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8 IN THE UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,  
11 Plaintiff,  
12 v.  
13 IRMA OLGUIN, JR. and  
14 JAKE SOBERAL,  
15 Defendants.

CASE NO. 1:24-CR-00159-NODJ-BAM  
GOVERNMENT'S SENTENCING  
MEMORANDUM

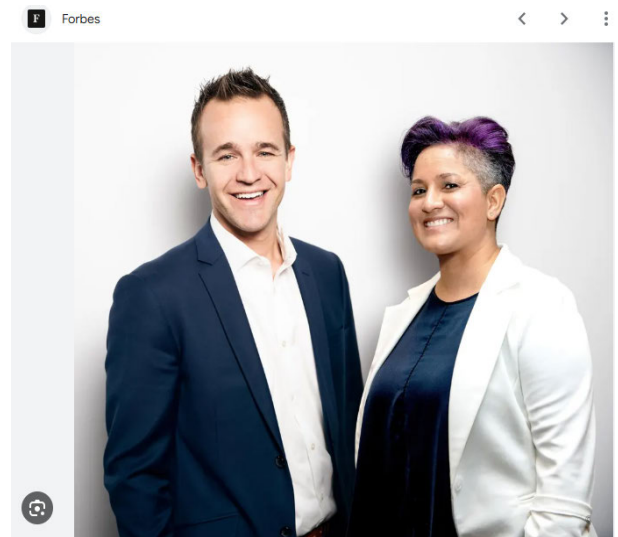
16  
17 The defendants, Irma Olguin, Jr. and Jake Soberal, were convicted of defrauding people out of  
18 approximately \$115,000,000 from January 2022 through May 2023. It is one of the largest, and highest  
19 profile, financial frauds in this District's history. And for that, they he should be made to serve  
20 meaningful prison sentences.

21 **I. Factual background**

22 The defendants carried out the fraud through their company, Bitwise Industries ("Bitwise").  
23 Bitwise was, and still is, the biggest startup company to come from California's Central Valley. The  
24 company was supposed to use technology to create jobs for underserved groups of people, revitalize  
25 blighted urban areas, and show that such a project could be profitable. For these reasons, it appealed to  
26 investors who wanted their investments to promote certain social values while also generating  
27 significant returns. These types of investors are commonly referred to as "social impact investors."  
28

1 Bitwise, however, never made much money. The business model was not working and the  
2 defendants knew it was not working because they struggled to have enough money to operate.  
3 Nonetheless, they welcomed national media attention by appearing in publications like Forbes Magazine  
4 and giving Ted Talks where they falsely portrayed the company as being a success:<sup>1</sup>

5 -- Forbes profiles from 2020 and 2021 --



15 The defendants exploited social impact investors' desire to do good and continuously deceived them to  
16 get more money. When that resource dried up, they moved on to lenders and then their own employees.  
17 They even misappropriated their employees' 401(k) contributions and solicited the employees' friends  
18 and family members. Such behavior belies any contention by the defendants that their primary aim in  
19 committing the fraud was to protect employees' jobs. In reality, the defendants were consumed by their  
20 own delusions of grandeur and resorted to Ponzi scheme tactics to prop up Bitwise until the weight of  
21 their crimes caused the company to collapse. This is illustrated by the following text messages where  
22 they are focused on ensuring they make their \$1,000,000 per year and joke about Bitwise being a  
23 "trillion-dollar company" with no revenue:

24  
25  
26 <sup>1</sup> Forbes profiles available at: <https://www.forbes.com/sites/ruthumoh/2020/06/26/from-recycling-bottles-for-cash-to-tech-ceo-meet-the-latinx-founder-building-a-100-million-tech-hub-in-californias-gritty-central-valley/> and <https://www.forbes.com/sites/kristinstoller/2021/02/24/california-tech-hub-bitwise-industries-raises-50-million-in-quest-to-diversify-the-workforce/>. Ted Talk available  
28 at: [https://www.ted.com/talks/irma\\_l\\_olguin\\_jr\\_how\\_to\\_turn\\_around\\_a\\_city?subtitle=en](https://www.ted.com/talks/irma_l_olguin_jr_how_to_turn_around_a_city?subtitle=en).

-- November 11, 2022, text exchange --

1  
2 OJ Old Irma Olguin Jr. [REDACTED] 11/11/2022, 12:43 AM  
They are definitely starting to care what we are paying ourselves.  
3  
4 OJ Old Jake [REDACTED] 11/11/2022, 12:43 AM  
I've said out loud what we're making to all of them and no one balked  
5  
6 OJ Old Jake [REDACTED] 11/11/2022, 12:43 AM  
Incl bonuses  
7  
8 OJ Old Irma Olguin Jr. [REDACTED] 11/11/2022, 12:43 AM  
If we close [REDACTED] are you going to make your \$1m this year?  
9  
10 OJ Old Jake [REDACTED] 11/11/2022, 12:44 AM  
Seems high unless we do secondaries.  
11  
12 OJ Old Jake [REDACTED] 11/11/2022, 12:46 AM  
But, I don't think anyone would question it... without seeing fully behind the curtain  
13  
14 OJ Old Irma Olguin Jr. [REDACTED] 11/11/2022, 12:47 AM  
Let's see where we shake out by then.

-- April 29, 2023, text exchange --

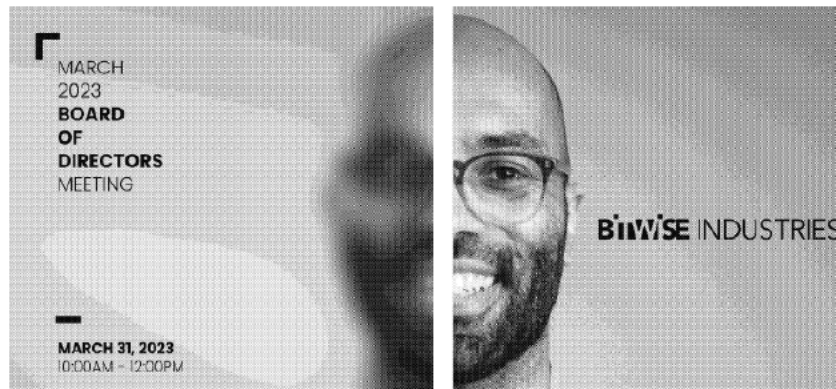
15  
16 OJ Old Jake < [REDACTED] > 4/29/2023, 5:49 AM  
My day dream is the inverse Gordon gecko speech where we tell everyone in some public setting there was never any  
revenue, but there was always a trillion dollar company.... And see what they do with us.  
17  
18 OJ Old Irma Olguin Jr. < [REDACTED] > 4/29/2023, 5:54 AM  
I would LOVE that.

18 The defendants' fraud breached the trust that people placed in them, and this breach will change  
19 the way that people treat social impact businesses generally and businesses from this District in  
20 particular. The stain will be difficult to remove. Nonetheless, although the defendants' misconduct was  
21 egregious, they have conducted themselves commendably during these criminal proceedings. Upon  
22 learning about the government's investigation, they promptly agreed to voluntary interviews with the  
23 government where they confessed to their crimes and accepted responsibility. They then waived their  
24 rights to be indicted and pleaded guilty, which conserved government resources. Therefore, the  
25 government believes that the defendants should receive a low-end of the applicable guidelines sentence  
26 of 151 months in prison to be followed by three years of supervised release. Importantly, the parties do  
27 not dispute the guideline calculations in this case and there are no formal objections to the Presentence  
28 Investigation Report.

1           **II.    Enhancements for use of sophisticated means and abuse of positions of trust**  
 2                           **are warranted**

3           The defendants are sophisticated professionals. Soberal is an attorney who had previously  
 4 practiced at a law firm doing intellectual property work, and Olguin, Jr. is a computer engineer who had  
 5 previously run another technology company. The defendants' fraud was likewise sophisticated,  
 6 deliberate, and extensive. For example, they doctored audit reports and fabricated complex financial  
 7 information in investor materials to make it appear as though Bitwise was generating revenues and  
 8 turning a profit:

9                           **-- Example of fabricated financials provided in March 2023 --**



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	2022 Plan	2022 Actual	Variance (Act - Plan)
<b>REVENUE</b>			
Workforce	\$24,090,000	\$26,549,875	\$2,459,875
Enterprise Solutions	\$89,190,472	\$105,383,021	\$16,192,549
Community	\$17,997,783	\$11,467,412	-\$6,530,371
<b>Total Revenue</b>	<b>\$131,278,255</b>	<b>\$143,400,308</b>	<b>\$12,122,053</b>
Cost of Sales	\$54,699,273	\$65,059,558	\$10,360,285
Gross Margin	\$76,578,982	\$78,340,750	\$1,761,768
Gross Margin %	58.33%	54.63%	-3.70%
<b>EXPENSE</b>			
Sales & Marketing	\$31,405,322	\$24,987,606	-\$6,417,716
General & Administrative	\$39,420,670	\$31,690,713	-\$7,729,957
Total SG&A Expenses	\$70,825,992	\$56,678,319	-\$14,147,673
<b>EBITDA</b>	<b>\$5,752,990</b>	<b>\$21,662,431</b>	<b>\$15,909,441</b>
Tax, Interest and Depreciation Expense	\$4,024,629	\$5,269,035	\$1,244,406
<b>Net Income</b>	<b>\$1,728,361</b>	<b>\$16,393,396</b>	<b>\$14,665,035</b>

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1 They also altered bank statements and forged bank representatives' signatures on bank correspondence  
2 to inflate the company's cash balances. They did all of this to trick people into believing that Bitwise  
3 was excelling when the company was actually failing.

4 Moreover, the defendants were given access to well-regarded, prominent board members,  
5 attorneys, accounting firms, C-Suite job candidates, and other top-shelf resources. They, however,  
6 declined to take advantage of these resources and do business properly. Instead, they hired unqualified  
7 family members and friends, which allowed them to compartmentalize information and work in secret to  
8 spin the elaborate lies needed to conceal and continue with their misconduct. Therefore, the defendants  
9 have agreed that their sentences should be enhanced for using sophisticated means and abusing positions  
10 of trust.

11 **III. Fallout from the defendants' fraud is significant**

12 The consequences of the defendants' fraud are far-reaching. The many people who invested and  
13 lent tens of millions of dollars to Bitwise lost all of that money. There is little to no chance that these  
14 victims will get anything back because the company is defunct with no significant assets remaining.  
15 Several of these individuals told the government that they were counting on getting their money back to  
16 cover debts or other obligations, and that they are struggling to fill the void.

17 The reputations of those who referred business associates, friends, and family members to work  
18 with Bitwise were also damaged. For example, one of these individuals told the government that they  
19 were asked to resign a seat on the board of another company because that company was afraid the  
20 individual's prior involvement with Bitwise would taint them.

21 Moreover, Bitwise's nearly 1,000 employees and contractors abruptly lost their jobs and, along  
22 with it, their insurance coverage, retirement funds, and sense of pride. Some were unable to make their  
23 mortgage or rent payments. Others struggled to buy food for their families. And still others had to  
24 delay or forego needed health care services for themselves and family members.

25 Finally, the social impact investing industry has been damaged. Bitwise was an often-cited  
26 example of success in this industry. But now, the company has become a cautionary tale that sows  
27 doubt and pushes people to invest their money elsewhere. The extent of the damage is difficult to  
28 measure. But as this Court previously recognized in another case, "America is the place to come if you



1 have an idea ... to invest in the idea ... to see that idea grow and change the world ... that is all in  
 2 jeopardy when people's greed and lies elude the system of laws." *United States v. Phillips*, 2:10-cr-  
 3 00269-JCC (W.D. Wash.) at Dkt. 185.

4 The government has received several written victim impact statements and has filed these  
 5 statements with the Court under seal to protect the identities of the victims. The statements detail the  
 6 harm inflicted by the defendants. The government expects at least two of the victims to speak at the  
 7 defendants' sentencing hearing.

8 **IV. Text messages demonstrate the defendants' arrogance and disregard for victims**

9 Some of the text messages that the defendants exchanged with each other while committing their  
 10 fraud are troubling. The text messages show that they were aware of the gravity of their misconduct,  
 11 approved of it, and sometimes relished it. For example, they boasted when they tricked someone into  
 12 giving them more money and talked about how strong it made them feel:

13 -- April 26, 2023, text exchange --

14	OJ	Old Irma Olguin Jr. <[REDACTED]> Big Trouble	4/26/2023, 10:45 PM
15	OJ	Old Irma Olguin Jr. [REDACTED] ?	4/26/2023, 10:46 PM
16	OJ	Old Irma Olguin Jr. [REDACTED] New thing?	4/26/2023, 10:46 PM
17	OJ	Old Jake [REDACTED] Nah, just my most recent crimes	4/26/2023, 10:46 PM
18	OJ	Old Irma Olguin Jr. [REDACTED] Cic	4/26/2023, 10:46 PM
19	OJ	Old Irma Olguin Jr. [REDACTED] Yeah, man. It's a lot.	4/26/2023, 10:47 PM
20	OJ	Old Jake [REDACTED] You good?	4/26/2023, 10:47 PM
21	OJ	Old Irma Olguin Jr. [REDACTED] Totally.	4/26/2023, 10:48 PM
22	OJ	Old Irma Olguin Jr. [REDACTED] I actually feel stupidly fine.	4/26/2023, 10:49 PM
23	OJ	Old Irma Olguin Jr. [REDACTED] HAHAHAHAHAH	4/26/2023, 10:49 PM
24	OJ	Old Irma Olguin Jr. [REDACTED] You?	4/26/2023, 10:49 PM
25	OJ	Old Jake [REDACTED] I feel real good. Real strong. Maybe too strong.	4/26/2023, 10:49 PM
26	OJ	Old Irma Olguin Jr. [REDACTED] HAHAHAHAHAH	4/26/2023, 10:49 PM
27	OJ	Old Irma Olguin Jr. [REDACTED] I FUCKING LOVE THAT	4/26/2023, 10:49 PM

1 They also referred to themselves as being gods or at least god-like. Finally, they described Bitwise as  
2 being a “dumb f\*\*\*\*\* thing” they could use to deceive and cheat “old, white, conservative, rich dudes”  
3 out of money:

4 -- April 29, 2023, text exchange --

5 OJ Old Jake [REDACTED] 4/29/2023, 4:44 AM  
Bro. That was one for the book.

6 OJ Old Irma Olguin Jr. [REDACTED] 4/29/2023, 4:48 AM  
I was literally about to text you.

7 OJ Old Irma Olguin Jr. [REDACTED] 4/29/2023, 4:49 AM  
What you did this week is nothing short of extraordinary.  
8 Very few humans could have done what you did.

9 OJ Old Irma Olguin Jr. [REDACTED] 4/29/2023, 4:50 AM  
Kind of incredible to be doing this dumb fucking thing with you.

10 OJ Old Jake [REDACTED] 4/29/2023, 4:51 AM  
I think it's a God thing bro..... and 10 years worth of doing God things....

11 OJ Old Jake [REDACTED] 4/29/2023, 4:52 AM  
The no's sucked this week, but the yeses were crazy good. People just raves about watching us do good work and being  
12 for us. Old, white, conservative, rich dudes. Raving about our crazy, money-losing, progressive ideas.

13 OJ Old Irma Olguin Jr. [REDACTED] 4/29/2023, 4:53 AM  
No argument. I think it's a god thing too.

14 OJ Old Jake [REDACTED] 4/29/2023, 5:13 AM  
I'd have given up a long time ago if it weren't for you. I'm really excited to quit this job after we fix this company.

15 OJ Old Irma Olguin Jr. [REDACTED] 4/29/2023, 5:14 AM  
16 Hashtag same.

17 **V. Severity of the defendants' fraud demonstrates that it was no mistake**

18 The length, complexity, and purposeful nature of the defendants' fraud show that it was not a  
19 mistake, a crime of opportunity, or otherwise aberrant behavior for them. This is especially so when  
20 considering the above-referenced text messages that they exchanged with each other. They made a  
21 calculated decision to break the law and steal money from others.

22 **VI. Lack of mitigating factors**

23 There is no excuse for the defendants' misconduct. They came from strong families, received  
24 college degrees, and enjoyed successful careers before starting Bitwise. They do not have any serious  
25 substance abuse issues and are in good health. Nor do they have any dependents who will go without  
26 care in their absence. Moreover, the defendants' are in their late 30s and early 40s, which belies any  
27 argument that this was a youthful lapse in judgment. Simply put, there is no mitigating factor that  
28 justifies a variance or departure from the defendants' applicable sentencing guideline range. The

1 Probation Office agrees with the government's assessment.

2 **VII. Conclusion and Recommended Sentence**

3 The defendants and others like them who enjoy high-profile positions must understand that  
4 breaking the law has real consequences. This is especially so where, as here, their crimes are long-  
5 running, sophisticated, and costly in terms of loss and impact to victims and the community.  
6 Accordingly, the government recommends that the defendants be sentenced to 151 months in prison to  
7 be followed by three years of supervised release. This is the low-end of the applicable guidelines  
8 sentence and is consistent with the parties' plea agreement. The government believes that its  
9 recommended sentence sufficiently reflects the seriousness of the defendants' misconduct, punishes  
10 them, and promotes general deterrence while also accounting for their individual characteristics and  
11 other applicable sentencing factors set forth at 18 U.S.C. § 3553(a).

12 Dated: December 9, 2024

PHILLIP A. TALBERT  
United States Attorney

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15 By: /s/ Joseph Barton  
          /s/ Henry Carbajal III  
16 Joseph Barton  
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