IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA, ***Plaintiff,*** **v.** **JASON BRETT MERIDA,** ***Defendant.***	**Case No. CR-14-20-JHP**

GOVERNMENT'S SUPPLEMENTAL BRIEF

COMES NOW the United States of America, by Assistant United States Attorneys Douglas A. Horn and Christopher J. Wilson, Eastern District of Oklahoma, and pursuant to the Court's order of May 6, 2015 ordering both parties to submit supplemental briefs would submit the following:

ISSUE ONE – Does the Defendant, an official within the Choctaw Nation, constitute a "Public Official" as defined in United States Sentencing Guideline § 2C1.1, Application Note (1)(E)? Specifically, does the Choctaw Nation constitute a government as referred to in Note (1)(E)?

Application Note 1 to USSG § 2C1.1 defines "public official" and states that "public official" shall be ***construed broadly*** and includes the following:

Application Note 1 (E) states:

> (E) an individual who, although not otherwise covered by subdivisions (A) through (D): (i) is in a position of public trust with official responsibility for carrying out a government program or policy; (ii) acts under color of law or official right; or (iii) participates so substantially in government operations as to possess de facto authority to make governmental decisions (e.g., which may include a leader of a state or local political party who acts in the manner described in this subdivision).

USSG § 2C1.1 is titled "Offering, Giving, Soliciting, or Receiving a Bribe; Extortion Under Color of Official Right; Fraud Involving the Deprivation of the Intangible Right to Honest Services of Public Officials; Conspiracy to Defraud by Interference with Governmental Functions." Every crime that is referred to under USSG § 2C1.1 involves public officials or interference of a governmental function. Bribes require two parties - one who offers the bribe and one who accepts the bribe. Therefore, within § 2C1.1, someone in the offering or accepting of a bribe must be a "public official." Defendant Merida was convicted of 18 U.S.C. § 666(a)(1)(B) by the jury's finding in Object One of the charged Conspiracy. 18 U.S.C. § 666 applies to whoever "being an agent of an organization, or of a State, local or Indian tribal government." The guidelines specifically direct that a conviction under 18 U.S.C. § 666(a)(1)(B) will cross-reference to USSG § 2C1.1. The guidelines would not have referred a conviction under this statute to this particular guideline subsection if it did not intend to include an "Indian tribal government" as a "government".

It is undisputed that the Choctaw Nation of Oklahoma (CNO) is a federally recognized tribe that is a fully functioning government with a constitution and separate branches of government (executive, legislative and judicial).[1] The former Chief of the CNO, Greg Pyle, testified concerning his duties and responsibilities of the Principle Chief of the CNO. He was an elected official that served under the constitutional powers and duties of the CNO constitution. Current Chief of the CNO and former Assistant Chief, Gary Batton, provided similar testimony of the reporting structure of the CNO. Multiple current and former Executive Directors testified concerning the organization of the Executive Branch of the CNO (Janie Dillard, Ryan Garner, Matt Gregory, Jason Merida). Each of these officials testified they were in

1 The parties stipulated and the Court instructed the jury that the Choctaw Nation of Oklahoma was an Indian Tribal Government that received more than $10,000 in Federal Funds.

a position of public trust with official responsibility for carrying out a government program or policy for the CNO as defined in Application Note (1)(E).

Merida was the Executive Director of Construction for the Choctaw Nation. Within the hierarchy of the Choctaw Nation, Executive Directors report directly to the Assistant Chief and Chief and are the highest non-elected positions in the Choctaw Nation. Merida, as the Executive Director over Construction, was responsible for the spending of over $400 million in Choctaw Nation funds. Paragraph 13 of the PSR correctly states "the defendant was the Executive Director of Construction Administration for the CNO. His duties and responsibilities included, but were not limited to, the supervision and management of construction projects of the CNO, as well as the approval of payments related to construction projects of the CNO."

Merida clearly fits within the definition as "an individual … in a position of public trust with official responsibility for carrying out a government program or policy." In his capacity as Executive Director, Merida held a position of trust for the Choctaw Nation and carried out the responsibilities of directing all the construction activities of the Nation during the fraud. As the trial testimony revealed, he chose contractors and subcontractors. He was responsible for the "preferred vendor list" that specified which subcontractors did not have to submit bids or be subjected to the competitive bidding process. He was responsible for giving preference to "friends of the tribe". It is not a surprise that subcontractors that gave gifts to Merida (Builders Steel, Ferguson/Kohler, Contech, Green Country Drywall, Thompson Construction, etc.) were on the "preferred vendor list". He approved construction pay applications and invoices. Merida clearly was an officer of the Choctaw Nation acting on behalf of the Choctaw Nation when he received bribes and was influenced by Brent and Lauri Parsons.

In ***United States v. Whiteagle***, 759 F.3d 734 (7th Cir. 2014), Whiteagle was convicted of bribing a legislator of the Ho-Chunk Nation of Wisconsin, known formerly as the Wisconsin

Winnebago Nation. The Seventh Circuit found that USSG § 2C1.1 applied for sentencing purposes and further found that the bribe was given to corruptly influence a "public official" (the legislator). (***Whiteagle***, 759 F.3d at 758).

Application Note 1 (E) provides an example of how the guideline should be "construed broadly" by stating that "a leader of a state or local political party" would be considered a "public official" within the guideline definition. If a local political party leader is a "public official" under this definition, then Merida is without a doubt a "public official." In fact, it seems unthinkable the head of the Bryan County Democratic or Republican Party would be considered a public official under this guideline, but the Executive Director of a sovereign nation located within the territorial boundaries of the United States to which the federal government provides millions of dollars annually would not.

In ***United States v. Bahel***, 662 F.3d 610 (2nd Cir. 2011), this section of USSG § 2C1.1 was "construed broadly" to include a Chief of the Commodity Procurement Section within the U.N's Procurement Division. The Second Circuit Court of Appeals found Bahel to be a "public official" with USSG § 2C1.1 by stating "Section 2C1.1 is not limited to those who work for a federal, state or local government, but has been applied to leaders of political parties, officials of Indian tribes and foreign public officials." (Bahel at 644).

Pursuant to USSG § 2C1.1(b)(2), the PSR assesses a loss amount of $907,658.96. Specifically, in paragraph 20 the PSR states that the total of bribes from Builders Steel is $352,227.53. USSG § 2C1.1(b)(2) states:

> If the value of the payment, the benefit received or to be received in return for the payment, the value of anything obtained or to be obtained by a *public official* or other acting with the *public official*, …

(emphasis added).

If no "public official" was involved in the transaction, the PSR should not have assessed a loss amount that included the amount of the bribes to Merida. This is exactly the essence of the government's case. The fact that Merida was found guilty of Object One of the Conspiracy is a finding by the jury that bribes were given and received. One of the parties of the bribes had to be a "public official" within the Choctaw Nation based on how the case was charged and based upon the jury's findings. Parsons offered the bribes and Merida solicited and accepted the bribes. As the Parsons testified at trial, they provided the gifts and other things of value to Merida in order to influence him to obtain business with the Choctaw Nation. They would not have bribed him if he was not a "public official" of the tribe. As such, Merida is more culpable than those who seek to corrupt him and present a greater threat to the integrity of governmental processes. The Choctaw Nation is a sovereign nation that expects and deserves the same integrity in their governmental processes as any state or local government should expect. The failure to find Merida as a "public official" would be a damaging precedent in the accountability of tribal officials in any future investigation and prosecutions.

ISSUE TWO – Was the fraud committed by Builders Steel by not purchasing the amount of steel represented to the Choctaw Nation reasonably foreseeable to the Defendant at any time?

The Defendant, Jason Brett Merida, was found guilty of multiple felony counts including Count One - Conspiracy to Commit Theft or Bribery of Programs Receiving Federal Funds. The conspiracy charge alleged three separate objects. The first object was that Merida corruptly solicited, demanded, accepted or agreed to accept anything of value over $5,000 to influence or reward him as an agent, employee or officer of the Choctaw Nation, a tribal government receiving federal funds in violation of 18 U.S.C. § 666(a)(1)(B). Count One also alleged the steel fraud as a specific example of a business transaction influenced by the Choctaw

Nation. On the Interrogatory Form (Ct. Exhibit 12, Doc. 94) which accompanied the verdict form, the jury unanimously found Merida participated in Object One.

Pursuant to the Sentencing Guidelines Manual, the controlling guideline for a violation of 18 U.S.C. § 666(a)(1)(B) is USSG § 2C1.1. The loss resulting from a violation of § 666(a)(1)(B) is a factor in determining the offense level under § 2C1.1. According to subparagraph (b)(2), the amount of loss is the ***greater*** of "the value of the payment, the benefit received or to be received in return for the payment, or the loss to the government from the offense." USSG § 2C1.1(b)(2). At paragraph 40(c) the PSR sets Merida's loss amount at $907,658.96, stating, "the defendant is held accountable for a bribery scheme totaling a minimum of $907,658.96 in benefits gained." Consequently, a 14-level increase in the base offense level is recommended. The government has objected to this calculation because the benefit to Builders Steel and the loss to the Choctaw Nation from the steel fraud were greater than the payments to Merida.

"In calculating the amount of loss, the guidelines look not only to the charged conduct but to all relevant conduct by the defendant." ***United States v. Flonnory***, 630 F.3d 1280, 1286 (10th Cir.2011)(citing USSG §§ 1B1.2(b), 1B1.3). Pursuant to USSG § 1B1.3(a)(1)(A), relevant conduct includes "all acts and omissions committed, aided, abetted, counseled, commanded, induced, procured, or willfully caused by defendant. Moreover, in the case of jointly undertaken criminal conduct like in the instant case, the Guidelines provide that relevant conduct includes "all reasonably foreseeable acts and omissions of others in furtherance of the jointly undertaken criminal activity, that occurred during the commission of the offense of conviction, in preparation of that offense, or in the course of attempting to avoid detection or responsibility for that offense." USSG § 1B1.3(a)(1)(B). Relevant conduct is more than the offense of the conviction and it can include uncharged and even acquitted conduct. *See* ***United***

States v. Altamirano-Quintero, 511 F.3d 1087, 1095 (10th Cir. 2007). Relevant conduct is to be proven by a preponderance of the evidence. ***United States v. Olsen***, 519 F.3d 1096, 1105 (10th Cir. 2008).

The question posed by the Court is whether it was reasonably foreseeable to Merida that his co-conspirator Brent Parson would defraud the Choctaw Nation by overcharging the Choctaw Nation for steel and not buying all the steel he purported to sell them. In short, the answer is yes. It is similar to asking if it is reasonably foreseeable that a biting dog will bite or an alcoholic will drink too much. Here the question is whether it was reasonably foreseeable to the defendant that the fraudster who gave him trips, gifts and money to influence him would commit fraud. The fact Merida was aware of Parsons' prior instances of fraud and created his own fraud by falsifying a Worth Group invoice prior to the initiation of the steel pre-purchase fraud is evidence of foreseeability. Further, Merida's full knowledge of Parson's intent to recoup prior steel expenditures associated with the cancelled tribal complex project is also evidence of foreseeability. All these instances of foreseeability are borne out by examining the facts presented at the trial and the sentencing hearing.

The evidence is that Builders Steel had been designated by Assistant Chief Gary Batton, Executive Director of Construction Merida, and Flintco VP DeWayne Gifford as a friend of the tribe. As such, Builders Steel was given preferential treatment in providing steel for construction projects including the Grant, Stringtown and McAlester casino projects. The relationship between Builders Steel, Merida, Gifford and Batton concerned other members of Flintco. Cordell Bugg, Director of Preconstruction Services for Flintco, testified the steel prices Builders Steel was charging were at least double his budget estimates and significantly more than projects Flintco had done for the Cherokee Nation. Additionally, Flintco Regional Supervisor Kevin Moyes was so concerned about the relationship and the prices Builders Steel was able to

charge, he required the multi-million dollar Durant Hotel and Casino project be competitively bid.

Despite the concerns of these other Flintco employees, the "three amigos" (Merida, Parsons and Gifford) were able to secure the Durant project for Builders Steel. Gifford assured Builders Steel's success in winning the bid by instructing Parsons, prior to a bid meeting with Merida, to be prepared to give Merida whatever he wanted. The trial testimony and exhibits proved Merida requested, and Parsons purchased, a 2008 Kawasaki Mule for Merida. The Kawasaki mule cost $9,026.20. (Gov. Trial Exhibit 122). A short time later, as Kevin Moyes testified, Builders Steel was awarded the contract by Merida even though its bid was approximately $1 million higher.

The testimony further revealed Brent Parsons provided Merida other gifts prior to the December 2009 steel fraud, including a March 2009 trip to Pebble Beach because Merida said he wanted to play golf there. In March 2009 Parsons gave Merida a second Kawasaki Mule valued at $11,249.00. (Gov. Trial Exhibit 123). At Merida's request, Parsons provided a Conex Box and delivered it to Merida's house so Merida could store $38,516.77 worth of free plumbing fixtures he received from Ferguson Enterprises. The Conex box and delivery was valued at $18,000 to $25,000. (Trial Testimony of Brent Parson, p. 133). At Merida's request, Parsons also provided steel, fabrication and delivery of two cattle guards which were installed at Merida's home and his father-in-law's home. The steel, fabrication and delivery were valued at $24,000.00. (Id. at 138-139).

Also, in June 2009, Parsons "sold" Merida a 2009 Cadillac Escalade with a sticker price of $79,888.00 for $25,000. Merida later admitted he received the $25,000 back in cash. (Memorandum of Merida Interview, hereafter referred to as Attachment One, ¶56) Later, in October 2009, Parson took Merida, along with others from Flintco, on an all-expense paid

hunting trip to Acoma, New Mexico. A few days later, Parsons provided a private jet to fly Merida and himself to Missouri for another hunting trip. This trip was provided by Brian Fagerstrom from the Worth Group. The trial testimony was that Merida invited Parsons and demanded Fagerstrom pay for numerous animals killed by Merida and Parsons. Merida told Fagerstrom he wanted to show his appreciation to Parsons for all Parsons had done for him. In other words, Parsons had scratched Merida's back, now it was time for Merida to do a little scratching. Unfortunately for Fagerstrom and the Choctaw Nation, Merida used a false Worth Group invoice to obtain $200,000 in Choctaw Nation money to show his appreciation to Parsons.

This was not the first nor would it be the last time Merida and Parsons used false documents to benefit Parsons and/or themselves. During the trial and the sentencing hearing, Cordell Bugg testified Gifford and Merida asked him to approve a $1 million fraudulent change order during the McAlester casino project (which was completed prior to the 2009 steel fraud). The change order allowed Builders Steel to be paid an additional $1 million without any changes to the project. False invoices were also the chosen mechanism by Merida and Gifford to perpetrate the Scott Rice fraud.

All these gifts were being provided to Merida as Builders Steel was performing work for the Choctaw Nation. In fact, Builders Steel had virtually focused its entire business on providing work for the Choctaw Nation. Interestingly, the gifts described above were being offered in 2009 as Builders Steel was making millions of dollars constructing a steel parking garage in Durant - despite the objections from Flintco senior management. As Cordell Bugg testified at the sentencing hearing, the use of steel caused the Choctaw Nation to overspend by some $15 million. After Bugg expressed concerns, Kevin Moyes met with Merida and was advised by Merida that steel was going to be used because Builders Steel was a friend of the tribe. Flintco CEO Tom Maxwell was told the same by Assistant Chief Batton.

The evidence also revealed another important development in 2009. While Builders Steel was providing steel for the Grant, Stringtown, McAlester and Durant casinos, the Choctaw Nation was also considering other projects including casino expansions in Idabel and Pocola, as well as a new tribal headquarters complex. Due to his close relationship with Merida, Gifford and Batton, Parsons pre-ordered steel for the tribal headquarters complex. When this project was cancelled by Chief Greg Pyle in early 2009, Parsons was left holding the proverbial bag. Parsons, relying on the thousands of dollars he had spent to purchase influence and access, met with Merida, Gifford and Assistant Chief Batton and was assured the tribe would make it right. (Trial Testimony of Brent Parsons at 182) Subsequently, Parsons met with Merida and Gifford and an agreement was reached that the steel for the tribal complex would be rolled into the proposed Pocola casino project. (Id. at 183) The existence of this agreement was corroborated by the October 1, 2009 bid proposal signed by Gifford.[2] (Gov. Trial Exhibit 104).

With the existence of this agreement as a backdrop, it is no coincidence Parsons sent Gifford the now infamous December 3, 2009 email at 2:45 p.m. on the same day as the kickoff meeting to discuss the Pocola casino project. The email stated:

> If we can purchase all the Steel for the Pecola (sic) Project by tomorrow we can save the Choctaw Nation around $3.5 million dollars. The cost of the Steel is $10.3 million less the $2.0 million on Idabel this would leave $8.3 million for the steel.

(Gov. Trial Exhibit 130). Gifford responded by advising Parsons he would forward the information to "Jason/Gary" and he would keep Parsons updated on the progress. (Id.). Two minutes later Gifford forwarded the email to Merida. (Gov. Trial Exhibit 129).

Merida, knowing this proposal was designed to get Parsons paid for the steel Builders Steel had already purchased, championed the idea before the Business Committee chaired by

2 The nefarious nature of this agreement was highlighted by Gifford's denial of any knowledge of this signed bid proposal and the subsequent discovery of the agreement on his work computer.

Batton. Merida explained to the Committee the steel was from a cancelled casino project in Las Vegas and stressed that time was of the essence. Importantly, during a November 2012 interview with agents, Merida admitted he was willing to recommend the pre-purchase because he was being financially influenced by Parsons. (Attachment One, ¶23). Batton asked Merida to have Builders Steel provide evidence that the price of steel would likely increase in the near future. Builders Steel provided some documentation which Merida sent to the Committee but continued to stress the urgency to move on the purchase before December 31st. (Def. Trial Exhibit 9). After having Ryan Garner, Choctaw Nation CFO and Business Committee member, perform an analysis that steel prices may increase (but not to the degree predicted by Builders Steel) and also a cash flow analysis, the Business Committee, relying upon Merida's assurances the proposal was a good deal and time was of the essence, approved the pre-purchase.

On December 31, 2009, Builders Steel submitted an initial invoice for $6.25 million with a steel inventory list attached. (Trial Exhibit 20) The same inventory list was attached to some of the subsequent steel invoices. (Trial Exhibits 24 and 28) The inventory list contained uniquely-sized steel beams which were readily identifiable to Cordell Bugg as being for the cancelled tribal complex project. The inventory list further corroborates the existence of the agreement between Merida, Parsons and Gifford that the pre-purchase was to get Parsons paid for the tribal complex steel and shows Merida knew the steel was not from a cancelled project in Las Vegas.

On January 5, 2010, Merida approved the pay application for payment of the initial $4.25 million to Builders Steel. Significantly, the next day Parsons flew Merida and his wife to Dallas and the Parsons also gave Merida's wife a new Louis Vuitton purse and wallet (the second purse/wallet set).

As a result of the gifts, Parsons was able to get his pre-purchase of steel for the tribal complex covered. As the millions of dollars began to roll in, Parsons rewarded Merida, Gifford and Batton. In March 2010, Builders Steel bought Gifford a $285,000 house, two tracts of land valued at $100,000 were purchased by the Parsons for the benefit of Merida's sons, and the Meridas were taken by the Parsons on an all-expense paid trip to Mexico because Merida told Parsons he wanted to take his wife "somewhere exotic" for her 40th birthday. Later in 2010, Parsons took Merida and Batton on a second all-expense paid hunting trip to Acoma, New Mexico.

The trial evidence ultimately established Builders Steel did not purchase all the steel it represented to the Choctaw Nation. In light of all that had transpired in 2008, 2009 and early 2010, was this reasonably foreseeable to Merida? Yes. It was reasonably foreseeable Brent Parsons would not buy more steel since the primary purpose of the pre-purchase was to get him paid for the steel Builders Steel had purchased for the cancelled tribal complex project. Furthermore, it was certainly reasonably foreseeable to Merida, Parsons would not purchase the additional steel unless he was confident the Pocola project was going to be completed. He had already been placed in a dilemma when the tribal complex was cancelled and he did not want history to repeat itself. Consequently, with the aid of Merida and Gifford, Builders Steel collected millions of dollars waiting for the next construction project to come to fruition. When the Pocola casino was put on hold and the audit discovered the steel was not on the yard, the walls began to crumble.

Wanting to avoid being crushed in the impending collapse, Merida and his wife, Valerie, attempted to assist Brent and Lauri Parsons in providing a justification for the inflated $10.5 million sales price for the steel. On October 30, 2010, Valerie Merida sent an email to Lauri and Brent with the subject line "The Fix." (Attachment Two). As Agent Erika Skaggs

testified at the sentencing hearing, Merida told the agents they sent this email because, "If they get caught, we get caught too. We gotta cover this up." (Attachment One, ¶38). A quick rereading of USSG § 1B1.3(a)(1)(B) explains the significance of this email to the sentencing issue at bar. As discussed above, relevant conduct also includes reasonably foreseeable acts and omissions in the furtherance of jointly undertaken criminal activity that occurred "in the course of attempting to avoid detection or responsibility for that offense." Merida and his wife's "fix" was an obvious attempt to help the Parsons avoid detection or responsibility for the steel fraud. Consequently, these actions are relevant conduct to the steel fraud and the loss is attributable to Merida.

Based upon the above, the government contends Merida should be held accountable for the steel fraud because it is the greater loss. USSG § 2C1.1(b)(2). At a minimum, Merida should be held accountable for the same steel loss which was attributed to Brent Parsons and Lauri Parsons, i.e. $5,713,677.90.

In that regard, another compelling argument that Merida should be held accountable for the $5,713,677.90 steel loss is because Lauri Parsons was held accountable. This Court found Lauri Parsons was accountable for the steel fraud even though she testified she was unaware Brent Parsons did not order the additional steel until the audit was conducted. (Lauri Parsons Trial Testimony at 92-94). If the steel fraud was reasonably foreseeable to Lauri Parsons, it was also reasonably foreseeable to Merida. As a result, Merida's offense level should be increased 18 levels pursuant to USSG § 2B1.1(b)(1)(J).

However, should the Court determine the loss associated with the $10.5 million pre-purchase is not attributable to Merida, the government would request the Court set the loss amount based upon the benefit Builders Steel received from the Durant parking garage project.

As discussed above, the decision by Merida and Batton[3] to use steel to construct the parking garage cost the people of the Choctaw Nation conservatively $15,000,000. Builders Steel made around $4 million from that $18 million project alone. (Brent Parsons Trial Testimony at 314). As such, in the alternative, the loss for the conspiracy alleged in Count One should be the $4 million benefit Builders Steel received from its bribes to Merida, resulting in an 18-level increase pursuant to USSG 2B1.1(b)(1)(J).

Should the Court determine the appropriate loss should be based upon the benefits gained by Merida, the government would object to the loss amount set out in the PSR. The PSR calculates the benefit at $907,658.96. (PSR ¶40(c)). This figure fails to take into account all of the benefits received by Merida from Builders Steel and also fails to consider the benefits received from other contractors. In the interest of brevity and clarity, the additional gifts are contained in the chart below:

Gift	Source	Source of Proof	Value
2008 Kawasaki Mule	Brent Parsons	Trial Exhibit 122	$9,026.90
2009 Kawasaki Mule	Brent Parsons	Trial Exhibit 123	$11,249.00
Conex box and delivery of Conex box	Builders Steel	B. Parsons Trial Testimony at 133, 286-289	$18,000
Two (2) Cattle Guards	Builders Steel/Contech (Brian Adair)	B. Parsons Trial Transcript at 138-139, 289-90	$24,000
Two (2) Louis Vuitton purses and wallets	Brent Parsons	Sentencing Hearing Testimony of Erika Skaggs	$10,000
Cash	Brent Parsons	Sentencing Hearing Testimony of Erika Skaggs, Attachment One, ¶56	$25,000
Plumbing fixtures	Ferguson Enterprises	Trial Exhibit 77	$38,516.77

3 Assistant Chief Batton testified he did not make the decision to use steel. See Trial Transcript of Gary Batton at 60-61

Two (2) stainless steel freezers	Ferguson Enterprises	Trial Testimony of Dean Hale	Approximately $1,500
Cash	Brian Fagerstrom	Trial Exhibit 165	$1180
TOTAL			**$138,472.67**

The PSR also fails to fully account for some of the bribes which are included in paragraph 19. The chart below contains the differences:

Gift	Value in PSR	Actual value	Source of Proof	Additional Loss
Pebble Beach trip	$5,000	At least $42,067.79	Trial Exhibits 121, 108 p.p.40,41	$37,067.79
Mexico trip	$5000	At least $16,742.46	Trial Exhibits 112, 113	$11,742.46
Cabela's trip	$7,339.53	At least $10,494.79	Trial Exhibits 114, 108 p.128	$3,155.26
TOTAL				**$51,965.51**

The inclusion of the additional benefits Merida received increases the loss amount by $190,438.18. This would result in a total benefit to Merida of $542,665.71. When this figure is added to the $555,431.43 loss from the Scott Rice and Worth Group false invoices (PSR ¶55), the total loss attributable to Merida is $1,098,097.14. Consequently, the additional loss would result in a 16-level increase in the base offense level pursuant to USSG § 2B1.1(b)(1)(I).

Based upon the above and foregoing the United States of America respectfully requests the Court sustain the government's objections to the PSR.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, hereby certify that on May 11, 2015, I electronically transmitted the attached documents to the Clerk of Court. I also electronically served the attached documents on: Lance Hopkins and Rex Earl Starr, Attorneys for Jason Merida.

s/ Douglas A. Horn
Douglas A. Horn
Assistant United States Attorney