

1 BENJAMIN B. WAGNER
United States Attorney
2 LEE S. BICKLEY
HEIKO P. COPPOLA
3 Assistant United States Attorneys
501 I Street, Suite 10-100
4 Sacramento, CA 95814
Telephone: (916) 554-2724
5 Facsimile: (916) 554-2900
6 Attorneys for Plaintiff
United States of America
7

8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 PYOTR BONDARUK,
15 Defendant.
16

CASE NO. 2:11-CR-0450 TLN
UNITED STATES' SENTENCING
MEMORANDUM-PYOTR BONDARUK
Date: October 22, 2015
Time: 9:30 a.m.
Court: Honorable Troy L. Nunley

17 The defendant was previously convicted of negligent driving, reckless driving, sex penetration
18 with a foreign object-victim unaware, grand theft, burglary, and trespass. His criminal history is scored
19 at level IV. In this case, the jury convicted defendant Pyotr Bondaruk of conspiracy to commit mail
20 fraud, making false statements to a financial institution, and money laundering. Pyotr Bondaruk played
21 an important role in this crime. For each and every loan in this conspiracy, Bondaruk was the straw-
22 buyer. He allowed his credit and name to be used to get fraudulent loan after fraudulent loan. He signed
23 fraudulent loan after fraudulent loan application. He signed fraudulent deed of trust after fraudulent
24 deed of trust. He signed fraudulent occupancy agreement after fraudulent occupancy agreement. He
25 also signed fake rental verifications that falsely represented that he was paying Olga Palamarchuk rent
26 and described him, Palamarchuk's live-in boyfriend, as "good tenants" and "good people." He
27 deposited money into his bank account so that Palamarchuk could submit a verification of deposit to
28

1 lenders. He lied to one lender by verbally verifying his employment. He went with Olga Palamarchuk
2 to look at Megan Ann Way. He was the person renting out the homes and getting rental income after he
3 said he would live in the homes.

4 The defendant was also the one who walked into Bank of America and took out the HELOC. He
5 told Bank of America very similar lies to those that were told to the other lenders. He lied about his
6 income, employment, and intent to occupy. He also lied about what he would do with the proceeds
7 saying it would be home improvement. Once he got the fraudulent proceeds, he laundered those funds
8 using at least \$21,000 of them to pay an auto wholesaler and purchasing a \$70,000 cashier's check to
9 Washington Mutual, which was untraceable. He did all this for greed. He received over \$100,000 for
10 his efforts.

11 When federal agents started investigating, the defendant lied. He originally told agents that his
12 plan for Hyde Park Circle was to live there but that Megan Ann Way was an investment. He then
13 changed that story and said he planned to live in Megan Ann Way as well. He also said Palamarchuk
14 wasn't involved in the transactions.

15 This defendant has never once accepted responsibility for his conduct. He blames the banks. He
16 blames Palamarchuk. He is not sorry. He doesn't want to change. Pyotr Bondaruk deserves a sentence
17 of 71 months for his fraud.

18 **I. THE PROBATION OFFICER CORRECTLY CALCULATED THE GUIDELINES.**

19 As discussed in the United States' Responses and Objections to Defendant Pyotr Bondaruk's
20 Formal Objections to Probation Report, the probation officer correctly calculated the Guidelines at a
21 total offense level of 21, criminal history category IV, with a Guidelines range of 57-71 months. The
22 loss attributable to the defendant was \$492,500. This defendant deserves a Guidelines sentence of 71
23 months as recommended by the probation officer.

24 **II. NO 18 U.S.C. § 3553(A) FACTORS JUSTIFY A VARIANCE DOWNWARD.**

25 There are no 18 U.S.C. § 3553(A) factors that would justify this Court varying downward for
26 this defendant. The defendant engaged in criminal activity again and again and again over time. On
27 loan application after loan application document after document the defendant lied in order to get
28

1 money. The mortgage crisis decimated the national economy and especially the Sacramento region. It
2 impacted individuals 401k's and wreaked havoc in neighborhoods where houses remained vacant.
3 Without individuals like Pyotr Bondaruk, who were willing to take advantage of a system that was based
4 to a significant degree on trust and honesty, this could not have happened.

5 In this case and others, there has been a strong current of argument seeking to blame lenders and
6 "the system" for the types of crimes committed by people like Pyotr Bondaruk. Bondaruk was willing
7 to lie, cheat, and conceal his fraud. He did this for money. It would have been no great defense or
8 moral justification to the defendant's burglary and theft convictions that the door wasn't locked well
9 enough or that the purse was left unattended. These types of arguments should carry no greater weight
10 here. The nature and circumstances of the offense and the need for the sentence to reflect the
11 seriousness of the offense and to provide a just punishment for the offense support a Guidelines
12 sentence. 18 U.S.C. § 3553(a)(1) & (a)(2)(A).

13 The defendant repeatedly lied to numerous lending institutions to get money. The defendant lied to
14 the FBI. The defendant never accepted responsibility. A significant sentence of imprisonment is required to
15 deter similar fraud and attempts to cover up criminal conduct. To afford adequate deterrence to criminal
16 conduct and promote respect for the law, a sentence of 71 months is warranted. 18 U.S.C. § 3553(a)(2)(A) &
17 (B).

18 The history and characteristics of the defendant also do not justify a variance from the
19 Guidelines range. 18 U.S.C. § 3553(a)(1). The defendant hasn't had a job for about fifteen years. He
20 lives with his parents. In addition, the defendant's conduct was not an aberration. The defendant has a
21 list of crimes he perpetrated and he has never learned and stopped his criminal conduct. When he talked
22 to the probation officer, he even tried to diminish his conduct concerning his rape of an asleep woman at
23 a neighboring campsite. The defendant will commit crime again. The public needs to be protected from
24 his further crimes. 18 U.S.C. § 3553(a)(2)(C).

25 In looking at disparities, a court should only consider "disparities among defendants with similar
26 records who have been found guilty of similar conduct." 18 U.S.C. § 3553(a)(6). A court must look to
27 others who have similar records, a thing that will be difficult in Pyotr Bondaruk's case as there are not
28

1 that many people with Bondaruk's criminal history. A court also should not consider individuals who
2 have cooperated in this case or have not been charged. United States v. Scott, 631 F.3d 401, 405 (7th
3 Cir. 2011) (noting "there can be no disparity between the defendant's sentence and the coconspirator's
4 sentence when the latter does not even exist" and holding it was inappropriate for court to consider co-
5 conspirator's lack of conviction under § 3553(a) factors generally as such would call into question the
6 separation of powers and hinder the exercise of prosecutorial discretion); United States v. Carter, 560
7 F.3d 1107, 1121 (9th Cir. 2009) (defendants who cooperate are not similarly situated), and United States
8 v. Monroe, 943 F.2d 1007, 1017 (9th Cir. 1991) (defendant who went to trial was not similarly situated
9 with defendant who had participated in same conduct but had a plea agreement to lesser charges).

10 The United States asks this Court to think of the defendant's conduct, to think about how he
11 profited from the scheme, and to think of his lack of acceptance of responsibility. Crime should not pay.
12 The United States respectfully asks this Court to follow the probation officer's recommendation and
13 impose a high-end Guidelines sentence of 71 months.

14 Dated: October 15, 2015

Respectfully submitted,

BENJAMIN B. WAGNER
United States Attorney

17
18 /s/ Lee S. Bickley
LEE S. BICKLEY
HEIKO P. COPPOLA
Assistant United States Attorneys