

1 Steven W. Myhre,
United States Attorney
2 Eric Johnson
Chief, Organized Crime Strike Force
3 Timothy S. Vasquez
Assistant United States Attorney
4 333 Las Vegas Boulevard South
Suite 5000
5 Las Vegas, Nevada 89101
(702) 388-6336/Fax: (702) 388-6418
6

7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA
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10
11 **UNITED STATES OF AMERICA,**

12 Plaintiff

13 vs.

14 **DAVID KENT FITCH,**

15 Defendant
16

02:04-CR-262-JCM-PAL

**UNITED STATES' RESPONSE TO
DEFENDANT'S SENTENCING
MEMORANDUM**

17 THE UNITED STATES OF AMERICA, by and through its undersigned attorneys, hereby
18 responds to *Defendant's Sentencing Memorandum and Opposition to the Government's Motion for*
19 *Upward Departure* [**Docket No. 218**]. In brief, the defendant has confused or misconstrued the basis
20 for his sentence imposed for his violation of discrete firearms and identification document offenses
21 in the case of *United States v. Fitch*, CR-S-00-050-KJD. Moreover, the defendant's claims that his
22 sentence in the earlier case included the murder of his wife and related financial frauds is simply
23 untrue.
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ARGUMENT

I. DEFENDANT’S INTIMATIONS OF DOUBLE JEOPARDY VIOLATIONS ARE SPURIOUS.

Defendant has intimated in his Sentencing Memorandum that punishment for the offenses of conviction would violate the Constitutional prohibition against double jeopardy. *See* Defendant’s Sentencing Memorandum at pp. 15-17. Defendant has previously raised similar claims in his several motions to dismiss. Therefore, it is necessary to establish at the threshold that the offenses of conviction in this case are distinct from the offenses that the defendant was previously convicted of in *United States v. Fitch*, CR-S-00-050-KJD of the following offenses.

The Fifth Amendment of our Constitution decrees, in pertinent part: “. . . nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb”. For purposes of double jeopardy, "the test to be applied to determine whether there are two offenses or only one is whether each [statutory] provision requires proof of an additional fact which the other does not." *Blockburger v. United States*, 284 U.S. 299, 304 (1932).

The *Blockburger* test focuses on the statutory elements of each offense, not on the actual evidence presented at trial. *Illinois v. Vitale*, 447 U.S. 410, 416, 100 S.Ct. 2260, 65 L.Ed.2d 228 (1980). Thus, it matters not that there is "substantial overlap" in the evidence used to prove the two offenses, so long as they involve different statutory elements. *United States v. Cuevas*, 847 F.2d 1417, 1429 (9th Cir.1988) (citation omitted).

United States v. Kimbrew, 406 F.3d 1149, 1151-52 (9th Cir. 2005). “Double jeopardy is not implicated so long as each violation requires proof of an element which the other does not.” *United States v. Vargas-Castillo*, 329 F.3d 715, 720 (9th Cir.2003).

As defendant has acknowledged, he was convicted in CR-S-00-050-KJD of multiple offenses related to firearms and false or fraudulent identification documents. More particularly, Counts One and Two of the Superseding Indictment in that case charged: that the defendant possessed false identification documents, to wit, a Utah Driver’s license in the name of David Lee Krause on February 8, 2000 (Count One), and a Certificate of Birth and Utah Identification Card in the name of David

1 Lee Krause (Count Two), with the intent that such documents be used to defraud the United States
2 in violation of 18 U.S.C. § 1028(a)(4). Counts Three, Four, Five and Six charged the defendant
3 willfully and knowingly used a passport (number 055876825) issued under the authority of the United
4 States, the issuance of which was secured by reason of a false statement made in the application
5 therefore which falsely stated, among other things, that the applicant's true name was David Lee
6 Krause: to travel from the United States to Canada on or about November 25, 1999 (Count Three);
7 to enter Canada on November 26, 1999 (Count Four); to enter the United Kingdom on November
8 26, 1999 (Count Five), and to reenter the United States on February 7, 2000 (Count Six),” in violation
9 of 18 U.S.C. § 1542. Counts Seven, Eight, Nine and Ten charged that defendant, a convicted felon,
10 knowingly possessed, in and affecting interstate commerce, various firearms and ammunition, to wit:
11 two (2) .22 long rifles on October 30, 1999 (Count Seven); four (4) boxes of 12 gauge shotgun shells
12 and one (1) box of .44 caliber cartridges from October 1, 1999, through February 8, 2000 (Count
13 Eight); a .44 caliber revolver with five (5) rounds of ammunition from October 1, 1999, through
14 February 8, 2000 (Count Nine); a shotgun and a .30-30 rifle from October 1, 1999, through February
15 8, 2000 (Count Ten), in violation of 18 U.S.C. § 922(g)(1). *See* Superseding Criminal Indictment,
16 CR-S-2000-050-KJD(RJJ) (June 20, 2000).

17 On the other hand, in this case the defendant has been convicted at trial of: access device
18 fraud and attempted access device fraud in violation of 18 U.S.C. § 1029 (Counts One, Two, Twelve
19 and Thirteen); bank fraud in violation of 18 U.S.C. § 1344 (Counts Three through Eleven); laundering
20 monetary instruments in violation of 18 U.S.C. § 1956(a)(1)(B) (Counts Fourteen and Fifteen); money
21 laundering in violation of 18 U.S.C. § 1957 (Count Sixteen); and interstate transportation of a stolen
22 motor vehicle in violation of 18 U.S.C. § 2312 (Counts Seventeen and Eighteen).

23 Even this cursory review of the pending indictment reveals that the offenses charged in this
24 case are distinct from the violations charged in the earlier case. While the evidence at trial include
25 some of the facts germane to the earlier case (e.g., in addition to using the fraudulent identification
26 documents and passport in the name of “David Lee Krause” to flee the United States following his

1 financial crimes, the defendant also used those documents and that alias to open a bank account
2 through which he laundered the criminal proceeds), the earlier case and the pending case involve
3 distinct offenses. Moreover, these distinct offenses involve separate elements than the passport and
4 firearms offenses addressed in the earlier case. Compare 9TH CIR. CRIM. JURY INSTR. 8.69 (access
5 device fraud), 8.106 (bank fraud), and 8.121 (laundering of monetary instruments), with 9TH CIR. CRIM.
6 JURY INSTR. 8.59 (unlawful possession of firearm), *United States v. McCormick*, 72 F.3d 1404, 1407
7 (9th Cir. 1995) (sufficient to instruct jury that the essential elements for a conviction under 18 U.S.C.
8 § 1028(a)(4) are (1) that defendant knowingly possessed a false identification document, and (2) that
9 he did so with the intent to defraud the United States); and *United States v. White*, 1 F.3d 13, 16 (D.C.
10 Cir. 1993) (passport fraud under 18 U.S.C. § 1542 “requires proof that the accused (I) willfully and
11 knowingly make a false statement in a passport application, (ii) with the intent to secure issuance of
12 a United States passport contrary to the laws and regulations governing the issuance of passports”).

13 Thus, the defendant’s earlier conviction and sentence for use of false and fraudulently
14 obtained identification documents and multiple firearms violations in no way precludes his conviction
15 and punishment for his the litany of fraud and money laundering crimes that are the offenses of
16 conviction herein.

17 18 **II. THE DEFENDANT’S ADJUSTED OFFENSE LEVEL IS 23.**

19 The defendant committed the offenses of conviction during the period from approximately
20 July through November 1999. Since 1999, the Sentencing Guideline provisions pertaining to access
21 device fraud and bank fraud have been amended and now carry greater and additional enhancements
22 for various Specific Offense Characteristics. Therefore, up to this point, the government counsel,
23 defense counsel, and the Probation Officer have used the 1998 edition of the Sentencing Guidelines
24 to calculate the defendant’s Combined Offense Level to avoid any potential violation of the Ex Post
25 Facto Clause. See U.S.S.G. § 1B1.11(b)(1) (“If the court determines that use of the Guidelines
26 Manual in effect on the date that the defendant is sentenced would violate the ex post facto clause of

1 the United States Constitution, the court shall use the Guidelines Manual in effect on the date that the
2 offense of conviction was committed”); Presentence Investigation Report, ¶ 59 (“The November 1,
3 1998, edition of the Guidelines Manual has been used in this case to avoid any ex post facto issues”).

4 While the defendant appears to content to use the 1998 edition of the Sentencing Guidelines
5 and its lesser enhancements, defendant also contends that his offenses involving fraud should have
6 been grouped with his money laundering offenses in calculating his Offense Level. While defendant’s
7 argument would be sound under the current Sentencing Guidelines, it was not viable under the 1998
8 edition of the Guidelines. The Court of Appeals for the Ninth Circuit addressed this point in 2002:

9 At the time of sentencing, the district court correctly grouped
10 Defendant's money laundering and fraud offenses separately.
11 Construing subsections 3D1.2(b) and (d) of the guidelines, this
12 court had determined that money laundering and fraud do not
13 involve substantially the same harm and thus should not be grouped
14 together for sentencing. *United States v. Syrax*, 235 F.3d 422,
425-26 (9th Cir.2000), *cert. denied*, 532 U.S. 988, 121 S.Ct. 1639,
149 L.Ed.2d 498 (2001); *United States v. Hanley*, 190 F.3d 1017,
1033 (9th Cir.1999); *United States v. Taylor*, 984 F.2d 298, 303 (9th
15 Cir.1993).

16 However, between sentencing and appeal, the United States
17 Sentencing Commission completely revamped the guidelines for
18 money laundering, consolidating two sections into one. U.S.S.G. §
19 2S1.1 (2001). Those amendments address the grouping of money
20 laundering offenses in an application note:

21 **Grouping of Multiple Counts.**-In a case in which the
22 defendant is convicted of a count of laundering funds and
23 a count for the underlying offense from which the
24 laundered funds were derived, the counts shall be grouped
25 pursuant to subsection (c) of § 3D1.2 (Groups of
26 Closely-Related Counts).

U.S.S.G. § 2S1.1 cmt. n. 6 (2001). The Commission explained that
the reason for the application note is to resolve a circuit conflict on
the issue surrounding grouping under subsections 3D1.2(b) and (d),
and the Commission cited our decision in *Hanley* on one side of that
conflict. U.S.S.G. supp. to app. C, amend. 634 at 235 (2001).

The relevant amendments took effect on November 1, 2001. The
district court is required to apply the version of the guidelines that
is in effect at the time of sentencing, unless to do so would violate
the ex post facto clause of the Constitution. *United States v. Steffen*,
251 F.3d 1273, 1277 (9th Cir.2001), *cert. denied*, 534 U.S. 1062,

1 122 S.Ct. 660, 151 L.Ed.2d 575, 2001 WL 1398654 (2001).
2 Because we remand for resentencing as to the offense-level
3 departure, the district court must resentence Defendant under the
4 amended guideline.

5 *United States v. Martin*, 278 F.3d 988, 1003-04 (9th Cir 2002). Thus, the defendant may group the
6 money laundering offenses with his various frauds only if he proceeds under the version of the
7 Sentencing Guidelines that is now in effect (i.e., the November 1, 2006, edition). *See, United States*
8 *v. Gilcrist*, 106 F.3d 297, 302 (9th Cir.1997) (“[W]e cannot consider [defendant]’s ex post facto
9 argument because [he], at the sentencing hearing, expressly agreed to the use of the Guidelines
10 Manual in effect at the time of sentencing.... In thus consenting, [defendant] abandoned his ex post
11 facto argument”); *United States v. Warren*, 980 F.2d 1300, 1304-06 (9th Cir.1992) (requiring use of
12 only one version of the Guidelines in any given case); U.S.S.G. § 1B1.11(2) (“The Guidelines Manual
13 in effect on a particular date shall be applied in its entirety”).

14 Defendant contends that the money laundering and fraud offenses should be grouped together
15 pursuant to § 3D1.2(a) (counts involving the same victim and same acts or transactions) and
16 §3D1.2(b) (counts involving the same victims and acts or transactions connected by a common
17 criminal objective or part of a common scheme). *See* Defendant’s Sentencing Memorandum at p. 10.
18 “In the case of counts grouped together pursuant to § 3D1.2(a)-(c), the offense level applicable to a
19 Group is the offense level . . . for the most serious of the counts comprising the Group, i.e., the highest
20 offense level of the counts in the Group.” § 3D1.3(a).

21 The most serious of the offenses of conviction in this case are the money laundering offenses.
22 Under § 2S1.1 of the current Sentencing Guidelines, the Base Offense Level for money laundering
23 offenses is to be drawn from “[t]he offense level for the underlying offense from which the laundered
24 funds were derived” when the defendant is accountable for the underlying offense, and the offense
25 level for that offense can be determined. U.S.S.G. § 2S1.1(a)(1). Further, the Specific Offense
26 Characteristics provisions of that section prescribe a two-level increase or enhancement where, as
here, the defendant has been convicted under 18 U.S.C. § 1956. Thus, the defendant’s Offense Level

1 for the money laundering count—and inevitably the Group Offense Level—will be the Offense Level
 2 for the underlying frauds *plus 2* levels because the defendant was convicted under 18 U.S.C. § 1956.

3 The Offense Level for the defendant’s underlying access device fraud and bank fraud
 4 offenses would be assessed under § 2B1.1 of the 2006 Sentencing Guidelines as follows:

5 (1) Base Offense Level: 7 [USSG § 2B1.1(a)(1)]
 6 Defendant’s offenses of access device fraud in violation of 18 U.S.C. § 1029 (Counts
 7 One, Two, Twelve and Thirteen) and bank fraud in violation of 18 U.S.C. § 1344
 8 (Counts Three through Eleven) are assessed under and referenced to ; under Defendant
 was convicted of an offense referenced to § 2B1.1. Additionally, each of the bank
 fraud counts carries a maximum term of imprisonment of 30 years. Therefore,
 defendant’s Base Offense Level for these underlying offenses would be Level 7.

9 (2) Specific Offense Characteristics:

10 (a) *Loss & Intended Loss of more than \$120,000:* + 10 [USSG § 2B1.1(b)(1)]
 11 In his Sentencing Memorandum, defendant maintains that the aggregate loss in this
 12 case was “approximately \$58,000.” Defendant’s Sentencing Memorandum at p. 9.
 13 Defendant’s tabulation is woefully incomplete. While the actual financial losses
 14 inflicted by the defendant exceeded \$51,000,¹ he intended to exact far more from his
 15 victims. The defendant attempted to fraudulently charge a mail-order purchase of
 16 approximately \$5,500 in synthetic gems to Ms. Bozi’s credit card, and he incurred and
 17 attempted to incur charges on Ms. Bozi’s health insurance card of approximately
 \$2,500. Moreover, even after his fraudulent activity had been detected and Ms. Bozi’s
 bank account had been frozen, the evidence at trial revealed that the defendant
 intended—and attempted—to fraudulently obtain the \$64,593 dollars that remained in
 Ms. Bozi’s account. But for Citibank’s intervention, defendant would have had the
 remainder of Ms. Bozi’s savings. Additionally, the evidence also established that the
 defendant intended to convert and sell Ms. Bozi’s mobile home, automobile, and
 personal effects. Thus, the evidence readily supports the conclusion that the actual and
 intended losses in this case exceeded \$120,000.

18 (b) *Theft from the Person of Another:* + 2 [USSG § 2B1.1(b)(3)]
 19 The evidence in this case supports the inference that the defendant stole or took access
 20 devices, checkbooks, insurance cards, and other property from Maria Bozi.

21 (c) *Sophisticated Means / Foreign Component:* + 2 [USSG § 2B1.1(b)(3)]
 22 As revealed in defendant’s letters to his longtime girlfriend (and second wife) Patricia
 23 Molano Gutierrez, the fraud committed against Maria Bozi was the culmination of

24 ¹ Actual pecuniary losses included: \$8,000 in fraudulent ATM withdrawals, and a \$40,000
 25 fraudulent check from Maria Bozi’s primary Citibank account; and approximately \$3,112
 26 in fraudulent charges on Kenneth Deatherage’s GM Card (see Exhibits 117, 118, 119, 139
 and 140) .

1 defendant's elaborate scheme to marry her and move with her to the United States in
2 order to ultimately dispose of her and take her money and property. The offense was
3 thus both sophisticated, and it originated and a substantial portion of the scheme was
4 committed outside the United States. Accordingly, a 2 Level increase is warranted
5 under § 2B1.1 of the Sentencing Guidelines.

6 The Offense Level under § 2B1.1 for the defendant's underlying access device fraud and bank fraud
7 offenses is Level 21.

8 Returning, then, to the defendant's money laundering offenses, § 2S1.1 instructs that the
9 Offense Level for the defendant's money laundering offenses should be computed as follows:

- 10 (1) Base Offense Level: 21 [USSG § 2S1.1(a)(1)]
11 Again, the Base Offense Level for money laundering offenses is derived
12 from—and equivalent to—the calculated Offense Level for the underlying
13 offenses.
- 14 (2) Specific Offense Characteristics: + 2 [USSG § 2S1.1(b)(2)]
15 As the defendant was convicted under 18 U.S.C. § 1956, his offense level is to be
16 increased by 2 Levels pursuant to § 2S1.1(b)(2).

17 Defendant's most serious Offense Level—and, thus, defendant's Group Offense Level—is 23 under
18 the 2006 edition of the Sentencing Guidelines. Indeed, irrespective of whether computed as a Group
19 Offense Level under the current Sentencing Guidelines or a Combined Offense Level under the 1998
20 version, the defendant's cumulative Offense Level would be 23.

21 **III. THE SENTENCE PREVIOUSLY IMPOSED ON THE DEFENDANT FOR**
22 **OTHER OFFENSES WAS NOT FOR, AND DID NOT REFLECT,**
23 **THE OFFENSES AND CONDUCT AT ISSUE IN THE PRESENT CASE.**

24 The defendant has suggested in the Defendant's Sentencing Memorandum that the
25 defendant's financial crimes and relevant conduct—including his evident murder of Maria
26 Bozi—were addressed in the sentence imposed following his prior conviction for offenses involving
weapons and fraudulent identification documents. For example, defendant has written: "In 200, Mr.
Fitch received a 97 month sentence, substantially enhanced from the sentence he would have
otherwise received. *The enhancement was based on all the same factors raised herein.*" Defendant's

1 Sentencing Memorandum at p. 17. Defendant has also asserted: “As set forth herein, the conduct for
2 which Mr. Fitch was convicted this year was considered relevant conduct in the 200 case.”
3 Defendant’s Sentencing Memorandum at p. 14. Finally, defendant concludes that “Maria Bozi’s
4 disappearance was considered when Mr. Fitch was sentenced in November 2000. . . . The government
5 must not be permitted to come before this Court 7 years later seeking a different result than the result
6 it obtained in November 2000 on the same set of facts presented to the Court at that time.”
7 Defendant’s Sentencing Memorandum at p. 20. Defendant and his counsel have either failed to read
8 the record of the earlier proceeding in its entirety or are deliberately seeking to mislead this Court.²

9 While Maria Bozi’s disappearance was mentioned in passing in the Presentence Report in
10 CR-00-050-KJD, it did not feature in that case as it was not a component of those crimes. Simply
11 stated, Maria Bozi’s disappearance and defendant’s ensuing financial crimes were peripheral to his
12 unlawful possession of firearms and his fraudulent acquisition and use of a false passport and other
13 identification documents. Here, on the other hand, the defendant’s elimination of Maria Bozi was
14 an integral part of his scheme. Maria Bozi had prudently maintained her bank account, credit cards,
15 automobile and mobile home exclusively in her own name. Defendant could not access and plunder
16 Maria Bozi’s accounts or convert her property to his own purposes while she was alive, let alone
17 pursue the idyllic life with Patricia Molano that he imagined his newly acquired wealth would
18 purchase.

19 Although one might like to imagine that Maria Bozi somehow escaped from the defendant’s
20 plot, such wistful sentiment cannot be reconciled with the hard facts. Defendant’s divergent lies to
21 Michael Novin, neighbors and Park Service Rangers, and FBI agents regarding Maria Bozi’s

22
23 ² The defendant and his counsel are well aware of the scope of his earlier conviction and
24 sentence. Indeed, the defendant’s own writings have suggested that he decided to quickly
25 plead guilty in that case before the government’s investigation of his financial crimes was
26 complete because he mistakenly believed that his guilty plea would shelter him from further
charges. Further, the Probation Officer noted in that case that the defendant refused to
discuss multiple issues that “supposedly could be part of the ‘ongoing’ investigation” and
his reticence should be excused. Presentence Investigation Report, ¶ 135.

1 whereabouts; defendant's possession of Maria Bozi's passport, insurance cards, and personal records;
2 defendant's possession of Maria Bozi's credit cards and debit cards; defendant's efforts to claim
3 Maria Bozi's mobile home and automobile for himself; defendant's efforts to sell Maria Bozi's
4 clothing, shoes and personal effects; defendant's plundering Maria Bozi's bank accounts; defendant's
5 marriage to Patricia Molano; defendant's letters to Patricia Molano; and all of the other facts and
6 circumstances of this case. Indeed, defendant declines to even meaningfully address the matter, but
7 instead attempts to sidestep the matter through specious claims of double jeopardy and collateral
8 estoppel. Once more, the preponderance of the evidence—indeed, all of the evidence—leaves no room
9 for reasonable doubt as to Ms. Bozi's fate. Maria Bozi did not simply disappear leaving all of her
10 worldly possessions behind. The circumstances and facts of this case lead to the inescapable
11 conclusion that the defendant lured Maria Bozi to Nevada where he killed her for her modest wealth.

12 Contrary to the defendant's representations to this Court, Maria Bozi's disappearance and
13 defendant's taking of her money and property was not considered by Judge Dawson and was not a
14 factor in the sentence that he imposed upon the defendant in CR-00-050-KJD. While the facts of the
15 earlier case are intertwined with those of the present case—hardly a surprise since both deal with the
16 same defendant—defendant's prior sentence was based on his possession of firearms as a convicted
17 felon and his acquisition and use of a fraudulent passport and identification documents. That sentence
18 was neither based on nor influenced by his financial offenses and evident murder of Maria Bozi.
19 Although the defendant has included a lengthy excerpt from the Presentence Report in his earlier case
20 to highlight the common facts, this narrative does not address the access device fraud, bank fraud, and
21 money laundering offenses at issue here; except for a passing reference to Michael Novin's report that
22 Citibank was seeking to contact Maria Bozi regarding suspicious activity in her account, the
23 Presentence Investigation Report does not discuss the offenses of conviction in this case. Indeed, the
24 concluding paragraph of the narrative (which defendant has inexplicably omitted from his lengthy
25 recitation) reads:

1 For the purposes of brevity, the majority of the offense conduct was
2 primarily narrowed down to the charges of conviction. However, it is
3 noteworthy to mention that agents discovered multiple financial
4 transactions, by Fitch, on Maria Bozi's account. Bozi's disappearance
and the circumstances concerning her disappearance are still unknown.
According to the agents of the Federal Bureau of Investigation, *there*
is an ongoing investigation in this matter.

5 Presentence Investigation Report, ¶ 59 (CR-00-050-KJD) (emphasis added). Thus, rather than
6 assessing any enhancements or adjustments based upon Maria Bozi's disappearance and defendant's
7 financial crimes, the Presentence Investigation Report expressly noted that the investigation into those
8 matters was ongoing at that time.

9 This assessment of the defendant's relevant conduct was also reflected in the Sentencing
10 Guideline calculations recommended by Probation and adopted by Judge Dawson in the earlier case.
11 The Presentence Investigation Report and the transcript of the sentencing hearing show that the
12 sentence in that case was based wholly upon defendant's offenses related to his possession of multiple
13 firearms as a convicted felon. While defendant's offenses related to his fraudulent acquisition of a
14 passport and fraudulent identification document offenses were assessed an Adjusted Offense Level
15 of 8, they were almost³ entirely eclipsed by his firearms offenses. As a convicted felon, defendant's
16 possession of firearms was assessed a Base Offense Level of 20. Enhancements were added because
17 the defendant possessed five firearms, and because the firearms were stolen (from Kenneth
18 Deatherage) bringing the defendant's Adjusted Offense Level to 24. Defendant additionally was
19 denied any reduction for Acceptance of Responsibility, but was instead assessed an additional two-
20 level upward adjustment for Obstruction of Justice based on his plot to escape from jail. *See*
21 *Sentencing Hearing Transcript of November 14, 2000 (CR-00-050-KJD).*

22
23 ³ The Probation Officer recommended a sentence at the upper end of the Sentencing Guidelines
24 range with the explanation that: "Counts One through Six had no effect upon the total
25 offense level due to the grouping rules. In other words, there was no incremental
26 punishment for his criminal conduct in those counts. A high-end custody sentence would
capture the extensive conduct displayed in those six counts." Presentence Investigation
Report, ¶ 136.

1 *Sentencing Memorandum* (filed in July 2007), defendant's financial crimes were the culmination of
2 a truly reprehensible scheme. The evidence at trial and the defendant's own tell-tale letters to Patricia
3 Molano expose a premeditated crime of extraordinary cruelty. The Court is by this time undoubtedly
4 familiar with the salient facts that expose a reprehensible scheme in which the defendant—despite
5 an ongoing relationship with Patricia Molano—courted and married Maria Bozi in England in the
6 spring of 1999. Although not a wealthy woman, Maria Bozi—previously divorced and middle-
7 aged—had accumulated life-saving of approximately \$120,000. After marrying Maria Bozi, she
8 moved to the United States and joined him in Nevada. Once the defendant had isolated Maria Bozi
9 from her friends and family and all but an occasional neighbor, the defendant rid himself of her while
10 offering divergent accounts for her disappearance to Michael Novin, the Park Service Rangers,
11 neighbors, and agents of the FBI. Defendant thereafter took Maria Bozi's money, property and
12 personal effects for himself, intent on constructing a new life for himself and his next bride, Ms.
13 Molano, from the remains of Maria Bozi's life. Irrespective of defendant's objections and arguments
14 regarding the Sentencing Guideline calculations, under these circumstances justice and the purposes
15 of punishment delineated in 18 U.S.C. § 3553 call for a sentence at the upper end of the statutorily
16 authorized sentencing range.

17 RESPECTFULLY SUBMITTED this 19th day of October 2007.

18
19 Steven W. Myhre,
20 United States Attorney

21
22 /s/
23 Timothy S. Vasquez
24 Assistant United States Attorney
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