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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION
15

16 UNITED STATES OF AMERICA,)	CASE NO. 3:18-CR-533-RS
17 Plaintiff,)	UNITED STATES' REPLY TO SILVERMAN'S
18 v.)	SENTENCING MEMORANDUM [DKT. 275]
19 STEPHEN SILVERMAN,)	Date: March 5, 2024
20 Defendant.)	Time: 2:30 p.m.
)	Court: Hon. Richard Seeborg
)	

22
23 The government briefly responds to Defendant Stephen Silverman's Sentencing Memorandum to
24 (1) correct misleading assertions about Silverman's role by contrast to other individuals and (2) provide
25 the Court with a doctor's declaration that discusses the Bureau of Prison's capacity to care for Mr.
26 Silverman were he sentenced to custody; and (3) correct misleading assertions regarding Silverman's
27 use of the criminal proceeds he received from the conspiracy.

1 **A. Silverman’s minimization of his relative role is misleading**

2 Silverman writes, astonishingly, that “all” the wrongs Silverman admitted to were “mirrored by
3 other individuals in the conspiracy,” individuals who “conducted the same tasks Silverman did but at a
4 much larger scale.” Dkt. 275 at 13. *Id.* His purpose in making this representation is to suggest the
5 supposed peripherality of his misconduct. He even writes that he was only “one out of dozens of pawns
6 used by Ovasapyan.” *Id.* at 13. This is wrong. Beyond its memorandum—which details Silverman’s
7 indispensable role in the crime—the government writes to correct and contextualize Silverman’s 15-
8 person list of people who, he claims, “had a larger role than Silverman.” *Id.*

9 First on his list are his three co-defendants: Ovasapyan, Kojoyan, and Papyan. (In Silverman’s
10 list, #1, #5, and #6.) Kojoyan was sentenced to 33 months’ imprisonment by this Court. Ovasapyan and
11 Papyan will receive appropriate sentences later this year. The government anticipates seeking a
12 custodial sentence for both of them—just as it now does for Silverman.

13 Second, Silverman references a number of individuals whose names appear in the vast discovery
14 but who are irrelevant to Silverman’s role in this conspiracy: Hamlet Baghuman (#7),¹ Romik Kerimyan
15 (#9), Arsen Khondkaryan (#10), Karapet Akverdyan (#11), Hovik Ambartsumyan (#14), Zareh
16 Nazaran (#15). Who are these people and what, exactly, did they do? Silverman describes them as drug
17 suppliers to Ovasapyan, some in diversion schemes from years earlier (e.g., Dkt. 275 at 9 [Baghuman
18 sold to Ovasapyan “until February 2016,” Zarayan “until approximately 2015”]). The drug diversion
19 that Silverman participated in was widespread; it had many avenues in multiple districts and was hardly,
20 as Silverman suggests, a solitary conspiracy that “long pre-dated him.” Dkt. 275 at 6. The invocation of
21 these irrelevant others is meant to obscure the Court’s focus on what matters: *Silverman’s* conduct.

22 Moreover, despite a sprawling attempt at summarizing the misconduct of others, and after
23 writing that “it included far more people than the government charged,” Silverman fails to mention that
24 at least some of the people he refers to, like Loui Artin (Dkt. 275 at 10), *were* charged.² It’s just that

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26 ¹ At some point Ruben threatened Ovasapyan over a debt. Ovasapyan turned to a friend to help
him pay it off: Silverman, who knew the criminal nature of the debt.

27 ² See [https://www.justice.gov/usao-ndca/pr/judgment-entered-against-fourteen-defendants-case-](https://www.justice.gov/usao-ndca/pr/judgment-entered-against-fourteen-defendants-case-dismantling-nationwide-racketeering)
28 [dismantling-nationwide-racketeering](https://www.justice.gov/usao-ndca/pr/thirty-three-defendants-charged-massive-criminal-conspiracies-including-allegations) (March 30, 2023); [https://www.justice.gov/usao-ndca/pr/thirty-](https://www.justice.gov/usao-ndca/pr/thirty-three-defendants-charged-massive-criminal-conspiracies-including-allegations)
[three-defendants-charged-massive-criminal-conspiracies-including-allegations](https://www.justice.gov/usao-ndca/pr/thirty-three-defendants-charged-massive-criminal-conspiracies-including-allegations) (May 7, 2015).

1 they were charged in *other* cases, because they were involved in *other* conspiracies.

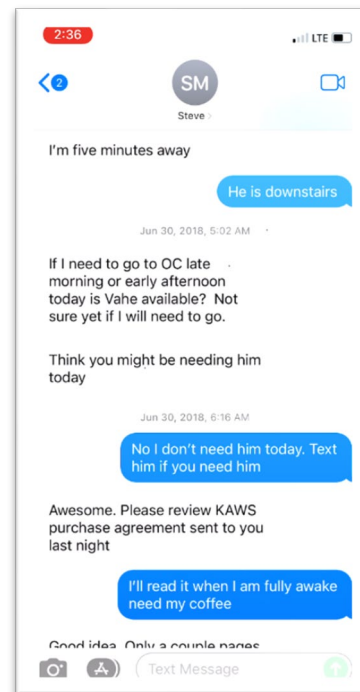
2 Third, Silverman names Sean Osorio (#12), who, as discussed in the government’s memorandum,
3 agreed to participate in the RSL phase of the scheme. He was prepared to testify at Silverman’s trial that he
4 was asked by Ovasapyan (who knew him from real-estate work) to find a pharmacist for RSL; that
5 Silverman personally helped vet two potential pharmacists, recruited by Osorio, who came to Silverman’s
6 office; that Silverman said he liked one of the pharmacists because she was “newly graduated,” like Ria
7 Philip, the pharmacist for the Mainspring operation (more below)—meaning that she was naïve and less
8 likely to detect the shadiness of the operation; that these pharmacists declined the work and so the co-
9 conspirators turned to the unqualified Ruel Gonzalez, a dispatcher and later dishwasher tapped held out on
10 paper as the “manager” of a sophisticated pharmaceutical wholesale business in a state not his own³; that he
11 paid Silverman a \$25,000 retainer; that Silverman found the warehouse space in Washington and obtained
12 RSL’s license; that Osorio would have received a 22.5% cut of profits and Silverman a 15% cut; that
13 Silverman was paid to handle the inspection in Washington; that Ovasapyan improperly received an
14 “employee” credit card from Silverman. The FBI 302 report of the interview with Osorio is attached as
15 Exhibit A (along with those of Gonzales and Hizo). What the report does not capture is that when Osorio
16 agreed to testify, he broke down in tears and expressed his remorse for agreeing to participate in a scheme
17 that, he now knows, was going to put thousands of HIV patients’ lives at risk. Osorio played a *smaller* role
18 than Silverman; he never seems to have profited from any diversion; he wasn’t a lawyer who knew better.

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27 ³ Silverman himself calls out Gonzales as “leader” of the conspiracy—one of 23 such leaders, of
28 which he was not evidently one. Dkt. 275-15. This confirms Silverman’s fantastical deflection of
blame.

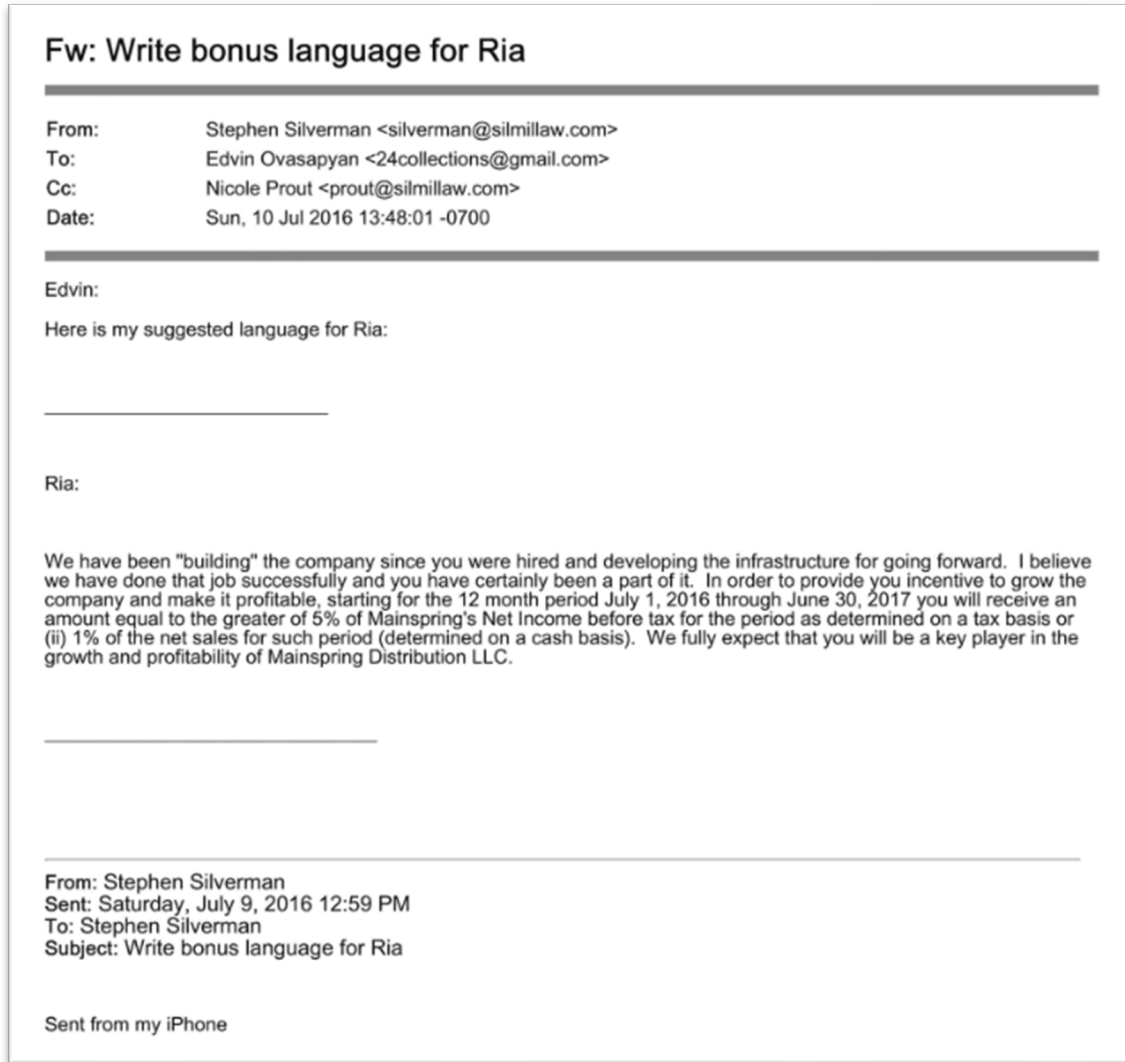
1 Fourth, Vahe Ovasapyan (#2) was Edvin’s brother. He did
2 tasks like agree to serve as the paper name for Mainspring (just as
3 Ruel Gonzalez would for RSL) and chauffeur both Ovasapyan and
4 Silverman (sample text between Ovasapyan and Silverman about
5 Vahe at right)—but did not engage in criminal conduct. Grant
6 Alward (#8) knew Ovasapyan from watch-buying and likewise was
7 unaware, unlike Silverman, of the criminal nature of the Mainspring
8 scheme.

9 Fifth, the Rozenberg brothers (#3 and #4), who Ovasapyan
10 claims taught him the basics of pharmaceutical diversion—before his
11 methods were improved under Silverman’s tutelage—pleaded guilty
12 to participation in a similar scheme, featuring some 30 defendants,
13 *nearly a decade ago. United States v. Thuna, et al.*, Case 3:12-cr-00922-FAB (D. Puerto Rico), at Dkt.
14 617, 619 (Nov. 18, 2014). What their relationship is to Silverman’s conduct is, again, left unarticulated.

15 Finally, and surely the most improper, is the repeated insinuation that Ria Philip (#13) was a sort
16 of criminal understudy to Ovasapyan, a mentee who was to carry on the crime. In fact, Ms. Philip was a
17 victim of Ovasapyan and Silverman’s duplicity. She was a young pharmacist tapped to work on scene
18 in Broomall, Pennsylvania, for Mainspring, and she believed that she was engaged in lawful work.
19 (Much like the unexperienced pharmacists who Osorio tried to recruit would have in the RSL phase.)
20 The co-conspirators kept her in the dark, by design. The casting of blame by Silverman, of all people,
21 against Ms. Philip, of all people, simply replicates his misconduct and calls into the question the
22 sincerity of the remorse he expresses. Take the July 2016 email that Silverman drafted for Edvin to send
23 to Philip (below). Silverman ghostwrites that “we” have been “building” the company and wants to give
24 her a percentage of profits because he “fully expect[s]” she will be a “key player in the growth and
25 profitability” of Mainspring. Yet Silverman, in his plea agreement, admitted that he *knew* that



1 Mainspring, from the outset, was a “front to conceal the illegal and fraudulent drug diversion.” Dkt. 266
2 at 3. Yet Silverman knowingly helped compromise her career and put her in legal jeopardy.



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In the end, what distinguishes Silverman from the “dozens” of so-called “pawns” (most of which, evidently, Silverman does not identify), or even from other charged co-conspirators, is that Silverman was the (1) only attorney; (2) experienced with corporate structure, filing, and the applicable pharmaceutical distribution law; (3) the most skillful at hiding his role and profits, and others’ criminal activities, for so many years while working with Ovasapyan. The surprising lengths that Silverman now goes to to minimize his role (“peripheral,” Dkt. 275 at 12, “minimal,” “administrative,” *id.* at 11) and, worse yet, to deflect onto innocent others that he helped defraud, like Ms. Philip, calls into question his U.S. Response to Silverman Sentencing Memorandum -- 3:18-CR-533-RS

1 acceptance of responsibility. No other person performed, as he claims, the “same” tasks that he did.
2 None of them *could*.

3 **B. Silverman’s health situation can be accommodated by the Bureau of Prisons**

4 Four pages of Silverman’s memorandum, and hundreds upon hundreds of pages of submitted
5 medical records, are devoted to his health situation. Dkt. 275 at 17-21. The government cannot validate
6 Silverman’s assertions or diagnoses but does not question that his health is a serious concern.

7 For that reason, the government, after reviewing the defense memorandum, immediately sought a
8 declaration from the Bureau of Prisons about what that system could accommodate as to Mr. Silverman.
9 That declaration, attached as Exhibit B, is from Dr. James Pelton, the Western Region Medical Director,
10 and a board-certified internist and 27-year veteran of that system. Dr. Pelton states that the prison can treat
11 Mr. Silverman’s conditions. *Id.* ¶ 3. He explains that a BOP prison has levels of care that include “onsite
12 medical care and available community contract resources,” or, if that is insufficient, the prison can send an
13 inmate to a “medical center,” such as a Level Four FMC, equipped to provide medical, surgical, and
14 psychiatric care, among other things, or obtain care from contracts with regional medical facilities. *Id.*
15 Silverman would have access to “routine medications, laboratory monitoring and have access to board
16 certified specialists as needed.” *Id.* at ¶ 5. He makes clear that the BOP is committed to providing care
17 consistent with what Silverman would receive in his community. *Id.* He will have access to emergency
18 care as well as to more quotidian needs like, he says, his inability to “be away from the toilet for prolonged
19 periods of time” or to obtain the “folic acids” he takes as supplements. Dkt. 275 at 20.

20 Silverman instead requests “unrestricted access to his care team” around Los Angeles. *Id.* at 21.
21 This recalls his assertion, in his motion to continue from February 2023, that he had to remain within a
22 “5 mile radius” of his Santa Monica cardiologist’s office. Dkt. 244 at 4, 6. That “indefinite” restriction
23 was of course imposed by his doctor only *after* his multi-week excursion to Bali to “enable him to relax”
24 and to celebrate his wife’s birthday. Dkt. 245 at 4. But as the government said then, and reiterates now,
25 neither Silverman’s medical preferences, nor those of his doctors, can interpose themselves against a
26 federal criminal proceeding when a prison can provide comparable care. His loss of choice as to his
27 ideal care is one of the consequences of the commission of serious federal crime.

1 In the end, Silverman does not contend that he is incapable of entering a BOP facility. He
2 instead describes his circumstance in terms of “risks” (Dkt. 275 at 18 [“risk of stroke”], 18 [“risk of
3 bleeding to death”], and what “may” be (*id.* at 19 [“Silverman’s life may be in danger”], 21 [“may have
4 severely adverse effects”]). But these are risks that all flesh is heir to. Especially that that has reached
5 the age of 81—a peril that Silverman himself reflects on, in recorded talks with Ovasapyan, as this case
6 was already underway. He faced this predicament open-eyed. The government remains sensitive to the
7 fact that, as Silverman writes, he “must be around doctors and facilities that can handle [his]
8 complicated issues on emergency basis.” Dkt. 275. But in custody, the government can confirm, he
9 would be. His situation is no different than that of hundreds of thousands of Americans—including the
10 1,800 or so who receive intensive care within the Bureau of Prisons. Exhibit B (Pelton Decl.) at ¶ 3.

11 **C. Silverman’s claim that all deposits into his personal banking accounts were**
12 **withdrawn for Edvin Ovasapyan’s benefit are inaccurate and misleading**

13 As explained in the government’s memorandum, the government’s calculation of forfeiture—
14 a total of \$1,197,897.34—is based upon the amount of criminal proceeds deposited into Silverman’s 1st
15 Century Bank *personal bank accounts* (1854 and 1862). See Dkt. 276 at 24. Those accounts were used
16 by Silverman for personal expenses, including to pay for his personal taxes, gifts and donations,
17 payments to investment funds, and at least one payment to his son. *Id.*

18 Silverman argues that these deposits should not be counted towards forfeiture because, as he
19 described it, for account -1862, “all but \$10,000 of these funds were withdrawn immediately after they
20 were deposited.” Dkt. 275 at 25. Yet that is of course the purpose of bank accounts—individuals deposit
21 their earnings and make purchases and withdrawals soon after. This is especially true of Silverman, who
22 consistently spent large amounts of money on luxury items for himself and his wife, including for jewelry,
23 watches, and trips to exotic locales like Indonesia and South America.

24 Silverman also asserts that the “money flowed immediately out of the account and to the benefit
25 of Ovasapyan or another party.” *Id.* at 25. He points to one expense as an example of money clearly
26 meant for Ovasapyan’s benefit—a \$420,000 check deposited into the account -1862 on July 27, 2017:
27 “For example, Ovasapyan deposited \$420,000 into the account on July 27, 2017, and on July 28, 2017
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1 (at the direction of Ovasapyan), that money was transferred to another law firm *unassociated with*
2 *Silverman: Stubbs Alderton.*” Dkt. 275 at 21 (emphasis added).

3 Depicted below are two images of wires that moved out of the account and funded payments to
4 that law firm, on July 28, 2017, for \$57,910.99 and \$361,943.92, totaling \$419,854.91. (MS 005486 and

5 Printed: 08/23/2017 16:15:32 Transfer Search Detail Page: 1

IMAD #:	20170728MMQFMPIO000029	Ref#:	2016015000	Outgoing Wire	CTP/1000
Account #	1100021862	STEPHEN A SILVERMAN			
Offset Acc #	01000010200	FRB G/L ACCOUNT			Value Dte: 07/28/2017
Amount	57910.99	Fee Amount:	30.00	No Fed Cycle:	07/28/2017
Date Received/Sent	07/28/2017	Time in	07281438	IMAD =	20170728MMQFMPIO000029
Date Generated	07/28/2017	Auto Post	Yes	OMAD =	20170728L2LFCK1C003906
Sender ABA	122243761	1ST CENTURY BANK		Sender Ref. =	
Receiver ABA	122016066	CY NATL BK LA		RFB =	
ORG =	STEPHEN A SILVERMAN D 1100021862 10877 WILSHIRE BLVD STE 610 LOS ANGELES CA 90024-0000			BNF =	STUBBS ALDERTON & MARKIES LLP D 019535991
		US			US
OGB =	1ST CENTURY BANK F 122243761 1875 CENTURY PARK E, LOS ANGELES, CA 90067, USA			IBK =	
		US			
				BBK =	
					US
				OBI =	BALANCE DUE ON MEMBERSHIP PURCHASE AGREEMENT(PACK IT)
				INS =	

17 Printed: 08/23/2017 16:15:32 Transfer Search Detail Page: 2

IMAD #:	20170728MMQFMPIO000033	Ref#:	2016015002	Outgoing Wire	CTP/1000
Account #	1100021862	STEPHEN A SILVERMAN			
Offset Acc #	01000010200	FRB G/L ACCOUNT			Value Dte: 07/28/2017
Amount	361943.92	Fee Amount:	30.00	Fed Cycle:	07/28/2017
Date Received/Sent	07/28/2017	Time in	07281448	IMAD =	20170728MMQFMPIO000033
Date Generated	07/28/2017	Auto Post	Yes	OMAD =	20170728L2LFCK1C004001
Sender ABA	122243761	1ST CENTURY BANK		Sender Ref. =	
Receiver ABA	122016066	CY NATL BK LA		RFB =	
ORG =	STEPHEN A SILVERMAN D 1100021862 10877 WILSHIRE BLVD STE 610 LOS ANGELES CA 90024-0000			BNF =	STUBBS ALDERTON & MARKIES LLP D 019535991
		US			US
OGB =	1ST CENTURY BANK F 122243761 1875 CENTURY PARK E, LOS ANGELES, CA 90067, USA			IBK =	
		US			
				BBK =	
					US
				OBI =	MELISSA KIELING BAL DUE ON MEMBERSH IP PURCHASE AGMT (PACK IT)
				INS =	

1 MS 005487.)

2 The notation on each wire, evidently originating from Silverman, are, respectively, “*Balance*
3 *Due on Membership Purchase Agreement (Pack It)*” and “*Melissa Kieling Bal Due on Membersh IP*
4 *Purchase Agmt (Pack It)*.” *Id.* Now, according to Silverman’s 2017 federal tax returns, Silverman had
5 an ownership interest in a company called Pack It (or “PackIt”) (MS 160652 through MS 160873)—the
6 company, per these notations, to which the wires were directed.

7 On February 28 and 29, 2024, the FBI, to test Silverman’s claim, interviewed Ms. Melissa
8 Kieling, the founder and owner of PackIt. *See* Exhibit C. In the February 28 interview, she said that in
9 lieu of paying for his legal services, Silverman “waived his legal fees in exchange for 2% equity in the
10 company and to be the company's corporate attorney.” Kieling also noted that she did not know or even
11 recognize the name Edvin Ovasapyan.

12 Silverman claimed he had no association with Stubbs Alderton, a business/corporate law firm, yet
13 sent two large wires to the firm, with notations describing the purpose of the wires as being for “Packit,” a
14 company he was part owner of, and referencing “Melissa Kieling,” a person he knew. Ms Kieling told the
15 FBI that she did not recall the name of the law firm handling investments into her company, but that she
16 was very familiar with Mr. Silverman, as a part owner of her company and attorney.

17 **D. Three different individuals who worked with Silverman – Edvin Ovasapyan,**
18 **Melissa Kieling, and Priscilla Vilchis – all stated that Silverman took an ownership share**
19 **in their business at or over 2%**

20 Notably, Ms. Kieling described the same ownership structure described by another former client of
21 Silverman’s—Priscilla Vilchis. In an interview conducted by the FBI on January 29, 2024, Vilchis said
22 that Silverman took 10% ownership of Vilchis’s Nevada business “Premium Produce” in lieu of legal fees.
23 *See* Exhibit D. Vilchis said that she accepted this arrangement, though Silverman’s ownership percentage
24 was ultimately reduced from 10% to 2% through stock share dilution. *Id.* Similarly, when Vilchis opened
25 a California location, named “Cali Premium Produce,” again Silverman wanted a minority percentage in
26 lieu of cash payment for his legal services. *Id.* The negotiated agreement resulted in Silverman’s
27 minority ownership in the business from somewhere between 2.5-5%, with his legal fees were billed at
28 only 50%, in exchange for ownership. *Id.*

1 In Silverman’s recorded conversations with Ovasapyan, Silverman agreed to receive a
2 percentage share of RSL—up to 1% of total sales and 15% of Ovasapyan’s profits. Per Ovasapyan,
3 Silverman took up to 10% of revenue from Mainspring, which earned over \$70,000,000. As discussed
4 above, Silverman took 10% ownership of Vilchis’s business “Premium Produce” and took between 2.5-
5 5% ownership of “Cali Premium Produce.” And per PackIt’s founder, Silverman took a 2% ownership
6 of her business. In each deal, Silverman played the same role—attorney for the business and co-owner.

7 A 2% stake of the total Covidien/Mainspring/RSL conspiracy proceeds of \$70 million is \$1.4
8 million. The government seeks the disgorgement of those criminal proceeds documented as received by
9 Silverman into his personal bank accounts—or \$1,197,897.34, approximately 1.71% of the total
10 conspiracy revenue. The government rejects Silverman’s position that the profit he earned, over all his
11 years in a lucrative criminal conspiracy, was only \$20,900, less than 0.03% of the total revenue earned.

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DATED: February 29, 2024

Respectfully submitted,

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