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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA,) NO. CR 14-0499 RS
14 Plaintiff,)
15 v.) UNITED STATES' SENTENCING
16 JEFFREY NEELY,) MEMORANDUM
17 Defendant.)
18

19 Defendant Jeffrey Neely pleaded guilty to one count of submitting false claims, in violation of 18
20 U.S.C. § 287. The United States recommends that he be sentenced to a term of six months
21 imprisonment, which represents the low end of the guideline range; a \$2,000 fine; \$8,000 in restitution;
22 three years supervised release; and a \$100 special assessment.

23 **I. BACKGROUND**

24 From June 2003 until his retirement on May 15, 2012, Neely served as the U.S. General Services
25 Administration (GSA) Regional Commissioner for the Public Buildings Service (“PBS”), Pacific Rim
26 Region (“R-9”). R-9 includes California, Arizona, Hawaii, Nevada, American Samoa, the Northern
27 Mariana Islands, Guam, and Saipan, as well as certain properties in Japan, Korea, Singapore, and

1 elsewhere. As the PBS Regional Commissioner, Neely was responsible for directing, managing, and
2 coordinating all public buildings and real property programs and activities in R-9.

3 In 2008, GSA Office of Inspector General (OIG) received a hotline complaint that Neely was
4 fraudulently abusing government travel policies. GSA-OIG investigated and issued Neely a warning
5 regarding his official travel. Neely agreed to alter his travel practices going forward.

6 In addition to his Regional Commissioner role, Neely was named the Acting Regional
7 Administrator between approximately March 30, 2009, and July 31, 2011, making him the top GSA
8 official in R-9. As such, his job responsibilities included coordinating federal programs and staff
9 functions, controlling administrative and operating functions, maintaining relationships with other
10 government agencies, executing contracts on behalf of the United States, and serving as the principal
11 public relations spokesperson for the region.

12 GSA-OIG began another investigation of Neely as a result of high expenditures for GSA's
13 Western Regions Conference (WRC) in October 2010, as well as other complaints about Neely's travel
14 and spending. OIG's broader investigation into the WRC resulted in a Management Deficiency Report,
15 issued on April 2, 2012, finding more than \$822,000 in pre-conference and conference costs and a
16 general culture of wasteful spending, with Neely playing a central role. These findings garnered
17 national attention and commenced congressional inquiries into GSA's spending habits in April 2012.

18 With regard to Neely himself, the investigation revealed that, between at least June 2009 and
19 May 2011, Neely submitted several false "E2 Travel Vouchers." Federal regulations governing
20 temporary duty travel allowances specify that GSA may reimburse "only those expenses essential to the
21 transaction of official business." GSA employees, including Neely, use E2 Travel Vouchers to claim
22 reimbursement for such expenses. (While other GSA employees also must obtain prior approval for
23 official business travel, Neely did not need to because of his rank.) Reimbursable expenses may include
24 airfare, rental car, and per diem meal and lodging expenses. Many of Neely's false claims are small
25 amounts, such as improperly claimed gas expenses. The review also uncovered several days on which
26 Neely was not working but failed to take annual leave. When GSA employees questioned Neely about
27 the purpose of his travel and expenses – both as part of OIG's investigation and in the ordinary course of
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1 GSA's voucher approval process – Neely attempted to conceal his false claims by misrepresenting that
2 his travel and expenses were for official business.

3 As a result of OIG's findings, GSA's new Regional Administrator issued Neely a letter on April
4 2, 2012, proposing his removal. Instead, Neely voluntarily retired on May 15, 2012. The government
5 ultimately charged Neely in a five count Indictment based on his false claims and false statements
6 arising out of three different trips. Neely pleaded guilty to Count One and agreed to pay GSA restitution
7 of \$8,000, which the parties have determined after careful review of the improperly claimed expenses
8 and unclaimed leave days constitutes a reasonable estimate of the loss.

9 II. DISCUSSION

10 A. Offense Conduct

11 The Presentence Report (PSR) accurately summarizes the facts underlying the offense conduct
12 and relevant conduct.

13 The 2010 WRC is an annual conference, the main purpose of which is to offer GSA employees
14 training, encourage team-building, and promote the exchange of ideas between high-level GSA officials
15 in the four western regions. Under Neely's leadership, R-9 hosted the 2010 WRC at the M Resort Spa
16 Casino Las Vegas on October 25-29, 2010. In advance of the conference, Neely attended a planning
17 meeting in March 2010 and a dry run of the event on October 12 and 13, 2010, both also held at the M
18 Resort.

19 The planning meeting lasted from Monday, March 8, to approximately 11:00 a.m. on Thursday,
20 March 11. Neely extended his stay to depart on March 12. According to a March 11 email at 2:16 p.m.
21 from Neely to Aronel Taylor, a Program Analyst working under him, Neely was in the lobby of the M
22 Resort and disturbed to find he had been checked out of his hotel room. The email chain shows that, at
23 Neely's request, Taylor tried to secure another room, but the government rate of \$118 was no longer
24 available. Taylor advised Neely that the cheapest room was \$525, while the suite Neely had previously
25 occupied was \$1,050, but said she "can charge the overage to the master account." Neely responded,
26 "Ok. We will stay. You cover the diff." Taylor confirmed by email: "Will do. I will pay for the room
27 on the master bill and you voucher nothing for tonight." Toll records also show numerous calls between
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1 Taylor and Neely's GSA-issued cell phones in the same time period.

2 Consistent with this plan, Neely's E2 Travel Voucher submitted March 12, 2010, shows a \$0
3 claim for lodging on March 11, with \$118 claims for the prior nights. M Resort's invoice to GSA
4 includes the \$1,050 charge for Neely's room, which GSA paid. The M Resort Invoice forms the basis of
5 Count 1, to which Neely pleaded guilty, on the theory that Neely caused the claim to be submitted, and
6 that the claim was fraudulent because Neely was not staying for official government business, but to
7 hike and visit a spa with his wife.

8 Indeed, the evidence showed that Neely went hiking and then to a spa. His GSA-issued camera
9 contained several photos of him and his wife hiking in a nearby state park (signage in the photos shows
10 exactly where they were), and metadata for the photos reveals that they were taken on March 11
11 between 10 a.m. and 12 p.m. Agents also found a photograph of a bag from the Red Rock Spa in Las
12 Vegas. A receipt from the Red Rock Spa, signed by Neely, shows a purchase of bath oils at 1:08 p.m.
13 on March 11. Neely's email exchange with Taylor shows that he was back at the hotel by 2:16 p.m.
14 The Red Rock Spa is approximately 22 miles away from M Resort.

15 As part of GSA-OIG's investigation regarding the WRC, agents contacted Taylor, who notified
16 Neely. Neely then emailed GSA-OIG's Special Agent in Charge, stating that he wanted to explain his
17 travel because it was "an odd sequence of events, but that is why I ended up documenting this when it
18 happened." Neely attached to his email a PDF document containing handwritten notes, bearing the title
19 "RE: WRC Dry Run + Work, 10/12-10/14, 2010." The attachment, which falsely asserts that Neely
20 stayed an extra day for the official business of visiting the USAO and EPA in Las Vegas, was the basis
21 for Count 2.

22 The notes began, "Dry run was 10/12/2010 (Wednesday. Dry Run ended at appx. 1PM on
23 Thursday. I arrived Wednesday and departed Friday morn. I scheduled two separate site visits for
24 Thursday afternoon. USAO in downtown Vegas and EPA for a possible site consolidation. Both
25 transactions were politically visible and complex." The notes went on to explain that he returned to the
26 M Resort around 5pm on Thursday, only to find out that he did not have a room reserved for that night,
27 which is when he contacted Taylor to ask her to arrange for a room. He recounted that he offered to just
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1 check out of the hotel, but Taylor told him she had negotiated a change to the event contract to cover the
2 room. Neely further stated that he chastised Taylor for incurring avoidable costs but that he “decided
3 not to require disciplinary action,” although he recommended it be considered in her performance
4 review.

5 Two Special Agents with GSA-OIG interviewed Neely on March 19, 2012. At GSA-OIG
6 agents’ request, Neely reviewed his handwritten statement and swore to its accuracy. When agents
7 confronted Neely with the false dates (the meeting and \$1050 room charge occurred in March, not
8 October), and time discrepancies (his written statement says 5:00, the email shows 2:00), Neely
9 continued to insist that his account of the events was true and that he had just confused the dates and
10 times. Neely explained that he had taken notes about the events at the time they occurred, but that he
11 prepared his written statement after learning of OIG’s inquiry. He acknowledged that he went on a hike
12 with his wife, who had accompanied him on the trip, and explained that they walked around the sites
13 together “to just sort of see what it looked like and take a look around.” He conceded that, in hindsight,
14 he “probably should have packed up and gone home.” Neely agreed in his plea agreement that this
15 sworn false statement supports a sentencing enhancement for obstruction.

16 **B. Relevant Conduct**

17 In addition to Count Two charging use of a false document based on the Neely’s false “notes”
18 attachment, Neely engaged in other relevant conduct described here.

19 BOMA Conference, June 2010

20 Counts 3 and 4 were based on a false claim and a false statement relating to a Building Owners
21 and Managers Association’s (BOMA) conference in June 2010. Neely was asked to chair a meeting of
22 the Government Buildings Special Interest Group (SIG) at the conference in Long Beach on Saturday,
23 June 26, 2010. Rather than flying to Long Beach Saturday morning, as most other attendees did, Neely
24 rented a car and drove from San Francisco with his wife on Friday, June 25, staying the night at the
25 Cambria Pines Lodge, near San Luis Obispo.

26 On June 30, 2010, Neely submitted an E2 Travel Voucher claiming reimbursement for car rental
27 and per diem lodging and meal expenses. The claim for June 25 included lodging costs of \$269.00,
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1 lodging tax of \$29.59, and \$49.50 in per diem meals, totaling \$348.09. The lodging expenses were the
2 subject of Count 3, as the evidence shows they were not incurred for an official business reason, but for
3 a personal excursion. On September 17, 2010, GSA's Financial and Payroll Services Division emailed
4 Neely asking what his business purpose was behind his Friday departure and associated expenses.
5 Neely responded the same day, asserting that he left Friday because he "was asked to chair a BOMA
6 special interest group Saturday morning." Neely's false statement was charged as Count 4.

7 The evidence showed that the BOMA SIG meeting took place in the afternoon, not the morning,
8 and that Neely spent Saturday morning touring Hearst Castle in San Simeon, less than ten miles from
9 Cambria.

10 While not charged, Neely arranged for his wife to obtain free registration for the BOMA
11 conference using a GSA employee's name and registration, resulting in a cost to the government \$711.

12 Guam/Saipan, February 2012

13 Count 5 was based on a fraudulent claim relating to a trip Neely took from Guam to Saipan in
14 February 2012. Between February 4 and February 21, 2012, Neely traveled from San Francisco to
15 Honolulu, Guam, and Saipan. Neely had official business in each of these territories, but used annual
16 leave for vacation on February 5 and February 11 to 19.

17 On February 21, 2012, Neely submitted his E2 Travel Voucher seeking reimbursement for
18 airfare of \$414.36 to Saipan, among other things. In support, Neely submitted a \$414.36 airline receipt
19 for roundtrip travel between Guam and Saipan. The passenger's name had been cut off the receipt.

20 In November 2012, GSA-OIG agents contacted representatives from United Airlines, the airline
21 that Neely used to travel between Guam and Saipan. A United analyst advised that Neely's wife had
22 purchased, using her credit card, two Micronesia airpasses at a cost of \$1,019.59 each. The analyst
23 explained that an airpass permits reduced-cost travel through multiple destinations in a region, and that
24 the Neelys had used their airpasses in mid-February to travel from Guam to Saipan and to Cairns,
25 Australia. (The Cairns travel was not for business purposes. According to the United analyst, the cost
26 of Neely's roundtrip flight between Guam and Saipan was the discounted rate of \$194 at the time of his
27 travel, due to his use of the airpass. Neely's claim thus resulted in an overcharge to GSA of \$220.36.

1 Emails between Neely and his wife in November 2011 show discussions about the airfare
 2 between Guam and Cairns. Neely's wife adds in a November 29, 2011 email to friends in Australia,
 3 "Buying Micronesia air pass since we'll be on Guam and saipan [sic]."

4 Using a code on the airline receipt Neely had submitted, GSA determined that it belonged to
 5 another GSA employee, Gerald Melanson, who had accompanied Neely on the Guam-Saipan trip.
 6 Melanson claimed to know neither that Neely had his receipt nor how he came to possess it.

7 Miscellaneous False Claims and Leave

8 As stated above, GSA-OIG's investigation revealed several other instances of improperly
 9 claimed expenses and leave. The government and defense have agreed that a reasonable estimate of the
 10 total loss to GSA, including the offense conduct as well as all relevant conduct, is \$8,000.

11 **III. SENTENCING GUIDELINES CALCULATION**

12 The parties and Probation agree that the proper sentencing guidelines calculation is:

13	a.	Base Offense Level, U.S.S.G. § 2B1.1(a)(2):	6
14	b.	Specific offense characteristics Loss >\$5,000, U.S.S.G. § 2B1.1(b)(1)(C):	+2
15	c.	Adjustments	
16		Abuse of position of trust, U.S.S.G. § 3B1.1:	+2
17		Obstruction, U.S.S.G. § 3C1.1:	+2
18	d.	Acceptance of Responsibility:	-2
19		If I meet the requirements of U.S.S. G. § 3E1.1, I may be entitled to	
20		a two level reduction for acceptance of responsibility, provided	
21		that I forthrightly admit my guilt, cooperate with the Court and the	
22		Probation Office in any presentence investigation ordered by the	
		Court, and continue to manifest an acceptance of responsibility	
		through and including the time of sentencing.	
	e.	Adjusted Offense Level:	10

23 At Criminal History Category I, this yields a Zone B guideline range of 6-12 months
 24 imprisonment and a fine range of \$2,000 to \$20,000.

25 **IV. ARGUMENT**

26 Title 18, United States Code, Section 3553(a) requires the court to "impose a sentence sufficient,
 27 but not greater than necessary" after considering "the nature and circumstances of the offense and the

1 history and characteristics of the defendant”; the need for the sentence to reflect the seriousness of the
2 offense, promote respect for the law, provide just punishment, afford adequate deterrence, protect the
3 public, and provide the defendant with training, medical care, or other correctional treatment; the
4 Sentencing Guidelines; and the need to avoid unwarranted sentencing disparity between similarly
5 situated defendants.

6 The government believes that a low-end sentence of 6 months imprisonment and a \$2,000 fine is
7 sufficient but not greater than necessary to satisfy the § 3553(a) factors. The nature and circumstances
8 of the offense are serious. Neely was a high-ranking government official, in a position of trust. He
9 abused that trust to benefit himself and his wife, using taxpayer funds to subsidize his lavish travels. He
10 did this not once but several times over a period of years.

11 The government also recognizes the many positive aspects of Neely’s history and characteristics
12 as set forth in the PSR and defendant’s sentencing memorandum. Considering these factors, together
13 with the need for general deterrence, the government believes that a term of imprisonment and fine at
14 the low end of the guideline range is appropriate.

15 **V. CONCLUSION**

16 For the above reasons, the United States recommends that he be sentenced to a term of six
17 months imprisonment; a \$2,000 fine; \$8,000 in restitution; three years supervised release; and a \$100
18 special assessment.

19 DATED: June 23, 2015

Respectfully submitted,

20 MELINDA HAAG
United States Attorney

21 /S/

22 _____
23 HARTLEY M. K. WEST
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