the Offense, and Just

Punishment for Defendant.....9

17 B. The History and Characteristics of Defendant.....12

18 C. Specific and General Deterrence.....12

19 1. Specific Deterrence.....12

20 2. General Deterrence.....13

21 V. CONCLUSION.....15

22

23

24

25

26

27

28

**TABLE OF AUTHORITIES**

**CASES**

1  
2  
3 United States v. Ganim,  
4     2006 WL 1210984 (D. Conn. May 5, 2006) ..... 11  
5 United States v. Martin,  
6     455 F.3d 1227 (11th Cir. 2006) ..... 8  
7 United States v. Morgan,  
8     635 F. App'x 423 (10th Cir. 2015) ..... 14  
9 United States v. Robles,  
10     2015 WL 1383756 (C.D. Cal. Mar. 19, 2015) ..... 12  
11 United States v. Spano,  
12     411 F. Supp. 2d 923 (N.D. Ill. 2006) ..... 14

**STATUTES**

13 18 U.S.C. § 666 ..... 1  
14 18 U.S.C. § 3553 ..... 8  
15 18 U.S.C. § 3553 ..... 8  
16 26 U.S.C. § 7206 ..... 1

**UNITED STATES SENTENCING GUIDELINES**

17 U.S.S.G. § 2C1.1 ..... 6  
18 U.S.S.G. § 2D1.1 ..... 6  
19 U.S.S.G. § 3D1.4 ..... 7  
20 U.S.S.G. § 3E1.1 ..... 7  
21 U.S.S.G. § 5K1.1 ..... 1, 7  
22 U.S.S.G. § 2T1.1 ..... 7

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendant HELIOS RAPHAEL DAYSPRING ("defendant") had one goal:  
4 build a cannabis empire. To accomplish that goal, he would not let  
5 anything get in his way, including the law. His lofty ambitions  
6 drove him to bribe a San Luis Obispo County Supervisor with tens of  
7 thousands in cash to advance and protect his cannabis growing  
8 operations, offer to bribe a mayor for cannabis distribution permits,  
9 and conceal over \$9 million in income on his tax returns. Defendant  
10 did this all with the intent to become the cannabis king of San Luis  
11 Obispo and Santa Barbara Counties.

12 After being confronted by federal law enforcement, defendant  
13 accepted responsibility for his actions and assisted the government  
14 in its investigation. For his conduct, defendant pled guilty to an  
15 Information charging him with one count of Federal Program Bribery,  
16 in violation of 18 U.S.C. § 666(a)(2), and one count of Subscribing  
17 to a False Income Tax Return, in violation of 26 U.S.C. § 7206(1).

18 For the reasons set forth below and in the government's  
19 separately filed motion pursuant to U.S.S.G. § 5K1.1, the government  
20 recommends a sentence of 27 months' imprisonment, which represents  
21 the low-end of the applicable United States Sentencing Guidelines  
22 ("Guidelines") range after applying the government's recommended  
23 downward variance and departure. The government also recommends  
24 three years of supervised release under the terms and conditions  
25 recommended by the United States Probation and Pretrial Services  
26 Office ("USPO") and that defendant be ordered to pay \$3,438,793 in  
27 restitution to the IRS, a fine of \$20,000, and a \$200 special  
28 assessment.

1 **II. FACTUAL BACKGROUND**

2 Defendant owned, operated, controlled, and/or had a financial  
3 stake in businesses specializing in cannabis cultivation and  
4 distribution in the County of San Luis Obispo ("County"), multiple  
5 farms that grew and cultivated cannabis in the County (collectively,  
6 "Cannabis Farms"), and businesses that sold cannabis commercially to  
7 the public, including a dispensary in Grover Beach, California  
8 ("Grover Beach Dispensary"). (Presentence Investigation Report  
9 ("PSR"), Dkt. 34, ¶ 13.)

10 **A. County Supervisor 1 Bribery Scheme**

11 County Supervisor 1 was an elected member of the County's Board  
12 of Supervisors, which was compromised of five supervisors. As a  
13 County Supervisor, County Supervisor 1 voted on matters appearing  
14 before the County Board of Supervisors, including matters that  
15 affected defendant's Cannabis Farms, and had influence over matters  
16 occurring within the County and its departments. (PSR ¶ 14.)

17 Starting in the Fall of 2016 and continuing until at least the  
18 late Fall of 2019, defendant paid County Supervisor 1 nearly \$30,000  
19 in cash and other benefits, including free cannabis products.  
20 Defendant provided County Supervisor 1 this stream of benefits with  
21 the understanding that as opportunities arose, County Supervisor 1  
22 would do, amongst other things, the following: (a) vote on cannabis  
23 legislation benefiting his Cannabis Farms, (b) advocate support of  
24 cannabis legislation benefiting defendant's Cannabis Farms to other  
25 public officials, and (c) disclose non-public County information  
26 concerning cannabis-related issues, all of which benefitted defendant  
27 and defendant's businesses. (PSR ¶ 15.)

28

1           1.   After Providing a Steady Stream of Cash and Benefits  
2                   to County Supervisor 1, Defendant Asked for and  
3                   Received County Supervisor 1's Vote on a Critical  
4                   Issue affecting Defendant's Cannabis Farms

5           One matter in which defendant sought County Supervisor 1's vote  
6 was in connection with the extension of an abeyance on enforcement  
7 action on cannabis growers, which would have included defendant's  
8 Cannabis Farms at the time, as the County considered those growers'  
9 applications, including defendant's applications, for permits to  
10 cultivate cannabis on the Cannabis Farms. In other words, defendant  
11 sought to ensure his Cannabis Farms could continue to operate,  
12 notwithstanding a county law prohibiting cannabis cultivation farms  
13 from operating without the appropriate county and state approvals.  
14 If the abeyances on enforcement action were to have lapsed, the  
15 County may have required the defendant's Cannabis Farms defendant  
16 purchased, controlled, and/or took an interest to shut down,  
17 resulting in significant financial losses to defendant well in excess  
18 of \$5,000. (PSR ¶ 16.)

19           In December 2018, after providing County Supervisor 1 a steady  
20 stream of cash and other benefits, defendant called on County  
21 Supervisor 1 to take a vote in favor of his businesses and exclude  
22 other competitors. Specifically, defendant made clear to County  
23 Supervisor 1 - the man to whom he had paid thousands in cash - in a  
24 text message that "it's really important u guys extend the timeframe  
25 for submission and don't allow other people in yet" referring to the  
26 County's impending vote on December 11, 2018 to extend the abeyances  
27 on enforcement action against cannabis cultivators. Defendant further  
28 told County Supervisor 1 via text message that "[t]his affects all

1 the properties that I just got investment into every one of them. If  
2 I am not deemed complete and get accepted [conditional use permits] I  
3 don't get my ownership in the land." County Supervisor 1 understood  
4 defendant's request for his official action and responded: "Got it.  
5 We'll see what we can do. Extension of timeframe seems reasonable and  
6 probably no one else in until everyone has been deemed complete."  
7 Defendant responded that County Supervisor 1 was the "man." On  
8 December 11, 2018, the County's Board of Supervisors voted 5-0 to  
9 approve an extension of the abeyances with County Supervisor 1  
10 seconding the motion and voting in favor of the resolution. On  
11 December 12, 2018, County Supervisor 1 reported that he performed  
12 defendant's request and told defendant via text message "[w]e  
13 extended abeyance yesterday" to which defendant replied: "Thank god .  
14 . .". (See PSR ¶ 21.)

15 2. County Supervisor 1 Protected Defendant's Businesses  
16 while He Received Cash and other Benefits from  
17 Defendant

18 During the period in which he received cash and other benefits  
19 from defendant, at the March 26, 2019 County Board of Supervisor's  
20 meeting, County Supervisor 1 took multiple actions to protect  
21 defendant's business interests as other supervisors sought to take  
22 pass legislation that would have hurt defendant's cannabis farms and  
23 defendant, County Supervisor 1's consistent cash provider. During  
24 that meeting, the Board of Supervisors took 16 straw votes relating  
25 to cannabis regulation. Amongst the straw votes taken during the  
26 meeting was a vote to ban all outdoor cannabis cultivation, which, if  
27 enacted, would have caused significant financial loss to defendant  
28 and the Cannabis Farms, many of which grew cannabis outdoors.



1 Throughout the meeting, County Supervisor 1 sent text messages to  
2 defendant and Employee 1, an employee of one of defendant's  
3 companies, updating them as the votes were taken. In particular,  
4 County Supervisor 1 explained how he had to work to prevent another  
5 County Supervisor from pushing the law banning all outdoor cannabis  
6 cultivation. At one point, County Supervisor 1 wrote that he "had to  
7 keep these fuckers [other County supervisors] from going way beyond  
8 and it is exhausting! Where's the industry [financial] support for my  
9 reelection??" to which defendant responded writing that "[w]e are the  
10 industry" and "[w]ere (sic) all [you] need lol." (PSR ¶ 25.)

11 On March 29, 2019, County Supervisor 1 sent defendant and  
12 Employee 1 a text message asking: "[t]omorrow is your favorite County  
13 Supervisor's birthday... what are you two [Cannabis] Kings gonna do  
14 for him???" (PSR ¶ 26.) Later, on April 6, 2019, County Supervisor  
15 1 told defendant and Employee 1 that "[y]our industry should give me  
16 one giant French kiss wrapped in money after my work today." (PSR  
17 ¶ 27.)

#### 18 **B. Attempted Mayor 1 Bribery Scheme**

19 Mayor 1 was the elected mayor Grover Beach ("the City"). As  
20 mayor, Mayor 1 voted on matters appearing before the City Council,  
21 including matters that affected defendant's dispensary businesses.  
22 Mayor 1 was also one of the two City council members on the City's  
23 subcommittee charged with overseeing the City's expansion of medical  
24 and commercial cannabis. (PSR ¶ 28.)

25 In 2017, the City began accepting applications from companies  
26 seeking to dispense medical cannabis. In 2018, the City allowed those  
27 companies that obtained dispensary permits to sell cannabis  
28

1 commercially. Defendant sought permits for two dispensaries,  
 2 including the Grover Beach Dispensary. (PSR ¶ 29.)

3 In September 2017, during a restaurant meeting between Mayor 1,  
 4 defendant, and Business Partner 1, defendant offered Mayor 1 \$100,000  
 5 in exchange for two City dispensary permits for which he applied.  
 6 Mayor 1 did not respond to the offer. The City later awarded a single  
 7 dispensary permit to the Grover Beach Dispensary. (PSR ¶ 30.)

8 **C. Defendant's Falsely Subscribed His Tax Returns**

9 On or about October 15, 2019, defendant caused his U.S.  
 10 Individual Tax Return, Form 1040, for 2018, to be filed  
 11 electronically with the IRS knowing that it contained materially  
 12 false information, namely, on line 10, defendant falsely reported his  
 13 taxable income was \$1,262,894, when in fact, as defendant then knew,  
 14 his actual taxable income in 2018 was more than \$6.5 million. That  
 15 amount resulted in a tax loss to the IRS of approximately \$2,048,950.  
 16 Defendant also concealed his income from the IRS for tax years 2014,  
 17 2015, 2016, and 2017. As a result of defendant's underreporting of  
 18 his income in 2014 through 2018, defendant caused the IRS  
 19 approximately \$3,438,793 in lost tax revenue. (PSR ¶ 31.)

20 **III. THE UNITED STATES SENTENCING GUIDELINES CALCULATION**

21 As reflected in the plea agreement and PSR, the correct  
 22 Guidelines calculation is as follows:

23 **Count One**

24	Base Offense Level:	12	[U.S.S.G. § 2C1.1(a)(2)]
25	Value of the Bribes (greater	+8	[U.S.S.G. § 2C1.1(b)(2)]
26	than \$95,000 but less than		
	\$150,000):		
27	Involved Elected Public	+4	[U.S.S.G. § 2D1.1(b)(12)]
28	Official:		

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28**Count Two**

Base Offense Level:	22	[U.S.S.G. §§ 2T1.1(a)(a), 2T4.1(I)]
Grouping	+2	[U.S.S.G. § 3D1.4]
Acceptance of Responsibility:	-3	[U.S.S.G. § 3E1.1] <sup>1</sup>
<hr/>		
Total Offense Level	23	
[before any variance or departure]		

The government agreed in the amended plea agreement to move for a three-level variance if "defendant demonstrates an acceptance of responsibility for the offenses up to and including at the time of sentencing" for the "substantial assistance defendant provided to the government related to this investigation, but which cannot be accounted for pursuant to U.S.S.G. § 5K1.1." (Dkt. 25, ¶5.d.) This variance is substantially related to defendant and his counsel's assistance in helping the government calculate his taxable income. Assuming defendant continues to demonstrate acceptance of responsibility up and until his sentencing, his Total Offense level after accounting for this three-level downward variance would be 20. Additionally, for the reasons stated in the government's separately-filed motion pursuant to U.S.S.G. § 5K1.1 relating to defendant's cooperation, the government has moved for an additional two-level downward departure, bringing defendant's Total Offense level to 18.

Accordingly, based on a Total Offense Level of 18 and the fact that defendant falls in Criminal History Category I, the applicable Guidelines range is 27 to 33 months' imprisonment.

<sup>1</sup> The government hereby moves for a one-level decrease pursuant to U.S.S.G. § 3E1.1(b) and the plea agreement.

1 **IV. A SENTENCE OF 27 MONTHS' IMPRISONMENT IS WARRANTED**

2 In determining a sufficient sentence, courts must consider the  
3 nature and circumstances of the offense, weigh the history and  
4 characteristics of each defendant, and impose a sentence that  
5 reflects the seriousness of the offense and provides just punishment.  
6 18 U.S.C. §§ 3553(a)(1), (a)(2)(A). Any sentence must protect the  
7 public from future crimes, promote respect for the law, and afford  
8 adequate deterrence, 18 U.S.C. § 3553(a)(2), including general  
9 deterrence which is particularly important in public corruption and  
10 white-collar criminal cases like this one. See, e.g., United States  
11 v. Martin, 455 F.3d 1227, 1240 (11th Cir. 2006) ("Because economic  
12 and fraud based crimes are more rational, cool, and calculated than  
13 sudden crimes of passion or opportunity, these crimes are prime  
14 candidates for general deterrence. Defendants in white collar crimes  
15 often calculate the financial gain and risk of loss, and white collar  
16 crime therefore can be affected and reduced with serious  
17 punishment.") With these factors in mind, the government's  
18 recommended sentence -- 27 months in prison, followed by three years  
19 of supervised release -- is sufficient, but not greater than  
20 necessary, to adequately punish and deter.<sup>2</sup>

21  
22  
23  
24  
25  
26 <sup>2</sup> The USPO recommended defendant receive a sentence of 36  
27 months' imprisonment based on a Total Offense Level of 23 and  
28 Criminal History Category I. (Dkt. 33.) The USPO also recommended  
one-year of supervised release and that defendant pay restitution to  
the IRS in the amount of \$3,438,793, a \$20,000 fine, and a \$200  
special assessment. (Id.)

1           **A.    The Nature and Circumstances and Seriousness of the**  
2                   **Offense, Seriousness of the Offense, and Just Punishment**  
3                   **for Defendant**

4           With respect to the nature and circumstances of the bribery  
5 offense, defendant paid cash bribes to a sitting a San Luis Obispo  
6 County Supervisor on multiple occasions, and he and his businesses  
7 benefited from those bribes. While defendant may argue that County  
8 Supervisor 1 started this corrupt relationship by soliciting cash  
9 from him, defendant realized he and his businesses could reap  
10 benefits from it. Ever the savvy entrepreneur, defendant took  
11 advantage of this corrupt relationship to cheat the system regulating  
12 the newly-legalized cannabis markets and put himself ahead of the  
13 competition. That is why defendant began requesting County  
14 Supervisor 1's vote for and support the continued abeyances on  
15 enforcement action related to cannabis farms, limit the number of  
16 competitors, and prevent other supervisors from banning outdoor  
17 cannabis growth. Contrary actions by the County Board of Supervisors  
18 could have significantly impacted defendant and his business  
19 operations and impeded his ability to expand his cannabis empire. In  
20 exchange for County Supervisor 1 performing these acts and protecting  
21 defendant's business interests, defendant provided a steady stream of  
22 benefits and kept County Supervisor 1 on retainer. As Business  
23 Partner 1 wrote in a June 25, 2019 email to another of defendant's  
24 business partners, County Supervisor 1 "is on [defendant]'s payroll.  
25 I know that for a fact." Business Partner 1 correctly summarized the  
26 arrangement. County Supervisor 1 was on defendant's payroll,  
27 receiving tens of thousands of dollars and performing tasks for  
28 defendant as directed.

1 Defendant's efforts to build his cannabis empire by corrupting  
2 the system were not limited to bribing County Supervisor 1. He  
3 wanted not one, but two distribution permits in Grover Beach to  
4 obtain significant control over the Grover Beach cannabis  
5 distribution market. To get it, defendant offered the mayor \$100,000  
6 in bribes for two distribution permits. While the mayor did not  
7 accept that bribe, defendant's intent was clear: defendant wanted  
8 those two permits and was willing to corrupt and cheat the system to  
9 get them.

10 Defendant's intent to use the political might he corruptly  
11 purchased to further his greed and ambition to build a cannabis  
12 empire was also made clear through his own words. In a January 25,  
13 2020 text exchange with two other individuals in the cannabis  
14 industry, defendant wrote:

15 I will lock up every city around grover [Beach] and isolate  
16 My competition to 1 town **i got my hands in the political**  
17 **cookie jar and will make sure the market remains a local**  
**one** if i sold in [city of San Luis Obispo] it would be  
Knowing it was enough cash to take down 5 more citys.

18 (emphasis added.)

19 Defendant's crimes extended beyond bribery to cheating on his  
20 taxes. In total, defendant cheated the government out of \$3,438,793  
21 from 2014 to 2018, most of that loss coming in 2017 and 2018 as  
22 defendant enlarged his cannabis empire. As defendant evaded taxes  
23 year after year, defendant's wealth grew exponentially. Having an  
24 additional \$3.5 million at his disposal - money owed to the IRS - no  
25 doubt allowed defendant to have additional capital from which to draw  
26 on and expand his cannabis empire, a benefit not enjoyed by those who  
27 played by the rules.

28

1 Cheating the government out of millions of dollars of tax  
2 revenue that could be used for the benefit of other Americans is a  
3 serious offense. But the crime of bribery is especially pernicious  
4 and harmful to society. That is because, as many courts have  
5 recognized, it undermines the citizens belief and trust in their  
6 government. As one court explained:

7 Government corruption breeds cynicism and mistrust of  
8 elected officials. It causes the public to disengage from  
9 the democratic process because . . . the public begins to  
10 think of politics as 'only for the insiders.' Thus  
11 corruption has the potential to shred the delicate fabric  
12 of democracy by making the average citizen lose respect and  
13 trust in elected officials and give up any hope of  
14 participating in government through legitimate channels.

15 United States v. Ganim, 2006 WL 1210984, at \*5 (D. Conn. May 5,  
16 2006).

17 Defendant paid County Supervisor 1 tens of thousands in cash to  
18 be an insider, cheat the system, gain an unlawful advantage over his  
19 competitors, and become what County Supervisor 1 referred to as a  
20 "[Cannabis] King[]," a mantle defendant himself recognized when he  
21 said he and his businesses were the cannabis "industry" in San Luis  
22 Obispo County. Doing so further shook the trust of the citizens of  
23 San Luis Obispo County in their government because County Supervisor  
24 1 acted in the best interests of defendant, the man bribing him, and  
25 not the citizens who elected the supervisor to office.

26 Determining just punishment must weigh the seriousness of these  
27 offenses against defendant's cooperation and pre-indictment  
28 acceptance of responsibility. Defendant made himself and his counsel  
available to the government, waived his right to indictment by grand  
jury and agreed to proceed by a criminal information, and agreed to a  
fulsome factual basis at the request of the government. Taking these

1 factors into the equation, the government's recommended sentence of  
2 27 months' imprisonment, the low-end of the applicable Guidelines  
3 range, is appropriate.

4 **B. The History and Characteristics of Defendant**

5 While defendant had at times a rough upbringing (PSR ¶¶ 82-89),  
6 he was able to overcome that challenge and make millions of dollars  
7 in the cannabis industry. But, as discussed above, in the process of  
8 making those millions, defendant also cheated the government out of  
9 tax money and, more importantly, deprived the citizens of San Luis  
10 Obispo of their right to honest governance and attempted to do the  
11 same in Grover Beach.

12 **C. Specific and General Deterrence**

13 One court from within this district observed within the last  
14 decade that "[c]orruption—an anathema to a democratic self-  
15 government—is far too prevalent." United States v. Robles, No. CR  
16 04-1594-SVW, 2015 WL 1383756, at \*8 (C.D. Cal. Mar. 19, 2015).  
17 Unfortunately, as evidenced by the number of federal prosecutions of  
18 individuals who have bribed and corrupted public officials for their  
19 own personal gain in this district, this observation still rings true  
20 today. This fact makes both specific and general deterrence all the  
21 more important in fashioning a sentence for defendant.

22 1. Specific Deterrence

23 As discussed above, defendant has accepted responsibility for  
24 his actions and done so preindictment, which suggests he may be less  
25 likely to engage in the same conduct moving forward. Nevertheless,  
26 even after the restitution payment and any associated fines he may be  
27 ordered to pay, defendant will still have significant financial  
28 resources. The PSR makes clear that defendant's chosen profession is



1 growing and distributing cannabis. Cannabis is what he knows, and he  
2 is good at growing and selling it. (PSR ¶¶ 117, 119-21.) There is  
3 no doubt it is industry to which he will return in some manner after  
4 a custodial sentence.

5 The problem is that the legal cannabis industry is one rife with  
6 corruption and opportunities for defendant's recidivism abound. See  
7 Mona Zang, How state marijuana legalization became a boon for  
8 corruption, Politico, (Dec. 27, 2020)  
9 <https://www.politico.com/news/2020/12/27/marijuana-legalization->  
10 [corruption-450529](https://www.politico.com/news/2020/12/27/marijuana-legalization-). The cannabis industry has historically been a  
11 cash industry, which makes the money in it difficult to track for the  
12 IRS but easy to use to bribe lawmakers and public officials who are  
13 now writing the laws regulating this newly-legalized industry.  
14 Accordingly, to ensure that defendant himself is sufficiently  
15 deterred from bribing public officials and further undermining the  
16 public's trust as well as cheating on his taxes again, the government  
17 believes a custodial sentence of 27 months is necessary to deter  
18 defendant reengaging in illegal activities.

19 2. General Deterrence

20 Even more important than specific deterrence in bribery cases is  
21 general deterrence. As one court observed:

22 We need not resign ourselves to the fact that corruption  
23 exists in government. Unlike some criminal justice issues,  
24 **the crime of public corruption can be deterred by**  
25 **significant penalties that hold all offenders properly**  
26 **accountable.** The only way to protect the public from the  
27 ongoing problem of public corruption and to promote respect  
28 for the rule of law is to impose strict penalties on all  
defendants who engage in such conduct, many of whom have  
specialized legal training or experiences. Public  
corruption demoralizes and unfairly stigmatizes the  
dedicated work of honest public servants. **It undermines**  
**the essential confidence in our democracy and must be**  
**deterred if our country and district is ever to achieve the**

1           **point where the rule of law applies to all – not only to**  
2           **the average citizen, but to all elected and appointed**  
3           **officials.**

4           United States v. Spano, 411 F. Supp. 2d 923, 940 (N.D. Ill. 2006),  
5           affirmed, 477 F.3d 517 (7th Cir. 2006) (emphasis added); see also  
6           United States v. Morgan, 635 F. App'x 423, 450 (10th Cir. 2015)  
7           (reversing district court's decision to impose probation in a bribery  
8           case, remanding for re-sentencing, and observing that "[g]eneral  
9           deterrence comes from a probability of conviction and significant  
10          consequences. If either is eliminated or minimized, the deterrent  
11          effect is proportionately minimized. . . . [Democracy's] proper  
12          functioning requires elected officials to serve the common good, not  
13          illicit personal gain. Our citizens place faith in the honesty and  
14          integrity of elected officials. Without meaningful consequences for a  
15          breach of trust, their trust is no more than blind trust. Congress  
16          has recognized as much. Deterrence is a crucial factor in sentencing  
17          decisions for economic and public corruption crimes such as this  
18          one.")

19           Imposing the government's recommended sentence of 27 months'  
20          imprisonment is important to deter those similarly situated to  
21          defendant - individuals seeking to gain an advantage in the corrupt  
22          world of legal cannabis. Imposing a short term of custody under  
23          these facts would send the wrong signal to others who may be tempted  
24          to follow defendant's corrupt path.

25           For these reasons, any substantial deviation from the  
26          government's recommended sentence here would undercut the deterrent  
27          purpose of sentencing and embolden future crimes. The imposition of  
28          a meaningful sentence in this case – one undoubtedly being observed

1 by others in the cannabis industry – will serve an important public  
2 purpose.

3 **V. CONCLUSION**

4 For the aforementioned reasons, the government respectfully  
5 requests that the Court sentence defendant to a total of 27 months'  
6 imprisonment, followed by three years of supervised release under the  
7 conditions recommended by the USPO, and order defendant to pay  
8 \$3,438,793 in restitution to the IRS, a fine of \$20,000, and a \$200  
9 special assessment.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28