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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA, )  
14 Plaintiff, )  
15 v. )  
16 CHARLES ROBERT VAUGHN, )  
17 Defendant. )  
18 )  
19 )

No. CR 10-0902 RS  
**UNITED STATES' SENTENCING  
MEMORANDUM**  
Date: December 20, 2011  
Time: 2:30 p.m.  
Court: Hon. Richard Seeborg

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1 On July 12, 2011, defendant Charles Robert Vaughn entered guilty pleas before  
2 this Court to one count of making a false statement to a government agency, in violation  
3 of 18 U.S.C. § 1014 (Count One of the indictment), and one count of bank fraud, in  
4 violation of 18 U.S.C. § 1344(1) & (2) (Count Four of the indictment). Sentencing is  
5 scheduled to take place on December 20, 2011 at 2:30 p.m. The government files the  
6 instant Sentencing Memorandum in order to discuss the offense conduct, charges, and  
7 plea agreement and to advise the Court of its sentencing recommendation.

## 8 I. DISCUSSION

### 9 A. The Offense Conduct

10 The Presentence Report (“PSR”) accurately describes the offense conduct in this  
11 case. In a nutshell, in 2006 and 2007, Charles Robert Vaughn (“Vaughn”), who has a  
12 history of federal fraud convictions in this district, represented himself to the Farm  
13 Services Agency (“FSA”), a division of the United States Department of Agriculture  
14 (“USDA”), in Ukiah, and to North Coast Bank in Santa Rosa, as running a business in  
15 Sonoma County devoted to growing organic vegetables. Based on the information that  
16 criminal investigators with the USDA and FBI have been able to develop, it appears that  
17 during 2006, Vaughn was involved in such a business. However, it appears never to have  
18 been profitable, and the business filed for bankruptcy in 2007. Although Vaughn called  
19 the business various names for different purposes, all the evidence developed during the  
20 investigation indicates that there was just one business.

21 Vaughn’s goal in dealing with the USDA and North Coast Bank was to obtain  
22 money. He adjusted the representations that he made to these two entities about the  
23 financial health of his business depending on circumstances. That is, in order to obtain  
24 farm loans from the USDA, Vaughn had to represent the business as in financial distress,  
25 but with a sufficiently promising future so as to assure the USDA that the business would  
26 be able to repay the loans. On the other hand, when it came to dealing with North Coast  
27 Bank, Vaughn represented his business as robust and flourishing and told the banker with  
28 whom he dealt that he was shopping around to see which local bank would be fortunate

1 enough to get his business. In the course of dealing with both the USDA and North Coast  
2 Bank and in order to induce them into giving him \$800,000 in loans, Vaughn made  
3 material false statements and omissions about his business to both entities. In the end,  
4 neither the USDA and North Coast Bank ever recovered any of the principal on their  
5 loans.

#### 6 **1. The Two USDA Loans**

7 In 2006, Vaughn was living with his partner, Ruth Stellwagen, at her family home  
8 on Highway 12 in Sonoma. In the PSR, Vaughn reported that he has been in a  
9 relationship with Ms. Stellwagen for fifteen years. Undersigned counsel recognizes  
10 Stellwagen's name from the prosecution of Vaughn that took place in the late 1990s /  
11 2000, *United States v. Charles Vaughn*, CR 96 0120 CAL. Undersigned counsel was the  
12 prosecutor in that case, which went to trial before Judge Legge in May 2000. Stellwagen  
13 acted as Vaughn's surety in that case. After Vaughn was convicted, Stellwagen wrote to  
14 the Court requesting leniency for Vaughn; in that letter, she described herself as Vaughn's  
15 fiance. It is the government's understanding that the home on Highway 12 is  
16 Stellwagen's family home, and that Vaughn has been living at that house since 2000, with  
17 the exception of the time that he was serving the 41-month sentence of imprisonment  
18 imposed by Judge Legge. It is also the government's understanding that Ruth  
19 Stellwagen's mother, Dorothy, lived at the Highway 12 residence until she passed away in  
20 2001.

21 In 2005 and through part of 2006, it appears that Vaughn was conducting farming  
22 operations on a piece of property on Wright Road in Sonoma County that he leased from  
23 an individual named Vincent Zaroni. In early 2006, Vaughn – under the name Robert  
24 Vaughan – approached Bryan Laughlin, a Loan Officer with the USDA/FSA in Ukiah  
25 about needing a \$500,000 Emergency Loan due to damage to crops and land sustained as  
26 a result of storms and flooding during the winter of 2005-2006. Vaughn represented  
27 himself to be the Vice President of Business Services for an entity called  
28 ["@VANTAGE.COM](http://@VANTAGE.COM) LLC" ("@VANTAGE"), which grew and sold organic produce,

1 and advised Laughlin that the operation had sustained approximately \$2 million in  
2 damage. Laughlin sent a loan application package to Vaughn to fill out.

3 Laughlin received the initial set of forms back from Vaughn on April 12, 2006,  
4 including a loan application filled out by hand. Over the course of the next several  
5 weeks, Laughlin dealt continuously with Vaughn, discussing what additional information  
6 was needed and receiving documents from Vaughn, including financial documents for the  
7 business such as tax returns for the tax years 2001 through 2004, and a Profit and Loss  
8 Statement for 2005. The tax returns showed that @VANTAGE had been operating at a  
9 loss for several years, but that performance was steadily improving. Vaughn did not  
10 provide Laughlin with a tax return for 2005, claiming that it had not yet been prepared.  
11 Nevertheless, the Profit and Loss Statement for 2005 that Vaughn gave Laughlin showed  
12 that @VANTAGE had \$943,000 in total income and \$73,000 in net income for 2005.  
13 These figures were important to Laughlin because they (1) established that @VANTAGE  
14 was not financially healthy enough to obtain conventional loans from a bank; yet (2) also  
15 showed a steadily improving financial picture that provided sufficient assurance that the  
16 \$500,000 loan would be repaid.

17 As it turned out, the 2005 income figures were false. As part of the bankruptcy  
18 proceedings for the business in 2007, Vaughn submitted a statement as manager stating  
19 that the income from operating the business for 2005 was \$160,700. He further stated  
20 that the income for 2006 was \$40,000. Vaughn provided the Bankruptcy Court with a  
21 2005 tax return confirming the \$160,700 total income figure, and showing the net income  
22 as minus \$335,514. Laughlin has advised that if he had known this was the true financial  
23 picture for the business in 2005 – where the business sustained the greatest net loss in five  
24 years – the FSA never would have approved the \$500,000 Emergency Loan. However,  
25 based on Vaughn’s material misrepresentations about the business’s income in 2005 and  
26 projected future income, the FSA approved the loan and it closed on May 30, 2006. In  
27 connection with that approval, Laughlin delivered spreadsheets to Vaughn which  
28 incorporated the income figures Vaughn had provided, and Vaughn returned them with

1 his signature indicating that the information was correct. Ruth Stellwagen and Vaughn  
2 both signed the promissory note for the \$500,000 loan. The loan was secured by a third  
3 deed of trust on Stellwagen's Highway 12 property. The loan funds were disbursed in  
4 increments to the business's account at Bank of America starting on June 12, 2006 and  
5 ending on September 6, 2006. The business never made any payments on the loan, and in  
6 fact, as noted above, filed for bankruptcy in 2007.

7 As discussed in the PSR, Vaughn's representations about the financial well-being  
8 of his organic farming business were not the only material misrepresentations that he  
9 made in connection with obtaining the \$500,000 FSA Emergency Loan. There were  
10 several others. First, Vaughn made false representations about the true ownership of the  
11 business. Laughlin had told Vaughn that financial statements and credit reports for the  
12 members of @VANTAGE.COM LLC would be required. Vaughn told Laughlin that he  
13 did not have an ownership interest in the business, and was just an officer who had the  
14 authority to sign on behalf of the business. Vaughn represented on the loan application  
15 and in subsequent correspondence that the members of the LLC were R.A. Stellwagen  
16 (Ruth Stellwagen); Ruth's cousin, J.R. Stellwagen; and Ruth's mother, Dorothy ("D.J.")  
17 Stellwagen. At one point, Vaughn provided Laughlin with a document that purported to  
18 be a resolution signed by all the members giving Vaughn the authority to seek the loan.  
19 The document purported to bear the signature of Dorothy Stellwagen, dated January 16,  
20 2006. In fact, as noted above, Dorothy Stellwagen passed away in 2001. Just a few days  
21 before the closing of the loan at the end of May 2006, when it was going to be necessary  
22 for the members of the LLC to sign the promissory note for the loan, Laughlin received  
23 an e-mail from a "J.M. Fallon," corporate counsel for the business, who advised that  
24 Dorothy Stellwagen was very ill, was traveling to Maine for care, J.R. Stellwagen was  
25 accompanying her, and their shares in the LLC had been transferred to Vaughn and Ruth  
26 Stellwagen so that they were now each 50% members.

27 Efforts to locate "J.M. Fallon" have been totally unsuccessful, and it is doubtful  
28 that he exists. A search of the California State Bar has come up with no attorney by that

1 name. A similar search of the American Bar Association Lawyer Locator database  
2 through Martindale.com came up with only one candidate, a James Murray Fallon, who  
3 currently practices in the Washington D.C. area and has never heard of the Stellwagens,  
4 Vaughn, or Planet Organic. Further, the social security numbers that Vaughn provided  
5 for Dorothy Stellwagen and J.R. Stellwagen belong to other individuals. It is doubtful  
6 that J.R. Stellwagen exists. During the adversarial proceedings in the bankruptcy case, a  
7 private investigator for one of the business's creditors made considerable efforts to locate  
8 J.R. Stellwagen, but was never able to do so. Similarly, the investigators in this case have  
9 not been able to locate J.R. Stellwagen. Nevertheless, in seeking the \$500,000 FSA loan,  
10 Vaughn provided background information about, and financial statements for, each of  
11 these members of the LLC in order to provide assurance that the members were well  
12 qualified to run the operation. Of particular note, on April 11, 2006, Vaughn faxed to  
13 Laughlin a cover letter for a Bank of America credit application in D.J. Stellwagen's  
14 name, with her date of birth, social security number, and purported signature as a member  
15 of @VANTAGE.COM LLC dba Planet Organic. The financial statement for D.J.  
16 Stellwagen also listed her birthdate and social security number, and bore her purported  
17 signature.

18 Vaughn also made material false statements on the FSA loan application when he  
19 stated that (1) there was no pending litigation that involved himself, the business, or any  
20 members of the business; and (2) the business had a lease with an option to purchase the  
21 land which it was farming. The information about pending litigation was material to the  
22 FSA because it needed to factor into its lending decision any potential future litigation  
23 expenses or judgments against the business. The information about a lease for the  
24 property on which the crops were grown was material because it was an indicator of the  
25 business's stability. Investigation revealed that Vaughn's representations about these  
26 matters were also false.

27 In the time frame during which Vaughn was applying for the \$500,000 loan, that  
28 is, between delivery of his application on April 12, 2006 and the closing of the loan on



1 May 30, 2006, the business was engaged in a civil lawsuit as the plaintiff bringing an  
2 action for trespass and breach of contract. Records relating to that suit show that Vaughn  
3 himself was dealing with the attorneys who filed the suit. Furthermore, there was an  
4 eviction action pending which had been initiated by Vincent Zanoni, the owner of the  
5 Wright Road property on which Planet Organic was growing its crops. Zanoni moved for  
6 eviction after the business stopped making its lease payments in September 2005. Zanoni  
7 filed the civil complaint, and the eviction was effected, during the time frame that the  
8 loan application was pending. Despite these facts, on May 17, 2006, shortly before the  
9 loan closed, Vaughn signed and returned to Laughlin a certification stating that there  
10 were no material changes to information he had provided previously to the effect that  
11 there was no pending litigation.

12 As noted above, Vaughn also stated on the loan application that the business was  
13 leasing the property with an option to purchase. In fact, on January 20, 2006, Zanoni's  
14 attorney sent a letter to Vaughn and Ruth Stellwagen at both the Highway 12 and Wright  
15 Road addresses advising that they were under substantial default under the terms of the  
16 Wright Road lease agreement due to failure to pay rent and, as a consequence, the right to  
17 exercise the option to purchase had been forfeited. Not only was the lease terminated by  
18 April 2006, but Vaughn's business was actually evicted from the Wright Road property in  
19 May 2006 before the USDA loan closed. Zanoni filed the civil complaint for eviction on  
20 April 14, 2006 and proof of service shows that Vaughn was personally served with the  
21 summons on May 10, 2006. Despite that fact, on May 17, 2006, Vaughn signed the FSA  
22 certification agreeing to report any material changes to the loan application and did not  
23 inform Laughlin of the eviction proceedings. The eviction was effective May 25, 2006  
24 before the loan closed; again, Vaughn did not inform Laughlin about this change in  
25 circumstances.

26 Based on what Vaughn represented about the business and the storm damages  
27 sustained, Laughlin believed that the \$500,000 Emergency Loan might not be sufficient  
28 for @VANTAGE to make a full recovery, and mentioned when the loan closed at the end

1 of May 2006 that additional funds might be available in the form of a \$200,000 Operating  
2 Loan. Not surprisingly, in August or September 2006, Laughlin received a call from  
3 Vaughn in which he expressed an interest in applying for the \$200,000 loan. (The initial  
4 payment on Emergency loan was not due until May 30, 2007). On September 18, 2006,  
5 the FSA received another application bearing Vaughn's signature. Vaughn now  
6 represented that the members of the LLC were just himself and Ruth Stellwagen. He  
7 continued to falsely represent that the LLC held the land under a lease purchase  
8 agreement. By this time the eviction from Wright Road was complete and Zanoni advises  
9 that he had made arrangements for another individual to rent the Wright Road property  
10 for farming. Vaughn also falsely represented that there was no pending litigation. In fact,  
11 @VANTAGE's trespass and breach of contract lawsuit was still pending.

12 Laughlin incorporated the same financial figures about @VANTAGE that Vaughn  
13 had provided previously for the years 2001 through 2005 into a document describing the  
14 business's financial picture and provided it to Vaughn for review. On September 19,  
15 2006, Vaughn faxed it back to Laughlin with a cover letter stating that 2005 statement for  
16 @VANTAGE was correct. Vaughn specifically noted that the income figures, including  
17 the \$943,000 in gross income for 2005, were correct.

18 Again relying on Vaughn's representations, the FSA approved the \$200,000  
19 Operating Loan, which closed on October 24, 2006. Vaughn and Ruth Stellwagen signed  
20 the note, which was secured by UCC filings on the business's equipment and receivables.  
21 The loan was disbursed in installments from October 25, 2006 through December 22,  
22 2006. No payments were ever made on this loan or the \$500,000 Emergency Loan.

## 23 **2. The \$100,000 Line of Credit from North Coast Bank**

24 During part of the time when Vaughn was dealing with the FSA and obtaining the  
25 loans, he was cultivating a very different relationship with North Coast Bank in Sonoma  
26 County. Ultimately, in June 2007, North Coast Bank issued a \$100,000 line of credit to  
27 Vaughn's organic farming business, "Planet Organic LLC." In dealing with North Coast  
28 Bank, Vaughn painted a picture of his business as extremely robust and profitable, and

1 never mentioned disaster losses, eviction, emergency and operating loans from the FSA,  
2 or bankruptcy. Instead, Vaughn provided financial figures for the business that  
3 corroborated his claims about its profitability. Vaughn never repaid the line of credit, and  
4 North Coast Bank contacted the FBI in Santa Rosa to report Vaughn's suspected fraud.

5 Vaughn dealt regularly and in-person with Chris Roach, a long-time banker and  
6 the Vice President of North Coast Bank's commercial lending section. Roach knew  
7 Vaughn as "Robert Vaughan."<sup>1</sup> When interviewed about Vaughn, Roach recalled him  
8 well. Roach had kept detailed notes of his interactions with Vaughn; he recalled Vaughn  
9 as articulate, seemingly successful, and apparently quite knowledgeable about business  
10 and finance. Vaughn never seemed to miss a beat when Roach had questions or requested  
11 additional information and documentation.

12 Vaughn initiated contact with Roach in March 2006, when he came into the bank  
13 and told Roach that he was the owner of a business called Planet Organic, which had  
14 recently been taken over by @VANTAGE MARKETING. Vaughn told Roach that he  
15 was in the businesses of growing organic produce and real estate development, and North  
16 Coast Bank was one of several candidates with whom Vaughn was considering  
17 establishing a "community" banking relationship. In an e-mail to Roach on March 9,  
18 2006, Vaughn stated that his company was "a sub \$3,000,0000 in annual sales company,"  
19 with a "majority" of the revenue coming from organic produce sales. Vaughn stated that  
20 his company had "existing/current plans to significantly increase our Ag. business  
21 revenue base through the acquisition of two local companies," one with annual revenues  
22 in the \$5.5 million range, and the other with annual revenues in the \$1.5 million range. A  
23 little over a month later, Vaughn had e-mail discussions with Roach about obtaining a

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24  
25 <sup>1</sup> When Vaughn filed for bankruptcy on behalf of @VANTAGE in March 2007, he  
26 signed documents using the name Robert Vaughan. When deposed in connection with the  
27 bankruptcy proceedings and questioned about his name, Vaughn stated that his legal name is  
28 Charles Robert Vaughn. He said that he spelled his name different ways depending on the  
occasion, that is, for personal matters, he used the "Vaughn" spelling, and for business matters,  
he used the "Vaughan" spelling. When pressed about this, he responded that he never changed  
his name legally and "I can spell my name any way I choose."

1 \$1.75 million loan from the bank secured by real estate. This was in the same time frame  
2 when Vaughn was applying to the FSA for a \$500,000 emergency loan. At one point,  
3 Vaughn also discussed with Roach establishing a merchant credit card with the bank in  
4 order to do sales over the internet. All of these proposals were attractive to Roach, who  
5 advised that both real estate loans and merchant credit cards typically resulted in high  
6 earnings for the bank.

7 Vaughn and Roach continued to communicate along these lines through 2006 and  
8 into 2007. On February 14, 2007, Vaughn opened several business accounts at North  
9 Coast Bank, including two accounts under the name Planet Organic LLC (“Planet  
10 Organic”). Vaughn explained that Planet Organic had recently split from @VANTAGE  
11 MARKETING. He also continued to tell Roach that Planet Organic was poised to  
12 purchase some property and would be needing a real estate loan. Vaughn provided  
13 documents which showed that the managers and members of Planet Organic were  
14 himself, C. Vaughn, and R.A. Watson. (According to the PSR, at paragraph 47 and page  
15 3, respectively, Watson is Vaughn’s mother’s maiden name, and Watson is one of  
16 Vaughn’s aliases).

17 In late February 2007, Vaughn provided Roach with the 2005 and 2006 Financial  
18 Statements for Planet Organic, which he explained had been run as a separate division of  
19 @VANTAGE MARKETING. The financial statements, which were in the same  
20 Quickbooks format as those that Vaughn provided to Bryan Laughlin at the USDA/FSA,  
21 showed that as of December 2006, Planet Organic had total assets of \$2.7 million and  
22 total liabilities of \$530,000. Total income for 2006 was \$2.6 million and net income was  
23 \$1.5 million. Roach viewed these documents as showing that the business had large  
24 deposits, decent sales, and tremendous profitability.

25 Not long after delivering these documents to Roach, Vaughn broached the subject  
26 of a \$100,000 line of credit for Planet Organic to be used for operating capital. In May  
27 2007, Vaughn provided tax returns for Planet Organic for the 2004, 2005, and 2006 tax  
28 years which corroborated the healthy financial picture in the financial statements. The

1 returns showed the preparer as a CPA named Richard Henderson. When Roach e-mailed  
2 Vaughn with a request to contact Henderson about some questions he had, Vaughn  
3 responded ninety minutes later with an e-mail address for Henderson. Roach  
4 subsequently communicated via e-mail with Richard Henderson. Through information  
5 received from Yahoo, investigators were able to determine that the Richard Henderson e-  
6 mail account was set up in the ninety minute window between Roach's inquiry about  
7 contacting Henderson and Vaughn's response providing an e-mail address for Henderson.  
8 A court order to the IRS has revealed that the tax returns that Vaughn provided to Roach  
9 were never submitted to the IRS, and the IRS has no record of any return being filed by  
10 Planet Organic for the 2004 to 2006 tax years. Investigators in this case have never been  
11 able to locate the Richard Henderson who supposedly prepared the Planet Organic tax  
12 returns.

13           Based on the information provided by Vaughn, Roach and North Coast Bank  
14 approved the requested \$100,000 line of credit. Vaughn signed a number of documents at  
15 the bank on June 8, 2007 including a Business Loan Agreement and a Commercial  
16 Security Agreement. Vaughn also agreed to use the funds for operating the business. He  
17 agreed that the line of credit would be fully repaid within one year. Vaughn drew down  
18 the entire line of credit between June 11, 2007 and August 3, 2007.

19           Initially, Vaughn made interest payments on the draws, thereby avoiding red flags.  
20 In July 2007, Vaughn asked Roach about increasing the line of credit by another  
21 \$100,000. He faxed to Roach a Profit and Loss Statement for Planet Organic for the first  
22 half of 2007, showing total income for the previous six months of \$1.4 million, and net  
23 income of \$1.2 million. Roach told Vaughn that he would have to provide a personal  
24 financial statement and sign as personal guarantor. When Vaughn provided these  
25 documents to Roach (which showed that he received \$80,000 annually in the form of  
26 income from the "Vaughn Family Trust" held at Charles Schwab), Roach started having  
27  
28

1 doubts about Vaughn and declined any further increases in the line of credit.<sup>2</sup> By now, it  
2 was August 2007. In March 2007, Vaughn had filed Chapter 12 bankruptcy for the  
3 business under the name of @VANTAGE dba Planet Organic; at no point did he mention  
4 this to Roach. Vaughn drew down the entire line of credit and never repaid any of the  
5 principal.

### 6 **3. How the USDA and North Coast Bank Money Was Used**

7 As part of its investigation, the government obtained records of the accounts into  
8 which the USDA and North Coast Bank funds were deposited and attempted to trace the  
9 funds. Financial Analyst Philip Villanueva, who works for the U.S. Attorney's Office,  
10 conducted the analysis. As to the \$700,000 in USDA funds, generally speaking it appears  
11 that approximately \$505,000 was used for expenses relating to running an agricultural  
12 business. (Even though Vincent Zaroni had evicted Vaughn from the Wright Road  
13 property and was leasing it to someone else to farm, it is believed that Vaughn remained  
14 involved in farming operations on the property. Bryan Laughlin from the FSA visited  
15 Vaughn there in late summer / early fall 2006 when they were discussing the second loan  
16 and it appeared that Vaughn was growing crops there). Villanueva's analysis concluded  
17 that approximately \$192,000 was spent on non-business purposes, including payments to  
18 cash, credit cards, Robert Vaughn, and Ruth Stellwagen.

19 Of the \$100,000 in funds from North Coast Bank, it appears that approximately  
20 \$66,000 was used for farming purposes such as payroll, equipment leases, supplies, etc.  
21 Another \$14,000 appears to have been used to pay the mortgage on Ruth Stellwagen's  
22 house on Highway 12. According to Roach, mortgage payments did not fall within the  
23 Bank's definition of business operating expenses. The \$12,000 that went into Vaughn's  
24 personal account appears to have been used for living expenses such as groceries,  
25 Starbucks, movies, gas, opera tickets, and credit cards. Even though the first \$60,000  
26 payment on the \$500,000 Emergency Loan from the FSA was due on May 30, 2007,  
27 Vaughn did not use any of the North Coast Bank funds to repay that loan.

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28 <sup>2</sup> A subpoena to Schwab determined that no such account existed.

**B. The Charges, Plea Agreement, and Applicable Sentencing Guidelines**

Based on the offense conduct described above, on December 9, 2010, the grand jury returned a four-count indictment charging Vaughn with making false statements in order to obtain the \$500,000 Emergency Loan from the FSA, in violation of 18 U.S.C. § 1014 (Count One); aggravated identify theft in connection with using the means of identification of Dorothy Stellwagen, that is, her name and date of birth, in violation of 18 U.S.C. § 1028A (Count Two); making false statements in order to obtain the \$200,000 Operating Loan from the FSA, in violation of 18 U.S.C. § 1014 (Count Three); and bank fraud in order to obtain the \$100,000 line of credit from North Coast Bank, in violation of 18 U.S.C. § 1344 (Count Four).

On July 12, 2011, Vaughn pled guilty to Counts One and Four, pursuant to a Rule 11(c)(1)(C) plea agreement entered into between the parties. As part of the plea agreement, Vaughn admitted specifically that in connection with applying for the \$500,000 Emergency Loan, he (1) materially misrepresented and overstated @VANTAGE's income for 2005, and (2) represented that Dorothy Stellwagen was a member of the business when, in fact, he knew she was deceased. In connection with the North Coast Bank loan, Vaughn admitted that he made material false statements, including those provided in financial documents for Planet Organic LLC which overstated the financial health of the business.

As part of the plea agreement, the parties agreed that the adjusted base offense level, for purposes of determining the applicable sentencing guidelines, is level 18. This was arrived at by starting with base offense level of 7; adding 14 levels for the loss of \$800,000; and a 3-level reduction for acceptance of responsibility. The parties further agreed that, pursuant to the Guidelines and 18 U.S.C. § 3553(a), an appropriate disposition of this case is a sentence not less than 45 months imprisonment, and not more than 55 months imprisonment; five years supervised release with conditions to be fixed by the Court; a fine to be determined by the Court if it is determined that Vaughn has the ability to pay a fine; and \$800,000 in restitution.



1           The Probation Officer agrees that the correct adjusted base offense level in this  
2 case is level 18. *See* PSR, ¶¶ 24 - 34. Vaughn has accumulated three criminal history  
3 points, and falls within Criminal History Category II. Accordingly, his guideline range is  
4 30 to 37 months.

5 **C. The Government's Sentencing Recommendation**

6           The Probation Officer recommends that the Court grant a variance pursuant to  
7 Section 3553(a)(1) and impose a sentence of 55 months imprisonment, to be followed by  
8 a five-year term of supervised release. The Probation Officer further recommends that  
9 the Court impose no fine, and that it order Vaughn to pay \$700,000 in restitution to the  
10 Farm Service Agency and \$100,000 to North Coast Bank. Vaughn also owes a special  
11 assessment of \$200.

12           The government concurs in the Probation Officer's sentencing recommendation.  
13 As discussed below, a sentence of 55 months imprisonment appropriately addresses the  
14 nature and circumstances of the offense and Vaughn's history and characteristics, as set  
15 out in Section 3553(a)(1), and is sufficient, but not more than necessary, to address the  
16 sentencing factors set out in Section 3553(a)(2).

17           As a starting place, it is worth noting that the applicable sentencing range for all of  
18 the conduct alleged in the indictment would be 65 to 75 months if Vaughn was convicted  
19 on all counts and did not receive an adjustment for acceptance of responsibility. That is,  
20 the guideline range for the Section 1014 and 1344 counts would be 41 to 51 months  
21 without acceptance of responsibility, and the aggravated identity theft conviction would  
22 require a consecutive sentence of 24 months, thus leading to a 65 to 75-month final  
23 sentencing range. With acceptance of responsibility, the guideline range for the Section  
24 1014 and 1344 counts – based on the total \$800,000 loss – is 30 to 37 months. If a  
25 mandatory consecutive 24 month sentence was added on to each end of that range, the  
26 final sentencing range would be 54 to 61 months. Thus, while as part of the plea  
27 agreement in this case the government did not require Vaughn to plead guilty to the  
28 aggravated identity theft charge, the 45 to 55-month range agreed upon by the parties in



1 the instant Rule 11(c)(1)(C) agreement reflects the relevant conduct in this case.

2 In addition, virtually all of the sentencing factors listed in Section 3553(a) weigh in  
3 favor of a variance to the 55-month sentence recommended by the Probation Office and  
4 government. A sentence in the 30 to 37-month guideline range simply does not address  
5 sufficiently the range of concerns with Vaughn, including his history of conduct, the  
6 nature and seriousness of his crimes in this case, the need to afford adequate deterrence to  
7 criminal conduct, and to protect the public from further crimes by this defendant. Indeed,  
8 Vaughn has amply demonstrated by his long history of criminal conduct that when he is  
9 out of custody and not under the supervision of the Court, he does not hesitate to support  
10 himself by conning people into giving him money that he never intends to repay. A prime  
11 example of this is the fact that even though Judge Legge reduced the restitution order in  
12 the 2000 case from the loss of over \$1 million to only \$100,000, Vaughn repaid only a  
13 small amount of what he owed. Judge Legge ordered that reduction based on a defense  
14 argument that Vaughn would never have the financial ability to pay over \$1 million in  
15 restitution. U.S. Probation Office records show that while on supervised release  
16 following the 41-month sentence imposed by Judge Legge, Vaughn paid a total of \$3,375  
17 in restitution payments. His last payment was on June 8, 2005, the same month that  
18 supervised release terminated.

19 As the Court can discern from reading the description above of Vaughn's conduct  
20 in relation to the FSA and North Coast Bank loans, Vaughn is one of those individuals  
21 who is skilled at appearing to be something that he is not and convincing people that he is  
22 someone to whom they should give their money. Chris Roach's description of Vaughn's  
23 skill at deceiving him into believing Vaughn was a savvy and successful businessman  
24 uncannily echoes the testimony given by witnesses Richard McKannay and Michael  
25 Pescatello at the 2000 trial before Judge Legge. In that case, Vaughn was charged with  
26 wire fraud in connection with a 1991 scheme in which he convinced McKannay, an  
27 experienced private lender, to give him over \$1 million in loans. Vaughn convinced  
28 McKannay that the loans were fully secured by collateral in the form of U.S. Treasury

1 notes purchased from Bear Stearns and Dean Witter. In fact, Vaughn had purchased the  
2 securities, but had done so on margin. Therefore, the value of the collateral was only a  
3 fraction of the principal that McKannay loaned Vaughn. Vaughn additionally duped  
4 McKannay by leading McKannay to believe that the securities had been transferred to  
5 accounts held at Northern Trust Bank. Vaughn managed to convince Michael Pescatello  
6 at Northern Trust to write letters worded in a very specific manner that led McKannay to  
7 believe that the securities had been deposited as promised to the Northern Trust accounts  
8 when, in fact, they had not. When they testified at trial, both McKannay and Pescatello,  
9 who were very experienced in the financial field, stated that they were fully taken in by  
10 Vaughn's confident and seemingly knowledgeable manner, and the fact that he never  
11 seemed to miss a beat when asked for additional information or supporting  
12 documentation. The scheme only came to light when McKannay and Pescatello happened  
13 to talk one day and McKannay learned that the collateral of full value was not, as Vaughn  
14 had led him to believe, on deposit at Northern Trust Bank.

15 At trial and in a letter provided to the Court at sentencing, McKannay described  
16 the devastating impact that Vaughn's actions had on his individual investors and his  
17 business. Through lawsuits against some of the entities that Vaughn had drawn into his  
18 scheme, for example, Northern Trust and Bear Stearns, McKannay was able to recover  
19 some funds and provide each investor with a recovery of approximately 45%. He was not  
20 able to make them whole, however, and the entire affair resulted in the closing of  
21 McKannay's business.

22 In the case before Judge Legge, Vaughn was also tried and convicted on one count  
23 of making false statements in a real estate loan application to Imperial Bank. Vaughn lied  
24 when he said that he had not filed bankruptcy in the previous seven years; provided a  
25 false social security number; and overstated his assets. As a result of his  
26 misrepresentations, Imperial Bank issued a loan of approximately \$500,000.

27 One thread that was common in the witness testimony at trial was the fact that in a  
28 number of instances, Vaughn had other individuals unwittingly sign documents that

1 assisted in perpetrating the fraud. One such individual was his then-romantic partner,  
2 Renee Pettersen, who is mentioned at paragraph 54 of the current Presentence Report. By  
3 having her sign certain key documents, he exposed her to civil liability and potential  
4 criminal prosecution.

5 With apparently no regret or remorse for the financial havoc that his past actions  
6 have caused, Vaughn engaged in the same type of conduct again in 2006 and 2007 when  
7 he needed money. He lied to the Farm Service Agency and North Coast Bank with  
8 impunity in order to induce them to loan him \$800,000 that he had no intention of paying  
9 back. That fact is clearly demonstrated by the fact that he used none of the North Coast  
10 Bank money to repay a portion of what he then owed to the Farm Service Agency.  
11 Similar to how he treated Renee Pettersen, Vaughn had Ruth Stellwagen sign several  
12 documents in connection with the FSA loans and she even put her family home up as  
13 collateral.<sup>3</sup>

14 As discussed in the Presentence Report, this pattern of conduct was not new for  
15 Vaughn even in the 1990s when he perpetrated the schemes to defraud on McKannay and  
16 Imperial Bank. In 1987, Vaughn pled guilty to making a false statement on a loan  
17 application, in violation of 18 U.S.C. § 1014, and U.S. District Judge William Orrick  
18 sentenced Vaughn to serve two years in prison. That case, *United States v. Charles*  
19 *Vaughn, aka Dwight C. Vaughan*, CR 86 1017 WHO, arose out of Vaughn's false  
20 statements in 1984 to World Savings in order to obtain a \$420,000 residential loan. In the  
21 application, Vaughn lied about his true name, income, and assets. As part of his efforts to  
22 make the residential purchase, Vaughn also obtained a \$265,000 loan from a private  
23 individual and pledged securities worth the full value of the loan. As it turned out, the  
24 collateral was worth only 10% of what Vaughn represented. Vaughn defaulted on both  
25 loans.

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26  
27  
28 <sup>3</sup> The bank that held the first mortgage loan secured by the Highway 12 property has  
since foreclosed. The government understands that Ms. Stellwagen has entered into an  
agreement with the bank that allows her to continue to reside at the property.

1 In light of the way Vaughn has chosen to live his life since at least 1984, his  
2 statements to the Probation Officer in the instant case, as recounted at paragraph 18 of the  
3 Presentence Report, ring hollow. Vaughn has never made any effort to repay any of the  
4 victims whom he has harmed over the years; therefore, his claim of a commitment to  
5 repay restitution is not credible. Vaughn apparently told the Probation Officer that he  
6 thought he was “back on track” after serving the sentence imposed by Judge Legge, but  
7 that this offense has “completely reversed his life.” That passive language suggests that  
8 Vaughn blames the circumstances in which he now finds himself as originating in forces  
9 beyond his control. Vaughn does not acknowledge that all of the deception toward the  
10 FSA and North Coast Bank was of his own making and follows a long, well-established  
11 pattern. Without a doubt, Vaughn trades on his ability to lie with ease and great facility,  
12 and this leads to success time and time again. Given that all of his crimes involve fraud  
13 and deceit, and he keeps repeating the same fraudulent conduct over and over again in  
14 order to induce people to give him money, the only reliable indicator of Vaughn’s true  
15 sentiments are his actions. Despite two prior convictions and sentences of imprisonment  
16 imposed by Judge Orrick and Judge Legge in 1987 and 2000, respectively, those  
17 experiences did not stop Vaughn from engaging in separate frauds with the FSA and  
18 North Coast Bank in 2006 and 2007. This is simply the way Vaughn interacts with the  
19 world and survives financially. He appears to have no inner moral compass and continues  
20 to act with complete disregard for the effect that his actions have on others.

21 One of the most disturbing aspects of this matter is that it is clear that the only way  
22 to protect the community from further financial harm by Vaughn is to incarcerate him.  
23 Vaughn has demonstrated that he poses a very real financial danger to the community and  
24 is not prepared to stop that conduct. As required by Section 3553(a), sentencing in this  
25 case must properly reflect the seriousness of Vaughn’s conduct here and his past history  
26 of the identical conduct. It must also convey, through a sentence that is significantly  
27 more substantial than the 41-month sentence imposed by Judge Legge in 2000, that the  
28 community expects a sentence that will promote respect for the law and afford deterrence

