

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA

v.

MICHAEL SHILLIN,

Case No.: 21-cr-112-jdp

Defendant.

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UNITED STATES' SENTENCING MEMORANDUM

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The United States recommends that this Court sentence Michael Shillin to 72 months of imprisonment. This sentence is warranted because the Federal Sentencing Guidelines (Guidelines) do not adequately capture the severity of the offense. Additionally, the aggravated nature of the offense – including its profound impact on the victims and the lengthy duration of the fraud – supports a 72-month sentence. Further, Shillin's history and characteristics, such as his utter disregard for the rules of pretrial release and his long history of dishonesty even with his own family, also justify a 72-month sentence.

**The correctly calculated Guideline range of 41-51 months does not adequately reflect the seriousness of the offense.**

Shillin's scheme to defraud victimized many people and caused them serious financial and emotional harm. (Revised PSR ¶¶ 23-164). Since Shillin did not directly steal money from his clients – instead he lied to them and caused monetary damage to them indirectly – the severity of his scheme is not captured by the Guidelines. For

example, the total loss for the wire fraud scheme under the Guidelines, which only includes money Shillin stole, is just \$126,313.77. The amount of financial harm caused by the wire fraud scheme, however, is much more and includes: money the victims lost indirectly through tax penalties, money spent to uncover the fraud, lost investment opportunities, spending money based on the false impression they had significant retirement savings (*e.g.*, SpaceX stock), and having to pay more for insurance once they realized they did not have the insurance policy they thought they did. U.S.S.G. § 5K2.5 states:

If the offense caused property damage or loss not taken into account within the guidelines, the court may increase the sentence above the authorized guideline range. The extent of the increase ordinarily should depend on the extent to which the harm was intended or knowingly risked and on the extent to which the harm to property is more serious than other harm caused or risked by the conduct relevant to the offense of conviction.

Here, the indirect harm was intended (*e.g.*, Shillin advised clients to purchase items beyond their means as a way of covering up his fraud) or knowingly risked, so this Policy Statement supports an above-guidelines sentence.

A related example of how the Guidelines fail to capture the impact of this scheme is through its definitions of victims – which limits victims to people who sustained a direct financial loss or had their identity stolen. (Revised PSR ¶ 186). Accordingly, Shillin does not face an enhancement for his scheme having 10 or more victims even though significantly more than 10 people were harmed financially by the scheme. U.S.S.G. §2B2.1(b)(2)(A)(i). Relatedly, a potential enhancement for the offense

resulting in a substantial financial hardship for five or more victims does not apply because of the Guidelines' definition of the term victims. U.S.S.G. §2B1.1(b)(2)(B).

### **The Nature and Circumstances of the Offense**

The nature and circumstances of Shillin's offense are aggravated and support a 72-month sentence. First and foremost, Shillin's crimes have had a tremendous impact on his victims. Even the approximately 25 Victim Impact Statements (VIS) are a small sample of the overall impact of his scheme. Aside from their financial impact, these crimes caused an enormous emotional impact on the victims and their families. As is typical, many of the victims feel shame and embarrassment for being scammed (VIS of ██████████, "It shakes your faith in other people, it makes you question your judgment and kick yourself for letting him take advantage."). Because of Shillin's fraud, the victims now constantly worry about their finances. (VIS of ██████████ ██████████, "We continually worry daily that we will not have enough to live on for the rest of our lives."); (VIS of ██████████, "She keeps asking how long she can stay at the assisted living and is still worried daily. She is ██████ years old, and the constant worry has taken a toll on her."). These crimes have caused the victims to lose trust in people especially related to finances. (VIS of ██████████, "I will no longer trust anyone, especially with my finances."). They also put strain on marriages. (VIS of ██████████, "I shed a lot of tears, and we argue frequently over money."). Shillin's lies and deceit have caused many people an incredible amount of emotional suffering.

The victims also feel betrayed by Shillin. (See e.g., VIS of [REDACTED] [REDACTED] “How do you put a price tag on feelings of betrayal and embarrassment of having been blind-sided?”). Shillin told his clients that he had a fiduciary to look out for their best interests, but then defrauded and lied to them. (See e.g., VIS of [REDACTED] “He claimed to be a fiduciary and required to act in our best interests.”; VIS of [REDACTED] quoting Shillin “I have a fiduciary relationship with you where I look out for your best interests . . . .”). Shillin’s claim that he was a fiduciary is repeated over and over by the victims. They really believed it, and he betrayed them.

As mentioned above, even though there is not a lot of direct loss as measured by the Guidelines, the victims suffered significant collateral monetary damage. Many of the victims faced unexpected tax penalties and obligations. (Revised PSR ¶ 68)(“[REDACTED] faced large tax penalties due to the fraudulent 1099 he submitted.”). They also had to spend money on lawyers and accounts (or their own time) to figure out the extent to which they had been defrauded. (VIS of [REDACTED] and [REDACTED] [REDACTED], “We have personally paid specialized attorneys (\$450 an hour); spent dollars on forensic accountants and experts (\$400 an hour); and spent many personal hours to understand an honest assessment of damages . . . .”). Many of the victims spent money based on Shillin telling them they had assets they actually did not. (Revised PSR ¶ 151 “As a result of the information from the defendant, they purchased a \$1.5 million dollar lake home in 2020.”). This has caused the victims to be in a much worse financial situation than they would have been if not for Shillin.

The financial losses also caused collateral consequences in the victims' lives — elderly victims who do not have as much money as they thought have to consider going back to work or downsizing homes. (VIS of ██████████ "My wife is disabled and now I'm looking at the possibility of being forced back into the workforce at age ██████."); VIS of ██████████ "We are now also considering putting our house on the market and downsizing to a smaller home to control costs. We are also selling off items for extra cash on hand.") The stories relating to insurance are particularly heartbreaking. Numerous of Shillin's elderly clients were counting on having long-term care insurance only to discover that they did not. (*See e.g.*, Revised PSR ¶¶ 26, 34, 40, 45, and 98) Sometimes, those individuals were no longer eligible for insurance because of age or a tragic diagnosis (Revised PSR ¶ 34)(describing the ██████ learning that their long-term had lapsed, and "Their situation was worsened because ██████ had recently been diagnosed with cancer and would no longer qualify for an insurance policy.")(VIS of ██████████, "We felt the impact of losing ██████'s more robust John Hancock policy even more acutely when, in June 2021 he was diagnosed with Parkinson's Disease.").

Shillin's wire fraud scheme is aggravated because it involved many lies for numerous years. For example, he lied to many of his clients by telling them that they had hundreds of thousands of dollars in pre-Initial Public Offering (IPO) stock in prestigious companies such as SpaceX. He then lied to them about how they could afford to spend money. Text message exchanges between Shillin and ██████████ illustrates the gratuitous lies that Shillin told:

October 31, 2019

**Shillin:** Want some good news?

██████: Yeah, I need it:

**Shillin:** Made you 50k today on space x stock

██████: OMG! I'm doing a happy dance! I hope this ain't a joke... ██████ thought you were gonna say Chelsea was pregnant! Lol!/You're not kidding me are you?

**Shillin:** Lol I am not

██████: Omg! Thank you! We love you! Hahahaha!/I just want to cry in so happy!

**Shillin:** It was a pretty sweet deal

June 16, 2020

**Shillin:** Are you sitting down

██████: Please tell me it's not bad news

**Shillin:** Space x priced at 811/You and ken made 611,000

██████: Oh my God! Are you serious???

**Shillin:** 110% serious

██████: Oh my God! I love you! (Tell Chelsea in financial way! Lol!) Lock it away! Hahahaha! I'm almost crying right now!

**Shillin:** Lol/It's pretty awesome.

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**Shillin:** It's definitely worth what I told you/So celebrate!/Don't be stressed!/It's the most in demand company in the world right now/Less than 1% of investors had access to it/Like getting Apple in the 80's

The ██████ then had a meeting with Shillin on November 9, 2020 at his office.

Shillin told the ██████ that they owned 1,400 shares of SpaceX, which was valued at \$2,500 a share totaling \$3.5 million. He told them to go enjoy their money and buy the new truck they had been discussing. The ██████ never owned any shares of SpaceX.

The follow-on lies that Shillin told to conceal his scheme were illustrated by the VIS of ██████ and ██████:

Later, believing we indeed had Space X stock, we asked Michael Shillin to purchase additional Space X stock shares as a birthday gift for our son. Our son has had an avid interest of anything space since he was a little kid.

On October 5, 2020 at 10:30 am in his office, Michael Shillin personally handed us the voluminous sheets of paper we believed as genuine Space X stock shares, titled in our son's name, for us to present as his birthday gift. It was this gift wrapped volume of papers we watched him open during our family birthday Face Time celebration. He was just delighted. So were we. Can you imagine our emotions of having to tell our son, just as we had to realize, the birthday gift stock documents produced by Michael Shillin were indeed falsely manufactured? His birthday gift was fake and bogus.

The same is true for the portion of the scheme related to long-term care policies and the bank fraud. Shillin had to lie to his clients initially about the policies (and did so beginning in 2014), but then continue to lie over time to cover up the scheme and explain away correspondence that his clients received directly from the insurance companies. (*See e.g.*, Revised PSR ¶ 34). Lastly, as his business was falling apart because of the lies he had told clients and then the lies he told them to cover up the initial lies, he lied to a bank to obtain loans in one last ditch effort to continue the fraud.<sup>1</sup> (Revised PSR ¶¶ 18-20).

Finally, the offense was aggravated because it was so inexplicable and unnecessary. Even without the referrals and additional fees he gained from the scheme, Shillin was running a successful business and had a good life. He played a prominent role in his community. For some reason, however, he just wanted more.

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<sup>1</sup> U.S.S.G. § 5K2.9 states “If the defendant committed the offense in order to facilitate or conceal the commission of another offense, the court may increase the sentence above the guide-line range to reflect the actual seriousness of the defendant’s conduct.” Here, the defendant committed bank fraud to cover up and continue his wire fraud scheme. Accordingly, this Policy Statement also supports and above-the-guideline sentence.

## History and Characteristics of the Defendant

Even after indictment, Shillin continued to demonstrate that he does not believe that rules apply to him. Shillin's conditions of release were modified to include a condition that prohibited him from traveling outside of the Western District of Wisconsin. (Revised PSR ¶ 5). He then discussed with his supervising officer whether the officer could approve a trip to Antigua, which he could not. (Revised PSR ¶ 6). Instead of asking the Court for permission to travel to the Caribbean, Shillin instead just went to St. Thomas in flagrant violation of his conditions of release. *Id.* His pretrial release was revoked after this incident. (Revised PSR ¶ 7). Shillin's behavior on pretrial release shows that even a federal indictment did not change his belief that he can do whatever he wants.

The Revised PSR makes clear that even before the crimes in this case, Shillin had a long history of dishonesty especially with his family. He engaged in a strikingly similar scheme with his younger sister as he did with his clients regarding SpaceX. His sister explained:

When she graduated eighth grade, [Shillin] told the entire family he had established an educational investment fund for her college tuition. At every subsequent Christmas and birthday, he announced what the balance of the fund was in front of the family and showed documentation as proof. When she started college, she contacted him about tuition payments, and he said he would make them. He was late on the payments, so she notified their parents. The defendant contacted her and said she made him look like a villain. He ultimately admitted there was no investment account.

(Revised PSR ¶ 213). She also noted that "the family has never been able to believe what the defendant tells them." (Revised PSR ¶ 214). Further, his brother explained

that Shillin “always tried to make himself appear more popular or successful than he was and was prone to make promises he was unable to keep.” (Revised PSR ¶ 212). In summary, Shillin’s disregard for the truth and rules before and after his crimes show that a sentence of 72 months of imprisonment is warranted.

### **Additional Sentencing Factors Under 18 U.S.C. § 3553**

Shillin’s crimes in this case caused such suffering in the lives of so many people that receiving a just punishment should be a component of the sentence he receives. *See* 18 U.S.C. § 3553(a)(2)(A). Additionally, since this is a white-collar case, a significant sentence is also appropriate to provide general deterrence to other financial advisors and white-collar criminals who may be considering whether to defraud their clients. *See United States v. Warner*, 792 F.3d 847, 860–61 (7th Cir. 2015) (explaining that general deterrence is particularly relevant in sentencing white-collar criminals because they “(presumably) act rationally, calculating and comparing the risks and the rewards before deciding whether to engage in criminal activity.”). Finally, a 72-month sentence is warranted to individually deter Shillin from committing crimes in the future. His conduct before, during, after the offense show an utter disregard for rules and the truth. The only way to stop Shillin from engaging in similar behavior in the future is to sentence him to a significant prison sentence so he will at least think twice before committing more fraud.

### **Conclusion**

For the above reasons, the United States recommends that this Court sentence the defendant to 72 months of imprisonment.

Dated this 23rd day of August 2022.

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By: /s/

ZACHARY J. COREY  
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