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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

| | | |
|---------------------------|---|-----------------------------------|
| UNITED STATES OF AMERICA, |) | No. 3:20-cr-00079-JMK-DMS |
| |) | |
| Plaintiff, |) | <u>COUNT 1:</u> |
| |) | CONSPIRACY TO COMMIT FRAUD |
| vs. |) | AND RELATED ACTIVITY IN |
| |) | CONNECTION WITH COMPUTERS |
| MATTHEW PHILBERT, |) | Vio. of 18 U.S.C. § 371 |
| |) | |
| Defendant. |) | <u>COUNT 2:</u> |
| |) | FRAUD AND RELATED ACTIVITY |
| |) | IN CONNECTION WITH |
| |) | COMPUTERS |
| |) | Vio. of 18 U.S.C. § 1030(a)(5)(A) |
| |) | |

) CRIMINAL FORFEITURE
) ALLEGATION:
) 18 U.S.C. §§ 981, 982, 1030;
) 21 U.S.C. § 853; and 28 U.S.C. § 2461
)

INDICTMENT

The Grand Jury charges that:

COUNT 1

From in or about April 2018 through in or about May 2018, within the District of Alaska and elsewhere, the defendant, MATTHEW PHILBERT, and other persons both known and unknown to the Grand Jury, did knowingly and intentionally combine, conspire, confederate, and agree with one another to knowingly cause the transmission of a program, information, code, and command and, as a result of such conduct, intentionally caused damage without authorization to protected computers; and the offense caused and would, if completed, have caused: (a) the modification, impairment, and potential modification and impairment of the medical examination, diagnosis, treatment and care of 1 or more individuals; (b) a threat to public health and safety; and, (c) damage affecting 10 or more protected computers during a 1-year period; in violation of 18 U.S.C. § 1030(a)(5)(A) and (c)(4)(B).

Substantive Count

The facts of the separate offense charged in Count 2 are alleged to be separate overt acts undertaken in furtherance of the conspiracy and to accomplish the object of the

conspiracy, and are incorporated by reference as if fully set forth herein as separate overt acts.

All of which is in violation of 18 U.S.C. § 371.

COUNT 2

On or about April 28, 2018, within the District of Alaska and elsewhere, the defendant, MATTHEW PHILBERT, knowingly caused and attempted to cause the transmission of a program, information, code, and command, and, as a result of such conduct, intentionally caused and attempted to cause damage without authorization to a protected computer owned by the State of Alaska, and the offense caused and would, if completed, have caused: (a) the modification, impairment, and potential modification and impairment of the medical examination, diagnosis, treatment and care of 1 or more individuals; (b) a threat to public health and safety; and, (c) damage affecting 10 or more protected computers during a 1-year period.

All of which is in violation of 18 U.S.C. § 1030(a)(5)(A) and (c)(4).

CRIMINAL FORFEITURE ALLEGATION

18 U.S.C. §§ 981, 982, 1030; 21 U.S.C. § 853; and 28 U.S.C. § 2461.

The allegations contained in Counts 1-2 of this Indictment are realleged and incorporated by reference for the purpose of alleging forfeiture.

The Grand Jury hereby finds that:

There is probable cause that the property described in this Criminal Forfeiture Allegation is subject to forfeiture pursuant to the statutes described herein.

Pursuant to Federal Rule of Criminal Procedure 32.2(a), the United States of America gives notice to the defendant, MATTHEW PHILBERT, that, in the event of the defendant's conviction of the offenses charged in Count 1 or 2 of this Indictment, the United States intends to forfeit the defendant's property as further described in this Criminal Forfeiture Allegation.

Upon conviction of 18 U.S.C. § 1030, or conspiracy to commit such an offense, as set forth in Counts 1 and 2 of this Indictment, the defendant shall forfeit to the United States of America any property, real or personal, which constitutes or is derived from proceeds traceable to the violations, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c).

SUBSTITUTE ASSETS

If any of the property described above, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been comingled with other property which cannot be divided without difficulty,

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the United States of America shall be entitled to and intends to seek forfeiture of substitute property pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. §§ 982(b)(1), 1030(i)(2), and 28 U.S.C. § 2461(c).

All pursuant to 18 U.S.C. §§ 981, 982, 1030; 21 U.S.C. § 853; and 28 U.S.C. § 2461.

A TRUE BILL.

s/ Grand Jury Foreperson
GRAND JURY FOREPERSON

s/ Adam Alexander
ADAM ALEXANDER
Assistant U.S. Attorney
United States of America

c/ Adam Alexander for
C. ALDEN PELKER
Trial Attorney
United States of America

s/ Bryan Schroder
BRYAN SCHRODER
United States Attorney
United States of America

DATE: September 17, 2020

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