

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

MOHAMMED CHOWDHURY,

Defendant.

Case No. 23-cr-10032-LTS

GOVERNMENT'S SENTENCING MEMORANDUM

Approximately a year and a half years ago, Mohammed Chowdhury (hereafter referred to as "CHOWDHURY" or "defendant") hired someone he thought was a contract killer, provided detailed information, instructions, and a \$500 down payment, and requested that this individual kill his ex-wife and her new partner in an act of revenge for leaving him. Indeed, CHOWDHURY checked every box necessary to arrange for his ex-wife's and the new partner's murders – that is, he satisfied every element of a murder-for-hire that would result in his ex-wife's and new partner's actual homicide – and only escaped commission of a capital crime because the contract killer he hired was actually an undercover federal agent. Put simply, if ever there was a defendant deserving of a 108-month prison sentence, CHOWDHURY is it.

The United States respectfully submits this Sentencing Memorandum in the above-captioned case, currently scheduled for sentencing on April 25, 2024. For the reasons outlined below and to be articulated at the sentencing hearing in this case, the government respectfully submits that a sentence of 108 months of incarceration, 36 months of supervised release, a fine to be determined by the Court, and a mandatory special assessment of \$200 is appropriate in this case and for this defendant. Such a sentence would be sufficient, but absolutely not greater than necessary, to satisfy the sentencing objectives enumerated in 18 U.S.C. § 3553(a).

PROCEDURAL HISTORY

On January 17, 2023, the defendant, CHOWDHURY was arrested and ordered detained in federal custody for the instant offense. On January 25, 2024, the defendant pled guilty to a two-count Indictment, both counts charging him with Use of Interstate Commerce Facilities in the Commission of Murder-for-Hire, in violation of 18 U.S.C. § 1958(a). *See* Presentence Investigation Report (hereafter “PSR”) ¶¶ 1 & 2.

There is a binding plea agreement in this case pursuant to Rule 11 (c)(1)(C). The parties agreed that the defendant's total offense level under the Guidelines in this case is 31. The parties further agree on a sentence of incarceration of between 87 and 108 months. *See* PSR ¶¶ 3 & 4.

FACTUAL BACKGROUND

In November of 2022, a Confidential Source (CS) contacted FBI agents to provide information regarding CHOWDHURY soliciting the murder of the mother of his children. According to the CS, CHOWDHURY attempted to pay an individual to conduct the murder for hire, but that individual took the money and did not follow through with CHOWDHURY’s request.

According to the CS, CHOWDHURY subsequently contacted the CS and stated he needed the murder done as soon as possible and that he would get the money, indicating that he would even rob a store if necessary to do so. The CS subsequently provided CHOWDHURY’s phone number to the FBI, who thereafter used undercover employees (hereinafter, “UCE”) to communicate with CHOWDHURY about the murder for hire plot. *See* PSR ¶¶ 9 & 10.

Texts and Phone Calls with UCE

In November and early December of 2022, UCE texted and had phone calls with CHOWDHURY about the murder for hire job. The UCE provided CHOWDHURY with details on how to contact UCE via Telegram, an encrypted messaging application, he could use via his cell

phone.

During one such conversation, on December 7, 2022, CHOWDHURY asked UCE to meet at a pizza place in Dorchester. CHOWDHURY stated, to the UCE “the thing is, that, you know, I have been in trouble, you know, so I don’t wanna, uh, get in trouble again because there’s gonna be too much problem, you understand what I want to mean?” CHOWDHURY then asked, “Telegram is not gonna record, it’s not gonna, no phone number, right?”

On December 8, 2022, UCE and CHOWDHURY again spoke in a recorded conversation via Telegram. During this recorded conversation, CHOWDHURY and UCE agreed to meet in person at Charlie’s House of Pizza in Dorchester, MA. During this meeting, CHOWDHURY informed UCE that he wanted him to rob and beat his wife so that no one would think he was coordinating it. CHOWDHURY informed UCE that his wife won’t let him see his kids. The UCE then asked CHOWDHURY for his ex-wife’s address, which CHOWDHURY provided. The UCE informed CHOWDHURY that someone would be taking a photo of the address and would send it to CHOWDHURY over the weekend, to confirm the correct address. On December 10, 2022, the UCE texted a photo of the front door of the address provided by CHOWDHURY to him. CHOWDHURY confirmed it was the correct home by responding, “Yes”. *See* PSR ¶¶ 11-13.

December 13, 2022 - Meeting with UCE

On December 13, 2022, CHOWDHURY met with UCE at Charlie’s House of Pizza. The meeting was recorded, and CHOWDHURY explained to the UCE that he had been with his ex-wife for twelve years, brought her to the United States from Bangladesh, paid money for her, they had two children together, and that she cheated on him with another guy; kicking CHOWDHURY out of the house. CHOWDHURY provided UCE with a photo of his ex-wife.

During this conversation, CHOWDHURY told them where his ex-wife’s boyfriend works, and that CHOWDHURY wanted the UCE to kill him as well. CHOWDHURY explained he wanted

it to look like a robbery because if not, it was going to come back on him and that he was worried about being the suspected perpetrator. *See* PSR ¶¶ 14 & 15.

December 20, 2022 - Meeting with UCE

On December 20, 2022, CHOWDHURY met with UCE outside of the El Barrio Mexican Grill in Dorchester, MA. During this recorded meeting, the UCE reiterated to CHOWDHURY the understanding that they would kill the ex-wife's boyfriend first. CHOWDHURY responded, "So what you can do? What you can do? You can like, you know, no evidence, disappear, like that?" UCE asked CHOWDHURY if he wanted the murder to look like a robbery. CHOWDHURY confirmed that he wanted the murder to look like a robbery because he did not want the murder to come back to him. UCE again asked, "So, but you want, the boyfriend is what you want first, correct?" CHOWDHURY responded, "Yeah, one, one thing, and second thing is like, my wife, you know?" CHOWDHURY and UCE ultimately agreed on \$4,000 per murder (which CHOWDHURY referred to as a "case"). At the end of the recorded conversation, UCE again informed CHOWDHURY he needed to provide information about the boyfriend, including his name, photograph, and work address.

CHOWDHURY once again stated, "No evidence. No evidence. No evidence from like, you know, that, uh, I did something, you know?" Before ending the conversation, UCE asked, "So we understand each other?" CHOWDHURY responded, "Yeah, we understand each other." CHOWDHURY also confirmed he wanted the new boyfriend killed first, then the UCE would talk about handling his wife after some time goes by. CHOWDHURY double checked that the UCE had the photo of his wife before exiting the vehicle. On December 27th, CHOWDHURY sent multiple messages via Telegram to UCE which contained photos of the intended male victim (CHOWDHURY's wife's boyfriend) and his workplace address. *See* PSR ¶¶ 16 & 17.

January 4, 2023 - Meeting with UCE

On January 4, 2023, UCE explained to CHOWDHURY that he needed to pay the \$500 deposit up front for the murder of the boyfriend before they will go near the ex-wife. CHOWDHURY subsequently asked, “So how we gonna disappear his, uh, body?” and UCE responded, “We’re not gonna have to, it’s gonna look like he was robbed.” Before leaving the vehicle, CHOWDHURY asked, “And another case, so you could do, like, my wife, like uh, uh, disappear, like, no, no, no evidence? If I said that like do first...Or like, because, if anything happen, its comes to me, cuz she, I’m like, uh, you know, an enemy of her.” *See* PSR ¶ 18.

January 17, 2023 - Meeting with UCE

On January 17, 2023 CHOWDHURY met with UCE in an agreed upon parking lot in Dorchester, MA. During the meeting with CHOWDHURY, he provided UCE with \$500.00, the required down payment. CHOWDHURY confirmed to UCE that he wanted the job done. CHOWDHURY was then arrested and taken into custody by the FBI. *See* PSR ¶ 19.

January 17, 2023 – CHOWDHURY’s statements at FBI

On January 17, 2023, CHOWDHURY was transported to FBI after being arrested, where he agreed to a recorded interview after being made aware and waiving his Miranda rights. CHOWDHURY admitted to negotiating a \$4,000 price and to providing the \$500 down payment, to sending the photographs, and the address information so that the UCE could identify the targets. However, at first CHOWDHURY claimed that the payment and information was to “punish” his wife and her boyfriend but denied that the services solicited were for murder.

After agents turned off the recording device, CHOWDHURY was placed just outside the interview room, in the booking area, with one of the agents and a task force officer, to await transport to the federal courthouse. CHOWDHURY continued making statements, unprompted by any questioning. At one point, in response to CHOWDHURY’s statement about being a good

person, being mentally stressed because his wife had caused him pain and ruined his life, an agent told him, he should just tell the truth. At this point, CHOWDHURY admitted that he knew the \$500 was a down payment on the \$4,000 he was paying the UCE to kill his ex-wife's new boyfriend. Agents re-issued Miranda warnings to CHOWDHURY and re-engaged the recording equipment before asking him to repeat what he had said off-tape. CHOWDHURY repeated his admission. *See* PSR ¶ 20.

Identification of the Intended Victims

During the course of the investigation, CHOWDHURY's ex-wife was identified as was her residence. Records from the Boston Municipal Court, Roxbury Division, including a Civil Restraining Order, list her as the plaintiff and CHOWDHURY as the defendant in the order issued on November 30, 2018. The Civil Restraining Order lists her residence as the address of record. This same home was listed as CHOWDHURY's residence on his Massachusetts Criminal Offender Record, at least during the time period prior to the issuance Civil Restraining Order and subsequent criminal charges for violating the order, as referenced above. Furthermore, Incident Reports from the Boston Police Department from May 19, 2017, November 18, 2018, and December 5, 2018, list this address as his ex-wife's residence and CHOWDHURY's former residence. The Incident Report from May of 2017 and November of 2018 detail allegations against CHOWDHURY for physically abusing his ex-wife and one of their minor children in the residence. The December 2018 Incident Report concerned CHOWDHURY violating the aforementioned Civil Restraining Order. CHOWDHURY is alleged to have arrived at the residence, loudly knocking on the door, and requesting entry into the residence; despite the order prohibiting his presence at that residence and from being in the vicinity of his ex-wife and their children. CHOWDHURY's ex-wife is Victim 1 as charged in the indictment.

Further, during the course of the investigation, CHOWDHURY's ex-wife's boyfriend was

determined, through review of records held by the Registry of Motor Vehicles and through conversation with the boyfriend, which confirmed he resides in Roxbury, MA and works at the address provided by CHOWDHURY to the UCE. CHOWDHURY's ex-wife's boyfriend is Victim 2 as charged in the indictment. *See* PSR ¶¶ 21 & 22.

DISCUSSION

I. Sentencing Guidelines Calculation

The government and the defendant agree that his offense level, criminal history, and Guidelines Sentencing Range ("GSR") is as calculated by the parties in the plea agreement, which reflects a Total Offense Level of 31 and a Criminal History Category of I. This results in a GSR of 108 to 135 months of incarceration. However, as part of that same plea agreement the government and the defendant agree to a range of incarceration of between 87 and 108 months.

U.S. Probation Office ("Probation") as detailed in the PSR in this case have calculated the guidelines differently from the parties. More specifically, Probation has calculated the defendant's Total Offense Level to be 36 and Criminal History Category ("CHC") to be I, which results in a GSR of 188 to 235 months. *See* PSR ¶¶ 27-41. In addition, Probation has computed the Guidelines range for supervised release to be one to three years and the range for a fine to be from \$40,000 to \$400,000, as well as a mandatory special assessment of \$200 for the two counts to which the defendant has pled guilty. *See* PSR ¶¶ 73, 74, 77-79. In the end, the statutory maximum penalty caps the defendant's possible period of incarceration at 240 months or 120 months per count, which the government submits in this instance is greater than necessary. The government has accounted for the mitigating factors in this case in crafting an appropriate sentencing recommendation, one that is incorporated in the binding plea agreement in both the parties' guidelines' calculation and their agreed upon sentencing range. Hence the government strongly believes that the most appropriate sentence for this defendant, in this case, accounting for

all the aggravating and mitigating factors is 108 months of incarceration.

As a threshold matter, the corresponding guideline for a violation of 18 U.S.C. § 1958(a) is USSG § 2E1.4. Under USSG § 2E1.4, the base offense level for murder-for-hire is the greater of the base offense level of 32 set forth at USSG § 2E1.4(a) or “the offense level applicable to the underlying unlawful conduct.” *See* PSR ¶ 27. Here, the greater offense level is that pertaining to the underlying unlawful conduct, Conspiracy or Solicitation to Commit Murder, which requires reference to USSG § 2A1.5. *See* PSR ¶ 28. As put forth by Probation in the PSR - that brings the offense level to 37, computed by taking a base offense level of 33 pursuant to USSG § 2A1.5(a) and adding four levels pursuant to USSG § 2A1.5(b)(1) because the count of conviction involves the offer or receipt of a thing of pecuniary value for undertaking the murder.¹ This difference in Base Offense Level, accounts for a five-level difference between the parties agreed upon Base Offense Level in the plea and the one determined by Probation in the PSR.

Despite the discrepancy in calculation of Base Offense Level, both the parties and Probation agree there is a two-level enhancement of the Base Level Offense resulting from the defendant’s conviction on multiple counts, pursuant to USSG §3D1.4(a), (b) and (c). Since these two offenses do not group under the guidelines and also are of equal seriousness, an additional level is added for each offense. *See* PSR ¶ 34. This results in an Adjusted Offense Level as calculated by the parties of 34 and as calculated by Probation of 39.

The defendant has accepted responsibility for his actions and rightfully receives a three-level reduction, bringing down his Total Offense Level, per Probation’s calculations to 36, and per the parties to a 31. PSR ¶¶ 3, 39-41, 70, & 71. As previously mentioned, a Total Offense Level of 36

¹ In *United States v. Vasco*, the First Circuit affirmed the District Court’s decision that the “underlying unlawful conduct” for Use of Interstate Facilities in the Commission of Murder-for-Hire, in violation of 18 U.S.C. § 1958, is Solicitation to Commit Murder. 564 F.3d 12, 23 (1st Cir. 2009). While the First Circuit acknowledged that “virtually every time a defendant is charged with ... murder for hire, the underlying unlawful conduct will be solicitation to commit murder,” it nonetheless upheld the District Court’s use of that cross-reference. *Id.* at 23.

and a CHC of I, results in a GSR of 188 to 235 months for the defendant, which is above the government's recommended sentence. The parties calculate in the plea agreement a GSR of 108 to 135 months – nevertheless – the government builds into its sentencing recommendation the mitigating factor here that the multiple counts of conviction stem from essentially the same core conduct. As a result, the government agreed in the plea agreement to a sentencing range that reflects that mitigation built into the plea agreement's sentencing range.

II. Specific Offense Characteristics and the Section 3553(a) Factors

Pursuant to 18 U.S.C. § 3553(a), the Court is required to consider a series of factors when determining an appropriate sentence. These factors include “the nature and circumstances of the offense and the history and characteristics of the defendant”; the four legitimate purposes of sentencing; “the kinds of sentences available”; the Guidelines range itself; any relevant policy statements by the Sentencing Commission; “the need to avoid unwarranted sentence disparities among defendants”; and “the need to provide restitution to any victims.” 18 U.S.C. § 3553(a).

In determining the appropriate sentence, the statute directs judges to “impose a sentence sufficient, but not greater than necessary, to comply with the purposes” of sentencing. Section 3553(a) also mandates that the sentence reflect the seriousness of the offense to, among other things, promote respect for the law, provide just punishment, adequately deter criminal conduct, and protect the public from further crimes of the defendant. Here, virtually every consideration enumerated in § 3553(a) weighs in favor of a longer sentence.

The government recommends that the Court sentence the defendant to 108 months in prison, together with three years of supervised release and the mandatory \$200 special assessment. Though 108 months represents a significant sentence it is a realistic penalty for a defendant who plotted and conspired to commit two murders-for-hire. While this plot – thankfully - did not result in personal injury or the death of the victims, it is also a sentence significantly below the low end

of either the 188-to-235-month GSR and at the absolute bottom of the 108-to-135 GSR. What is more, the government submits that a 108-month sentence is that which is sufficient but not greater than necessary in this case to satisfy the sentencing goals set forth in 18 U.S.C. § 3553(a).

Nature of Offense

Pursuant to 18 U.S.C. § 3553(a)(1), the Court must consider “the nature and circumstances of the offense and the history and characteristics of the defendant.” The PSR discusses the defendant’s depression and anxiety, and the government certainly does not take this lightly nor his strict upbringing, which included physical discipline. *See* PSR ¶¶ 52, 62. However, the government submits none of that justifies or negates the defendant’s behavior in this instant offense. The nature and circumstances of the offense very much warrant a substantial, nine-year sentence (*108 months*).

Despite pleading guilty and admitting to all of the essential facts of his murder-for-hire plot, the defendant in this case has previously downplayed the gravity of his conduct, arguing that the undercover federal agent served as a “but for” enabler without whom the defendant would never have gone through with the crime. The defendant’s argument is belied by the stark reality of the situation: that this defendant attempted the very same conduct prior to the intervention of federal law enforcement with an individual, who mercifully took the money from the defendant and never carried out the requested assignment. Without the intervention of a source who contacted law enforcement about the defendant’s murder plans and without the intervention of the FBI, the defendant may well have committed capital offenses and the victims in this case might both be dead. Indeed, the defendant did everything necessary to complete the murder-for-hire – that is, he precisely took every step *and possessed the same intent* of a defendant who orchestrates a successful murder-for-hire resulting in the actual homicide of the victims. Though the victims in this case were not, in fact, killed, the defendant’s conduct was extraordinarily serious, horrifying,

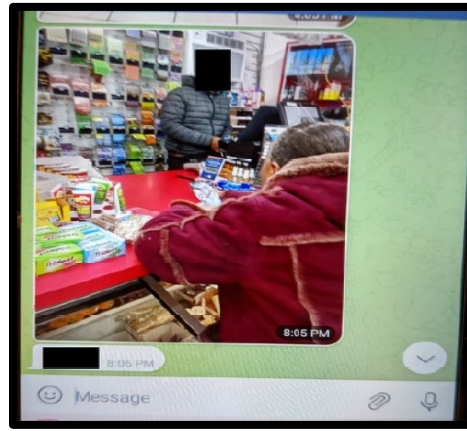
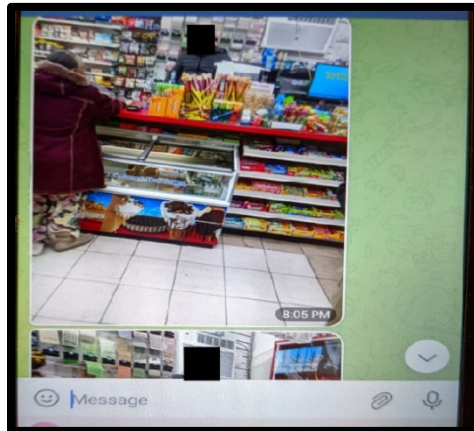
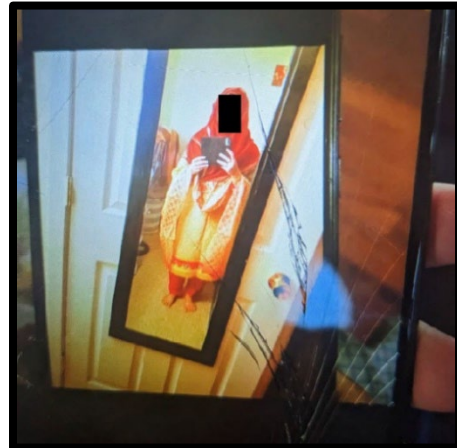
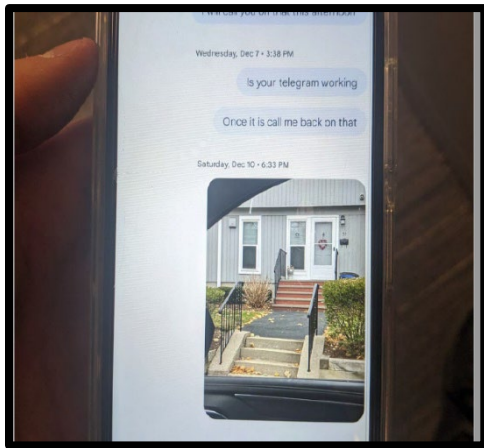
and deserving of a significant sentence – specifically, nine years – of incarceration.

The facts in this case also speak to a darker and more sinister psyche of this defendant – one that is heard in the undercover recordings, one that speaks to the defendant’s fragile masculinity, and his determination to exact violent retribution to his perceived wronging. In one recording, he describes his frustration at his ex-wife’s westernization and independent thinking; however, it is his reference, more than once, to the fact that he brought her to the United States and paid money for her, that is so deeply troubling. This seeming commodification of a human – reducing her to acquired property; and the dehumanization of her as a person capable of exercising choice – and the unwillingness to imagine a life without him in it, all speaks volumes about the dangerous mentality of this defendant and his purposefulness in perpetrating this crime.

Seriousness of Offense; Respect for Law; Just Punishment

In fashioning a sentence, the Court also must consider the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense. 18 U.S.C. § 3553(a)(2)(A). As discussed above and as is surely clear to the Court, the defendant’s crime of conviction is incredibly serious and shocking to the conscience. While the defendant may seek to minimize the conduct or attribute it to his upbringing or mental health – again, things which the government appreciates and does not take lightly – the defendant’s conduct speaks for itself: CHOWDHURY hired someone he thought was a contract killer to murder his ex-wife and her new partner. In so doing, he took many steps over the course of multiple months to accomplish his goal. First, CHOWDHURY paid \$500.00 to an acquaintance to assist him in the murder but when that person took his money and walked away; he next jumped at the opportunity to meet with someone who he believed was a real-life contract killer. He spoke through text message, Telegram, on the phone, and met in person

multiple times with someone he believed was a contract killer; ultimately providing them with all kinds of specific information that would both help the contract killer complete the crime and enable both to evade detection by law enforcement. CHOWDHURY provided descriptions of his ex-wife and her new partner, provided the times when the couple's children would leave for school and his ex-wife would be alone at the house (*advising the best times for the homicide to take place*), and most chilling - he requested numerous times that there be no evidence of the bodies left behind – that they would just “be disappeared.” CHOWDHURY also provided photos of the intended victims, their home, and place of business.



Screenshots of photos provided by CHOWDHURY to an undercover FBI agent.

Adequate Deterrence

The Court also must consider the need for the sentence to afford adequate deterrence to

criminal conduct. 18 U.S.C. § 3553(a)(2)(B). Here, the Court must be concerned with both specific and general deterrence. First, given the unthinkable nature of the crime to which the defendant has pleaded guilty, a significant sentence is necessary to specifically deter the defendant from engaging in further crimes when he is released. The defendant has demonstrated a history of failing to abide by court orders, ignoring rules and laws, and – at a minimum – threatening physical harm to others. *See Ex. #s 1 – 6*. His conduct here certainly raises the bar for what he might be capable of, and a nine-year prison sentence is appropriate to ensure that he does not reengage in similar, terrifying behavior.

Second, a significant sentence is also necessary to provide general deterrence to others similarly situated who might be tempted to engage in the same course of conduct. The nine-year sentence recommended by the government would accomplish this goal. Specifically, and in particular because the conduct – and the defendant’s intent – here was identical to the conduct and intent required to complete these murders, a substantial, sentence will serve to generally deter others from contemplating such a crime. A lesser sentence will fail to do so.

Need to Protect the Public

Finally, a significant sentence also is appropriate pursuant to 18 U.S.C. § 3553(a)(2)(C) to protect the public from this defendant. While the defendant’s conduct should cause concern for virtually anyone with whom he interacts, the government submits the person in greatest danger of the defendant’s future conduct are the victims in this case, his ex-wife, and her new partner. By his conduct in this case, the defendant has proven himself willing and able to take concrete steps to have both murdered. His conduct is frightening and traumatizing, and the defendant should receive as significant a sentence as possible to afford the victims the knowledge that he will be unable to physically harm her for a lengthy period of time.

CONCLUSION

For all of the foregoing reasons, the government respectfully recommends that the Court impose a sentence of 108 months of imprisonment, three years of supervised release, a fine that the Court deems appropriate, and the mandatory special assessment of \$200. Such a sentence would be sufficient, but not greater than necessary, to reflect the seriousness of the offenses and the goals of sentencing.

Respectfully Submitted,

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Date: April 15, 2024

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CERTIFICATE OF SERVICE

Undersigned counsel certifies that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ Luke A. Goldworm

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Dated: April 15, 2024