

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>UNITED STATES OF AMERICA</b>	:	<b>CRIMINAL NO. 13-59 (ABJ)</b>
	:	
<b>v.</b>	:	
	:	
<b>SANDRA STEVENS JACKSON,</b>	:	
	:	
<b>Defendant.</b>	:	
	:	

**GOVERNMENT'S MEMORANDUM IN AID OF SENTENCING**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits its Memorandum in Aid of Sentencing. The United States recommends that this Court sentence the defendant, Sandra Stevens Jackson, to 18 months of incarceration, impose restitution in the amount of \$168,550.01, and impose a one-year period of supervised release. Moreover, the United States, for the reasons stated in the Government's Memorandum in Aid of Sentencing for Jesse L. Jackson, Jr., recommends that the Court stagger the periods of incarceration for Mr. Jackson and Ms. Jackson, with Ms. Jackson serving and completing her period of incarceration before Mr. Jackson's period of incarceration commences. In support thereof, the United States respectfully states the following.

**Background**

At a plea hearing on February 20, 2013, Defendant admitted to the following facts:

1. Had this case proceeded to trial, the government would have shown beyond a reasonable doubt, the following facts:

## INTRODUCTION

2. At all relevant times, the defendant, Sandra Stevens Jackson (“Defendant”), maintained a home in Chicago, Illinois, and a home near the Dupont Circle and Georgetown neighborhoods of Washington, D.C. From in or about May 2007 to in or about January 2013, Defendant served as Alderman of Chicago’s Seventh Ward. From at least in or about 2008 to the present, Defendant served as a consultant to Jesse L. Jackson, Jr.’s re-election campaigns. Starting in 2011, Defendant also started functioning as the campaign manager for the campaigns to re-elect Jesse L. Jackson, Jr. From in or about January 2005 to in or about November 2006, Defendant served as treasurer of Jesse Jackson, Jr.’s re-election campaigns.

3. At all relevant times, Jesse L. Jackson, Jr. (“Jesse Jackson, Jr.”) served as a Congressman in the United States House of Representatives, representing Illinois’s 2<sup>nd</sup> Congressional District. Jesse Jackson, Jr., maintained a home in Chicago, Illinois, within the 2<sup>nd</sup> Congressional District, and a home near the Dupont Circle and Georgetown neighborhoods of Washington, D.C. From in or about May 2007 to in or about January 2013, Defendant and Jesse Jackson, Jr.—as a result of their duties as elected officials—spent substantial amounts of time apart, with Defendant spending much of the work week in Chicago and Jesse Jackson, Jr., spending much of the work week in Washington, D.C.

4. At all relevant times, J. Donatella & Associates (“Donatella”) was a consulting company that Defendant owned and operated.

5. At all relevant times, Friends of Sandi Jackson (“Alderman Campaign”) was the campaign committee that Defendant formed to support her campaigns to be elected Alderman of Chicago’s Seventh Ward. The Alderman Campaign maintained a bank account at a national bank. Defendant possessed a debit card for the account.

6. At all relevant times, The Seventh Ward Independent Political Organization (“SWIPO”) was a political organization that provided constituent services for those in Chicago’s Seventh Ward and that supported Defendant in her campaign efforts. SWIPO was founded by Defendant and communications from the organization were sent under her name. SWIPO maintained a bank account at a national bank. Defendant possessed a debit card for the account.

7. At all relevant times, Person A took part in preparing the forms Jesse Jackson, Jr.’s re-election campaigns filed with the Federal Election Commission (“FEC”). From in or about January 2005 through in or about November 2006, Person A was the assistant treasurer of Jesse Jackson, Jr.’s re-election campaigns and assisted Defendant in preparing the FEC filings. From in or about December 2006 through in or about June 2008, Person A officially served as the treasurer of Jesse Jackson, Jr.’s re-election campaigns. After June 2008, Person A ceased serving as treasurer of Jesse Jackson, Jr.’s re-election campaigns, but continued to assemble FEC filings for the signature of the new treasurer. From in or around June 2008 to the present, Person A was also a staff member for Jesse Jackson, Jr., working in his Washington, D.C., Congressional Office.

8. Person B served as the treasurer of Defendant’s re-election campaigns from in or about July 2008 through in or about July 2012 and signed the forms prepared by Person A.

9. At all relevant times, Person E was the owner of an Illinois-based consulting firm.

10. Each candidate for federal office must form a principal campaign committee. Once designated, a principal campaign committee can establish and utilize bank accounts for the purpose of managing the finances of the campaign. At all relevant times, Jesse Jackson, Jr.’s

principal campaign committee was “Jesse Jackson Jr for Congress”<sup>1</sup> (“the Congressional Campaign”).

### CONDUCT

11. From on or about July 24, 2006 through on or about October 15, 2012, Defendant failed to report approximately \$600,000 in income she and Jesse Jackson, Jr., earned in 2005, 2006, 2007, 2008, 2009, 2010, and 2011 (“the Relevant Tax Years”). Defendant and Jesse Jackson, Jr., obtained the income in four ways: i) using the Congressional Campaign credit card to make purchases for personal expenses, knowing that Congressional Campaign funds would be used to pay the credit card bills for those purchases; ii) using funds from the Alderman Campaign account for personal expenses; iii) using funds from the SWIPO account for personal expenses; and iv) receiving funds through Donatella, but failing to report this income.

12. Defendant provided her Washington, D.C., address as her home address in each of the income tax return forms filed in the Relevant Tax Years. Defendant and Jesse Jackson, Jr., signed, under penalty of perjury, the income tax returns or forms authorizing the filing of the income tax returns in each of the Relevant Tax Years. Defendant signed each of the forms despite the fact that she then and there knew the reported income amounts were substantially less than the amount of income she and her husband received in each of the Relevant Tax Years.

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<sup>1</sup> On or about January 14, 2010, a comma and a period were added to the name of the principal campaign committee: “Jesse Jackson, Jr. for Congress.” In all other respects, the name of the principal campaign committee remained the same.

***Defendant's Expenditure of Congressional Funds for Personal Items******Congressional Campaign Credit Card***

13. From at least August 2005 through April 2012, the Congressional Campaign maintained a credit card account entitled, "Jackson for Congress." Individual credit card members on the account included Defendant and Jesse Jackson, Jr.

14. For the period from in or about August 2005 through in or about April 2012, Defendant and Jesse Jackson, Jr., used the Congressional Campaign cards issued to them to purchase merchandise and services that were personal in nature. These expenditures included high-end electronic items, collector's items, clothing, food and supplies for daily consumption, movie tickets, health club dues, personal travel, and personal dining expenses. Examples of such charges on the Congressional Campaign credit cards include:

<b>Date</b>	<b>Description</b>	<b>Amount</b>	<b>Card Member</b>
9/15/2005	Ford – Sales/Service/Repair	\$2,200.44	Defendant
3/15/2007	Walt Disney World – Transportation Services	\$2,306.08	Defendant
11/20/2007	Best Buy	\$9,554.75	Jesse Jackson, Jr.
11/24/2007	Best Buy	\$1,102.81	Jesse Jackson, Jr.
11/30/2007	Best Buy	\$320.18	Jesse Jackson, Jr.
12/23/2007	Build-a-Bear	\$243.62	Defendant
6/10/2008	Antiquities of Nevada	\$3,200.00	Jesse Jackson, Jr.
7/19/2008	All Children's Furniture	\$1,438.00	Jesse Jackson, Jr.
7/24/2008	Ticketmaster	\$136.62	Defendant
7/28/2008	All Children's Furniture	\$8,149.64	Jesse Jackson, Jr.
8/2/2008	ABT Electronics	\$15,120.55	Jesse Jackson, Jr.
8/14/2008	Antiquities of Nevada	\$8,650.00	Jesse Jackson, Jr.

8/24/2008	Mariel's Boutique	\$3,544.00	Defendant
9/23/2008	Antiquities of Nevada	\$5,595.00	Jesse Jackson, Jr.
10/10/2008	Ticketmaster	\$299.00	Defendant
11/27/2008	Martha's Vineyard Holistic Retreat	\$5,687.75	Jesse Jackson, Jr.
12/3/2008	Build-a-Bear	\$70.27	Jesse Jackson, Jr.
12/23/2008	Costco	\$287.47	Defendant
2/12/2009	Antiquities of Nevada	\$5,150.00	Jesse Jackson, Jr.
3/17/2009	Little Lamb Scholastic	\$3,627.00	Defendant
7/1/2009	Costco	\$327.07	Defendant
11/04/2009	Antiquities of Nevada	\$3,900.00	Jesse Jackson, Jr.
11/14/2009	Edward Lowell Furrier	\$5,150.00	Jesse Jackson, Jr.
2/8/2010	Antiquities of Nevada	\$2,245.00	Jesse Jackson, Jr.
3/13/2010	Antiquities of Nevada	\$2,855.00	Jesse Jackson, Jr.
06/13/2010	Costco	\$693.78	Defendant
6/14/2010	Costco	\$600.00	Defendant

15. Records from many of these merchants provide greater detail about the personal nature of the goods and services purchased with these Congressional Campaign funds:

- Records from Best Buy reveal that Jesse Jackson, Jr., purchased multiple flat-screen televisions, multiple Blu-Ray DVD players, and numerous DVDs for the Washington, D.C., home;
- Records from Antiquities of Nevada reveal that Jesse Jackson, Jr., purchased memorabilia related to Bruce Lee, Martin Luther King, Jr., Michael Jackson, Malcolm X, Jimmy Hendrix, and American Presidents, some of which was displayed in the Washington, D.C., home;
- Records from Mariel's Boutique reveal that Defendant purchased dresses, jewelry, shoes, and accessories;
- Records from All Children's Furniture reveal that Jesse Jackson, Jr., purchased children's bedroom furniture for the Washington, D.C., home;

- Records from ABT Electronics reveal that Defendant and Jesse Jackson, Jr., purchased, among other items, a washer, a dryer, a range, and a refrigerator for their Chicago home; while Jesse Jackson, Jr.'s card was used to complete these transactions, Defendant is listed on these records as the purchaser and the person to whom the items were to be shipped;
- Records from Build-a-Bear reflect that Defendant and Jesse Jackson, Jr., purchased stuffed animals and accessories for stuffed animals;
- Records from Costco reveal that Defendant purchased, among other items, video games, undergarments, cleaning supplies, toilet paper, toothpaste, soap, children's vitamins, and food;
- Records from Martha's Vineyard Holistic Retreat reveal that Jesse Jackson, Jr., purchased a five-day health retreat for a family member of Defendant; and
- Records from Edward Lowell Furrier reveal that Defendant purchased fur capes and parkas.

16. The examples provided in the table above are but a fraction of the personal expenditures that Defendant and Jesse Jackson, Jr., made. During the relevant period, Defendant and Jesse Jackson, Jr., collectively made approximately 3100 purchases that were personal in nature. There are categories of expenditures into which a large number of these transactions can be placed. The categories, and the amounts associated with these categories, are as follows:

- Personal expenditures at restaurants of approximately \$60,857.04;
- Personal airfare expenditures of approximately \$31,700.79;
- Personal expenditures at sports clubs and lounges of approximately \$16,058.91 (including maintaining a family membership at a gym, purchasing food at the gym, and parking at the gym);
- Personal expenditures at tobacco shops of approximately \$17,163.36;
- Personal expenditures for alcohol of approximately \$5,814.43;
- Personal expenditures for dry cleaning of approximately \$14,513.42;
- Personal expenditures at grocery stores of approximately \$8,046.44; and

- Personal expenditures at drug stores of approximately \$6,095.15.

17. The approximately 3100 personal purchases made on the Congressional Campaign credit cards total approximately \$582,772.58. Congressional Campaign funds were used to pay all of the debt associated with the \$582,772.58 in purchases. A small portion of these purchases occurred in 2012. Excluding the 2012 purchases, there are \$581,614.53 in expenditures during the Relevant Tax Years.

18. Of the \$581,614.53 spent in the Relevant Tax Years, \$171,707.29 was charged on the card issued to Defendant and \$409,907.24 was charged on the card issued to Jesse Jackson, Jr. Defendant either knew, or reasonably could have foreseen, that approximately \$338,130.54 of these charges on Co-Conspirator's 1 card occurred because: i) records from vendors reveal that Defendant used the card issued to Jesse Jackson, Jr., to make some of these purchases;<sup>2</sup> ii) some of the items were purchased at locations where Defendant, not Jesse Jackson, Jr., typically made purchases;<sup>3</sup> iii) some of the purchases were made during joint outings or for joint expenses;<sup>4</sup> and iv) the remainder were similar in kind to the purchases that Defendant made or that Defendant observed Jesse Jackson, Jr., make.

19. All of the remaining approximately \$71,776.70 in personal expenditures on the Congressional Campaign credit cards issued to Jesse Jackson, Jr., were made without Defendant's knowledge. Moreover, all of these expenditures were of a different nature than the expenditures in which Defendant participated or the expenditures from which Defendant directly benefited. These expenditures include:

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<sup>2</sup> These purchases total approximately \$23,941.54.

<sup>3</sup> These purchases total approximately \$25,225.10.

<sup>4</sup> These purchases total approximately \$63,375.59.



- Expenditures at tobacco shops of approximately \$17,163.36;
- Expenditures for alcohol of approximately \$5,814.43;
- Dining and entertaining expenses of approximately \$13,203.91; and
- Expenditures on memorabilia of approximately \$35,595.00.

20. Defendant and Jesse Jackson, Jr., failed to report on their income tax forms any of the personal expenditures that the Congressional Campaign made on their behalf. As such, Defendant knowingly and willfully failed to report approximately \$500,000 in taxable income earned through the misuse of the Congressional Campaign credit card during the Relevant Tax Years.

21. During the Relevant Tax Years, Defendant solicited donors to contribute to the Congressional Campaign. Defendant never disclosed to potential donors that she and Jesse Jackson, Jr., had already used funds contributed to the Congressional Campaign for their personal benefit, nor did she disclose that she and Jesse Jackson, Jr., intended to use new Congressional Campaign contributions for their personal benefit.

***Other Personal Uses of Congressional Funds***

***Payments to Defendant***

22. On or about March 17, 2006, Jesse Jackson, Jr., directed that a \$36,000 check be issued to Donatella to pay billboard expenses for the Congressional Campaign.

23. On or about March 24, 2006, Defendant deposited the \$36,000 check into an account controlled by Donatella.

24. On or about March 31, 2006, Defendant transferred the \$36,000 from the Donatella account to a personal account that Defendant and Jesse Jackson, Jr., controlled.

25. From on or about April 3, 2006, through on or about April 4, 2006, Defendant and Jesse Jackson, Jr., used nearly all of the \$36,000 to pay down personal debts.

26. Defendant and Jesse Jackson, Jr., failed to report on their 2006 income tax form any of the \$36,000 that Donatella received from the Congressional Campaign. As such, Defendant knowingly and willfully failed to report approximately \$36,000 in taxable income earned by Donatella in 2006.

*Conduit Payments to Person A*

27. From in or about March 2011 through in or about April 2011, Person A received two checks from the Congressional Campaign. Person A had not performed work that would have entitled Person A to the amounts reflected in these two checks. Instead, Jesse Jackson, Jr., instructed Person A to write checks in these amounts so that Person A could have sufficient funds to issue checks in the amounts that Jesse Jackson, Jr., desired so that Jesse Jackson, Jr., could purchase mounted elk heads from a taxidermist in Montana. The details of those transactions are as follows:

<b>Congressional Campaign to Person A (Posted Date)</b>	<b>Amount of Check</b>	<b>Memo for Check</b>	<b>Person A to Taxidermist (Check Date)</b>	<b>Amount of Check</b>
3/29/2011	\$3,500	"for Data Reconciliation"	4/1/2011	\$3,000
4/21/2011	\$1,500	"for Data Entry & Cleanup"	4/21/2011	\$1,053

28. Defendant learned in summer 2012 that Congressional Campaign funds were used to purchase these elk heads.

29. Defendant and Jesse Jackson, Jr., failed to report on their 2011 income tax form, which was filed in October 2012, any of the \$4,053 that Person A received from the Congressional Campaign. As such, Defendant knowingly and willfully failed to report approximately \$4,053 in taxable income they jointly earned in 2011.

30. On or about August 23, 2012, an undercover employee with the FBI ("UCE 1") called Person A, informing Person A that UCE 1 was an interior designer who had received Person A's name from the taxidermist and inquiring whether Person A had elk heads for sale.

31. From on or about August 24, 2012, through on or about August 30, 2012, Person A completed the sale of Jesse Jackson, Jr.'s elk heads to UCE 1. UCE 1 represented that UCE 1's client was willing to pay \$5,300, which was less than the original price. Person A agreed to the price and instructed UCE 1 to wire the funds for the elk heads to one of Jesse Jackson, Jr.'s personal accounts. UCE 1 wired the funds as instructed. After wiring the funds, UCE 1 arranged to pick up the elk heads in Chicago, where they had been moved in early August 2012.

32. Defendant, knowing that these elk heads had been purchased with Congressional Campaign funds, directed: that the elk heads be moved from Washington, D.C., to Chicago, Illinois; that Person A sell the elk heads; that Person A sell them for less than the amount for which they were purchased; and that Person A instruct UCE 1 to wire the proceeds to Jesse Jackson, Jr.'s personal account.

*Paying Personal Credit Card Expenditures*

33. From in or about September 2007 through in or about June 2011, Jesse Jackson, Jr., used \$14,442.83 in Congressional Campaign funds to pay down balances on personal credit cards maintained by Defendant or Jesse Jackson, Jr. The balances on these cards reflected

expenditures made for personal, not Congressional Campaign, purposes. These payments occurred on the following dates in the following amounts:

- September 13, 2007: \$2,000.00
- September 14, 2007: \$2,457.16
- October 12, 2007: \$4,355.49
- October 9, 2009: \$1,640.25
- December 24, 2009: \$1,271.16
- July 7, 2011: \$2,718.77

34. Defendant and Jesse Jackson, Jr., failed to report on their income tax forms any of these payments that the Congressional Campaign made on their behalf. As such, Defendant knowingly and willfully failed to report approximately \$14,442.83 in taxable income earned through these payments in tax years 2007, 2009, and 2011.

***Defendant's Expenditure of Alderman Funds for Personal Items***

35. Defendant spent approximately \$22,421.22 of Alderman Campaign Funds on personal expenditures. Examples of these expenditures include:

<b>Date</b>	<b>Description</b>	<b>Amount</b>
11/5/2007	The Bedding Experts	\$5,280.81
2/19/2008	Caesars Spa	\$1,060.00
2/21/2008	Venetian	\$771.86
4/14/2008	Comfort One Shoes	\$1,422.34

36. During the relevant period, Defendant solicited donors to contribute to the Alderman Campaign. Defendant never disclosed to potential donors that she had already used

funds contributed to the Alderman Campaign for her personal benefit, nor did she disclose that she intended to use new Alderman Campaign contributions for her personal benefit.

37. Defendant failed to report on her income tax forms any of the personal expenditures that the Alderman Campaign made on her behalf. As such, Defendant knowingly and willfully failed to report approximately \$22,421.22 in taxable income earned through the misuse of Alderman Campaign funds during the Relevant Tax Years.

***Defendant's Expenditure of SWIPO Funds for Personal Items***

38. Defendant spent approximately \$209.43 of SWIPO Funds on personal expenditures.

39. Defendant failed to report on her income tax forms any of the personal expenditures that SWIPO made on her and Jesse Jackson, Jr.'s behalf. As such, Defendant knowingly and willfully failed to report approximately \$209.43 in taxable income earned through the misuse of Alderman Campaign funds during the Relevant Tax Years.

***Defendant's Receipt of Unreported Funds Through Donatella***

40. During the Relevant Tax Years, Defendant reported the income she earned from Donatella on Schedule C of the annual income tax returns of Defendant and Jesse Jackson, Jr.

41. In 2009, Defendant deposited \$80,000 in an account controlled by Donatella that she failed to include on her and Jesse Jackson, Jr.'s joint tax return. The deposits occurred as follows:

- On or about January 1, 2009, Defendant received \$15,000 from the Congressional Campaign in legal fees. Defendant deposited these funds in a Donatella account;
- On or about January 6, 2009, Defendant received \$40,000 from Person E. The memo line for the check reads "consulting." Defendant deposited these funds in a Donatella account; and

- On or about July 29, 2009, Defendant received \$25,000 from Person E. Defendant deposited these funds in a Donatella account.

42. Defendant and Jesse Jackson, Jr., failed to report on their income tax forms any of these payments that Donatella received. Defendant has represented that the funds from Person E were a gift to her. The government has evidence that the \$65,000 was not a gift.

43. Defendant knowingly and willfully failed to report, at least, \$15,000 in taxable income earned through Donatella.

***Other Conduct***

44. From in or about August 2005 through in or about July 2012, Defendant and Jesse Jackson, Jr., directed that materially false and misleading reports be filed with the FEC. Defendant and Jesse Jackson, Jr., on numerous occasions, directed Person A not to itemize the personal expenditures made on the Congressional Campaign credit cards, which resulted in the failure to report personal expenditures on the Congressional Campaign credit cards that should have been reported. On other occasions, Defendant and Jesse Jackson, Jr., knowingly and intentionally provided Person A with false and misleading justifications for their expenditures from Congressional Campaign funds, causing Person A, in turn, to prepare false and misleading reports for submission to the FEC. Defendant, Person A, and Person B then submitted the forms containing the materially false and misleading statements to the FEC. Examples of some of these false and misleading disclosures include:

- On or about May 29, 2008, Person A reported that the Congressional Campaign spent \$1,553.08 on January 22, 2008, at a Chicago Museum for "room rental – fundraiser." In truth and in fact, Jesse Jackson, Jr., spent these funds to purchase porcelain collector's items.
- On or about July 11, 2008, Person A reported that the Congressional Campaign spent \$387.53 on May 27, 2008, at Home Depot for "Equip for Office Repairs." In truth

and in fact, Jesse Jackson, Jr., spent these funds to purchase grass seed and fertilizer for the lawn at his Chicago home.

- On or about January 23, 2009, Person B reported that the Congressional Campaign spent \$224.89 on November 4, 2008, at a hotel restaurant for "FR Dinner Mtg." In truth and in fact, Jesse Jackson, Jr., spent these funds to purchase lunch for him and his family.
- On or about January 23, 2009, Person B reported that the Congressional Campaign spent \$387.04 on November 22, 2008, at Costco for "Food for Campaign Staff Holiday dinner." In truth and in fact, Defendant spent these funds to purchase bath robes, a Christmas train, cleaning supplies, and food for Defendant's family's personal use.

### CONCLUSION

45. During the relevant period, Defendant knowingly and willfully failed to report approximately \$601,964.31 in taxable income. This income was earned during the Relevant Tax Years as follows:

<b>Tax Year</b>	<b>Total Income</b>	<b>Amount of Unreported Income</b>	<b>Tax Loss</b>
2005	\$187,455	\$34,277.31	\$9,597.65
2006	\$220,783	\$158,092.56	\$44,265.92
2007	\$281,825	\$161,309.27	\$45,166.60
2008	\$247,919	\$114,378.64	\$32,026.02
2009	\$256,746	\$70,493.79	\$19,738.26
2010	\$266,089	\$29,942.87	\$8,384.00
2011	\$271,969	\$33,469.87	\$9,371.56
<b>Totals:</b>	--	\$601,964.31	\$168,550.01

### Statutory Penalties

Defendant faces a maximum sentence of 3 years of imprisonment; a term of supervised release of up to one year; and a \$100 special assessment. PSR ¶¶ 127, 136, 147 (citing relevant statutory sections). The Draft Presentence Investigation Report (“Draft PSR”) incorrectly states that Defendant’s maximum fine is \$100,000. PSR ¶ 146.

Defendant’s maximum fine is \$250,000, or twice the pecuniary gain or loss. The controlling statute is 18 U.S.C. § 3571, which states that “[e]xcept as provided in subsection (e) of this section, an individual who has been found guilty of an offense may be fined not more than the greatest of . . . (3) for a felony, not more than \$250,000[.]”<sup>5</sup> Subsection (e) of 18 U.S.C. § 3571 states: “If a law setting forth an offense specifies no fine or a fine that is lower than the fine otherwise applicable under this section *and* such law, by specific reference, exempts this offense from the applicability of the fine otherwise applicable under this section, the defendant may not be fined more than the amount specified in the law setting forth the offense.” 18 U.S.C. § 3571(e) (emphasis added). The statute does not limit itself to Title 18 offenses. While 26 U.S.C. § 7206 sets forth a lower fine amount, it does not, by specific reference, exempt the applicability of 18 U.S.C. § 3571. As such, the second requirement of 18 U.S.C. § 3571 is not met. Accordingly, a number of courts have noted that the maximum permissible fine for defendants convicted of 26 U.S.C. § 7206(1) is \$250,000. *See U.S. v. Saani*, 650 F.3d 761, 765 n\* (D.C. Cir. 2011) (noting, while discussing a sentence imposed for a conviction under 26 U.S.C. § 7206(1), that “[b]y statute the maximum fine is the greater of \$250,000 per count of

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<sup>5</sup> Notwithstanding this \$250,000 maximum, Subsection (d) of the statute provides for an alternate way of calculating the maximum fine. Under Subsection (d), a defendant can be fined twice the pecuniary gain or loss. Accordingly, depending on the size of the gain or loss, a defendant can, under 18 U.S.C. § 3571, be fined in excess of \$250,000.



conviction or, as here, twice the gross pecuniary loss to the victim.”); *U.S. v. Moore*, 498 Fed. App’x 195, 218-19 (4<sup>th</sup> Cir. 2012) (affirming a \$250,000 fine imposed under § 3571 where a defendant was convicted under 26 U.S.C. §§ 7201 and 7206(1)); *see also U.S. v. Pfaff*, 619 F.3d 172, 173-74 (2<sup>nd</sup> Cir. 2010) (noting, when discussing a \$6 million fine imposed in a tax evasion case where the defendant was convicted under 26 U.S.C. § 7201 that “Section 3571 of Title 18 of the U.S. Code governs the imposition of criminal fines.”).

### **Sentencing Guidelines**

The Federal Sentencing Guidelines calculation in the Draft PSR places Defendant’s total offense level at 15. PSR ¶ 70. The PSR calculates Defendant’s criminal history in Category I (0 points). PSR ¶ 74. The Guideline range for Defendant is therefore 18 to 24 months of imprisonment and one year of supervised release. PSR ¶¶ 128, 137. The Draft PSR Guideline range is consistent with the disputed Guideline range in Defendant’s plea agreement, which incorporates an adjustment under §2T1.1(b)(1).

Under §2T1.1(b)(1) of the United States Sentencing Guidelines, when a court is calculating the offense level for a defendant who files false returns, the court is to increase the defendant’s offense level by two levels “[i]f the defendant failed to report or to correctly identify the source of income exceeding \$10,000 in any year from criminal activity.” Application Note 3 of §2T1.1 defines “criminal activity” as “any conduct constituting a criminal offense under federal, state, local, or foreign law.” This two-level adjustment is routinely applied when a defendant’s unreported income is the profit from fraudulent conduct. For instance, in *United States v. Ellis*, 440 F.3d 434 (7<sup>th</sup> Cir. 2006), the defendant, a bishop at a church, stole from Sunday offerings, used church funds to pay his personal credit card bills, charged personal expenses on the church credit card, and paid for other expenses using church funds. *Id.* at 436-

438. The government, in that case, estimated that as a result of this fraudulent conduct, the defendant had additional gross income of \$520,602 that was not reported for tax purposes. *Id.* at 436. The defendant, who pleaded guilty to one count of filing a false return, in violation of 26 U.S.C. § 7206(1), objected, on appeal, to his offense level being enhanced under §2T1.1(b)(1). The Seventh Circuit summarily rejected the argument, holding that “[t]he more than \$500,000 that [the defendant] took from [the church] during the course of his episcopacy was derived from his illegal activities, making the enhancement completely appropriate.” *Id.* at 438; *see also United States v. Heard*, 709 F.3d 413, 423-24 (5<sup>th</sup> Cir. 2013) (holding that the sentencing court properly applied the two-level enhancement under §2T1.1(b)(1) to a defendant who diverted hundreds of thousands of dollars from his company for personal use at the same time that his company was failing to pay the payroll taxes it owed); *United States v. Springer*, 444 Fed. App’x 256, 266 (10<sup>th</sup> Cir. 2011) (affirming §2T1.1(b)(1) enhancement where the unreported income was the profit from defrauding a client); *United States v. Fitzgerald*, 232 F.3d 315, 317, 321 (2<sup>nd</sup> Cir. 2000) (ordering that on remand, a defendant’s sentence should be enhanced under §2T1.1(b)(1), where the defendant derived his unreported income from converting, for his personal use, payments from a fund created to pay medical professionals).

Moreover, it is clear that a defendant need not have directly profited from the unlawful act that gives rise to the unreported income for the enhancement to apply. In *United States v. McKinney*, 686 F.3d 432 (7<sup>th</sup> Cir. 2012), the sentencing court enhanced a defendant’s offense level under §2T1.1(b)(1), where the defendant assisted his wife in committing mortgage fraud and their joint tax returns failed to reflect the profit from the fraud. *Id.* at 433-34. On appeal, the defendant claimed the sentencing court erred in applying the enhancement, as his wife was the one who profited from the fraud. The Seventh Circuit rejected this argument, noting “that an

individual whose spouse obtained income through illegal means shares the duty to report such income and may receive a sentence enhancement should that spouse fail to do so.” *Id.* at 435.

The case law makes clear that Defendant’s offense level should be enhanced under §2T1.1(b)(1). As is set forth above, Defendant stole funds from the Congressional Campaign and the Alderman Campaign. Moreover, she was aware that her husband was stealing funds from the Congressional Campaign, as well. Defendant willfully failed to report, as income, the profit from this fraud, and the amount from this fraudulent conduct exceeded \$10,000 in each tax year referenced in the Statement of the Offense. The Probation Office has correctly enhanced Defendant’s offense level by two levels pursuant to § 2T1.1(b)(1).

#### **Sentencing Recommendation**

The government recommends that the Court sentence Defendant to 18 months incarceration, impose restitution in the amount of \$168,550.01, and impose a one-year period of supervised release.

A district court “should begin all sentencing proceedings by correctly calculating the applicable Guidelines range.” *United States v. Gall*, 552 U.S. 38, 49 (2007) (citation omitted). The Guidelines are “the product of careful study based on extensive empirical evidence derived from the review of thousands of individual sentencing decisions,” *id.* at 46, and are the “starting point and the initial benchmark,” *id.* at 49. The district court should next consider all of the applicable factors set forth in Title 18, United States Code, Section 3553(a). *Id.* at 49-50. Indeed, the Guidelines themselves are designed to calculate sentences in a way that implements the considerations relevant to sentencing as articulated in Section 3553(a). *Rita v. United States*, 551 U.S. 338, 348-49 (2007).

The Section 3553(a) factors include (1) “the nature and circumstances of the offense and the history and characteristics of the defendant,” (2) the need for the sentence imposed to reflect the seriousness of the offense, to provide just punishment for the offense, to afford adequate deterrence to criminal conduct, to protect the public from further crimes of the defendant, and to provide the defendant with needed correctional treatment, (3) the Sentencing Guidelines and related Sentencing Commission policy statements, and (4) the need to avoid unwarranted sentence disparities.

*Defendant's History and Characteristics*

When considering the nature and circumstances of the offense, it is important to remember Defendant's history, the advantages she has had in her life, and the resources she had at the very time that she was underreporting her income. A review of her history and characteristics shows that she lied about her income at a time when she easily could have paid the taxes associated with her unreported income.

**Defendant's History**

Defendant earned a Bachelor's degree in communications from Bowling Green State University. PSR ¶ 97. Approximately four years after obtaining her degree, Defendant began attending Georgetown University Law Center, but she ultimately transferred to the University of Illinois so she could attend the same law school as Jesse L. Jackson, Jr. *Id.* Shortly after transferring to the University of Illinois, Defendant married Jesse L. Jackson, Jr. PSR ¶ 84. Defendant ultimately obtained her Juris Doctorate from the University of Illinois. PSR ¶ 97. In 2007, she was elected as an Alderman in Chicago, Illinois, a position she held up until she resigned in January 2013. PSR ¶ 100.

### **Defendant's Financial Condition at the Time of the Offense**

In the subsection entitled, "Defendant's Financial Condition at the Time of the Offense," in the Government's Memorandum in Aid of Sentencing for Defendant's husband, the government sets forth the publicly reported income that Defendant and her husband had at their disposal between 2005 and 2011. For most of the years between 2005 and 2011, the analysis showed income in excess of \$200,000 per year, and, in some of those years, income in excess of \$300,000. When one reviews Defendant's income for the period, it is clear that she had the resources to pay the taxes she owed on the income that she and her husband earned. For instance, in 2011, Defendant and her husband's combined income from publicly reported sources of income was \$344,556.00. Defendant underreported her income for that year by \$33,469.87, for a tax loss to the United States of \$9,371.56. This tax loss isn't even three percent of Defendant's publicly reported household income for 2011.

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

Economic hardship, clearly, does not provide a motive for this crime. The motive for failing to report this income is that disclosing the income would have revealed the fact that Defendant and her husband were stealing hundreds of thousands of dollars from the Congressional Campaign and that Defendant was stealing tens of thousands of dollars from the Alderman Campaign. Of the \$601,964.31 of unreported income, only \$15,000 came from lawful income.<sup>6</sup> The remaining \$586,964.31 was stolen. The Draft PSR increased Defendant's offense

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<sup>6</sup> The Statement of the Offense notes an additional \$65,000 deposited into a Donatella account in 2009 that was not reported as income. (Statement of the Offense ¶ 41.) Defendant has represented that this money was a non-taxable gift, but acknowledged that the government had evidence that this \$65,000 was not a gift. (Statement of the Offense ¶ 42.) This \$65,000 was not included when determining Defendant's tax loss, nor was it used in calculating

level by two levels because more than \$10,000 of the unreported income in a calendar year was from criminal activity. Indeed, when one discounts the \$15,000 of lawful income, which was earned in 2009, Defendant has more than \$10,000 of unreported income in *each* calendar year listed in the Statement of the Offense. When one considers the nature and circumstances of Defendant's offense, it is important to consider that except for \$15,000 lawfully earned in 2009, she did not "earn" the unreported income. She stole it.

### **Defendant's Expenditures of Congressional, Alderman, and SWIPO Campaign Funds**

Like her husband, Defendant used the funds she stole from these campaigns to meet the typical expenses that a family of four might incur, including groceries, movie tickets, dry cleaning, eating out, and drug-store expenses. As is set forth above, Defendant also used funds from these campaigns for more extravagant expenditures, including spending over \$15,000 for high-end kitchen appliances for her Chicago home and over \$2,000 for a Walt Disney World vacation. Defendant was also the recipient of \$5,150 worth of furs—purchased on a single day—with stolen Congressional Campaign funds. When one views the illegal expenditures as a whole, they reflect what the examples provided in the Statement of the Offense establish: Defendant was not simply a beneficiary of her husband's thefts. Defendant stole. In fact, she stole a lot. In excess of \$170,000 of the funds stolen from the Congressional Campaign were charged on the credit card issued to Defendant by the Congressional Campaign. (Statement of the Offense, ¶ 18.) And Defendant is implicated as being involved in approximately \$110,000 worth of the purchases that were charged to her husband's card. (*Id.*, nn. 2, 3, and 4.)

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restitution. The government does not seek an evidentiary hearing on whether this \$65,000 should be included in the loss-amount calculation: even if the amount were included, it would have no impact on Defendant's offense level and only a relatively minor impact on the restitution amount Defendant will owe.

No better evidence exists of Defendant's willingness to steal funds from the Congressional Campaign than the fact that she stole from her Alderman Campaign. In total, she stole over \$22,000 from her own Alderman Campaign. By way of example, the Statement of the Offense sets forth that Defendant stole: i) over \$5,000 for purchases at a bedding store; ii) nearly \$2,000 over a three-day period for hotel expenses and spa treatments in Las Vegas; and iii) nearly \$1,500 on a single outing at a shoe store. (Statement of the Offense, ¶ 35.)

It is not the case that Defendant simply knew that her husband stole money and she knowingly failed to report the income on their joint taxes. Defendant was personally involved with the theft of hundreds of thousands of dollars of funds from the Congressional and Alderman Campaigns *and* she failed to report the profit from her and her husband's crimes on their joint taxes.

#### **Additional Efforts to Conceal Unreported Income**

Making the Congressional Campaign thefts all the more problematic is Defendant's role in preparing the Congressional Campaign's FEC reports. From January 2005 to November 2006, Defendant served as treasurer of her husband's Congressional Campaign. During that period, Defendant failed to report numerous personal charges on the Congressional Campaign FEC reports. After Person A began preparing the FEC reports, Defendant directed Person A not to report certain charges. (Statement of the Offense, ¶ 44.) By way of example, the Campaign failed to report the: i) over \$2,000 Defendant spent for the Disney World trip; ii) approximately \$15,000 for high-end kitchen appliances; and iii) over \$5,000 worth of furs purchased on her husband's card. On other occasions, Defendant gave Person A misleading justifications for Defendant's use of Congressional Campaign funds, knowing that Person A would prepare reports reflecting these false justifications. An example of this conduct is Defendant purchasing

food, gifts, and clothing for her family, but instructing Person A to prepare a report reflecting that the expenditures were for campaign-related expenses. (Statement of the Offense, ¶ 44.)

Accordingly, Defendant took steps to not only hide the proceeds of the theft from the Internal Revenue Service, but she also took steps to conceal the thefts from the FEC and the general public.

*Seriousness of the Offense; Punishment; and Deterrence*

Failing to pay taxes on the income that one lawfully earns is a serious crime, in and of itself. The seriousness of this offense is then magnified by the fact that Defendant and her husband stole the unreported income. And it is brought into nearly uncharted territory based on the fact that both Defendant and her husband were elected officials who stole the unreported income from their respective campaigns. As is set forth in the Government's Memorandum in Aid of Sentencing for Defendant's husband, Defendant's theft—and efforts at concealing the theft by not reporting the proceeds on her taxes—has potentially serious implications for the multi-billion-dollar campaign industry as a whole. The government submits that the sentence the Court imposes should deter others from stealing funds from a campaign by showing that serious tax consequences exist for those who steal funds and conceal their theft of funds by not reporting the stolen funds on their tax returns.

*Sentencing Guidelines and Unwarranted Sentence Disparities*

Consistent with the nature and circumstances of this offense and its seriousness, Defendant's Offense level calls for 18 to 24 months of incarceration. PSR ¶ 128. By definition, the Guidelines are designed to reduce the disparity between similarly situated defendants. This factor, alone, militates in favor of Defendant receiving a sentence consistent with the applicable Guideline range. The government recommends a sentence at the bottom of the range and



maintains that no compelling reason exists for the Court to sentence Defendant below the applicable Guideline range. Conversely, though, no compelling reason exists to sentence Defendant at the top end of the applicable Guideline range.

It is important to note that Defendant's conduct warrants incarceration. Defendant's husband has claimed that he alone bears sole responsibility for the improprieties that occurred with his Congressional Campaign; however, the facts belie this claim. It is uncontroverted that Defendant and her husband stole nearly all of the income she failed to report; that the two stole campaign funds; that they were public officials when they stole campaign funds; and that Defendant failed to report the proceeds. Defendant did not just sign returns knowing them to be inaccurate. She engaged in the criminal conduct and hid the proceeds of the criminal conduct, failing to report them on her tax returns. Simply put, there are no factors that should take this case below the applicable Guidelines range.

Conversely, however, there are some mitigating factors which suggest that a sentence at the top of the applicable Guideline range would not be appropriate either. The most significant of these factors is Defendant's acceptance of responsibility and her cooperation. Defendant's current counsel first contacted our Office a little more than a month before Defendant entered her guilty plea. During that month-long period, Defendant, through her counsel, diligently worked to resolve the investigation. Although the government had already documented a number of unlawful transactions by the time defense counsel reached out, questions still existed about a host of other transactions for which the government was still gathering documentation. Defendant's cooperation with the investigation allowed the government to conclude its investigation much sooner than it would have absent her cooperation. As such, Defendant's

cooperation saved the government not only the expense of a trial, but it also allowed the government to complete its investigation in an efficient, expeditious, and effective manner.

Finally, it is important to note that we do not believe an unwarranted sentencing disparity would be created if the Court were to sentence Defendant to 18 months and her husband to 48 months. Defendant's husband was the driving force behind this criminal conduct: he set the tone for the misuse of Congressional Campaign funds; he stole more than Defendant; and he even concealed from Defendant some of the illegal conduct in which he was engaging. Moreover, while Defendant did not cease engaging in unlawful activity after former Governor Rod Blagojevich's arrest, she—unlike her husband—dramatically decreased the amount that she stole. To be clear, Defendant does not deserve credit for stealing less. The point, though, is that Defendant's conduct does not evidence the same flagrant disregard for the law that her husband's conduct did. In contrast to her husband, Defendant did not double down on her illegal conduct, by developing new ways of stealing funds, while facing intense scrutiny in the wake of former Governor Blagojevich's arrest. Finally, unlike her husband, Defendant did not funnel Congressional Campaign funds to a conduit, so that the conduit could pay expenses on her behalf. In other words, Defendant did not implicate others by having them take part in an unlawful purchase or expenditure. Although it cannot be said that Defendant's husband bears sole responsibility for the conduct that occurred, it is entirely appropriate to conclude that Defendant's husband is *significantly* more culpable than Defendant.

*The Government Recommends that the Court Stagger the Periods of Incarceration for Defendant and Her Husband*

As is argued in the Government's Memorandum in Aid of Sentencing for Defendant's husband, the government recommends staggering the prison terms for Defendant and her

husband. Like her husband, Defendant, through counsel, requested this accommodation if she is sentenced to a term of imprisonment. And like her husband, Defendant, through her cooperation and acceptance of responsibility, has put herself in position to face the prospect of incarceration much sooner than she would have had she asserted her rights to be indicted by a grand jury and to a criminal trial. The staggering the government recommends would have no impact on Defendant's surrender date: the government recommends having Defendant surrender on the same schedule as any other Defendant sentenced to incarceration by the Court. But her cooperation bolsters the argument that her husband's term of incarceration should not commence until she is in prerelease custody (assuming the requirements of prerelease custody are satisfied by home confinement) or until she is released from custody (assuming prerelease custody is satisfied through a method of detention other than home confinement).

CONCLUSION

In light of the § 3553(a) factors, the United States respectfully recommends that this Court sentence Defendant to 18 months incarceration, order restitution in the amount of \$168,550.01, and impose a one-year period of supervised release. Moreover, the United States, for the reasons stated in the Government's Memorandum in Aid of Sentencing for Defendant's husband, recommends that the Court stagger the periods of incarceration for Mr. Jackson and Ms. Jackson, with Ms. Jackson serving and completing her period of incarceration before Mr. Jackson's period of incarceration commences.

Respectfully submitted,

RONALD C. MACHEN JR.  
UNITED STATES ATTORNEY  
D.C. Bar No. 447-889  
/s/

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Matt Graves  
Michael Atkinson  
DC Bar No. 481052 (Graves)  
DC Bar No. 430517 (Atkinson)  
Assistant United States Attorney  
555 4th Street, N.W.  
Washington, D.C. 20530