APPENDIX

APPENDIX TABLE OF CONTENTS

	Page
APPENDIX A: Per Curiam Order Denying Petition for Panel Rehearing and Rehearing En Banc, *United States* v. *Nourian*, No. 25-10365 (5th Cir. July 21, 2026)	1a
APPENDIX B: Opinion, *United States* v. *Nourian*, No. 25-10365 (5th Cir. June 10, 2026)	4a
APPENDIX C: Defendant's Notice of Appeal, *United States* v. *Nourian*, No. 17-cr-00155-L (N.D. Tex. Mar. 6, 2025)	14a
APPENDIX D: Judgment in a Criminal Case, *United States* v. *Nourian*, No. 17-cr-00155-L (N.D. Tex. Feb. 24, 2025)	16a
APPENDIX E: Federal Statutes	36a

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

[FILED July 21, 2026]
Lyle W. Cayce
Clerk

No. 25-10365

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DEHSHID NOURIAN; CHRISTOPHER RYDBERG,

Defendants—Appellants.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:17-CR-155-2
USDC No. 3:17-CR-155-3

ON PETITION FOR REHEARING EN BANC

Before HAYNES, HIGGINSON, and HO, *Circuit Judges*.

PER CURIAM:

Treating the petition for rehearing en banc as a petition for panel rehearing (5TH CIR. R.40 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on

rehearing en banc (FED. R. APP. P.40 and 5TH CIR. R.40), the petition for rehearing en banc is DENIED.

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*Judge Irma Carrillo Ramirez, did not participate in the consideration of the rehearing en banc.

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

July 21, 2026

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 25-10365 USA v. Nourian
USDC No. 3:17-CR-155-2
USDC No. 3:17-CR-155-3

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

By: /s/ Rebecca Jeanfreau
Rebecca L. Jeanfreau, Deputy Clerk
504-310-7645

Mr. David Benjamin Gerger
Ms. Gail A. Hayworth
Ms. Ashley Louise Kaper
Mr. Brent Evan Newton I
Mr. Jeremy Raymond Sanders
Mr. Javier Alberto Sinha
Mr. Andrew O. Wirmani

APPENDIX B

UNITED STATES COURT OF APPEAL
FOR THE FIFTH CIRCUIT

[FILED July 21, 2026]
Lyle W. Cayce
Clerk

No. 25-10365

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

DEHSHID NOURIAN; CHRISTOPHER RYDBERG,

Defendants—Appellants.

Appeal from the United States District Court
for the Northern District of Texas
USDC Nos. 3:17-CR-155-2,
3:17-CR-155-3

Before HAYNES, HIGGINSON, and HO, *Circuit Judges*.
PER CURIAM:[*]

A jury convicted Dehshid Nourian and Christopher Rydberg of their involvement in a healthcare fraud scheme. The scheme involved recruiting doctors to prescribe drugs to patients in return for a portion of the insurance proceeds. The doctors largely targeted

[*] This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

federal employees receiving worker's compensation and sought to prescribe these patients compound drugs because the government was known to pay large amounts for this type of drug—up to two to three times more than the amount paid by commercial businesses and far more than it cost pharmacies to manufacture. Nourian managed multiple pharmacies participating in the scheme. Rydberg directed finances for some of the pharmacies, including preparing taxes and managing account transfers.

Following a jury trial, Nourian was convicted of sixteen counts stemming from his involvement in the scheme, including conspiring to commit healthcare fraud, committing healthcare fraud, conspiring to commit money laundering, committing money laundering, and conspiring to defraud the United States. Rydberg was convicted of nine counts, including conspiring to commit healthcare fraud, conspiring to commit money laundering, committing money laundering, and conspiring to defraud the United States. Nourian and Rydberg now appeal their convictions, challenging various aspects of both the trial and sentencing. For the following reasons, we affirm.

Nourian and Rydberg first argue that the jury lacked sufficient evidence to convict them on any count. We review this challenge de novo. *United States v. Scott*, 892 F.3d 791, 796 (5th Cir. 2018). As part of their challenge to their conviction for conspiring to commit healthcare fraud, Nourian and Rydberg argue that the jury lacked sufficient evidence to convict them of this count because the Federal Employees' Compensation Act (FECA) is not a healthcare benefit program within the meaning of 18 U.S.C. §§ 24(b), 1347, and 1349. But we interpret the term "healthcare benefit program" broadly.

United States v. Anderson, 980 F.3d 423, 428 (5th Cir. 2020). And we have previously included FECA in a list describing federal healthcare programs. *See United States v. Shah*, 95 F.4th 328, 349 (5th Cir. 2024). Furthermore, Nourian and Rydberg weren't just convicted of defrauding FECA. They were also convicted of defrauding Blue Cross Blue Shield (BCBS). Defendants do not contest that BCBS is a federal healthcare benefit program. And having reviewed the evidence in the light most favorable to the prosecution, we hold that a reasonable jury could have found beyond a reasonable doubt that Nourian and Rydberg conspired to defraud both FECA and BCBS. *See Jackson v. Virginia*, 443 U.S. 307, 319 (1979).

As to the sufficiency of the evidence underpinning Nourian's convictions for substantive healthcare fraud, we have held that "[t]ypically, the same evidence will support both a conspiracy and an aiding and abetting conviction." *United States v. Sanders*, 952 F.3d 263, 278 (5th Cir. 2020) (internal citation omitted). And here, the government presented more than enough evidence of Nourian's involvement for a reasonable jury to have found that Nourian committed healthcare fraud: Nourian managed multiple pharmacies participating in the scheme, he recruited Nicolas Aguilar to fill fraudulent prescriptions, and Nourian received at least $20 million in profits throughout the time he was involved in the scheme.

As to the money laundering counts, Nourian and Rydberg argue that—because there is insufficient evidence that they knew about the underlying healthcare fraud—their money laundering convictions must likewise fail because they had no knowledge that their financial transactions involved

unlawful proceeds. But the government presented sufficient evidence that Nourian and Rydberg committed the underlying healthcare fraud, including evidence that both Nourian and Rydberg provided pre-filled prescription pads to doctors participating in the scheme. Furthermore, the government presented extensive evidence that Nourian and Rydberg knew that the millions of dollars the pharmacies received were proceeds of fraud and that these proceeds weren't processed for legitimate business purposes. Thus, based on the evidence presented at trial, a jury could reasonably determine that Nourian and Rydberg committed money laundering.

Finally, as to Nourian and Rydberg's conviction for conspiring to defraud the United States, they again argue that the government presented insufficient evidence of knowledge. But the government presented detailed evidence that both men were intimately involved in the scheme's fraudulent financial transactions. And having reviewed this evidence in the light most favorable to the prosecution, we hold that a reasonable jury could have "found the essential elements of the crime beyond a reasonable doubt." *Jackson*, 443 U.S. at 319.

Next, Nourian and Rydberg contend that a portion of the government's closing argument was inappropriate and warranted a new trial. The parties disagree about the applicable standard of review. But we need not decide this issue here because—regardless of the standard of review—their challenge fails. The government's closing argument did not affect Nourian and Rydberg's substantial rights. *See United States v. Barnes*, 979 F.3d 283, 299 (5th Cir. 2020). Even if a portion of the government's closing argument was inappropriate, the district court

provided a curative instruction to the jury. It also explicitly instructed the jury that it must find that Nourian and Rydberg had knowledge of the crime in order to return a guilty verdict. And "juries are presumed to follow [the court's] instructions." *Zafiro v. United States*, 506 U.S. 534, 540 (1993). So Nourian and Rydberg cannot show that the government's closing argument affected their substantial rights such that a new trial is warranted.

As to sentencing, Nourian and Rydberg both challenge the district court's application of a two-level sentencing enhancement for an offense that involved "10 or more victims." USSG § 2B1.1(b)(2)(A)(i). Specifically, they challenge the district court's reliance on the definition of "victim" provided in Application Note 4(E) of the Guidelines commentary. We "review the district court's interpretation and application of the Sentencing Guidelines de novo and its factual findings for clear error." *United States v. Bourrage*, 138 F.4th 327, 352–53 (5th Cir. 2025) (cleaned up). The Guidelines commentary is "authoritative unless it violates the Constitution or a federal statute, or is inconsistent with, or a plainly erroneous reading of, that guideline." *United States v. Stinson*, 508 U.S. 36, 38 (1993). Here, the district court correctly relied on Application Note 4(E) in determining that the two-level enhancement applied.

Nourian brings three additional challenges to his sentencing. First, he argues that the district court erred in considering his lack of remorse at sentencing. In reviewing this challenge, we consider whether the district court abused its discretion. *See Gall v. United States*, 552 U.S. 38, 51 (2007). After Nourian allocuted, the district court observed that Nourian showed no remorse. However, there is no indication

that the district court considered Nourian's lack of remorse in weighing the § 3553(a) factors. Furthermore, the district court varied downward and sentenced Nourian below the guidelines range. And this court "presume[s] sentences within or below the calculated guidelines range are reasonable." *United States v. Simpson*, 796 F.3d 548, 557 (5th Cir. 2015). Nourian has not shown that the district court abused its discretion in sentencing him to a below-Guidelines sentence.

Next, Nourian argues that the district court erred in ordering that his entire TD Ameritrade account be forfeited. "We review the district court's legal conclusions as to the propriety of a forfeiture order *de novo*, the district court's findings of facts under the clearly erroneous standard, and the question of whether those facts constitute legally proper forfeiture *de novo*." *United States v. Dennis*, 41 F.4th 732, 745–46 (5th Cir. 2022) (cleaned up). "[M]erely pooling tainted and untainted funds in an account does not, without more, render that account subject to forfeiture." *United States v. Real Prop. Located at 1407 N. Collins St., Arlington, Tex.*, 901 F.3d 268, 274 (5th Cir. 2018) (cleaned up). But "untainted funds are forfeitable if a defendant commingled them with tainted funds to disguise the nature and source of his scheme." *Id.* The government presented evidence that most of the funds in the Ameritrade account were the direct proceeds of the fraud. It also presented evidence that, to conceal the illegal source of the funds, Nourian moved the tainted funds through multiple accounts before ultimately commingling the fraud proceeds with other funds in the Ameritrade account. Based on these facts, the district court did not clearly err in determining that Nourian's bank

account was used to facilitate money laundering and was thus subject to forfeiture in its entirety.

Finally, Nourian argues that the district court's restitution order is unconstitutional because the question of restitution was not first submitted to a jury. But—as Nourian admits—this challenge is squarely foreclosed by our precedent. *See United States v. Luna Caudillo*, 110 F.4th 808, 811 (5th Cir. 2024).

The judgment of the district court is affirmed.

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE

CLERK

TEL. 504-310-7700

600 S. MAESTRI PLACE,

Suite 115

NEW ORLEANS, LA 70130

June 10, 2026

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing or Rehearing En Banc

No. 25-10365 USA v. Nourian
USDC No. 3:17-CR-155-2
USDC No. 3:17-CR-155-3

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 39, 40, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may

be imposed if you make a nonmeritorious petition for rehearing en banc.

Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari**. Additionally, you MUST confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk

By: /s/ Rebecca L. Leto
Rebecca L. Leto, Deputy Clerk
504-310-7703

Enclosure(s)

Mr. David Benjamin Gerger
Ms. Gail A. Hayworth
Ms. Ashley Louise Kaper
Mr. Brent Evan Newton I
Mr. Jeremy Raymond Sanders
Mr. Javier Alberto Sinha
Mr. Andrew O. Wirmani

APPENDIX C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Criminal No.: 3:17-CR-00155-L (2)

UNITED STATES OF AMERICA

v.

JAMSHID NORYIAN, *et al.*

MR. DEHSHID NOURIAN'S NOTICE OF APPEAL

Notice is hereby given that Dehshid "David" Nourian, Defendant in the above-named case, appeals to the United States Court of Appeals for the Fifth Circuit from the conviction and sentence announced on February 21, 2025 (Dkt. 949) and the judgment entered on February 24, 2025 (Dkt. 952).

Dated: March 6, 2025

Respectfully submitted,

WINSTON & STRAWN LLP

/s/ Scott C. Thomas

Scott C. Thomas
Texas Bar No. 24046964
scthomas@winston.com
2121 N. Pearl Street, Suite 900
Dallas, TX 75201
Tel.: (214) 453-6500
Fax: (214) 453-6400

COUNSEL FOR DEFENDANT
DEHSHID NOURIAN

CERTIFICATE OF SERVICE

I certify that on March 6, 2025, I served upon all counsel of record a true and correct copy of this brief by filing it with the Court's CM/ECF system.

/s/ Scott C. Thomas
Scott C. Thomas

APPENDIX D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

Case Number: 3:17-CR-00155-L(2)
USM Number: 55550-177

UNITED STATES OF AMERICA

v.

DEHSHID NOURIAN a.k.a. David Nourian

David B. Gerger; Ashley Louis Kaper; Diane M. Kozub
Defendant's Attorney

THE DEFENDANT:

☐	pleaded guilty to count(s)	
☐	pleaded guilty to count(s) before a U.S. Magistrate Judge, which was accepted by the court.	
☐	pleaded nolo contendere to count(s) which was accepted by the court	
☒	was found guilty on count(s) after a plea of not guilty	1-12, 14-17 of the Superseding Indictment filed September 11, 2019

The defendant is adjudicated guilty of these offenses:

Title & Section/Nature of Offense	Offense Ended	Counts
18 USC § 1349 (18 USC § 1347) Conspiracy to Commit Health Care Fraud	03/31/2017	1
18 USC § 1347 and 2 Health Care Fraud and Aiding and Abetting	03/31/2017	2-9
18 USC § 1956(h) (18 USC § 1956(a)(1)(B)(i) and 1957) Conspiracy to Launder Money and Engage in Monetary Transactions in Criminally Derived Property	03/31/2017	10
18 USC § 1956(a)(1)(B)(i) and 2 Money Laundering and Aiding and Abetting	03/31/2017	11,12, 14-16
18 USC § 371 Conspiracy to Defraud the United States	03/31/2017	17

The defendant is sentenced as provided in pages 2 through 9 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☒ Count(s) 1 and 2 of the Indictment filed 3/22/2017 ❑ is ☒ are dismissed on the motion of the United States, as to Defendant Dehshid Nourian, only.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address

until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

February 21, 2025
Date of Imposition of Judgment

/s/ Sam A. Lindsay
Signature of Judge

Sam A. Lindsay, United States District Judge
Name and Title of Judge

February 24, 2025

DEFENDANT: DEHSHID NOURIAN a.k.a. David Nourian
CASE NUMBER: 3:17-CR-00155-L(2)

Date

IMPRISONMENT

Pursuant to the Sentencing Reform Act of 1984, but taking the Guidelines as advisory pursuant to United States v. Booker, and considering the factors set forth in 18 U.S.C. Section 3553(a), the defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: One Hundred Twenty (120) months as to Counts 1-9; Two Hundred Ten (210) months as to Counts 10-12, 14-16; and Sixty (60) months as to Count 17. All counts are to be served concurrently, for a total aggregate sentence of Two Hundred Ten (210) months.

☒ The court makes the following recommendations to the Bureau of Prisons:

The court recommends that Defendant be allowed to serve his sentence at FCI Seagoville, if he is eligible.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at ☐ a.m. ☐ p.m. on

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 2 p.m. on April 22, 2025.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By

DEPUTY UNITED STATES MARSHAL

DEFENDANT: DEHSHID NOURIAN a.k.a. David Nourian
CASE NUMBER: 3:17-CR-00155-L(2)

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of : Two (2) years as to each of Counts 1-12, 14-17. The terms as to these counts shall run concurrently.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

   ☒ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. (*check if applicable*)

4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. (*check if applicable*)
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. (*check if applicable*)
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as

directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. (*check if applicable*)

7. ☐ You must participate in an approved program for domestic violence. (*check if applicable*)

8. ☒ You must pay the assessment imposed in accordance with 18 U.S.C. § 3013.

9. ☒ If this judgment imposes a fine, you must pay in accordance with the Schedule of Payments sheet of this judgment.

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: DEHSHID NOURIAN a.k.a. David Nourian
CASE NUMBER: 3:17-CR-00155-L(2)

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.

2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.

3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.

4. You must answer truthfully the questions asked by your probation officer.

5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation

officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.

7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.

8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.

9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.

10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).

11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.

12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.

13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at www.txnp.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: DEHSHID NOURIAN a.k.a. David Nourian
CASE NUMBER: 3:17-CR-00155-L(2)

SPECIAL CONDITIONS OF SUPERVISION

Pursuant to the Mandatory Victims Restitution Act of 1996, the defendant is ordered to pay restitution in the amount of in the total amount of $115,389,128.20, shall be paid jointly and severally with Christopher Rydberg (03). Also, of the $90,938,938 owed to the U.S. Department of Labor, $24,445,358.94 shall be paid jointly and severally with Michael Taba (07). Furthermore, of the $90,938,938 owed to the U.S. Department of Labor, $35,962,947.68 shall be paid jointly and severally with Kevin Williams (08). Restitution shall be made payable to the U.S. District Clerk, 1100 Commerce Street, Room 1452, Dallas, Texas 75242. Restitution shall be payable immediately and any unpaid balance shall be payable during incarceration. Restitution shall be disbursed to:

U.S. Department of Labor
Office of Workers Compensation Program
$90,938,938.00
Re: Dehshid Nourian;
Case No. 3:17-CR-155-L(02)

Blue Cross Blue Shield of Texas
$465,033.20
Re: Dehshid Nourian;
Re: Reference No. 0022-TX-0099

U.S. Department of the Treasury
Internal Revenue Service
$23,985,157.00
Re: Dehshid Nourian;
Re: IRS Case No. 1000284246

If upon commencement of the term of supervised release any part of the restitution remains unpaid, the defendant shall make payments on such unpaid balance in monthly installments of not less than 10 percent of the defendant's gross monthly income, or at a rate of not less than $350 per month, whichever is greater. Payment shall begin no later than 60 days after the defendant's release from confinement and shall continue each month thereafter until the balance is paid in full. In addition, at least 50 percent of the receipts received from gifts, tax refunds, inheritances, bonuses, lawsuit awards, and any other receipt of money shall be paid toward the unpaid balance within 15 days of receipt. This payment plan shall not affect the ability of the United States to immediately collect payment in full through garnishment, the Treasury Offset Program, the Inmate Financial Responsibility Program, the Federal Debt Collection Procedures Act of 1990 or any other means available under federal or state law. Furthermore, it is ordered that interest on the unpaid balance is waived pursuant to 18 U.S.C. § 3612(f)(3).

The defendant shall not be employed by, affiliated with, own or control, or otherwise participate, directly or indirectly, in the fields of health care, health care billing, pharmaceuticals, or pharmaceutical billing without the probation officer's approval. Furthermore, the defendant shall not be employed by, own or control, or otherwise participate in any business ventures involving any of the charged defendants under Case No. 3:17-CR-155-L without the probation officer's approval.

The defendant shall maintain not more than one business and/or one personal checking account, and shall not open, maintain, be a signatory on, or

otherwise use any other financial institution account without the prior approval of the probation officer.

The defendant shall provide to the probation officer any requested financial information.

DEFENDANT: DEHSHID NOURIAN a.k.a. David Nourian

CASE NUMBER: 3:17-CR-00155-L(2)

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments page.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$1,600.00	$115,389,128.20	$.00	$.00	$.00

☐ The determination of restitution is deferred until An *Amended Judgment in a Criminal Case (AO245C)* will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Restitution of $115,389,128.20 to:

BLUE CROSS BLUE SHIELD OF TEXAS
RICHARDSON, TX
$465,033.20

INTERNAL REVENUE SERVICE RACS
KANSAS CITY, MO
$23,985,157.00

U.S. DEPARTMENT OF LABOR - OWCP
WASHINGTON, DC
$90,938,938.00

☐ Restitution amount ordered pursuant to plea agreement $

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments page may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☒ the interest requirement is waived for the ☐ fine ☒ restitution

☐ the interest requirement for the ☐ fine ☐ restitution

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: DEHSHID NOURIAN a.k.a. David Nourian
CASE NUMBER: 3:17-CR-00155-L(2)

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A ☐ Lump sum payments of $ _____ due immediately, balance due
☐ not later than , or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal _____ (*e.g., weekly, monthly, quarterly*) installments of $ ____ over a period of _____ (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after the date of this judgment; or

D ☐ Payment in equal (*e.g., weekly, monthly, quarterly*) installments of $ _____ over a period of (*e.g., months or years*), to commence _____ (*e.g., 30 or 60 days*) after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within _____ (*e.g., 30 or 60 days*) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☒ Special instructions regarding the payment of criminal monetary penalties:
It is ordered that the Defendant shall pay to the United States a special assessment of $1,600.00 for Counts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16 and 17, which shall be due immediately. Said special assessment shall be paid to the Clerk, U.S. District Court.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

See pages 5 and 7 for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA

assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

DEFENDANT: DEHSHID NOURIAN a.k.a. David Nourian
CASE NUMBER: 3:17-CR-00155-L(2)

ADDITIONAL FORFEITED PROPERTY

Pursuant to 18 U.S.C. § 982(a)(7), 18 U.S.C. § 982(a)(1) and Federal Rule of Criminal Procedure 32.2(b), the following property is forfeited to the United States of America:

a. Real property located at 217 Bella Riva, Austin, Texas 78734;

b. $229,931.68 of $1,251,570.92 in proceeds obtained from the sale of real property located at 2525 Handley Ederville Road, Richland Hills, Texas;

c. $650,000.00 in cash paid to and received by the government in lieu of and as substitute *res* for the $467,921.08 or 86.855440% of the real property located at 867 FM 3133, Van Alstyne, Texas 75495;

d. $1,815,847.21 in funds seized from Wells Fargo Bank Account XXXXXX0302 in the name of Industrial & Family Pharmacy Inc.;

e. $27,907.62 in funds seized from JP Morgan Chase Bank Account XXXXX2280 in the name Ability Pharmacy Inc.;

f. $70,437.93 in funds seized from JP Morgan Chase Bank Account XXXXX3462 in the name Jade and Joy Holdings LLC;

g. $96,924.25 in funds seized from JP Morgan Chase Bank Account XXXXXX7273 in the name Jade and Joy Holdings LLC [replaces the asset described in Superseding Indictment as "All funds or up to $146,181.18 in JPMorgan Chase

account XXXXXX7273 held in the name of Jade and Joy"];

h. $106,211.14 in funds seized from BancorpSouth Bank Account XXXXXX5371 in the name of Bandoola Pharmaceutical LLC [replaces the asset described in the Superseding Indictment as "All funds or up to $107,041.49 in Bancorp South account XXXXXX5371 held in the name of Bandoola"];

i. $363,344,677.61 seized from Charles Schwab account ending in 5789 (formerly TD Ameritrade account ending 1944) in the name of Sherri Mofid;

j. $31,126,385.44 seized from TD Ameritrade account ending in 4516 (Charles Schwab) in the name of Dehshid Nourian and Larisa Nourian; and

k. 2016 BMW 7 Series Sedan 4D 750xi, VIN WBA7F2C58GG416750.

APPENDIX E

FEDERAL STATUTES

§ 3663A. Mandatory restitution to victims of certain crimes

(a) (1) Notwithstanding any other provision of law, when sentencing a defendant convicted of an offense described in subsection (c), the court shall order, in addition to, or in the case of misdemeanor, in addition to or in lieu of, any other penalty authorized by law, that the defendant make restitution to the victim of the offense or, if the victim is deceased, to the victim's estate.

(2) For the purposes of this section, the term "victim" means a person directly and proximately harmed as a result of the commission of an offense for which restitution may be ordered including, in the case of an offense that involves as an element a scheme, conspiracy, or pattern of criminal activity, any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern. In the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, may assume the victim's rights under this section, but in no event shall the defendant be named as such representative or guardian.

(3) The court shall also order, if agreed to by the parties in a plea agreement, restitution to persons other than the victim of the offense.

(4) Clarification.—In ordering restitution under this section, a court shall order the defendant to make

restitution to a person who has assumed the victim's rights under paragraph (2) to reimburse that person's necessary and reasonable—

(A) lost income, child care, transportation, and other expenses incurred during and directly related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense;

(B) lost income, transportation, and other expenses incurred that are directly related to transporting the victim for necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment; and

(C) lost income, transportation, and other expenses incurred that are directly related to transporting the victim to receive necessary physical and occupational therapy and rehabilitation.

(b) The order of restitution shall require that such defendant—

(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

(A) return the property to the owner of the property or someone designated by the owner; or

(B) if return of the property under subparagraph (A) is impossible, impracticable, orinadequate, pay an amount equal to—

(i) the greater of—

(I) the value of the property on the date of the damage, loss, or destruction; or

(II) the value of the property on the date of sentencing, less

(ii) the value (as of the date the property is returned) of any part of the property that is returned;

(2) in the case of an offense resulting in bodily injury to a victim—

(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

(C) reimburse the victim for income lost by such victim as a result of such offense;

(3) in the case of an offense resulting in bodily injury that results in the death of the victim, pay an amount equal to the cost of necessary funeral and related services; and

(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

(c) (1) This section shall apply in all sentencing proceedings for convictions of, or plea agreements relating to charges for, any offense—

(A) that is—

(i) a crime of violence, as defined in section 16;

(ii) an offense against property under this title, or under section 416(a) of the Controlled Substances Act (21 U.S.C. 856(a)), including any offense committed by fraud or deceit;

(iii) an offense described in section 3 of the Rodchenkov Anti-Doping Act of 2019;

(iv) an offense described in section 1365 (relating to tampering with consumer products); or

(v) an offense under section 670 (relating to theft of medical products); and

(B) in which an identifiable victim or victims has suffered a physical injury or pecuniary loss.

(2) In the case of a plea agreement that does not result in a conviction for an offense described in paragraph (1), this section shall apply only if the plea specifically states that an offense listed under such paragraph gave rise to the plea agreement.

(3) This section shall not apply in the case of an offense described in paragraph (1)(A)(ii) or (iii) if the court finds, from facts on the record, that—

(A) the number of identifiable victims is so large as to make restitution impracticable; or

(B) determining complex issues of fact related to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a

degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process.

(d) An order of restitution under this section shall be issued and enforced in accordance with section 3664.

§ 3664. Procedure for issuance and enforcement of order of restitution

(a) For orders of restitution under this title, the court shall order the probation officer to obtain and include in its presentence report, or in a separate report, as the court may direct, information sufficient for the court to exercise its discretion in fashioning a restitution order. The report shall include, to the extent practicable, a complete accounting of the losses to each victim, any restitution owed pursuant to a plea agreement, and information relating to the economic circumstances of each defendant. If the number or identity of victims cannot be reasonably ascertained, or other circumstances exist that make this requirement clearly impracticable, the probation officer shall so inform the court.

(b) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

(c) The provisions of this chapter, chapter 227, and Rule 32(c) of the Federal Rules of Criminal Procedure shall be the only rules applicable to proceedings under this section.

(d) (1) Upon the request of the probation officer, but not later than 60 days prior to the date initially set for sentencing, the attorney for the Government, after consulting, to the extent practicable, with all identified

victims, shall promptly provide the probation officer with a listing of the amounts subject to restitution.

(2) The probation officer shall, prior to submitting the presentence report under subsection (a), to the extent practicable—

(A) provide notice to all identified victims of—

(i) the offense or offenses of which the defendant was convicted;

(ii) the amounts subject to restitution submitted to the probation officer;

(iii) the opportunity of the victim to submit information to the probation officer concerning the amount of the victim's losses;

(iv) the scheduled date, time, and place of the sentencing hearing;

(v) the availability of a lien in favor of the victim pursuant to subsection (m)(1)(B); and

(vi) the opportunity of the victim to file with the probation officer a separate affidavit relating to the amount of the victim's losses subject to restitution; and

(B) provide the victim with an affidavit form to submit pursuant to subparagraph (A)(vi).

(3) Each defendant shall prepare and file with the probation officer an affidavit fully describing the financial resources of the defendant, including a complete listing of all assets owned or controlled by the defendant as of the date on which the defendant was arrested, the financial needs and earning ability of the defendant and the defendant's dependents, and such other information that the court requires relating to such other factors as the court deems appropriate.

(4) After reviewing the report of the probation officer, the court may require additional documentation or hear testimony. The privacy of any records filed, or testimony heard, pursuant to this section shall be maintained to the greatest extent possible, and such records may be filed or testimony heard in camera.

(5) If the victim's losses are not ascertainable by the date that is 10 days prior to sentencing, the attorney for the Government or the probation officer shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

(6) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate judge or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.

(e) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant's dependents, shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate

shall be upon the party designated by the court as justice requires.

(f) (1) (A) In each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant.

(B) In no case shall the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source be considered in determining the amount of restitution.

(2) Upon determination of the amount of restitution owed to each victim, the court shall, pursuant to section 3572, specify in the restitution order the manner in which, and the schedule according to which, the restitution is to be paid, in consideration of—

(A) the financial resources and other assets of the defendant, including whether any of these assets are jointly controlled;

(B) projected earnings and other income of the defendant; and

(C) any financial obligations of the defendant; including obligations to dependents.

(g) (1) No victim shall be required to participate in any phase of a restitution order.

(2) A victim may at any time assign the victim's interest in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make such payments.

(h) If the court finds that more than 1 defendant has contributed to the loss of a victim, the court may make

each defendant liable for payment of the full amount of restitution or may apportion liability among the defendants to reflect the level of contribution to the victim's loss and economic circumstances of each defendant.

(i) If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may provide for a different payment schedule for each victim based on the type and amount of each victim's loss and accounting for the economic circumstances of each victim. In any case in which the United States is a victim, the court shall ensure that all other victims receive full restitution before the United States receives any restitution.

(j) (1) If a victim has received compensation from insurance or any other source with respect to a loss, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

(2) Any amount paid to a victim under an order of restitution shall be reduced by any amount later recovered as compensatory damages for the same loss by the victim in—

(A) any Federal civil proceeding; and

(B) any State civil proceeding, to the extent provided by the law of the State.

(k) A restitution order shall provide that the defendant shall notify the court and the Attorney General of any material change in the defendant's economic circumstances that might affect the

defendant's ability to pay restitution. The court may also accept notification of a material change in the defendant's economic circumstances from the United States or from the victim. The Attorney General shall certify to the court that the victim or victims owed restitution by the defendant have been notified of the change in circumstances. Upon receipt of the notification, the court may, on its own motion, or the motion of any party, including the victim, adjust the payment schedule, or require immediate payment in full, as the interests of justice require.

(l) A conviction of a defendant for an offense involving the act giving rise to an order of restitution shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim.

(m) (1) (A) (i) An order of restitution may be enforced by the United States in the manner provided for in subchapter C of chapter 227 and subchapter B of chapter 229 of this title; or

(ii) by all other available and reasonable means.

(B) At the request of a victim named in a restitution order, the clerk of the court shall issue an abstract of judgment certifying that a judgment has been entered in favor of such victim in the amount specified in the restitution order. Upon registering, recording, docketing, or indexing such abstract in accordance with the rules and requirements relating to judgments of the court of the State where the district court is located, the abstract of judgment shall be a lien on the property of the defendant located in such State in the same manner and to the same extent and under the

same conditions as a judgment of a court of general jurisdiction in that State.

(2) An order of in-kind restitution in the form of services shall be enforced by the probation officer.

(n) If a person obligated to provide restitution, or pay a fine, receives substantial resources from any source, including inheritance, settlement, or other judgment, during a period of incarceration, such person shall be required to apply the value of such resources to any restitution or fine still owed.

(o) A sentence that imposes an order of restitution is a final judgment notwithstanding the fact that—

(1) such a sentence can subsequently be—

(A) corrected under Rule 35 of the Federal Rules of Criminal Procedure and section 3742 of chapter 235 of this title;

(B) appealed and modified under section 3742;

(C) amended under subsection (d)(5); or

(D) adjusted under section 3664(k), 3572, or 3613A; or

(2) the defendant may be resentenced under section 3565 or 3614.

(p) Nothing in this section or sections 2248, 2259, 2264, 2327, 3663, and 3663A and arising out of the application of such sections, shall be construed to create a cause of action not otherwise authorized in favor of any person against the United States or any officer or employee of the United States.