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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	Case No. 4:24CR3021
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
VYACHESLAV IGOREVICH PENCHUKOV,	)	
	)	Lincoln, Nebraska
Defendant.	)	February 15, 2024

TRANSCRIPT OF PROCEEDINGS  
BEFORE THE HONORABLE JACQUELINE M. DeLUCA  
UNITED STATES MAGISTRATE JUDGE

A-P-P-E-A-R-A-N-C-E-S

FOR THE PLAINTIFF:	Mr. John E. Higgins U.S. Attorney's Office - Omaha 1620 Dodge Street Suite 1400 Omaha, NE 68102-1506
	Mr. Frank Lin Department of Justice - Criminal 1301 New York Avenue Suite 600 Washington, DC 20530
FOR THE DEFENDANT:	Mr. Stuart J. Dornan Dornan Troia Law Firm 1403 Farnam Street Suite 232 Omaha, NE 68102
TRANSCRIBER:	Ms. Lisa Grimminger, RDR, CRR, CRC 100 Centennial Mall North Room 587 Lincoln, NE 68508 (402) 437-1908

Proceedings recorded by electronic sound recording, transcript produced with computer.

1 (At 1:22 p.m. on February 15, 2024; with counsel and the  
2 defendant present:)

3 COURTROOM DEPUTY: We are on the record.

4 THE COURT: We're on the record in Case  
5 Number 4:11CR3074 and Case Number 4:24CR3021, United States of  
6 America versus --

7 And I apologize, sir.

8 -- Vyacheslav, Vyacheslav Igorevich Penchukov.

9 THE DEFENDANT: Yes.

10 THE COURT: I hope that's close enough.

11 THE DEFENDANT: Vyacheslav Igorevich Penchukov.

12 THE COURT: Now, first off, I've -- I've heard that  
13 you can speak English, Mr. --

14 THE DEFENDANT: Yeah.

15 THE COURT: And can I call you Mr. Slava? That's  
16 what your counsel told me.

17 THE DEFENDANT: Yes. Thank you for this.

18 THE COURT: All right. So, Mr. Slava --

19 THE DEFENDANT: I appreciate it.

20 THE COURT: No problem. So, Mr. Slava, my  
21 understanding is you -- you do speak English.

22 THE DEFENDANT: Yeah.

23 THE COURT: Okay. So we have a Russian interpreter  
24 on the line for you right now.

25 THE DEFENDANT: I know. Thank you for this option.

1 THE COURT: Okay. And would you like to use that  
2 interpreter?

3 THE DEFENDANT: If I will need his help, I will tell  
4 him.

5 THE COURT: Okay. Perfect. So what I want to make  
6 very clear to you is we -- we have that available for you, and  
7 if at any point in these proceedings you don't understand what  
8 I'm saying or what's going on, please speak up, and we will go  
9 ahead and get that Russian interpreter to -- to tell you  
10 what's -- what we're saying.

11 THE DEFENDANT: I will try to do my best.

12 THE COURT: Okay. Thank you very much.

13 THE DEFENDANT: Thank you.

14 THE COURT: All right. So can counsel go ahead and  
15 please enter their appearance.

16 MR. HIGGINS: Good afternoon, Judge. Do you prefer  
17 that we stay seated for the sake of the record?

18 THE COURT: Yes, please.

19 MR. HIGGINS: Please show the appearance of John  
20 Higgins for the United States, and with me at counsel table --

21 MR. LIN: Frank Lin for the United States as well.  
22 Thank you.

23 MR. DORNAN: Good afternoon, Your Honor. Stu Dornan  
24 on behalf of Mr. Slava, who is present.

25 THE COURT: Okay. Now, Mr. Slava, we're here today

1 on a number of issues. The first issue that I want to address  
2 is -- is we've received what's called a Rule 20 -- 20 transfer  
3 from the Eastern District of North Carolina regarding an  
4 indictment that was filed there. Okay?

5 THE DEFENDANT: Yeah.

6 THE COURT: So we received that document, and it's my  
7 understanding that you want to plead guilty to charges that  
8 were filed against you in North Carolina as well as charges  
9 that have been filed with -- against you in Nebraska. Do you  
10 got that?

11 THE DEFENDANT: Yes, yes.

12 THE COURT: Okay. So what we're going to do is we're  
13 going to first kind of go over this North Carolina issue to  
14 make sure you understand that, and then we're going to go over  
15 the charges in North Carolina, and then we'll go -- move  
16 forward with the plea. Understood?

17 THE DEFENDANT: Yeah.

18 THE COURT: So it's my understanding you want to  
19 enter a plea of guilty to the charges that are in the --  
20 pending in the Eastern District of North Carolina. What I'm  
21 first going to do is I'm going to have the government explain  
22 to you the charges that are pending in the North -- in the  
23 Eastern District of North Carolina as well as the possible  
24 penalties for those charges. Okay?

25 THE DEFENDANT: Yeah.

1 MR. HIGGINS: Judge, do you wish me to summarize all  
2 of the counts or only the count to which he intends to plead  
3 guilty today?

4 THE COURT: Because it's unclear from the docket in  
5 the Eastern District of North Carolina, let's go ahead and  
6 summarize all of them, because it's unclear to me as to whether  
7 he's been arraigned on those.

8 MR. HIGGINS: Of course. Judge, the following is a  
9 summary.

10 Mr. Penchukov, you were charged by indictment by a grand  
11 jury in the Eastern District of North Carolina under the name  
12 Vyacheslav Igorevich Andreev. That indictment charges you with  
13 two counts.

14 Count I alleges a conspiracy, and if you were convicted of  
15 that count, you would face a penalty of not more than five  
16 years of imprisonment, a fine of up to \$250,000 or twice the  
17 amount of monetary gain or loss, whichever is greater. You  
18 could be sentenced to both the fine and the imprisonment, any  
19 term of imprisonment to be followed by a term of supervised  
20 release of no more than three years. You'd also be subject to  
21 a \$100 special assessment and an order of restitution. That is  
22 as to Count I, and Count I concerns the date range from an  
23 unknown date beginning no later than in or about November 2018  
24 and continuing through in or about April '22. So that's  
25 Count I.

1           Count II of the indictment in the Eastern District of  
2 North Carolina likewise alleges a conspiracy. That conspiracy  
3 is specifically one to commit wire fraud. It's alleged to have  
4 occurred from an unknown date but beginning no later than in or  
5 about November 2018 and continuing through in or about April of  
6 2022.

7           If you were convicted of that count, you would face a  
8 penalty of not more than 20 years' imprisonment, a fine of up  
9 to \$250,000 or twice the gross gain or loss, whichever is  
10 greater. You could be subjected to both the fine and the  
11 imprisonment, any term of imprisonment to be followed by a term  
12 of supervised release of no more than three years. You'd also  
13 be subject to a \$100 special assessment and to an order of  
14 restitution.

15           Judge, that's the summary of the charges and of the  
16 possible penalties that apply. Do you wish me to inquire of  
17 the defendant any further as to his understanding?

18           THE COURT: No thank you. Thank you, Mr. Higgins.

19           So, Mr. Penchukov, do you understand the charges and the  
20 possible penalties for those charges that are -- that are  
21 pending in the Eastern District of North Carolina?

22           THE DEFENDANT: Of course I do.

23           THE COURT: Okay. And it -- and do you want to go  
24 ahead and waive your trial rights in the East- -- Eastern  
25 District of North Carolina and have those moved to the District

1 of Nebraska for dis- -- disposition?

2 THE DEFENDANT: As you want.

3 THE COURT: Well, it's not really as I want,  
4 Mr. Slava. It's as you want. So if you want to do that, you  
5 can, because otherwise --

6 THE DEFENDANT: I -- I think I don't need it. We can  
7 go --

8 THE COURT: Say that one more time.

9 THE DEFENDANT: We can go on Nebraska case.

10 THE COURT: Okay. So you'd like to go ahead and move  
11 them -- move the Eastern District of North Carolina over to  
12 Nebraska for disposition. Is that correct?

13 THE DEFENDANT: Yes.

14 THE COURT: Okay. So -- and what -- what we're doing  
15 that for is for purposes of you pleading guilty to certain  
16 charges in the Eastern District of North Carolina indictment.  
17 Okay? And do you understand that?

18 THE DEFENDANT: Of course.

19 THE COURT: And do you also understand that that  
20 would be for sentencing on those charges that are currently  
21 pending in the Eastern District of North Carolina?

22 THE DEFENDANT: Can you repeat once again, please.

23 THE COURT: Sure. And do you understanding *[sic]*  
24 that you'd also be sentenced in the District of Nebraska for  
25 the charges that are pending in the Eastern District of North

1 Carolina?

2 THE DEFENDANT: Yes, of course.

3 THE COURT: Okay. Now, is anyone forcing,  
4 threatening, or coercing you to waive your trial rights in the  
5 Eastern District of North Carolina and have these -- these  
6 issues disposed of in Nebraska?

7 (Discussion off the record.)

8 THE DEFENDANT: No.

9 THE COURT: Okay.

10 THE DEFENDANT: It's my -- my own decision.

11 THE COURT: Okay. Perfect. So we'll hear --

12 THE DEFENDANT: I have -- I know I am not feeling  
13 pressure.

14 THE COURT: Wonderful. So given that, we're going to  
15 go ahead and transfer this case from the Eastern District of  
16 North Carolina to Nebraska for disposition so we can talk about  
17 your plea and move on for that. Okay?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. Now I need to make sure that you  
20 understand what the allegations in the indictment are and those  
21 possible penalt- -- penalties are. Mr. Higgins already  
22 explained those to you, and you indicated that you understood  
23 those. Correct?

24 THE DEFENDANT: Yes, exactly.

25 THE COURT: Okay. So now, this Court previously



1 advised you of your constitutional rights. Do you want a  
2 reminder of your right to remain silent?

3 THE DEFENDANT: No.

4 THE COURT: Do you -- do you want a reminder of your  
5 right to counsel?

6 THE DEFENDANT: No.

7 THE COURT: Okay. And just so you know, we've  
8 gone -- gone ahead and appointed Mr. Dornan, who represents you  
9 in the case ending in 3074 which was pending in Nebraska, to  
10 also represent you in the new case which was originally pending  
11 in the Eastern District of North Carolina which ends in 3021.  
12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Okay. Do you want to be re- -- reminded  
15 of your right to notify a consular officer from your country of  
16 nationality?

17 THE DEFENDANT: I don't need it.

18 THE COURT: Okay. And you have the same trial rights  
19 in the Eastern District of North Carolina as you do in the  
20 District of Nebraska. Do you want to be reminded of your trial  
21 rights at all?

22 THE DEFENDANT: No thank you.

23 THE COURT: Okay. Now, I need to explain to you that  
24 I'm not your sentencing judge and I'm not the judge who will  
25 decide whether your guilty plea is accepted or whether your

1 plea agreement is accepted. Those matters will be taken up by  
2 Judge Gerrard, who is your sentencing judge. What I can do  
3 today is I can gather some information from you and make a  
4 recommendation to Judge Gerrard on those issues. Do you  
5 pro- -- agree to proceed in front of me?

6 THE DEFENDANT: Yes, of course.

7 THE COURT: Okay.

8 (Defendant sworn.)

9 THE COURT: Now, Mr. Slava, you're under oath which  
10 means that you have sworn to tell the truth, so if you lie, you  
11 can be separately prosecuted for the crime of perjury. Do you  
12 understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Now, at this time I'm going to have the  
15 government explain to you the charges to which you intend to  
16 plead guilty and the possible penalties for those charges.

17 And, Mr. Higgins, maybe start with the Nebraska case and  
18 the counts to which he's intending to plead guilty and then  
19 move on to just the North Carolina counts that he's intending  
20 to plead guilty to.

21 MR. HIGGINS: Yes, Your Honor.

22 Mr. Slava, the count to which you've agreed to plead  
23 guilty is called a conspiracy to participate in racketeering  
24 activity, and that's alleged to have occurred from in or about  
25 May of 2009 and continuing to on or about September 29 of 2010.

1           In the event of your conviction on that count, you face a  
2 penalty of up to 20 years in prison, a fine of up to \$250,000,  
3 any term of imprisonment to be followed by a term of supervised  
4 release of no more than three years. You would also be  
5 required to pay a special assessment of \$100, and an order of  
6 restitution could also be entered. That's the -- the charge  
7 and the penalties as to Count I of the indictment pending in  
8 the District of Nebraska.

9           Turning then to the matters from the Eastern District of  
10 North Carolina, you have agreed to plead guilty to Count II of  
11 that indictment, and by way of reminder, I told you a little  
12 while ago that's the conspiracy to commit wire fraud, and if  
13 you're convicted of that count, you would face a penalty of not  
14 more than 20 years' imprisonment, a fine of not more than  
15 \$250,000, or twice the gross gra- -- gain or loss, whichever is  
16 greater. You'd also face a penalty of -- excuse me. After any  
17 term of imprisonment, you'd also be subject to a term of  
18 supervised release of no more than three years. You would also  
19 be required to pay a \$100 special assessment, and you could  
20 also be ordered to pay restitution.

21           Your Honor, anything further you require?

22           THE COURT: No. Thank you very much, Mr. Higgins.

23           Mr. Slava, do you understand the nature of those charges  
24 and the possible penalties?

25           THE DEFENDANT: Yes, of course.

1 THE COURT: Having heard that information again, is  
2 it still your intent to plead guilty?

3 (Discussion off the record.)

4 THE DEFENDANT: Yes, of course.

5 THE COURT: Okay. Can you please state your full  
6 name for the record.

7 THE DEFENDANT: My whole name is Penchukov,  
8 Vyacheslav Igorevich.

9 THE COURT: And are you the same Vyacheslav Igor- --  
10 Igorevich Penchukov --

11 THE DEFENDANT: Yes.

12 THE COURT: -- that is named in the indictment that  
13 is pending in Nebraska ending in 3074?

14 THE DEFENDANT: Yes.

15 THE COURT: And are you also the same Vyacheslav  
16 Igorevich Penchukov that is named in the indictment that was  
17 pending in the Eastern District of North Carolina that has now  
18 been moved over to the District of Nebraska?

19 THE DEFENDANT: Yes. So in North Carolina case I  
20 have a different last name, but I can confirm that it's I.

21 THE COURT: That you are the same person?

22 THE DEFENDANT: Yes, I am same person.

23 THE COURT: And just for the record, the North  
24 Carolina case has you as Vyacheslav Igorevich Andreev.

25 THE DEFENDANT: Yes, exactly.

1 THE COURT: And you --

2 THE DEFENDANT: I can confirm it.

3 THE COURT: And you are that individual; correct?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. Perfect. So are you under the  
6 influence of anything right now?

7 THE DEFENDANT: No.

8 THE COURT: Is there anything that is affecting your  
9 mind in any ability -- and your ability to make decisions?

10 THE DEFENDANT: No. I understand all what is going  
11 on right now.

12 THE COURT: Okay. Are you --

13 THE DEFENDANT: I'm -- I am in my mind. Thank you.

14 THE COURT: Good. Are you having any difficulty  
15 hearing, understanding, or answering my questions?

16 THE DEFENDANT: No, I don't.

17 THE COURT: Now, I have in front of me a petition to  
18 enter a plea of guilty and a plea agreement, both of which  
19 appear to have been signed by you. Have you gone over these  
20 with your lawyer, Mr. Dornan?

21 THE DEFENDANT: Yes, of course.

22 THE COURT: Did Mr. Dornan explain these documents to  
23 you?

24 THE DEFENDANT: Yes. We went through this plea  
25 agreement with Mr. Dornan before.

1 THE COURT: And did Mr. Dornan [*sic*] have any  
2 questions regarding these documents that he was not able to  
3 answer?

4 THE DEFENDANT: No.

5 THE COURT: Now, let's go ahead and start with the  
6 petition. It has several questions and answers in it. Did you  
7 answer each of those questions truthfully?

8 THE DEFENDANT: Okay.

9 THE COURT: Sorry. Say that -- say your answer  
10 again. Did you answer each of those questions truthfully in  
11 that petition?

12 THE DEFENDANT: Yes, of course.

13 THE COURT: Were your answers written down correctly?

14 THE DEFENDANT: Yes.

15 THE COURT: And after going through that document,  
16 did you sign it?

17 THE DEFENDANT: Yes.

18 THE COURT: Now let's go ahead and move on to the  
19 plea agreement. Did you read that plea agreement?

20 THE DEFENDANT: Yes.

21 THE COURT: Did you and Mr. Dornan go through this  
22 plea agreement?

23 THE DEFENDANT: Yes.

24 THE COURT: Was there anything that Mr. Dornan was  
25 not able to explain to you?

1 THE DEFENDANT: No. Everything was understandable  
2 and correct.

3 THE COURT: And after going through this document,  
4 did you sign it?

5 THE DEFENDANT: Yes, of course.

6 THE COURT: When you were going through these  
7 documents, were you under the influence of any drugs, alcohol,  
8 or having any difficulty thinking?

9 THE DEFENDANT: No. I was sober.

10 THE COURT: And was there anything that you did not  
11 understand about those documents when you went through them?

12 THE DEFENDANT: Nothing.

13 THE COURT: Has anyone forced you to plead guilty?

14 THE DEFENDANT: No.

15 THE COURT: And --

16 THE DEFENDANT: It was my own decision.

17 THE COURT: Has anyone threatened you in any way to  
18 get you to plead guilty?

19 THE DEFENDANT: No.

20 THE COURT: Has anyone made any promises to you that  
21 are not in the written plea agreement?

22 THE DEFENDANT: No.

23 THE COURT: Do you understand that if the Court  
24 accepts your plea of guilty that you'll be found guilty of a  
25 felony?

1 THE DEFENDANT: Once again?

2 THE COURT: Do you understand that if we accept your  
3 plea of guilty that you'll be found guilty of a felony?

4 THE DEFENDANT: Yes, of course.

5 THE COURT: And do you understand that you have the  
6 right to plead not guilty and make the government try to prove  
7 its case at trial?

8 THE DEFENDANT: Yes, I understand this.

9 THE COURT: Do you understand that you have a right  
10 to a speedy and public trial?

11 THE DEFENDANT: Yes, I understand.

12 THE COURT: Do you understand that you are giving up  
13 your right rights by pleading guilty?

14 THE DEFENDANT: Of course.

15 THE COURT: You've been represented in this case by  
16 Mr. Dornan; correct?

17 THE DEFENDANT: Yes.

18 THE COURT: And do you believe that Mr. Dornan has  
19 sufficiently investigated this case so you know what to do  
20 today?

21 THE DEFENDANT: Of course.

22 THE COURT: Are you satisfied with Mr. Dornan's  
23 representation?

24 THE DEFENDANT: I am.

25 THE COURT: Now, do you understand that if you go to



1 trial, you would have the right to counsel representation at  
2 the trial and any other stage of the proceedings at no cost to  
3 you?

4 THE DEFENDANT: I understand this, but I am not going  
5 to trial.

6 THE COURT: And do you understand that you would have  
7 a jury trial if you were to go to trial?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: Do you understand that at that trial you  
10 would have the right to see and hear the witnesses who testify  
11 against you and to have them cross-examined on your behalf?

12 THE DEFENDANT: Yes.

13 THE COURT: And do you understand that you would have  
14 the right to call your own witnesses to come testify and if  
15 they wouldn't come voluntarily you could get a court order  
16 called a subpoena to make them come and testify?

17 THE DEFENDANT: Yes, I do.

18 THE COURT: Do you understand that if you chose to  
19 trial *[sic]*, you could testify yourself or you could stay  
20 silent?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that if you stayed  
23 silent at the trial that the jury would not be able to consider  
24 your silence when determining your guilt?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you understand that Judge Gerrard is  
2 not bound by this plea agreement?

3 THE DEFENDANT: You explained me this later --  
4 before. Sorry.

5 THE COURT: Say that one more time.

6 THE DEFENDANT: You explained this to me before.

7 THE COURT: And so you do understand that; correct?

8 THE DEFENDANT: Yes, of course.

9 THE COURT: Okay. Now, do you understand that if you  
10 chose to go to trial, the government would not be able to get a  
11 conviction against you unless it was able to prove to every  
12 single juror that you were guilty beyond a reasonable doubt?

13 THE DEFENDANT: Yes, I understand this.

14 THE COURT: Okay. And you're willing to give up all  
15 of those rights and plead guilty in this -- these cases;  
16 correct?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay. Now, with a guilty plea comes a  
19 felony record. With a felony record comes the loss of civil  
20 rights. Those rights include the right to vote, the right to  
21 serve on a jury, the right to hold a public office, and the  
22 right to carry a weapon. You can also lose federal benefits,  
23 but you can lose rights. Do you understand that?

24 THE DEFENDANT: Yes, I understand, but I am not  
25 American citizen unfortunately --

1 THE COURT: Yeah.

2 THE DEFENDANT: -- probably.

3 THE COURT: Knowing that you'll -- that you could  
4 lose those civil rights, are you still willing to plead guilty?

5 THE DEFENDANT: Yes, of course.

6 THE COURT: Have you and Mr. Dornan have -- had a  
7 chance to talk about how your conviction may affect your  
8 immigration status?

9 THE DEFENDANT: Not in details, but I think we will  
10 have time to discuss this question.

11 THE COURT: Okay. Let me go through just a few  
12 things for you just in case, okay --

13 THE DEFENDANT: Okay.

14 THE COURT: -- to make sure we're buttoned up. Do  
15 you understand that if you're not a U.S. citizen, which you  
16 indicated that, that you might not be, that in addition to any  
17 other possible penalties you're facing, a plea of guilty may  
18 subject you to the removal from the United States, denial of  
19 citizenship, and denial of admission to the United States in  
20 the future?

21 THE DEFENDANT: Yes, I understand this.

22 THE COURT: Okay. Now, you're looking up for -- with  
23 regard to the Neb- -- the Nebraska count, the one ending in  
24 3074, you're looking at a sentence in this case of up to 20  
25 years in prison, a possible fine of up to \$250,000 or the

1 greater twice -- or the greater or twice the gross gain or  
2 trice -- twice the gross loss could be imposed in addition to  
3 any term of imprisonment, supervised release of -- of up to  
4 three years, and a special assessment of \$100. Is that your  
5 understanding of what you're facing with regard to the Nebraska  
6 case?

7 THE DEFENDANT: Yes.

8 THE COURT: Okay. Now, with regard to the North  
9 Carolina case which was transferred over today, you're looking  
10 at a sentence of up to 20 years in prison, possible fine of up  
11 to \$250,000 or greater -- or the greater of twice the gross  
12 gain or twice the gross loss could be imposed in addition to  
13 any term of imprisonment, supervised release of up to three  
14 years, and a \$100 mandatory special assessment. Do you  
15 understand that?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: Okay. Now, you have what's called an  
18 11(c)(1)(C) plea agreement. Now, in other words, that's an  
19 agreement with the government regarding what your sentence  
20 ought to be. Under that plea agreement you're agreeing to  
21 serve a specific sentence. Do you understand that?

22 THE DEFENDANT: Yes.

23 THE COURT: Now, that agreement's between you and the  
24 government, and as I indicated earlier, Judge Gerrard will have  
25 to decide whether he agrees with that as well. Do you

1 understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Okay. Has your attorney explained the  
4 sentencing guidelines to you?

5 THE DEFENDANT: Yes.

6 THE COURT: Okay. So we're going to talk a little  
7 bit about those, 'cause that's what Judge Gerrard's going to  
8 look at when determining your sentence. Okay?

9 THE DEFENDANT: Okay.

10 THE COURT: Do you understand that Judge Gerrard will  
11 consider all of your relevant conduct when determining your  
12 sentence?

13 THE DEFENDANT: Yes.

14 THE COURT: So he'll consider things like your  
15 criminal history, the types of crimes that are in that criminal  
16 history, the amount of money stolen, your role in that  
17 enterprise, those types of things. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: Now, once Judge Gerrard considers all of  
20 his rele- -- all of the relevant conduct and makes his  
21 findings, he will then determine what your sentence ought to  
22 be, and do you understand that his decision may -- may or may  
23 not be within that term of imprisonment set forth in your plea  
24 agreement?

25 THE DEFENDANT: Yes, I understand this.

1 THE COURT: Okay. And if he decides that it's not,  
2 he will allow you to withdraw your plea of guilty, and you can  
3 decide whether you're going to plead guilty without a plea  
4 agreement or with a different plea agreement or go to trial.  
5 Do you understand that?

6 THE DEFENDANT: Yes, of course.

7 THE COURT: But if you decide your sentence should be  
8 within the range set forth in your plea agreement, you will be  
9 required to serve all of that time, and the most you can get  
10 off of your sentence is 54 days per year for good time served  
11 and that's only if you earn good time. Do you understand that?

12 THE DEFENDANT: Yes, but in my -- in my opinion  
13 probably I will -- I will be able to use some kind of federal  
14 programs when I will be in federal prison.

15 THE COURT: Sorry. That you'll be able to use some  
16 federal programs when you're in federal prison?

17 THE DEFENDANT: Like First Step Act.

18 THE COURT: Okay.

19 THE DEFENDANT: So basically, yes, I understand that  
20 my good time is 54 days per -- per year.

21 THE COURT: Right. I just want to make sure that  
22 once -- that you understand that when Judge Gerrard imposes  
23 your sentence that you will need to serve the entirety of that  
24 sentence with the exception of any good time that you earn.

25 THE DEFENDANT: Yes.

1 THE COURT: And you --

2 THE DEFENDANT: Thank you for explanation.

3 THE COURT: Okay. Perfect. And you understand that  
4 the most that you can get off of that sentence is 54 days per  
5 year for good time served?

6 THE DEFENDANT: Yeah.

7 THE COURT: Understood?

8 THE DEFENDANT: Yeah.

9 THE COURT: Okay. Now, and once Judge Gerrard  
10 determines -- determines your time -- or do you understand that  
11 after you serve your time in prison, you may be deported?

12 THE DEFENDANT: Yes, I understand this.

13 THE COURT: And do you understand that with this plea  
14 you will have a felony record in the United States?

15 THE DEFENDANT: Yes, I understand this.

16 THE COURT: And has Mr. Dornan explained to you that  
17 with a felony record, after being deported it's unlikely that  
18 you will ever be able to legally enter the U.S. again?

19 THE DEFENDANT: Yes.

20 THE COURT: And even though you'll be deported, you  
21 may be subject to a sentencing order after you're released  
22 in -- from prison. Do you understand that?

23 THE DEFENDANT: Yes, I understand.

24 THE COURT: And after you --

25 THE DEFENDANT: Excuse me. Because I will be on

1 probation; yes?

2 THE COURT: Or supervised release --

3 THE DEFENDANT: Yeah, yeah.

4 THE COURT: -- with Judge Gerrard.

5 THE DEFENDANT: Okay. Thank you.

6 THE COURT: Okay. And you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Okay. Now, after you -- we're going to  
9 talk about that supervised release right now, because after you  
10 serve your time in prison, Judge Gerrard may order that you --  
11 you -- you do what is called supervised release, and I need to  
12 make sure you understand what that means. Okay, Mr. Slava?

13 THE DEFENDANT: Okay.

14 THE COURT: So at the time of sentencing, Judge  
15 Gerrard may include in your sentencing order a list of rules  
16 called conditions of release that you must follow under court  
17 order after you get out of prison. Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: And do you understand that if you attempt  
20 to enter the U.S. without permission while subject to the  
21 conditions of release that you could go to jail?

22 THE DEFENDANT: Yes.

23 THE COURT: And do you understand that if you violate  
24 those conditions of release, including attempting to illegally  
25 reenter the U.S. during the time of your supervision, that you



1 can be separately charged for those violations and the penalty  
2 for those crimes would be greater merely because you were still  
3 serving a sentence on this crime today?

4 THE DEFENDANT: Mm-hmm. Yes, I understand.

5 THE COURT: Okay. And do you understand that if you  
6 violate those conditions, you can be brought back to court and  
7 sent back to jail?

8 THE DEFENDANT: Yes.

9 THE COURT: Okay. And do you understand that if  
10 you -- if you violate the conditions of your release by  
11 committing another crime, your penalty or sentence on that new  
12 crime may be more than it would have been merely because you  
13 were still serving a sentence on that crime?

14 THE DEFENDANT: Yes.

15 THE COURT: You'll be required to pay a \$100  
16 mandatory special assessment with regard to both of the counts.  
17 Were you aware of that?

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. And there's no restitution,  
20 correct, Mr. Higgins?

21 MR. HIGGINS: Well, Judge, there's not a specific  
22 dollar amount, but the parties have agreed that the defendant  
23 will pay restitution as may be ordered by the Court in an  
24 amount to be determined by the Court, and that's with respect  
25 to both of the cases.

1 THE COURT: Okay. So here's what I'm -- I'm going to  
2 explain some stuff to you, Mr. Slava. Do you understand that  
3 if you are convicted of this crime charged, the Court can also  
4 order that you pay restitution to any victim? Essentially what  
5 that is that you -- order you to make good on any loss  
6 sustained by any victim of the crime. Do you understand that?

7 THE DEFENDANT: Yes, I understand.

8 THE COURT: And do you understand that at the time of  
9 sentencing, the government may present evidence to the judge  
10 and request the judge order you to pay a certain amount?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. Do you agree that the \$70,000  
13 referenced in the Nebraska superseding indictment should be  
14 forfeited to the United States as proceeds of illegal activity  
15 with regard to the Nebraska matter?

16 THE DEFENDANT: Yes.

17 THE COURT: And do you also agree that any money  
18 obtained as a result of your actions described in the North  
19 Carolina indictment should also be forfeited to the United  
20 States government as proceeds of your illegal activity?

21 THE DEFENDANT: Yes.

22 THE COURT: Okay. Now, the offense charged against  
23 you involves the element of fraud or other intentionally  
24 deceptive practice. Do you understand the Court can order --  
25 might -- may order you to notify victims that you've been

1 convicted of the crime charged in this case?

2 THE DEFENDANT: Yes.

3 THE COURT: Now, you have a plea agreement with the  
4 government which outlines the agreement regarding what should  
5 happen at the time of sentencing. At this time I'm going to  
6 have Mr. Higgins explain that plea agreement to you. Please  
7 listen.

8 MR. HIGGINS: Judge, I'm prepared to provide a  
9 summary of the plea agreement. I want to take this  
10 opportunity, though, to follow up on something you just said a  
11 moment ago, if I may.

12 THE COURT: Yes, please.

13 MR. HIGGINS: And you referred to the Nebraska  
14 indictment and a request for restitution of \$70,000. There is  
15 a forfeiture allegation in the Nebraska indictment and in the  
16 Eastern District of North Carolina indictment. Defendant has  
17 agreed to a money judgment in both of those cases in an amount  
18 equal to proceeds that were obtained, so it's a different  
19 approach than with respect to restitution, but they can overlap  
20 because you're measuring in some ways the same things. So the  
21 reference to the money judgment in the District of Nebraska is  
22 up to seven -- or excuse me. At least 70 million is what was  
23 alleged in the indictment.

24 Now, that's subject to proof, but I wanted to make that  
25 clarification because the rest's with respect to the money

1 judgment as opposed to restitution.

2 THE COURT: Okay. I want a clarification to make  
3 sure I'm totally following you, Mr. Higgins.

4 MR. HIGGINS: Sure.

5 THE COURT: Is the \$70 million with regard to the  
6 restitution or with regard to the forfeiture that's  
7 specifically set forth in the -- in the indictment?

8 MR. HIGGINS: It's in respect to the forfeiture  
9 that's specifically set forth in the indictment as a money  
10 judgment.

11 THE COURT: Okay.

12 MR. HIGGINS: So there's not a sum of 70,000 or 70  
13 million that we found somewhere he's agreeing to -- to forfeit.  
14 It's we're seeking a money judgment against him for that on  
15 that basis.

16 THE COURT: For 70 million?

17 MR. HIGGINS: Well, that's what's alleged in the  
18 indictment --

19 THE COURT: Okay.

20 MR. HIGGINS: -- Judge.

21 THE COURT: I must have misread it. I apologize.  
22 So I want to go back and -- and reclarify --

23 THE DEFENDANT: Yeah.

24 THE COURT: -- something. So with regard to the  
25 forfeiture allegation in the Nebraska -- in the Nebraska

1 indictment, do you understand that you may be required to  
2 forfeit any amount of proceeds up to \$70 million that were  
3 proceeds of your illegal actions?

4 THE DEFENDANT: I understand this, but I don't have  
5 such amounts of money.

6 THE COURT: Okay. But you understand that that could  
7 be a requirement?

8 THE DEFENDANT: Yeah, I understand.

9 THE COURT: Okay. Any other clarifications there,  
10 Mr. Higgins?

11 MR. HIGGINS: -- no, not on that issue, Judge.

12 THE COURT: Okay. And with that I think you can go  
13 ahead and go into the plea agreement.

14 MR. HIGGINS: Yes, Judge.

15 Here's a summary of the terms of the plea agreement that's  
16 applicable to the case here in the District of Nebraska and the  
17 one that was just transferred from the Eastern District of  
18 North Carolina.

19 So I'm referring to the plea agreement starting on page 1.  
20 The defendant agrees to plead guilty to Count I of the third  
21 superseding indictment that's filed here in the District of  
22 Nebraska and to Count II of the indictment that's *[sic]* was on  
23 file in the Eastern District of North Carolina. The defendant  
24 further agrees to admit the forfeiture allegations set forth in  
25 the third superseding indictment here in Nebraska and the

1 forfeiture allegation in the indictment filed in the Eastern  
2 District of North Carolina.

3 Still on the -- page 1, there at the very bottom, the  
4 United States in turns agrees that it will move to dismiss as  
5 to the defendant the indictment, the superseding and second  
6 superseding indictments, and the remaining counts in the third  
7 superseding indictment, all with respect to the matters filed  
8 in the District of Nebraska; and with respect to the indictment  
9 filed in the Eastern District of North Carolina, we agree to  
10 move to dismiss as to the defendant the remaining count in that  
11 indictment, all of that at the time of sentencing.

12 Then on page 2, there's an agreement by the parties to  
13 transfer the charges pending in the Eastern District of North  
14 Carolina here to Nebraska for purposes of plea and sentencing.  
15 You've already gone over that with the defendant.

16 Turning then, Judge, to page 8, there are a series of  
17 agreements concerning sentencing issues. So as to Count I of  
18 the third superseding indictment here in the District of  
19 Nebraska, the parties agree that -- turning over to page 9 --  
20 the base offense level is either 19 or the offense level  
21 applicable to the underlying racketeering activity, whichever  
22 is greater, and more specifically that the offense level under  
23 the applicable guideline is greater than 19.

24 And that's described in the following calculations on that  
25 same page, the first part of which is that the base offense

1 level for the underlying racketeering activity is 7 under the  
2 guidelines for the reasons stated.

3 Next, the parties agree the defendant should receive a  
4 20-offense level increase based on the amount of the intended  
5 loss under the guidelines.

6 Next that the defendant should receive a 2-offense level  
7 increase because the offense involved ten or more victims,  
8 again, pursuant to the referenced guidelines.

9 Next that the defendant should receive a 2-offense level  
10 increase because a substantial part of the scheme was committed  
11 from the out- -- from outside the United States and was  
12 otherwise involving sophisticated means.

13 Next that the defendant should receive a 2-offense level  
14 increase because the offense involved the trafficking of  
15 unauthorized access devices.

16 And then that the defendant should also receive a  
17 4-offense level increase based on his role as an organizer or  
18 leader in a criminal activity that involved five or more  
19 participants or was otherwise extensive.

20 As to Count II of the indictment in the Eastern District  
21 North -- North Carolina, the parties have the following  
22 agreements with respect to the guidelines there, and those, in  
23 substance, are on page 10.

24 First off, the base offense level is 7 under the  
25 guidelines.

1           Next, the parties agree that the gain resulted from the  
2 offense should be used as an alternative measure of loss  
3 because the offense caused a loss but the loss cannot be  
4 reasonably determined.

5           Next, the parties agree the defendant should receive a  
6 20-offense level increase because the gain that resulted was  
7 more than 9.5 million but less than 25 million.

8           Next that the defendant should receive a 2-offense level  
9 increase because the offense involved ten or more victims.

10           Next that the defendant should receive a 2-offense level  
11 increase because a substantial part of the fraudulent scheme  
12 was committed from outside the United States and the offense  
13 otherwise involved sophisticated means.

14           Next that the defendant should receive a 2-offense level  
15 increase because the offense involved the traffic in --  
16 trafficking of unauthorized access devices.

17           Next that the defendant should receive a 2-offense level  
18 increase because the offense involved the conscious or reckless  
19 risk of death or serious bodily injury.

20           Next that the defendant should receive a 4-offense level  
21 increase based on his role as an organizer or leader of  
22 criminal activity that involved five or more participants or  
23 was -- were -- or was otherwise extensive.

24           That the defendant should receive a 2-offense level  
25 increase because the offense is a felony and the defendant or



1 conspirator knowingly falsely registered a domain name and  
2 knowingly used that domain name in the course of the offense.

3 Judge, in addition to that, as to both of the -- the  
4 pending cases, the United States makes a conditional motion for  
5 a third level of reduction to his offense level for acceptance  
6 of responsibility provided that the other requirements for that  
7 reduction are met.

8 Judge, the bottom of page 11 provides that the parties  
9 agree the defendant may not request or recommend additional  
10 downward adjustments, departures, however those might be  
11 described. If they're not set forth in the agreement above,  
12 then the defendant can't make them.

13 Turning over to page 12, there's a series of detailed  
14 agreements regarding restitution, the lead of which is that the  
15 amount of restitution ordered by the Court will include all the  
16 defendant's relevant conduct, including charged and uncharged  
17 criminal conduct alleged in the third super- -- superseding  
18 indictment filed here in the District of Nebraska and also in  
19 the indictment filed in the Eastern District of North Carolina,  
20 and that relevant conduct is not limited to the counts of  
21 conviction.

22 The parties also agree that the defendant shall pay  
23 restitution in an amount to be determined by the Court. As I  
24 said, there's a series of other detailed agreements with regard  
25 to the details of collection, payment, and assessment, et

1 cetera.

2 Turning over to page 15, and finally, Judge, the defendant  
3 waives his right to appeal his conviction and his sentence. He  
4 also waives the right to seek post-conviction relief. There  
5 are limited exceptions to both of those waivers that are set  
6 out in the body of the agreement.

7 That's the summary of the plea agreement, Judge.

8 THE COURT: Thank you, Mr. Higgins.

9 Mr. Dornan, do you agree with that as- -- with that  
10 summary?

11 MR. DORNAN: Yes, Your Honor.

12 THE COURT: And, Mr. Slava, did you listen as the  
13 government described the plea agreement?

14 THE DEFENDANT: Yes.

15 THE COURT: Did that match your understanding of your  
16 agreement with the government?

17 (Discussion off the record.)

18 THE DEFENDANT: Yes.

19 THE COURT: Now, under the terms of the plea  
20 agreement, you're giving up your right to appeal and collateral  
21 attack with certain exceptions. I need to make sure you  
22 understand what you're giving up.

23 THE DEFENDANT: Yes.

24 THE COURT: Everything that's done by this court is  
25 being subject to be -- being looked at by another court to make

1 sure it was done right. That process is called an appeal, and  
2 the court that looks at it is called the Eighth Circuit Court  
3 of Appeals. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Under the terms of this plea agreement,  
6 you're giving up your right to the appeal process with two  
7 exceptions. You can claim you had ineffective assistance of  
8 counsel and you can request compassionate release and appeal  
9 that request, but in all other respects you are giving up your  
10 right to appeal. Do you understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: Now, collateral attack is different than  
13 an appeal. That proceeding is filed after the appeals process  
14 is over, and it allows you to challenge your conviction and  
15 your sentence by claiming your constitutional rights were  
16 violated. Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Under the terms of this plea agreement,  
19 you're giving up your right to that type of proceeding as well,  
20 again with -- again with two exceptions. You can claim you had  
21 ineffective assistance of counsel or you can claim what you're  
22 admitting here today is not a crime, but in all other respects  
23 you're giving up your right to collateral attack. Do you  
24 understand that?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you understand that your waiver of  
2 appeal and your waiver of collateral attack apply both to your  
3 conviction and to the sentence that you have not yet received?

4 THE DEFENDANT: Yes.

5 THE COURT: Have you talked to Mr. Dornan about your  
6 appeals rights and your collateral attack rights?

7 THE DEFENDANT: Yes, we discussed this.

8 THE COURT: And after having those discussions and  
9 considering your opinions *[sic]*, have you decided to give up  
10 your right to appeal and collateral attack with the exceptions  
11 listed in the plea agreement?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that there is no  
14 guarantee that your sentence will be less because you plead  
15 guilty instead of being found guilty by a jury?

16 THE DEFENDANT: Yes, I understand this.

17 THE COURT: Now, there's a factual basis in the plea  
18 agreement that starts at page 3 and goes into page 7. Have you  
19 gone over these facts with your attorney?

20 THE DEFENDANT: Yes.

21 THE COURT: Are these facts true?

22 THE DEFENDANT: Yeah, these facts are true.

23 THE COURT: Those facts are true; is that what you  
24 said?

25 THE DEFENDANT: Huh?

1 THE COURT: I had a little trouble hearing.

2 THE DEFENDANT: These facts are true.

3 THE COURT: Thank you. You're just a little  
4 soft-spoken, and I'm a little hard of hearing too.

5 THE DEFENDANT: Excuse me.

6 THE COURT: Now, at this time I'm going to have the  
7 government explain the key facts that they would present at  
8 trial if this case were to go to trial. Please listen, 'cause  
9 I'm going to ask you some questions about that. Okay?

10 THE DEFENDANT: Okay.

11 MR. HIGGINS: Judge, my intention is to provide  
12 essentially a recitation of what is in the plea agreement that  
13 he admitted was true so....

14 THE COURT: Perfect.

15 MR. HIGGINS: If the case were to go to trial here in  
16 the District of Nebraska, I expect our evidence would show that  
17 the defendant was part of a racketeering enterprise that United  
18 States authorities referred to as the Jabber Zeus Crew.

19 And the way that it worked was that the defendant and his  
20 co-conspirators employed malicious software, which was known as  
21 Zeus or Zbot, to infect thousands of computers with malicious  
22 software and thereby to obtain information that was necessary  
23 to access bank accounts of victim companies throughout the  
24 United States. Typically those were small businesses or  
25 nonprofit organizations. So when a computer got infected with

1 malware such as Zeus, it kept track of usernames, passwords,  
2 and other information that was entered into a bank's login web  
3 page. So then when employees of the victims entered this kind  
4 of information, the Zeus malware collected it and sent it to  
5 members of the enterprise who were located, among other places,  
6 in Ukraine.

7 So the defendant and his co-conspirators would then use  
8 that stolen information to log in to the websites of victims'  
9 banks themselves, often posing as employees of the victims.  
10 And with that access, defendant and his co-conspirators would  
11 make electronic payments from the victims' accounts using the  
12 Automated Clearinghouse, or ACH, network, in some cases  
13 emptying those victim accounts completely. The ACH network is  
14 a special-purpose computer network used only by banks that is  
15 used to clear checks and process other kinds of payments here  
16 in the United States.

17 So the defendant and his co-conspirators typically sent  
18 the ACH payments to individuals who were acting as so-called  
19 money mules. The mules received the ACH payments in their own  
20 accounts, typically here in the United States, and then wired  
21 that money to overseas accounts that were controlled by the  
22 defendant and his con- -- co-conspirators. The defendant  
23 played a crucial role, a leadership role, in this scheme by  
24 directing and coordinating the exchange of stolen banking  
25 credentials and money mules. The defendant also received alert

1 messages which provided notification once a bank account had  
2 been compromised, thereby facilitating his ability to quickly  
3 direct and coordinate the response of the enterprise to  
4 transfer funds from the victims' accounts and into the control  
5 of the participants in the conspiracy.

6 So beginning sometime in about May of 2009, ending in  
7 about May of 2010, the defendant and his co-conspirators  
8 communicated using their own instant messaging service --  
9 server known as the incomeet server, and that was after its  
10 domain name. So the defendant used that server to receive  
11 so-called alert messages from infected machines that contained  
12 compromised account credentials.

13 So that incomeet server, which it turns out was located  
14 here in the United States, was configured to log the text of  
15 every message that went through it and to associate all of  
16 those messages with the nickname of the person who sent it and  
17 the precise date and time. And through the use of several  
18 search warrants executed at different times during the course  
19 of the investigation, the government obtained those logs. And  
20 participants in the logged chat identified themselves by  
21 nicknames, as I mentioned, and the defendant's nickname was  
22 Tank.

23 So on or about July 28 of 2009, the defendant and a  
24 co-conspirator, using these nicknames, exchanged chat messages  
25 regarding transfers of funds from a bank account that belonged

1 to Doll Distributing. On or about July 29, 2009, Doll  
2 Distributing reported that two fraudulent ACH payments totaling  
3 \$59,222 were, in fact, made from its bank account. And that  
4 account was maintained with a bank headquartered in Omaha,  
5 Nebraska, First National Bank of Omaha, and that was a  
6 financial institution that was insured by the FDIC at the time,  
7 and it offered online banking services through computers -- or  
8 a series of computer servers, rather, that were located in  
9 Nebraska. So the ACH payments from the First National Bank of  
10 Omaha maintained accounts that were owned by Doll Distributing.  
11 They were made using that online banking system, which meant  
12 that someone falsely claiming to be a Doll employee had  
13 initiated the payments. And the money transferred from Doll's  
14 bank account was sent to two money mules in the United States.

15 In addition, Judge, on or about September 28 of 2009,  
16 defendant and his co-conspirators caused malicious software to  
17 be installed without authorization on a computer used by  
18 Parago, Inc. And on or about September 28, 2009, defendant and  
19 his co-conspirators used stolen bank -- rather, stolen access  
20 information to attempt to cause First National Bank of Omaha to  
21 transfer funds out of a bank account belonging to Parago and  
22 into one or more bank accounts that were designated by the  
23 conspiracy. Also on or about September 28, 2009, the defendant  
24 transmitted login credentials for an employee of Parago to a  
25 co-conspirators -- -conspirator. Those credentials included



1 the employee's username, full password, and the answers to two  
2 different security questions.

3 In addition, Judge, on or about March 3 of 2010, defendant  
4 and his co-conspirators caused malicious software to be  
5 installed without authorization on a computer used by Husker  
6 AG, LLC, a business located in Plainview, Nebraska. Now, on or  
7 about March 3 of 2010, defendant and his co-conspirators  
8 received the username and password of an employee of Husker and  
9 used those stolen credentials to attempt to cause Union Bank  
10 and Trust, a financial institution that was insured by the FDIC  
11 at the time located here in Lincoln, Nebraska, to transfer  
12 funds out of a bank account that belonged to Husker to two  
13 money mules in the United States.

14 After the defendant was initially char- -- charged for his  
15 role as described in the Jabber -- Jabber Zeus Crew in or about  
16 2015, the defendant changed his legal name to Vyacheslav  
17 Igorevich Andreev.

18 Judge, with respect to the Eastern District of North  
19 Carolina, if that case were called to trial, we expect that the  
20 evidence would show that defendant and his co-conspirators  
21 distributed spam emails containing malicious attachments that,  
22 when clicked, provided unauthorized access to a victim  
23 computer.

24 So those attachments contained a form of malicious  
25 software described as IcedID, also known as Bokbot, and that

1 malicious software collected and transmitted personal  
2 information from users of infected computers, including  
3 information necessary to enters user -- excuse me, enter users'  
4 bank accounts. IcedID also provided access to infected  
5 computers for other forms of malicious software, including  
6 ransomware.

7 So defendant and his co-conspirators, through IcedID,  
8 identified when victims attempted to communicate with websites  
9 of interest, such as websites for major financial institutions,  
10 and then redirected those victims to different websites, ones  
11 that were controlled by members of the conspiracy and that  
12 appeared to be the legitimate websites.

13 So defendant and his co-conspirators used those redirected  
14 websites to fraudulently obtain personal information from the  
15 users of infected computers, such as information necessary to  
16 enter users' bank accounts.

17 Defendant and his co-conspirators also transmitted and  
18 stored personal information from the users of infected  
19 computers to one of a number of online panels that were  
20 controlled by the conspirators.

21 Defendant and his co-conspirators also used the victims'  
22 personal information to obtain access to financial and other  
23 victim-owned accounts and to transfer money from those accounts  
24 to accounts that were controlled by the conspirators.

25 Defendant and his co-conspirators also used access to

1 victim computers to download onto them other forms of malicious  
2 software, including ransomware, onto those computers.

3 So from an unknown date but no later than in or about  
4 November of 2018 until in or about February of 2021, the  
5 defendant managed a botnet that consisted of victim computers  
6 that had been infected with this malicious software, IcedID,  
7 and as part of the defendant's management of that botnet for  
8 IcedID, the defendant maintained a spreadsheet of the income  
9 and expenses from IcedID in 2021, and that spreadsheet included  
10 a total income of over 19.9 million United States dollars for  
11 that year.

12 Also from an unknown date but not later than in or about  
13 November '18 until in or about November 2021, the defendant  
14 used IcedID panel information to steal money from victim  
15 accounts at two different financial services firms.

16 So those IcedID panels were accessible at domain names  
17 which were knowingly registered in a manner that perfected --  
18 prevented, rather, the effective identification of or contact  
19 with the person who registered the domain names, including  
20 false names.

21 Judge, also on or about August 10 of 2020, a member of the  
22 conspiracy used the IcedID malware to be transmitted to an  
23 email account belonging to a victim, which was received in  
24 Wilmington, North Carolina.

25 And on or about October 28, 2020, the IcedID malware was

1 used to obtain unauthorized access to the University of Vermont  
2 Medical Center, which I will refer to as UVMMC. That IcedID  
3 malware distributed ransomware that encrypted significant  
4 portions of the hospital's computers -- computer networks. And  
5 as a result, the hospital was unable to provide many critical  
6 patient services for over two weeks, which created a risk of  
7 death or serious bodily injury for patients. The cost to UVMMC  
8 of responding to the incident, which included conducting a  
9 damage assessment, restoring its data, its programs, systems,  
10 and information prior -- to its condition prior to the  
11 incident, and the revenue lost, costs incurred, and other  
12 damages incurred because of the interruption of services,  
13 amounted to at least \$30 million.

14 And in addition, Judge, on or about February 25 of 2021, a  
15 member of the conspiracy caused IcedID malware to be  
16 transmitted to an email account belonging to a victim, which  
17 was received in Cary, North Carolina.

18 Judge, those are our factual bases for the two cases.

19 THE COURT: Mr. Dornan, do you agree that if this  
20 case went to trial, that evidence would go before a jury?

21 MR. DORNAN: I do, Your Honor.

22 THE COURT: Mr. Slava, did you listen as the  
23 government described the evidence against you?

24 THE DEFENDANT: Yes.

25 THE COURT: Is everything the government said the

1 truth?

2 THE DEFENDANT: Yes.

3 THE COURT: Okay. So did you work with a group of  
4 individuals to infect computers used by others with malicious  
5 software in order to obtain other individuals' financial and  
6 personal information?

7 THE DEFENDANT: Yes, I did.

8 THE COURT: And the individuals' computers that you  
9 installed this malicious software on did not consent to this  
10 installation; correct?

11 THE DEFENDANT: Yes, correct.

12 THE COURT: And through the use of this software, did  
13 you and this group of other individuals work together to  
14 transfer money from these individuals to accounts outside of  
15 the U.S.?

16 THE DEFENDANT: Yes.

17 THE COURT: And these transfers were not consented to  
18 by the individuals; correct?

19 THE DEFENDANT: Yes, it's correct.

20 THE COURT: And when I say the in- -- individuals, I  
21 mean the ones who owned that money.

22 THE DEFENDANT: Yes.

23 THE COURT: And this group of individuals -- and you  
24 stole money from bank accounts?

25 THE DEFENDANT: Yes, it's correct.

1 THE COURT: And you knew these actions were  
2 occurring; correct?

3 THE DEFENDANT: Yes.

4 THE COURT: And you agreed to participate in these  
5 actions with other individuals?

6 THE DEFENDANT: Yes.

7 THE COURT: You agreed to do so voluntarily?

8 THE DEFENDANT: Yes.

9 THE COURT: And these actions occurred from about May  
10 of 2009 until about September of 20-- 2010?

11 THE DEFENDANT: Yes, but not on regular basis.

12 THE COURT: Understand. But those actions did occur  
13 during that time frame --

14 THE DEFENDANT: Yes.

15 THE COURT: -- correct?

16 THE DEFENDANT: Yes.

17 THE COURT: And some of these -- some of these  
18 actions occurred and affected accounts in Nebraska?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. Do you agree that these actions  
21 affected interstate and foreign commerce?

22 THE DEFENDANT: Yes.

23 THE COURT: Now I'm going to talk about the North  
24 Carolina -- or I'm going to talk about the North Carolina  
25 charge as well. Okay? With regard to the North Carolina

1 charge, did you work with a group of individuals to obtain  
2 money and property from individuals using malicious software?

3 THE DEFENDANT: Yes, it's correct.

4 THE COURT: And this software allowed you and the  
5 group of individuals with whom you were working to obtain  
6 access to the bank accounts of others?

7 THE DEFENDANT: Yes.

8 THE COURT: And the owners of these bank accounts,  
9 again, did not voluntarily allow you to ac- -- access their  
10 bank accounts?

11 THE DEFENDANT: It's correct.

12 THE COURT: The software allowed you and this group  
13 of individuals with whom you were working to transfer the funds  
14 outside of those individuals' bank accounts; correct?

15 THE DEFENDANT: Yes.

16 THE COURT: And they did not consent to those fund  
17 transfers?

18 THE DEFENDANT: No, they didn't.

19 THE COURT: And you also worked with others to use  
20 malware, including ransomware, to defraud individuals?

21 THE DEFENDANT: Yes.

22 THE COURT: You worked with a group of individuals in  
23 this scheme to steal money from others?

24 THE DEFENDANT: Yes.

25 THE COURT: And you voluntarily joined in that

1 scheme?

2 THE DEFENDANT: Yes.

3 THE COURT: And you knew that when you were working  
4 with this group of individuals that the purpose of the scheme  
5 was to defraud other individuals?

6 THE DEFENDANT: Yes.

7 THE COURT: And to obtain money and property from  
8 others without their consent?

9 THE DEFENDANT: Yes.

10 THE COURT: When engaging in this plan with these  
11 group of individuals, did you communicate with them via wire  
12 communications?

13 THE DEFENDANT: Yes.

14 THE COURT: And those wire communications crossed  
15 state lines or went outside -- from outside of the U.S. to a  
16 foreign country?

17 THE DEFENDANT: Yes.

18 THE COURT: Okay. And these actions occurred from  
19 approximately November of 2018 to April of 2022?

20 THE DEFENDANT: Yes.

21 THE COURT: Do you agree that these actions occurred  
22 and affected accounts in the Eastern District of North  
23 Carolina?

24 THE DEFENDANT: Yes, I agree with this.

25 THE COURT: Do you agree that all of the funds



1 obtained from these actions both that you did -- that are --  
2 you've been indicted in both Nebraska and North Carolina, all  
3 of those funds should be forfeited to the United States as  
4 proceeds of your illegal activity?

5 THE DEFENDANT: Yes.

6 THE COURT: Up to and including \$70 million, should  
7 those funds be found?

8 THE DEFENDANT: Yes, I understand.

9 THE COURT: Is there any additional questions from  
10 the government, Mr. Higgins?

11 MR. HIGGINS: Not with respect to the facts or the  
12 elements, Judge.

13 THE COURT: Okay.

14 MR. HIGGINS: The only additional question I had  
15 would be -- that I think the Court ought to pose is that when  
16 the defendant reviewed the plea agreement and the petition, he  
17 had the assistance of an interpreter available at those times  
18 as well. That was the only other thing. I thought I should  
19 mention it now.

20 THE COURT: That's -- that's a very good point.

21 Mr. Slava, so we've been talking in English throughout  
22 this entire proceeding; correct?

23 THE DEFENDANT: Yes.

24 THE COURT: And as I mentioned to you at the  
25 beginning, there was the ability for us to use a Russian

1 interpreter, should you need so.

2 THE DEFENDANT: Yes, but I didn't ask for it because  
3 I don't need it.

4 THE COURT: Correct. And when Mr. Dornan was going  
5 over the plea agreement and the petition with you --

6 THE DEFENDANT: We -- we were presented with a  
7 interpreter, and I was using his help.

8 THE COURT: Okay. So you used an interpreter then?

9 THE DEFENDANT: Yes.

10 THE COURT: And you were able to understand  
11 everything in both the petition --

12 THE DEFENDANT: I was able to understand everything.

13 THE COURT: Okay. Perfect. And you don't feel like  
14 you needed any additional help to understand what was in the  
15 petition or the plea agreement?

16 THE DEFENDANT: No, I don't need additional help.  
17 Thank you.

18 THE COURT: Okay. Do you want any clarifications on  
19 that, Mr. Higgins?

20 MR. HIGGINS: None further, Your Honor. Thank you.

21 THE COURT: Okay. Any additional questions regarding  
22 the factual basis or the elements from you, Mr. Dornan?

23 MR. DORNAN: No, Your Honor.

24 THE COURT: Mr. Higgins, do you believe the guilty  
25 plea is knowing, intelligent, and voluntary and that there is a

1 factual basis for it?

2 MR. HIGGINS: I do, Judge.

3 THE COURT: Mr. Dornan, do you agree?

4 MR. DORNAN: I do, Your Honor.

5 THE COURT: Mr. Slava, do you want the Court to  
6 accept your plea of guilty?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you have any questions of me before I  
9 proceed?

10 THE DEFENDANT: Not now.

11 THE COURT: Okay. So we're going to start with  
12 Count I of the Nebraska indictment. Bear with me for a second.  
13 To Count I of the Nebraska indictment which alleges that you  
14 violated Section 1962(d) of Title 18 of the United States Code,  
15 name -- or namely that you engaged in -- in a conspiracy to  
16 participate in racketeering activity, what do you plea?

17 THE DEFENDANT: Yes.

18 THE COURT: What -- what do you plea?

19 (Discussion off the record.)

20 THE DEFENDANT: Guilty. I plead guilty.

21 THE COURT: Okay. And then let's move on to Count II  
22 of the North Carolina indictment. To Count II of the North  
23 Carolina indictment which alleges that you violated Title 18,  
24 United States Code, Section 1349, which is, I believe --  
25 is that the wire fraud?

1 MR. HIGGINS: Conspiracy to commit wire fraud, yes,  
2 Judge.

3 THE COURT: -- which alleges that you committed a  
4 conspiracy to commit wire fraud, what do you plead, Mr. Slava?

5 THE DEFENDANT: I plead guilty.

6 THE COURT: Okay. I do find that you -- do you agree  
7 that any money obtained as your [sic] result in your actions  
8 described in the North Carolina indictment and the Nebraska  
9 indictment should be forfeited to the United States government  
10 as proceeds of your illegal activities?

11 THE DEFENDANT: Yes.

12 THE COURT: I do find that you fully understand your  
13 rights and that you freely, voluntarily, knowingly, and  
14 intelligently waive your rights and that you understand the  
15 consequences of waiving your rights. I also find that your  
16 guilty plea is knowing, intelligent, and voluntary and that  
17 you're competent to plead and that you understand the nature of  
18 the charges filed against you in this case. I find that you  
19 understand the possible penalties which may be imposed and that  
20 there is a factual basis for your plea.

21 I will recommend to Judge Gerrard that he accept your plea  
22 of guilty and he find you guilty. I'll further recommend to  
23 Judge Gerrard that he not accept the written plea agreement at  
24 this time as it contains a provision under Rule 11(c)(1)(C) but  
25 for him to reserve acceptance of the plea agreement until the

1 time of sentencing. We're looking at a sentencing date of --

2 Nicki, when's the sentencing date going to be?

3 COURTROOM DEPUTY: (No audible response.)

4 THE COURT: May 9th at 1:30. Does that work for  
5 everyone?

6 MR. DORNAN: Yes, Your Honor.

7 MR. HIGGINS: Yes, Judge.

8 THE COURT: Is the interpreter still on the line?

9 THE INTERPRETER: Yes, interpreter is on line.

10 THE COURT: Does May 9th at 1:30 work for you, sir,  
11 for us to re- -- reengage you pursuant to TIP?

12 [Overlapping speakers]

13 COURTROOM DEPUTY: [Unintelligible] TIP?

14 THE INTERPRETER: Yes.

15 THE COURT: Okay. Perfect. So we'll go ahead and  
16 reconvene, then, at that point in time.

17 Until then, Mr. Slava, you will be remanded to the custody  
18 of the U.S. Marshals.

19 Is there anything further from the government?

20 MR. HIGGINS: Nothing further, Judge.

21 THE COURT: Anything further from the defendant?

22 MR. DORNAN: No, Your Honor. Thank you very much.

23 THE COURT: All right. Thank you. Have a nice day.

24 THE DEFENDANT: Thank you.

25 (Adjourned at 2:38 p.m.)

