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15 UNITED STATES DISTRICT COURT

16 FOR THE CENTRAL DISTRICT OF CALIFORNIA

17 UNITED STATES OF AMERICA,  
18 Plaintiff,  
19 v.  
20 SHEN ZHEN NEW WORLD I, LLC,  
21 Defendant.  
22

No. CR 20-326(A)-JFW-4

GOVERNMENT'S SENTENCING POSITION  
AND OBJECTION TO THE PRESENTENCE  
INVESTIGATION REPORT; ATTACHMENT  
A; EXHIBITS A-F

23  
24 Plaintiff United States of America, by and through its counsel  
25 of record, the United States Attorney for the Central District of  
26 California, hereby files its Sentencing Position and Objection to the  
27 Presentence Investigation Report for defendant Shen Zhen New World I,  
28 LLC in the above-captioned case.

1 The government's Sentencing Position and Objection to the  
2 Presentence Investigation Report is based upon the attached  
3 memorandum of points and authorities, the supporting attachment and  
4 exhibits, the files and records in this case, the Presentence  
5 Investigation Report, the Recommendation Letter, and such further  
6 evidence and argument as the Court may permit.

7  
8 Dated: January 2, 2023

Respectfully submitted,

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

During the five-year period from 2013 to 2018, defendant Shen Zhen New World I, LLC ("defendant" or "SZNW") acting primarily through its owner, fugitive co-defendant and Chinese billionaire Wei Huang, engaged in a brazen scheme to bribe Councilmember Jose Huizar with a lavish stream of benefits. Those benefits included:

- All-expense paid trips on private jets to Las Vegas, complete with luxurious stays at penthouse villas, world-class meals, and prostitutes;
- A political-career-saving \$600,000, secretly provided through a shell company using a disbarred attorney to quietly settle a sexual harassment lawsuit against Huizar.
- Hundreds of thousands of dollars' worth of gambling chips passed in Vegas; and
- An all-expense paid international trip to Australia with tens of thousands of more dollars in gambling chips;

Defendant corruptly and unapologetically provided these benefits motivated by plain, selfish greed and ambition: so that Jose Huizar would use his power as a Councilmember and Chair of PLUM to help approve a billion-dollar project to redevelop the L.A. Grand Hotel, thereby fulfilling Huang's dream to make his mark in the lucrative U.S. real estate market by building the tallest skyscraper west of the Mississippi River. Following an eleven-day trial, the jury swiftly and firmly found defendant SZNW guilty of all eight counts, each of which related to its bribery scheme.

For defendant's long-lasting and aggravating criminal conduct, a firm sentence is required to reflect the seriousness of the offense,

1 promote respect for the law and provide just punishment.  
2 Importantly, a firm sentence is needed to protect the public from  
3 further crimes by this company, which continues to operate a multi-  
4 million-dollar business within this district with the same culpable  
5 Chairman at its helm. It is further needed to deter other  
6 development companies and would-be bribers who seek to deprive  
7 citizens of their right to the honest services of public officials  
8 and to cheat the system for profit. The strong need for adequate  
9 deterrence is beyond mere speculation. The underlying investigation  
10 in this matter has revealed a culture of corruption in the City of  
11 Los Angeles that is fostered by the lucrative real estate development  
12 market, coupled with the unique discretionary power wielded by Los  
13 Angeles government officials over that market, allowing them  
14 disproportionate control over which development companies succeed and  
15 which fail.

16 The specific circumstances of this case, and the "special  
17 problem" that a corporate criminal defendant like SZNW cannot be  
18 incarcerated, demand a comprehensive and creative sentence to serve  
19 the § 3553(a) goals of sentencing. United States v. Mitsubishi Int'l  
20 Corp., 677 F.2d 785, 788 (9th Cir. 1982) ("Corporate criminal  
21 defendants present a special problem because they cannot be  
22 incarcerated."). Here, an appropriate and necessary sentence means  
23 imposing the maximum statutory fine (which is still massively below  
24 the base fine range), a significant term of probation with meaningful  
25 terms and conditions, and the costs of prosecution.

26 The government therefore respectfully recommends that the Court  
27 impose the following sentence: (1) a \$4,000,000 fine; (2) a five-year  
28 term of probation with the government's requested terms and

1 conditions; (3) the mandatory special assessment of \$3,200; and  
2 (4) an order to pay the costs of prosecution.

3 **II. STATEMENT OF FACTS<sup>1</sup>**

4 **A. Evidence at Trial**

5 The sole owner of defendant SZNW is the billionaire Chairman and  
6 Chinese national, Wei Huang. (11/4/22 Trial Tr. (Zheng) at 1496;  
7 11/1/22 Trial Tr. (Esparza) at 750-51.) In 2010 and 2011, Huang  
8 purchased two properties in Los Angeles: the LA Grand Hotel for \$63  
9 million and the Sheraton Universal for \$90 million, respectively.  
10 Huang formed the defendant company to purchase and maintain the L.A.  
11 Grand Hotel. At the time of purchase, Huang intended to redevelop  
12 the L.A. Grand Hotel, as well as the Sheraton, both of which would  
13 need to go through the Los Angeles City approval process, over which  
14 then-Councilmember Jose Huizar held arguably the most significant  
15 power and influence in the City.

16 In 2013, Huang--through an introduction facilitated by Raymond  
17 Chan--met Councilmember Huizar and his Special Assistant George  
18 Esparza (another public official) and began his bribery scheme.  
19 (11/1/22 Trial Tr. (Esparza) at 754-55.) Under that scheme,  
20 defendant SZNW, through Wei Huang, showered Huizar and Esparza with a  
21 stream of benefits to influence Huizar to approve the future  
22 redevelopment of the L.A. Grand Hotel. The evidence at trial  
23 established that those benefits took the form of 20 paid trips to Las  
24 Vegas, including lavish accommodations, private jets, meals, and  
25 other expenses. The evidence also established that Huang passed  
26

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27  
28 <sup>1</sup> Unless otherwise indicated, all facts herein are drawn from  
the Presentence Investigation Report ("PSR"). (Dkt. No. 879 ¶¶ 18-  
21.)



1 Huizar over \$200,000 in gambling chips during the course of those  
2 trips.

3 In 2014, defendant, via Huang, provided Huizar with \$600,000 to  
4 use as collateral for a private loan by East West Bank so that Huizar  
5 could secretly settle a career-threatening sexual harassment lawsuit.  
6 Huizar made interest-only payments to the East West Bank loan for  
7 several years, including by laundering the same gambling chips that  
8 Huang passed him through his mother and brother. (See Exs. E, F  
9 [Trial Exs. 473, 474].) In 2018, East West Bank collapsed the loan  
10 and seized the collateral, reflecting an approximately \$575,000  
11 windfall to Huizar. (Ex. A [Trial Ex. 227 at 23-24].) Huang never  
12 sought payment from Huizar for the seized funds, and Huizar never  
13 paid Huang for it.

14 In addition to the Vegas trips, defendant, via Huang, took  
15 Huizar on an all-expense-paid international trip to Australia,  
16 including by paying for Huizar's business-class airfare costing  
17 almost \$11,000. Huizar pocketed approximately \$32,800 (Australian  
18 dollars) in gambling chips from that trip, which reflected additional  
19 bribes from Huang. (Ex. B [Trial Ex. 284E].) Huang also paid for a  
20 trip to Pebble Beach, including via a chartered jet costing  
21 approximately \$20,000.

## 22 **B. Jury's Verdict**

23 Following an eleven-day trial, and after approximately just  
24 three hours of deliberation, defendant SZNW was convicted by the jury  
25 of all eight counts against it:

- 26 • three counts of honest services wire fraud, in violation of  
27 18 U.S.C. §§ 1343 and 1346;

- four counts of interstate and foreign travel in aid of bribery, in violation of 18 U.S.C. § 1952(a)(3); and
- one count bribery concerning programs receiving federal funds, in violation of 18 U.S.C. § 666(a)(2).

Moreover, with one exception, the jury made all of the special findings available to them in the twelve-page special verdict form. (See Dkt. No. 813.)

The jury specifically found that, for the honest services wire fraud counts, defendant provided financial benefits to Jose Huizar intending to receive multiple official acts for the redevelopment of the L.A. Grand Hotel. Under Count Two, the jury also found that defendant's scheme affected a financial institution; namely, East West Bank, which provided the loan to Huizar based on defendant's \$600,000 collateral.

### III. THE PRESENTENCE INVESTIGATION REPORT

On December 19, 2022, the United States Probation Office ("USPO") disclosed the PSR and its recommendation letter. (PSR; Dkt. No. 878 ["PSR Ltr."].) USPO made the following guidelines calculation:

Base Offense Level	12	U.S.S.G. § 2C1.1(a)
More Than One Bribe	+2	U.S.S.G. § 2C1.1(b)(1)
Value of the Payment >\$550,000	+14	U.S.S.G. §§ 2C1.1(b)(2), 2B1.1(b)(1)(H)
Elected Public Official	+4	U.S.S.G. § 2C1.1(b)(3)
<b>Total:</b>	<b>32</b>	

Based on the foregoing Offense Level of 32, USPO concluded that the base fine under U.S.S.G. §§ 8C2.4(a)(1), (a)(d) is \$30,000,000. (PSR ¶ 59.) USPO also found that defendant had a total culpability score of 5 under U.S.S.G. § 8C2.5(a). (PSR ¶¶ 60-66.) Because a

1 culpability score of 5 establishes a minimum multiplier of 1.00 and a  
2 maximum multiplier of 2.00, see U.S.S.G § 8C2.6, the total fine range  
3 is \$30,000,000 to \$60,000,000 prior to the limitation of the  
4 statutory maximum. (PSR ¶ 70.)

5 However, the statutory maximum set forth in 18 U.S.C.  
6 § 3571(c) (3) limits the fine amount to \$500,000 per count.  
7 Accordingly, based on the eight counts of conviction, the total  
8 guideline fine amount is capped at \$4,000,000. (PSR ¶¶ 74, 76.)

9 The government concurs with USPO's calculation of the guidelines  
10 and base fine, culpability score, and total guideline fine amount of  
11 \$4,000,000.

#### 12 **IV. THE GOVERNMENT'S SENTENCING RECOMMENDATION**

13 When it comes to sentencing, "[c]orporate criminal defendants  
14 present a special problem because they cannot be incarcerated."  
15 Mitsubishi, 677 F.2d at 788 (upholding sentence requiring  
16 corporations to loan executives for one year to a community  
17 organization and to make a contribution of \$10,000 for each violation  
18 to said organization). Monetary penalties often offer insufficient  
19 deterrence as wealthy or large corporate defendants can "just write a  
20 check and walk away." Id. For this reason, courts must frequently  
21 "adopt 'unique and creative' sentences" when it comes to the  
22 punishment of corporate defendants. United States v. Danilow Pastry  
23 Co., 563 F. Supp. 1159, 1166 (S.D.N.Y. 1983) (quoting Mitsubishi, 677  
24 F.2d at 788).

25 Additionally, 18 U.S.C. § 3553(a) requires courts to "impose a  
26 sentence sufficient, but not greater than necessary . . . to reflect  
27 the seriousness of the offense," "promote respect for the law,"  
28 "provide just punishment," "afford adequate deterrence," and "protect

1 the public from further crimes of the defendant." In fashioning the  
2 sentence, courts must also consider "the nature and circumstances of  
3 the offense and the history and characteristics of the defendant."  
4 18 U.S.C. § 3553(a)(1). USPO's sentencing recommendation, along with  
5 the government's additional recommended condition of probation and  
6 imposition of the costs of prosecution, meets these goals.

7 **A. The Court Should Impose the Full \$4,000,000 Fine**

8 Both the government and USPO recommend a \$4,000,000 fine, and  
9 nothing less than that full amount should be imposed, which reflects  
10 a mere fraction of the \$30,000,000 to \$60,000,000 fine that the  
11 Guidelines otherwise recommends based on defendant's culpability and  
12 repeated and egregious criminal activity. Due to the operation of  
13 the statutory maximum, the \$4,000,000 fine is less than 15% of the  
14 amount required by the base fine with a 1.00 multiplier calculation,  
15 and less than 7% of the amount required based on a 2.00 multiplier  
16 calculation.

17 Imposing the full allowable fine is necessary, particularly  
18 given the seriousness of the conduct at issue and the history and  
19 characteristics of the main culpable actor, Wei Huang. This five-  
20 year bribery scheme was brazen, devised and carried out with impunity  
21 by the sole owner and highest authority for the company--Chairman  
22 Huang--with the help of his employees and associates acting under his  
23 direction. The maximum fine amount reflects just a drop in the  
24 bucket for Huang, who wholly owns not only the defendant-subsiary  
25 SZNW, but the multi-billion-dollar parent corporation in China. (See  
26 PSR ¶ 32; see also Ex. C [Trial Ex. 5]; 10/31/22 Trial Tr. (Chan) at  
27 485-86 (Shen Zhen New World Group is the parent company of Shen Zhen  
28 U.S.A).)

1           The evidence at trial established that Wei Huang used his  
2 enormous wealth to effectuate the scheme. Huang maintained a \$2  
3 million line of credit at each of the casinos that he frequented in  
4 Las Vegas. (11/8/22 Trial Tr. (Alexander) at 1983.) Huang bribed  
5 Huizar not only with hundreds of thousands of dollars in gambling  
6 chips, but he also used his high-roller status to provide Huizar  
7 access to luxurious penthouse suites, black car limo services,  
8 private jets, expensive meals, alcohol, spa services, and  
9 entertainment. Huang routinely gambled millions of dollars and would  
10 lose \$2 million in a single trip without breaking a sweat. (11/8/22  
11 Trial Tr. (Alexander) at 2026-26.) For example, Trial Ex. 157B  
12 showed that during Huang's three-day Vegas trip from August 5 to  
13 August 7, 2016, he was in for a total of \$10,944,000 and ultimately  
14 lost \$1,945,600. (Ex. D [Trial Ex. 157B at 18].)

15           The evidence at trial also showed that the redevelopment of the  
16 L.A. Grand Hotel was to be a billion-dollar project and that  
17 defendant stood to reap enormous profits from the success of that  
18 project. (11/2/22 Trial Tr. (Keller) at 676 (L.A. Grand  
19 redevelopment would be a billion-dollar project); 11/3/22 Trial Tr.  
20 (Chen) at 1433-35 (millions of dollars of operational income  
21 projected for hotel), 1436-37 (millions of dollars projected for sale  
22 of condos).) According to the PSR, the L.A. Grand Hotel has  
23 continued to operate throughout the time the First Superseding  
24 Indictment ("FSI") pending and during this trial. (PSR ¶¶ 34-36.)  
25 Moreover, defendant SZNW has advised USPO that, even after its  
26 convictions, it intends to undertake a \$25- to \$35-million renovation  
27 of the L.A. Grand Hotel. (PSR ¶ 37.) Each of these considerations  
28 serves to underscore the modest punitive effect that a \$4 million

1 fine will have on this defendant.

2 Finally, there can be no question that Huang's wealth is what  
3 has permitted him to remain a fugitive from justice and evade his own  
4 accountability, all while paying to get a free preview of the  
5 government's case in the trial against his company, which was based  
6 almost exclusively on his own conduct as the head of SZNW. The full  
7 allowable fine of \$4 million should be imposed.

8 **B. The Court Should Impose a Five-Year Term of Probation**

9 Courts have "broad discretion in setting probation conditions,"  
10 United States v. Lowe, 654 F.2d 562, 567 (9th Cir. 1981), so long as  
11 they "are reasonably related to the factors" identified above, 18  
12 U.S.C. § 3563(b). All of the probation conditions identified in the  
13 PSR are reasonably related, and in fact necessary, to address the  
14 § 3553(a) factors.

15 USPO's recommended five-year term of probation should be  
16 imposed. Probation is highly appropriate in this case because it is  
17 necessary to ensure changes are made within the organization to  
18 reduce the likelihood of future criminal conduct and to accomplish  
19 the goals of sentencing under 18 U.S.C. § 3553(a). See U.S.S.G.  
20 § 8D1.1. Probation is particularly necessary in light of defendant  
21 SZNW's apparent unwillingness and/or inability to undertake the one  
22 glaringly obvious remedial measure that surely would have occurred at  
23 any other corporation with a bona fide governance structure: the  
24 prompt termination and condemnation of the main culpable actor, Wei  
25 Huang, who committed the bribery scheme. Instead, it appears that  
26 Huang maintains his role at the helm of SZNW from China, all while  
27 continuing to reach into the Central District of California to carry  
28 on with business as usual for the L.A. Grand Hotel. Even more

1   troublingly, this is true even as Huang continues to evade his own  
2   federal criminal charges by remaining a fugitive from justice and  
3   refusing to appear in this district, all while benefitting from the  
4   district and profiting off of its citizens.

5       The government joins in all of USPO's recommended terms and  
6   conditions (Conditions 1-17), as set forth in its recommendation  
7   letter. (PSR Ltr. at 1-3.) The government provides its position,  
8   explanation, and expansion on certain of these conditions below.  
9   Additionally, as detailed below, the government recommends a  
10   substantial term of community service as an additional condition of  
11   probation (Condition 18). Because the current PSR omits a community  
12   service condition, the government objects on that basis.

13           1.   Publication (Condition 13)

14       As a condition of probation, "[t]he court may order the  
15   organization, at its expense and in the format and media specified by  
16   the court, to publicize the nature of the offense committed, the fact  
17   of conviction, the nature of the punishment imposed, and the steps  
18   that will be taken to prevent the recurrence of similar offenses."  
19   U.S.S.G. § 8D1.4(a) (emphasis added).

20       The government strongly supports Condition 13, which requires  
21   SZNW to notify the public of its criminal behavior, what it was  
22   convicted of, and the changes made within the organization to reduce  
23   the likelihood of future criminal conduct and negligence. (PSR Ltr.  
24   at 3.) USPO's proposed format and three carefully selected media--  
25   publications on the defendant company's website in both the Chinese  
26   and English languages, the L.A. Times, and the World Journal (the  
27   largest Chinese language newspaper published in the United States)--  
28   are important to achieve the goals of sentencing, particularly as it

1 relates to promoting respect for the law and furthering specific and  
2 general deterrence. (PSR Ltr. at 3.)

3           2. Compliance and Ethics Program (Conditions 14-15)

4           The Court may also order a defendant organization to develop and  
5 submit an effective compliance and ethics program that would require  
6 the defendant to exercise due diligence to prevent and detect  
7 criminal conduct and to promote an organizational culture that  
8 encourages ethical conduct and a commitment to compliance with the  
9 law. U.S.S.G. §§ 8B2.1, 8D1.4.

10          The government joins USPO's recommendation to develop and submit  
11 to the Court an effective compliance and ethics program (Condition  
12 14) and, once approved, to provide notice of the program and its  
13 criminal behavior to its employees and shareholders (Condition 15).  
14 (PSR Ltr. at 3.) The government has outlined a proposed compliance  
15 program tailored to defendant's conduct and its current operations in  
16 this district, as set forth in Attachment A.

17          The establishment of an effective corporate compliance and  
18 ethics program is an indispensable component of defendant SZNW's  
19 probationary sentence. The long-standing bribery scheme (2013-2018)  
20 began soon after defendant SZNW was established within California--  
21 and almost immediately after Huang first met Huizar--and so its lack  
22 of a "prior history of misconduct" hardly carries any weight. (See  
23 PSR ¶ 40.) Rather, that defendant SZNW's criminal conduct was  
24 facilitated by the highest-ranking principal of the company and  
25 multiple other employees working at his direction, demonstrates a  
26 history, pattern, and culture of corruption (and tolerance for  
27 corruption) within the organization. Defendant SZNW currently has no  
28 compliance plan in place. (PSR ¶ 40.)



1 Many of the same circumstances that gave rise to the bribery  
2 scheme in the first instance remain true, even today. Besides the  
3 removal of Jose Huizar as a councilmember, little has changed.  
4 Huang, despite causing defendant SZNW to be convicted of eight  
5 federal felonies and being personally charged for the same conduct,  
6 remains the Chairman and sole owner of SZNW. (PSR ¶ 32.) Defendant  
7 SZNW has continuously operated the L.A. Grand Hotel. (PSR ¶¶ 34-36.)  
8 And defendant has stated its intention to put in \$25- to \$35-million  
9 in renovations for the L.A. Grand Hotel in the coming future--  
10 activity that would require the company to interface with City  
11 entities like the Department of Building and Safety and the Planning  
12 Department and, depending on the renovation, may mean going through  
13 the City approval process.

14 If defendant SZNW is to continue with its same business with the  
15 same head of the company that led it to commit a calculated bribery  
16 scheme in this district, it must at a minimum implement a substantive  
17 compliance and ethics program to prevent future criminal conduct and  
18 to begin the work of reforming its current corporate culture of  
19 promoting and tolerating criminal activity for profit, to one that  
20 allows only the strictest of compliance with the law. And in order  
21 for any such program to be effective, employees and shareholders--the  
22 ones responsible for operating within that program--must be notified  
23 of the program and of the no-longer-acceptable criminal behavior that  
24 gave rise to the program. (See PSR Ltr. at 3.) The implementation  
25 of this program also sends the much-needed message to the residents  
26 and other businesses of Los Angeles that they are engaging with a  
27 company that now abides by the law and operates on an even playing  
28 field.

1                   3.     Submissions Regarding Financial Information  
2                    (Conditions 4, 16, 17)

3             For many of the foregoing reasons, the government joins USPO's  
4     recommendation of conditions requiring defendant SZNW to submit  
5     information relating to its finances and to submit to a reasonable  
6     number of examinations of its books (Conditions 4, 16, 17). (See PSR  
7     Ltr. at 2, 3); see also U.S.S.G. § 8D1.4(b) (recommending these  
8     financial information conditions when appropriate). USPO maintains  
9     that these conditions are "needed to give the Probation Officer the  
10    ability to monitor business activities to prevent further fraud and  
11    bribery from reoccurring." (PSR Ltr. at 5.)

12            The reasonable monitoring of defendant SZNW's finances is  
13    appropriate here based on Huang's various methods of orchestrating  
14    financial bribes to Huizar and Esparza. During defendant's  
15    probationary period, these conditions will provide oversight by USPO  
16    of any potential malfeasance or improper use of SZNW's finances. The  
17    conditions also obligate defendant to be accountable to USPO, based  
18    on the knowledge that USPO will periodically review its finances and  
19    records (and will have the ability to review and query its finances  
20    and records). These conditions are inherently beneficial because  
21    they serve to prevent and deter defendant SZNW or any of its  
22    employees/agents from misusing or diverting any of its funds for  
23    criminal purposes in the knowledge that its finances are court-  
24    monitored, consistent with the goals of § 3553(a).

25                   4.     Community Service (Condition 18)

26            Finally, the Court may order community service as a condition of  
27    probation where such community service is reasonably designed to  
28    repair the harm of the offense. U.S.S.G. § 8B1.3; 18 U.S.C.

1 § 3563(b) (12). An organization can perform community service only by  
2 employing its own resources or paying its employees or others to do  
3 so, thereby acting essentially as an indirect monetary sanction.  
4 U.S.S.G. § 8B1.3 commentary.

5 As part of the probationary term, the government recommends that  
6 community service be imposed as condition 18.<sup>2</sup> Specifically, the  
7 government recommends that defendant be ordered to perform 5,000  
8 hours of community service, a meaningful portion (at least 25%) of  
9 which must be performed by high-level personnel within the company,  
10 over the course of the 5-year probationary term.<sup>3</sup> It should be  
11 further ordered that the community service be performed to benefit  
12 the low-income Los Angeles community by, for example, volunteering at  
13 homeless shelters, mental health treatment facilities, post-  
14 conviction rehabilitation centers, and food banks.

15 Defendant was convicted of three counts of the deprivation of  
16 honest services by wire fraud. The jury necessarily found that  
17 defendant devised or knowingly participated in a scheme or plan to  
18 deprive the City of Los Angeles or its citizens of their right of  
19 honest services. (Dkt. No. 812 [SZNW Jury Instructions] at 20.)  
20 Community service is appropriate to repair some of the harm inflicted  
21 by these offenses and for SZNW to give back to the citizens of Los  
22 Angeles. The indirect monetary sanction posed by the community  
23 service requirement, while less desirable than a direct monetary  
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25 <sup>2</sup> Again, the government's objection to the PSR is based on the  
26 current omission of a community service condition of probation.

27 <sup>3</sup> A 5,000-hour requirement, over a five-year probation period,  
28 represents 1,000 hours per year, or approximately 83 hours a month.  
If even two SZNW employees spent just one full workday a month  
performing community service, defendant would satisfy this  
requirement.

1 sanction, is also appropriate under the circumstances and provides  
2 more direct benefits to the Los Angeles community than a further  
3 monetary sanction payable to the federal government.

4 **C. The Costs of Prosecution Should Be Imposed**

5 Under 28 U.S.C. § 1918, the court may order the defendant  
6 company to pay the costs of prosecution. See U.S.S.G. § 8E1.3;  
7 United States v. Patel, 762 F.2d 784, 795-96 (9th Cir. 1985)  
8 (affirming the district court's order imposing on the convicted  
9 defendant the costs of transferring the case from the Northern  
10 District of California to Guam because the court found that the  
11 "change of venue to Guam was a strategic attempt to obtain a more  
12 favorable jury, rather than a genuine attempt to avoid  
13 inconveniencing witnesses"). This is true even if the defendant is  
14 convicted under a substantive criminal statute that does not  
15 specifically authorize an award of the costs of prosecution. United  
16 States v. Gering, 716 F.2d 615, 626 (9th Cir. 1983) (collecting  
17 cases).

18 Such an order here is wholly appropriate. The L.A. Grand Hotel  
19 bribery scheme reflects one of the most substantial portions of the  
20 RICO scheme and of this complex, multi-year investigation and  
21 prosecution. Indeed, the FBI's five-year investigation began because  
22 of a tip from the Palazzo about Jose Huizar and Wei Huang in Las  
23 Vegas together. The SZNW matter necessitated the expenditure of  
24 significant government resources to investigate, charge, and try.

25 The government is continuing to gather its documented and  
26 itemized costs from this prosecution and will submit a bill of costs  
27 one week before the time of the sentencing hearing.

1   **V.    CONCLUSION**

2           For the foregoing reasons, the government respectfully requests  
3 that the Court impose the following sentence: a \$4,000,000 fine; a 5-  
4 year term of probation with all the terms and conditions set forth in  
5 the PSR Letter, plus the government's proposed compliance program  
6 outlined in Attachment A and 5,000-hour community service condition;  
7 the mandatory special assessment of \$3,200; and an order to pay the  
8 costs of prosecution, as reflected in the government's forthcoming  
9 bill of costs.

**ATTACHMENT A**

Based on defendant's (referred to below as "the Company") conduct, the government requests at least the following specific terms be mandated by the Court-ordered compliance and ethics program:

**(A) Policies and Procedures**

The Company will develop and promulgate compliance policies and procedures designed to reduce the prospect of violations of the anti-bribery/anti-corruption laws and the Company's compliance code, and the Company will take appropriate measures to encourage and support compliance by personnel at all levels and locations of the Company. These anti-bribery/anticorruption policies and procedures shall apply to all executives, directors, officers, and employees regardless of location. It shall also apply to other current and future affiliates of the Company. The Company shall notify all employees that compliance with the policies and procedures is the duty of individuals at all levels of the Company. Such policies and procedures shall address (with particular focus on public and elected officials):

- (a) gifts;
- (b) hospitality, entertainment, and expenses;
- (c) customer travel;
- (d) political contributions to individuals and Political Action Committees (including prohibitions on conduit and foreign national contributions);
- (e) charitable donations and sponsorships;
- (f) facilitation payments; and
- (g) solicitation and extortion.

1                   **(B) Proper Oversight and Independence**

2           The Company will designate an officer or employee to serve  
3 as the Company's Chief Compliance Officer for the implementation  
4 and oversight of the Company's anti-bribery/anticorruption  
5 compliance code, policies, and procedures, including for  
6 guidance and advice about compliance with such code, policies,  
7 and procedures. The Chief Compliance Officer shall have direct  
8 reporting obligations to independent monitoring bodies and shall  
9 have an adequate level of autonomy from management, as well as  
10 sufficient resources and authority to maintain such autonomy.

11                   **(C) Training and Guidance**

12           The Company will implement mechanisms designed to ensure  
13 that its anti-bribery/anticorruption compliance code, policies,  
14 and procedures are effectively communicated to all executives,  
15 directors, officers, employees, and, when necessary and  
16 appropriate, agents and business partners. These mechanisms  
17 shall include periodic training for the following employees:

- 18                   (a) all executives, directors, and officers;  
19                   (b) all employees in positions of leadership or trust;  
20                   (c) all employees in positions that require such  
21                   training, such as corporate, community, government and  
22                   congressional affairs, internal audit, sales, real  
23                   estate, legal, compliance, and finance; and  
24                   (d) employees of agents and business partners in the  
25                   above positions, when necessary and appropriate.

26           The Company will also require that all people in the above-  
27 described categories annually certify that they have received  
28 the necessary training and have complied with the law and the

1 Company's anti-bribery/anti-corruption compliance code,  
2 policies, and procedures.

3 **(D) Internal Reporting and Investigation**

4 The Company will maintain, or when necessary establish, an  
5 effective system for internal reporting and, when possible,  
6 confidential reporting by, executives, directors, officers,  
7 employees, and, when appropriate, agents and business partners  
8 concerning violations of the anti-bribery/anticorruption laws or  
9 the Company's anti-bribery/anti-corruption compliance code,  
10 policies, and procedures. The Company will maintain, or when  
11 necessary establish, mechanisms to prevent any personnel action  
12 from being taken against any individual making such a report.

13 The Company will also maintain, or when necessary  
14 establish, an effective and reliable process with sufficient  
15 resources for responding to, investigating, and documenting  
16 allegations of violations of the anti-bribery/anti-corruption  
17 laws or the Company's anti-bribery/anti-corruption compliance  
18 code, policies, and procedures.

19 **(E) Enforcement and Discipline**

20 The Company will implement mechanisms designed to  
21 effectively enforce its compliance code, policies, and  
22 procedures, including appropriately incentivizing compliance,  
23 disciplining violations, and re-assessing its compliance code,  
24 policies, and procedures to identify modifications necessary to  
25 ensure that the overall anti-bribery/anti-corruption compliance  
26 program is effective. Such procedures should be applied  
27 consistently and fairly, regardless of the position held by, or  
28 perceived importance of, the executive, director, officer, or



1 employee. The Company shall implement procedures to ensure  
2 that, when misconduct is discovered, reasonable steps are taken  
3 to remedy the harm resulting from such misconduct and to ensure  
4 that appropriate steps are taken to prevent further similar  
5 misconduct.

6 **(F) Third-Party Relationships**

7 The Company will institute risk-based due diligence and  
8 compliance requirements pertaining to the retention and  
9 oversight of agents and business partners, including:

10 (a) conducting properly documented due diligence  
11 pertaining to the hiring, and appropriate and regular  
12 oversight of, agents and business partners;

13 (b) informing agents and business partners of the  
14 Company's commitment to abiding by anti-bribery/anti-  
15 corruption laws, and of the Company's anti-  
16 bribery/anticorruption compliance code, policies, and  
17 procedures; and

18 (c) seeking a reciprocal commitment from agents and  
19 business partners.  
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