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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. MARK RIDLEY-THOMAS, Defendant.	No. CR 21-00485-DSF-1 GOVERNMENT'S SENTENCING POSITION FOR DEFENDANT MARK RIDLEY-THOMAS Sentencing: August 21, 2023 Time: 8:30 a.m. Location: Courtroom of the Hon. Dale S. Fischer

Plaintiff United States of America, by and through its counsel of record, the United States Attorney for the Central District of California and Assistant United States Attorneys Lindsey Greer Dotson, Thomas F. Rybarczyk, and Michael J. Morse, hereby files its sentencing position for defendant MARK RIDLEY-THOMAS.

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The government's sentencing position is based upon the attached memorandum of points and authorities, the files and records in this case, and such further evidence and argument as the Court may permit.

Dated: August 7, 2023

Respectfully submitted,

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/s/ Lindsey Greer Dotson
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I. INTRODUCTION

This was a shakedown. Not the kind in movies with bags of cash or threats of force. But the kind that is polite and pervasive. The kind that happens too often by sophisticated, powerful people. The kind to which society, sadly, has become so accustomed that it often goes unreported and rarely yields consequences for the offender but strikes a devastating blow to the integrity of our democratic system.

Defendant MARK RIDLEY-THOMAS shook down Marilyn Louise Flynn. Defendant, a savvy career politician, made his self-interested demands known: Help me and my son in exchange for Los Angeles County business. Flynn received the message loud and clear. Aware that lucrative County contracts and an amendment to the existing Telehealth contract hung in the balance, Flynn worked tirelessly, for over a year, to deliver seemingly any benefit and perk at her disposal to please defendant and his son.

Through his own corrupt actions, abuse of his powerful elected office, failure to accept responsibility, and efforts to undermine the public's faith in this judicial process, defendant's overall conduct strongly supports a sentence of 72 months' imprisonment, three years' supervised release, and a fine of $30,000. Defendant is not a victim. His trial was not unfair. And other elected officials who make the calculated choice to put personal interest over their public oath should take note. One's public service cannot be a bargaining chip for personal, private gain.

Public corruption is a disease afflicting this country's most important institutions. It infects the core of civilized society, undermining the public's faith in its government and eroding a sense

of fair play and justice. Left unchecked, it festers and spreads. With this sentencing of an immensely powerful politician who corruptly monetized his elected office and leveraged his political clout to enrich his family and protect his political brand, this Court has an opportunity to fight that disease. The antidote is a significant sentence to justly punish defendant and especially to deter others who seek to perpetuate this culture of corruption that has poisoned our politics for too long. A sentence of less than 72 months, particularly given the numerous aggravating factors here, risks feeding the perception of a two-tier system of justice where powerful and privileged defendants fare better than defendants of lesser means and status. Such a disparate result would significantly compound the substantial harm defendant's crimes have already occasioned to the public's trust in its democratic institutions. A just and meaningful sentence will be a considerable step toward restoring that vital trust.

II. BACKGROUND

A federal grand jury returned a 20-count indictment against defendant and Flynn for Conspiracy (18 U.S.C. § 371), Bribery (18 U.S.C. § 666), and Honest Services Mail and Wire Fraud (18 U.S.C. §§ 1341, 1343, 1346). Flynn accepted responsibility and pled guilty to Bribery, as charged in Count 3. (Dkts. 112, 114.) Defendant, on the other hand, chose a different path and proceeded to trial. The jury convicted defendant of Conspiracy (Count 1), Bribery (Count 2), Honest Services Mail Fraud (Count 5), and Honest Services Wire Fraud (Counts 15, 16, 19, and 20). The jury acquitted on one count of Honest Services Mail Fraud (Count 4) and the remaining Counts of Honest Services Wire Fraud (Counts 6-14, 17-18). The Conspiracy and

Bribery convictions pertained to all the benefits for Sebastian Ridley-Thomas -- the University of Southern California ("USC") admission, full scholarship, paid professorship, and $100,000 payment. The Honest Services Fraud convictions involved the mailing and wirings pertaining to the $100,000 payment and amended Telehealth contract.

III. ARGUMENT

A. Defendant's Guidelines Range Is 97 to 121 Months

The government concurs with Probation's United States Sentencing Guidelines calculations in the Presentence Report ("PSR"):

Base Offense Level	14	[U.S.S.G. § 2C1.1(a)(1)]
Specific Offense Characteristics		
• Offense Involving Elected Official	+4	[U.S.S.G. § 2C1.1(b)(3)]
• Value of the Benefit [$530,323 Telehealth Contract]	+12	[U.S.S.G. §§ 2C1.1(b)(2), 2B1.1(b)(1)(G)]
Total Offense Level	30	

The above specific offense characteristics are the same as those the Court applied for Flynn and should be applied here. Accordingly, with a Total Offense Level of 30 and Criminal History Category I, defendant's Guidelines range is 97 to 121 months' imprisonment.

B. Just Punishment Requires a Significant Sentence Given the Serious Nature and Circumstances of Defendant's Crimes

In determining a sufficient sentence, courts must consider the nature and circumstances of the offense. 18 U.S.C. § 3553(a)(1). Courts also must impose sentences that reflect the seriousness of the offense and provide just punishment. 18 U.S.C. § 3553(a)(2)(A). The

facts of this case and egregiousness of defendant's conduct warrant a significant term of incarceration.[1]

While Chairman of the all-powerful Los Angeles County Board of Supervisors and one of the most formidable politicians in Los Angeles, defendant used his publicly-provided privileges to monetize his elected office and demand benefits for his son. Aware that Flynn needed County contracts and an amendment to the existing Telehealth contract, defendant made County business contingent on benefits for his son: (1) admission to USC for Sebastian Ridley-Thomas to obtain a master's degree; (2) a full-tuition scholarship for Sebastian Ridley-Thomas to attend USC for free; (3) a paid professorship for Sebastian Ridley-Thomas to teach at USC while simultaneously enrolled as a student; and (4) the secret funneling of $100,000 from defendant's campaign committee account through USC to a nonprofit Sebastian Ridley-Thomas was spearheading called the Policy, Research & Practice Initiative ("PRPI"). Witness testimony and hundreds of emails admitted at trial, as well as Flynn's admissions in her plea agreement, make clear that defendant drove and orchestrated this corrupt scheme.

Defendant's motivation for helping his son was not purely altruistic -- and even if it had been, his solicitation of benefits for his son still would have been illegal and corrupt. In 2017,

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[1] The Government's Opposition to Defendant Mark Ridley-Thomas's Rule 29 Motion, filed at docket number 363, contains a detailed account of the facts. The excerpts of the Reporter's Transcript ("RT") cited herein were filed at docket number 363-1. The government's trial exhibits were manually filed at docket number 366. Additional trial exhibits not previously filed with the Court are attached to the Declaration of Lindsey Greer Dotson Filed in Support of the Government's Sentencing Position for Defendant Mark Ridley-Thomas ("Dotson Declaration").

Sebastian Ridley-Thomas was the subject of a not-yet-public sexual harassment investigation in the California State Assembly for conduct in 2016 and early 2017. (Ex. 808.) On November 28, 2017, Sebastian Ridley-Thomas learned that the Assembly's investigation was moving full steam ahead and an investigator wanted to interview him. (Ex. 633.) At the height of the #MeToo movement, the political threat to Sebastian Ridley-Thomas -- and defendant by association -- was palpable. Defendant was a career politician whose power, livelihood, and stature were tied to his elected office, which, in turn, rested on his reputation. Beyond that, defendant had grand aspirations of running for the open seat for Mayor of Los Angeles in 2022.[2] A scandal for the Ridley-Thomas political brand threatened it all.

To prevent the sexual harassment allegations from surfacing, defendant engineered an exit strategy: his son would resign for "health reasons," lawyers would push back against the Assembly's internal investigation, and a public relations team would dupe the community into thinking that Sebastian Ridley-Thomas was just too sick to serve. Dozens of emails show defendant's knowledge of the escalating Assembly investigation and his active role in orchestrating the false public relations narrative to cover it up. (See, e.g., Exs. 204-206, 209, 213, 215, 217, 221, 222, 225, 226, 237-241, 244-251, 257-259, 367 (defendant bcc'd), 454-456, 459-461, 467, 787, 804.) The pretextual resignation for "health reasons" was

[2] On August 17, 2018, defendant publicly announced: "I have decided not to run for the office of Mayor of Los Angeles. My preference and my highest priority is that of homelessness." (Ex. 714.) Notably, his announcement came just eight days after FBI agents served Sebastian Ridley-Thomas with a federal grand jury subpoena seeking information about this case.

designed to assure the public that there was nothing scandalous about his son's curiously abrupt resignation from a significant political position. It also gave lawyers a means to stall the investigation, with hopes that it would go away altogether once Sebastian Ridley-Thomas had resigned. (See, e.g., Exs. 206, 249, 367 (defendant bcc'd), 905.) Despite feeling well enough to launch new careers and begin a dual degree program (e.g., Exs. 218, 273), the story to the Assembly investigator was that Sebastian Ridley-Thomas was just too sick to sit for an interview. (Exs. 367 (defendant bcc'd), 905.)

Meanwhile, defendant sought landing spots for Sebastian Ridley-Thomas to help sell the lie about the reason for his son's sudden resignation, tackle his son's mounting personal debt, and preserve the Ridley-Thomas legacy. Those landing spots included prestigious titles, an advanced degree, and paid positions, including as a USC professor and as the director of a nonprofit.[3] (See, e.g., Exs. 218, 691.) Many of these landing spots involved USC and, in turn, Flynn. And as the trial made abundantly clear, defendant treated County business as his personal bargaining chip. Anytime defendant needed something from Flynn, he dangled the prospect of County contracts to entice her to act consistent with his personal desires.

This was most evident with the Telehealth contract. To secure that contract, Flynn agreed to funnel $100,000 in defendant's campaign funds through USC by way of a nearly simultaneous $100,000 payment from USC to the United Ways of California ("United Ways") for

[3] Contrary to defendant's narrative during and after trial, Sebastian Ridley-Thomas always planned to take a salary from funds raised for PRPI. As Director, he expected to take a salary of $75,000 and receive a benefits package worth $18,750. (Ex. 691.)

the benefit of PRPI and Sebastian Ridley-Thomas. (See, e.g., Exs. 107, 110, 116, 118, 127, 156, 335-337, 339, 341, 343, 344, 347, 349, 351, 353-355, 419; 03-09-23 RT 541:22-543:19, 557:1-558:6 (Flynn talked about a "side deal" with defendant and Sebastian Ridley-Thomas in connection with the Telehealth contract).) One of the many landing spots defendant arranged was for Sebastian Ridley-Thomas to become the head of a nonprofit where he would have a respectable title, salary, and benefits. But after the first nonprofit expressed concerns about the optics of a politician donating campaign funds to benefit his son, defendant developed a new plan. He would make the same donation but in a more covert, circuitous way to conceal the money's connection to him and thus ensure the donation's success. Defendant needed a willing financial partner to join in his covert plan. He again turned to Flynn.

To secure her help funneling the money, defendant offered to obtain an extension and lucrative amendment to the Telehealth contract. Flynn was desperate for this amendment, as defendant well knew. (E.g., Ex. 315.) The USC School of Social ("Social Work School") was facing a multimillion-dollar budget deficit (03-09-2023 RT 638:4-15), and the contract amendment on expanded terms was necessary to ensure Telehealth's financial "survival" (Exs. 101-103; see also Exs. 314-316; 03-08-23 RT 485:15-20, 489:12-491:7, 493:12-20, 495:15-18, 496:7-11).

Trial testimony and exhibits showed that defendant orchestrated the $100,000 transaction, including by setting a May 15, 2018 deadline for Flynn to make the payment, directing her to "act with dispatch" to meet his deadline, and instructing her to inform United Ways that she had "begun the funds transfer." (See, e.g., Exs. 335,

341.) Defendant also created a sham donor letter to deceive USC into believing that his $100,000 donation to the university was for the Social Work School, and nothing more. (Ex. 107.) The letter read: "Please find enclosed tangible acknowledgement of the important work of the Suzanne Dworak Peck School of Social Work in Los Angeles and beyond. As Dean, these funds can be used at your discretion in order to best facilitate the impressive policy and practical work of the School and its impact in the community." (Id.) But defendant never intended for these funds to be used at Flynn's discretion, nor were they to facilitate any policy work by the school. The money was for PRPI and Sebastian Ridley-Thomas and, in turn, to help preserve the Ridley-Thomas brand.

Just seven days after defendant donated $100,000 to USC, the university issued a $100,000 check to United Ways/PRPI on May 9, 2018. (Ex. 419.) Upon learning that USC had issued the $100,000 check, defendant told his son, "My piece is done," followed by a fist bump emoji. (Ex. 354.) Defendant then delivered on his end of the bargain for Flynn. On May 10, 2018, the day after the $100,000 check to United Ways/PRPI was issued, Flynn met with Jonathan Sherin, the Department of Mental Health Director, to discuss "the timing of renegotiation for our Telehealth contract." (Exs. 167, 187, 193.) The following day, defendant emailed Flynn to discuss "master [County] contract stuff and somehow use yesterday's 'discussion' to advance it," followed by a winking face emoji. (Ex. 357.) Defendant then voted in favor of the amended Telehealth contract, which (1) renewed USC's Telehealth contract with the County and (2) did so on every expanded, more beneficial term Flynn had requested from defendant. (Exs. 576 (proposed amendment), 577A (minutes recording

defendant's vote in support), 101-103, 314-316 (showing improved contract terms Flynn sought from defendant, all of which were incorporated into the amended contract on which defendant voted).)

All these events demonstrate the calculated, continuous, and egregious nature of defendant's scheme. He was powerful -- and knew it. He capitalized on the power of his elected office for personal gain. He lied, cheated, and deceived, repeatedly. Defendant's duplicity flies in the face of his public persona and trial narrative that he always acted in "good faith" -- a narrative the jury soundly rejected with its multiple guilty verdicts. The nature of his crimes, circumstances surrounding them, and the need for just punishment warrant a substantial sentence with a meaningful term of imprisonment.

C. Defendant's Demands to Flynn Were Not Aberrant; He Engaged in Other Pay-to-Play Conduct to Benefit His Son and PRPI

At trial, the jury did not hear about another instance in which defendant leveraged County business to solicit a donation for PRPI and his son. But at sentencing, this Court may consider that evidence.[4] United States v. Mattarolo, 209 F.3d 1153, 1160 (9th Cir. 2000) ("A district court may consider evidence ruled inadmissible at trial in determining relevant conduct at sentencing."); United States v. McCrory, 930 F.2d 63, 68 (D.C. Cir. 1991) ("[T]he sentencing judge must be allowed to consider pertinent information free of the constraints of evidentiary rules applied at trial.").

[4] Exhibits 760 through 766 are attached to the Dotson Declaration.

On February 23, 2018, Lobbyist A contacted defendant.[5] (Ex. 760.) Lobbyist A represented Company A, which was unhappy with a recent County motion related to short-term rentals. (Id.) Lobbyist A said that he would call defendant to discuss further. (Id.) Three days later, Lobbyist A sent defendant a proposed amendment to the motion that would benefit Company A. (Ex. 761.) Defendant sent that amendment (verbatim) to County Official A, a high-level public official, and indicated that he wanted this amendment made to the motion. (Ex. 762.) When defendant sent the amendment, he of course omitted the fact that the language had been proposed by a lobbyist representing Company A and, instead, passed the language off as his own. (Id.) County Official A responded positively and sent defendant a report about short-term rentals. (Ex. 763.) Defendant forwarded County Official A's response, along with the report, to Lobbyist A. (Id.) Defendant told Lobbyist A: "You make me work too hard. Mercy! Do not share this with ANYONE [winking face emoji]." (Id.) Lobbyist A responded, "Mum, is the word." (Ex. 764.)

Two weeks later, Sebastian Ridley-Thomas and Lobbyist A secured a meeting with Executive A, a high-level executive for Company A. (Ex. 765.) During this meeting, Sebastian Ridley-Thomas solicited a donation for PRPI and proposed a "partnership" between Company A and PRPI. (Ex. 765.) Lobbyist A forwarded Sebastian Ridley-Thomas's correspondence with Executive A to defendant and said: "We had a very good conversation with [Executive A] yesterday; will keep you posted." (Id.)

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[5] On August 1, 2023, the defense disclosed to the government approximately 115 support letters for defendant. Among those letters is one from Lobbyist A.

The sequence of events here is no accident. It is no coincidence that after speaking with defendant and defendant agreeing to assist Company A with County business, Sebastian Ridley-Thomas suddenly had a meeting with Executive A to solicit a donation and propose a "partnership" between Company A and PRPI. (Ex. 765.) Defendant's pay-to-play mentality here demonstrates that his interactions with Flynn were not aberrant. In both cases, he made others believe that his official support came at the price of helping his son. And that price was not cheap.

Shortly after his meeting with Lobbyist A and Executive A, Sebastian Ridley-Thomas sent defendant an email with the subject line "PRPI $$$." (Ex. 766.) The email listed 10 individuals and entities and, next to each name, a dollar amount and the government business relevant to the individuals and entities. (Id.) The subtext was plain: If defendant could assist these persons and entities with their government business, Sebastian Ridley-Thomas could get donations for PRPI in the dollar amounts listed. (Those dollar amounts totaled $350,000.)[6] From Lobbyist A, Sebastian Ridley-Thomas listed "50k" in relation to the topic of "[h]ouse sharing and

[6] Coupled with the $100,000 funneled from defendant's campaign funds through USC, this $350,000 that Sebastian Ridley-Thomas planned to solicit would have met his proposed budget for PRPI of approximately $450,000 and therefore ensured that he would have received the $75,000 in annual salary plus $18,750 in benefits, as his budget proposed. (Ex. 691.) It is no coincidence that Sebastian Ridley-Thomas sent this email as he and defendant finalized the creation of PRPI with United Ways in March 2018. This evidence demonstrates it was always defendant's understanding that his son would receive a significant salary from PRPI, funded by defendant's campaign cash and by those with government business pending before him and the County. County business was defendant's personal bargaining chip for private gain and how he planned to fundraise for his son via PRPI.

gentrification" (i.e., the government business central to Company A and subject of the County motion concerning to Company A). (Id.) In short, Sebastian Ridley-Thomas expected to receive $50,000 from his proposed "partnership" with Company A while defendant assisted Company A with County business.

D. General Deterrence Is Critical in Public Corruption Cases to Promote Respect for the Law and Deter Future Crimes

General deterrence demands significant punishment. Any sentence must promote respect for the law, afford adequate deterrence, and protect the public from future crimes. 18 U.S.C. § 3553(a)(2). General deterrence is particularly important in public corruption cases. The government cannot police all corrupt actors, but through meaningful sentences, this Court can send a powerful deterrent message for corrupt actors to police themselves.

Courts have emphasized that sentences fashioned to ensure general deterrence are an especially effective tool in corruption cases, as public officials and other white-collar criminals often premeditate their crimes and engage in a cost-benefit analysis. See, e.g., United States v. Martin, 455 F.3d 1227, 1240 (11th Cir. 2006) ("Because economic and fraud-based crimes are more rational, cool, and calculated than sudden crimes of passion or opportunity, these crimes are prime candidate[s] for general deterrence. Defendants in white collar crimes often calculate the financial gain and risk of loss, and white collar crime therefore can be affected and reduced with serious punishment.") (internal quotations and citation omitted). "General deterrence comes from a probability of conviction and significant consequences. If either is eliminated or minimized, the deterrent effect is proportionately minimized." United States v.

Morgan, 635 F. App'x 423, 450 (10th Cir. 2015). By their nature, public corruption and similar white-collar crimes are often difficult to detect, thereby making enhanced general deterrence even more necessary. See United States v. Brown, 880 F.3d 399, 405 (7th Cir. 2018) (district court did not err in relying on the notion that white-collar criminals were prime candidates for general deterrence; district court was entitled to conclude that where there was a lower likelihood of getting caught, a serious penalty was necessary to ensure deterrence). In a case affirmed by the Seventh Circuit, one district court poignantly noted:

> **We need not resign ourselves to the fact that corruption exists in government. Unlike some criminal justice issues, the crime of public corruption can be deterred by significant penalties that hold all offenders properly accountable.** The only way to protect the public from the ongoing problem of public corruption and to promote respect 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 point where the rule of law applies to all...

United States v. Spano, 411 F. Supp. 2d 923, 940 (N.D. Ill. 2006), affirmed, 447 F.3d 517 (7th Cir. 2006) (emphasis added).

In the recent case of a real estate developer in this district who paid a bribe to Los Angeles City Councilman Jose Huizar and was sentenced to 72 months' imprisonment, the Honorable John F. Walter, United States District Court Judge, observed that bribery is a "very serious offense" requiring "a substantial prison sentence." United States v. Lee, no. 20-CR-326(A)-JFW-5, 07-21-23 RT 47:18-20, 58:9-11 (C.D. Cal. 2023). The goal of deterrence "favors exemplary sentences

so that punishment can serve as a warning to others." Id. at 07-21-23 RT 58:18-19. Judge Walter explained:

> **[P]olitical corruption is [a] unique and infectious crime with rippling and enormous consequences to society.** Keeping political corruption in check has been a matter of public urgency throughout our nation's history. **The crushing weight of corruption on the integrity of every democratic element of our Government has been and will continue to be a constant concern.** In addition to promoting respect for any corruption laws and deterring corporations and individuals in positions of political clout, **strict sentences also serve to protect the public from further harm.**

Id. at 07-21-23 RT 59:14-24 (emphases added).

Congress too has deemed deterrence a crucial factor in sentencing decisions for economic and public corruption crimes such as this one. See S. Rep. No. 98-225, at 76 (1983), reprinted in 1984 U.S.C.C.A.N. 3182, 3259 ("[A] purpose of sentencing is to deter others from committing the offense. This is particularly important in the area of white collar crime. Major white collar criminals often are sentenced to small fines and little or no imprisonment. Unfortunately, this creates the impression that certain offenses are punishable only by a small fine that can be written off as a cost of doing business."); United States v. Mueffelman, 470 F.3d 33, 40 (1st Cir. 2006) (recognizing importance of "the deterrence of white-collar crime (of central concern to Congress)").

Defendant's conduct here falls squarely within the type of criminality Congress and courts target for general deterrence. Powerful public officials, particularly those who fail to accept responsibility and peddle false narratives to minimize their crimes, must be held accountable if the scourge of public corruption is to be eradicated, or at least tempered. Anything less than a significant custodial sentence will not achieve this important goal.

E. Certain Aspects of Defendant's History and Characteristics Are Aggravating and Justify a Significant Sentence

The Court must also consider defendant's history and characteristics. 18 U.S.C. § 3553(a)(1). In this regard, some of what may, at first blush, appear mitigating is just as aggravating, if not more so. (See Dkt. 390, ¶¶ 82-96.) Defendant came from modest beginnings to realize the American Dream. He achieved immense professional success and rose to political prominence despite early personal tragedy. He enjoys the love and support of his family, friends, and political allies. Many in the community support and respect him. Defendant has championed admirable social causes and worked to improve the lives of his constituents. In this respect, his history and characteristics are laudable. But many of those same history and characteristics are also aggravating.

Defendant's crimes were borne, not of desperation or financial hardship, but of arrogance, privilege, and boundless political ambition. Defendant is highly educated, richly supported, and politically connected. He was uniquely positioned to serve his constituents. Instead, he served himself. He corrupted his office to serve his own personal agenda, including his personal political ambition for higher office. Defendant knows right from wrong. Indeed, he has a PhD in Social Ethics. (Dkt. 390, ¶ 104.) But defendant disregarded what was right and made a calculated choice. He monetized his elected office with little regard for the public and immense confidence that he would never get caught.

The fact that family, friends, and political allies have submitted letters on his behalf should be considered -- but with appropriate context. People who are nice to their family and

supporters are not dissimilar from most criminals. As Judge Walter noted in the Lee sentencing, letters of support can be "important in providing the Court with a complete picture of the defendant," but they are not a significant counterweight to a substantial custodial sentence in public corruption cases. United States v. Lee, no. 20-CR-326(A)-JFW-5, 07-21-23 RT 51:12-22 (C.D. Cal. 2023). The fact that family and others will be hurt by a defendant's absence during custody is "extremely common in these types of cases." (Id.) "And it's why defendants should think about their families before committing crimes, not after they've been caught." (Id.)

Defendant does not have to be a "bad" person to be deserving of a significant sentence. The fact that he is kind to family, friends, and individuals with whom he has a mutually-beneficial political relationship[7] is not a significant mitigating factor warranting a substantial variance -- and certainly not the 79-month variance proposed by Probation. See, e.g., United States v. Vrdolyak, 593 F.3d 676, 682 (7th Cir. 2010) (vacating district court's probationary sentence where it erred by giving "enormous weight to letters urging leniency for the defendant, while virtually ignoring the evidence that tugged the other way"); United States v. Peppel, 707 F.3d 627, 641 (6th Cir. 2013) (vacating a seven-day sentence for securities fraud defendant where he submitted over 100 letters of support and observing that defendant's "status in the community and chosen

[7] For instance, Lobbyist A submitted a letter in support of defendant. Defendant vouched for an amendment to a County motion to benefit Lobbyist A's client, Company A; at the same time, Lobbyist A worked to secure a financial partnership between Company A and PRPI and kept defendant apprised of those negotiations (while defendant was working to benefit Company A).

profession cannot alone be the basis for...a conclusion" that he enjoyed unusual support from family and business associates).

Relatedly, defendant's service to the community, while praiseworthy and potentially deserving of a modest variance, does not justify a substantial one disproportionate to his criminal conduct and the resulting public harm. Politicians are supposed to serve their community. That is their job. It is also how they maintain power. Politicians who fail to deliver on campaign pledges or better the lives of their constituents are often voted out of office. To maintain his career, livelihood, and stature, it was in defendant's personal interest, just as much as the community's interest, for him to deliver on political promises.

Ultimately, individuals like defendant, who have earned significant levels of professional success and are able "to make a decent living without resorting to crime are more rather than less culpable than their desperately poor and deprived brethren in crime." United States v. Stefonek, 179 F.3d 1030, 1038 (7th Cir. 1999) (emphasis added); see also United States v. Kuhlman, 711 F.3d 1321, 1329 (11th Cir. 2013) ("The Sentencing Guidelines authorize no special sentencing discounts on account of economic or social status."). For these reasons, certain aspects of defendant's history and characteristics are aggravating and support a significant term of imprisonment.

F. Worse Than His Failure to Accept Responsibility, Defendant Has Peddled a Narrative of Victimhood and Injustice to Undermine the Public's Faith in the Judicial Process

Defendant's image was and remains paramount to him. Throughout trial, he leaned into a flattering (yet false) narrative that he

always acted in "good faith," never for himself or his son, and consistently for the good of the community -- the community he deceived and defrauded. To this day, even after the jury's verdict, defendant has conveyed zero acceptance of responsibility. Defendant cannot bring himself to acknowledge any wrongdoing whatsoever. The fact that defendant plans to appeal his conviction is of little moment. His planned appeal does not mean he is legally or practically barred from expressing all types of remorse or taking any responsibility.

Worse still, everything about defendant's post-trial litigation and public narrative continue to minimize his conduct and emphasize themes of victimhood and injustice. But defendant is not a victim. He was not targeted by the federal government or USC. He is not a casualty of false testimony. And his trial was not unfair.

Yet, defendant's self-serving narrative persists in the community despite the jury's rejection of it at trial. Community groups and media personalities with ties to defendant encourage the public to discount the verdict. For instance, one group encourages the public to attend court hearings to "illustrate community skepticism about the verdict" and repeats defendant's claim that his conviction was based on "false testimony." Twitter Post from CD10 Voices, dated June 25, 2023, available at https://twitter.com/cd10voices/status/1673166327157264384 (last visited July 25, 2023). That same group circulated flyers with defendant's photograph for an event in support of defendant following his convictions titled, "A Night of Compassion and Cry for Justice," as if the jury's verdict was an injustice. Twitter Post from CD10 Voices, dated June 15, 2023, available at https://twitter.com/cd10voices/status/

1669400430185693184 (last visited July 25, 2023). A campaign strategist and crisis communications specialist emailed journalists to purportedly correct the record and provide, in his words, a "more accurate summary" of the jury's verdict:

> Former Councilmember Mark Ridley-Thomas was convicted in March on federal bribery, conspiracy and honest services mail and wire charges for steering county contracts to USC in exchange for contributions to a **community-focused non-profit organization**. Ridley-Thomas is appealing the conviction.

Twitter Post from Journalist Meghann Cuniff, dated June 26, 2023, available at https://twitter.com/meghanncuniff/status/1673388331567312896 (last visited July 25, 2023) (emphasis added). This strategist minimizing the $100,000 transaction as a payment to a "community-focused non-profit organization" -- omitting, of course, the nonprofit's ties to his son -- demonstrates the revisionist history and minimization at play to convince the public that defendant is being persecuted for acting in the community's best interests. Nothing could be further from the truth.

Defendant has completely failed to accept any modicum of responsibility and, worse, has undermined the public's faith in the judicial process, all to preserve his image. Of course, for this defendant, such behavior is not aberrant. In fact, it is entirely consistent with the manner and means in which he sought to deceive the public about the real reason his son abruptly resigned from elected office, notably with the aid of a coordinated team of legal and public relations experts. The appropriate sentence here should not validate defendant's false and corrosive narrative of victimhood and injustice, nor reward those who engage in deceptive behavior.

G. Defendant's Reputational Harm Is Not a Valid Consideration

Like too many powerful people who get caught committing crimes, defendant may argue that he has suffered enough with the loss of his elected office and reputation in the community. The law, however, requires that the Section 3553(a) factors not be weighed to unjustly favor certain classes of defendants, such as those in positions of power and prestige who are better able to compile a mass of support letters. See United States v. Prosperi, 686 F.3d 32, 47 (1st Cir. 2012); United States v. Bistline, 665 F.3d 758, 765-66 (6th Cir. 2012); United States v. Bragg, 582 F.3d 965, 969 (9th Cir. 2009) ("The very broad discretion of district judges in sentencing post-Booker does not extend to ignoring sentencing factors mandated by statute."). Disparate treatment favoring certain classes of defendants is improper. "[I]t is impermissible for a court to impose a lighter sentence on white-collar defendants than on blue-collar defendants because it reasons that white-collar offenders suffer greater reputational harm or have more to lose by conviction." Prosperi, 686 F.3d at 47. Collateral consequences "related to a defendant's humiliation before his community, neighbors, and friends -- would tend to support shorter sentences in cases with defendants from privileged backgrounds, who might have more to lose along these lines. And '[w]e do not believe criminals with privileged backgrounds are more entitled to leniency than those who have nothing left to lose.'" Bistline, 665 F.3d at 765-66 (citation omitted). For this reason, while defendant no doubt has suffered reputational harm and collateral consequences from his convictions, those losses are of his own making and a legally improper basis for a downward variance.

H. There Is No Risk of an Unwarranted Sentencing Disparity Because Defendant and Flynn Are Not Similarly Situated

Although they conspired together, defendant and Flynn are not similarly situated for purposes of sentencing.[8] United States v. Armstead, 421 F. App'x 749, 751 (9th Cir. 2011) (no unwarranted sentencing disparity where defendants are not similarly-situated). And even if they were, the need to avoid unwarranted sentencing disparities is but one consideration for the Court at sentencing. United States v. Marcial-Santiago, 447 F.3d 715, 719 (9th Cir. 2006) ("Even if this disparity were assumed to be unwarranted, however, that factor alone would not render Appellants' sentences unreasonable; the need to avoid unwarranted sentencing disparities is only one factor a district court is to consider in imposing a sentence."). Considering all the Section 3553(a) factors, many of which are especially aggravating here, defendant deserves a drastically different sentence from Flynn.

To begin, defendant and Flynn are dissimilar in terms of their respective roles in the scheme and degrees of culpability. While Flynn is far from a victim and remains responsible for her criminal conduct, she is far less culpable relative to defendant. She was not the mastermind. She was not the public official with a hand out seeking to monetize an official position. She did not initiate the corrupt relationship. She did not conjure up the idea of funneling $100,000 of defendant's campaign money through USC to benefit

[8] This Court sentenced Flynn to 36 months' probation, including 18 months' home confinement, and ordered her to pay a fine of $150,000. (Dkt. 394.)

Sebastian Ridley-Thomas. The origination, solicitations, and pressure flowed in one direction -- from defendant to Flynn.

Throughout their dealings, Flynn clearly felt pressure from defendant. Indeed, at one point during the seven-day sprint to get the money funneled through USC, Flynn confided in a colleague that she feared getting "in trouble" if USC did not issue the check to United Ways/PRPI. (03-15-23 RT 1346:4-1347:18.) Although Flynn did not divulge whom she feared, under the circumstances, the only person with whom Flynn could have gotten "in trouble" was defendant. That is because, had Flynn failed to move the money out of USC to Sebastian Ridley-Thomas, that failure would have represented a significant financial loss to defendant who did not actually intend to donate $100,000 of his campaign funds to USC. The fact that Flynn, a powerful woman in her own right, worried about getting "in trouble" with defendant speaks to his power over Flynn and the County business she so desperately needed.

Beyond that, defendant and Flynn are especially dissimilar in terms of their post-indictment conduct and acceptance of responsibility. Flynn took ownership. She accepted responsibility, pled guilty months before trial, and even provided the government with incriminating information about her conduct that previously was unknown to the government. She preserved substantial government resources by choosing to accept responsibility in an early and extraordinary manner without proceeding to trial.[9] Flynn also has

[9] Rewarding Flynn for accepting responsibility and pleading guilty is not an unconstitutional deprivation of defendant's right to trial. Armstead, 421 F. App'x at 752 (harsher sentence for defendant who goes to trial is not retaliatory); United States v. Narramore, 36 F.3d 845, 847 (9th Cir. 1994) ("Incentives for plea bargaining are

(footnote cont'd on next page)

just one count of conviction, and her Guidelines range was lower than defendant's. See United States v. Carter, 560 F.3d 1107, 1121 & n.3 (9th Cir. 2009) (no unwarranted sentencing disparities where the codefendants were either convicted of fewer offenses or cooperated with the government). She has not, in legal briefs or otherwise, attempted to shift blame or cry foul about her prosecution. She expressed genuine remorse and has not cast herself as a victim. Her contrition not only shows an acceptance of responsibility but also that she is less likely to reoffend. See Brady v. United States, 397 U.S. 742, 753 (1970) (a defendant who pleads guilty "extends a substantial benefit to the State and...demonstrates by his plea that he is ready and willing to admit his crime and to enter the correctional system in a frame of mind that affords hope for success in [quicker] rehabilitation"). Defendant cannot say the same. His and Flynn's behavior post-indictment could not be more diametrically opposed.

Accordingly, given an individualized assessment of the Section 3553(a) factors here, there is no risk of an unwarranted sentencing disparity. Defendant deserves a substantial custodial sentence.

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not unconstitutional merely because they are intended to encourage a defendant to forego constitutionally protected conduct.") ("[A]s long as there is no indication the defendant has been retaliated against for exercising a constitutional right, the government may encourage plea bargains by affording leniency to those who enter pleas. Failure to afford leniency to those who have not demonstrated those attributes on which leniency is based is unequivocally constitutionally proper." (cleaned up)).

I. Probation's 79-Month Downward Variance Is Excessive, Unsupported, and Will Create Actual Unwarranted Sentencing Disparities in Public Corruption Cases Generally

Although advisory, the Guidelines exist for a reason. They protect against unwarranted sentencing disparities nationwide. When courts deviate from the Guidelines in public corruption cases without sufficient justification, sentencing can create, or at least feed the perception of, a two-tier system of justice -- a more flexible and lenient tier for prominent and well-heeled defendants and a more rigid, severe, and Guidelines-oriented tier for "other" criminals. See United States v. Musgrave, 761 F.3d 602, 609 (6th Cir. 2014) (Guidelines created "to ensure stiffer penalties for white-collar crimes and to eliminate disparities between white-collar sentences and sentences for other crimes") (internal citations omitted). That dichotomy is inconsistent with the Constitution, fundamental fairness, and the statutory goals of sentencing, and it has been repeatedly repudiated by the courts. See United States v. Treadwell, 593 F.3d 990, 1012-13 (9th Cir. 2010) (overruled on other grounds) (rejecting that a defendant of means should be afforded a lower prison sentence to enable him to pay restitution; noting the need to deter white-collar crime and minimize discrepancies between white-collar and blue-collar sentences); Stefonek, 179 F.3d at 1038 (white-collar criminals must "not to be treated more leniently than members of the 'criminal class'").

Tellingly and concerningly, Probation provides little justification for its recommendation of a mere 18 months -- a striking 79-month downward variance that represents an over 80% discount from the low-end of the Guidelines range (97 months) for

this white-collar defendant. Indeed, such a recommendation is inconsistent with other corruption sentences for bribery schemes of a similar scope and magnitude, particularly given the immense power defendant wielded and abused.[10] At best, Probation attempts to justify its recommendation by suggesting that defendant has served his community. But again, politicians are supposed to serve their community. That is their job. And those who fail to do so often lose their elected position and, in turn, power. Defendant does not deserve an 80% discount because he did the job he was paid handsomely to do and delivered on campaign promises, thereby preserving his political power and financial future.

Ultimately, Probation's recommended downward variance of 79 months is not only unsupported by the facts, it is flatly rejected by them. It is also rejected by the case law. Almost everything about defendant's criminal conduct and circumstances is aggravating.

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[10] See, e.g., United States v. Lee, no. 20-CR-326(A)-JFW-5 (C.D. Cal. 2023) (real estate developer sentenced to 72 months and ordered to pay a $750,000 fine for offering a $500,000 bribe to Los Angeles City Councilman Jose Huizar); United States v. Rezko, no. 05-CR-00691-AJS-4 (N.D. Ill. 2011) (businessman and political fundraiser sentenced to 126 months for bribery and fraud; court focused on need for general deterrence at sentencing, saying: "Enough is enough. Corruption in Illinois has to stop."); United States v. Mangano, no. 16-CR-00540-JMA (E.D.N.Y. 2022) (Nassau County Executive sentenced to 12 years in bribery case for accepting five vacations, hardwood flooring, custom-made office chair, massage chair, a watch, and over $450,000 for his wife's no-show job); United States v. Esquenazi, no. 09-CR-21010-JEM (S.D. Fla. 2011) (executive sentenced to 15 years for scheme involving $890,000 in bribes paid to officials at a Haitian state-owned telecommunications company); United States v. Toy, no. 14-CR-00023-RBS (E.D. Va. 2014) (naval manager sentenced to 96 months for a five-year bribery scheme in which he accepted more than $265,000 in cash); United States v. Jument, no. 09-CR-00397-HEH (E.D. Va. 2010) (businessman sentenced to 87 months for offering $200,000 in bribes to Panamanian officials for government contracts); United States v. Nuru, no. 21-CR-490-WHO (N.D. Cal. 2022) (San Francisco Public Works director sentenced to 84 months for bribery scheme).

Little is mitigating. And Probation offers almost nothing -- factually or legally -- to justify its massive variance, certainly nothing warranting an 80% variance from a Guidelines range carefully calculated to ward against the two-tiered justice its proposed and unsupported sentence would appear to create. The government agrees that a modest variance (three levels) is appropriate given defendant's history and characteristics and to mitigate the appearance of an unwarranted sentencing disparity with Flynn's sentence, but any downward variance must be tied and proportionate to facts in the context of the wealth of surrounding aggravating factors.[11] Indeed, a more significant variance would only breed further skepticism about a two-tier system of justice for the powerful and privileged.

J. The Court Should Impose a Fine of $30,000

The government concurs with Probation's recommended fine of $30,000. The Guidelines state that the Court "shall impose a fine in all cases, except where the defendant establishes that he is unable to pay and is not likely to become able to pay any fine." U.S.S.G. § 5E1.2(a). The government concurs with the PSR that defendant is able to pay a fine of $30,000 immediately. Such a fine is necessary to promote respect for the law and afford deterrence, particularly when coupled with the government's request for a moderate downward variance.

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[11] The government's suggestion that a variance may be appropriate presumes that the Court calculates the Guidelines range, as it should, at 97 to 121 months.

IV. CONCLUSION

For the foregoing reasons, the government respectfully requests that this Court impose a sentence of 72 months' imprisonment, three years' supervised release, and a fine of $30,000. Such a sentence would be sufficient, but not greater than necessary, to adequately punish and deter. A sentence closer to the proposal by Probation would be unjustified and far too lenient given the seriousness of defendant's seven crimes of conviction and the strong need for general deterrence to curb the disease and "crushing weight of public corruption" threatening Los Angeles and beyond.