

**UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)	
)	
V.)	CASE NO:
)	
ISABELL KESARI GERVAIS,)	2:17-cr-00084-MHH-SGC
<i>Also Known as Deborah Lynne Goodman,</i>)	
<i>Debra Lynn Goodman, Debrah Lynne</i>)	
<i>Smith, Debra Lynn Smith, Rose Marie</i>)	
<i>Starr, Debrah Goodman-Starr, Debra Lynn)</i>)	
<i>Holland, and Isabell Kesari Scott,</i>)	
Defendant.)	

UNITED STATES' SENTENCING MEMORANDUM

COMES NOW the United States through the undersigned Assistant United States Attorney and respectfully requests that the court sentence the defendant to 75 months of incarceration at the high end of the Guidelines followed by a five-year term of supervised release and require the defendant to make full restitution to the victims as requested. The defendant lived a lie for more than ten years without remorse at the expense of others. In 2015, she brought that lie to the Northern District of Alabama and used it to defraud vulnerable victims, including cancer patients, of over \$100,000. The requested Guidelines sentence complies with the

Plea Agreement¹ and is sufficient but no greater than necessary under the sentencing factors in 18 U.S.C. § 3553(a).

BACKGROUND

A. Factual Background Before the Charged Wire Fraud Scheme

From 2002 until her arrest in Hoover, Alabama in November 2015, the defendant operated a series of “medical” clinics with a variety of names, under numerous aliases, in Georgia, Alabama, Arkansas, and Kansas. (PSR ¶¶ 22-32.) The defendant rented space and incorporated entities to create these clinics. (*Id.*) At these clinics, the defendant falsely held herself out as a licensed medical professional who uses naturopathic medicine to cure people of various illnesses, including cancer. (*Id.* ¶ 10.) She took steps to look like a medical doctor including wearing a white coat, referring to herself as a doctor, listing herself in advertisements with medical doctors, and obtaining a National Provider Identifier (NPI) used for insurance billing. (Advertising Material at Ex. A; NPI Print Out at Ex. B.) To support her story, the defendant created an elaborate educational history with diplomas and touted her experience treating patients all over the world, including Lords and Ladies in England (PSR ¶¶ 15-18; Advertising Material at Ex. A). She advertised her credentials and experience on the internet, by speaking at events, and

¹ The defendant had made statements since December 2017 that are arguably inconsistent with acceptance of responsibility. However, the United States has chosen to honor its Plea Agreement with the defendant and recommend a Guidelines sentence. (Plea at 18).

by appearing on local television and radio (PSR ¶ 10; Advertising Material at Ex. A; Radio Program at Ex. C).

Patients, medical boards, vendors, and others confronted the defendant about the operation of her businesses numerous times between 2002 and 2015, but she did not stop (PSR ¶¶ 32-33, 62-65, 103; Civil Suits at Ex. D). Each time she faced trouble; the defendant simply relocated and changed her own name or the name of her business (PSR ¶ 32.). In 2005, while operating the Chiron Clinic in Atlanta, the defendant, using the name “Dr. Debrah Goodman,”² fell behind on her rent obligations for the clinic building. (Civil Suits at Ex. D). In February and March, the leasing company began seriously demanding payment. (*Id.*) The defendant legally changed her name to Isabell Gervais in April 2005. (PSR ¶ 34.)

The defendant divorced in 2006 and moved to Montgomery. (*Id.* ¶ 83.) She began operating a clinic there under the name Sagewood. (*Id.* ¶ 26.) The Alabama Medical Board began investigating her for the unauthorized practice of medicine in 2007 and told her to cease and desist her activity. (*Id.* ¶ 33.) The Medical Board was concerned about the defendant prescribing medical treatments and holding herself out as a medical doctor. (*Id.*) In early 2009, a bank sued the defendant for defaulting on a loan for medical equipment and seized the equipment (Civil Suits at Ex. D). Later in 2009, the defendant abandoned the Sagewood clinic and moved back to

² At this time the defendant’s legal name was spelled Debra Goodman. (PSR ¶ 34.)

Georgia. (*Id.* ¶¶ 27, 86.) This resulted in other civil suits in Montgomery in 2010 and 2011 for breach of contract, fraud, and bad faith. (*Id.* ¶ 103; Civil Suits at Ex. D.) These suits involved the defendant's default on another residential lease, her failure to pay back a loan made by a patient, and her treatment of that patient. (*Id.*)

Once in Georgia, the defendant married Rob Scott becoming Isabell Kesari-Scott and opened a new clinic, DRI. (*Id.* ¶¶ 27, 85.) She took out a \$150,000 loan regarding her business. (Civil Suits at Ex. D.) In 2010 and 2011, the defendant faced the outstanding lawsuits from her time in Montgomery as well as marital problems including alleged physical violence between she and Scott (*Id.* ¶¶ 58, 69-72, 86.) Scott filed for divorce in February 2011. (Civil Suits at Ex. C.) The defendant has presented one version of her marriage to Scott. (PSR ¶ 86.) Mr. Scott has presented another. Rob Scott contacted the United States after he learned of the defendant's indictment. He indicated that he discovered the defendant's businesses were not as she represented them and that the defendant owes him over \$25,000 for money he invested in her business, over \$37,000 in unauthorized credit card charges, and is responsible for his involvement in a \$150,000 promissory note. Mr. Scott stated that he has been unable to enforce his divorce decree from the defendant and get monies he is owed because he was unable to locate her until she was arrested.

In March 2011, the owner of the \$150,000 promissory filed suit and the defendant was forced to consent to a judgement against her. (Civil Suits at Ex. C.)

In or around this time, she ran again. This time to Arkansas. (*Id.* ¶ 86.) Once in Arkansas, the defendant opened two different clinics there using the names Sagewood and Ascension and operated them between 2011 and 2014. (PSR ¶¶ 28-30.)

Individuals and law enforcement began to question the defendant in Arkansas as well. The Arkansas Medical Board, like the Alabama Medical Board, investigated her for the unauthorized practice of medicine. (*Id.* ¶ 32.) She was also charged with theft from a rental home in December 2012. (*Id.* ¶ 59; Theft Police Report at Ex. E.) Ultimately, she was convicted of a felony offense November 7, 2013. (*Id.* ¶ 59.) While this prosecution was ongoing, in or around May 2013, the defendant tried to legally change her name again. (*Id.* ¶ 35.) The defendant tried to formally become “Debrah Lynne Goodman,” an alternate spelling of her prior legal name, “Debra Lynn Goodman,” and of the name “Debrah Lynn Goodman” she had used while operating the Chiron Clinic in Atlanta. The court would not allow her to change her name (*Id.* ¶ 35.) Undeterred, she forged a Judge’s signature on the name change order. (*Id.*) Eventually, she was convicted of forgery. (*Id.* ¶ 60.)

The defendant used the forged order to obtain a new driver’s license in the name “Debrah Lynne Goodman.” (*Id.* ¶ 60.) In January 2014, the defendant used that driver’s license and other counterfeit and false information to obtain a passport. (*Id.* ¶ 61.) She was later convicted of passport fraud. (*Id.*)

By 2014, the defendant's patients were beginning to question her practices and contact local authorities in Arkansas. (*Id.* ¶ 62.) So, she fled Arkansas and opened yet another clinic in Kansas. (*Id.* ¶¶ 31, 62, 86.)

B. The Charged Wire Fraud Scheme and Aggravated ID Theft

In 2015, the defendant came back to Alabama. (PSR ¶ 9.) This time to Hoover. She decided to open yet another clinic in yet another business name. In March 2015, using the name "Dr Rose Starr," the defendant took steps to create a business known as the Euro Med Klinik including reserving the name with the Alabama Secretary of State. (*Id.*) The defendant introduced herself, as "Dr. Rose Starr" to the owner of well-known herb business in Hoover. (*Id.*) She convinced the herb business owner to lease her a home in Alabaster, lease her space within the owner's established business location, feature her on a radio program, and otherwise connect her with potential patients. (Radio Program at Ex. C; D.B. Letter at Ex. F.)

At the Euro Med Klinik the defendant met victims D.B., R.U., L.B. J.H., and others. (PSR ¶ 13.) L.B. referred her friend D.B. (D.B. Letter at Ex. F.) Both were suffering from breast cancer. (*Id.*) Both were desperate for care. (*Id.*) Both had heard natural medicine could help. (*Id.*) L.B. is now deceased and D.B. is seeking treatment at M.D. Anderson cancer center.

The defendant held herself out to these victims and others as a doctor licensed to practice anywhere in the world. (PSR ¶ 13.) The defendant claimed to have a

valid Bachelor of Medicine, Bachelor of Surgery (M.B.B.S.), the equivalent of a Doctor of Medicine (M.D.) and to be a Doctor of Holistic Medicine (H.M.D.), a Doctor of Oriental Medicine (O.M.D.), and a Doctor of Naturopathic Medicine (N.M.D.). (*Id.* ¶¶ 15-16; Advertising Material at Ex. A) The defendant claimed to have been effectively treating individuals with various diseases, including cancer, for approximately twenty years. (*Id.*) The defendant advertised the Euro Med Klinik’s services and her experience as “Dr. Rose Starr” using business cards, the internet, radio, and other means. (*Id.* ¶ 10; Advertising Materials at Ex. A.) She sounded very convincing. (Radio Program at Ex. C.)

The defendant acted like a doctor’s office. Once patients came to the Euro Med Klinik, the defendant asked them to fill out various paperwork with their personal identifiers, detailed medical and lifestyle information, and financial information, including in some instances credit card information. (PSR ¶ 11; Patient Forms at Ex. G.) The defendant ran various “tests” on the patients, including a supposed “DNA test.” (*Id.*) Some of these tests required blood, saliva, hair, and urine samples. (*Id.*) The defendant “prescribed” various regimens and pills to the patients. (*Id.*) The patients paid the defendant using interstate credit card wires and checks that moved through federally insured financial institutions. (*Id.* ¶ 12.)

It was all a lie. The patients paid the defendant because they believed (1) her name was Rose Starr rather than Isabell Kesari Gervais; (2) she was a doctor licensed

to practice medicine anywhere in the world; (3) she had various naturopathic degrees and credentials; (4) she had years of experience treating patients throughout the world including in the United Kingdom for cancer and other diseases; and (5) she could perform DNA test on her patients. (*Id.* ¶ 13). Yet, none of this was true.

There is no license to practice medicine worldwide. (*Id.* ¶ 14.) The defendant is not, nor has she ever been, licensed to practice traditional medicine in any state including Alabama. (*Id.*) The defendant is not licensed to practice naturopathic medicine in Alabama. (*Id.*) Alabama does not license naturopathic physicians at all. (*Id.*) The only license to practice naturopathic medicine the defendant has ever had is a license from 2004-2006 in Idaho. (*Id.*) Idaho was one of the only states that licensed naturopaths at this time. The defendant obtained this license via fraud. (*Id.*) The defendant obtained it using fake recommendations and fraudulent representations that she had attended the University of Virginia and Tulane. (*Id.* ¶ 17.) The defendant's only "license," was a business license from DeKalb County, Alabama. (*Id.*) This "license" can be obtained for a nominal fee and simply authorizes someone to operate a business in DeKalb County.

The defendant did not attend an accredited naturopathic program nor did she sit for any formal exam in naturopathy. (*Id.* ¶ 15.) The defendant's only alleged N.M.D. certificate is from the Native American Institute of Medicine (NAIM). (*Id.*) NAIM is not an accredited or incorporated institution. (*Id.*) NAIM is not a formal

school of any kind. (*Id.*) NAIM is the name used to refer to Kenneth Ray Cannon, or Chief Two Trees', informal treatment of patients with natural remedies in North Carolina. (*Id.*) The defendant did not and could not receive a valid N.M.D. from the NAIM. (*Id.*)

Although the defendant presented diplomas and certificates, as a Doctor of Holistic Medicine (H.M.D.) and a Doctor of Oriental Medicine (O.M.D.), there is no evidence the defendant ever attended an accredited program in these areas or sat for a formal exam. (*Id.* ¶ 16.) The defendant has various diplomas that indicate she has a Bachelor of Medicine, Bachelor of Surgery (M.B.B.S.) which is the British equivalent of the Medical Doctorate (M.D.) from the University of Science and Technology (USAT). (*Id.*) This diploma,³ however, has all the earmarks of coming from a diploma mill. The M.B.B.S. requires four to six years of classroom education and clinical training and certain examinations. (*Id.*) The defendant paid money to USAT, made a few trips overseas, and received a diploma granting an M.B.B.S. (*Id.*) The defendant did not take four to six years of classroom and clinical training and did not sit for the appropriate exams to earn an M.B.B.S. (*Id.*) Further, an M.B.B.S. alone does not confer the right to practice medicine anywhere and certainly not the in United States. The defendant took no steps to convert any M.B.B.S. she may have had into a license to actually practice medicine. (*Id.*)

³ Law enforcement located multiple versions with different names.

The defendant elaborated on and lied about her experience. For example, she claimed to have years of experience treating patients throughout the world in the United Kingdom and Kenya. (PSR ¶ 18; Advertising Material at Ex. A.) The defendant has spent the vast majority of her life in the United States, specifically in Alabama, Georgia, Arkansas, and Kansas. (*Id.*) In the last ten years, the defendant has made brief trips overseas to the United Kingdom. (*Id.*) The defendant observed at a naturopathic clinic in London but never treated patients there. (*Id.*)

The defendant did have machinery in her office, but it was not what she claimed. The defendant did not have the machinery necessary to perform DNA tests and did not perform such tests on her patients. (*Id.* ¶ 19.) She did not send samples from her patients for testing in Germany. (*Id.*) As a result, she hit the “results” from patients who sought them. (D.B. Letter at Ex. F.)

The defendant’s representations about her name, her experience, her education, and her testing abilities were lies. Without these lies none of the patients of the Euro Med Klinik would have paid her. While operating the Euro Med Klinik, the defendant has admitted she received somewhere between \$95,000 and \$150,000. (PSR ¶ 22.) These numbers are based on inflows to her bank accounts. This was the first form of wire fraud.

There was also a second. In some instances, the defendant ran her patients’ credit cards without their consent and without providing any services at all. This was

a second form of wire fraud as well as aggravated identity theft. For example, while being treated by the defendant, D.B. gave the defendant her and her husband's Capital One Credit Card number x9267 and authorized the defendant to use it to pay for a certain amount in services. (PSR ¶ 20.) On September 16th and November 16th 2016, the defendant charged D.B.'s credit card without her consent. (*Id.*) The defendant did not have D.B.'s card physically present and punched in the numbers. (*Id.*) The defendant did not treat D.B. on these dates. (*Id.*) D.B.'s credit card number is an access device and a means of identification. (*Id.*) The defendant knew that D.B. was a real person and that she was not authorized to charge the card on that particular occasion. (*Id.*) This activity is consistent with the allegations patients made in Arkansas. (*Id.* ¶ 62.)

C. The Charged False Statement

Throughout the last fifteen years and during her scheme in the Northern District of Alabama, the defendant utilized aliases to avoid detection. She did this with respect to a UPS box in the Northern District of Alabama. On November 18, 2015, when filling out the paperwork to get a UPS box, the defendant listed her name as M.E.G., on the United States Postal Service Form 1583 Application for Delivery of Mail through Agent. (PSR ¶ 21.) She provided this form along with M.E.G.'s driver's license to the UPS Store located at 9340 Helena Road, Suite F, Birmingham, AL 35244. (*Id.*) The name of the box applicant is a material matter to the United

States Post Office. (*Id.*) The defendant knew that her name was not M.E.G. (*Id.*)

D. Defendant's Arrest in Alabama and Prosecution in Arkansas

The defendant's scheme came to an end on November 23, 2015, when she was pulled over by a Hoover police officer. (PSR ¶ 77.) The defendant tried to give the officer M.E.G.'s license but the social security number the defendant provided did not match the license, and the defendant could not fool the officer. (*Id.*) The officer informed the defendant that she had a warrant in Arkansas. (*Id.*) She indicated that she knew about it. (*Id.*) The Hoover officer arrested the defendant on the outstanding warrant and extradited her to Arkansas to face state charges there first.

In December 2015, Washington County, Arkansas charged her with multiple counts of Theft by Deception and Fraudulent Use of a Credit Card based on the defendant's operation of two Arkansas clinics between 2012 and 2014. (PSR ¶¶ 62-65.) Patients reported concerns about the defendant's medical treatments, her over billing, her false use of their credit cards, and the fact that she claimed to be a doctor when she was not. (*Id.*) A jury convicted the defendant on December 5, 2016 and a court sentenced her to probation. (*Id.*)

During the same period, a federal grand jury in the Western District of Arkansas charged the defendant in federal court with Passport Fraud based on her actions to obtain the Debrah Goodman passport and other misrepresentations. (*Id.* ¶ 61.) She pled guilty on March 10, 2016 and the court sentenced her to eight months

in custody. (*Id.*) In January 2017, while serving her federal sentence, the defendant also pled guilty to forgery in Washington County. (*Id.* ¶ 60.) The court sentenced her to probation. (*Id.*) The defendant was released from federal custody and placed on federal supervised release in February 2017. (*Id.* ¶ 61.)

E. The Defendant's Federal Prosecution in Alabama

A Grand Jury in the Northern District of Alabama returned a nine-count indictment against the defendant on February 23, 2017. The Indictment charged six counts of wire fraud based on the defendant's fraudulent operation of the Euro Med Clinic (Counts 1 through 6); one count of aggravated identity theft based on the defendant's misappropriation of patient D.B.'s credit card and identity (Count 7); one count of false statements based on the defendant's lie to the United States Postal Service about her identity when opening a UPS box (Count 8); and one count of aggravated identity theft based on the defendant's use of M.E.G.'s identification to open that UPS box (Count 9).

On March 2, 2017, the defendant reported to the Federal Probation Office for the Western District of Arkansas to begin supervised release. She was arrested on the federal indictment out of the Northern District of Alabama. At the time of her arrest, she had a note in her pocket with a "to do" list, including "create my new identity." (PSR ¶ 35.) The defendant appeared the following day in Arkansas, and the court detained her. On April 20, 2017, the defendant appeared in the Northern

District of Alabama, and the court appointed the Federal Defenders' Office to represent her. On April 24, 2017, the defendant waived detention. As of the time of sentencing on May 15, 2018, the defendant will have been in federal custody for fourteen months and twelve days.

The defendant filed two unopposed motions to continue before the parties ultimately executed a written plea agreement. Pursuant to the written plea agreement, the defendant agreed to plead guilty to Counts 1, 7, and 8; to pay restitution as recommended by the Government; and to consent to forfeiture of \$113,241.87. The United States agreed not to charge the defendant with crimes and losses associated with the operation of clinics other than the Euro Med Klinik; to dismiss Counts 2-6 and 9; to recommend an appropriate reduction for acceptance of responsibility; to recommend a sentence within the Advisory Guidelines Range; and to recommend certain special conditions of supervised release. The written plea agreement contains an extensive, negotiated factual basis, which includes stipulations to many of the facts that will guide sentencing, including loss amount.

The defendant pled guilty on July 25, 2017. The court explained the sentencing process to the defendant in detail. The defendant explicitly denied having any concerns with her lawyer and stated emphatically that she had enough time to consider the plea agreement. The court gave the defendant the opportunity to bring

anything additional to the court's attention. The defendant did not raise concerns about discovery or anything else.

The court originally set the defendant for sentencing on November 13, 2017. The probation office completed the presentencing investigation report on October 5, 2017, and the defendant filed objections. At the defendant's request, the court re-set sentencing for December 13, 2017. Probation issued a revised report on December 5, 2017. The court entered a Final Order of Forfeiture consistent with the terms of the plea agreement. The defense filed a sentencing memorandum.

However, no sentencing hearing took place on December 13, 2017. On December 6, 2017, seven days before sentencing, the defendant filed a *pro se* request for change of counsel. This request prompted the Federal Defenders' Office to file a Motion to Continue Sentencing and to Withdraw as Counsel. The court considered these pleadings *ex parte* on December 13, 2017. In light of these pleadings and the *ex parte* hearing, the court allowed the Federal Defendants' Office to withdraw; appointed William Myers as counsel; and continued the sentencing hearing pending notice from Mr. Myers that he has had adequate time to review all discovery in this matter. Despite the numerous continuances, the negotiated nature of the plea, and the defendant's own representations at her plea hearing, the defendant spent the following four months extensively reviewing discovery and making additional

demands. The Court ultimately reset the sentencing for May 15, 2018 at the Government's request.

F. The Pre-Sentence Reports

The original October 5, 2017, Presentence Investigation Report calculates the Advisory Guidelines Range as 41-51 months for Counts 1 and 8 and 24 months for Count 7, or a total of 65 to 75 months, based on a total offense level of 20 and a Criminal History Category of III. The total offense level was based on a base level of seven (7), an eight (8) point enhancement for the stipulated loss amount, a two (2) point enhancement for the stipulated number of victims, a two (2) point enhancement for the stipulated relocation of the scheme, a two (2) point enhancement for the stipulated vulnerability of the victims, a two (2) point enhancement for the defendant's use of a position of trust or special skill, and a three (3) point reduction for acceptance.

On October 19, 2017, the defendant filed an objection to ¶ 48 of the PSR and argued that the application of the two (2) point enhancement for abuse of a position of trust was impermissible in light of the application of the vulnerable victim enhancement. (D. Obj. ¶ 8). The Probation Office issued an addendum and revised report on December 5, 2017, concluding that the enhancement was properly applied and that it anticipated defense counsel would withdraw the objection at sentencing. This objection remains unresolved. On May 4, 2018, the defendant filed a second

objection. The defendant objects to the restitution amounts in the PSR despite her agreement in her plea to pay restitution as requested by the Government. The defendant offers no explanation. This objection remains unresolved.

G. Defendant's Sentencing Memorandum

Prior defense counsel filed a sentencing memorandum before the scheduled December 13th sentencing advocating for a 65-month sentence at the low end of the Advisory Guidelines Range. Defendant argues that this is appropriate because of the defendant's family history of mental illness, her difficult marriages, the Guidelines accounting for all aggravators, and comparable sentences for other fraud and identity theft offenders.

THE UNITED STATES RECOMMENDS A SENTENCE OF 75 MONTHS

Pursuant to the Plea Agreement, the United States recommends a sentence within the advisory Guidelines range of 75 months incarceration and the maximum term of supervised release with special conditions. A sentence of at least 75 months is warranted under the factors set out in 18 U.S.C. § 3553(a).⁴

⁴ Section 3553(a) requires the Court to consider the following factors in determining the appropriate sentence: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need for the sentence imposed (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (B) to afford adequate deterrence to criminal conduct; (C) to protect the public from further crimes of the defendant; and (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner; (3) the kinds of sentences available; (4) the kinds of sentence and the sentencing range established by the Sentencing Guidelines; (5) any pertinent Guidelines policy statement; (6) the need to avoid

A. 75 Months Incarceration is Consistent with the Nature and Circumstances of the Offense.

A sentence of 75 months incarceration reflects the truly egregious nature and circumstances of the offense. The defendant's fraud was longstanding, blatant, elaborate, financially detrimental, dangerous, and cruel. 18 U.S.C. § 3553(a)(1).⁵ The defendant lied each day for over ten years about her education, her authorization, her experiences, her capabilities, and in some instances her very name. Her lies were not quite or isolated. The defendant advertised them publicly in the newspaper, on radio, and on television. The defendant's lies were also deliberate and required extensive planning. She did not simply make misrepresentations; she created extensive documentation to support them. The defendant carefully forged diplomas in the names of her aliases. She forged letters of recommendation to obtain licensures to which she was not entitled. She set up entities, in some cases making up officers and participants. She hired employees, leased space, and bought

unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (7) the need to provide restitution to any victims of the offense.

⁵ Throughout this Memorandum, the United States refers to the entirety of the defendant's admitted conduct from 2002 onward. While the United States did not charge the defendant with this conduct pursuant to the Plea Agreement and agreed not to consider loss from this conduct in determining the appropriate sentencing Guidelines, it is absolutely appropriate for the court to consider the defendant's admitted conduct in determining a just sentence within its discretion under 18 U.S.C. § 3553(a). *See* 18 U.S.C. § 3661 ("No limitation shall be placed on the information concerning the background, character, and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence."). *See also United States v. Rodriguez*, 765 F.2d 1546, 1554–55 (11th Cir.1985) (discussing court's ability to consider broad array of information as long as it is not inaccurate).

equipment. She not only used the identities of others, like M.E.G., she forged a judge's signature and obtained false identification documents.

The defendant's actions were financially detrimental to her patients and others. She extracted hundreds and thousands of dollars out of pocket from vulnerable sick people, many of whom were faced with extensive costs for medical care. The defendant has agreed based on her bank records that she obtained approximately \$100,000 in just the short time she operated the Euro Clinic. This does not include monies she fraudulently extracted from vendors and other business people. Some of the defendant's patients felt like they got nothing in return and all of them believed they were paying for something, or importantly someone, they were not getting. The defendant's actions were also financially detrimental to the individuals who leased her space or provided her services. These individuals like the herbalist here in Birmingham, provided services or facilities to a person they believed to be a naturopathic professional. They were then embarrassed and stuck with the bill when the defendant fled or they revealed her as fraud. The defendant's history is littered with unpaid bills and judgments that will likely never be collected.

Although it resulted in significant losses, the thrust of the defendant's crime is not financial. It is personal. The wrong perpetrated by the defendant was cruel and dangerous. The defendant preyed on vulnerable, desperate people and provided them with false hope. She told them that she could do things that she simply was

not trained or qualified to do. She asked them probing intimate questions about their health and their lifestyle, poked and prodded them for samples, connected them to machines, fed them pills and liquids, and then she left them feeling lied to and exploited.

It is unclear whether the defendant actually medically harmed anyone, but it is certainly clear that she could have. Defendant, despite any good intentions she may or may not have had, simply was not qualified to be telling really sick people what to put in, or stop putting in, their bodies or whether it was in their best interests to subject themselves to heat or other therapies. It is also clear that her patients, in consulting with her rather than licensed professionals, lost valuable time. Who knows whether L.B. would still be alive if she had pursued traditional cancer treatment months sooner? Who knows whether D.B. would be enduring continual treatments for Stage Four cancer today if she had not put her trust in the defendant? The defendant's deceit and her arrogance put real people in physical danger and caused them emotional distress at a time they could scarcely afford it.

B. The Defendant's History and Characteristics Do Not Mitigate the Need for a 75 Month Sentence.

The defendant's acts are in no way mitigated by her personal history and characteristics. 18 U.S.C. § 3553(a)(1). The circumstances of the defendant's infant years, adoption at the age of three, and difficult years of marriage in the 70s, 80s, and 90s, as articulated in the defense's sentencing memorandum, are simply too

attenuated to justify or explain the defendant's actions between 2002 and 2015. The defendant's alleged abuse at the hands of her husband from 2009 to 2011 also fails to explain her actions. The defendant began her life of lies before her marriage to Scott and continued it after. The death of the defendant's son in 2011, although tragic, likewise does not explain her actions. The kinds of hardships the defendant claims to have suffered might explain substance abuse offenses, uncharacteristic acts of violence, or even isolated instances of theft, but they simply do not relate to the development and execution of a longstanding fraud scheme.

The mental health history in the defendant's family is likewise irrelevant. There has been no indication that the defendant herself suffers from any type of diagnosable mental impairment. The defendant does not appear to abuse any substances and appears to have lived a life of good health.

If anything, the defendant's personal history and characteristics counsel against leniency. The defendant's actions appear to be motivated by greed and hubris rather than material need, substance abuse, or mental distress as the court sees with so many defendants. The defendant has amassed a considerable criminal history, and she has alienated much of her family and those closest to her with her lies.

C. A Sentence of 75 Months is Necessary to Provide Just Punishment and Respect for the Law.

A sentence of 75 months is necessary to show the defendant that her actions are serious and she cannot talk her way out of them. 18 U.S.C. § 3553(a)(2)(A). The defendant has shown a consistent tendency to deny responsibility and lie to avoid accepting the consequences of her actions. Between 2002 and 2015, numerous people and entities confronted the defendant with the financial and personal consequences of her lies, but the defendant went to considerable lengths to continue them. The defendant could not admit the truth even after police arrested her in 2015. Throughout her numerous prosecutions in Arkansas, the defendant maintained many of the facts that she has now admitted to this court are not true. She stuck to these facts when she took the stand in front of a jury and when she took a plea in federal court in Arkansas. The defendant only admitted these facts in this prosecution when confronted by documents and potential witness testimony that she could not deny. Even after admitting these facts and pleading guilty, the defendant has appeared reluctant to face her victims and publicly accept responsibility for her actions. Although the defendant stood up in front of this Court and stated that she had no concerns about her plea or her counsel, she repeatedly sought to continue sentencing and has spent the last four months laboriously reviewing the voluminous evidence against her despite the fact that she had negotiated and stipulated to virtually all the facts driving the sentencing Guidelines.

Although the defendant has been convicted of numerous offenses in Arkansas she has not yet received a significant sentence of incarceration. Due to the single event nature of some of the defendant's prior charges and the more limited investigative scope of the agencies investigating them, the courts responsible for sentencing the defendant on these charges did not have a full and complete picture of her or her schemes. This court is operating with more complete information about the defendant and her crimes. As such, this court has the tools and the opportunity to provide just punishment and send the appropriate message to the defendant.

D. A Sentence of 75 Months is Necessary to Reflect the Seriousness of the Offense and Deter Others.

A significant custodial sentence is necessary to reflect the seriousness of the type of fraud at issue and provide adequate deterrence. 18 U.S.C. § 3353(a)(2)(A) and (B). The word "doctor" means something. Diplomas on a wall signal something. Licensure, references in publications, and referrals are important. As a society, we rely on these things to determine who to trust with our health and with our money. The court must send the message that it is not okay to simply make it all up. A name and an identity are just as important. Society uses a person's name to check credit, determine criminal history, and find outstanding lawsuits and warrants. There is a reason that people cannot be free to just assume a new name. If the Euro Med Clinic patients had tried to do due diligence on Dr. Isabell Gervais, they may have discovered a prior complaint to the Alabama Medical Board, a

conviction for theft, a civil suit for fraud, and outstanding allegations of theft by deception involving similar patients in Arkansas. A search of “Dr. Rose Starr” would not yield any of this information.

E. A Sentence of 75 Months Does Not Create Unwarranted Sentencing Disparities.

A 75 month sentence is in accordance with the Guidelines and does not create unwarranted sentencing disparities. 18 U.S.C. § 3553(a)(4) and (6). The defendant argues that the average sentence for identity theft offenders and fraud offenders in the Eleventh Circuit is lower than the sentence requested. However, the averages cited by the defendant, which are taken across all types of fraud cases, do not account for the number of counts (three versus one for example), the specific crime underlying the identity theft crime (a complex wire fraud versus a single access device fraud count for example), the specific criminal history of the defendant (here other similar conduct), or any of the facts (vulnerable victims, longstanding schemes, relocation of a scheme, a complex scheme, etc.). These statistics are virtually useless as they encompass everything from single count credit card cases to complex tax schemes.

The other cases cited by the defendant are factually or legally distinguishable and do not justify a shorter sentence. Angela Corson Smith had no prior criminal record. She pled guilty to one count of wire fraud. Her case did not include an aggravated identity charge and did not address her conduct posing as a nurse. The

court imposed a sentence, like the one requested here, at the high end of the Advisory Guidelines range. Corrine Brown likewise had no criminal history. The Congresswoman's case involved a lie about the nature of a charity not a lie about the history and experience of defendant herself, and it too, involved no aggravated identity theft count. Brown's Guidelines were driven largely by the dollar value of the loss involved, whereas the Guidelines here are driven in large part by the many enhancements and aggravators. The Gill case is the most factually analogous case cited by the defendant. However, it involved roughly half the loss and no aggravated identity theft count. This alone would account for the difference between the 75 month sentence requested by the Government and the 40 month sentence imposed there. The facts in Gill likewise do not appear as egregious. The defendant in Street had an extensive criminal history and history of deceit, but the particular case at issue involved a single incident of misappropriating an identity to apply to a job. Street did not lie to medical patients and put them in harms way.

CONCLUSION

The defendant's acts of deceit are longstanding and truly offensive. Despite numerous prosecutions, she has never been held accountable for her actions. This Court has an opportunity to vindicate the victims of the Northern District of Alabama, provide just punishment to the defendant, and deter others from engaging

in similar conduct. A sentence of 75 months, within the Advisory Guidelines range will accomplish these purposes.

Respectfully submitted this the 15th day of May, 2018,

/s/ *Electronic Signature*
ERICA WILLIAMSON BARNES
Assistant United States Attorney

CERTIFICATE OF SERVICE

I certify that I filed the foregoing using the CMECF system which will send notification to counsel of record on this the 15th day of May 2018.

/s/ *Electronic Signature*
ERICA WILLIAMSON BARNES
Assistant United States Attorney