

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

RICHARD PINEDO,

Defendant.

Criminal No. 18-cr-24

UNDER SEAL

**UNITED STATES' MOTION TO FILE
SEALED MATERIALS AND FOR SEALED PROCEEDINGS**

The United States, by and through undersigned counsel, asks for an Order directing the Clerk's Office to issue a public miscellaneous case and to file this motion and proposed order, under seal, on that docket. The United States further asks for an Order granting leave to file sealed materials, including plea materials; to close the courtroom during the defendant's plea hearing; and to seal this motion and proposed order. The proposed motion to seal defendant's plea agreement and to close the courtroom for the plea hearing, together with the signed plea materials, are attached to this motion as Appendix A.

I. Reasons for Granting Leave to File Sealed Materials

1. The Court has the inherent power to seal court filings when appropriate. *See United States v. Hubbard*, 650 F.2d 293, 315–16 (D.C. Cir. 1980) (citing *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978)). The Court may also seal filings to prevent serious jeopardy to an ongoing criminal investigation when, as in the present case, such jeopardy creates a compelling governmental interest in preserving the confidentiality of the information. *See Washington Post v. Robinson*, 935 F.2d 282, 287–89 (D.C. Cir. 1991). In this case, sealing is necessary to avoid possible material prejudice to the ongoing investigation.

2. Defendant Richard Pinedo (defendant) is a California resident who, from approximately 2014 through December 2017, provided online services designed to circumvent the security features of online payment processors, to include selling bank account numbers without authorization from the account holders. The defendant has not made an initial appearance in any federal court regarding the charges as alleged in the Information filed in this matter.

3. Discussions between the government and the defendant have culminated in a proposed plea agreement, under which the defendant will plead guilty to an Information charging him with identify fraud, in violation of 18 U.S.C. § 1028(a)(7). The agreement incorporates a statement of the offense setting forth the factual basis for the guilty plea, which explains that the charge and accompanying plea are based on the defendant's having sold bank account numbers without authorization from the account holders to individuals, some of whom were located outside the United States. Some of these individuals used the unauthorized bank account numbers obtained from the defendant to circumvent the security measures of online payment processors.

4. On February 7, 2018, this Court granted a written motion to seal the Information. *Cf.* Local Criminal Rule 49(e)(4) (providing that “the filing of every . . . document [prior to the initial appearance of a criminal defendant] under seal shall not require a motion to seal”). The Government now moves for leave to file sealed materials, including the plea agreement, and to close the courtroom during the defendant's plea hearing, tentatively scheduled for Monday, February 12, 2018, at 2:30 pm.

5. Herea, sealing is necessary to avoid possible material prejudice to a particular facet of the Special Counsel's investigation, namely, a Russian-backed operation that used social media platforms, through fraud and deceit, to interfere with the U.S. political system, including the 2016

U.S. presidential election. Premature disclosure of the nature of the charges against the defendant may alert other subjects to the direction and status of the investigation. Once alerted to this development, potential subjects and targets may destroy or tamper with evidence or otherwise seriously jeopardize the investigation.

6. The United States has considered alternatives less restrictive than sealing, including, for example, the possibility of redactions, and has determined that none would suffice to avoid potential material prejudice to this investigation.

II. Period of Time That the Government Seeks To Have Matter Remain Under Seal.

7. The government requests that this motion, any order, and the proposed sealed documents remain sealed until the need to maintain the confidentiality of these materials expires, after which time the United States will move to unseal the materials. The government will promptly advise the Court if it is determined that sealing is no longer required to protect the interests at stake here.


WHEREFORE, the United States respectfully requests an Order directing the Clerk's Office to issue a public miscellaneous case and to file this motion and proposed order, under seal, on that docket; for leave to file sealed materials, including plea materials, and to close the courtroom during the defendant's plea hearing.

Date: February 8, 2018

Respectfully submitted,

Robert S. Mueller, III
Special Counsel

By: _____


Jeannie S. Rhee
L. Rush Atkinson
Ryan K. Dickey
The Special Counsel's Office

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

RICHARD PINEDO,

Defendant.

Criminal No. 18-cr-24

UNDER SEAL

ORDER GRANTING MOTION FOR LEAVE TO FILE SEALED MATERIALS

The United States has moved to file its motion and proposed order under seal on a public miscellaneous case; for leave to file additional sealed materials, including plea materials; and to close the courtroom during the defendant's plea hearing,

The COURT ORDERS that this Order and the government's motion is sealed; it is further ORDERED that the Clerk's Office is directed to issue a public miscellaneous case assigned to Judge Friedrich, captioned *United States of America v. John Doe*. The entries specified here will be docketed in the miscellaneous case.

ORDERED that the government's motion for leave is GRANTED, and the docket in *United States v. Doe* shall contain an entry titled "Order Granting Motion for Leave to File Sealed Materials," but that this Order will not be publicly accessible, as it is under seal; and it is further

ORDERED that the docket in this case (captioned *United States v. Doe*) shall contain an entry entitled "Government's Motion to File Sealed Materials and for Sealed Proceedings," but the motion itself and any related materials will not be publicly accessible, as they are under seal.

Date: February _____, 2018

The Honorable Dabney L. Friedrich
United States District Judge

Appendix A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

RICHARD PINEDO,

Defendant.

Criminal No. 18-cr-24

UNDER SEAL

**GOVERNMENT’S MOTION TO SEAL DEFENDANT’S
PLEA AGREEMENT AND TO CLOSE THE COURTROOM FOR PLEA HEARING**

Pursuant to Local Criminal Rule 49(e) and (f)(6), the United States moves the Court to seal the defendant’s plea materials; to close the courtroom for a plea hearing tentatively scheduled for Monday, February 12, 2018, at 2:30 pm; and to grant the government leave to file this motion and its related documents under seal. As explained below, sealing the plea agreement and closing the courtroom for the plea hearing are necessary to further the government’s compelling interest in preserving the integrity of an ongoing investigation, and no less drastic alternatives sufficient to protect that interest are available. The requested relief is especially appropriate because sealing will be necessary only for the limited duration required to complete certain investigatory steps.

BACKGROUND

1. Defendant Richard Pinedo (defendant) is a California resident who, from approximately 2014 through December 2017, provided online services designed to circumvent the security features of online payment processors, to include selling bank account numbers without authorization from the account holders.

2. Discussions between the government and the defendant have culminated in a proposed plea agreement, under which the defendant will plead guilty to an Information charging him with identify fraud, in violation of 18 U.S.C. § 1028(a)(7). The agreement incorporates a

statement of the offense setting forth the factual basis for the guilty plea, which explains that the charge and accompanying plea are based on the defendant's having sold bank account numbers without authorization from the account holders to individuals, some of whom were located outside the United States. Some of these individuals used the unauthorized bank account numbers obtained from the defendant to circumvent the security measures of online payment processors. A copy of the signed plea agreement and statement of the offense are attached as Exhibit A.

3. The government recognizes that its investigation is the focus of intense public interest. As explained in the declaration of Supervisory Special Agent Francesco H. Corral (attached as Exhibit B), however, public disclosure of the defendant's guilty plea at this time could significantly compromise the government's ongoing investigation. Exh. B ¶¶ 5–8.

4. The defendant's guilty plea, if accepted, will result in the first criminal conviction arising from a particular facet of the Special Counsel's investigation, namely, a Russian-backed operation that used social media platforms, through fraud and deceit, to interfere with the U.S. political system, including the 2016 U.S. presidential election. Exh. B ¶ 4. The investigation is ongoing and includes pursuing leads from information related to the defendant's customers and their conspirators, some of whom are subjects and targets of the ongoing investigation. *Id.* ¶¶ 3-4.

5. The plea materials, including the statement of the offense, identify the defendant and his online service by name and describe the service in sufficient detail that customers would be highly likely to identify their connection to the defendant. Exh. B ¶ 7. The disclosure of the defendant's plea may therefore provide an opportunity for individuals of interest who are associated with the defendant, including the defendant's customers and their conspirators, to destroy or tamper with evidence. Exh. B ¶ 5. Destruction of evidence is more likely when, as is

the case here, many of the relevant individuals are located overseas and much of the evidence is electronic and accessible remotely through the internet. *Id.* ¶ 5.

6. In addition, the disclosure of the defendant's plea may discourage individuals of interest, who are located in the United States and communicated with the defendant's customers and their conspirators, from speaking with investigators. Exh. B ¶ 6. When the investigation is a focus of intense public interest, as is the case here, such individuals are even less likely to cooperate with law enforcement officers. *Id.* ¶ 6. Publicity arising from a plea in high-interest circumstances is likely to discourage individuals from cooperating with investigators, either because of the prospect of criminal exposure or because they fear becoming the subject of media coverage themselves. *Id.* ¶ 6. Even where an individual of interest is willing to speak with investigators, the individual could potentially shape his or her statements in light of knowledge of the defendant's plea. *Id.* ¶ 6.

7. Finally, many of the defendant's customers and their conspirators, some of whom are subjects and targets of the ongoing investigation, are located overseas in a jurisdiction (or jurisdictions) where the likelihood of seeking the individual's extradition to the United States is low. Exh. B ¶ 8. Any publicity relating to the defendant, or this particular facet of the investigation, will discourage those individuals from traveling to other countries. *Id.* ¶ 8.

ARGUMENT

THE CIRCUMSTANCES JUSTIFY A LIMITED-DURATION SEALING ORDER AND CLOSING OF THE COURTROOM FOR THE DEFENDANT'S PLEA PROCEEDINGS

A. Plea Proceedings May be Sealed Upon A Sufficient Justification

"The [F]irst [A]mendment guarantees the press and the public a general right of access to court proceedings and court documents." *Washington Post v. Robinson*, 935 F.2d 282, 287 (D.C. Cir. 1991). In *Robinson*, the D.C. Circuit held that "this right of access . . . extends to plea

agreements,” *id.*, and cited with approval decisions that had applied the right of access to “plea hearings” themselves, *see United States v. Haller*, 837 F.2d 84, 86 (2d Cir. 1988); *see also In re Washington Post Co.*, 807 F.2d 383, 389 (4th Cir. 1986).¹

The right of access established in *Robinson*, however, is not absolute. Rather, the “general presumption of access to plea agreements” can be overcome upon a showing that sealing the agreement serves a compelling government interest, that a substantial probability exists that the interest would be harmed absent sealing, and that “no adequate alternatives to closure . . . would adequately protect the compelling interest.” 935 F.2d at 290 (internal quotation marks omitted). The court in *Robinson* also recognized that “it may well be sufficient to justify sealing a plea agreement” that releasing the “agreement may threaten an ongoing criminal investigation” or the safety of a cooperating “defendant and his family.” *Id.* at 291.

Similar principles govern closure of the courtroom during a guilty plea hearing. Specifically, courtroom closure is permissible when it is necessary to protect a compelling interest of either the government or the defendant and is narrowly tailored to serve that interest. *See Press-Enterprise Co. v. Superior Court*, 478 U.S. 1, 13-14 (1986); *United States v. Doe*, 63 F.3d 121, 128 (2d Cir. 1995). A closure order must be supported by findings demonstrating a “substantial probability” that the government interest at issue will be protected by sealing the courtroom and that “reasonable alternatives to closure cannot adequately protect” that interest. *Press-Enterprise Co.*, 478 U.S. at 14.

¹ In criminal cases, a “public trial right” also exists under the Sixth Amendment. *Presley v. Georgia*, 558 U.S. 209, 211–12 (2010) (per curiam). The Supreme Court has not decided whether that right extends to guilty-plea hearings or is “coextensive” with the First Amendment right recognized in decisions such as *Robinson*, *see id.* at 213. But the Court has made clear that the Sixth Amendment right belongs to “the accused,” 558 U.S. at 212, and the defendant here informs the government that he has no objection to—and in fact supports—closing the courtroom for the plea hearing. This motion therefore raises no separate Sixth Amendment question.

B. The Circumstances Here Justify Sealing The Plea Agreement And Plea Proceedings For The Limited Period Necessary To Complete Investigatory Steps

Under the above standards, sealing of the plea agreement and closure of the courtroom for the plea hearing are warranted in this case.

1. Sealing is sought here to maintain the integrity and confidentiality of an ongoing investigation, a governmental interest that courts have consistently recognized to be compelling. *See Robinson*, 935 F.2d at 291; *accord United States v. Doe*, No. 15-50259, 2017 WL 3996799, at *5–*7 (9th Cir. Sept. 12, 2017) (identifying the avoidance of risks to “ongoing investigations” as a compelling interest that may justify sealing); *Haller*, 837 F.2d at 88 (same). The investigation at issue concerns a matter of utmost importance and sensitivity—efforts by a foreign government to interfere in the 2016 presidential election—and as such has garnered intense media attention.

2. Absent sealing for a limited period, a substantial probability exists that public knowledge of the defendant’s guilty plea will compromise the ongoing investigation. *See Robinson*, 935 F.2d at 290. Any revelation that the defendant has pleaded guilty to a criminal offense stemming from the investigation would result in immediate and widespread publicity. And as Supervisory Special Agent Corral explains in his declaration, such publicity is likely to provide an opportunity for the defendant’s customers and their conspirators, some of whom are subjects and targets of the ongoing investigation, to destroy or tamper with evidence or otherwise seriously jeopardize the investigation. Exh. B ¶ 5; *cf. Robinson*, 935 F.2d at 291 (recognizing that fear of publicity may discourage cooperation but finding no such evidence on the facts there); *Ctr. for Nat. Sec. Studies v. U.S. Dep’t of Justice*, 331 F.3d 918, 930 (D.C. Cir. 2003) (explaining, in the context of a national security investigation, that “[a] potential witness or informant may be much less likely to come forward and cooperate with the investigation if he believes his name will be made public”). Although the government is moving expeditiously to collect evidence relevant to

the investigation, news that the defendant has been charged with and pleaded guilty to a federal felony may provide an opportunity for defendant's customers and their conspirators, for example, to destroy or tamper with evidence or alter upcoming travel plans.

In that regard, the threat to the ongoing investigation here differs markedly from the circumstances in *Robinson*, where the D.C. Circuit found that disclosure of a plea agreement posed no such threat. 935 F.2d at 291–292. The information that the government sought to protect in *Robinson* was that the defendant had agreed to cooperate in an ongoing investigation into the drug-related activities of then-D.C. Mayor Marion Barry. But the defendant's cooperation had been widely publicized by the time of his guilty plea, including in newspaper articles that reported that he would “‘cooperate’ with the government regarding the Barry investigation” and that the government had discussed his cooperation at “a news conference.” *Id.* The D.C. Circuit concluded that disclosure of the plea agreement's contents “could hardly have posed any additional threat to the ongoing criminal investigation,” because it “would only have confirmed the public what was already validated by an official source.” *Id.* at 292.

In this case, by contrast, the government seeks to protect sensitive information that has never reached the public domain. Simply put, public disclosure could prevent investigators from obtaining otherwise available evidence. That concern is of vital importance, because revealing the defendant's plea would likely cause the defendant's customers and their conspirators, some of whom are subjects and targets of the ongoing investigation located overseas, to destroy or tamper with evidence. *See* Exh. B ¶ 5.

The foregoing reasons justify not only the sealing of the plea agreement but also the closure of the courtroom for the entirety of the plea hearing. The hearing will necessarily reveal sensitive information about the investigation because the Federal Rules of Criminal Procedure require the

Court “to determine,” among other things, “that there is a factual basis for the plea,” Fed. R. Crim. P. 11(b)(3). As a result, the government must proffer to the Court “evidence from which a reasonable juror could conclude that the defendant [i]s guilty as charged.” *United States v. Ahn*, 231 F.3d 26, 31 (D.C. Cir. 2000) (internal quotation marks and citation omitted). Recitation of that evidence at the hearing would therefore cause the same harm as publishing the statement of offense—that is, disclosure of the defendant’s unlawful activity before the government can complete its investigation into his customers and their conspirators.

3. No adequate alternatives to the requested sealing would suffice to protect the government interest at stake. *See Robinson*, 935 F.2d at 290. The government has considered, for example, the possibility of sealing only the statement of offense recounting the facts that form the basis for the defendant’s plea, as distinguished from the plea agreement itself. While partial sealing of that sort may suffice in some cases, *see, e.g., Haller*, 837 F.2d at 87–88 (sealing one paragraph of plea agreement), that measure would not adequately protect the ongoing investigation here. The plea agreement alone still reveals the defendant as the individual pleading guilty and the charge to which he is pleading, and it identifies the prosecutors as lawyers in the Special Counsel’s Office, whose investigation is being closely followed by the media. Disclosure of the plea agreement, even with redactions, would therefore trigger the type of widespread publicity that will alert subjects and targets of the investigation as to the existence and progress of this particular facet of the investigation into Russian interference with the 2016 election. *See* Exh. B ¶ 5. Similarly, closing the courtroom only during presentation of the factual basis for the plea, or airing the relevant facts in chambers, *cf. United States v. Alcantara*, 396 F.3d 189, 191 (2d Cir. 2005) (reversing guilty plea taken in robing room), would not adequately protect the government interests at stake because the plea materials, including the statement of the offense, identify the defendant and his online service

by name and describe the service in sufficient detail that customers would be highly likely to identify their connection to the defendant. *Id.* ¶ 7.

4. Finally, the requested sealing of the plea agreement is especially appropriate because it will be of limited duration. The government is working expeditiously to complete the investigative steps that would be most directly jeopardized by public disclosure of the defendant's guilty plea proceedings. Once those steps are completed, the government will promptly return to the Court and move for public disclosure of the sealed plea agreement, as well as a transcript of the closed plea hearing. If the investigative steps are not completed within 30 days from the date of an order granting this motion, the government will at that time (or any earlier time required by the Court) submit a status report to explain any continued need for sealing.

C. The Procedural Steps Necessary To Permit Sealing Can Be Satisfied

Before sealing a plea agreement, a court must follow certain procedural steps. *Robinson*, 935 F.2d at 289. Specifically, *Robinson* requires that: (1) the government file a written motion to seal, notice of which is entered in the public docket; (2) the Court promptly allow interested persons to be heard before ruling on that motion and entering a sealing order; (3) the Court articulate specific findings on the record demonstrating that the decision to seal is narrowly tailored and essential to preserving a compelling government interest; and (4) the Court place the fact that it has sealed the plea agreement on the docket and “make every effort to explain as much of its decision as possible on the public record to enable an interested person intelligently to challenge the decision.” *Id.* at 289 & n.9. The court in *Robinson* further noted that, while notice of the government's motion to seal must be entered on the docket, “[t]he government may seek leave of the court to file under seal its written motion to seal along with the plea agreement itself, and any supporting documents, pending the disposition of the motion.” *Id.*; see also *United States v. El-Sayegh*, 131 F.3d 158, 160 (D.C. Cir. 1997).

In order to comply with these procedures, the Court should promptly cause notice of the government's motion to seal to be entered on the public docket (even though the motion itself would remain sealed, *see Robinson*, 935 F.2d at 289). *Robinson* addressed a situation in which the criminal case had a public docket that interested members of the public could consult. If the Court seals the docket created upon filing of the Information (as the government has requested), then no comparable public docket will exist in this case. To ensure compliance with *Robinson*, the Court should create a public docket that protects the integrity of the investigation—for example, by bearing the pseudonymous case name “*United States v. Doe*”—on which to enter notice of the government's motion to seal the plea agreement. *Robinson*, 935 F.2d at 289. The government does not understand *Robinson* to require that the docket name the Special Counsel's Office (or its attorneys) as the prosecuting authority, and such information would increase the risk that the investigation will be compromised before the Court has had a chance to rule on the government's motion to seal. Accordingly, the government requests that any public docket entry exclude additional information concerning the case or counsel at this time.²

For the foregoing reasons, the government respectfully requests that the Court grant its motion and, after entry of this motion on the public docket to provide notice to interested parties, order that the plea agreement be sealed, that the courtroom be closed for the plea hearing of

² Although *Robinson* did not indicate how long the opportunity to intervene must be afforded before the Court rules, the government suggests that it permit a two-day period—that is, until the day of the scheduled plea hearing—before ruling on this motion.


February 12, 2018, and that the government be granted leave to file this motion and the attached exhibits under seal. A proposed order accompanies this motion.

Respectfully submitted,

ROBERT S. MUELLER, III
Special Counsel

Dated: February 8, 2018

By:



Jeannie S. Rhee
L. Rush Atkinson
Ryan K. Dickey
The Special Counsel's Office

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

RICHARD PINEDO,

Defendant.

Criminal No. 18-cr-24

UNDER SEAL

ORDER

Having heard the government's motion to seal the proposed plea agreement in this matter and to close the courtroom for the plea hearing, and having considered the motion and exhibits, the Court finds as follows:

1. The government has established a compelling interest in maintaining the secrecy of an ongoing, sensitive investigation;
2. A substantial probability exists that disclosing the defendant's guilty plea and the facts underlying that plea, either in the plea agreement or through dissemination at the plea hearing, would compromise the ongoing investigation by giving subjects and targets of the investigation an opportunity to destroy and tamper with evidence, and by discouraging individuals the Government seeks to interview in the near future from speaking or otherwise cooperating with Government investigators; and
3. No measures other than the sealing of the plea agreement and closing the courtroom for the plea hearing are adequate to protect the Government interest at stake, because redactions or partial sealing of the plea agreement, or closure of the courtroom for only part of the hearing, would not prevent the defendant's identity as the individual pleading guilty from being publicized.

Accordingly, based on the foregoing findings, it is hereby ORDERED that the United States' motion is GRANTED; it is further

ORDERED that the plea agreement shall be sealed until further order of the Court; it is further

ORDERED that the courtroom shall be closed for the plea hearing scheduled for Monday, February 12, 2018, at 2:30 pm, and that any transcript of that hearing shall be filed under seal until further order of the Court; it is further

ORDERED that the Government shall immediately inform the Court if continued sealing is not necessary, and that on or before March 10, 2018, the Government shall file a status report with the Court setting forth any continued need to seal the plea agreement and transcript of the plea hearing.

Date: February _____, 2018

The Honorable Dabney L. Friedrich
United States District Judge

Exhibit A



U.S. Department of Justice
The Special Counsel's Office

Washington, D.C. 20530

February 2, 2018

Jeremy Ian Lessem, Esq.
Attorney for Richard Pinedo
4515 Sherman Oaks Ave
Sherman Oaks, CA 91403

Re: United States v. Richard Pinedo

Dear Counsel:

This letter sets forth the full and complete plea offer to your client, Richard Pinedo (hereinafter referred to as "your client" or "defendant"), from the Special Counsel's Office (hereinafter also referred to as "the Government" or "this Office"). If your client accepts the terms and conditions of this offer, please have your client execute this document in the space provided below. Upon receipt of the executed document, this letter will become the Plea Agreement (hereinafter referred to as "this Agreement"). The terms of the offer are as follows:

1. Charges and Statutory Penalties

Your client agrees to plead guilty to the attached Criminal Information, charging your client with identity fraud, in violation of 18 U.S.C. §§ 1028(a)(7), (b)(1)(D) & (c)(3)(A).

Your client understands that a violation of 18 U.S.C. §§ 1028(a)(7) & (b)(1)(D) carries a maximum sentence of 15 years' imprisonment; a fine of \$250,000, pursuant to 18 U.S.C. § 3571(b)(3); a term of supervised release of not more than 3 years, pursuant to 18 U.S.C. § 3583(b)(2); and an obligation to pay any applicable interest or penalties on fines and restitution not timely made.

In addition, your client agrees to pay a special assessment of \$100 per felony conviction to the Clerk of the United States District Court for the District of Columbia. Your client also understands that, pursuant to 18 U.S.C. § 3572 and § 5E1.2 of the United States Sentencing Guidelines, *Guidelines Manual* (2016) (hereinafter "Sentencing Guidelines," "Guidelines," or "U.S.S.G."), the Court may also impose a fine that is sufficient to pay the federal government the costs of any imprisonment, term of supervised release, and period of probation.

2. Factual Stipulations

Your client agrees that the attached "Statement of the Offense" fairly and accurately describes your client's actions and involvement in the offense to which your client is pleading guilty. Please have your client sign and return the Statement of the Offense as a written proffer of evidence, along with this Agreement.

3. Additional Charges

In consideration of your client's guilty plea to the above offense, your client will not be further prosecuted criminally by this Office for the conduct set forth in the attached Statement of the Offense.

4. Sentencing Guidelines Analysis

Your client understands that the sentence in this case will be determined by the Court, pursuant to the factors set forth in 18 U.S.C. § 3553(a), including a consideration of the applicable guidelines and policies set forth in the Sentencing Guidelines. Pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B), and to assist the Court in determining the appropriate sentence, the parties agree to the following:

A. Estimated Offense Level Under the Guidelines

The parties agree that the following Sentencing Guidelines sections apply:

U.S.S.G. §2B1.1(a)(2)	Base Offense Level:	6
U.S.S.G. §2B1.1(b)(1)(D)	Gain between \$40,000 & \$60,000	+6
U.S.S.G. §2B1.1(a)(10)	Offense Outside the United States:	+2 (min. level 12)
U.S.S.G. §2B1.1(a)(11)	Identity Theft Enhancement:	+2 (min. level 12)
	Total (minimum level)	16

B. Acceptance of Responsibility

The Government agrees that a 2-level reduction will be appropriate, pursuant to U.S.S.G. § 3E1.1, provided that your client clearly demonstrates acceptance of responsibility, to the satisfaction of the Government, through your client's allocution, adherence to every provision of this Agreement, and conduct between entry of the plea and imposition of sentence. Furthermore, assuming your client has accepted responsibility as described in the previous sentence, the Government agrees that an additional 1-level reduction will be appropriate, pursuant to U.S.S.G. § 3E1.1(b), because your client has assisted authorities by providing timely notice of your client's intention to enter a plea of guilty, thereby permitting the Government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

Nothing in this Agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1, and/or imposition of an adjustment for obstruction of justice, pursuant to U.S.S.G. § 3C1.1, regardless of any agreement set forth above, should your client move to withdraw your client's guilty plea after it is entered, or should it be determined by the Government that your client has either (a) engaged in conduct, unknown to the Government at the time of the signing of this Agreement, that constitutes obstruction of justice, or (b) engaged in additional criminal conduct after signing this Agreement.

In accordance with the above, the applicable Guidelines Offense Level will be at least **13**.

C. Estimated Criminal History Category

Based upon the information now available to this Office, your client has no criminal convictions.

Accordingly, your client is estimated to have zero criminal history points and your client's Criminal History Category is estimated to be I. Your client acknowledges that if additional convictions are discovered during the pre-sentence investigation by the United States Probation Office, your client's criminal history points may increase.

D. Estimated Applicable Guidelines Range

Based upon the agreed total offense level and the estimated criminal history category set forth above, your client's estimated Sentencing Guidelines range is twelve months to eighteen months' imprisonment (the "Estimated Guidelines Range"). In addition, the parties agree that, pursuant to U.S.S.G. § 5E1.2, should the Court impose a fine, at Guidelines level 13, the estimated applicable fine range is \$5,500 to \$55,000. Your client reserves the right to ask the Court not to impose any applicable fine.

The parties agree that, solely for the purposes of calculating the applicable range under the Sentencing Guidelines, neither a downward nor upward departure from the Estimated Guidelines Range set forth above is warranted, subject to the paragraphs regarding cooperation below. Accordingly, neither party will seek any departure or adjustment to the Estimated Guidelines Range, nor will either party suggest that the Court consider such a departure or adjustment, except as provided in the preceding sentence. Moreover, your client understands and acknowledges that the Estimated Guidelines Range agreed to by the parties is not binding on the Probation Office or the Court. Should the Court determine that a different guidelines range is applicable, your client will not be permitted to withdraw his guilty plea on that basis, and the Government and your client will still be bound by this Agreement.

Your client understands and acknowledges that the terms of this section apply only to conduct that occurred before the execution of this Agreement. Should your client commit any conduct after the execution of this Agreement that would form the basis for an increase in your client's base offense level or justify an upward departure (examples of which include, but are not limited to, obstruction of justice, failure to appear for a court proceeding, criminal conduct while pending sentencing, and false statements to law enforcement agents, the probation officer, or the Court), the Government is free under this Agreement to seek an increase in the base offense level based on that post-agreement conduct.

5. Agreement as to Sentencing Allocation

Based upon the information known to the Government at the time of the signing of this Agreement, the parties further agree that a sentence within the Estimated Guidelines Range would constitute a reasonable sentence in light of all of the factors set forth in 18 U.S.C. § 3553(a), should such a sentence be subject to appellate review notwithstanding the appeal waiver provided below.

6. Reservation of Allocution

The Government and your client reserve the right to describe fully, both orally and in writing, to the sentencing judge, the nature and seriousness of your client's misconduct, including any misconduct not described in the charges to which your client is pleading guilty.

The parties also reserve the right to inform the presentence report writer and the Court of any relevant facts, to dispute any factual inaccuracies in the presentence report, and to contest any matters not provided for in this Agreement. In the event that the Court considers any Sentencing Guidelines adjustments, departures, or calculations different from any agreements contained in this Agreement, or contemplates a sentence outside the Guidelines range based upon the general sentencing factors listed in 18 U.S.C. § 3553(a), the parties reserve the right to answer any related inquiries from the Court. In addition, if in this Agreement the parties have agreed to recommend or refrain from recommending to the Court a particular resolution of any sentencing issue, the parties reserve the right to full allocution in any post-sentence litigation. The parties retain the full right of allocution in connection with any post-sentence motion which may be filed in this matter and/or any proceeding(s) before the Bureau of Prisons. In addition, your client acknowledges that the Government is not obligated and currently does not intend to file any post-sentence downward departure motion in this case pursuant to Rule 35(b) of the Federal Rules of Criminal Procedure.

7. Court Not Bound by this Agreement or the Sentencing Guidelines

Your client understands that the sentence in this case will be imposed in accordance with 18 U.S.C. § 3553(a), upon consideration of the Sentencing Guidelines. Your client further understands that the sentence to be imposed is a matter solely within the discretion of the Court. Your client acknowledges that the Court is not obligated to follow any recommendation of the Government at the time of sentencing or to grant a downward departure based on your client's substantial assistance to the Government, even if the Government files a motion pursuant to Section 5K1.1 of the Sentencing Guidelines. Your client understands that neither the Government's recommendation nor the Sentencing Guidelines are binding on the Court.

Your client acknowledges that your client's entry of a guilty plea to the charged offense authorizes the Court to impose any sentence, up to and including the statutory maximum sentence, which may be greater than the applicable Guidelines range. The Government cannot, and does not, make any promise or representation as to what sentence your client will receive. Moreover, it is understood that your client will have no right to withdraw your client's plea of guilty should the Court impose a sentence that is outside the Guidelines range or if the Court does not follow the Government's sentencing recommendation. The Government and your client will be bound by this Agreement, regardless of the sentence imposed by the Court. Any effort by your client to withdraw the guilty plea because of the length of the sentence shall constitute a breach of this Agreement.

8. Cooperation

Your client agrees to cooperate with this Office on the following terms and conditions:

(a) Your client shall cooperate fully, truthfully, completely, and forthrightly with this Office and other Federal, state, and local law enforcement authorities identified by this Office in any and all matters as to which this Office deems the cooperation relevant. Your client acknowledges that your client's cooperation may include, but will not necessarily be limited to: answering questions; providing sworn written statements; taking government-administered polygraph examination(s); and participating in covert law enforcement activities. Any refusal by your client to cooperate fully, truthfully, completely, and forthrightly as directed by this Office and other Federal, state, and local law enforcement authorities identified by this Office in any and all matters in which this Office deems your client's assistance relevant will constitute a breach of this Agreement by your client, and will relieve this Office of its obligations under this Agreement, including, but not limited to, its obligation to inform this Court of any assistance your client has provided. Your client agrees, however, that such breach by your client will not constitute a basis for withdrawal of your client's plea of guilty or otherwise relieve your client of your client's obligations under this Agreement.

(b) Your client shall promptly turn over to this Office, or other law enforcement authorities, or direct such law enforcement authorities to, any and all evidence of crimes about which your client is aware; all contraband and proceeds of such crimes; and all assets traceable to the proceeds of such crimes. Your client agrees to the forfeiture of all assets which are proceeds of crimes or traceable to such proceeds of crimes.

(c) Your client shall submit a full and complete accounting of all your client's financial assets, whether such assets are in your client's name or in the name of a third party.

(d) Your client acknowledges and understands that, during the course of the cooperation outlined in this Agreement, your client will be interviewed by law enforcement agents and/or Government attorneys. Your client waives any right to have counsel present during these interviews and agrees to meet with law enforcement agents and Government attorneys outside of the presence of counsel. If, at some future point, you or your client desire to have counsel present during interviews by law enforcement agents and/or Government attorneys, and you communicate this decision in writing to this Office, this Office will honor this request, and this change will have no effect on any other terms and conditions of this Agreement.

(e) Your client shall testify fully, completely and truthfully before any and all Grand Juries in the District of Columbia and elsewhere, and at any and all trials of cases or other court proceedings in the District of Columbia and elsewhere, at which your client's testimony may be deemed relevant by the Government.

(f) Your client understands and acknowledges that nothing in this Agreement allows your client to commit any criminal violation of local, state or federal law during the period of your client's cooperation with law enforcement authorities or at any time prior to the sentencing in this case. The commission of a criminal offense during the period of your client's cooperation or at any time prior to sentencing will constitute a breach of this Agreement and will relieve the Government of all of its obligations under this Agreement, including, but not limited to, its obligation to inform this Court of any assistance your client has provided. However, your client

acknowledges and agrees that such a breach of this Agreement will not entitle your client to withdraw your client's plea of guilty or relieve your client of the obligations under this Agreement.

(g) Your client agrees that the sentencing in this case may be delayed until your client's efforts to cooperate have been completed, as determined by the Government, so that the Court will have the benefit of all relevant information before a sentence is imposed.

9. Waivers

A. Venue

Your client waives any challenge to and consents to venue in the District of Columbia.

B. Statute of Limitations

Your client agrees that, should the conviction following your client's plea of guilty pursuant to this Agreement be vacated for any reason, any prosecution, based on the conduct set forth in the attached Statement of the Offense, that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement (including any counts that the Government has agreed not to prosecute or to dismiss at sentencing pursuant to this Agreement) may be commenced or reinstated against your client, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution of conduct set forth in the attached Statement of the Offense that is not time-barred on the date that this Agreement is signed.

C. Trial Rights

Your client understands that by pleading guilty in this case your client agrees to waive certain rights afforded by the Constitution of the United States and/or by statute or rule. Your client agrees to forgo the right to any further discovery or disclosures of information not already provided at the time of the entry of your client's guilty plea. Your client also agrees to waive, among other rights, the right to be indicted by a Grand Jury, the right to plead not guilty, and the right to a jury trial. If there were a jury trial, your client would have the right to be represented by counsel, to confront and cross-examine witnesses against your client, to challenge the admissibility of evidence offered against your client, to compel witnesses to appear for the purpose of testifying and presenting other evidence on your client's behalf, and to choose whether to testify. If there were a jury trial and your client chose not to testify at that trial, your client would have the right to have the jury instructed that your client's failure to testify could not be held against your client. Your client would further have the right to have the jury instructed that your client is presumed innocent until proven guilty, and that the burden would be on the United States to prove your client's guilt beyond a reasonable doubt. If your client were found guilty after a trial, your client would have the right to appeal your client's conviction. Your client understands that the Fifth Amendment to the Constitution of the United States protects your client from the use of compelled self-incriminating statements in a criminal prosecution. By entering a plea of guilty, your client

knowingly and voluntarily waives or gives up your client's right against compelled self-incrimination.

Your client acknowledges discussing with you Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence, which ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions or plea proceedings if a guilty plea is later withdrawn. Your client knowingly and voluntarily waives the rights that arise under these rules in the event your client withdraws your client's guilty plea or withdraws from this Agreement after signing it.

Your client also agrees to waive all constitutional and statutory rights to a speedy sentence and agrees that the plea of guilty pursuant to this Agreement will be entered at a time decided upon by the parties with the concurrence of the Court. Your client understands that the date for sentencing will be set by the Court.

D. Appeal Rights

Your client understands that federal law, specifically 18 U.S.C. § 3742, affords defendants the right to appeal their sentences in certain circumstances. Your client agrees to waive the right to appeal the sentence in this case, including but not limited to any term of imprisonment, fine, forfeiture, award of restitution, term or condition of supervised release, authority of the Court to set conditions of release, and the manner in which the sentence was determined, except to the extent the Court sentences your client above the statutory maximum or guidelines range determined by the Court or your client claims that your client received ineffective assistance of counsel, in which case your client would have the right to appeal the illegal sentence or above-guidelines sentence or raise on appeal a claim of ineffective assistance of counsel, but not to raise on appeal other issues regarding the sentencing. In agreeing to this waiver, your client is aware that your client's sentence has yet to be determined by the Court. Realizing the uncertainty in estimating what sentence the Court ultimately will impose, your client knowingly and willingly waives your client's right to appeal the sentence, to the extent noted above, in exchange for the concessions made by the Government in this Agreement.

E. Collateral Attack

Your client also waives any right to challenge the conviction entered or sentence imposed under this Agreement or otherwise attempt to modify or change the sentence or the manner in which it was determined in any collateral attack, including, but not limited to, a motion brought under 28 U.S.C. § 2255 or Federal Rule of Civil Procedure 60(b), except to the extent such a motion is based on newly discovered evidence or on a claim that your client received ineffective assistance of counsel. Your client reserves the right to file a motion brought under 18 U.S.C. § 3582(c)(2), but agrees to waive the right to appeal the denial of such a motion.

F. Privacy Act and FOIA Rights

Your client also agrees to waive all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to

the investigation or prosecution of this case, including and without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a, for the duration of the Special Counsel's investigation.

10. Restitution

Your client understands that the Court has an obligation to determine whether, and in what amount, mandatory restitution applies in this case under 18 U.S.C. § 3663A. The Government and your client agree that mandatory restitution does not apply in this case.

11. Breach of Agreement

Your client understands and agrees that, if after entering this Agreement, your client fails specifically to perform or to fulfill completely each and every one of your client's obligations under this Agreement, or engages in any criminal activity prior to sentencing, your client will have breached this Agreement. In the event of such a breach: (a) the Government will be free from its obligations under this Agreement; (b) your client will not have the right to withdraw the guilty plea; (c) your client will be fully subject to criminal prosecution for any other crimes, including perjury and obstruction of justice; and (d) the Government will be free to use against your client, directly and indirectly, in any criminal or civil proceeding, all statements made by your client and any of the information or materials provided by your client, including such statements, information, and materials provided pursuant to this Agreement or during the course of any debriefings conducted in anticipation of, or after entry of, this Agreement, whether or not the debriefings were previously characterized as "off-the-record" debriefings, and including your client's statements made during proceedings before the Court pursuant to Rule 11 of the Federal Rules of Criminal Procedure.

Your client understands and agrees that the Government shall be required to prove a breach of this Agreement only by a preponderance of the evidence, except where such breach is based on a violation of federal, state, or local criminal law, which the Government need prove only by probable cause in order to establish a breach of this Agreement.

Nothing in this Agreement shall be construed to permit your client to commit perjury, to make false statements or declarations, to obstruct justice, or to protect your client from prosecution for any crimes not included within this Agreement or committed by your client after the execution of this Agreement. Your client understands and agrees that the Government reserves the right to prosecute your client for any such offenses. Your client further understands that any perjury, false statements or declarations, or obstruction of justice relating to your client's obligations under this Agreement shall constitute a breach of this Agreement. In the event of such a breach, your client will not be allowed to withdraw your client's guilty plea.

12. Government's Obligations

The Government will bring to the Court's attention at the time of sentencing the nature and extent of your client's cooperation or lack of cooperation. The Government will evaluate the full nature and extent of your client's cooperation to determine whether your client has provided

substantial assistance in the investigation or prosecution of another person who has committed an offense. If the Government determines that your client has provided such substantial assistance, this Office shall file a departure motion pursuant to Section 5K1.1 of the Sentencing Guidelines, which would afford your client an opportunity to persuade the Court that your client should be sentenced to a lesser period of incarceration and/or fine than indicated by the Sentencing Guidelines. The determination of whether your client has provided substantial assistance warranting the filing of a motion pursuant to Section 5K1.1 of the Sentencing Guidelines is within the sole discretion of the Government and is not reviewable by the Court. In the event your client should fail to perform specifically and fulfill completely each and every one of your client's obligations under this Agreement, the Government will be free from its obligations under this Agreement, and will have no obligation to present your client's case to the Departure Guideline Committee or file a departure motion pursuant to Section 5K1.1 of the Sentencing Guidelines.

13. Complete Agreement

No agreements, promises, understandings, or representations have been made by the parties or their counsel other than those contained in writing herein, nor will any such agreements, promises, understandings, or representations be made unless committed to writing and signed by your client, defense counsel, and the Special Counsel's Office.

Your client further understands that this Agreement is binding only upon the Special Counsel's Office. This Agreement does not bind any other United States Attorney's Office, nor does it bind any other state, local, or federal prosecutor. It also does not bar or compromise any civil, tax, or administrative claim pending or that may be made against your client.

If the foregoing terms and conditions are satisfactory, your client may so indicate by signing this Agreement and the Statement of the Offense, and returning both to me no later than February 7, 2018.

Sincerely yours,

ROBERT S. MUELLER, III
Special Counsel

By:


Jeannie S. Rhee
Senior Assistant Special Counsel

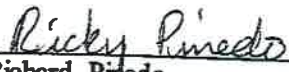
L. Rush Atkinson
Ryan K. Dickey
Assistant Special Counsels
The Special Counsel's Office

DEFENDANT'S ACCEPTANCE

I have read every page of this Agreement and have discussed it with my attorney, Jeremy Ian Lessem. I fully understand this Agreement and agree to it without reservation. I do this voluntarily and of my own free will, intending to be legally bound. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Agreement fully. I am pleading guilty because I am in fact guilty of the offense identified in this Agreement.

I reaffirm that absolutely no promises, agreements, understandings, or conditions have been made or entered into in connection with my decision to plead guilty except those set forth in this Agreement. I am satisfied with the legal services provided by my attorneys in connection with this Agreement and matters related to it.


Date: 02/02/18


Richard Pinedo
Defendant

ATTORNEY'S ACKNOWLEDGMENT

I have read every page of this Agreement, reviewed this Agreement with my client, Richard Pinedo, and fully discussed the provisions of this Agreement with my client. These pages accurately and completely set forth the entire Agreement. I concur in my client's desire to plead guilty as set forth in this Agreement.

Date: 2/2/18


Jeremy Ian Lessem
Attorney for Defendant

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA

v.

RICHARD PINEDO,

Defendant.

Criminal No.:

Violation: 18 U.S.C. § 1028 (Identity Fraud)

STATEMENT OF THE OFFENSE

Pursuant to Federal Rule of Criminal Procedure 11, the United States of America and the defendant, RICHARD PINEDO, stipulate and agree that the following facts are true and accurate. These facts do not constitute all of the facts known to the parties concerning the charged offense; they are being submitted to demonstrate that sufficient facts exist that the defendant committed the offense to which he is pleading guilty.

1. From approximately 2014 through December 2017, the defendant, RICHARD PINEDO, operated an online service called "Auction Essistance." Through Auction Essistance, Pinedo offered a variety of services designed to circumvent the security features of large online digital payment companies, including a large digital payments company hereinafter referred to as Company 1.

2. PINEDO sold bank account numbers through interstate and foreign commerce, specifically over the internet. PINEDO obtained bank account numbers either by registering accounts in his own name or by purchasing accounts in the names of other people through the internet. Many of the bank accounts purchased by PINEDO over the internet were created using stolen identities of U.S. persons. Although PINEDO was not directly involved in the registration

of these accounts using stolen identities, he willfully and intentionally avoided learning about the use of stolen identities.

3. Company 1 required users to submit bank account numbers as a means of verifying a user's identity. To circumvent this requirement, certain users (hereinafter "Users") registered for Company 1's online services with bank account numbers in the names of other people. PINEDO sold Users bank account numbers over the internet to aid and abet, and in connection with, this scheme to defraud Company 1 by means of internet communications in interstate and foreign commerce.

4. After acquiring bank account numbers from PINEDO, Users linked the bank account numbers to their accounts with Company 1 as if they were the real owners of the bank accounts. Company 1 sought to verify the bank account numbers by making de minimus trial deposits into the accounts and asking Users to identify the amount of those trial deposits. PINEDO told Users the amounts of those trial deposits, thereby further aiding the Users in their scheme to circumvent verification processes by Company 1.

5. PINEDO frequently purchased bank account numbers from an individual he knew to be outside the United States. Similarly, based on IP addresses and other information, PINEDO knew that many of the persons to whom he sold bank account numbers were outside the United States.

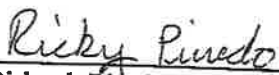
6. In total, PINEDO knowingly transferred, possessed, and used, without lawful authority, hundreds of bank account numbers to aid and abet, and in connection with, the use of the wires in interstate and foreign commerce to defeat security measures employed by Company 1. PINEDO personally collected tens of thousands of dollars, and more than \$1,000 during a one-year period, through the sale of these bank account numbers.

DEFENDANT'S ACCEPTANCE

The preceding statement is a summary, made for the purpose of providing the Court with a factual basis for my guilty plea to the charge against me. It does not include all of the facts known to me regarding this offense. I make this statement knowingly and voluntarily and because I am, in fact, guilty of the crime charged. No threats have been made to me nor am I under the influence of anything that could impede my ability to understand this Statement of the Offense fully.

I have read every word of this Statement of the Offense, or have had it read to me. Pursuant to Federal Rule of Criminal Procedure 11, after consulting with my attorneys, I agree and stipulate to this Statement of the Offense, and declare under penalty of perjury that it is true and correct.

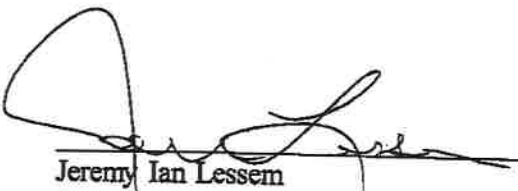
Date: 02/02/18


Richard Pinedo
Defendant

ATTORNEYS' ACKNOWLEDGMENT

I have read this Statement of the Offense, and have reviewed it with my client fully. I concur in my client's desire to adopt and stipulate to this Statement of the Offense as true and accurate.

Date: 2/2/18


Jeremy Ian Lessem
Attorney for Defendant

ROBERT S. MUELLER, III
Special Counsel

By:



Jeannie S. Rhee
Senior Assistant Special Counsel

L. Rush Atkinson
Ryan K. Dickey
Assistant Special Counsels
The Special Counsel's Office

Exhibit B

**DECLARATION IN SUPPORT OF GOVERNMENT'S
MOTION TO SEAL DEFENDANT'S PLEA AGREEMENT AND
TO CLOSE THE COURTROOM FOR PLEA HEARING**

I, Francesco H. Corral, declare:

1. I am a Supervisory Special Agent with the Federal Bureau of Investigation ("FBI") assigned to FBI Headquarters working directly with the Special Counsel's Office. I have been a Special Agent with the FBI for ten years and have conducted national security investigations of foreign intelligence services involving cybersecurity matters. I have participated in various investigations involving multiple national security threats and applicable criminal violations.

2. I make this declaration in support of a motion to seal the plea agreement and to close the courtroom for the plea hearing of the defendant, Richard Pinedo. The facts in this declaration come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This declaration is intended to show that there is a compelling interest to seal the plea agreement and courtroom; this declaration does not set forth all of my knowledge about this matter.

3. I am currently assigned to the ongoing investigation run by the Special Counsel's Office into Russian interference in the 2016 presidential election. In that capacity, I have investigated the defendant, a California resident who, from approximately 2014 through December 2017, provided online services designed to circumvent the security features of online payment processors, to include selling bank account numbers without authorization from the account holders. I continue to work on aspects of the Special Counsel's investigation related to the defendant's customers and their conspirators.

4. The defendant's guilty plea, if accepted, will result in the first criminal conviction arising from a particular facet of the Special Counsel's investigation, namely, a Russian-backed operation that used social media platforms, through fraud and deceit, to interfere with the U.S. political system, including the 2016 U.S. presidential election. The investigation is ongoing and includes pursuing leads from information related to the defendant's customers and their conspirators, some of whom are subjects and targets of the ongoing investigation.

5. In my training and experience, the disclosure of a defendant's plea may provide an opportunity for individuals of interest who are associated with the defendant, including the defendant's customers and their conspirators, to destroy or tamper with evidence. Destruction of evidence is more likely when, as is the case here, many of the target suspects are located in overseas and much of the evidence is electronic and accessible remotely through the internet.

6. In addition, in my training and experience, the disclosure of a defendant's plea may discourage individuals of interest, who are located in the United States and communicated with the defendant's customers and their conspirators, from speaking with investigators. When the investigation is a focus of intense public interest, as is the case here, such individuals are even less likely to cooperate with law enforcement officers. Publicity arising from a plea in high-interest circumstances is likely to discourage individuals from cooperating with investigators, either because of the prospect of criminal exposure or because they fear becoming the subject of media coverage themselves. Even where an individual of interest is willing to speak with investigators, the individual could potentially shape his or her statements in light of knowledge of the defendant's plea.

7. The plea materials, including the statement of the offense, identify the defendant and his online service by name and describe the service in sufficient detail that customers would be highly likely to identify their connection to the defendant.

8. In addition, many of the defendant's customers and their conspirators, some of whom are subjects and targets of the ongoing investigation, are located overseas in a jurisdiction (or jurisdictions) where the likelihood of seeking the individual's extradition to the United States is low. Any publicity relating to the defendant, or this particular facet of the investigation, will discourage those individuals from traveling to other countries.

9. I declare, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct.

Executed on February 8, 2018

Respectfully submitted,



Francesco H. Corral
Supervisory Special Agent
Federal Bureau of Investigation