



**U.S. Department of Justice**

*United States Attorney  
Southern District of New York*

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New York, New York 10007*

February 8, 2024

**BY ECF**

The Honorable Paul G. Gardephe  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, New York 10007

**Re: *United States v. Robert Wisnicki, 22 Cr. 20 (PGG)***

Dear Judge Gardephe:

The above-referenced defendant, Robert Wisnicki, (“Wisnicki” or the “defendant”), is scheduled to be sentenced on February 15, 2024 at 2 p.m. in Courtroom 705, following his guilty plea to one count of conspiracy to commit money laundering and one count of conspiracy to commit wire fraud, each in violation of Title 18, United States Code, Section 371. The Government respectfully submits this letter in advance of sentencing. The parties’ plea agreement calculated the defendant’s United States Sentencing Guidelines (“Guidelines”) range as 63 to 78 months’ imprisonment (the “Stipulated Guidelines Range”). The Probation Department calculated the defendant’s guidelines imprisonment range as 87 to 108 months’ imprisonment, based on additional victim information not known to the parties at the time of the plea agreement (the “Probation Guidelines Range”). While the Probation Guidelines Range is based on information acquired after the time of the defendant’s plea, the Government respectfully submits that a sentence within the Stipulated Guidelines Range of 63 to 78 months’ imprisonment would be sufficient but not greater than necessary to serve the legitimate purposes of sentencing.

**A. Offense Conduct**

**1. The Money Laundering, Obstruction, and Perjury Schemes**

The Presentence Report (“PSR”) sets for the relevant facts. From at least 2014 up to and including 2021, Alexander Gulkarov, Roman Israilov, Peter Khaimov, and others were members and associates of a criminal enterprise (the “Gulkarov Organization” or the “Organization”) that exploited insurance programs designed to protect motor vehicle accident victims (the “No-Fault Scheme”).

As part of the No-Fault Scheme, the Gulkarov Organization fraudulently owned and controlled more than a dozen medical professional corporations, including medical, acupuncture, and chiropractic practices, by paying licensed medical professionals to use their licenses to

incorporate the professional corporations (collectively, the “No-Fault Clinics” or the “Clinics”). The Gulkarov Organization defrauded automobile insurance companies by billing insurance companies for unnecessary and excessive medical treatments and lying under oath to insurance company representatives.

The Gulkarov Organization further promoted the scheme through bribery. The Gulkarov Organization paid hundreds of thousands of dollars to co-conspirators (the “Runners”), who used this money to bribe 911 operators, hospital employees, and others (collectively, the “lead sources”) for confidential motor vehicle accident victim information. The Runners then used this information to contact automobile accident victims, lie to them, and induce them to seek medical treatment at, among other places, the No-Fault Clinics.

The Gulkarov Organization laundered the proceeds of the No-Fault Scheme to conceal the operation. The Clinic Controllers could not transfer the proceeds of the No-Fault Scheme directly from the No-Fault Clinics’ bank accounts to their personal accounts because insurance companies typically required the No-Fault Physicians to turn over several months of bank statements during Examinations Under Oath, and direct transfers would have exposed the Clinic Controllers’ illegal involvement. Instead, the Clinic Controllers caused the No-Fault Physicians to conduct several different types of financial transactions designed to maintain, promote, and conceal the illegal operation.

Wisnicki was the founding attorney of the New York-based law firms Wisnicki and Associates LLP and Wisnicki Neuhauser LLP (collectively, the “Wisnicki Firms”). In or about 2016 and 2017, an unindicted co-conspirator (“CC-1”), using checks, transferred monies from the No-Fault Clinics, as defined in the Indictment, to the Wisnicki Firms. Wisnicki deposited the checks into one of his Interest Only Lawyers Accounts (“IOLA”) accounts.

In or about April 2021, the Wisnicki Firms were served with a subpoena from a grand jury sitting in the Southern District of New York (the “Subpoena”). Among other things, the Subpoena required the Wisnicki Firms to produce documentation concerning certain checks related to the No-Fault Scheme (the “Checks”). Wisnicki then communicated with CC-1 and learned that the proceeds of the Checks were the proceeds of some form of unlawful activity.

Wisnicki, CC-1, and a second unindicted co-conspirator (“CC-2”) agreed to respond to the Subpoena by submitting fabricated documents to the grand jury, lying in communications with the United States Attorney’s Office for the Southern District of New York, and committing perjury before the grand jury.

Wisnicki, CC-1, and CC-2 further agreed to launder the proceeds of the Checks. At the direction of CC-1, Wisnicki wrote checks, drawn on his IOLA account, purporting to return the monies that had been previously paid to his firm. The checks were made payable to physicians who purported to be owners of the No-Fault Clinics and to family members of the Clinic Controllers (together, the “Payees”). Wisnicki wrote the checks under the false pretense that the Payees were clients of the Wisnicki Firms who had previously paid monies to the Wisnicki Firms for legal services. Wisnicki and others agreed that the checks to the Payees would be deposited,

and the monies would then be withdrawn and returned to the Wisnicki Firms. Wisnicki delivered the checks to CC-1 for this purpose.

Thereafter, on or about April 19, 2021, Wisnicki responded to the Subpoena by producing over a dozen fabricated retainer agreements. The same day, Wisnicki falsely stated to the United States Attorney's Office that the funds paid to the Wisnicki Firms "were originally supposed to be used for a [sic] retainer fees, which is why the agreements were originally prepared," but that the clients ultimately "instead asked us to hold the funds to be used for future investments." Wisnicki further represented that the Wisnicki Firms decided to return the retainer fees after receiving the Subpoena.

On or about July 6, 2021, Wisnicki was called to appear before the grand jury as custodian of records for the Wisnicki Firms. Wisnicki falsely testified to the grand jury, among other things, that payments to the Wisnicki Firms had been made for the purpose of opening a "lending platform" that was never completed, and that Wisnicki had not spoken to anyone outside of the Wisnicki Firms about the Subpoena.

## **2. The Ponzi Scheme**

In approximately 2007, Wisnicki engaged in a transaction that resulted in a loss to a client ("Client-1"), whose money Wisnicki held in the Wisnicki Firm's IOLA accounts. Wisnicki improperly transferred money from other clients' IOLA accounts, without telling those other clients, to repay Client-1.

Around the same time, Wisnicki began a real estate investment business using the Wisnicki Firms. Existing clients of the Wisnicki Firms ("Investor Clients") asked Wisnicki to identify potential real estate investment opportunities for them. The Investor Clients then either transferred monies to Wisnicki or asked him to retain their monies that were already held in the Wisnicki Firm's IOLA accounts. Wisnicki then identified real estate investment opportunities for the Investor Clients and the Wisnicki Firms represented the Investor Clients in the resulting investment transactions.

The Investor Clients began suffering losses in the investments that Wisnicki had arranged. Rather than notify the Investor Clients of their losses, Wisnicki used monies from Wisnicki Firms' clients who did not participate in the real estate investments, which were held in trust in the firms' IOLA accounts, and transferred those monies to the Investor Clients to mask their losses. Wisnicki represented to these other clients that their monies were still held in the Wisnicki Firm's IOLA accounts when, in fact, he had transferred those monies to his Investor Clients.

Wisnicki also used monies from new Investor Clients to cover up losses suffered by prior Investor Clients. Wisnicki told the new Investor Clients that their monies would be invested in real estate when in fact he used those monies to repay his prior Investor Clients.

Wisnicki continued the above-described fraud through at least in or about 2022. Wisnicki owes approximately \$18.8 million to certain Investor Clients, which includes approximately \$6.3

million to members of his family and approximately \$12.5 million to non-family members. He is also owed approximately \$6.7 million by various former clients.

### **3. The Proffer Session**

After the defendant was charged in Indictment 22 Cr. 20, the defendant voluntarily agreed to participate in a proffer with the Office on or about May 11, 2022, in an effort to obtain a cooperation agreement (the “Proffer”).

During the Proffer, the defendant truthfully admitted to his participation in the money laundering offense charged in Count One, for which he had already been charged. The defendant also truthfully admitted to his participation in the wire fraud offense charged in Count Two, for which he had not been charged and of which the Government had not previously been aware.

After the Proffer, multiple victims of the wire fraud offense charged in Count Two contacted the Government on their own accord to report the offense conduct to the Government.

The Government, in its discretion, did not offer a cooperation agreement to the defendant.

### **4. Victim Impact**

The PSR sets forth victim impact statements from approximately 9 victims. The first victim (“Victim-1”) stated the defendant ruined the victim’s family’s life. Victim-1 explained that their primary residence was sold for \$975,000 in August 2021, and the defendant was to hold the money and return it when Victim-1 was ready to use the money in January 2022 to purchase a residence in Florida as an investment property to rent. Victim-1 related that he thought the defendant was his friend and he “trusted him so much.” Victim-1 stated that he was very disappointed and devastated and cannot understand how the defendant did this to him. Victim-1 advised that he was able to retrieve \$400,000 from the attorney fund approximately one month ago, but for one and half years, Victim-1 felt that nothing was going to happen, and he had lost a million dollars “just like that.” Victim-1 continues to feel as though he is in a “frozen” position because his whole life stopped, as his plans to invest the money from the sale of his home were taken away from him when the defendant did not return his money. Victim-1 is now unemployed and is the caretaker of his children, as he cannot afford to pay a nurse.

A second victim impact statement was provided via telephone to Probation by another victim (“Victim-2”), who stated that the defendant was provided \$165,000 to invest, which was a portion of Victim-2’s inheritance from when his father passed away. Victim-2 explained that his childhood home was sold in April 2022, and he was given proceeds from that sale. Thereafter, in May 2022, Victim-2 attempted to obtain that money to place a \$90,000 downpayment to purchase a home, at which time the defendant was unable to return the money, and Victim-2 was unable to purchase the home. Victim-2 also related that he and his wife are expecting more children, and they were planning on purchasing a minivan, which they have been unable to do as a result of the loss of funds to the defendant. Victim-2 advised that in May 2022, the defendant gave him \$1,000, and has never returned the remaining \$164,000. Victim-2 stated that he and his family are having a hard time as they are struggling financially. Victim-2 further stated that his brother is getting

married overseas in 2024, and he is uncertain if he will have the funds to attend the wedding. Additionally, his son suffers from various conditions, and his treatments are financially “cutting deep.” Victim-2 also advised that he cannot afford to go on vacation. Victim-2 stated that the extra money would help a lot. Victim-2 is in the poverty income bracket receiving Medicaid and food stamps, and the family expenses exceed their income.

A third victim impact statement was provided via email to Probation by an additional victim (“Victim-3”) who stated that in December of 2017, he invested \$98,000 with the defendant to be held in escrow, and he would like to claim that money from him. Victim-3 related that he is a student with a family, and this money is the bulk of his life savings. He is desperate to receive it all back, as he is deeply dependent on that money for his future. He related that he cannot really make any significant financial advances in life without it, and he is greatly affected by that.

A fourth victim statement was provided via email to Probation by an additional victim (“Victim-4”) lost \$35,013.56 as a result of the defendant’s conduct. Those funds were meant for the defendant to pay the New York State Department of Taxation taxes that were due as a result of a property sale, and the defendant never submitted the funds to New York State Department of Taxation and Victim-4 is left with interest, fines, and penalties as a result.

In addition, an attorney representing several victims provided information via email to Probation regarding the details of his clients’ losses. One client (“Victim-5”) suffered a loss of \$260,000 and now has no source of income and a second client (“Victim-6”) suffered a loss of \$100,000 and now has no source of income. The attorney related that an additional four victims (Victim-2 and “Victims 7-9”), who he described as poor or middle class, lost their inheritance which was obtained following their father’s death. Victim-7 who suffered a loss of \$125,000 is employed along with her significant other and the two have five children. Another one of those victims (Victim-8) who suffered a loss of \$250,000 resides in a small two-bedroom apartment overseas with her husband and five children and the money was meant to be used to buy an apartment to live in. This individual is unemployed, and her husband’s salary does not meet their basic living expenses. Another one of those victims (Victim-2) is in the poverty income bracket receiving Medicaid and food stamps, and the family expenses exceed their income. The last of those victims (Victim-9) suffered an inheritance loss of \$10,000, which was to be set aside for their child.

Based on the information set forth in the PSR, voluntary disclosures by defense counsel, and communications with attorneys for the victims, the Government estimates that Wisnicki defrauded approximately 46 victims of \$18.8 million.<sup>1</sup>

## **B. The Guidelines**

The parties’ plea agreement calculated the Guidelines range as 63 to 78 months’ imprisonment (the “Stipulated Guidelines Range”). Probation calculates the Guidelines range as 87 to 108 months’ imprisonment (the “Probation Guidelines Range”). Probation’s calculation is

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<sup>1</sup> The Government notes that defense counsel voluntarily provided to the Government an estimated list victims for the purposes of preparing restitution materials.

higher because, for Count Two (Conspiracy to Commit Wire Fraud), Probation applied a four-point enhancement under U.S.S.G. § 2B1.1(b)(2)(B) because the offense resulted in substantial financial hardship to five or more victims, specifically at least five victims suffered substantial loss of a retirement, education, or other savings or investment fund. The parties did not include this enhancement in the plea agreement because the Government did not know at the time it entered into the agreement whether the offense resulted in substantial financial hardship to five or more victims.

Based on the information by provided by Probation, the Government agrees that a four-level enhancement under U.S.S.G. § 2B1.1(b)(2)(B) is appropriate for the purposes of calculating the correct Guidelines range. For the purposes of determining the appropriate sentence, however, the Government respectfully submits that a sentence within the Stipulated Guidelines Range of 63 to 78 months' imprisonment would be sufficient but not greater than necessary to serve the legitimate purposes of sentencing.

### **C. Discussion**

The most important sentencing factors in this case are the need to reflect the seriousness of the defendant's offense, to promote respect for the law, to provide just punishment, and to afford adequate deterrence to this defendant and other similarly situated individuals. *See* 18 U.S.C. § 3553(a)(2)(A)-(C). All of these considerations weigh in favor of a sentence of 63 to 78 months in prison.

#### **1. The Nature and Seriousness of the Offenses, Promoting Respect for the Law, and the Need to Afford Adequate Deterrence**

First, the nature and seriousness of the two separate schemes to which the defendant pleaded guilty, the requirement to promote respect for the law, and the need to afford adequate deterrence weigh in favor a sentence of 63 to 78 months' imprisonment. Wisnicki's submission goes to great lengths to explain Wisnicki's Ponzi scheme (Count Two). However, Wisnicki tellingly fails to say a word about his scheme to fabricate documents and commit perjury in the grand jury (Count One). His silence is significant.

The grand jury is the primary means by which the Government investigates and enforces criminal laws. The grand jury issues subpoenas compelling witnesses to give testimony and produce documents, and administers the oath to ensure that witnesses' testimony is true under penalty of perjury. The grand jury is the beating heart of the criminal justice system and cannot function without adherence and respect. Wisnicki nonetheless brazenly sought to subvert this process by submitting over a dozen fabricated retainer agreements to the grand jury and lying under oath for over an hour across 59 pages of transcript. This conduct is shocking. It is even more outrageous given that Wisnicki is an attorney and, thus, an officer of the court. This obstruction and perjury standing alone warrants a significant incarceratory sentence to send a clear message to the public that attempts to subvert the grand jury will result in severe punishment. Yet Wisnicki's offense conduct did not end there.

Wisnicki lied to the grand jury to conceal his role as a money launderer. The Court is aware of the harm that the charged healthcare fraud conspiracy inflicted on victims. Gulkarov, Israilov, and Khaimov illegally opened and controlled over a dozen clinics that conducted unnecessary and painful medical treatments on unsuspecting patients. Although Wisnicki did not know the details of the scheme, he ultimately learned that the money from the scheme was obtained unlawfully. He nonetheless abused his position as an attorney to launder over \$200,000 of illicit proceeds through his law firm's IOLA accounts. Even then, however, Wisnicki's offense conduct continued.

Wisnicki simultaneously orchestrated one of the most significant attorney-led Ponzi schemes to ever be charged in the Southern District of New York. Over the course of 14 years, Wisnicki defrauded approximately 46 victims of nearly \$18.8 million. Wisnicki willfully lied to victims and told them that their money would be used to identify potential real estate investment opportunities. Yet, Wisnicki simply used these victims' money to cover the losses that his law practice was accumulating.

Wisnicki abused his position as an attorney. He abused the attorney-client relationship to dupe victims to participate in his Ponzi scheme. And he abused victims by knowingly taking their savings—oftentimes their *life savings*—to further the scheme.

The victim impact statements listed in the PSR are gripping testaments to the real-life impact of Wisnicki's crime. Wisnicki submits numerous letters from victims (many of whom are family) asking for leniency. Yet these financially stable victims do not provide the full picture of Wisnicki's crime. The PSR describes the situations of the less fortunate victims—individuals who are lower and middle class and have lost their life savings. These victims describe how Wisnicki lured them in and then took hundreds of thousands of dollars from the sale of their homes. They describe how their lives were frozen by the theft, and how they struggled to pay for basic life expenses. Wisnicki's scheme was ruinous and did not discriminate between rich and poor.

To be clear, the Court can and should give Wisnicki credit for voluntarily disclosing the Ponzi scheme during his proffer with the United States Attorney's Office in May 2022. However, Wisnicki's decision to disclose the crime must be taken in context. Wisnicki had the opportunity to come clean in April 2021—when he first received the Subpoena. He instead chose to lie, perjure, and obstruct. Wisnicki chose to disclose the Ponzi scheme only after he had been indicted in January 2022 and was hoping to obtain the benefits of a cooperation agreement. Wisnicki was truthful in his proffer session with the Government. However, his outrageous conduct up to that moment made it impossible for the Government to use his information to prosecute other individuals.

Simply put, Wisnicki's crimes were not a momentary lapse in judgment. His Ponzi scheme was a coordinated plan lasting nearly 14 years. His money laundering, obstruction, and perjury scheme was a coordinated plan lasting over 4 months. A sentence within the Stipulated Guidelines Range of 63 to 78 months' imprisonment is necessary to reflect the nature and seriousness of these two schemes, promote respect for the law, and afford adequate deterrence to other attorneys who scheme to subvert the grand jury, lie under oath, launder money, and abuse the attorney-client relationship to steal from victims.

## 2. The Need to Avoid Unwarranted Sentencing Disparities

The need to avoid unwarranted sentencing disparities likewise points toward a sentence within the Stipulated Guidelines Range of 63 to 78 months' imprisonment. Wisnicki cites the Court's sentences in *United States v. Avenatti* and *United States v. Finkelstein* as examples of where the Court imposed below-Guidelines sentences for attorneys. Yet the Court is aware that there were significant, distinguishable reasons for the Court's imposition of those sentences. In *Avenatti*, the Court departed downward from a guidelines range of 108 to 135 months and imposed a sentence of 30 months' imprisonment because "Avenatti was held in horrific conditions at the MCC for more than three months[,]" and the Government failed to charge coconspirator attorney Mark Geragos, "a central figure in the criminal conduct," with any crimes. *United States v. Avenatti*, Case No. 19 Cr. 373 (PGG) (S.D.N.Y. July 8, 2021), ECF No. 341 (Hearing Transcript), at 42-44. Likewise, in *Finkelstein*, the Court departed downward from a guidelines range of 51 to 63 months' imprisonment and imposed a sentence of 48 months' imprisonment based on the defendant's advanced age (68 years old). See *United States v. Finkelstein*, Case No. 21 Cr. 217 (PGG) (S.D.N.Y. Aug. 3, 2023), ECF No. 112 (Hearing Transcript). Wisnicki, by contrast, is only 45 years' old.

Furthermore, a sentence within the Stipulated Guidelines Range of 63 to 78 months' imprisonment is consistent with the Judiciary Sentencing Information ("JSIN") data. The PSR notes that during the last five fiscal years, there were 124 defendants whose primary guideline was §2B1.1, with a Final Offense Level of 29 and a Criminal History Category of I, after excluding defendants who received a §5K1.1 substantial assistance departure. For the 122 defendants (98%) who received a sentence of imprisonment in whole or in part, the average length of imprisonment imposed was 65 month(s) and the median length of imprisonment imposed was 63 month(s). Moreover, although it is not possible to tell from the data, it is highly unlikely that these 122 defendants had the significant enhancements relevant here—namely, obstruction of justice and abuse of a position of special trust. Thus, these 122 defendants are likely guilty of conduct less culpable than that of Wisnicki.

## 3. Wisnicki's Individual Characteristics

Lastly, Wisnicki's individual characteristics do not support a below-Guidelines sentence. Wisnicki undoubtedly has the support of many in his community and family, as evidenced by the letters attached to his sentencing submission. Yet this strong support network makes his conduct even more inexplicable. Wisnicki has always had the resources to live a law-abiding life. He nonetheless chose not to do so. He chose to lure victims into his Ponzi scheme, commit money laundering, fabricate documents, and commit perjury in the grand jury. These are knowing and willful choices that were not made under duress. Wisnicki must now be held accountable for those choices.

## D. Conclusion

In sum, a sentence of 63 to 78 months' imprisonment reflects the seriousness of this criminal conduct and the need to impose a significant cost on the defendant for engaging in two

schemes to lie, obstruct, perjure, launder, and defraud. Accordingly, the Government respectfully submits that a sentence of 63 to 78 months' imprisonment is appropriate in this case.

Very truly yours,

DAMIAN WILLIAMS  
United States Attorney

by: \_\_\_\_\_/s/\_\_\_\_\_  
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