

ECONOMIC CRIMES SCENARIOS

Question 1

Defendant obtained 500 credit card numbers. She sent 250 of them to a co-defendant to reencode the stolen credit card information onto professional-looking counterfeit credit cards. What is the loss amount?

Question 2

Defendant obtained 100 credit cards or debit card numbers from abroad, encoding them onto blank cards to withdraw money from ATMs. She used only 10 of the cards and took out \$40 on each of the 10 occasions. Defendant was arrested at home, where investigators recovered the other 90 cards but no money. At the time of sentencing the bank has not recovered any money from the fraudulent withdrawals.

What is the loss amount?

What restitution is owed?

Question 3

Defendant robbed a bank of \$4,237. On his way out, the dye pack inside the bag burst, staining at least half of the bills. Investigators recovered the bag and money at the scene. At sentencing the government maintained that the stained money was unusable.

What is the loss amount? What restitution is owed?

ECONOMIC CRIMES SCENARIOS

Question 4

Defendant is convicted of Identity Theft. He stole the names, Social Security numbers and security clearance levels of roughly 400 members of his former Army unit, and sold the information of 98 of them to others so they could create false IDs for militia members in case they “ever wanted to disappear and become someone else.” The defendant believed he was selling the information to Utah-based militia members, but in reality, they were undercover FBI agents.

Do any victim-related adjustments apply?

Question 5

Defendant is being sentenced for a fraud offense involving small business contracts. Defendant was working for his father in law’s business and they were legitimately eligible for, and were awarded government contracts based on the father in law’s veteran status. After his father in law died, defendant continued to apply for and receive government contracts. Defendant provided services for the Air Force and NASA, both of whom had no issue with the services defendant provided. Neither agency is seeking restitution.

Should the court discount from the loss amount the value of the services rendered?

Who is the victim and what restitution should the court order?

Question 6

Defendant Walter was convicted of one count of conspiracy to commit health care fraud and one count of conspiracy to pay and receive health care kickbacks. For five years, Walter owned and operated a durable medical equipment company, through which she fraudulently billed Medicare and Medi-Cal for durable medical equipment (mainly motorized wheelchairs) provided to patients who did not need them. She paid kickbacks to recruiters who found patients and doctors who would be paid for prescriptions. During the five-year period, Walter submitted reimbursement claims to Medicare in the amount of \$3,432,776. She was paid \$1,866,261. During the same time period she billed Medi-Cal \$89,011 and was paid \$73,269. Walter’s lawyer stated at sentencing that Walter was familiar with

ECONOMIC CRIMES SCENARIOS

Medicaid and Medi-Cal rules for reimbursement, and that she expected to receive only the amount she did receive from those programs.

What is the loss amount?

What is the restitution amount?

Question 7

Defendant Tartar and his co-defendant Litos established a company to purchase, rehab, and sell homes. The two assisted buyers by providing them with down payments, however, they falsely claimed on loan applications that the buyers had the funds. They made other, material misrepresentations on the loan documents. Those misrepresentations included fictitious incomes, non-existent bank accounts, and other false assets. The documents contained obvious errors and inconsistencies, and one buyer purchased six homes in a two-week period. Bank of America nonetheless approved the loans. Tartar attended closings posing as the seller's representative, and signed documents falsely affirming that no part of the down payment came from the seller or any third party. After closing Tartar provided the buyers funds to make two mortgage payments, after which, they defaulted on the loans. Intended loss was determined to be between \$1.5 and 3.5 million. Bank of America suffered an actual loss of \$900,000.

What is the loss amount?

What restitution is owed to Bank of America?

Question 8

Sunmola was convicted of fraud involving an online dating scheme. He and his co-defendants created profiles on online dating platforms using fake names and giving the impression that they were successful businessmen. After gaining the women's trust, Sunmola and his co-defendants had the women send

ECONOMIC CRIMES SCENARIOS

electronics purportedly in support of the U.S. military's efforts to defeat ISIS, and electronic money transfers. One victim was 55 and recently divorced from her husband of 20 years.

Over Sunmola's objection, the court applied the vulnerable victim enhancement found at §3A1.1(b)(2). Was the court's ruling correct?

Question 9

Defendants A and B are convicted of wire fraud (18 U.S.C. § 1343). Defendant A fraudulently obtained \$810,000 from Victim 1 (his mother). The defendant told his mother he was terminally ill and was accepted to undergo a clinical trial to treat his illness. He created fraudulent documents to support the scheme, which he used to solicit his mother's financial support. Over a period of time, on several occasions, his mother wired to her son's bank account, the \$810,000 from her trust account, rendering it insolvent.

Distraught for her son, the victim then contacted her sister (Victim 2) who began wiring money to her nephew from her trust account. Victim 2's bank became suspicious, and stopped all wire transfers. To continue with the payments, Victim 2 agreed to send payments to Defendant A via Western Union.

Defendant B (a friend of the defendant) agreed to receive every Western Union payment. On 22 occasions, Defendant B received the payments from Victim 2 totaling just over \$22,000. Victim 2, however, transferred a total amount of \$310,000 (including the Western Union transfers).

When calculating the guidelines for Defendant B, at §2B1.1, what is the amount of loss?

Will Defendant B receive an enhancement for causing substantial financial hardship to the victim? Why or why not?

Question 10

Myers ran a scheme to steal and resell motor homes. He did this by calling the owners posing as a Carfax employee to obtain the VIN numbers. He then forged titles using the VINs, applied for clone titles in states that did not verify the original title, and stole the homes using master keys he obtained online. Using the clone titles, he sold the homes to unsuspecting motor home dealers. Those dealers

ECONOMIC CRIMES SCENARIOS

sold the home to other buyers. When the fraud was eventually discovered, the homes were returned to the original owners or to the owners' insurance company.

Who are the victims of Myers' offense?

What losses will be included in the §2B1.1 determination?

Who is owed restitution?

If restitution is ordered, what kinds of damages might be included?

Will any victim-related enhancements apply?

Question 11

White and co-participants bought merchandise in retail stores with fake checks and then returned the merchandise for cash. Over four years, the group targeted 32 stores and caused actual losses of \$627,000. White's plea agreement stated:

Beginning no later than in or around the fall of 2009 and continuing until at least in or around the summer of 2013, in the Western District of Texas, and elsewhere . . . V.

White, together with other individuals known and unknown to the Grand Jury, knowingly devised, intended to devise, and participated in a scheme to defraud and to obtain money by means of materially false and fraudulent pretenses, representations, and promises.

ECONOMIC CRIMES SCENARIOS

At sentencing, White objected to being held accountable for the entire \$627,000 actual loss, because he was incarcerated for two years starting in September 2009, then again in August 2012.

The court overruled the objection because White pleaded guilty to the language above. The guideline range was 84-105 months, but the court varied downward and sentenced White to 59 months.

Was the court's ruling correct?

Given the downward variance, will the appellate court care whether the ruling was correct or incorrect?

Question 12

Hearns was convicted at trial of conspiracy to commit bank fraud. The indictment charged that from on or about June 11, 2008 through July 1, 2008, Hearns conspired to knowingly execute a scheme to defraud. She was a loan officer who made materially false statements on a loan application for a prospective buyer who did not qualify for the loan. The prospective buyer was able to obtain the loan to purchase a home (the Brownstone property) despite not having the money for a down payment. The buyer later defaulted and the bank foreclosed on the property.

At sentencing, the government argued that the other fraudulent loans making up the total loss amount of \$865,940.18, were part of the same course of conduct. The probation officer agreed, providing the following support in the PSR: "The government has identified 10 properties (including the Brownstone property) that involved fraud in the mortgage loan process. . . . Government records reflect that Hearns and her co-conspirators were all involved in the scheme to defraud." The court held Hearns accountable for the total loss attributed to the conspiracy, finding that the loss was foreseeable to Hearns and therefore was relevant conduct.

Was the court's ruling correct?

ECONOMIC CRIMES SCENARIOS

Question 13

Defendant Sharp was named with a total of nine defendants charged with conspiracy to commit access device offenses and use of counterfeit access devices. After a lengthy investigation, authorities executed a search warrant at the home of Defendant Delman, a drug trafficker who also ran a scheme to manufacture and use fraudulent credit cards. At Delman's home, authorities found various equipment used to produce fraudulent credit cards, including a laptop computer an embossing machine, 210 pre-paid gift cards, 150 credit and debit cards, and text files with hundreds of stolen credit card numbers. In total there were 2,326 unique credit card and gift card numbers. Multiplied by \$500, the total loss was \$1,163,000.

Delman recruited Sharp to make purchases using the fraudulent cards. Nine cards were printed with Sharp's name, and video surveillance showed her making two purchases, one at Lowe's Hardware, and another at Kroger (groceries). The PSR assigned the total loss to each of the co-conspirators, stating "each co-conspirator knew the offense involved significantly more transactions than the ones he/she was involved with and that there were others engaging in similar fraudulent transactions. Sharp knew that the leaders could not have afforded their expensive lifestyle based solely on the two fraudulent transactions she performed." The PSR gave Sharp a minimal participant reduction, however, because of her limited involvement.

Is the loss calculation correct as to Defendant Delman?

Is it correct as to Defendant Sharp?

Should Sharp receive a mitigating role adjustment?
