THE 3553 GROUP LLC

*The Defense Side of the Presentence Report*

**SAMPLE WORK PRODUCT — ENGAGEMENT 01**

*Anonymized example of The 3553 Group format. Fictional case — all names, dates, and figures are invented for illustration only.*

*Prepared at the direction of counsel — Attorney Work Product*

# Mitigation Case Scan

Presentence Report Audit • Issue Map • Priority Plan

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| **Prepared for** | Defense counsel (attorney work product) |
| **Subject** | United States v. Mercer — fictional illustration |
| **Offense** | Wire fraud, 18 U.S.C. § 1343 (fictional) |
| **Materials** | Draft disclosure PSR, plea agreement, charging instrument, discovery summaries provided by counsel |
| **Prepared by** | The 3553 Group |
| **Scope** | Flat-fee Case Scan: guideline calculation, criminal-history scoring, factual accuracy, and mitigation flags. Delivered in five business days. |

**Bottom line:** The draft PSR overstates the advisory range by a full 41 months at the low end. Four items are disputed — loss amount, sophisticated means, aggravating role, and the criminal-history category — each tied below to a guideline provision, a PSR paragraph, and draft objection language counsel can file.

## 1. Methodology

- Reviewed the draft PSR against the plea agreement, the charging instrument, and the discovery summaries provided by counsel.
- Recomputed the advisory guideline range from the ground up under the U.S. Sentencing Guidelines, rather than checking the PSR's math in isolation.

- Re-scored criminal history under USSG §4A1.1 and §4A1.2, verifying sentence dates, relatedness, and status points.
- Flagged factual assertions in the offense conduct and personal-history sections that are unsupported, overstated, or contradicted by the record.
- Identified mitigation themes mapped to the 18 U.S.C. § 3553(a) factors for counsel's variance argument.

## 2. Guideline Calculation Audit

| Guideline component | PSR | Audit | Disputed? |
|---|---|---|---|
| Base offense level, §2B1.1(a)(1) | 7 | 7 | No |
| Loss amount, §2B1.1(b)(1) — PSR: $412,000 / Audit: $268,000 | +14 | +12 | **YES — §4(a)** |
| Sophisticated means, §2B1.1(b)(10)(C) | +2 | +0 | **YES — §4(b)** |
| Aggravating role, §3B1.1 | +4 | +2 | **YES — §4(c)** |
| Acceptance of responsibility, §3E1.1 | −3 | −3 | No |
| **Total offense level** | **26** | **20** | — |
| Criminal history category | III | II | **YES — §4(d)** |
| **Advisory range** | **78–97 mos.** | **37–46 mos.** | **—** |

## 3. Criminal History Audit

The PSR assigns 3 points for a 2019 state theft conviction. The judgment reflects a 9-month sentence, suspended — under §4A1.1 this scores 2 points, not 3, and the "status" point does not apply because the instant offense conduct post-dates release by more than two years.

Two 2016 misdemeanor convictions are counted separately; the dockets show a single arrest date and consolidated sentencing — related cases under §4A1.2(a)(2) that should count as one sentence.

**Corrected total: 4 criminal history points — Category II, not III.**

## 4. Recommended Objections (with draft language)

### (a) Loss amount — §2B1.1(b)(1)

The PSR attributes $412,000 in loss, including $144,000 from three transactions the government declined to charge and as to which no victim statement establishes causation. Under §2B1.1, comment. (n.3(A)), loss is the reasonably foreseeable pecuniary harm resulting from the offense — declined, uncharged transactions with no victim nexus should be excluded.

> "Defendant objects to PSR ¶¶ 18–21. The $144,000 attributed to uncharged transactions lacks a record basis for foreseeability or causation and should be excluded, reducing the loss enhancement from 14 to 12 levels."

**(b) Sophisticated means — §2B1.1(b)(10)(C)**

The PSR applies the enhancement because wire transfers were used. Use of ordinary banking channels is not, standing alone, "especially complex or especially intricate offense conduct" under comment. (n.9(B)). No shell entities, no encryption, no layering beyond a single transfer per victim.

> "Defendant objects to PSR ¶ 24. Routine wire transfers do not constitute sophisticated means; the 2-level enhancement should not apply."

**(c) Aggravating role — §3B1.1**

The PSR finds the defendant an organizer/leader of five or more participants. The record identifies three participants with decision-making roles; the remaining individuals were one-time couriers paid flat fees with no knowledge of the scheme's scope. Under comment. (n.4), title alone does not establish control. The evidence supports at most a 2-level manager/supervisor adjustment under §3B1.1(c).

**(d) Criminal history — Chapter Four**

> "Defendant objects to PSR ¶¶ 41–44. Properly scored, the defendant has 4 criminal history points and falls in Category II."

## 5. Mitigation Flags for the § 3553(a) Variance

- **History and characteristics (§ 3553(a)(1)):** documented caregiving role for an elderly parent; 11 years of steady employment with a single employer before the offense period; no substance-abuse history.
- **Nature and circumstances (§ 3553(a)(1)):** offense arose from a failed business and personal debt spiral, not a lavish lifestyle — bank records show proceeds applied to business creditors.
- **Restitution posture (§ 3553(a)(7)):** $60,000 already tendered toward restitution pre-sentencing; a payment-plan affidavit is available for the sentencing memorandum.
- **Need for the sentence (§ 3553(a)(2)):** strong employment prospects on release (letter from former employer in file); low recidivism indicators support "sufficient, but not greater than necessary."

## 6. Factual Corrections Requested

- PSR ¶ 9 states the scheme "began in 2021"; bank records show the first relevant transfer in March 2022.
- PSR ¶ 58 lists the defendant as "unemployed since 2020"; payroll records confirm continuous employment through 2023.
- PSR ¶ 61 omits completion of a 200-hour financial-literacy program while on pretrial release.

## 7. Priority Plan

1. **This week:** File objections (a)–(d) before the objection deadline; attach the corrected criminal-history worksheet.
2. **Next:** Request a Probation interview correction on ¶¶ 9, 58, and 61 with payroll and bank records attached.
3. **For the sentencing memo:** Build the variance section on the caregiving and restitution themes in §5; obtain the former-employer letter in signed form.
4. **Watch item:** If the government supplements loss with victim declarations, the §4(a) objection should be re-briefed before the final PSR issues.

Respectfully submitted,

**The 3553 Group**
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**About this sample.** This is a fictional illustration of The 3553 Group's Mitigation Case Scan — the entry engagement most attorneys start with. All names, cases, dates, and figures are invented. An actual Scan is built from the real PSR, plea agreement, and discovery in counsel's case, and is delivered as attorney work product under counsel's direction. This document is a consulting work product; it is not legal advice and does not create an attorney-client relationship.