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Exhibits

I. Introduction

This Pre-Pleading Memorandum is submitted by Sentencing Alternatives at the request of defense counsel, Ruth Jones, on behalf of her client, James Chin, who is charged with one count of Grand Larceny in the First Degree (PL § 155.42), a class B felony, and lesser related charges under New York County docket XXXXXXXX.

The purpose of this Memorandum is to provide the Court and the People with information largely not contained in the court file that we believe is essential to an equitable disposition in the instant case. Information contained herein is based upon the following:

Interviews

- two face-to-face interviews with James Chin, the defendant, at his former residence in Jersey City, New Jersey, as well as numerous telephone contacts
- telephone interview with Wei Ching Wong, his mother, via interpreter
- telephone interview with Teresa Chin, his sister
- telephone interview with Shu Juan Wan, his wife
- telephone interview with Louis Wan, his brother-in-law
- telephone interview with Reverend Bruce Williams, former pastor of Chinese Faith Mission in Manhattan, where Mr. Chin was an active member during approximately 1990 - 2003
- telephone interview with Han Shui, Assistant Property Manager at East Side Management, Mr. Chin's landlord for his current business office and a former client during his tenure as real-estate broker at Maximum Realty
- telephone interview with Barry Wong, proprietor of Barry Wong Licensed Real Estate Company and a professional acquaintance of Mr. Chin's of approximately five years
- telephone interview with Bruce Lui, proprietor of Maximum Realty, where Mr. Lee worked in approximately 1997-2001
- telephone interview with Shaan Lee, Director of Community Affairs, Community Board 6, where Mr. Chin served during approximately 1998-2000
- telephone interview with medical-records staff at Westchester Medical Center, where Mr. Chin was hospitalized in August 2008 following an auto accident
- telephone interview with Jennifer McLemore, Ph.D., the clinical psychologist who has been assessing and treating Mr. Chin since October 15, 2009, at The Bridge Behavior Center
- telephone interview with Warren Lessig, Ph.D., Director of The Bridge Behavior Center
- telephone interview with Lin Lui, CASAC, addiction counselor in the Asian American

Recovery Services program at Suffolk House in Manhattan, where Mr. Chin has attended treatment since November 10, 2009

Resource Review

- case-related materials: instant indictment; Verified Complaint; Request for Judicial Intervention; Emergency Affirmation of Sarah J. Samuelson in Support of Plaintiffs' Order to Show Cause; Affidavit of Kyaw Min in Support of Plaintiffs' Order to Show Cause; Order to Show Cause, Hon. Marilyn G. Diamond; Search Warrant, Officer of the Prosecutor, County of Hudson, New Jersey; Mr. Chin's criminal history (rap sheet); WebCrimis online posting for the instant case; Mr. Chin's personal notes regarding his offense conduct, including a chart illustrating the manner of execution
 - Mr. Chin's summary gambling record, Trump Taj Mahal, Atlantic City, New Jersey, January 2007 – July 2009
 - summary gambling record, Mohegan Sun, Uncasville, Connecticut, January 2004 – August 2009
 - summary gambling record, Harrah's Entertainment, 2005 – 2008 (inclusive of Bally's, Las Vegas, Nevada; Bally's, Atlantic City, New Jersey; Caesar's, Atlantic City; Showboat, Atlantic City; Harrah's, Atlantic City)
 - summary gambling record, Borgata Hotel Casino & Spa, Atlantic City, 2003-2009
 - bank statements: RIA Realty Services, Inc., March – August 2009; James Chin personal account, July – August 2009
 - Mr. Chin's transcript from Oklahoma City University
 - Mr. Chin's transcript from Oklahoma State University
 - Mr. Chin's transcript from New York University
 - treatment-summary letter, Jennifer McLemore, Ph.D.
 - curriculum vitae for Dr. McLemore and Dr. Lessig
 - treatment-summary letter from JJ Luong, LMHC, CRC, CASAC-G, Director of Asian American Recovery Services, Suffolk House
 - school and academic-testing records for Mr. Chin's daughter, Ti Chin
 - "Gambling Seen as No-Win Situation for Some Asians," *Los Angeles Times*, January 16, 2006
 - "Your Brain on Gambling," *The Boston Globe*, August 19, 2007
 - web site of the Gambling Studies Program, Jane & Terry Semel Institute for Neuroscience & Human Behavior, University of California at Los Angeles (UCLA) Health System School of Medicine

 - citation for Pathological Gambling in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)
 - character letters, which are appended
- We also conferenced the case with defense counsel.

The following is a detailed psychosocial history of James Chin, an evaluation of his past and current circumstances, and a recommendation for disposition. Because we believe that Mr. Chin's background and his condition during the offense period meaningfully inform the offense conduct and are critical to a fully informed and equitable disposition, we address them below in some detail. We urge the Court and the People to pay particular attention to his history from the onset of his gambling forward, as it and the subsequent Evaluation section explain the offense conduct and propose a disposition that we believe will be acceptable to the People and the complainant.

It warrants mention that while this memorandum is our best assessment of Mr. Chin given the resources available at its writing, numerous records that we believe would have meaningfully corroborated his account of his background and the offense scenario were seized under a search warrant in the instant case. In instances where we believe the People are in possession of a given record, we have indicated so in the text.

II. Psychosocial History

A. Family Composition

James Chin was born on November 11, 1969, in Canton, China, to Wei Ling Wong, M.D., and Kin Hong Chin, M.D., and is the oldest of their three children. His sisters reside with their parents at 414 Sommers Avenue in Beekman Heights, New Jersey: Florence Chin, age 36, works as a sales clerk at a TJ Maxx clothing store, and Teresa Chin, age 35, is an administrator with the Visiting Nurse Service of New York. Dr. Wong, age 68, who last practiced medicine when Mr. Chin was an infant, is retired, most recently from work at a

relative's grocery store in Manhattan. Dr. Chin, age 72, who reportedly suffers from a heart condition and kidney cancer, which is in remission, works part time as a medical consultant.

Mr. Chin and his wife of nearly eleven years, Shu Juan Wan, recently moved with their two children, Jillian and Joseph, ages six and five, respectively, to a rental unit at 99 Christopher Street, # 7, in Manhattan. Per defense counsel's case conference with the People, Mr. Chin is selling the family's residence of more than six years, an apartment at 2112 Gersh Avenue in Jersey City, New Jersey. All net proceeds from Mr. Chin's portion of the sale will be earmarked for restitution. Ms. Wan works as a logistics analyst for Jack Schwartz Shoes.

B. Birth through Age Seventeen

Dr. Wong reported that Mr. Chin was born full term and healthy. At the time of his birth, she and Dr. Chin resided in Canton, where they maintained separate medical practices. During the workday, a maid cared for Mr. Chin. Dr. Wong characterized the household as emotionally and financially stable, and stated that Mr. Chin was well-cared-for, a "normal" child: he achieved his developmental milestones within normal limits, exhibited no notable emotional or behavioral problems, and remained physically healthy.

Shortly after Mr. Chin turned age one, his father moved to Hong Kong to set up a practice, begin classes for professional certification, and prepare for the family to join him. Mr. Chin and his mother followed within a month, and Dr. Wong became her husband's medical assistant. For the next three years, until entering school at age four, Mr. Chin thus remained primarily under a maid's care. He recalled that although he felt close to his parents, he primarily spent time with them on weekends. His mother reported that his development

remained normal, and he was shy, quiet and obedient, qualities that she and her husband highly valued and promoted.

Around the time Mr. Chin entered elementary school, his mother gave birth to his sister Florence; Teresa was born the following year.

Mr. Chin attended an all-boys' Catholic elementary school, where, his mother confirmed, he consistently earned positive conduct reports and was an average-or-better student despite his lack of enthusiasm. She stated that he was obedient at home and rarely required punishment. "We were very disciplined parents," she explained. "He wasn't allowed to go out much....When we came home from work, that's where we stayed. We were afraid [he and his siblings] would get to know bad people." Mr. Chin' parents strongly discouraged creativity and self-expression in favor of rote memorization—"Don't ask questions, don't challenge, just repeat things...do what you're told," he explained—dismissing the former as frivolous and self-indulgent. Their abiding apprehensions regarding the children's future prospects, threats to their physical safety, negative peer influences and the family's reputation appear to have dominated daily life during this period and throughout his upbringing. Mr. Chin noted that shortly after he joined a soccer team at age nine or ten, his mother forced him to stop playing due to a minor injury; swim lessons similarly ended abruptly due to her fear that he might drown; and his parents as a rule prohibited his participation in all non-mandatory school trips and activities. He and his sister Teresa, recalling their early-childhood experiences, observed:

My parents talked about "bad people," and they told us staying home is better...not to get too close to people....I think that's because of the Cultural Revolution...because people were betrayed. They didn't really have

friends....My father learned [from Communism] to be very careful...don't tell people anything about yourself. So [my parents] were very cautious...worriers.

I went to school and I came home and I stayed there....watched as much TV as I could [while my parents worked]...did homework when my mother came home....I had a very big fantasy life...[day]dreamed about being famous, having money...read a lot of science-fiction books....I was always at home, but my mind was somewhere else....I didn't have any real friends. I wanted friends, but we weren't really allowed to interact with other kids...and I didn't know how to do that, even in school....[Me and my sisters] used to watch all the other kids playing, from the [third-floor] balcony. We wanted to play, but we weren't allowed...and we were very shy...didn't have any self-confidence...were afraid to talk to people...or try to get the things we wanted. There were no real goals besides being obedient and getting good grades....I knew [from watching TV] that we were missing out...We went to the playground once a week...but we never played with the other kids...only [with each other]. We didn't know how to make friends or express ourselves. We didn't talk much. Keeping quiet was [a virtue]...so I was considered to be a very good kid. I never had a friend come over...or went to [a friend's] house. Literally....When our relatives came, me and my sisters used to hide in our rooms. We didn't know how to act.

-- Mr. Chin

It was a very sheltered life. Our parents were very protective....Even when our relatives visited, we were just expected to be quiet...sit there, be good kids...don't make our parents lose face....My brother was very closed...wasn't allowed to socialize with friends or kids from school....He was obedient, he

listened to our parents. That's what they wanted. The focus was school....That's basically what it was like all the time.

-- Teresa Chin

Teresa Chin and Dr. Wong confirmed that these conditions characterized Mr. Chin's existence for the next several years. He reportedly progressed through elementary school without incident, socially isolated and lonely, mildly resentful but unfailingly obedient. Little appears to have changed during the equivalent of junior high school—his mother confirmed that he continued to earn satisfactory grades and conduct himself well, to spend his non-school time at home, and there to read, play with his sisters or watch television. He remained

effectively friendless, participated in no extracurricular or other social activities, and because of the maid's duties "never learned to do housework or cook...do anything for myself. My only job was to get good grades, and I was just average...so I felt like life was going through the motions....I did the same thing every weekend: I ate lunch with my father and we visited my grandparents. Same thing, over and over." His mother confirmed that he exhibited none of the adolescent rebellion common at this age.

Mr. Chin's rebellion did emerge during the equivalent of his freshman year in high school, in the form of devout Christianity. He stated that an older cousin invited him to attend services, which his parents allowed despite their opposition to personal religious faith and organized religion. "That's the way everything was in China back then," Mr. Chin explained, "but my cousin was a good student, so they thought he would be a good influence." Mr. Chin recalled that the congregants' enthusiasm and optimism quickly allayed his social anxieties, and their openness and the sermon deeply affected him; within a couple weeks, he was attending Friday through Sunday. "The world was suddenly so much bigger," he stated. Mr. Chin's sister and mother reported that he rapidly emerged from his social shell, made many friends in the congregation, and began to challenge his parents, who greatly feared the social and professional consequences of such activity. "My father said, 'Don't call me your father if you go to church,'" Mr. Chin, recalled, "but my life was changed. I felt free." His leisure time was soon consumed with church services and events, and he began to explore museums, parks and the city on his own.

These developments dictated Mr. Chin's course for the remainder of his schooling in Hong Kong, a period he considers to be "the best time of my life." He stated that while he

modestly improved his grades, he relished his newfound confidence and social ease, and began to proselytize to classmates and lead a Christian discussion group on school grounds. He reported that although this landed him in trouble, “I was leading 50-60 people. I went from this shy guy to someone who knows how to organize and inspire people....I felt amazing. I was totally open. I wanted to share this with everyone.” His mother confirmed that despite their conflicts regarding religion and his intensive involvement in church activities, he observed household rules and remained obedient and responsible.

C. Immigration, College and Early Career

By grade twelve, 1987-88, the year before his graduation—Hong Kong schools operate on the British system—Mr. Chin was enthralled with the prospect of attending one of the American colleges that was recruiting students at his school. “I wanted to have that experience,” he recalled, “see new things...study to be a doctor, like my parents.” He applied and was accepted for admission to Oklahoma City University (OCU), in Oklahoma City.

That summer, at age eighteen, Mr. Chin flew alone to Oklahoma, moved into a dormitory and enrolled for fall classes. OCU records confirm that he excelled, earning a 4.0 grade-point average during the Fall 1988 semester. He stated that he also became active in a local church. Dr. Wong recalled that his letters and their periodic telephone conversations indicated that he was happy and adjusting well.

With his academic success, Mr. Chin transferred to a more-challenging school, Oklahoma State University (OSU), for second semester. He moved into an OSU dormitory and in Spring 1989 began classes. His OSU transcript confirms a g.p.a. of 3.2, four B’s and an

A. Still active in church and reveling in his new experiences, he decided to transfer again, to the University of Oklahoma. However, a summer visit to relatives in Nutley, New Jersey, and daily work at his uncle's grocery in Chinatown, convinced him to stay here, where he could benefit from not only the city's educational and professional advantages but contact with relatives and a thriving Chinese community.

Dr. Wong confirmed that Mr. Chin worked at his uncle's grocery into the fall, when he began full-time classes as an Accounting major at Pace University. (Staff in the Registrar's office at Pace confirmed his attendance and graduation, but the transcript that we requested had not arrived as of this writing. Mr. Chin believes that his copy might be in the seized materials.) Mr. Chin stated that he left the grocery for three part-time jobs to help pay for school: as an accounting assistant at Fiduciary Trust International, located in the World Trade Center; as an Economics and Math tutor at Pace; and as a bartender at Mount Fuji, a Japanese restaurant in Hasbrouck Heights, New Jersey, where he worked weekend nights.

Mr. Chin reportedly maintained this schedule for the next couple years, during which his parents and sisters moved to Nutley, and Mr. Chin moved in with them. Dr. Wong and Teresa Chin confirmed that he maintained a hectic schedule between work, school and participation at Chinese Faith Mission, a Christian church then located in Chinatown. Its former pastor, Reverend Bruce Williams, reported that Mr. Chin quickly became an active and prominent member, not only attending Sunday services but participating in and eventually helping to run a weekly fellowship group, singing in the choir, acting in a play, and writing for and eventually editing a church newsletter. "He was like a staff member [for the fellowship]," Reverend Williams recalled, "involved in a lot of activities...very enthusiastic."

Mr. Chin stated that he transferred his major to Business Management after a couple years, stopped bartending and began work as a party promoter on weekends, in addition to intermittent work for his aunt's import-export business. He reported that he joined the United Chinese Students Association at Pace, for which he served as president one year. "I was very active—organizing fundraisers, fashion shows...a lot of different events, meetings," he explained. Because Mr. Chin transferred majors and reduced his course hours over the next couple years, he extended his attendance. He recalled that he was happy during this period, deeply engaged in church life, "getting a great sense of achievement," always busy. Dr. Wong noted that because of his hectic schedule, he mostly just slept and ate at home.

In approximately 1993, Reverend Williams baptized Mr. Chin.

In approximately 1994-95, Mr. Chin moved with his parents and sister to an apartment on Park Avenue South in Manhattan.

Mr. Chin stated that he maintained much the same school, work and social routine through May 1995, when he received his Bachelor of Science in Business Management from Pace. (Mr. Chin believes his diploma might be in the seized materials.) He recalled that after a brief job search, he landed work in sales at Kingstate Corporation, a toy wholesaler. Mr. Chin reported that within a month, he was traveling extensively and working trade shows, and "climbed very fast." (Kingstate staff stated that the company does not possess human-resources records from this period. We submitted an employment-history request to the Social Security Administration, but it had not arrived as of this writing.) His mother confirmed that he worked long hours and other than weekend time with family socialized primarily with friends from church. He stated that this was a heavy period of activity with his fellowship

group, the choir and the newsletter.

Mr. Chin reported that after approximately a year, he left Kingstate for a more-lucrative position at Lincoln Communications, a large telecommunications firm, where he was hired to sell long-distance telephone service. He stated that he quickly excelled and was thus selected to represent the company's large New York City office at a training conference in Washington, D.C., where he won the sales-pitch contest that concluded the training. (Lincoln human-resources staff could not confirm his employment because the company

does not retain records from this period. We believe the aforementioned Social Security record would confirm his account.)

In approximately 1996-97, Mr. Chin decided to consider a career in real-estate sales and began working weekends as an agent-trainee at Maximum Realty, in Chinatown. Within in a few months, he left Lincoln for full-time work at Maximum. Although Bruce Lui, the proprietor, could not confirm the exact start of Mr. Chin's employment, he stated that Mr. Chin did begin with the company around this time. In the spring of 1997, to enhance his on-the-job training, Mr. Chin took six courses at New York University's School of Continuing Education. (His NYU transcript confirms the courseload, as well as individual courses in Fall 1998 and Spring 2000.)

In the summer of 1997, Mr. Chin met Shu Juan Wan, his wife, who worked for a title agency that contracted with Maximum. They began to date. She recalled, "He was very nice. We went to lunch...on a few dates....He was very religious...very involved in his church...had [fellowship] meetings on Wednesday nights and church activities...church friends...talked

about his faith and God...and his family.” Although she was not religious, she appreciated his sincerity, his high moral and ethical standards, and his responsible lifestyle. As the couple grew close and began to consider marriage, Ms. Wan convinced the Chin family to save money for a wedding by relocating to Brooklyn. They did, moving to Bensonhurst in approximately 1998.

Mr. Lui confirmed that due to hard work, study and “the ability to communicate with all kinds of people,” Mr. Chin advanced at Maximum, graduating to broker and, within two years, property manager. Han Shui, Assistant Property Manager at East Side Management, who negotiated leases with Mr. Chin and his clients during this period, stated that he was “polite...seemed responsible...professional.”

D. Onset of Gambling and Start of Business, through 2005

Beginning in this period, Mr. Chin took occasional trips to casinos in Atlantic City with some combination of Ms. Wan, friends and family for performances by touring Hong Kong musicians. Ms. Wan confirmed that she and Mr. Chin gambled among friends “a little, for entertainment” on these occasions. This was his first significant contact with gaming. He stated that he eventually began to travel on his own to the casinos, roughly once monthly, to play blackjack. Mr. Chin recalled,

I thought it was just fun. It wasn't something I thought about...I didn't *really* gamble in front of the others...just minimal. I started going by myself when I had money...not telling anybody...take the bus from Chinatown....I'd take like \$500...lose that, and then I started going [to the ATM] and getting \$500 more...and probably lose that, or just go home with like \$200 or something....But I could cut myself off...easily go home on a schedule....After a few months, I started taking cash advances sometimes...but it wasn't a big deal....I would gamble with my commissions from work. I wasn't gambling with the money for bills. I wasn't saving that much, but I was making good

money. It was just a way to let go....I liked the feeling of being in control and taking a chance—the bet is *my* call and I'm *totally* in control of the risk, even though the outcome is just chance....[In retrospect,] I was getting pulled in by it—flipping the card, the whole [process]...but it didn't seem like an issue.

Because Mr. Chin was embarrassed to reveal that he was gambling alone, he made the trips during the workday. Ms. Wan and his family were thus unaware, even as his gambling increased in frequency and losses mounted.

In approximately 1998-1999, Mr. Chin was appointed to Community Board 6, on which he was selected to serve on the housing committee. He stated that in addition to his regular duties—Board and committee meetings, public hearings, review of applications for commercial permits and licenses—he fielded a steady stream of requests for favors from community residents and merchants, “people coming up to me on the street, asking for help with complaints and applications and all kinds of things. It started to get more and more stressful.” Ms. Wan confirmed this account. (Shaan Lee, Director of Community Affairs for Community Board 6, stated that the Board does not have records of its roster from this period; however, Ms. Wan and Dr. Wong confirmed this appointment and service.)

In February 1999, Mr. Chin and Ms. Wan married in a civil ceremony, planning a conventional celebration the following year, when they could afford one. Around this time, he moved with his family to his parents' current home in Beekman Park, New Jersey. He and Ms. Wan continued to reside separately—she with her family in Jersey City—until the formal wedding ceremony in May 2000, after which she moved into the Chins' Beekman Park home. Save the clandestine gambling trips, Mr. Chin's work and social routine varied little. Ms. Wan

stated that he worked long hours, commuted home with her and spent weekday evenings at home with the family. She noted that he often took work calls on personal time and worked Saturdays as an agent for Maximum Realty. Ms. Wan and Mr. Chin sometimes took weekend trips out of town, though he largely remained in the area to attend Friday fellowship meetings and Sunday services, and otherwise socialized with their families. Reverend Williams confirmed that Mr. Chin remained active in church activities and helped him find and obtain a larger rental space in Chinatown during this period. Mr. Chin also took a real-estate course at NYU.

Mr. Chin stated that he continued to gamble clandestinely, generally losing a few thousand dollars a month in Atlantic City. Because his Community Board activities and the anxieties of demands by neighborhood residents and merchants “started taking too much time, getting too stressful...interfering with [gambling],” he resigned from the Board. He stated that by this time, he was gambling

two or three times a month, going by myself on the bus at ten or eleven in the morning...coming back at night, telling my wife I had to work. I won sometimes...but most of the time I was losing. If I did win...or if I just didn't lose all of it, I could stop and get on the bus and go home with some money...but I started to build the pattern to keep gambling even if I won some money early....I started to have a problem setting a control for myself. Instead of stopping and waiting for the bus, I went back to the tables and lost the money....I could afford to lose two or three thousand a month. I was making enough that it was okay. I didn't have kids yet. I paid my bills, my wife paid her bills, we had separate accounts...so nobody knew....I had a little thought that I might have a [gambling] problem, but then I just thought I was unlucky....I didn't buy expensive things or take expensive trips or things like that...so I didn't miss anything. I never kept track of what I was losing, so I never saw it on paper....Gambling was definitely something I *wanted* to do, but I didn't feel like someone was pushing on my back yet.

In mid 2001, at age 31, Mr. Chin left Century 21 to start his own real-estate brokerage and management agency, RIA. He opened an office on East Broadway and, his wife confirmed, worked long hours without the aid of support staff to establish the business. Mr. Chin stated that within several months, his commissions were steadily increasing. With greater income and no supervision over his office hours, his gambling trips began to increase slightly in frequency and duration; his losses mounted in kind, though this went unnoticed due to his reliable payment of bills, stable home life and church involvement. Ms. Wan recalled that she made nothing at the time of his periodic late return home, which he attributed to work.

In approximately late 2001, Mr. Chin and Ms. Wan moved into an apartment on Bayard Street in Chinatown. His contact with family was thus limited to weekend visits, which he has since maintained. Dr. Wong and Teresa Chin reported that he seemed content and perpetually busy, stable in his marriage and dedicated as ever to his church.

In mid 2002, Ms. Wan became pregnant. She reported that Mr. Chin seemed excited but anxious about fatherhood and, upon Jillian's birth in March 2003, proved a doting and capable care provider. "For a guy who never learned to take care of himself, he did everything," she stated. "Diapers, feeding her in the middle of the night...did the housework for me, making her food....He was a very good father."

Around this time, Mr. Chin, by then steadily growing the business with the aid of an assistant, relocated the RIA office to Canal Street in Chinatown. That summer, he and Ms. Wan purchased and moved to an apartment at 225 St. Paul's Avenue in Jersey City. His gambling trips continued to increase, his church involvement diminishing in kind until it ended, with it his primary non-family, non-work social contact. Hereafter, outside of gambling, his routine

consisted of work, direct return home, weeknight time with his wife and daughter, and weekends with extended family. Save his perfunctory interactions through work and the casinos, meaningful social contacts effectively ceased. Dr. Wong reported that he nonetheless seemed stable during their visits, a responsible and happy father. Ms. Wan's brother, Louis Wan, recalled that Mr. Chin "worked hard...just a nice guy....We played basketball together....I never thought anything was wrong."

During this period, Ms. Wan suffered a miscarriage. She stated that she and Mr. Chin were "devastated" by the loss. Also around this time, the elder Mr. Chin underwent treatment for kidney cancer and Mr. Chin's sister Florence, four years his junior, suffered a nervous breakdown. Mr. Chin and his sister Teresa reported that Florence consequently dropped out of pharmacy school and has since struggled with and been treated for mental illness. Mr. Chin stated that he gambled to relieve stress related to these circumstances, which intensified his guilt regarding Florence, whom he believed he was failing because his gambling superseded time with her. He believes that this guilt-relief dynamic fostered further gambling, which he pursued to relieve the job-related stress of "being the middleman between the landlord and the tenant...having to be the bad guy a lot of the time to make everybody happy, make the landlord happy...working for a long time on very big deals...always on the phone."

Mr. Chin obtained his first casino "rewards card" for frequent play during 2003, from the Borgata in Atlantic City. It indicates a loss of \$1,100 for the year under that account. To this point, absent a rewards card to track his earnings and losses, none were recorded and he did not track them. He did not obtain rewards cards from other casinos until 2004, leaving his pre-card losses unknown.

Mr. Chin stated that in 2004, during his wife’s second pregnancy, his gambling began to escalate appreciably. This brought more-frequent ATM withdrawals and cash advances on his credit cards, and rising per-trip losses, sometimes reportedly \$2,500 or more. He reported that as he began to “max out” his credit cards on cash advances, he started to transfer balances between cards in an attempt to keep pace with minimum payments. This reportedly damaged his credit score, and card providers began to terminate his accounts. Psychologically and emotionally, Mr. Chin found himself fantasizing more frequently that he would “win big” and thus relieve the anxiety of producing more income to support the family and his gambling, which he as yet viewed as simply an entertainment despite his pattern behavior and the growing losses.

Records from the Mohegan Sun in Uncasville, Connecticut, list monthly losses beginning at \$760 in March 2004 and rising as high as \$11,800 that November, a ten-month total of more than \$48,000. Like the Borgata tally, which topped \$19,000 that year, a total of nearly \$68,000, this represents only activity recorded under a rewards card. The “Gambling Losses” chart below lists Mr. Chin’s annual rewards-account losses from 2004 through his 2009 arrest, by casino. The escalation in gambling is evident. (It is our understanding that the People possess the summary casino-produced gambling summaries from which we calculated the monthly tallies.)

James Chin’s Recorded Gambling Losses, 2004-2009

Casino	2004	2005	2006	2007	2008	2009	TOTAL
Trump Taj Mahal				107,284	211,300	87,400	406,034
Harrah’s ¹		14,270	23,460	35,873	92,146	--	165,749
Mohegan Sun ²	48,398	60,005	86,900	167,200	153,020	288,110	803,633

Borgata ³	19,280	10,740	32,680	67,080	74,236	65,250	269,266
TOTALS	<i>67,678</i>	<i>85,015</i>	<i>143,040</i>	<i>377,437</i>	<i>503,702</i>	<i>440,760</i>	1,644,682

¹ The letter accompanying Mr. Chin’s Harrah’s Entertainment gambling summaries states, “Rated play is defined as total gambling play generated when using your Total Rewards card. In other words, only play that occurred when your Total Rewards card was inserted into a slot machine or a manual rating was created at a table game, keno, or sports and race book area is included in this statement.” (Note: Casinos included under Harrah’s Entertainment, at which Mr. Chin gambled, include the following: Bally’s, Las Vegas; Bally’s, Atlantic City; Caesar’s, Atlantic City; Showboat, Atlantic City; Harrah’s, Atlantic City.

² The letter accompanying Mr. Chin’s Mohegan Sun gambling summaries states, “This information is predicated upon the use of your Mohegan Sun Player’s Club Card. Therefore, in instances which you did not use your Player’s Club Card, we were unable to account for your gaming activity.”

³ The letters accompanying Mr. Chin’s Borgata gambling summaries state, “Only play that occurred when you’re My Borgata Rewards Card was inserted into a slot machine or a manual rating was created at a table game is included in this statement.”

During this period, in 2004, Mr. Chin began to manage 115 Broadway and 128-138 Mott Street, from whose funds he was later accused of stealing. He stated that no thefts occurred during this period, and he was a capable manager.

In December 2004, Ms. Wan gave birth to the couple’s son, Joseph. She reported that although Mr. Chin increasingly called to report a late work night, he continued to prove an attentive father and pay his portion of household bills, and she thus remained unaware of his gambling and related financial troubles. She noted, “He was very active with the kids...worked a lot with Jillian, explored with her...spent the weekend with [his family or mine]...paid his bills...was home most of the time....I had no idea what was going on.”

E. Major Escalation in Gambling, Onset of Offense Conduct

Mr. Chin reported that by early 2005 he was consciously gambling to support higher fixed monthly expenses—\$2,000 for his office assistant’s salary, \$1,500 for office rent, \$1,800 in mortgage, \$600 for Jillian’s preschool, and the additional expenses of a second child—and

recoup previous losses, rationalizing continued losses as mistakes to be corrected. As he increasingly played Baccarat in place of blackjack, his rate of loss increased. He noted that of a \$50,000 brokerage commission he earned in 2005, he covered a few thousand dollars in bills and gambled the rest. Mohegan Sun records indicate that his monthly rewards-card tallies there varied widely during the year, from losses of more than \$17,000 each during January and November to his sole positive month, \$500, for September, more than \$60,000 in losses for the year.

Regarding this period, Mr. Chin recalled,

I was making more money, but it went to gambling....I went from the \$25 table to the \$100 table, so I lost more money....Instead of bringing \$500 or \$1,000, I brought \$2,000...and I was going two times a week....Sometimes I got \$8,000 from the [bank] teller and \$1,000 from the ATM and \$1,000 from my savings account and got on the bus...and then I lost it....I went to the cash center at the casinos...paying these big fees for getting more money. I played until I lost everything...and then I went back and did it again a few days later...or as soon as I had the money....By that point, I lost more than \$100,000 of my own money, \$200,000....I'm not sure....I started going sometimes on weekends...told my wife I was working. I would lose everything in the first two hours....If I didn't have enough money to go, I would get a cash advance. I had to go.

I started having this fantasy: Next time I will definitely win. The next one will be the big one....Sometimes I won—not too many times, but sometimes...and that kept the fantasy going....I felt like I was being pushed through the [casino] doors...and it was like someone was holding my feet [when I was] trying to leave...like a voice telling me, “Don't leave! Don't leave!” I was thinking of [real-estate commissions] as gambling money....I was bringing home so little money that my wife thought [RIA] was doing very bad. She said, “Why are you working so hard for this? What a crappy job. Why don't you get a regular job?”

The bus ride [to the casinos] was the most beautiful time of the week. I read the newspaper for the first ten, fifteen minutes, then I close my eyes and start thinking, “Now, I have \$4,000 in my pocket, \$5,000...I'll sit at this [particular] table, and I'll bet this hand...and then I'll win and I'll bet this money...and I'll have \$50,000.” It's like a dream, just fantasizing how much money I will win. It didn't think about the money I kept losing, over and over again....The fantasy

was the most amazing feeling, the best feeling: Everybody else loses, and I walk out with all the money...and everyone is looking at me when I walk out...I [visualized this scenario] all the time. It was so peaceful...such a relaxing ride....The ride back was usually awful because I lost everything. I was very pissed off...very upset. I would hate myself...feel guilty...and I would start going over all of my bets. I could see the cards....I started rationalizing: "I put the bets on the wrong table." I would look at the TV [on the bus], look out the window, keep checking my watch...just miserable...and then I would start calming down and I would tell myself that I would do better next time...fix my mistakes, that I just needed to get the money to implement a better strategy...and I would go over what I would change to win.

By the end of 2005, around which time he initiated the offense conduct, Mr. Chin had lost more than \$85,000 under his rewards accounts at the Mohegan Sun, Harrah's and the Borgata, in addition to an unknown amount that went unattributed in non-rewards play.

Mr. Chin stated that because he was not earning enough income to meet his growing compulsion, and becoming anxious, depressed and angry when he could not gamble, he began to commit the instant offense. This was initially limited to writing checks for up to \$1,000 from the petty-cash account of 115 Broadway Realty, LLC, payable to cash. "At first, I didn't really think about it except I needed money for gambling," he stated. "It was the most immediate option....If you look at my bank statements and then you see the [fraudulent checks that I wrote and cashed], I cashed them and I went gambling right away. I would cash a few checks for \$1,000...walk out of the bank with like \$4,000-6,000, and get right on the bus...lose it the same day...or the next day." (See Mr. Chin's "Diagram to show how the funds go," Exhibit A, his written description of the offense conduct, produced expressly for the People and the complainant.)

Mr. Chin reported that by the time he needed to prepare his monthly financial report

for 115 Broadway, he had already lost \$10,000-15,000 from its account. To conceal the sudden spike in outgoing funds, he began to produce fictitious financial reports. “Once I did it the first time, I had to keep doing it because it’s not a one-time thing. I couldn’t stop gambling...and I kept losing money, but I kept thinking I could have a big win and put the money back...*next* time and then *next* time...and I kept losing...and I kept [rationalizing] what I was doing....I was obsessed with figuring out what I did wrong because then I would definitely win.”

Mr. Chin eventually began to create fictitious bank statements to support the financial reports. He stated that the sum of these thefts can be determined by calculating the difference between the balances in the legitimate bank statements and his counterfeit financial reports. (Mr. Chin cannot perform this calculation at present because his copies of the legitimate bank statements and his counterfeit reports were seized under the search warrant. For the same reason, he cannot provide the previous comparison, between his bank statements and petty-cash withdrawals. However, Mr. Chin twice met with the People and the complainant to sift through boxes of the seized materials, once met to identify which hard drives might contain useful computer files, once delivered copies of downloaded information to the complainant’s representative, spoke separately with the complainant and expressly made himself available to the People and the complainant for further questions. Provided further access to the seized documents and computer files, he will continue to cooperate fully with the People and the complainant.)

Mr. Chin’s losses under the rewards accounts at the Mohegan Sun and Harrah’s in 2006 rose to more than \$110,000. This increased dramatically in 2007, when, in both his own funds and those taken from the complainants, he logged more than \$377,000 in losses under his

rewards accounts, a recorded total of more than \$605,000 in less than three years. His summary from Taj Mahal alone indicates 49 visits for the year, a high of eight in June.

Ms. Wan recalled that her husband's deterioration became more evident in 2007-2008. She stated that other than spending considerable time escorting Jillian to prospective gifted-and-talented schools—her school records indicate that she scored in the 99th percentile among gifted-and-talented students on a standardized placement test—he was increasingly a nonparticipant in family life:

There had been a couple times he didn't have the money for the mortgage before...and I didn't understand why he was working so much and making what I make...but I didn't think too much about it...Then things started getting very dramatic at home. He was gone so much, I thought he was having an affair. I didn't know he was gambling....When he was home, he was very short-tempered...getting upset about minor things...belligerent, impatient....We were arguing a lot....He wasn't spending quality time with the kids like he used to....It was like he wasn't really there. He would come home and read the paper and fall asleep. He refused to talk. He stayed by himself....He would go in the room to study with [the kids], and they would come out ten minutes later because he fell asleep....He didn't socialize with anyone anymore—no friends, he didn't talk to anyone....His memory became very bad. He couldn't remember what I just told him, or what he said just a minute ago. He was forgetting everything...very absent-minded...couldn't focus on anything....Then I started to hear him talking to himself in the shower: "Two...four...then eight...sixteen....If I do *this* I can make *so* much money." I would say, "What is this?" and he said he was just thinking out loud about [real-estate deals]....It was crazy. He wasn't the same person.

Mr. Chins' mother, sister and brother-in-law made similar observations regarding weekend family visits. "He started falling asleep when everyone was talking," Teresa Chin recalled. "He wasn't interacting well...always seemed tired...distracted. I assumed it was stress. He started getting frustrated when I asked him about work. He didn't want to talk

about it.” Dr. Wong stated, “He wouldn’t talk. He would lay down on the couch and take a nap in front of the TV...wasn’t in a good mood.” Louis Wan, his brother-in-law, added, “For the last couple years, he doesn’t remember what you said. He looked like he was listening, but it was like he wasn’t really paying attention....You have to keep reminding him. Things don’t go into his brain....You just repeat yourself.”

Mr. Chin reported that much of this derived from the emotional and mental exhaustion of his gambling, stress, and his obsessive preoccupation with solving the riddle of his losses—determining what hands he should play, at what table and at what time—to recoup his and the building’s funds. This was compounded by the frenzied late-night sessions alone at his office, where he fabricated the bank and financial statements to conceal his rising losses. He explained,

When I was with other people, I was thinking about gambling—with my wife, with my kids, with my parents....at work...watching TV, eating dinner...all the time. I fantasized about the feeling of winning, how much I’d win...winning \$500,000 on one trip. My wife heard me going over the numbers in the shower—“Come on, man, \$50,000, I can make that!” Encouraging myself....I was basically in my own world. I [envisioned] the fantasies until I fell asleep—winning all that money and walking through the casino...everything being okay, just that feeling of winning.

These circumstances and conditions persisted and worsened through 2008, during which year Mr. Chin accumulated nearly \$504,000 in recorded losses under his rewards accounts. At the Taj Mahal alone, where he lost more than \$211,000 in 2008, he logged 44 visits. At the Mohegan Sun, he compiled monthly losses of more than \$31,000 in March, nearly \$28,000 in April, and nearly \$33,000 in July. He stated that some casino employs encouraged

him to open a high-roller account with the casino bank and visit once every two or three months and “be treated like a king...but I didn’t care about that stuff. I didn’t take the luxury rooms and that stuff. I was there to gamble. I didn’t want to stay overnight....I couldn’t wait two months—I needed to do it. I would break down the door.”

Ms. Wan reported that by this time, Mr. Chin was returning home late, sometimes early the next morning, a few times per week. She subsequently found bus tickets to casinos in Atlantic City and the Mohegan Sun in Connecticut. He insisted that he gambled once a week or less, to relieve stress. She reluctantly believed him, and for a brief period he returned home earlier, but this subsided.

On August 8, 2008, returning home from the Mohegan Sun early in the morning in a limousine provided by the casino, Mr. Chin suffered severe injuries when the driver crashed into the back of a truck. He stated that he was transported to Westchester Medical Center in Valhalla, New York, where he was admitted to the Intensive Care Unit and treated for a lacerated spleen and consequent internal bleeding, two broken ribs, contusions, back pain and chronic headaches. Discharged after five days, he recuperated at home and began physical therapy. However, Taj Mahal records indicate a return to gambling no later than August 23rd, when he lost \$1,200 at the casino. He stated that he terminated physical therapy within a couple months because it interfered with his gambling trips. “I needed to make up for the lost money from not working,” he explained. (We requested but have not yet received Mr. Chin’s record from Westchester Medical Center. His copy might be contained in his seized property. As previously discussed between defense counsel and the People, any settlement monies or awards from the pending accident lawsuit, after allowing for the civil attorney’s contingency fee and

disbursements, will be earmarked for restitution.)

F. Second Stage of Offense Conduct, through Instant Arrest

Mr. Chin recalled that early 2009 was “filled with a lot of depression and a lot of anger...and tension. But the fantasies kept me going.” These fantasies involved both gambling wins and “the big commission” at work—a “million-dollar commission, which I kept working on but it didn’t happen”—which would allow him to repay the stolen funds and keep gambling.

As his losses grew—more than \$1.1 million under his rewards accounts between 2005-2008—and the redemptive real-estate commission failed to materialize, Mr. Chin became anxious regarding the missing funds in the account for 115 Broadway Group, LLC, and decided to transfer funds from the account of another property owned by the complainant, 128-138 Mott Street, LLC, to cover real-estate taxes and operating expenses. He stated that he began to forge checks in the name of Dr. Jun Moon, several thousand dollars or more per check, and deposit the funds in the other building’s accounts. Mr. Chin also wrote checks from the Mott Street account to RIA realty, in Dr. Moon’s hand, deposited them in the RIA account and drew against the funds via cashier’s check for gambling. (See aforementioned “Diagram to show how the funds go” for Mr. Chin’s explanation of second stage of offense.)

Regarding this period, Mr. Chin recalled,

I was angry that I kept losing. I believed that everybody was in my way...between me and the casino. It seemed like everything was getting in the way of winning. I was totally obsessed thinking about everything about the casino...lying on the couch and closing my eyes and seeing it. It calmed me down...and then someone would interrupt or make a noise, and I’d start yelling...totally out of proportion to what was happening...even at my kids. Anything that interrupted my fantasy annoyed me, and I snapped....I stopped smiling....I was missing appointments for Jillian’s school because I just

forgot...missing appointments with clients because I was thinking about the details [of gambling], going over it in my head...seeing the faces of everyone who was at the table so clearly...but I would forget what I just said. No memory for anything else....Guilt, anxiety, stress, depression...all of these things. I was flying off the handle at the casino, too—cursing at the table, being so angry when I lost....I would lose all the money, but I couldn't bring myself to just get back on the bus. I would have to take more out, and then I'd lose that, too....The casinos in the middle of the night...[are filled with] the addicts...like a bunch of dead people...zombies...and you would be surprised because most of them are Chinese....All of these people who lost their money but they don't want to leave...women who have families at home [prostituting themselves] to get \$100 to keep gambling...[loan sharks] lending money at very high interest rates....It is a horrible place.

Although Ms. Wan could not confirm Mr. Chin's account of his conduct at the casinos, she reported that the above description is accurate concerning his home life. His rewards accounts at Harrah's, Borgata, Mohegan Sun and Trump Taj Mahal for January-August 2009 show an eight-month loss of nearly \$441,000. At that rate, projected losses for a full calendar year would have been more than \$660,000. Copies of his personal and RIA bank statements for 2009 confirm his stated pattern of ATM and cash-advance withdrawals at casinos. For example, on June 1, 2009, he made three withdrawals, one for \$740, in Queens, and three at the Mohegan Sun for a total of \$8,500. The casino-based cash advances and ATM withdrawals from both bank accounts recur through the remainder of the 2009 statements. (Regarding deposits to these accounts, Mr. Chin reported that his legitimate earnings and monies belonging to the complainants are comingled. He has already begun a review of these numbers with the People and the complainant, and will continue to do so, so that the sum of the fraud can be determined to the complainant's satisfaction.)

These circumstances prevailed through September 9, 2009, when, following a meeting with the complainant's representatives, including Dr. Moon, a bank teller notified complainant

representative Robert Lui of the balance discrepancies. Called immediately to a meeting with Peter Lui and Robert Hui, and confronted about the gap in funds, Mr. Chin confessed. He stated that he apologized to Mr. Hui and Mr. Lui, though he did not reveal his pathological gambling at the time, and waited for police to arrive. Mr. Chin was arrested that day and charged in the instant case. After two days in custody, Mr. Chin met with the Assistant District Attorney and confessed to the offense conduct in detail.

G. Post-Arrest Condition and Circumstances

After a brief detention, Mr. Chin returned home. Ms. Wan reported that she and his parents and sisters have been deeply distraught regarding his arrest and the instant allegations and still cannot reconcile his offenses with their knowledge of his character and conduct. In October, in an effort to determine the nature of his conduct and obtain treatment if need be, Mr. Chin underwent a psychological evaluation with Jennifer McLemore, Ph.D., a clinical psychologist at The Bridge Behavior Center working under the auspices of Warren Lessig, Ph.D., a highly respected forensic psychologist and the Center's director. As indicated in the appended letter, Dr. McLemore determined that Mr. Chin suffers from Pathological Gambling (312.31), defined in the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) as "persistent and recurrent maladaptive gambling behavior." To meet the criteria for the diagnosis, a patient must exhibit at least five of the ten symptoms listed below, nearly all of which Mr. Chin exhibits:

1. is preoccupied with gambling (e.g., preoccupied with reliving past gambling experiences, handicapping or planning the next venture, or thinking of ways to get money with which to gamble)
2. needs to gamble with increasing amounts of money in order to achieve the desired

excitement

3. has repeated unsuccessful efforts to control, cut back, or stop gambling
4. is restless or irritable when attempting to cut down or stop gambling
5. gambles as a way of escaping from problems or of relieving a dysphoric mood (e.g., feelings of helplessness, guilt, anxiety, depression.
6. after losing money gambling, often returns another day in order to get even ("chasing" one's losses)
7. lies to family members, therapist, or others to conceal the extent of involvement with gambling
8. has committed illegal acts, such as forgery, fraud, theft, or embezzlement, in order to finance gambling
9. has jeopardized or lost a significant relationship, job, or educational or career opportunity because of gambling
10. relies on others to provide money to relieve a desperate financial situation caused by gambling

In her letter, Dr. McLemore characterized Mr. Chin's pathology, gauged by the DSM-IV, as "severe." She wrote that it "may be considered analogous to a substance[-]use disorder," a comparison she clarified in interview as a reference to an underlying cause for his misconduct that requires intensive treatment, and over which he had little control. Per her recommendation, Mr. Chin began weekly counseling sessions with her and recently started to attend Gamblers Anonymous meetings. Dr. McLemore stated that Mr. Chin has reliably attended her sessions and appears to be sincere and motivated. In interview, she noted that she has been working on relapse-prevention techniques with Mr. Chin, who remains symptomatic and will require long-term therapy:

His behavior is definitely pathological....He went untreated for many

years...and if he had been treated back then, other [non-criminal] behaviors would have probably been possible instead of what happened....If he doesn't get treatment, there's a high risk for relapse. I don't think he'll commit another crime, but he would remain at high risk for continued gambling.

Because Dr. McLemore has detected symptoms of hypomania, which she believes could indicate Bipolar Disorder, she has recommended that Mr. Chin be evaluated by a psychiatrist for possible medication. (See appended letter from Dr. McLemore, as well as her and Dr. Lessig's curriculum vitae, Exhibits B, C and D, respectively.)

On November 10, of his own initiative and without notifying Dr. McLemore or anyone involved in his defense, Mr. Chin began additional counseling in the Asian-American Recovery Services program at Suffolk House, in Manhattan. Lin Lui, CASAC, his therapist, reported that Mr. Chin has since attended weekly individual-counseling sessions. He stated that Mr. Chin appears to be sincere and highly motivated, and "definitely" meets the criteria for the diagnosis of Pathological Gambling. (Also, see Exhibit E, treatment-confirmation letter from JJ Luong, LMHC, CRC, CASAC-G, Director of Asian American Recovery Services.)

In an effort to begin accruing funds towards restitution to the complainant, Mr. Chin and his family recently moved from their residence of more than six years in Jersey City to a rental unit at 48-50 Ludlow Street, # 4D, in Manhattan, which Mr. Chin described as one-third the size. Per defense counsel's case conference with the People, all net proceeds from the sale of the Jersey City apartment will be earmarked for restitution. Mr. Chin has not worked since his arrest but states that he has pending real-estate deals with the complainant that would bring him substantial commissions if completed, which would likewise be earmarked as restitution.

Between Dr. McLemore, Mr. Lui and GA, he has at least three therapeutic contacts per week.

III. Evaluation and Recommendation

Mr. Chin fully appreciates the gravity of the instant charges. In our many contacts with him during the past several weeks, he has consistently and we believe genuinely expressed remorse for his actions and a desire to compensate the complainants and rehabilitate. Family members, Dr. McLemore and Mr. Lui reported that Mr. Chin has expressed remorse in his conversations with them; his already-substantial cooperation with the People and the complainant, his extensive engagement in treatment, and his nascent efforts to begin paying restitution suggest that he is sincere. While neither we nor Mr. Chin contends that his long-concealed and –untreated psychiatric condition excuses or justifies his offense, we firmly believe that it is the primary underlying factor, absent which the offense would not have occurred. A review of his gambling records and personal finances, a site visit to his now-former residence, the observations of persons familiar with his conduct and lifestyle, and the early assessments by Dr. McLemore and Mr. Lui support this view.

Whatever retributive end incarceration might achieve, it would do so at the expense of the complainant, whose restitution would be significantly deferred at best were Mr. Chin imprisoned, as well as the community, Mr. Chin and his family, all of whom would benefit from his formal treatment and the rehabilitative effect of his toil in the service of restitution. Time spent idly in prison will achieve none of this. Considerable though the losses are in this case, we believe that mandated, long-term and accountable treatment, under Department of Probation supervision, in conjunction with full restitution, on terms agreeable to the complainants, will best serve all parties in the long term. Just as nonviolent defendants who suffer from drug

addiction, alcoholism and more-readily recognized forms of mental illness are mandated to treatment that targets their conditions—increasingly via formalized treatment courts and dedicated programs within District Attorneys’ offices—so should Mr. Chin. Unlike idle incarceration, such a disposition would reduce the likelihood of his recidivism through active and supervised rehabilitation, greatly increase his ability to pay restitution, and avoid the needless separation of the children from their father.

Toward that end and Mr. Chin’s rehabilitation, we urge the Court and the People to consider the following:

- Mr. Chin has no criminal history. Before gambling consumed virtually all major aspects of his life, Mr. Chin was a genuinely law-abiding, conscientious, family-oriented and utterly benign individual. His offense conduct began only after he was severely symptomatic and had lost massive sums of his own money. He had no significant vices, no history of delinquency or criminality of any kind, and was an attentive father and dedicated church member. His bad conduct, from the criminal offense to the betrayal of his family’s trust, flowed from his condition. Given this history, we believe it is reasonable to conclude that, but for his illness, he would not have committed the instant offense, or have engaged in criminal conduct of any kind.
- Mr. Chin’s diagnosis of Pathological Gambling is firmly supported by not only his claims but the gambling records of numerous casinos; his bank statements, which indicate serial and substantial withdrawals at casinos; the assessments of Dr. McLemore and Mr. Lui; and

family members' observations concerning Mr. Chin's growing isolation, moodiness and changes in routine over the last few years. Mr. Chin's casino summaries confirm recorded losses of more than \$1.6 million since 2004. This accounts only for losses at those casinos—Mr. Chin reported that he gambled at others, though less frequently—and only under the rewards accounts. The volume of loss and frequency of visits, the pattern of withdrawals at casinos, the decline into an increasingly gambling-focused lifestyle—all of these factors comport fully with Mr. Chin's description of his illness, as do the clinical observations of Dr. McLemore and Mr. Lui.

- Despite the stubborn notion in some quarters that Pathological Gambling—gambling addiction, as it is commonly viewed—is simply a matter of weak character, it has been listed as an impulse-control disorder in the DSM-IV since 1980, nearly 30 years. Reviews of the DSM-IV criteria for Pathological Gambling, Dr. McLemore's assessment and recommendation, and the appended description of Pathological Gambling from the Gambling Studies Program (GSP) at the Jane & Terry Semel Institute for Neuroscience & Human Behavior, UCLA Health System School of Medicine, consistently support the conclusion that Mr. Chin suffers from mental illness and is not simply a person of bad character. (We encourage a reading of the GSP summary, Exhibit F, which provides a useful summary of the symptoms.) The term "Pathological Gambling" is not simply a euphemism excusing poor self-control. Dr. McLemore noted that recent neuroscientific studies, the vanguard of the field, have found that pathological gamblers exhibit changes in

dopamine-reception neurons in much the same manner as drug addicts. Indeed, an August 19, 2007, article in *The Boston Globe*, entitled, “Your Brain on Gambling,” cites recent research showing a spike in “severe gambling addictions or related compulsions among patients prescribed a medication that affected dopamine levels.” It appears that, like drug addicts whose use escalates in response to the altered dopamine production triggered by drug use, pathological gamblers must increase their activity to feel pleasure, and eventually simply to simply relieve the stress of their compulsion. Although Mr. Chin’s condition differs clinically from alcoholism or drug addiction because it is an impulse-control disorder, it underlies his criminal conduct in the same manner and therefore similarly warrants mandated treatment.

It is notable, and was a surprise to us in our investigation, that gambling is a uniquely pernicious problem in Asian communities in the United States. Beyond Mr. Chin’s observations regarding the inordinately high percentage of late-night Chinese gamblers at local casinos, Mr. Lui confirmed, “There are ads [for casinos] in every Chinese newspaper [in New York City]...billboards in Chinatown. Did you know that every casino has a Chinese marketing department? *Every* one...specifically to market to Chinese people...get them to go to the casinos.” A January 2006 article in the *Los Angeles Times* states that a 1999 poll in San McLemore’s Chinatown “found that 70% of 1,808 respondents ranked gambling as their community’s No. 1 problem. In a follow-up poll, 21% of respondents considered themselves pathological gamblers and 16% more called themselves problem gamblers -- rates significantly higher than in the overall population,” among which, current

data indicate, only “1.6% of Americans can be classified as pathological gamblers.” (“Gambling Seen as No-Win Situation for Some Asians,” *Los Angeles Times*, January 16, 2006.) This is not to suggest that Mr. Chin’s pathology or misconduct was inevitable but that, as a Chinese-American in daily contact with that community, he faced a significant additional hurdle as his pathological behavior developed.

- Incarceration will do nothing to treat Mr. Chin’s condition. There is no treatment for pathological gambling in New York State’s prisons. What treatment does exist, for alcoholism and drug addiction, occurs in a decidedly untherapeutic and hostile environment, where one cannot safely divulge sensitive personal information without fear that it might be publicized to other inmates and thereby threaten one’s personal safety. Given that Mr. Chin would be one of a handful of Chinese-Americans among the inmate population, that he lacks street smarts or physical toughness, and that the prison experience could further deteriorate his mental health, incarceration would likely only delay his return to gambling, if not exacerbate the severity of his condition.
- Mr. Chin’s gambling records and bank statements, our observations of his former home in Jersey City, where he lived in a modest apartment with his wife and children, and the observations of his family members support conclusion that the offense conduct was a function of his pathology, not an attempt to enrich himself. At home, Mr. Chin and Ms. Wan split expenses. The Jersey City apartment, which he is now selling, was modestly and inexpensively decorated and did not contain expensive furnishings, artwork or home

electronics. Mr. Chin does not own expensive clothing or jewelry, a vacation home or an expensive car. He leased the vehicle he drove at the time of the arrest, and defense counsel is working with the dealership to determine an economical means to terminate the lease so that Mr. Chin is better able to pay restitution. As Mr. Chin has stated, the funds that he took from the complainants went directly to the casinos.

- Beyond Mr. Chin's Pathological Gambling, Dr. McLemore believes that he might exhibit hypomania indicative of Bipolar Disorder. His sister Francine, whom we could not interview due to her fragile mental state, reportedly has been treated for Bipolar Disorder for several years. While only further evaluation will determine if Mr. Chin suffers from this condition, it is notable that siblings of persons with Bipolar Disorder are more likely to have a mood disorder than relatives without a Bipolar sibling. (Davis, S. F., & Palladino, J. J. (2000). *Psychology (3rd ed.)*. Upper Saddle River, NJ: Prentice-Hall, Inc.) Thus, although the condition has not yet been definitively identified in Mr. Chin, symptoms have been identified, and he is in a high-risk category. The presence of Bipolar Disorder or a similar condition would only further weigh in favor of a treatment-and restitution-based disposition.
- Although Mr. Chin disputes the People's tally of the thefts—he believes that their sum includes his legitimately earned commissions and in some instances double-counts funds moved from one account to another—he is not attempting to evade responsibility for his misconduct or avoid repayment of genuine thefts. As indicated by his full and consistent cooperation with the People and the complainants from the moment that his offense was

uncovered, he wants to make the complainants whole and will do whatever is required to determine the exact amount of the thefts. Mr. Chin not only provided detailed oral statements to the People during his detention, he and defense counsel have met with the People and representatives of the complaints on three occasions to begin untangling the various transfers between accounts, his monies and the complainants', and explain the mechanics of the fraud. He also created the appended diagram to explain in as clear a format as he could the mechanics of his offense conduct.

Mr. Chin's cooperation has been voluntary and, we believe, has already exceeded what one might have reasonably expected of him. Given further access to the seized computer files and paper documents necessary to complete this process, Mr. Chin will continue to cooperate fully in the unraveling of the scheme, and thereby expedite a disposition that will compensate the complainants. We believe his actions in this regard, like his immediate confession to the complainants, support the view that his offense derives from his illness and is not character-driven or sociopathic, or otherwise indicative of his true

nature. He is genuinely ashamed of his misconduct and willing to do whatever he must, within reason, to rehabilitate and redeem himself.

- Importantly, defense counsel reported that one of the complainant's representatives informed her at the first cooperation session, in the People's presence, that he does not desire Mr. Chin's incarceration, only restitution to the fullest extent possible. Prevented

from closing the pending real-estate deals or earning other income, Mr. Chin would be unable to pay substantial restitution in the short term, beyond profit from the apartment sale; his future ability to pay, which will already be hampered by a felony conviction, would be greatly diminished by both his loss of income and reduced employment prospects after a lengthy absence from the labor market. There is no conceivable incarceration scenario in which the complainant's concurrent wishes to obtain restitution and avoid unnecessary harm to Mr. Chin's wife and children could be achieved. We firmly believe that when the defendant is not dangerous or an inveterate recidivist, and there is strong evidence that he requires rehabilitation to prevent recidivism, the justice system's resources are best allocated and the public interest best served by targeted, supervised treatment.

Based on the above, we respectfully request that James Chin, upon a plea of guilty to a charge acceptable to the People and the complainant, be sentenced to five years' probation, with the following conditions: he must pay restitution in terms acceptable to the complainant; he must continue to cooperate with the People and the complainant in the unraveling of the financial scheme; he must continue treatment with Dr. McLemore and Mr. Lui, as well as attend Gamblers' Anonymous meetings; and he must submit to a psychiatric evaluation, as recommended by Dr. McLemore, as soon as he is financially able. The complainant has clearly expressed the desire to avoid incarceration in the interest of Mr. Chin's family and the payment of restitution, generously so, and we believe that Mr. Chin's rehabilitation and repayment to the complainant is a more constructive and far-sighted disposition than incarceration given his condition and circumstances. Rather than sitting idly in prison or jail, untreated and unable to

pay restitution, he will be required to demonstrate progress, over an extended period of time and under supervision. Such a disposition requires far greater accountability, over a longer period of time and to greater benefit for the community and the complainant.

We thank the Court and the People for their time and consideration in this matter.

Respectfully submitted,

Chris Napierala
Director