

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
vs.)	Criminal No. 13-30042 -MAP
)	
GARY COMO,)	
DEFENDANT)	

OBJECTIONS TO PSR

Now comes the defendant, Gary Como and makes the following comments and objections to the presentence investigation report.

Page 1:

The defendant believes that the statutory penalty for Counts 2-4 is twenty (20) years, not (30) thirty years.

Paragraph 15:

The defendant has reviewed the victim list and specification of losses and believes the correct figure is \$914,757.32 rather than 1,007,524.06, as per the schedule attached and marked A. If the loss calculation is as calculated by the defendant, the applicable guideline range, pursuant to U.S.S.G. 2B1.1 (b)(1)(H) merits a 14 level increase as opposed to a 16 level increase. See paragraph 22 of the PSR.

Mr. Como has been making payments to some of the victims, either voluntarily or a result of legal actions brought against him. To date he has made a total of approximately \$120,900 in such payments. One of the victims is his present employer.

Paragraph 22:

As indicated above, the defendant believes that the loss amount is actually

\$914,757.32. Pursuant to the provisions of U.S.S.G. 2B1.1 (b)(1)(H) a 14 level increase is applied.

Paragraph 23:

Many of the losses are in fact the same victim. The defendant believes the number of victims number less than ten and the adjustment should not apply.

Paragraph 27:

The adjusted offense level is 21.

Paragraph 31:

The total offense level is 18.

Paragraph 61:

With respect to the amount of \$875 listed as other expenses, the defendant states that this sum is the total monthly sum for payments being made to the Department of Revenue, Financial Pacific and John Deere, all as result of the defendant's conduct in this case.

Paragraph 63:

Based on a total offense level of 18 and a criminal history of category I, the guideline range of imprisonment is 27-33 months.

Paragraph 67:

Count 1 is a Class D felony and the court may impose a term of supervised release of not more than three years. Counts 2-4 are Class C felonies and the court may impose a term of supervised release of not more than three years. Counts 2-4 are not Class B felonies.

Paragraph 69:

Counts 2-4 are not Class B felonies, but are Class C felonies. Accordingly the guideline range for a term of supervised release pursuant to U.S.S.G. 5D1.2 (a)(2) is at least one year but not more than three years.

Paragraph 70:

There is no statutory prohibition against a sentence of probation in this case for any count in the information.

Paragraph 72:

The guideline provisions cited in this paragraph are inapplicable and there is no prohibition to a sentence of probation.

Paragraph 73:

The maximum fine for Counts 2-4 is \$250,000 or twice the amount of the gross gain or loss, whichever is greater.

Paragraph 75:

The fine range as set forth in U.S.S.G. 5E1.2 (c)(2) and (4) is 7,500 to \$250,000.

Paragraph 77:

The amount of restitution will have to be determined as there are amounts that are unknown and there have been payments made by the Defendant. In addition there is a discrepancy in the loss amounts as stated, *infra*. See exhibit A.

Paragraph 79:

The defendant will argue that there are grounds for departure from the applicable guideline range, including but not limited to family ties and responsibilities, voluntary disclosure of the offense, aberrant behavior and extraordinary efforts of rehabilitation

and voluntary restitution to victims.

Paragraph 81:

The defendant will present arguments and materials that may warrant a sentence outside of the applicable guideline range. Attached are various letters attesting to the Defendant's character all collectively marked as Exhibit B.

Respectfully submitted
The Defendant, by his attorney

Dated: May 9, 2014

/s/ Edward P. Ryan, Jr.
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CERTIFICATE OF SERVICE

I, Edward P. Ryan, Jr., Attorney for the Defendant, hereby certify 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/ Edward P. Ryan, Jr.
Edward P. Ryan, Jr.

Machine	Victim	Court Amount	Statement Amount
24604	BK Tree Service CAT	19647.98	18152.26
50519	Boagan Tree (NEED Equip)	10642.2	10167.61
51249	Arbor Care Tree	10717.65	10581.02
24685	BK Tree Service CAT	26503.2	22084.74
24745	Bourgeois Wrecking	24987.89	21462.28
50556	Canonica Firewood CAT	3084.09	4037.91
24499	Northern Acres CAT	9610.02	9084.37
51490	Tamarack Tree	38949.4	40294.6
24558	Viking Tree	8245.04	8199.77
51449	Arbor Care Tree	32867.28	28985.22
51302	Arbor Care Tree	30911.79	27956.94
51538	Arbor Care Tree	63908.54	50114.63
51553	Arbor Care Tree	76577.45	58936.29
51406	East Coast (Cheney)	45738.66	41339.45
51519	East Coast (Cheney)	51729.61	40210.92
51520	East Coast (Cheney)	72500.21	57426.02
51503	East Coast (Cheney)	74929.78	59650.02
	Country Bank	138280.36	138280.36
71112	Nortrax	9270.74	9270.74
51086	Nortrax	38699.2	38699.2
various	Morbark	104076.05	104076.05
pvt-h790	Morbark	19000	19000
pvt-h790	Direct Capital	15324.37	15324.37
791-0028	Financial Pacific	14807.52	14807.52
51279	Pawnee Leasing	45862.68	45962.68
50556	Pawnee Leasing	20652.35	20652.35
		1007524.06	914757.32