THE 3553 GROUP LLC

*The Defense Side of the Presentence Report*

**SAMPLE WORK PRODUCT — ENGAGEMENT 02**

*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*

# Full Mitigation Record

Mitigation Memorandum • Verified Chronology • Record Matrix

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|---|---|
| **Prepared for** | Defense counsel (attorney work product) |
| **Subject** | "Daniel R." — fictional client illustration |
| **Offense** | Health care fraud, 18 U.S.C. § 1347 (fictional) |
| **Basis** | Two client interviews (secure video), four collateral interviews, 212 pages of records verified against source documents |
| **Prepared by** | The 3553 Group |
| **Scope** | Full Mitigation Record: fact-checked mitigation memorandum in work-product format, verified chronology, and record matrix for counsel's sentencing memorandum. |

**Purpose:** This memorandum assembles the verified factual record behind a § 3553(a) variance request. Every material assertion is tied to a source in the Record Matrix (§5) so counsel can cite with confidence — and so nothing in the sentencing memorandum can be undercut by a record check.

## 1. Executive Summary

Daniel R., 54, owned and operated a small durable-medical-equipment company. Over a 26-month period, the company billed Medicare for equipment that, in a subset of claims, was documented inadequately or delivered in a different configuration than billed. He has accepted responsibility. The guidelines calculation (addressed in a companion Case Scan) is not the whole story of this offense or this defendant. This Record documents: an unblemished 22-year business history before the offense period; a documented opioid-use disorder that began

with a prescribed regimen after a workplace injury and that tracks the offense period almost exactly; sustained recovery since arrest, verified by treatment records and testing; and a family and community structure — including sole caregiving for a disabled spouse — that bears directly on the need for the sentence and on the availability of alternatives to lengthy incarceration.

## 2. Guideline Audit — Summary of Findings

The Full Mitigation Record includes the complete Mitigation Case Scan. In this case, the audit identified three PSR positions the record does not support. Draft objection language for each is delivered with the Scan workpapers and incorporated here.

| Issue | PSR Position | Audit Finding |
|---|---|---|
| Loss amount | $2,412,000 (intended loss) | $1,148,000 actually paid on the documented claims; the balance is billed-but-unpaid amounts the intended-loss rule reaches only in part. Objection drafted; −2 levels if sustained. |
| Role | +2, organizer or leader | Two-person operation; no evidence the client directed any other person. Objection drafted. |
| Criminal history | Category II | One counted conviction falls outside the § 4A1.2 look-back window on the sentencing date. Objection drafted; Category I on correction. |

**Net effect:** the PSR range of 51–63 months becomes 33–41 months if the objections are sustained — before any variance argument built on the record below.

## 3. Verified Chronology (Excerpt)

| Date | Event | Source |
|---|---|---|
| 1998 | Founded R. Medical Supply; two employees | State corporate records [RM-01] |
| 2003–2019 | Medicare supplier enrollment in good standing; no exclusions, no prior audit findings | CMS enrollment history [RM-02] |
| Mar 2020 | Workplace injury (loading dock fall); prescribed oxycodone, refills continued 14 months | Workers' comp file; pharmacy records [RM-07] |
| Jun 2021 | Prescription terminated; client reports transition to illicit supply within weeks | Client interview; corroborated in part [RM-11] |

| | | |
|---|---|---|
| Sep 2021 | First inadequately documented claims submitted (offense period begins) | Billing data provided by counsel [RM-14] |
| Jan 2023 | Search warrant executed; client cooperates with agents on site | Discovery summaries [RM-15] |
| Feb 2023 | Enters residential treatment (28 days), then intensive outpatient | Treatment records [RM-19] |
| 2023–present | Continuous documented recovery: 34 consecutive months of negative screens; sponsors two program participants | Treatment discharge + testing log [RM-20] |

## 4. Life History — Themes Supported by the Record

### (a) A lawful working life, not a fraud career

Payroll, tax, and licensure records confirm 22 years of continuous, compliant operation before 2021. Former employees (two interviewed) describe a hands-on owner who personally delivered equipment. Nothing in the record suggests the business was formed or run as a fraud vehicle; the offense is a departure, and the record lets counsel prove it rather than assert it.

### (b) Addiction that tracks the offense period

The medical record — not the client's say-so — establishes the sequence: injury, prescribed opioids, dose escalation documented in pharmacy records, abrupt termination, illicit use, and the onset of billing misconduct within one quarter. This does not excuse the conduct; it explains its mechanism and, critically, it is treatable and treated. The PSR's personal-history section currently omits the prescription history entirely; a correction request with records attached is recommended.

### (c) Recovery that is documented, not promised

Thirty-four months of negative screens, treatment completion certificates, and a sponsor's letter are in the file. Pretrial Services has reported full compliance throughout. Counsel can present rehabilitation as an accomplished fact under § 3553(a)(1) and (a)(2)(D), not a sentencing-eve claim.

### (d) Family circumstances with documentary weight

The client's spouse has multiple sclerosis; medical records and a treating-physician letter confirm he is her primary caregiver for transfers, medication, and transport. Two adult children live out of state. Incarceration length has a direct, documented consequence for a third party's care — concrete § 3553(a)(1) material, presented with records rather than sentiment.

## 5. Collateral Interviews (Summaries)

- **Former employee (office manager, 2011–2022):** Confirms workload and the client's visible physical and behavioral decline beginning mid-2021; states billing shortcuts were directed to "keep the doors open," not to fund personal spending.
- **Treating addiction physician:** Confirms diagnosis, treatment compliance, and prognosis; opines that sustained recovery materially reduces recidivism risk.
- **Spouse's neurologist:** Confirms caregiving dependency as documented in §3(d).
- **Pastor / community:** Confirms volunteer roles before and after arrest, including a delivery ministry for homebound seniors — the same work, unpaid, that his business once performed commercially.

## 6. Record Matrix (Excerpt)

| ID | Document | Supports | Verified |
|---|---|---|---|
| RM-02 | CMS enrollment history, 2003–2019 | §3(a) compliance history | Against CMS printout |
| RM-07 | Workers' comp + pharmacy records | §3(b) addiction onset | Pharmacy ledger, full period |
| RM-19 | Treatment admission/discharge records | §3(c) recovery start | Provider letter |
| RM-20 | Drug-testing log, 34 months | §3(c) sustained recovery | Lab reports, no gaps |
| RM-24 | Spouse's neurology records + letter | §3(d) caregiving | Physician-signed |

Full matrix in the delivered Record lists every document received, its source, what was verified against it, and any item counsel should obtain in original form before filing.

## 7. Mapping to § 3553(a) — For Counsel's Memorandum

- **(a)(1) History and characteristics:** §§3(a)–(d) — departure offense, treated addiction, documented recovery, caregiving.
- **(a)(1) Nature and circumstances:** Offense mechanism tied to addiction and business distress; no personal-luxury spending found in the financial review.
- **(a)(2)(B)–(C) Deterrence and protection:** License surrendered, industry exclusion accepted; specific deterrence substantially achieved by conviction and treatment.
- **(a)(2)(D) Needed training/treatment:** Continued treatment is available and structured in the community; BOP programming recommendations are flagged for the PSR (see the First Step Act note in the companion Scan).
- **(a)(7) Restitution:** Client has liquidated business assets; $118,000 held for restitution as documented in the financial statement at [RM-27].

Respectfully submitted,

**The 3553 Group**

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**About this sample.** This is a fictional illustration of The 3553 Group's Full Mitigation Record. All names, cases, dates, records, and figures are invented. An actual Record is built from client and collateral interviews and verified source records 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.