

1 TRACY L. WILKISON
 United States Attorney
 2 SCOTT M. GARRINGER
 Assistant United States Attorney
 3 Chief, Criminal Division
 JULIA HU (Cal. Bar No. 338226)
 4 Assistant United States Attorney
 General Crimes Section
 5 MARIA JHAI (Cal. Bar No. 283059)
 Assistant United States Attorney
 6 Terrorism & Export Crimes Section
 1200 United States Courthouse
 7 312 North Spring Street
 Los Angeles, California 90012
 8 Telephone: (213) 894-3802/4138
 Facsimile: (213) 894-6269/0141
 9 E-mail: julia.hu@usdoj.gov
 maria.jhai@usdoj.gov

10 Attorneys for Plaintiff
 11 UNITED STATES OF AMERICA

12 UNITED STATES DISTRICT COURT

13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA,
 15 Plaintiff,
 16 v.
 17 YI CHEN,
 aka "Brian Chen,"
 18 Defendant.

No. CR 21-75-MCS-2

GOVERNMENT'S SENTENCING POSITION
REGARDING DEFENDANT YI CHEN

Hearing Date: June 27, 2022
 Hearing Time: 3:00 p.m.
 Location: Courtroom of the
 Hon. Mark C. Scarsi

21 Plaintiff United States of America, by and through its counsel
 22 of record, the United States Attorney and Assistant United States
 23 Attorneys Julia Hu and Maria Jhai, hereby files its Sentencing
 24 Position Regarding Defendant YI CHEN ("defendant" or "defendant
 25 CHEN").

26 This position is based upon the attached memorandum of points
 27 and authorities, the files and records in this case, the Presentence
 28 Report ("PSR") disclosed by the United States Pretrial Service and

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to the Immigration and Nationality Act, foreign students may obtain a visa to come to the United States if they are accepted at a U.S. college or university. Congress intended that such student visas be granted temporarily only to bona fide students. However, individuals like defendant YI CHEN ("defendant" or "defendant CHEN"), have manipulated the U.S. immigration system to get wealthy Chinese nationals into the United States by falsely making them eligible for student visas. Under the guise of operating an "educational consulting" company, defendant CHEN made millions of dollars by faking every aspect of the college admissions process. In doing so, defendant CHEN sat at the very top of a wide network of fraudsters, including imposter test-takers, essay ghostwriters, and fake transcript purveyors.

Following a bench trial, the Court convicted defendant of immigration document fraud (Count Ten) and aggravated identity theft (Count Twenty-One). However, defendant's relevant conduct includes all of his criminal activity in the same course of conduct and pursuant to the same scheme or plan as that underlying his counts of conviction. Therefore, contrary to defendant's objections, the Probation Office properly calculated defendant's total offense level as 23. Based on a criminal history category of I, the correct Guidelines range is 46 to 57 months' imprisonment, to be followed by a mandatory statutory consecutive sentence of two years. Based on the serious and extensive nature of the offense and the need for specific and general deterrence, the government respectfully requests

1 that the Court sentence defendant to a total of 70 months'
2 imprisonment.

3 **II. STATEMENT OF FACTS**

4 The government agrees with the PSR's statement of facts and asks
5 the Court to adopt that statement for the record. For ease of
6 reference, the government offers the following summary with citations
7 to the PSR and the government's proposed findings of fact and
8 conclusions of fact. (Dkt. 195.)

9 Beginning in at least June 2015 and continuing until at least
10 February 2021, defendant CHEN conspired with YIXIN LI ("co-defendant
11 LI") and others to defraud the United States immigration system by
12 falsely making foreign nationals eligible for student visas. (PSR
13 ¶ 12.) Defendant CHEN ran two sham educational consulting companies,
14 Prime US International and MS Education, through which defendant made
15 over \$10 million from wealthy foreign nationals who wanted to come to
16 the United States.¹ (PSR ¶ 13; Dkt. 195 at 17.) Specifically,
17 defendant CHEN secured visa-seekers' admission to various U.S.
18 colleges and universities, a prerequisite for eligibility for a
19 student visa, through the following fraudulent means: (1) arranging
20 and paying for impostor test-takers to impersonate the visa-seekers
21 for the Test of English as a Foreign Language ("TOEFL") or Scholastic
22

23
24 ¹ Defendant objects to the PSR's use of the term visa-seekers.
25 (Dkt. 242 at 6.) However, the government's evidence at trial showed
26 by at least a preponderance of the evidence that defendant CHEN
27 intended that their phony admissions services would permit their
28 clients to enter or stay in the United States on a student visa.
That evidence included the fact that defendant's entire clientele
consisted of foreign nationals, advertisements designed by defendant
for "fast I-20s," company contracts created by defendant promising
assistance in the visa application process, and evidence that
defendant prepared documents specifically required for Form I-20s.
(Dkt. 195 at 12-13, 24-25.)

1 Aptitude Test ("SAT"); (2) obtaining or creating fake or altered high
2 school and college transcripts in the visa-seekers' names; and (3)
3 directing ghostwriters to write admissions essays and recommendation
4 letters on behalf of the visa-seekers. (PSR ¶ 14.) After defendant
5 submitted applications in the visa-seekers' names containing at least
6 one of these fraudulent admissions components, school officials would
7 issue a Form I-20 upon acceptance, which made them eligible for a
8 student visa. (PSR ¶ 16.)

9 For example, defendant fraudulently obtained a Form I-20 from
10 New York University ("NYU") for Tong Jin, a Chinese citizen. In
11 2016, defendant CHEN submitted an application to NYU in Jin's name
12 that contained a fake Chinese school transcript that defendant
13 created on his laptop and a fraudulent TOEFL score procured by an
14 imposter test-taker that defendant arranged for. (PSR ¶¶ 18, 19,
15 23.) Defendant CHEN also prepared and submitted a financial
16 affidavit, a requirement for getting a Form I-20, on Jin's behalf
17 using her parent's name. (PSR ¶ 21.) Based on the sham application
18 submitted by defendant CHEN, NYU accepted Jin and issued her a Form
19 I-20. (PSR ¶¶ 20-21.)

20 Jin was far from the only foreign national for which defendant
21 fraudulently procured a Form I-20. According to a company
22 spreadsheet found on defendant's laptop, MS Education had at least
23 289 clients, all of whom were foreign nationals. (PSR ¶ 13 n.1; Dkt.
24 189 at 12:21-24; Dkt. 166 at 48:9-12.) Based on the evidence
25 presented at trial and produced to defendant, defendant CHEN procured
26 Form I-20s for at least 25 foreign nationals in a similar manner to
27 Jin's. In addition to the ten other student applications that were
28

1 charged in Counts Nine and Eleven through Nineteen, defendant
 2 obtained Form I-20s for at least the following 14 foreign nationals:

3 Student Initials	4 School	5 I-20 Date	6 Fraudulent Admissions Component
7 J.C.	Columbia University	7/31/2018	TOEFL score
8 S.C.	Pepperdine University	5/27/2016	TOEFL score
9 H.C.	Angeles College	12/21/2018	Transcript
10 J.H.	University of Delaware	8/17/2015	TOEFL score
11 Z.H.	UC Irvine	8/2/2016	TOEFL score
12 K.L.	University of Iowa	2/21/2016	TOEFL score
13 Z.L.	Boston University	10/2/2016	Transcript
14 Di. Q.	NYU	12/20/2017	Transcript
15 Du. Q.	Hult School of Business	8/19/2016	TOEFL score
16 Y.S.	USC	4/6/2016	Transcript

17 **III. THE PRESENTENCE REPORT**

18 The United States Probation and Pretrial Services Office
 19 (“USPO”) disclosed the PSR on May 23, 2022. (Dkt. 239.) The PSR
 20 determined that defendant’s base offense level is 11, which defendant
 21 does not contest. (PSR ¶ 33); U.S.S.G. § 2L2.1(a). The USPO further
 22 applied a six-level increase under U.S.S.G. § 2L2.1(b)(2)(B) because
 23 defendant’s fraudulent conduct involved between 25 and 99 immigration
 24 documents and a two-point increase under U.S.S.G. § 2L2.1(b)(5)(B)
 25 because defendant fraudulently obtained or used a foreign passport.
 26 (PSR ¶¶ 35-37.) Finally, the USPO applied a four-point leadership
 27 enhancement under U.S.S.G. § 3B1.1(a). After these adjustments, the
 28 USPO calculated a total offense level of 23.

The USPO determined that defendant is in criminal history
 category I, which the parties do not contest. Based on a total
 offense level of 23, the PSR concluded that the guidelines range is

1 46 to 57 months for the immigration document fraud offense, to be
2 followed by a mandatory two-year consecutive sentence for aggravated
3 identity theft. (PSR ¶¶ 29-49, 54-56.) For the reasons explained
4 below, the government agrees with these calculations.

5 **IV. THE CORRECT GUIDELINES RANGE IS 46 TO 57 MONTHS, FOLLOWED BY A**
6 **MANDATORY TWO-YEAR CONSECUTIVE SENTENCE**

7 Defendant's objections to the enhancements under U.S.S.G.
8 § 2L2.1 and § 3B1.1 are meritless. As a threshold matter, defendant
9 is incorrect that the Court can only consider the conduct underlying
10 his convictions on Counts Ten and Twenty-One at sentencing. (Dkt.
11 242 at 5-6.) It is well-established that conduct for which defendant
12 was acquitted or was not charged may be considered at sentencing if
13 it otherwise meets the definition of relevant conduct and meets the
14 applicable standard of proof at sentencing. See United States v.
15 Watts, 519 U.S. 148, 156-57 (1997).

16 In the Ninth Circuit, "[a]s a general rule, the preponderance of
17 the evidence standard is the appropriate standard for factual
18 findings used for sentencing." United States v. Staten, 466 F.3d
19 708, 717 (9th Cir. 2006) (cleaned up). Under the rare circumstances
20 "where an extremely disproportionate sentence results from the
21 application of an enhancement, the government may have to satisfy a
22 clear and convincing standard." Id. (cleaned up). Which standard of
23 proof to apply is based on "the totality of the circumstances,"
24 including: (1) whether "the enhanced sentence fall[s] within the
25 maximum sentence for the crime alleged in the indictment";
26 (2) whether "the enhanced sentence negate[s] the presumption of
27 innocence or the prosecution's burden of proof for the crime alleged
28 in the indictment"; (3) whether "the facts offered in support of the

1 enhancement create new offenses requiring separate punishment”;
2 (4) whether “the increase in sentence [is] based on the extent of a
3 conspiracy”; (5) whether “the increase in the number of offense
4 levels [is] less than or equal to four”; and (6) whether “the length
5 of the enhanced sentence more than double[s] the length of the
6 sentence authorized by the initial sentencing guideline range in a
7 case where the defendant would otherwise have received a relatively
8 short sentence.” United States v. Lonich, 23 F.4th 881, 910-11 (9th
9 Cir. 2022) (quoting United States v. Jordan, 256 F.3d 922, 928 (9th
10 Cir. 2001)).

11 **A. A Six-Point Enhancement Applies Under U.S.S.G.**
12 **§ 2L2.1(b)(2)(B)**

13 The PSR correctly determined that a six-point enhancement
14 applies because defendant’s criminal conduct “involved” between 25
15 and 99 fraudulent immigration documents -- in this case, Form I-20s.
16 U.S.S.G. § 2L2.1(b)(2)(B). Even if the Court concludes that the size
17 of the enhancement necessitates clear and convincing evidence, the
18 government has more than met this burden. See Lonich, 23 F.4th at
19 910-11. The government has shown by clear and convincing evidence
20 that defendant procured at least 25 fraudulent I-20s for foreign
21 nationals as part of the same course of conduct as that underlying
22 defendant’s counts of conviction.

23 The Guidelines require the Court to take into account relevant
24 conduct at sentencing. U.S.S.G. § 1B1.3(a). Relevant conduct at
25 sentencing encompasses “all acts and omissions . . . that were part
26 of the same course of conduct or common scheme or plan as the offense
27 of conviction” if (1) the act or omission was done or caused by the
28 defendant or the act or omission was committed by another and was

1 within the scope, in furtherance of, and reasonably foreseeable in
2 connection with defendant's jointly undertaken criminal activity, and
3 (2) the offense of conviction is one "for which §3D1.2(d) would
4 require grouping of multiple counts." U.S.S.G. § 1B1.3(a)(2).
5 Immigration document fraud is subject to grouping under § 3D1.2(d).
6 See U.S.S.G. § 3D1.2 (listing § 2L2.1 as an offense subject to
7 grouping).

8 Acts done or caused by defendant or co-conspirators are part of
9 a "common scheme or plan" if they are "substantially connected to
10 each other by at least one common factor, such as common victims,
11 common accomplices, common purpose, or similar modus operandi."
12 U.S.S.G. § 1B1.3 cmt. n.5(B)(i). Offenses are "part of the same
13 course of conduct" if "sufficiently connected or related to each
14 other" such that they are "part of a single episode, spree, or
15 ongoing series of offenses." Id. § 1B1.3 cmt. n.5(B)(ii). "Factors
16 that are appropriate to the determination of whether offenses are
17 sufficiently connected or related to each other to be considered as
18 part of the same course of conduct include the degree of similarity
19 of the offenses, the regularity (repetitions) of the offenses, and
20 the time interval between the offenses." United States v. Parlor, 2
21 F.4th 807, 812 (9th Cir.), cert. denied, 142 S. Ct. 623, 211 L. Ed.
22 2d 385 (2021) (cleaned up).

23 As explained above, the government's evidence shows by clear and
24 convincing evidence that defendant's relevant conduct "involved"
25 between 25 and 99 fraudulently obtained Form I-20s. U.S.S.G.
26 § 2L2.1(b)(2)(B). Courts have interpreted "involved" in
27 § 2L2.1(b)(2) broadly "as referring to items 'draw[n] in,'
28 'implicated' or 'entangled'" by the offense. United States v. Viera,

1 149 F.3d 7, 9 (1st Cir. 1998) (quoting Webster's Third New
2 International Dictionary 1191 (1993)). Section 2L2.1(b)(2) therefore
3 encompasses blank or incomplete documents. See United States v.
4 Salazar, 70 F.3d 351, 352 (5th Cir. 1995) (blank documents with which
5 defendant intended to make forgeries were "involved" in crime for
6 sentencing purposes under U.S.S.G. § 2L2.1(b)(2)).

7 Here, the government proved that defendant fraudulently obtained
8 at least 25 Form I-20s "as part of the same course of conduct" and
9 "common scheme or plan" as defendant's offenses of conviction.
10 Through similar advertising and recruiting efforts, defendant took on
11 foreign national clients who, like Jin, wanted to come to the United
12 States at Prime US International and MS Education. (Dkt. 195 at 11-
13 13, 15-16.) Defendant worked with the same conspirators, such as LI
14 and Gottesfeld, to secure TOEFL impostor test-takers, fake
15 transcripts, and forged essays for these clients. (PSR ¶ 24; Dkt.
16 195 at 11, 15-16, 18-32, 37-59.) Just as he had done for Jin,
17 defendant submitted applications containing these fraudulent
18 admissions components to various U.S. colleges and universities,
19 knowing that doing so would make the students eligible for Form I-
20 20s. (Dkt. 195 at 26-32, 37-59.) On the basis of these fraudulent
21 applications orchestrated by defendant CHEN, at least 25 Form I-20s
22 were issued. (Id.)

23 **B. A Two-Point Enhancement Applies Under U.S.S.G.**
24 **§ 2L2.1(b)(5)(B)**

25 A two-point enhancement is warranted because "defendant
26 fraudulently obtained or used a foreign passport." U.S.S.G.
27 § 2L2.1(b)(5)(B). Under either standard the government has met its
28 burden, but given the limited nature of the enhancement, the standard

1 of proof is preponderance of the evidence. See Staten, 466 F.3d at
2 717. In any case, in finding defendant guilty of Count Twenty-One,
3 the Court already convicted defendant of the conduct underlying this
4 enhancement. See Lonich, 23 F.4th at 913 (“[I]f a defendant has
5 already been convicted of certain conduct (whether through a jury
6 verdict or a guilty plea), enhancements that are based on the conduct
7 of conviction do not require proof by clear and convincing evidence.”
8 (cleaned up)).

9 Here, the government proved that defendant CHEN arranged for an
10 imposter, Crystal Kim, to take Jin’s TOEFL exam using a counterfeit
11 Chinese passport in Jin’s name. (PSR ¶¶ 19, 23, 36-37; Dkt. 195 at
12 20, 33-35, 106-07.) For the imposter to pass herself off as Jin
13 during the exam, defendant CHEN obtained a fake Chinese passport by
14 giving co-defendant LI a copy of Jin’s real Chinese passport and
15 identifying information, which were ultimately used to create a fake
16 Chinese passport in Jin’s name but with the imposter’s photograph.
17 The imposter used the counterfeit Chinese passport in Jin’s name to
18 take the TOEFL exam, the results of which were sent to defendant CHEN
19 and submitted to NYU as part of Jin’s fraudulent application. The
20 government’s evidence at trial included copies of Jin’s real passport
21 and the resulting TOEFL score that were found on defendant’s
22 electronic devices, LI’s testimony that defendant CHEN gave him Jin’s
23 real passport documents to obtain the fake passport, Kim’s testimony
24 that she received and used a fake passport in Jin’s name to take
25 Jin’s TOEFL exam, and payments by defendant CHEN to a co-conspirator
26 who paid for Jin’s TOEFL registration fee. (Dkt. 195 at 33-35.)

27 Defendant CHEN does not rebut this evidence. His only objection
28 is that the same enhancement was not applied to co-defendant LI.

1 (Dkt. 242 at 7.) However, the record contained different evidence
2 against defendant CHEN than defendant LI. For example, the
3 government did not have evidence from defendant LI's electronic
4 devices showing that he possessed his clients' real Chinese passports
5 in connection with obtaining counterfeit passports for the TOEFL
6 exam. Thus, there is nothing improper about applying the
7 § 2L2.1(b)(5)(B) enhancement to defendant CHEN.

8 **C. A Four-Point Leadership Enhancement Applies Under U.S.S.G.
9 § 3B1.1(a)**

10 A four-point enhancement applies under U.S.S.G. § 3B1.1(a)
11 because "defendant was an organizer or leader of a criminal activity
12 that involved five or more participants or was otherwise extensive."
13 U.S.S.G. § 3B1.1(a). Under either standard of proof, the government
14 has met its burden, but here again the applicable standard for this
15 enhancement is preponderance of the evidence. Although the
16 enhancement would add four points, none of the other factors counsel
17 for applying a higher burden of proof. See United States v. Walter-
18 Eze, 869 F.3d 891, 914 (9th Cir. 2017) (applying preponderance
19 standard to leadership enhancement); United States v. Ramirez, 35 F.
20 App'x 332, 333 (9th Cir. 2002) (due process was satisfied by the
21 application of a preponderance standard to leadership enhancement).
22 See generally United States v. Rodriguez, 851 F.3d 931 (9th Cir.
23 2017) (holding that district court was not required to submit to jury
24 issue of whether a defendant was an organizer or under § 3B1.1(a)).

25 1. Defendant's criminal activity involved five or more
26 participants or was otherwise extensive

27 Defendant does not appear to contest that his criminal activity
28 involved "five or more participants or was otherwise extensive."

1 (Dkt. 242 at 7-8.) Nor could he: as the CEO and owner of MS
2 Education, defendant CHEN was at the top of a wide network of
3 fraudsters, including an imposter test-taking ring, essay and
4 recommendation letter writers, and fake transcript purveyors.² These
5 individuals each facilitated at least one part of defendant's
6 fraudulent scheme and are therefore "participants" in the criminal
7 activity, even if defendant did not know about all of them. See
8 United States v. Dota, 33 F.3d 1179, 1189 (9th Cir. 1994) ("Section
9 3B1.1 does not require that [the defendant] knew of or exercised
10 control over all of the participants.").

11 Defendant also supervised at least four employees at MS
12 Education; even if some of these employees were unwitting
13 participants in defendant's fraud, their participation still makes
14 the criminal activity "other extensive." See, e.g., U.S.S.G. 3B1.1
15 cmt n.3 ("A fraud that involved only three participants but used the
16 unknowing services of many outsiders could be considered
17 extensive.").

18 2. Defendant was an organizer and leader of the criminal
19 activity

20 For § 3B1.1(a) to apply, "defendant must have been the
21 organizer, leader, manager, or supervisor of one or more other
22

23
24 ² To name a few, participants in the criminal activity included
25 co-defendant LI, who testified that he helped defendant get fake
26 transcripts and TOEFL exam scores; Jeffrey Gottesfeld, a professional
27 essay writer who testified that he wrote fake essays and
28 recommendation letters for CHEN's clients; Jason Hardwick, a teacher
who wrote at least one fake recommendation letter for CHEN's client;
Alex Zhang and Liu Cai, whom Quang Cao, Samantha Wang, and Crystal
Kim testified arranged for them to take CHEN's clients' TOEFL exams.
Here, of course, the evidence at trial, including payment records and
written communications, tied defendant directly to LI, Gottesfeld,
Hardwick, Zhang, and Cai.

1 participants.” U.S.S.G. § 3B1.1(a) cmt. n.2. “Factors the court
2 should consider include the exercise of decision making authority,
3 the nature of participation in the commission of the offense, the
4 recruitment of accomplices, the claimed right to a larger share of
5 the fruits of the crime, the degree of participation in planning or
6 organizing the offense, the nature and scope of the illegal activity,
7 and the degree of control and authority exercised over others,” and
8 “[t]here can, of course, be more than one person who qualifies as a
9 leader or organizer of a criminal association or conspiracy.”

10 U.S.S.G. § 3B1.1(a) cmt. n.4.

11 Analysis of these factors compels the conclusion that defendant
12 CHEN an organizer and leader of the criminal activity. It was
13 undisputed at trial that defendant was the CEO and owner of two
14 educational companies, Prime US International and MS Education. MS
15 Education employees Connie Xu and Charcy Bao testified that defendant
16 CHEN was the “boss” of MS Education and had final authority over the
17 company’s decisions. Indeed, defendant CHEN had on his electronic
18 devices numerous spreadsheets and internal company documents
19 demonstrating that he was organizing the company’s day-to-day
20 operations. Moreover, defendant CHEN was the sole signatory on seven
21 bank accounts, including the bank accounts for MS Education and Prime
22 US International, and he received the lion’s share of the profits
23 from the criminal activity. In total, the seven bank accounts
24 controlled by CHEN had over \$15 million in deposits between 2016 and
25 2020. (Tr. Ex. 230.)

26 Defendant CHEN was also an organizer and leader vis a vis the
27 outside network of participants in his criminal activity. Defendant
28 CHEN directed LI to “get it done” for specific tasks, such as

1 procuring fake transcripts and doctor's notes and arranging for
2 imposters to take his clients' TOEFL exams. (Dkt. 174 at 13:2-3;
3 Dkt. 195 at 18-19, 21-22, 25.) Moreover, defendant CHEN directed
4 Gottesfeld and other writers to write hundreds of fake admissions
5 essays and recommendation letters. (Dkt. 195 at 22-24.) There is no
6 question that defendant CHEN "claimed right to a larger share of the
7 fruits of the crime," U.S.S.G. § 3B1.1(a) cmt. n.4: while LI and
8 Gottesfeld made a few hundred dollars for performing these tasks at
9 defendant CHEN's behest, defendant CHEN made tens of thousands of
10 dollars for each student that he fraudulently got into college.
11 (Compare, e.g., Tr. Ex. 230 (deposits to CHEN's accounts) with Tr.
12 Ex. 245 (CHEN's payments to Gottesfeld).)

13 Again, defendant CHEN complains that a leadership enhancement
14 was not applied to co-defendant LI. (Dkt. 242 at 7-8.) However, the
15 leadership inquiry under § 3B1.1 is highly case-specific. Although
16 LI engaged in a similar type of immigration document fraud scheme as
17 defendant CHEN, there were significant differences in their roles,
18 the scale of their operations, and the nature and duration of their
19 participation in the commission of the offense. Defendant CHEN was
20 the CEO and owner of MS Education, a large-scale company that raked
21 in millions of dollars in revenue and employed up to ten employees,
22 while LI ran a much smaller company that did not have any employees.
23 (Dkt. 195 at 13.) Unlike LI, defendant CHEN developed the ads for
24 fast I-20s, along with the company logo and business cards, and ran
25 the day-to-day operations of the fraudulent scheme. (Dkt. 195 at
26 97.) Thus, there is nothing improper about applying the leadership
27 enhancement to defendant CHEN.

28

1 **V. A SENTENCE OF 46 MONTHS FOLLOWED BY A MANDATORY TWO-YEAR**
2 **CONSECUTIVE SENTENCE IS APPROPRIATE**

3 The Court should sentence defendant CHEN to 46 months'
4 imprisonment on the immigration document fraud offense followed by
5 the mandatory term of 24 months for a combined sentence of 70 months.
6 A 46-month term of imprisonment on the immigration fraud, which
7 reflects a sentence at the low-end of the Guidelines range assuming
8 that a total offense level of 23 applies, appropriately balances the
9 mitigating and aggravating factors when weighing the nature and
10 circumstances of the offense, the history and characteristics of
11 defendant, as well as the need for the sentence to protect the
12 public, promote respect for the law, and afford adequate deterrence.
13 And the combined sentence appropriately takes into account the
14 totality of defendant's conduct in this case.

15 The government's recommended sentence would serve to protect the
16 public and provide specific and general deterrence. The student visa
17 provisions of the Immigration and Nationality Act and its
18 implementing regulations were designed to provide bona fide foreign
19 students an opportunity to pursue higher education in the United
20 States. Defendant CHEN, who himself first came into the United
21 States on a student visa, exploited the U.S. immigration system by
22 falsely making hundreds of foreign nationals eligible for student
23 visas. The extensiveness of the criminal network that defendant CHEN
24 led demonstrates how far this criminal activity extended. A
25 significant custodial sentence is needed to deter defendant CHEN and
26 others from further exploiting the U.S. immigration and education
27 systems.

1 At the same time, there are mitigating circumstances that
2 justify a low-end sentence. Defendant CHEN has no significant
3 criminal history and appears to give back to the community.
4 Defendant appears to have grown up with a relatively stable family
5 background. However, unlike many of the defendants that this Court
6 sentences, the apparent privilege that defendant CHEN grew up with
7 only highlights that he committed the instant offenses out of greed.
8 The balance of the § 3553(a) factors justifies the sentence
9 recommended by the government in this case.

10 A three-year term of supervised release would also provide an
11 "added measure of deterrence and protection," that is warranted under
12 the facts of this case. See U.S.S.G. § 5D1.1, cmt. n.5.

13 **VI. CONCLUSION**

14 For the foregoing reasons, a sentence of 46 months' imprisonment
15 on Count Ten and 24 months' imprisonment on Count Twenty-One, to be
16 followed by a three-year term of supervised release, and \$100 special
17 assessment would be sufficient, but not greater than necessary, to
18 fulfill the purposes of 18 U.S.C. § 3553(a). The government
19 respectfully requests that the Court sentence defendant accordingly.

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