

Exhibit “A”
February 19, 2021 Third Circuit denial

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-3694

CHRISTOPHER RAD,
Appellant

v.

UNITED STATES OF AMERICA

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 3-15-cv-07740)
District Judge: Honorable Anne E. Thompson :

Submitted Pursuant to Third Circuit LAR 34.1(a)
February 17, 2021

Before: GREENAWAY, Jr., KRAUSE, and BIBAS, Circuit Judges

(Opinion filed: February 19, 2021)

OPINION*

PER CURIAM

Christopher Rad appeals from the District Court's order denying his motion under
28 U.S.C. § 2255. We will affirm.

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not

I.

In 2011, Rad was indicted on federal charges relating to his role in the use of spam emails as part of a "pump and dump" stock price manipulation scheme. Rad was the middleman between the masterminds of the scheme and the personnel who executed it through email spamming. The superseding indictment charged Rad with nine counts. Count One charged him with conspiracy to commit: (1) securities fraud in violation of 15 U.S.C. §§ 78j(b) and 78ff; (2) "false header spamming" in violation of 18 U.S.C. § 1037(a)(3); and (3) "false registration spamming" in violation of 18 U.S.C. § 1037(a)(4). Counts Two through Four were substantive charges of false registration spamming. Count Five was a charge of conspiring to commit "unauthorized access spamming" in violation of 18 U.S.C. § 1037(a)(1), and Counts Six through Nine were substantive charges of unauthorized access spamming.

The evidence against Rad at trial included the testimony of James Bragg, who testified in support of the spamming aspect of Count One and the substantive false-registration counts at Counts Two through Four. Bragg testified generally that Rad hired him to send the spam emails at issue, that Bragg did so by sending mass emails with false header information and from falsely registered accounts, and that Rad knew as much. Bragg's testimony was corroborated in part by numerous transcripts of Skype chats

between Rad and Bragg, in which they discussed the email campaigns, as well as test emails that Bragg sent to Rad containing false header information.

On the basis of this and other evidence, a jury found Rad guilty of Counts One as to spamming and of Counts Five through Nine. The jury found Rad not guilty of Counts Two through Four. The District Court sentenced Rad to 71 months in prison. We affirmed. See United States v. Rad, 559 F. App'x 148 (3d Cir. 2014).

Rad later challenged his convictions by filing a § 2255 motion. In that motion, Rad raised several claims regarding the witness Bragg as well as other claims that are not presently relevant. Bragg's spamming activities had subjected him to federal criminal charges of his own. At the time of Rad's trial, Bragg (1) had pleaded guilty and been sentenced in the Eastern District of Michigan, and (2) had pleaded guilty and was awaiting sentencing in the District of New Jersey. Rad argued that the Government, in violation of Brady v. Maryland, 373 U.S. 83 (1963), failed to disclose materials from Bragg's Michigan case that Rad could have used to further impeach his credibility. Rad also argued that those materials and others showed that Bragg lied about various points at trial and that the Government, in violation of Giglio v. United States, 405 U.S. 150 (1972), and Napue v. Illinois, 360 U.S. 264 (1959), failed to correct Bragg's testimony.

The District Court denied these claims on the merits but scheduled a hearing on one of Rad's other claims and later denied that claim as well. Rad then appealed, and we issued a certificate of appealability ("COA") limited to his Brady and Napue claims

regarding Bragg.¹ With our COA grant, we have jurisdiction under 28 U.S.C. §§ 1291 and 2253(a). Our review is plenary because the District Court did not hold a hearing on these claims. See Cordaro v. United States, 933 F.3d 232, 241 (3d Cir. 2019).

II.

Having carefully reviewed the record and the parties' briefs, we will affirm. We focus on Rad's strongest claim, but our discussion of materiality below effectively resolves Rad's other claims as well.

Bragg testified at trial that he and Rad worked together on the scheme at issue here and that, toward that end, he sent numerous spam emails on Rad's behalf. At Bragg's Michigan sentencing, however, Bragg stated² that he did not work with someone to

¹ Our order read in relevant part:

Appellant's request for a COA is granted on his claims regarding James Bragg that: (1) the Government violated Brady . . . by failing to disclose evidence relating to Bragg's Michigan case; and (2) the Government violated Giglio . . . and Napue . . . by knowingly presenting or failing to correct Bragg's allegedly false or misleading testimony. This COA includes the issue (to the extent that a COA might be required on it) whether the District Court erred in denying appellant's requests for Brady-related discovery regarding Bragg. This COA does not, however, include any claim based on the testimony of FBI Agent Laurie Allen. As to that claim and all of appellant's other claims, including appellant's claims of ineffective assistance of counsel, appellant's request for a COA is denied.

² We use the word "stated" rather than "testified" because the transcript of Bragg's Michigan sentencing does not reflect whether he was placed under oath. See United States v. Ward, 732 F.3d 175, 182 (3d Cir. 2013) (noting that "[t]he contemporary practice of swearing or not swearing defendants before a Rule 32 allocution varies by district and by judge"). Our decision, however, does not turn on that point.

whom Bragg referred as “him” and did not send emails on that person’s behalf. The relevant statements are in the margin.³ Rad claims that Bragg’s reference to “him” was to Rad. Rad further claims that he could have used these statements to impeach Bragg’s testimony at trial but that the Government withheld them in violation of Brady. A Brady violation occurs when (1) a prosecutor suppresses evidence that is both (2) favorable to the accused and (3) material to the outcome of the trial. See Dennis v. Sec’y, Pa. Dep’t of Corr., 834 F.3d 263, 284-85 (3d Cir. 2016) (en banc).

The District Court rejected this claim on the ground that, given the number of conspirators in both the Michigan and the New Jersey cases, Bragg’s reference to “him” was too vague to be understood as a reference to Rad. But even if we were to accept Rad’s arguments that this reference was to Rad or at least could have been used by him to further impeach Bragg and that it was suppressed by the Government, Bragg’s reference

³ At his Michigan sentencing, Bragg stated:

I talked to them up until 2008, but I didn’t do work. I technically never sent spam e-mail for him but he did talk to me and I, in my chat logs I actually told him multiple times that I didn’t want to work with him, his group, because the guy he was using was breaking the law; he was hacking and things like that. That’s said multiple times in the logs. But he did send me money. He did send me \$20,000 that I can recall, but \$10,000 of it was taken back, \$10,000 I did keep. But other than that, I really actually never, I never proceeded to send e-mail for him.

(Supp. App’x at 1558.)

to “him”⁴ is not dispositive of this claim because it was not material. Evidence is material for Brady purposes if there is a reasonable probability that its disclosure would have produced a different result. See id. at 285. Rad argues in conclusory fashion that the Government’s “entire case” hinged on Bragg’s testimony, but he has not addressed much of the other evidence against him and he ultimately has not made this showing.

Three interrelated considerations lead us to that conclusion. First, Bragg’s credibility already was significantly impeached at trial by his criminal record and his admission that he hoped for leniency on his New Jersey sentence in exchange for his testimony against Rad. (Supp. App’x at 138-40.) That admission led the District Court to instruct the jury that Bragg’s testimony “may have been influenced by [his] plea agreement” and that the jury “should consider his testimony with great care and caution.” (Id. at 1092.) Moreover, Bragg admitted on cross-examination that he lied on other occasions (id. at 201, 284), and those admissions and other evidence led Rad’s counsel to argue throughout his closing that Bragg had lied under oath and “lied constantly” (id. at 1206, 1211, 1218-19, 1223-24, 1228, 1233).⁵

⁴ As the Government noted below, Bragg’s reference to “him” likely was to Rad because (1) Bragg made the reference in connection with the New Jersey case involving Rad, and (2) Bragg claimed, and the evidence at Rad’s trial showed, that it was Rad who discussed these issues with Bragg and paid him \$20,000.

⁵ To be clear, we do not reject this claim on the ground that impeachment of Bragg with his statements at his Michigan sentencing would have been merely cumulative. It would not have been. The same cannot be said for the evidence underlying Rad’s other claims. Rad claims, for example, that the production of additional materials and correction of Bragg’s allegedly false testimony at trial would have allowed him to impeach Bragg with

Second, the Government itself acknowledged Bragg's credibility problems at closing and argued that the jury should not accept his testimony at face value but should instead look to documentary evidence corroborating that testimony. (*Id.* at 1155.) The Government then highlighted that corroborating evidence throughout its closing. That evidence, as relevant to the Count One spamming conspiracy, included Skype chat logs and emails showing that Bragg sent Rad test emails with false header information (*id.* at 70, 118-19, 124-28, 135-36, 1376-1400), that Bragg informed Rad that his emails were bypassing spam filters (*id.* at 82-83, 1296), and that Rad continued to work with Bragg even after learning that he had been indicted for illegal spamming in Michigan (*id.* at 106-07, 1299-1300), which Rad initially denied having known at the time (*id.* at 50).

Finally, the jury found Rad not guilty of Counts Two through Four, which charged Rad with aiding and abetting Bragg's illegal spamming activities. Those charges were supported by Bragg's testimony but not by the same kind of corroborating evidence supporting the spamming conspiracy charged in Count One of which the jury found Rad guilty. Given all of these circumstances, there is no reasonable probability that the jury would have found Rad not guilty of Count One too if Rad had been able to further

a possible motive to cooperate in exchange for leniency in his Michigan case. But Bragg already admitted that he had an actual motive to testify against Rad because he hoped for leniency in his New Jersey case. The speculative possibility that Bragg may also have had such a motive by reason of his Michigan case—which did not involve Rad, and which had long concluded by the time of Rad's trial—would have added nothing to that line of impeachment.

impeach Bragg with Bragg's statements at his Michigan sentencing. Nor is there any merit to any of the other claims and issues on which we granted a COA.⁶

III.

For these reasons, we will affirm the judgment of the District Court. Rad's motion for leave to file an overlength reply brief is granted. Rad's motion to take "judicial notice" is denied.⁷

⁶ In his opening brief, Rad raises a number of claims that we did not certify for appeal. After the Government argued that we should not consider those claims, Rad clarified that he raised them merely to provide "context." In any event, we decline to address the merits of Rad's non-certified claims.

⁷ By this motion, Rad seeks to assert a claim that he has been rendered innocent by Rad v. Attorney General, 983 F.3d 651 (3d Cir. 2020), in which we recently addressed the immigration consequences of his convictions. We could construe Rad's motion as an application under 28 U.S.C. §§ 2244 and 2255 for leave to file a second or successive § 2255 motion because Rad appears to be seeking to raise another § 2255 claim and our disposition of this appeal concludes his initial § 2255 proceeding. See United States v. Folk, 954 F.3d 597, 609 (3d Cir. 2020). We decline to do so both because Rad knows how to file § 2244 applications (C.A. No. 17-2290) and because Rad's reliance on our opinion in his immigration case does not qualify for authorization. See 28 U.S.C. §§ 2255(h). We further decline to address whether Rad has any other procedural mechanism for raising this claim because this claim lacks merit. In Rad, we held (as relevant here) that convictions under 18 U.S.C. §§ 1037(a)(3) and (4) categorically involve fraud or deceit for purposes of 8 U.S.C. § 1101(a)(43)(M)(i). Contrary to Rad's argument, we did not interpret these statutes in a way that makes Rad innocent of those offenses or that renders the evidence at trial insufficient to convict.

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District Judge: Honorable Anne E. Thompson

Submitted Pursuant to Third Circuit LAR 34.1(a)
February 17, 2021

Before: GREENAWAY, Jr., KRAUSE, and BIBAS, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the District of New Jersey and was submitted pursuant to Third Circuit LAR 34.1(a) on February 17, 2021. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the judgment of the District Court entered November 13, 2019, be and the same is hereby affirmed. Costs will not be taxed. All of the above in accordance with the opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: February 19, 2021

Exhibit "B"
April 1, 2021 rehearing denial

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 19-3694

CHRISTOPHER RAD,
Appellant

v.

UNITED STATES OF AMERICA

(D.N.J. No. 3:15-cv-07740)

SUR PETITION FOR REHEARING

Present: SMITH, Chief Judge, and McKEE, AMBRO, CHAGARES, JORDAN,
GREENAWAY, JR., KRAUSE, RESTREPO,
BIBAS, PORTER, MATEY, and PHIPPS, Circuit Judges

The petition for rehearing filed by Appellant in the above-captioned case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc is **DENIED**.

By the Court,

s/Stephanos Bibas
Circuit Judge

Dated: April 1, 2021

Exhibit "C"

2012 trial transcripts

P. 99, 115, 138, 144, 146, 193, 205, 207, 253, 282, 283,
286, 287, 288, 301, 312, 331, 338, 341, 343, 349, 364,
1358, 1360, 1361, 1362

- 1 is "he"?
- 2 A Mr. Rad.
- 3 Q Mr. Rad was using Breg prior to you?
- 4 A Yes.
- 5 Q Did you also at times work with Breg?
- 6 A Yes, I did.
- 7 Q And what does that mean, a deal?
- 8 A A spam campaign for a stock.
- 9 Q What is RSUV?
- 10 A It's a stock.
- 11 Q Did you ever meet Breg?
- 12 A In person, no, just through Skype.
- 13 Q How did you interact?
- 14 A Skype and ICQ.
- 15 Q You've now said Skype and ICQ.
- 16 Why would there be two different things of
- 17 communicating in chats?
- 18 A On Skype is where you say what you're supposed to say,
- 19 legitimate things. When you don't want people to see or know
- 20 what you're saying, that's when you switch to ICQ and you chat
- 21 there.
- 22 Q Why is that?
- 23 A Well, you, obviously, if you're doing something you don't
- 24 feel that's correct or legal, you don't want to say it and
- 25 it's common belief by most spammers in the world that Skype is

1 Q When you sent -- did you send out an e-mail based on
2 this?

3 A Yes, I did.

4 Q When you sent it out, was it truthful?

5 A No, it was not.

6 Q When the defendant sent you this Skype chat with the
7 amount of shares, was it truthful?

8 A No, it was not.

9 Q Mr. Bragg, I want to go back to the percentages for one
10 second.

11 You said that sometimes the percentages was 15. Was it
12 also standard for it to be 30 percent?

13 A On the doubles?

14 Q On the doubles.

15 A Yes.

16 Q I'd like to hand you what's been marked or turn to
17 exhibit number 15 and offer this into evidence, your Honor.

18 What is this, Mr. Bragg?

19 A This is a Skype chat log, again between me and Mr. Rad.

20 Q And what is the date of this?

21 A 12/20, 2007.

22 Q How does it compare to the date of the prior exhibit we
23 just reviewed?

24 A It's the same date, roughly four hours later.

25 Q Four hours later.

1 Q Did you do any cooperation where you were given credit
2 for cooperation as part of the Ralsky case?

3 A No.

4 Q You were sentenced to a year and a day.

5 Did you have to serve a sentence as part of that case?

6 A Yes, I did.

7 Q When was the sentence, if you remember, the exact dates
8 or approximate dates, did you serve with respect to Alan
9 Ralsky?

10 A From the end of 2008, roughly end of 2008 until toward
11 the end of 2009, I believe.

12 I'm sorry, that's incorrect. 2009, I was released in
13 2010, in May of 2010.

14 Q 2009 to 2010 was the date of your sentence?

15 A Yes.

16 Q Before that sentence, were you working with the
17 Government?

18 A No, I was not.

19 Q I'm handing you what's been marked as Government exhibit
20 number 49.

21 As we turn to discuss exhibit number 49, I want to ask
22 you, without the defendant approaching you about your case
23 with Alan Ralsky, did you volunteer to him, hey, I was
24 involved in this investigation of pump-and-dump stock spam?

25 A No, I didn't.

1 want to say things incriminating that could be, prime example,
2 put into logs.

3 To run ICQ, by default it isn't logging in, most people
4 use it when they don't want anything recorded.

5 Q I want to turn you now to Government exhibit number three
6 and take a look at some of these statements.

7 What is Government exhibit number three?

8 A Again, a Skype chat between myself and Mr. Rad.

9 MR. LIEBERMANN: Your Honor, I move to admit.

10 MR. MONTENEGRO: What number is that?

11 MR. LIEBERMANN: Three.

12 (G-3 is marked into evidence.)

13 THE COURT: All right.

14 Q Mr. Bragg, I want to turn you to 12:26:54. Right here.
15 Could you tell us what you said, 12:26:54 seconds?

16 A I use 100 percent stock e-mails.

17 Q What does that mean?

18 A They're all people that are interested in stock.

19 Q That's what you told the defendant?

20 A Yes.

21 Q And if we scroll down a little further to 12:27:23?

22 A I am 100 percent legit.

23 Q What does that mean?

24 A It means I do things correctly.

25 Q Was this true?

1 lists.

2 Q What's a coreg investment list?

3 A It's a list you purchase that people have agreed to
4 accept third-party offers from.

5 Q What were all these conversations we just read?

6 A Kind of in code. You know, he understands what you're
7 saying, but you say it in a way not to incriminate yourself.

8 Q Were there more such conversations?

9 A Yes.

10 Q Let's move away from that and go back to some Skype and
11 e-mails. I want to turn to Government exhibit number 298.

12 What is this we're looking at?

13 A This is Mr. Rad pasting a copy of Asiana Corporation
14 e-mail message to be sent out to me.

15 Q I said that we're not going to go through particular
16 details through all this, but I want to take this through the
17 Asiana Corporation deal.

18 MR. LIEBERMANN: I move to admit exhibit 298.

19 THE COURT: All right.

20 (G-298 is marked in evidence.)

21 Q What's happening in this particular Skype chat?

22 A The only thing occurring is him pasting me the message to
23 be sent out.

24 Q What's the date of this e-mail?

25 A 6/28, 2008.

1 billybob, doesn't it?

2 A That's the way it's displayed.

3 MR. LIEBERMANN: Objection, your Honor. If he wants
4 to ask how it comes across on that, he should show it to him.
5 He hasn't seen this exhibit.

6 THE COURT: Hold it.

7 Is whatever you're using there in evidence?

8 MR. MONTENEGRO: No, your Honor.

9 THE COURT: Well, are you going to offer it into
10 evidence?

11 MR. MONTENEGRO: I am.

12 THE COURT: Is there an objection?

13 MR. LIEBERMANN: No, your Honor.

14 THE COURT: Let's publish it to the jury and show it
15 to the witness.

16 MR. MONTENEGRO: Yes, your Honor.

17 (G-260 is in evidence.)

18 THE COURT: May I ask a question? I'm confused about
19 something.

20 When did you become aware, Mr. Bragg, when did you
21 become aware of the Government's investigation into this case?

22 THE WITNESS: When I was already serving jail time
23 for the previous case.

24 THE COURT: And that was when, you said in 2009?

25 THE WITNESS: Yes.

- 1 Q Okay.
- 2 What do you say after that?
- 3 A So I do nothing wrong.
- 4 Q And then Mr. Rad says, yeah, our lawyers say we have a
- 5 great thing going. That is great. We got no probs.
- 6 So what do you say at that point?
- 7 A I say, the problem with people like Ralsky is they're so
- 8 greedy, they just break the rules and do not think how it will
- 9 affect those around them.
- 10 Q And then you say?
- 11 A Now I have to deal with this crap, I never made a cent.
- 12 Q Mr. Rad says, yeah, stupid, do you think tomorrow will be
- 13 okay?
- 14 You say?
- 15 A Yes, I did nothing.
- 16 Q And what did you mean by, "yes, I did nothing"?
- 17 A To saying I did nothing wrong at this point. I assumed
- 18 I'm not being watched.
- 19 Q So you represented to Mr. Rad that all your lists were
- 20 opt-in, that you were 100 percent legitimate, no fraud in your
- 21 letters and that you didn't even do anything wrong in the
- 22 Ralsky case?
- 23 A Yes, on Skype that's what I said.
- 24 Q And you also represented that you didn't even make a
- 25 cent?

1 information.

2 Q So let me ask you this: Did you get on the phone or on
3 ICQ and tell him, I was just kidding about those opt-in lists,
4 I really do things illegally?

5 A I never had a phone conversation with Mr. Rad, no.

6 Q Okay.

7 How about an ICQ chat with him in that respect?

8 A I can't state whether I had one at this time or not. We
9 did have ICQ chats.

10 Q So you did not represent to Mr. Rad that what you said in
11 that chat, those chats was false, did you?

12 A To the specific chat, I can't say either way. I don't
13 recall exactly when our ICQ chats took place.

14 Q Okay.

15 So at this point, we can -- you can -- are you
16 testifying to the jury that you had told Mr. Rad that you were
17 100 percent legit and you did everything legally with opt-in
18 lists?

19 A I can testify to what I said in this chat, that I did say
20 that on Skype, yes.

21 Q And you can't testify otherwise, can you?

22 A No, I cannot.

23 Q Okay.

24 Let's move to Government exhibit number 194. I'm not
25 certain if that has been admitted already.

1 information?

2 A Yes.

3 Q Okay.

4 In the case of stock opt-ins, would the recipient be
5 requesting information regarding stocks?

6 A Due to the fact I bought the list, I can't say whether
7 that was true or not. They were a very small majority was
8 opted in through my website.

9 Q Okay.

10 How about the opt-ins that you developed, can you be
11 certain about that?

12 A Yes.

13 Q Okay.

14 So when you told Christopher Rad that you were 100
15 percent legit, did you mean that the recipients had requested
16 that information?

17 A I was speaking on Skype and on Skype --

18 Q Just answer the question.

19 A On Skype, yes, I said that.

20 Q Okay.

21 Now, you had an opportunity to go through your chats?

22 A Only the exhibits presented here today.

23 Q Okay.

24 Did you, in any of those chats, exchange an ICQ handle
25 or number with Christopher Rad?

1 A It would have been six percent the volume of shares
2 traded, minus 30 percent for duplicates. That was the
3 original agreement.

4 Q How much were you paid?

5 A I do not recall.

6 Q Okay.

7 Do you recall receiving money into your e-gold account?

8 A Yes, I do.

9 Q Okay.

10 And do you recall your contract being -- well, do you
11 recall that Mr. Rad sent you \$10,000?

12 A Yes, I recall that.

13 Q Okay.

14 And do you recall that somehow the account got, your
15 account got credited \$20,000?

16 Do you recall that?

17 A That is correct.

18 Q And do you recall Mr. Rad asking you for the 10,000 extra
19 dollars that were deposited into your account to be returned
20 to him?

21 A I don't recall that.

22 Q Okay.

23 But you do recall being overpaid \$10,000?

24 A Yes, I do.

25 Q And do you recall telling Mr. Rad that that money went

1 directly to the Russians and you didn't have any control over
2 that?

3 A I don't recall that conversation.

4 Q Okay.

5 But, in fact, that money went to your account at
6 billybob68, didn't it?

7 A That account was frozen and the assets were taken by
8 e-gold.

9 Q I'm sorry?

10 A That account was -- e-gold took that account, they froze
11 the account, they took the assets.

12 Q I see.

13 A I believe I withdrew roughly 7,000 of that. The e-gold
14 held the rest.

15 Q But that's not what you told Mr. Rad, did you?

16 A I don't recall what I told Mr. Rad.

17 Q Do you recall Mr. Rad doubting whether you sent e-mails
18 on his behalf at all?

19 A I don't recall the conversation. If you have a Skype
20 chat I can look at to refresh, I don't recall that.

21 Q Well, we saw some e-mails where you discussed another
22 stock with Mr. Rad, which was LGYH.

23 You remember that, don't you?

24 A Yes, I remember that.

25 Q Okay.

1 Q Okay.

2 Did you read the content of the letters?

3 A On occasion.

4 Q Okay.

5 But nothing stuck out at you as being materially false,
6 did it?

7 A There was an e-mail where he had a projected price and I
8 questioned on that, but then I was told at that time that an
9 analyst had made that prediction.

10 Q Okay. Very good.

11 Now, you claimed that the disclaimer was false,
12 correct?

13 A Yes.

14 Q Why -- well, let me rephrase that.

15 Why did you not discuss that falsehood through another
16 type of communication instead of Skype?

17 A I mean, when you're spamming, that's expected. You
18 understand that you're always going to be sending things that
19 you don't know whether they're correct or not.

20 Q Okay.

21 But last week you testified that on Skype, you want to
22 say things that are legal and discuss illegal things through
23 other means.

24 Do you recall that?

25 A That is correct.

1 Q But now you're saying that the disclaimer was false.

2 Isn't that inconsistent?

3 I mean, shouldn't that be something you would normally
4 discuss outside of Skype?

5 A No. That's part of what you do, you understand that the
6 content of the e-mail is what they give you. It's not
7 something you discuss. Using botnets or things like that,
8 that is something you would discuss on Skype -- ICQ, sorry.
9 You're not there to question what they give you to send.
10 You're there to send it for them.

11 Q Okay.

12 So your conversations regarding the disclaimer were not
13 a discussion regarding any illegality, was it?

14 A I don't recall ever discussing the disclaimer with him.

15 Q But there was a disclaimer, wasn't there?

16 A There was a disclaimer provided, yes.

17 Q And did you ever have a telephone conversation with Mr.
18 Rad?

19 A No, I have not.

20 Q Okay.

21 And you do not recall having an ICQ conversation with
22 him either, do you?

23 A Not about the disclaimer, no.

24 Q You don't recall having an ICQ conversation with Mr. Rad
25 at all, do you?

1 A That's not true.

2 Q When did you have an ICQ conversation with Mr. Rad?

3 A We had discussed tcb, myself and Mr. Rad had discussed my
4 mailing when I was introduced to Mr. Rad and I explained to
5 him at that time I don't use botnets, I send through large
6 e-mail providers and it was basically a discussion about how
7 my mailer is different than his current mailer Breg.

8 Q If ICQ is so private, why not just stick to ICQ?

9 A That wasn't my preferred; all my contacts were on my
10 Skype.

11 Q How long does it take to add a contact on ICQ?

12 A You have to request information from the person and add
13 them. It's a preference, it's not a -- I prefer Skype. Skype
14 allows you to do voice and text, ICQ does not.

15 Q Okay.

16 But last week you testified that the preferred method
17 for persons doing something illegal is to chat about legal
18 things on Skype and illegal things on something else, like
19 ICQ.

20 Do you remember that?

21 A That is correct.

22 Q Okay.

23 So you basically prefer to use Skype all the time,
24 don't you, then?

25 A Yes, majority of my conversations are not about illegal

1 believe that I had stated those specific facts, that's true.

2 Q Okay.

3 And by explaining how your mailer works, you're talking
4 about those Rolex watch e-mails, aren't you?

5 A No, I'm talking about how my mailer worked in general.

6 Q But you never explained that you would use different from
7 names during that explanation, did you?

8 A My explanation was my software created fictitious -- I
9 don't know that I used the word "fictitious." They created
10 e-mail addresses as I needed them to send the e-mails through.

11 Q And when did you say that?

12 A That was when we were discussing the difference between
13 my mailer and Breg's mailer and that was on ICQ.

14 Q Oh, I see.

15 That was on ICQ, not in any of the chats that we've
16 seen?

17 A That is correct, unless you have ICQ chat logs.

18 Q Okay.

19 Now, I thought you said that ICQ didn't keep logs of
20 chats?

21 A No, I said by default, logging is not turned on. You can
22 enable logging, but it's not by default turned on. That's
23 what I had stated.

24 Q I see.

25 Now, did any of those names that you used, did they

1 Q Well, why don't you define that for us?

2 A What I agreed to is to provide any conversations that I
3 had acquired after that point online as those presence.

4 Q And would you please tell the jury what the date is on
5 that document?

6 A 8/6/09.

7 Q Okay.

8 And where were you at that time?

9 A In prison.

10 MR. MONTENEGRO: I move to admit Government exhibit
11 J-JB-28.

12 MR. LIEBERMANN: No objection.

13 MR. MONTENEGRO: Move to publish to the jury.

14 (Exhibit J-JB-28 is marked in evidence.)

15 MR. MONTENEGRO: May I approach the witness, your
16 Honor?

17 THE COURT: Yes.

18 Q Mr. Bragg, I'm handing you what is marked as Government
19 exhibit J-JB-3.

20 Would you identify what kind of document that is?

21 A It's a Skype chat log, June of 2010.

22 Q June what?

23 A 2010.

24 Q What date in June?

25 A The 24th.

1 Q So in this case, you were suggesting using illegal
2 proxies?

3 A Yes.

4 Q Even though you had just been to prison for that?

5 A I wasn't in prison for using proxies. I was in prison
6 for spamming and security fraud.

7 Q Basically you were lying about wanting to use illegal
8 proxies?

9 A No, if I was to go forward with this, I would need
10 proxies to use them. I had no intention of moving forward,
11 but with the current software that was available for spamming,
12 it was a requirement to use it.

13 Q Okay.

14 Now, if you were at this time working with the
15 Government, isn't it, in fact, true that you were
16 communicating the intent to use illegal proxies?

17 A I don't understand the question.

18 Q Well, weren't you trying to set up Mr. Rad to use illegal
19 proxies?

20 A No, I was going along with what would be expected for me
21 to say to be able to currently use the software that was
22 available.

23 Q Expected from you to say by the Government?

24 A No, by anyone that would hire me to do a spam promotion.

25 Q And you think that anyone would expect you to do illegal

- 1 Q Yeah.
- 2 It has just been a few days before?
- 3 A I'm not aware exactly. I was out of the country. I'm
- 4 not aware what day the indictment was issued.
- 5 Q Okay.
- 6 And at 1:45:26, when Mr. Rad says wtf, you recognize
- 7 those initials to mean what the heck, right?
- 8 A Yes.
- 9 Q Not using the F word.
- 10 A Yes.
- 11 Q Okay.
- 12 Your response is, I'm wanted for questioning about
- 13 Ralsky, correct?
- 14 A That is correct.
- 15 Q And what do you say at 1:45:39?
- 16 A I cannot see that on my screen.
- 17 I said, I was not part.
- 18 Q And then?
- 19 A But I know him.
- 20 Q And then?
- 21 A Found e-mails from me on his son-in-law's PC.
- 22 Q So there you're lying to Mr. Rad because you were, in
- 23 fact, involved, weren't you?
- 24 A Yes, I was not wanting to incriminate myself on Skype.
- 25 Q Now, let's go to the second page of that.

1 doing direct IP, just another way of saying it.

2 Q So you weren't hijacking anyone else's computers?

3 A No, I was not.

4 Q However, at 4:55:40, you say that you didn't go to trial
5 because even though you would have won. Is that correct?

6 A Yes, my attorney assured me I would have won.

7 Q And is that because your attorney is so good or because
8 you were doing nothing wrong?

9 A I don't know why. I'm not a lawyer, I don't know what
10 his grounds were.

11 THE COURT: Which case was it that you settled?

12 THE WITNESS: America Online, a civil lawsuit from
13 America Online. I accepted responsibility for it.

14 Q Let's turn to exhibit number three.

15 In exhibit number three, you again state that you do
16 100 percent stock e-mails, correct?

17 A Yes, that's what I state on Skype.

18 Q And that you're 100 percent legit?

19 A Yes, that's again what I stated on Skype.

20 Q And that is what you told Mr. Rad, correct?

21 A Yes, on Skype.

22 Q And you can't testify to this jury that you talked to Mr.
23 Rad in any other form, did you, could you?

24 A I can testify that I talked to him on ICQ. I have no
25 physical proof for the reasons of ICQ being that particular

1 Now, you testified last week that the disclaimer in
2 that case was false.

3 At what point did Mr. Rad confide in you that the
4 disclaimer was false?

5 A I would need to see the chat, but I believe he stated we
6 had four million shares to trade on that, but I would need to
7 see the actual chat logs to make sure that's the correct
8 number.

9 Q But that was in Skype, correct?

10 A That's correct.

11 Q Where you say legal things, correct?

12 A That's correct.

13 Q Now, when you were interviewed by the FBI in prison in
14 August of 2008, do you remember that?

15 A Yes, I do.

16 Q Do you remember explaining --

17 MR. LIEBERMANN: Can we clarify the date of the
18 interview?

19 Q On August 5, 2009?

20 A I remember August, I can't say the exact date.

21 Q Okay.

22 Do you remember explaining to the FBI why you thought
23 that the disclaimer was false?

24 A No, I don't remember.

25 Q Well, do you remember explaining to the FBI at the time

1 Q So you're assuming that Mr. Rad didn't mean this is the
2 customer's expectation, but rather, I'm committing a complete
3 fraud and I'm telling you about it on Skype? That was your
4 assumption, wasn't it?

5 A That wasn't my assumption. I'm not a stock promoter, I
6 don't actually know.

7 I just know how to deduce or add together what people
8 tell me.

9 Q So you were basing it on your experience with Mr. Ralsky,
10 who did plead guilty to securities fraud?

11 A I'm basing it on common sense.

12 Q Okay.

13 But that was not the common sense that you explained to
14 the FBI when you talked to them, though, was it?

15 A I explained to the FBI what my understanding was and it
16 still to this day is the same understanding.

17 Q Now, part of your plea agreement with the Government was
18 to be honest at all times, wasn't it?

19 A Yes.

20 Q But to you that was -- there was an exception when
21 speaking to Mr. Rad, though, wasn't it?

22 A I don't understand the question.

23 Q Well, you just admitted that you were being dishonest
24 with Mr. Rad?

25 A Yes, on Skype.

1 attached to that.

2 Yes, I spammed; yes, it's securities fraud. I didn't
3 do some of the other things that was done in the spam stock
4 promotion world, I stayed away from that, did not want to be
5 associated to it.

6 Q Since your experience had been with Ralsky and you
7 thought you were doing something wrong with Ralsky, right?

8 A Yes.

9 Q Did you expect that anybody that you mailed stock for was
10 going to be asking you to do something illegal?

11 A No.

12 Q But you, nonetheless, were going to do something illegal?

13 A In the spam world, that's what's expected.

14 Q And is it also expected that you lie?

15 A No, it's expected when you talk on chat, you try not to
16 incriminate yourself.

17 Q But is it expected that you lie to the person who's
18 paying you to send out the e-mails?

19 A It's not expected.

20 Q Okay.

21 MR. MONTENEGRO: I pass the witness.

22 THE COURT: Okay.

23 Redirect?

24 MR. LIEBERMANN: None, your Honor.

25 THE COURT: All right.

1 fourth line of exhibit 1140, for example. You recall that
2 these are seeds. Seeds are when you send something to make
3 sure that the spam is going through. You can also do it, John
4 Levine said, for legitimate mailings but that's, generally
5 speaking, very early on, you only do it a couple of times. We
6 saw chats that the defendant requested it and received it
7 every 10,000 or 15,000 e-mails.

8 Here, ladies and gentlemen, you see that he receives
9 it from Kathryn Zirbel. Remember how James Bragg testified
10 about those names and how he puts them together, with the one
11 case, upper case, and all caps? Well, here it is, Kathryn
12 Zirbel, Z-i-r-b-e-l, in all caps. And she's not James Bragg,
13 she's not Mr. Rad or Mr. Elliott, she is a made-up name.
14 Maybe there is a Kathryn Zirbel, we don't know, but she is a
15 made-up name for this purpose.

16 It's a falsely-registered e-mail address and the
17 defendant is getting it. You see the different subject lines.
18 This subject says recently been commissioned, second largest
19 retailer. Another subject talks about a 58 percent increase
20 in revenues. This is page four of exhibit 1140. Page five
21 talks about major news just out. These are all from Kathryn
22 Zirbel.

23 Another subject, 12-month target at .77. This an
24 important subject, ladies and gentlemen, and we're going to
25 get to this whole concept in a second because these are, as

1 False names, falsely-registered e-mail addresses coming to the
2 defendant. When you go, you'll see 1140, 41, 42, 43. These
3 are four different names. It's not just one e-mail for each
4 of those names, it's a number of different e-mails from those
5 names. These are four different falsely-registered e-mail
6 addresses sent by James Bragg right into the defendant's
7 inbox.

8 He comments on them in exhibit 43. We know he
9 received them, right? Says, that letter is wrong, it's all
10 about watches. Yeah, it was a test, says James Bragg, just
11 like he testified. He says, I wanted to make sure it was
12 working. If you see at the bottom of his last clause, he
13 says, this is how we test.

14 James Bragg is explaining that that was a test, but
15 the way he's sending the rest of it out is precisely the way
16 he sends out his mail. The defendant received it from
17 falsely-registered e-mail addresses.

18 James Bragg also testified about ICQ discussions,
19 discussions that didn't occur in the Skype chats. He was
20 cross-examined about this extensively, what do you mean it's
21 not in the Skype chats? Why would you talk on ICQ, it doesn't
22 make any sense, you're already talking on Skype? Why would
23 you switch to another program to talk?

24 James Bragg said, look, in the spam industry, in the
25 spam community, Skype chats are known to be logged, the

1 default is that they're logged and you see what it is, it
2 means here we have them, they're kept, they're preserved. And
3 ICQ chats, not so much. They can be, he said, but they're not
4 by default.

5 Ladies and gentlemen, the evidence has borne that
6 out, right? You see Skype chats again and again and again and
7 again. Yet, we saw a list of contact buddies for the
8 defendant for his ICQ. There is no treasure trove of ICQ
9 chats despite those four pages of ICQ contents. There's not
10 even one page of ICQ chats, despite the four pages of ICQ
11 contacts. Bragg's theory is borne out, right? The Skype
12 chats have been logged and we haven't been able to use ICQ
13 chats. Special Agent Allen said there aren't these long lists
14 of ICQ chats for us to be able to use. So that corroborates
15 Bragg's testimony about that.

16 Let's look also at exhibit 268. In exhibit 268,
17 becommerce, we didn't focus on this too much during trial, but
18 it's in evidence. Becommerce says, dude, let me ask you a
19 question. How well do you know the stock game in general?
20 Note the word "game." He's not talking about the stock
21 business, legitimate business, he's talking about that stock
22 game and we know what the stock game means. This is the stock
23 game, this case is the stock game. It's the pump and dump
24 stock game. How well do you know it in general? Now, they're
25 starting to talk about something not so go, and becommerce

1 realizes that, so when billy_sack says verity, becommerce says
2 says, are you on MSN and AOL? Response, no, I'm on ICQ.

3 Ladies and gentlemen, why, why? You're talking on
4 Skype. Why would you have a discussion about whether you're
5 also on some other messages service? You're talking on Skype.
6 Why would you need to even consider going to another messaging
7 service when you're going to talk about that stock game?

8 You need to consider it because maybe James Bragg
9 testimony is exactly right, maybe the fact that we have the
10 Skype chats but no ICQ chats is exactly right, ladies and
11 gentlemen. This chat is another demonstration of that from
12 the defendant's own Skype chats. They thought about skipping
13 to ICQ and they didn't in this. The record doesn't show that
14 they did in this, but the fact they discussed that
15 demonstrates the exact thought that James Bragg was testifying
16 to. That for some reason, people in the spam underworld,
17 thought that the Government can get your Skype chats maybe and
18 these are logged and maybe found but the ICQ, not so much.
19 They considered switching to it.

20 What else corroborates Bragg's testimony that when
21 they talk on Skype, not so much real? Ladies and gentlemen,
22 you don't always get to actually literally hear the
23 expression "wink and a nod." You just don't always have that
24 because you can't catch people in the middle of a conspiracy
25 winking and then bring that into the courtroom. But if you

Exhibit “D”
Bragg’s Michigan plea agreement.
P. 6-7

21

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FILED
AUG 20 2009
CLERK'S OFFICE
U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
DETROIT

UNITED STATES OF AMERICA,

Plaintiff,

No. 2:07-CR-20627

Hon. Marianne O. Battani CLERK'S OFFICE
DETROIT

OFFENSES:

-VS-

D-7 JAMES E. BRAGG,

Defendant.

Count 5: 18 U.S.C. §§ 371, 1037(a)(2)-(3), (b)(2)(C), 1341, and 1343
(Conspiracy: Fraud in Connection with
Electronic Mail, Mail Fraud, Wire Fraud)

Count 6: 18 U.S.C. §§ 1037(a)(2),
(b)(2)(C), and 2 (Fraud in Connection
with Electronic Mail; Aiding and
Abetting)

MAXIMUM PENALTY: 5 yrs on count 5; 3
yrs on count 6

MAXIMUM FINE: \$250,000 on each count

RULE 11 PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, defendant JAMES E. BRAGG ("defendant") and the United States Attorney for the Eastern District of Michigan ("U.S. Attorney" or "government") agree as follows:

1. GUILTY PLEA

A. Counts of Conviction

Defendant will enter a plea of guilty to **Count 5**, which charges a violation of 18 U.S.C. §§ 371, 1037(a)(2)-(3), (b)(2)(C), 1341, and 1343; and **Count 6**,

the conspiracy.

During this time frame, the defendant transmitted millions of spam emails that used false headers and that were sent via proxy mailing, in order to disguise the true origin of the spam emails and prevent recipients and Internet service providers from detecting and blocking them. The term "proxy mailing" means knowingly using protected computers to relay or retransmit the messages with the intent to disguise their origin. On numerous occasions from on or about March 1, 2005, through on or about August 1, 2005, BRAGG communicated with defendants RALSKY, BRADLEY, DEVENOW, and BOWN via electronic mail, instant messages, and other methods of communication about their use of proxies, which they also referred to as "p's," "p s," "proximate," and "peas," as well their need to find sources for more proxies to use in connection with their spamming operation.

On or about June 28, 2005, defendant BRAGG and defendant BRADLEY communicated via electronic mail about purchasing the bulk electronic mail software program NEXUS that allowed the defendants to locate open proxy computers on the Internet. The defendants thereafter purchased the NEXUS software program and defendant BRAGG used it to send spam emails through proxies. In addition, on or about July 11, 2005, BRAGG and defendant BRADLEY communicated via electronic mail about their purchase of proxies from

a source in Ukraine.

The term "false headers" means knowingly and materially falsifying header information and intentionally initiating the transmission of multiple commercial e-mail messages. Many of the spam emails promoted thinly traded stocks for Chinese companies, including those with the ticker symbols CDGT, WWBP, CWTD, and PGCN, and contained materially false and misleading information or omissions.

The defendant was aware that interstate wire communications, the U.S. mail, and common carriers were used to further the fraudulent scheme, which resulted in the defendant and others receiving payments and proceeds from the sale of stocks whose prices were inflated after being promoted by spam email sent in furtherance of the conspiracy.

2. SENTENCING GUIDELINES

A. Standard of Proof

The Court will find sentencing factors by a preponderance of the evidence.

B. Agreed Guideline Range

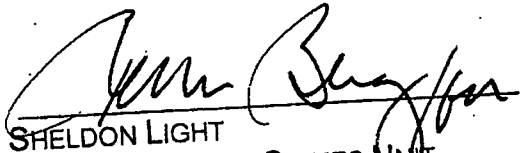
There are no sentencing guideline disputes. Except as provided below, defendant's guideline range is 24-30 months, as set forth on the attached worksheets. If the Court finds:

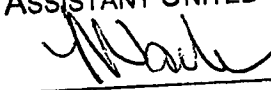
- i. that defendant's criminal history category is higher than reflected

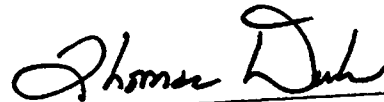
9. ACCEPTANCE OF AGREEMENT BY DEFENDANT

This plea offer expires unless it has been received, fully signed, in the Office of the United States Attorney by 5:00 P.M. on _____. The government reserves the right to modify or revoke this offer at any time before defendant pleads guilty.

TERRENCE BERG
UNITED STATES ATTORNEY



SHELDON LIGHT
CHIEF, ECONOMIC CRIMES UNIT
ASSISTANT UNITED STATES ATTORNEY


MONA SEDKY SPIVACK
TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE


THOMAS DUKES
TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE

DATE: 8/20/09

BY SIGNING BELOW, DEFENDANT ACKNOWLEDGES THAT HE HAS READ (OR BEEN READ) THIS ENTIRE DOCUMENT, UNDERSTANDS IT, AND AGREES TO ITS TERMS. HE ALSO ACKNOWLEDGES THAT HE IS SATISFIED WITH HIS ATTORNEY'S ADVICE AND REPRESENTATION. DEFENDANT AGREES THAT HE HAS HAD A FULL AND COMPLETE OPPORTUNITY TO CONFER WITH HIS LAWYER, AND HAS HAD ALL OF HIS QUESTIONS ANSWERED BY HIS LAWYER.


ROBERT M. MORGAN
ATTORNEY FOR DEFENDANT


JAMES E. BRAGG
DEFENDANT

DATE: 8/20/09

Exhibit "E"
Bragg's Michigan Sentencing Transcript
P.12, 13, 14, 15, 17

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs

JAMES E. BRAGG,

Defendant.

)
)
)
) CASE NO: 07-cr-20627
) Detroit, Michigan
) November 24, 2009
) TIME: 3:40 p.m.
)
)
)

TRANSCRIPT OF SENTENCE HEARING

BEFORE THE HONORABLE MARIANNE O. BATTANI

APPEARANCES:

For the Plaintiff:

THOMAS DUKES, ESQ.
JULIE A. BECK, ESQ.

For the Defendant:

ROBERT M. MORGAN, ESQ.

Also Present:

James E. Bragg, Defendant
Charmarie Green, Probation Officer

ALLEN T. BURNHAM, CSR-RPR
OFFICIAL COURT REPORTER
U.S. DISTRICT COURT
734-634-9489

1 six to twelve months, and then there's the other aspect which
2 will, may, I'm confident will result in a government motion at
3 the end of that process. So the guidelines are significantly
4 lower than they are here.

5 THE COURT: Okay.

6 MR. MORGAN: I guess I had one other thought, you
7 know, as far as multiple districts.

8 THE COURT: Yes.

9 MR. MORGAN: I'm assuming that when somebody sent
10 e-mail in this conspiracy, or with any other group, that went to
11 94 federal districts, including Guam probably. So probably in
12 theory there's maybe no end to the number of times a person
13 could be, find himself given, you know, it seems to be this
14 e-mail community an evolving, changing relationships and one
15 person or another and so forth.

16 But we have signed the plea agreement and there
17 will be a plea in the district of New Jersey.

18 THE COURT: I'm trying to understand, though, how it
19 fits in with this, what happened here. Was the time frame the
20 same? Was it before? What was it?

21 THE DEFENDANT: I assumed it was the same group of
22 people I was working for.

23 THE COURT: What is that? I would like to hear what
24 you said.

25 THE DEFENDANT: Yes. I assumed it was the same group

1 of people because they all interact together. I didn't know
2 that I was interacting directly with another organization.

3 MR. DUKES: Your Honor, it's the government's
4 understanding that, well, I guess in terms of time line, the
5 prosecution team and the agencies investigating Mr. Bragg in
6 relation to the Detroit case, were not aware until really around
7 the time I guess of the, well after the indictment had been
8 returned, that the district of New Jersey and the Federal Bureau
9 of Investigation were conducting an investigation into a
10 completely separate stock pump and dump scheme. The only
11 individuals that --

12 THE COURT: Was that different than the one that --

13 MR. DUKES: Yes, Your Honor.

14 THE COURT: -- was referenced today, and there was
15 some other one.

16 MR. DUKES: Well, yeah. There actually, we're aware
17 of having, you know, as time has progressed, we've become aware
18 of, of numerous additional conspiracies to having stock pump and
19 dump, some of which are connected to defendants that have been
20 sentenced here. You've actually heard references to a couple of
21 them there. There are some others beyond that that the
22 government is aware of that various agencies or criminal
23 administrative agencies are investigating. There are other
24 districts that are looking at defendants in, connected with this
25 case.

1 But the New Jersey case is, as far as I am aware,
2 completely unconnected with the conduct that Mr. Bragg was
3 indicted for and has pled guilty to. And in that, I'm
4 confident from speaking with the prosecutors in New Jersey,
5 that he is the only defendant in this case that they have
6 identified as being involved in essentially a related type of
7 case. I'm not even sure what stocks or really the facts are
8 behind that case.

9 THE COURT: What time frame are we talking about,
10 though? Mr. Bragg.

11 THE DEFENDANT: I talked to them up until 2008, but I
12 didn't do work. I technically never sent spam e-mail for him,
13 but he did talk to me and I, in my chat logs I actually told him
14 multiple times that I didn't want to work with him, his group,
15 because the guy he was using was breaking the law; he was
16 hacking and things like that. That's said multiple times in the
17 logs.

18 But he did send me money. He did send me \$20,000
19 that I can recall, but \$10,000 of it was taken back, \$10,000
20 I did keep. But other than that, I really actually never, I
21 never proceeded to send e-mail for him.

22 MR. DUKES: Your Honor, we're not aware of the exact
23 timeline when this other case took place. Again, we made a
24 decision when we heard about it, um, consciously not to make any
25 effort to try to, you know, in any way sort of coordinate or tie

1 in the cases.

2 And as I mentioned a minute ago, beyond New Jersey,
3 there's at least one other U.S. Attorney's office that is
4 looking at some of the defendants in this case, to include
5 Mr. Bragg. It's possible for even other further unrelated
6 conduct; it's possible there may be additional charges that
7 are brought in this case.

8 But what we have tried to do is essentially focus
9 on just what's in the indictment. And, you know, we've
10 learned of additional conduct in other points in time, or
11 during and after our charged conduct. We did not include any
12 sort of cooperation agreement with Mr. Bragg because he did
13 not provide us with any substantial assistance in relation to
14 the charges that he's being sentenced for here today.

15 THE COURT: Okay.

16 MR. MORGAN: Judge, not to belabor the subject, but
17 part of the problem is, at least my impression within the, uh,
18 let's call it the criminal spamming community, there are not
19 names as such that identify, that are these other names that are
20 constantly used for purposes of these Internet chats and all of
21 this communication, you know, and I think that's one of the
22 things that drives the possibility that an e-mailer or one group
23 could easily find him or herself as an e-mailer for somebody
24 else.

25 And I think there are these constantly evolving or

1 agreement does state the parties agree that there will be a fine
2 imposed in the amount of \$50,000.

3 MR. MORGAN: I suppose that's the terms of the Rule
4 11. I guess the reality is, obviously the reality was \$120,000
5 judgment in Mr. Bragg's situation.

6 THE COURT: I have no assets. I have no assets for
7 him, and I have debt. Is that correct, Charmarie?

8 PROBATION OFFICER: Yes, Your Honor.

9 THE COURT: Page 13.

10 PROBATION OFFICER: Yes, Your Honor. Mr. Bragg,
11 according to the Probation Department, had a negative net worth
12 of \$12,032.

13 THE COURT: All right. The Court, Mr. Bragg, has to
14 impose a sentence that is sufficient but not greater than
15 necessary to comply with the purposes of our law, and it has to
16 look at the nature of the crime. We've discussed this now for
17 two days but you weren't here, but let me just summarize it by
18 saying the crime is very serious because of the number of people
19 that it impacted. And I see in your presentation and your
20 counsel's presentation that you don't -- you agree with that;
21 you don't contest that.

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: The sentence of the Court has to show the
24 seriousness of the crime, um, and it does that by obviously what
25 the sentence is, the length of time that you are given, in order

Exhibit "F"
Michigan Interrogatories District of Arizona cv 15-01078-
PHX-DJH, the interrogatories.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

CHRISTOPHER RAD
Plaintiff,

v.

JAMES BRAGG
Defendant.

Case No. CV-15-01078-PHX-DJH

INTERROGATORIES
(Fed. R. Civ. P. 33(a))

TO: James Bragg
FROM: Christopher Rad

Christopher Rad requests that you, James Bragg, answer all of the following interrogatories, in writing and under oath, as required by Rule 33 of the Federal Rules of Civil Procedure. According to Rule 33, a copy of your written response to these interrogatories must be served on the Plaintiff Christopher Rad at the following address:

Chris Rad
#73484-280
Allenwood Low Security
Correctional Institution
P.O. Box 1000
Whitewater, PA 17887

INTERROGATORY NO. 1:

What is the address of your mother Shirley Bragg, that is her dwelling or usual place of abode to receive service?

ANSWER: I do not know her address, But I know she is in Sun Lakes, she did not return my call when I called to ask. We are not close since my return from Prison

INTERROGATORY NO. 2: What is the chat ID name/user name and chat platform of every chat that the Plaintiff used to chat with you?

ANSWER: Billy bob 6006

Asian Export

my ICQ was a long Auto assigned number
INTERROGATORY NO. 3: but my name listed was Billy bob

What is the chat ID name/user name and chat platform of every chat that you used to chat with the Plaintiff?

ANSWER: Billy-Sack

Do not remember ICQ

INTERROGATORY NO. 4:

At any time did the Plaintiff agree for you to send email to people that you did not have a relationship with, if yes give the date and chat ID that you both used and the chat platform.

ANSWER: It was made clear I was sending spam but was too long ago to remember details

INTERROGATORY NO. 5:

At the Plaintiff's trial you claimed that you bought your lists, did you ever tell the Plaintiff that you were using a bought list rather than a list that you had a relationship with, if yes give the date and chat ID that you both used and the chat platform.

ANSWER: Yes, Do not Remember exact details but everyone I work with was always made aware

INTERROGATORY NO. 6:

Were the lists that you bought represented to you as opt-in coregistration, that is that the user/subscriber had given specific permission for a 3rd party to send them stock information, if no what were the sign-up terms represented to be?

ANSWER: I was told they were people interested in stocks. That was all the info I had

INTERROGATORY NO. 7:

What were the location(s) of the computer/computers that you used to chat with the Plaintiff?

ANSWER: Bangkok, Thailand

Queen Creek, AZ for chatting

INTERROGATORY NO. 8: Mailing services were out of country

When you claimed that you were 100% legitimate to the plaintiff did you mean that you would send email to people that specifically requested stock information from you using legal means, and if not what did you mean?

ANSWER: It was made very clear to only talk in a legal way on Skype. As proven in

INTERROGATORY NO. 9: Criminal case

As for the list that you claim you bought. Who did you buy it from (all ID information that you have including chat IDs, email

addresses and payment information), on what date did you buy it, how much did you pay for it, how did you pay for it and how was the list delivered?

ANSWER: Do not remember that was over
8 years ago

INTERROGATORY NO. 110:

At the Plaintiff's trial you testified:

Q. In none of your chats with Christopher Rad, did you tell him, I'm going to register false names, did you?

A. Not that I recall.

and

Q. At no point did you tell Rad that for his stock campaign, that you were going to use false information, did you?

AA. If I can answer that with-

Q. Well, answer yes or no question. You can answer it yes or no.

A. It's not a yes or no question. That question-that answer would be no then.

Did this mean that at no point in time did you ever tell the Plaintiff that you were going to register or use falsley registered email accounts to send the emails that the Plaintiff hired you to send, if not what did it mean?

ANSWER: He recieved emails to his seed email
~~account~~ account they clearly showed each email
came from a different Email address and none

INTERROGATORY NO. 11:

At the Plaintiff's trial you claimed that the price in the newsletters and the disclaimers were false. You later admitted that the price was correct in each newsletter, and you did not know if the disclaimers were false. Did the government instruct you to testify falsley on these issues, and if not why did you testify falsley?

ANSWER: The FBI did not instruct me on anything
My Answers were based on Evidence they
showed me as I was always told they were truthful

INTERROGATORY NO. 12: Disclaimers by Mr. Rad

Were you working with or cooperating with the government in any way or in any case before you were sentenced in your Michigan case?

ANSWER: NO, I never talk to anyone about
This case until I was in Prison

INTERROGATORY NO. 13:

Did you receive any sort of deal, or downward variance, or reduction in points or sentence in your Michigan case for any reason, and if so state the reason.

ANSWER: NO

INTERROGATORY NO. 14:

At the Plaintiff's trial you claimed that your deal with the government was that you be truthful at all times. Was everything that you told the government and testified to at trial 100% truthful, and if not please state every false statement that you made to the government or at trial.

ANSWER: YES

INTERROGATORY NO. 15:

At any time did you claim to anyone that during the time that the Plaintiff hired you that you did "clean mailings", that is that you were using you own lists of people that wanted to receive stock information?

ANSWER: I said this on skype but not on ICQ

INTERROGATORY NO. 16:

At any time did the Plaintiff agree for you to send email to an unsolicited list, that is a list of people that did not request stock information from you?

ANSWER: He never directly said to send spam

INTERROGATORY NO. 17:

What were the domain names of the investment advisor websites that you claimed to have?

ANSWER: This was 8 years ago no way to remember to answer

INTERROGATORY NO. 18:

Did the plaintiff ever give you an email list to mail, if yes when did he do so and how did he deliver it?

ANSWER: Yes Do not Remember How

I received it was 8 years ago

INTERROGATORY NO 19:

At any time did you make any incriminating statements on any chats that were logged?

ANSWER: Yrs, Even posted my Indictment to him from another case I was always charged in.

INTERROGATORY NO 20:

What is every address that you have resided in the last 10 years, including any addresses in Thailand?

ANSWER: 1775 W. Wainyard Plains Queen Creek AZ 85242
7900 E Princess Dr Scottsdale AZ 85225
1371 W Butler Chandler AZ 85224
3200 E Blue Ridge Way Gilbert AZ 85298

Thailand was on Soi 24 Bangkok Thailand

INTERROGATORY NO 21:

List every payment made by YOU or any person acting for you to the plaintiff, and the purpose of each payment.


ANSWER: do not remember the Amount
but I can remember ask my mother to
send payment to his partner for helping me in a
spam campaign

INTERROGATORY NO 22: How many different companies did you send email for the plaintiff, please list the company name and date that you did the mailings.

ANSWER: Do not Remember, During the case
I had document to review to answer
this question. I don't have access to them
now

I, James Bragg, declare under the penalty of perjury that the answers to the above interrogatories are true and correct.

Executed on: 11-1-16 (date)

 (signature)
James Bragg

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

CHRISTOPHER RAD
Plaintiff,

v.

JAMES BRAGG
Defendant.

Case No. CV-15-01078-PHX-DJH

INTERROGATORIES
(Fed. R. Civ. P. 33(a))

TO: James Bragg
FROM: Christopher Rad

Christopher Rad requests that you, James Bragg, answer all of the following interrogatories, in writing and under oath, as required by Rule 33 of the Federal Rules of Civil Procedure. According to Rule 33, a copy of your written response to these interrogatories must be served on the Plaintiff Christopher Rad at the following address:

Christ Rad
#73484-280
Allenwood Low Security
Correctional Institution
P.O. Box 1000
Whitdeer, Pa 17887


INTERROGATORY NO. 23:

What was the location of the computer that you used to register the email accounts that you used, and send the emails for the RSUV news letters that you sent out for the plaintiff. State the city state and country that the computer was located, and if the above was done by more than one computer give the location of each computer, city state and country.

ANSWER: *Do not remember, I Bought most of them*

I, James Bragg, declare under the penalty of perjury that the answers to the above interrogatories are true and correct.

Executed on: 11-1-16 (date)


James Bragg (Signature)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

CHRISTOPHER RAD
Plaintiff

v.

JAMES BRAGG, et al.
Defendants.

Case No. CV-15-01078-PHX-DJH
INTERROGATORIES
(Fed. R. Civ. P. 33(a))

To: James Bragg
From: Christopher Rad

November 15, 2016

Via Certified mail No. 7009 1680 C000 6298 7940

Mr. Bragg I received the answers to interrogatories today that you sent dated November 1, 2016, however these answers were not complete. and I am now requesting that you answer the below questions clarifying your answers as per Fed. R. Civ. P. 33. If you fail to answer the below questions in 30 days I will file a motion with the the court to compel.

INTERROGATORY NO. 7

You claimed that the "mailing servers" you used were "out of the country", did you mean that they were out of the United States?

ANSWER: *The mailing servers used in working with you were I believe in Canada but not sure do to the time passed.*

Did you use the same "mailing servers" to register the email accounts and send the emails, and were all of these servers outside the United States?

ANSWER: *do not Remember.*

INTERROGATORY NO. 10

You answered that "He received emails to his seed email account that clearly showed each email came from a different email address and no one."

The question that you were asked was "did you ever tell the plaintiff that you were going to register or use falsley registered email accounts to send the emails that the plaintiff hired you to send?"

Did your above answer mean that you never told the plaintiff

about the false registrations, but he should have known about them based on the test emails that you sent him?

ANSWER: I made it clear I was sending email through hotmail and other providers accounts

INTERROGATORY NO. 12

You answered that you "never talk to anyone about this case until I was in prison".

By prison do you mean the prison that you served your sentence in, and NOT the pre-trial holding center in Michigan?

ANSWER: Do not remember exactly when my ~~first~~ first talk was. But it was in milon prison in michigan, and these talks did not involve you only your partner Breg
Please state the location of the prison that you served your sentence in.

ANSWER: michigan and Arizona

Do you understand that your Michigan sentence did not begin until after you were sentenced on 11/24/2009, and that you were retroactively credited the time that you spent in the pre-trial holding/detention center?

ANSWER: yes but due to the time passed I can not give you exact dates as I have no record of this

INTERROGATORY NO. 20

You did not give me your complete Thailand address. I need the complete address including the:

Building or house number and suite number if any.

The full street name

The district

The postal code

ANSWER: Do not remember and have no way to find out since I am no longer in Thailand.

INTERROGATORY NO. 21

What was the name of the partner that you sent a wire to?

ANSWER: The wire was sent to you to pay your partner Breg for other projects he help on.

Did you ever send, have your mother send, or have anyone else send the plaintiff a bank wire or any payment directly to him?

ANSWER: I had asked my mother to do since I was out of the country, she did not ~~know~~ know the reason for the wire

INTERROGATORY NO. 23

Who did you buy the computers/servers from?

ANSWER: many different people, to long ago to remember

INTERROGATORY NO. 15

When you use the term "clean mailings" do you mean mailings to the list of subscribers of your websites that you had a relationship with?

ANSWER: no this meant they were people that should have interest in stocks, you were informed I bought lists

INTERROGATORY NO. 24


In your Michigan case (Case No. 2:07-cr-20627-MOB-RSW) did you go to prison for using "proxies" that is "bulk emailing using proxy computers" (see attached Pages 1-2 of your Michigan plea agreement dated 8-20-2009).

ANSWER: I was part of a conspiracy to do this

I believe my mailing server in that case were in Calif in Alon Ralsky's Data Center

I declare under the penalty of perjury that the above answers to interrogatories are true and correct.

Executed on: 12-20-16 (date)

 (signature)
James Bragg

You must serve a copy of the above answers within 30 days to the plaintiff located at the below address as per Fed. R. Civ. P. 33.

Chris Rad
#73484-280
Allenwood Low Security Correctional Institution
P.O. box 1000
Whitdeer, Pa 17887

Exhibit "G"
Relevant pages of Bragg's Michigan indictment.
P.3, 13-20

40

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case: 2:07-cr-20627

Judge: Battani, Marianne O

Referral MJ: Whalen, R. Steven

Filed: 12-14-2007 At 10:04 AM

INDI USA V. SEALED MATTER (DA)

v.

VIOLATIONS:

D-1	ALAN M. RALSKY,	18 U.S.C. § 371
D-2	SCOTT K. BRADLEY,	18 U.S.C. § 1030
D-3	JUDY M. DEVENOW,	18 U.S.C. §§ 1037(a)(1)-(4)
D-4	JOHN S. BOWN,	18 U.S.C. § 1341
D-5	WILLIAM C. NEIL,	18 U.S.C. § 1343
D-6	ANKI K. NEIL,	18 U.S.C. § 1001
D-7	JAMES E. BRAGG,	18 U.S.C. § 1957
D-8	JAMES E. FITE,	18 U.S.C. § 1956(h)
D-9	PETER SEVERA,	FORFEITURE SECTIONS
D-10	HOW WAI JOHN HUI, and	
D-11	FRANCIS A. ("FRANKIE") TRIBBLE,	

Defendants.

INDICTMENT

THE GRAND JURY CHARGES:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

Relevant Terms

1. In 2003 Congress passed the CAN-SPAM (Controlling the Assault of Non-Solicited Pornography and Marketing) Act, making fraud in connection with electronic mail (hereafter "e-mail") a federal crime. The Act became effective January 1, 2004.

impair the ability of a recipient of the message, an Internet access service processing the message on behalf of a recipient, a person alleging a violation of the CAN-SPAM Act, or a law enforcement agency to identify, locate, or respond to a person who initiated the electronic mail message or to investigate the alleged violation.

6. An "IP address" or "Internet Protocol address" is a unique number assigned to a specific computer that is connected to the Internet or another network. It is a set of four numbers, each between 0-255, separated by dots, such as 37.2.99.123. Normally, an IP address can be associated with a particular computer or set of computers connected to the Internet.

7. A "proxy computer" or "open proxy computer," is a computer that will accept incoming connections from any computer and then make outgoing connections to other computers. Proxy computers can be used by spammers to camouflage the originating IP address of a spammer's e-mail communication, because the real IP address of the spammer will be replaced in the header with the IP address of the proxy computer, making it difficult for recipients, Internet providers, or law enforcement to trace the spam e-mail back to its original source. Spammers often send their spam e-mails through proxy computers to hide their identity, avoid being detected, and evade anti-spam filters and other spam blocking techniques.

8. A "botnet" (derived from "robot network") is a network of computers infected with malicious software that allows a third party to control the entire computer network without the knowledge or consent of the computer owners. Each of the infected computers is referred to as a "bot." A botnet can be used by spammers to send spam through the network of infected bot computers, using each of the infected computers to transmit the spam e-mail, in order to hide the

4	RALSKY (D-1) BRADLEY (D-2) DEVENOW (D-3) BOWN (D-4) W. NEIL (D-5) A. NEIL (D-6)	5/28/2005 through 7/23/2005	farmokombe.com, pertletyou.com, amostade.com, vercane.com, wescombilia.com, wudkneit.com, lernalotto.com, nomargene.com, carpomoza.com, clemontuz.com, farbemove.com, lestormun.com, alunpoke.com, ezstockwatch.com, keepsea.info	5/28/2005 = 3,472 5/29/2005 = 1,514 5/31/2005 = 677 6/17/2005 = 115 6/25/2005 = 113 7/6/2005 = 104 7/23/2005 = 153 Total = 6,148
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44. All in violation of Title 18, United States Code, Section 1037(a)(4), (b)(2)(B), (b)(2)(C), and Title 18, United States Code, Section 2.

COUNT 5

**(18 U.S.C. §§ 371, 1037(a)(2)-(a)(3), 1037(b)(2)(C), 1341, 1343-
CONSPIRACY: FRAUD IN CONNECTION WITH ELECTRONIC MAIL,
MAIL FRAUD, WIRE FRAUD)**

D-1 ALAN M. RALSKY
 D-2 SCOTT K. BRADLEY
 D-3 JUDY M. DEVENOW
 D-4 JOHN S. BOWN
 D-5 WILLIAM C. NEIL
 D-7 JAMES E. BRAGG
 D-8 JAMES E. FITE
 D-9 PETER SEVERA
 D-10 HOW WAI JOHN HUI
 D-11 FRANCIS A. ("FRANKIE") TRIBBLE

45. The General Allegations and paragraphs 1 through 27 of this Indictment are re-alleged as if stated fully here.

46. Beginning on or about January 1, 2004, and continuing until at least September 1, 2005, the exact dates being unknown to the Grand Jury, in the Eastern District of Michigan, Southern Division, and elsewhere, defendants ALAN M. RALSKY, SCOTT K. BRADLEY, JUDY M. DEVENOW, JOHN S. BOWN, WILLIAM C. NEIL, JAMES E. BRAGG, JAMES E. FITE, PETER SEVERA, HOW WAI JOHN HUI, FRANCIS A. ("FRANKIE") TRIBBLE, and others known and unknown to the Grand Jury, did knowingly and unlawfully combine, conspire, and agree with one another to:

a. Knowingly use a protected computer to relay or retransmit multiple commercial electronic mail messages, with the intent to deceive or mislead recipients, or any Internet access service, as to the origin of such messages, in violation of Title 18, United States Code, Section 1037(a)(2), 1037(b)(2)(C);

b. Knowingly materially falsify header information in multiple commercial electronic mail messages and intentionally initiate the transmission of such messages, in violation of Title 18, United States Code, Section 1037(a)(3), 1037(b)(2)(C);

c. Having devised and intending to devise any scheme or artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, cause to be delivered by the U.S. mail or by private or commercial interstate courier matters or items for the purpose of executing such scheme or artifice, in violation of 18 United States Code, Section 1341;

d. Having devised and intending to devise any scheme or artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmit and cause to be transmitted by means of wire

communication in interstate and foreign commerce, any writings, signs, signals, pictures, and sounds for the purpose of executing such scheme or artifice, in violation of 18 United States Code, Section 1343.

OBJECT OF THE CONSPIRACY

47. The object of the unlawful spam e-mail conspiracy was personal financial gain to the co-conspirators, who received money and other things of value as a result of their illegal activities, by receiving payments and proceeds from the sale of stocks whose prices were inflated as a result of being advertised and promoted through false and fraudulent pretenses, promises and representations.

MANNER AND MEANS OF THE CONSPIRACY

48. The conspirators accomplished the objects of the conspiracy through several manners and means, including but not limited to the following:

- a. Committing the acts alleged in paragraphs 31(a) through 31(f) of Count 1, which are realleged herein;
- b. Paying for and obtaining lists of "proxy computers" or "proxies" to relay or retransmit multiple commercial e-mail messages in order to deceive or mislead recipients, or any Internet access service, as to the origin of the spam;
- c. Selling, causing others to sell, and receiving profits from the sales of, stock that had been advertised by the unlawful spam e-mail;
- d. Causing items and matters to be delivered by U.S. Mail or by private or commercial courier in relation to the sale of stock promoted through unlawful spam e-mail;

e. Causing the transmission of wire communications in interstate and foreign commerce in relation to the sale of stock promoted through unlawful spam e-mails.

OVERT ACTS

49. In furtherance of the conspiracy, and to accomplish the objects of the conspiracy, one or more of the defendants committed various overt acts, within the Eastern District of Michigan and elsewhere, including but not limited to the following:

Relaying or Retransmitting Spam from Protected Computers

50. In or about January 2004 defendant RALSKY communicated with MAILER 1 about using MAILER 1 and his business partner, MAILER 2, to send millions of spam e-mail messages per day using "proxy" computers, which they referred to as "p's," "peas," and "p s."

51. From on or about June 1, 2005, through on or about August 1, 2005, defendants RALSKY and BRADLEY directed and paid MAILER 1 and MAILER 2 to conduct several unlawful spam e-mail campaigns using proxy computers to send the spam. The unlawful spam e-mail campaigns advertised a number of stocks, including those having the ticker symbols of CHMS, ITEC, CYAD, HMNS, EDEX, and MXPR.

52. From on or about June 1, 2005, through on or about August 1, 2005, defendants RALSKY and BRADLEY directed and paid defendants JUDY M. DEVENOW and JAMES E. BRAGG to conduct several unlawful spam e-mail campaigns using proxy computers to send the spam. The unlawful spam e-mail campaigns advertised a number of stocks, including those having the ticker symbols of CWTD, PGCN, and CDGT.

53. On numerous occasions from on or about March 1, 2005, through on or about August 1, 2005, defendants RALSKY, BRADLEY, DEVENOW, BOWN, and BRAGG

communicated with one another repeatedly via electronic mail, instant message, and other methods of communication about their use of proxies, which they also referred to as “p’s,” “p s,” “proximate,” and “peas,” as well as their need to find sources for more proxies to use in connection with their spamming operation.

54. On or about June 30, 2005, defendant RALSKY communicated with defendant DEVENOW via e-mail about their daily use of proxies in connection with their sending stock-related spam regarding the following ticker symbols: CDGT, CWTD and PGCN.

55. On or about July 11, 2005, defendant BRADLEY and defendant BRAGG communicated via e-mail about their purchase of proxies from a source in the Ukraine.

56. From on or about July 11, 2005, through on or about July 13, 2005, the defendants purchased daily proxy supplies for use in their stock-spamming operation.

57. On or about June 28, 2005, defendant BRADLEY communicated with defendant BRAGG via e-mail about purchasing a bulk e-mail software program that allowed the defendants to locate open proxy computers on the Internet and send spam through proxies. The defendants purchased this proxy mailing software program and used it to send spam through proxies.

58. The defendants relayed or retransmitted unlawful spam e-mail through protected computers in order to deceive or mislead recipients, as set out in Count 6, which is alleged as an overt act in furtherance of this conspiracy.

Spamming with Materially False E-mail Headers

59. In or about June 2004, defendants RALSKY, DEVENOW, and BRADLEY directed NETWORK ADMINISTRATOR 1 to set up a facility that would allow the defendants to send a high volume of unlawful spam e-mail using various bulk e-mail software programs.

60. Defendants RALSKY, BRADLEY, and DEVENOW acquired a software program for sending unlawful spam e-mails in furtherance of the conspiracy. The defendants used this program to falsify and randomize the "header" information that appeared in the spam.

61. In using bulk e-mail software programs to transmit unlawful spam e-mails, defendant DEVENOW typically used common names as aliases to appear in the "from" line in the headers of the e-mails that were sent in furtherance of the conspiracy.

62. From on or about June 1, 2004, through on or about August 31, 2004, and also from on or about May 1, 2005, through on or about July 31, 2005, acting on behalf of, and in conjunction with, the defendants, NETWORK ADMINISTRATOR 1 utilized spamming software to send millions of spam e-mails each day.

63. In or about June and July 2005, MAILER 1 and MAILER 2, acting on behalf of the defendants, utilized another spam software program to send stock-related spam on behalf of the defendants. This program allowed the conspirators to insert falsified information into the headers of spam e-mails sent in furtherance of the conspiracy.

64. On or about June 27, 2005, defendant BRADLEY communicated with SEVERA by online chat, and defendant SEVERA stated he could get 20 million e-mails a day into "AOL" or "hotmail." Defendant SEVERA agreed to send spam on behalf of the defendants touting stock ticker symbols ~~CTWD~~ and PGCN. When defendant BRADLEY told defendant SEVERA to contact his "business partner," ^{CWTD}ALAN RALSKY, defendant SEVERA responded: "King of Spam want to rent me. Cool."

65. On or about July 11, 2005, defendant BRADLEY communicated with defendant SEVERA by online chat and told him to send spam e-mail messages regarding PGCN that contained a stock alert referencing "Internet IPO!!!!Monday 7/12/05".

66. On or about July 21, 2005, defendant BRADLEY communicated with defendant SEVERA by online chat and sent defendant SEVERA sample text of stock advertisements. Defendant BRADLEY told SEVERA to make up and add advertising content to the advertisements contained in the spam.

67. On or about August 26, 2005, defendant BRADLEY communicated with defendant SEVERA by online chat, and defendant SEVERA stated that he would like to send the stock spam e-mail messages without any disclaimers.

68. On or about August 29, 2005, defendant SEVERA told defendant BRADLEY, "I mail both html, with hide randomization . . ." In the context of unlawful spamming, the term "randomization" often means the creation of randomly generated false names and e-mail addresses that are inserted in spam e-mail messages.

69. From beginning on or about June 29, 2005, through on or about August 22, 2005, defendant SEVERA received hundreds of thousands of dollars from defendant RALSY as payments for his regular spamming activities, primarily spamming messages that touted stocks with the following ticker symbols: PGCN, CWTD, CDGT, as well as SWIS, VAIG, MIDX, WWBP, MWIS, CGKY, MIDX, CHMS, PPKI, AXCP.

70. The defendants sent unlawful spam e-mail with materially false headers, as set out in Count 7, which is alleged as an overt act in furtherance of this conspiracy.

Exhibit “H”
Bragg’s Cooperation Agreement in the Petitioner’s case.



United States Attorney
District of New Jersey

Christopher J. Kelly
Assistant United States Attorney

Broad Street, Suite 700
Newark, New Jersey 07102

(973) 645-2700

CONFIDENTIAL - NOT TO BE FILED WITH
THE CLERK'S OFFICE

September 14, 2009

Via First Class Mail
Robert Morgan, Esq.
[REDACTED]
[REDACTED]

Re: Cooperation Agreement with James Bragg

Dear Mr. Morgan:

This letter sets forth the understandings between your client, James Bragg ("Bragg"), and the United States Attorney for the District of New Jersey ("this Office") concerning Bragg's cooperation with this Office. This cooperation agreement supplements the plea agreement dated September 14, 2009 between the same parties, which will be filed in open court (the "plea agreement"). The plea agreement and this cooperation agreement together constitute the full and complete agreement between the parties.

Bragg and this Office agree that this cooperation agreement will be disclosed to the Court but not filed with the Clerk's Office. Bragg further agrees not to reveal his cooperation, or any information derived therefrom, to any third party (other than the Court) without prior consent of this Office.

Bragg and this Office further agree that this cooperation agreement is contingent upon the entry of a guilty plea by Bragg pursuant to the provisions of the plea agreement. In the event that Bragg does not enter a guilty plea pursuant to the provisions of the plea agreement, this Office will be released from its obligations under this cooperation agreement.

Scope of Cooperation

Bragg shall cooperate fully with this Office. As part of that obligation, Bragg shall truthfully disclose all information concerning all matters about which this Office and other Government agencies designated by this Office may inquire and shall not commit or attempt to commit any additional crimes. Bragg also agrees to be available at all reasonable times requested by representatives of the Government

GOVERNMENT
EXHIBIT
J-JB-22

and shall truthfully testify in all proceedings, including grand jury and trial proceedings, as to any subject about which he is questioned. Furthermore, Bragg agrees to provide to this Office, upon request, all documents and other materials relating to matters about which this Office inquires.

If as part of this obligation to cooperate, Bragg provides self-incriminating statements, the statements shall be subject to the protections, terms, and conditions set forth in U.S.S.G. § 1B1.8 (a) & (b). Nothing, however, shall prevent the use of such statements in a prosecution for false statements, perjury, or obstruction of justice, or prevent the derivative use of such statements.

Informing the Court About Cooperation

The determination whether Bragg has fully complied with this agreement and provided substantial assistance to the Government rests solely in the discretion of this Office. If this Office determines in its sole discretion that Bragg has fully complied with this agreement and has provided substantial assistance in the investigation or prosecution of one or more persons who have committed offenses, this Office will move the sentencing judge, pursuant to Section 5K1.1 of the Sentencing Guidelines, to depart from the otherwise applicable guideline range. Whether the sentencing judge does in fact impose a sentence below the otherwise applicable guideline range is a matter committed solely to the discretion of the sentencing judge. Bragg may not withdraw his plea if this Office determines that Bragg has not rendered substantial assistance or has not fully complied with the terms of this agreement, or if the Court refuses to grant in whole or in part the Government's motion for a downward departure.

Other Provisions

This cooperation agreement is limited to the United States Attorney's Office for the District of New Jersey and cannot bind other federal, state, or local authorities. However, this Office will bring this agreement and Bragg's cooperation to the attention of other prosecuting offices, if requested to do so.

Breach of Agreement

Should Bragg withdraw from or violate any provision of this cooperation agreement or the plea agreement, or commit or attempt to commit any additional federal, state, or local crimes, or intentionally give materially false, incomplete, or misleading

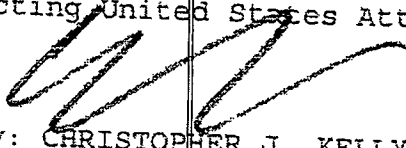
testimony or information, this Office will be released from its obligations under this agreement and the plea agreement, including any obligation to file a motion under U.S.S.G. § 5K1.1, but Bragg may not withdraw the guilty plea entered into pursuant to the plea agreement. In addition, Bragg shall thereafter be subject to prosecution for any federal criminal violation of which this Office has knowledge, including, but not limited to, perjury and obstruction of justice. Any such prosecution may be premised upon any information provided, or statements made, by Bragg, and all such information, statements, and leads therefrom may be used against Bragg. Any such prosecution that is not time-barred by the applicable statute of limitations on the date this agreement is signed by Bragg may be commenced, notwithstanding the expiration of the limitations period after Bragg signs the agreement. Bragg agrees to waive any statute of limitations with respect to any crime that would otherwise expire after Bragg signs the agreement. With respect to any prosecution referred to in this agreement, Bragg further waives any right to claim that statements made by him before or after the execution of this agreement, including any statements made pursuant to any prior agreement between Bragg and this Office, or any leads from Bragg's statements, should be suppressed under that prior agreement or under Fed. R. Evid. 410, Fed. R. Crim. P. 11(f), U.S.S.G. § 1B1.8, or otherwise.

No Other Promises

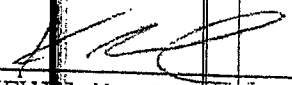
Bragg acknowledges that no additional promises, agreements or conditions have been made other than those set forth in this cooperation agreement and in the plea agreement, and none will be made unless set forth in writing and signed by the parties.

Very truly yours,

RALPH J. MARRA, JR.
Acting United States Attorney


By: CHRISTOPHER J. KELLY
EREZ LIEBERMANN
Assistant U.S. Attorneys


APPROVED:



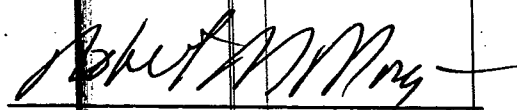
KEVIN M. O'DOWD
Chief, Securities and Health Care Fraud Unit

I have received this cooperation agreement from my attorney, Robert Morgan, Esq., I have read it, and I understand it fully. I hereby accept the terms and conditions set forth in this cooperation agreement and acknowledge that the plea agreement and this cooperation agreement together constitute the full and complete agreement between the parties. I understand that no additional promises, agreements, or conditions have been made or will be made unless set forth in writing and signed by the parties.

AGREED AND ACCEPTED:


James Bragg

Date: 10-24-09


Robert Morgan, Esq.

Date: at 24, 2009

Exhibit "I"
Bragg's Michigan plea conference.
P. 8, 9, 10, 11, 12

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs

JAMES E. BRAGG,

Defendant.

)

)

)

) CASE NO: 07-cr-20627

) Detroit, Michigan

) August 20, 2009

) TIME: 10:55 a.m.

)

)

)

TRANSCRIPT OF PLEA HEARING

BEFORE THE HONORABLE MARIANNE O. BATTANI

APPEARANCES:

For the Plaintiff:

MONA SEDKY SPIVACK, ESQ.
TERRENCE G. BERG, ESQ.

For the Defendant:

ROBERT M. MORGAN, ESQ.

Also Present:

James E. Bragg, Defendant

ALLEN T. BURNHAM, CSR-RPR
OFFICIAL COURT REPORTER
U.S. DISTRICT COURT
734-634-9489

1 yourself because I will ask you questions about what it is that
2 you did to satisfy myself that you're guilty and you will have
3 to acknowledge your guilt.

4 THE DEFENDANT: Yes, Your Honor. I'm here to be a
5 hundred percent honest with you.

6 THE COURT: Okay, and you're willing to give up all of
7 these rights and to proceed?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Okay. I'm going to ask the government to
10 put on the record the charge that the defendant will be pleading
11 to.

12 MS. SPIVACK: Thank you, Your Honor. Mr. Bragg is
13 pleading guilty to two counts, Count Five and Count Six in the
14 indictment.

15 Count Five charges Mr. Bragg with violating 18
16 U.S.C. 371, committing a conspiracy to violate the CAN-SPAM
17 Act, which is 18 U.S.C. 1037, conspiracy to commit mail fraud
18 in violation of 18 U.S.C. 1341, and conspiracy to commit wire
19 fraud in violation of 18 U.S.C. 1343.

20 The maximum punishment for Count Five is five
21 years' imprisonment, \$250,000 fine, and no less than three
22 years supervised release.

23 He's also here to plead guilty to Count Six, which
24 is a substantive violation of the CAN-SPAM Act, specifically
25 18 U.S.C. 1037(a) (2) and (b) (2) (c), which deals with sending

1 spam in, ah, using relays and proxies!

2 The maximum punishment associated with Count Five
3 is three years` imprisonment, a \$250,000 fine, no less than
4 two years supervised release.

5 The elements of the offense are set out on pages 2
6 through 5 of his Rule 11, and I'm happy to read that into the
7 record if the Court would like or we can just --

8 THE COURT: It's not necessary.

9 MS. SPIVACK: Okay, and the factual basis, if the
10 Court would indulge, I'd like to read the factual basis into the
11 record. That's set forth on pages 5 through 7 of his Rule 11.

12 THE COURT: You may. Let me, before you do those
13 things, though, let me just ask Mr. Bragg if you understand
14 those charges?

15 THE DEFENDANT: Yes, Your Honor, I do.

16 THE COURT: Okay, and you understand that there is
17 this Rule 11, obviously we have it here and counsel's referred
18 to it. Did you go over that Rule 11 with Mr. Morgan?

19 THE DEFENDANT: Yes, Your Honor, thoroughly.

20 THE COURT: Okay, and I see your signature is on it.
21 So you signed that?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Okay. Now the factual basis which counsel
24 is going to read into the record is the basis of this plea. So
25 I'm going to ask you later that, do you adopt this, do you agree

10
1 to everything that's said. So please listen carefully as the
2 facts are read, okay?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: You may proceed.

5 MS. SPIVACK: Thank you, Your Honor. The parties
6 stipulate the following facts are true and are a sufficient and
7 accurate basis for the Defendant's guilty plea.

8 From on or about January, 2004 through on or about
9 September, 2005, Defendant James E. Bragg, herein after
10 Defendant Seven, conspired and agreed with Allen Ralsky and
11 others to send unsolicited bulk commercial electronic mail,
12 also known as spam, sent spam e-mails himself and directed
13 others to send spam e-mails on behalf of the conspiracy.

14 During this time frame the Defendant transmitted
15 millions of spam e-mails that used false headers and were
16 sent via proxy mailing in order to disguise the true origin
17 of the spam e-mails and prevent recipients and Internet
18 Service Providers from detecting and blocking them.

19 The term proxy mailing means knowingly using
20 protected computers to relay or re-transmit the messages with
21 the intent to disguise their origin.

22 On numerous occasions from on or about March 1st,
23 2005 through on or about August 1st, 2005 Bragg communicated
24 with Defendants Ralsky, Bradley, Devenow and Brown via
25 electronic mail, instant messages and other methods of

United States of America vs James Bragg

1 communication about their use of proxies, which they also
2 referred to as p's, proximate and peas, P-E-A-S, as well as
3 their need to find sources for more proxies to use in
4 connection with their spamming operation.

5 On or about June 28th, 2005, Defendant Bragg and
6 Defendant Bradley communicated via electronic mail about
7 purchasing the bulk electronic mail software program Nexus.
8 It allowed the defendants to locate open proxy computers on
9 the Internet. The defendants thereafter purchased the Nexus
10 software program and Defendant Bragg used it to send spam
11 e-mails through proxies.

12 In addition, on or about July 11th, 2005, Bragg and
13 Defendant Bradley communicated via electronic mail about
14 their purchase of proxies from a source in Ukraine.

15 The term false headers, as used in the statute,
16 means knowingly and materially falsifying header information
17 and intentionally initiating the transmission of multiple
18 commercial e-mail messages.

19 Many of the spam e-mails promoted thinly traded
20 stocks for Chinese companies, including those with the ticker
21 symbols CDGT, WWBP, CWDT and PGCN, and contained materially
22 false and misleading information or omissions.

23 The Defendant was aware that interstate wire
24 communications, the U.S. mail and common carriers were used
25 to further the fraudulent scheme, which resulted in the

1 Defendant and others receiving payments and proceeds from the
2 sale of stocks whose prices were inflated after being
3 promoted by spam e-mails sent in furtherance of the
4 conspiracy.

5 THE COURT: All right. Okay. Let me ask you, sir,
6 whether or not those are the facts?

7 THE DEFENDANT: Those are accurate, ma'am, yes, Your
8 Honor.

9 THE COURT: And you adopt those facts?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: In their totality?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: This is what you did in this case?

14 THE DEFENDANT: This is exactly what I did, Your
15 Honor.

16 THE COURT: Okay. Do you have any questions you would
17 like to ask him about the facts before we get into the Rule 11?

18 MS. SPIVACK: No, I don't, Your Honor.

19 THE COURT: Okay. All right. Would you put the terms
20 of the Rule 11 on the record, please.

21 MS. SPIVACK: Sure. The Rule 11 is a non-cooperation
22 plea agreement; so there's no 5K involved. The agreed
23 guidelines range is 24 to 30 months' imprisonment.

24 The supervised release, as set forth on page 8, is
25 no less than three years.

United States of America vs James Bragg

Exhibit “J”

Test emails



Subject: Recently been commissioned, by the second largest retailer in the United States

From: "Kathryn ZIRBEL" <shauna5868@gmail.com>

Date: 1/7/2008 11:24 AM

To: nkroberts@sbcglobal.net, bragg68@gmail.com, marketingnow@gmail.com

Delivered-To: marketingnow@gmail.com

Received: by 10.142.135.17 with SMTP id i17cs34430wfd; Mon, 7 Jan 2008 08:24:48 -0800 (PST)

Received: by 10.142.185.13 with SMTP id i13mr2259603wff.213.1199723088525; Mon, 07 Jan 2008 08:24:48 -0800 (PST)

Received: by 10.142.245.15 with HTTP; Mon, 7 Jan 2008 08:24:48 -0800 (PST)

Message-ID: <c6ef94120801070824m4347a909q4269768a0fb6bd94@mail.gmail.com>

MIME-Version: 1.0

Content-Type: multipart/alternative; boundary="-----=_Part_6159_28934748.1199723088513"

Get the Finest Rolex Watch Replica! We only sell premium watches. There's no battery in these replicas just like the real ones since they charge themselves as you move. The second hand moves JUST like the real ones, too. These original watches sell in stores for thousands of dollars. We sell them for much less. - Replicated to the Smallest Detail- 98% Perfectly Accurate Markings - Signature Green Sticker w/ Serial Number on Watch Back- Magnified Quickset Date- Includes all Proper Markings Visit us: sppoiiee.com Christmas discount this week only! Make your order before the prices go up.

Subject: Posts 58% Increase in Revenues

From: "Pamela EZEKIEL" <imelda9832@gmail.com>

Date: 1/7/2008 11:24 AM

To: nkotsopoulos@lawrencetech.net, nkotta@yahoo.com, bragg68@gmail.com, marketingnow@gmail.com

Delivered-To: marketingnow@gmail.com

Received: by 10.142.135.17 with SMTP id i17cs34416wfd; Mon, 7 Jan 2008 08:24:42 -0800 (PST)

Received: by 10.151.11.17 with SMTP id o17mr5475562ybi.98.1199723081707; Mon, 07 Jan 2008 08:24:41 -0800 (PST)

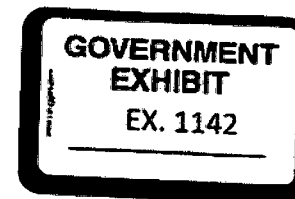
Received: by 10.151.15.8 with HTTP; Mon, 7 Jan 2008 08:24:41 -0800 (PST)

Message-ID: <1e9332b70801070824w43d71983led02e0877fdd586b@mail.gmail.com>

MIME-Version: 1.0

Content-Type: multipart/alternative; boundary="====_Part_20186_13448650.1199723081713"

Get the Finest Rolex Watch Replica! We only sell premium watches. There's no battery in these replicas just like the real ones since they charge themselves as you move. The second hand moves JUST like the real ones, too. These original watches sell in stores for thousands of dollars. We sell them for much less. - Replicated to the Smallest Detail- 98% Perfectly Accurate Markings - Signature Green Sticker w/ Serial Number on Watch Back- Magnified Quickset Date- Includes all Proper Markings Visit us: sodikeke.com Christmas discount this week only! Make your order before the prices go up.



Subject: Big News Just Out

From: "Joni WESTER" <autumn1219@gmail.com>

Date: 1/7/2008 11:24 AM

To: nkp0401@yahoo.com, nkp2780@aol.com, bragg68@gmail.com, marketingnow@gmail.com

Delivered-To: marketingnow@gmail.com

Received: by 10.142.135.17 with SMTP id i17cs34428wfd; Mon, 7 Jan 2008 08:24:47 -0800 (PST)

Received: by 10.82.174.20 with SMTP id w20mr35661813bue.28.1199723085704; Mon, 07 Jan 2008 08:24:45 -0800 (PST)

Received: by 10.82.155.13 with HTTP; Mon, 7 Jan 2008 08:24:45 -0800 (PST)

Message-ID: <847ef2500801070824mb7214d8pcca64a7adc3ca3a7@mail.gmail.com>

MIME-Version: 1.0

Content-Type: multipart/alternative; boundary="-----=_Part_3625_20598064.1199723085699"

Get the Finest Rolex Watch Replica! We only sell premium watches. There's no battery in these replicas just like the real ones since they charge themselves as you move. The second hand moves JUST like the real ones, too. These original watches sell in stores for thousands of dollars. We sell them for much less. - Replicated to the Smallest Detail- 98% Perfectly Accurate Markings - Signature Green Sticker w/ Serial Number on Watch Back- Magnified Quickset Date- Includes all Proper Markings Visit us: sodikeke.com Christmas discount this week only! Make your order before the prices go up.

Subject: Major Contract Just Signed

From: "Jean RISS" <deidre9991@gmail.com>

Date: 1/7/2008 11:25 AM

To: nkudari@yahoo.com, bragg68@gmail.com, marketingnow@gmail.com

Delivered-To: marketingnow@gmail.com

Received: by 10.142.135.17 with SMTP id i17cs34482wfd; Mon, 7 Jan 2008 08:25:45 -0800 (PST)

Received: by 10.100.105.15 with SMTP id d15mr19586803anc.65.1199723145198; Mon, 07 Jan 2008 08:25:45 -0800 (PST)

Received: by 10.100.8.14 with HTTP; Mon, 7 Jan 2008 08:25:45 -0800 (PST)

Message-ID: <fd3f8c780801070825q2e76ef0aje1546def3f92b2fa@mail.gmail.com>

MIME-Version: 1.0

Content-Type: multipart/alternative; boundary="-----_Part_9234_5814937.1199723145189"

Get the Finest Rolex Watch Replica! We only sell premium watches. There's no battery in these replicas just like the real ones since they charge themselves as you move. The second hand moves JUST like the real ones, too. These original watches sell in stores for thousands of dollars. We sell them for much less. - Replicated to the Smallest Detail- 98% Perfectly Accurate Markings - Signature Green Sticker w/ Serial Number on Watch Back- Magnified Quickset Date- Includes all Proper Markings Visit us: spoaiiks.com Christmas discount this week only! Make your order before the prices go up.

Exhibit "K" Judgement

UNITED STATES DISTRICT COURT
District of New Jersey

UNITED STATES OF AMERICA

v.

Case Number 3:11CR161(P)-01

CHRISTOPHER RAD

Defendant.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

RECEIVED
MAY 14 2013
AT 8:30 WILLIAM T. WALSH, M.
CLERK

The defendant, CHRISTOPHER RAD, was represented by Francis Williams Montenegro, Esquire (Retained).

On motion of the United States the court has dismissed the Indictment. The defendant has been found not guilty on count(s) 2s - 4s of the Superseding Indictment and is discharged as to such count(s).

The defendant was found guilty on count(s) 1s, 5s - 9s of the Superseding Indictment by a jury verdict on 11-30-2012 after a plea of not guilty. Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):


<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number(s)</u>
18 U.S.C. SECTION 371 [18 U.S.C. SECTIONS 1037(a)(3), (b)(1)(A), (b)(2)(C), & (b)(2)(E)]	CONSPIRACY TO COMMIT SECURITIES FRAUD, FALSE HEADER SPAMMING & FALSE REGISTRATION SPAMMING	FROM AT LEAST AS EARLY AS IN OR ABOUT 11-2007, THROUGH IN OR ABOUT 02-2009	ONE
18 U.S.C. SECTION 371 [18 U.S.C. SECTIONS 1037(a)(1) & (b)(2)(A)]	CONSPIRACY TO COMMIT UNAUTHORIZED ACCESS SPAMMING	FROM AT LEAST AS EARLY AS IN OR ABOUT 05-2007 THROUGH IN OR ABOUT 02-2009	FIVE
18 U.S.C. SECTIONS 1037(a)(1), (b)(1)(A), & (b)(2)(A)	UNAUTHORIZED ACCESS SPAMMING - AIDING & ABETTING	05-13-2008 THROUGH 05-17-2008	SIX
18 U.S.C. SECTIONS 1037(a)(1), (b)(1)(A), & (b)(2)(A)	UNAUTHORIZED ACCESS SPAMMING - AIDING & ABETTING	05-14-2008 THROUGH 05-16-2008	SEVEN
18 U.S.C. SECTIONS 1037(a)(1), (b)(1)(A), & (b)(2)(A)	UNAUTHORIZED ACCESS SPAMMING - AIDING & ABETTING	06-02-2008 THROUGH 06-04-2008	EIGHT
18 U.S.C. SECTIONS 1037(a)(1), (b)(1)(A), & (b)(2)(A)	UNAUTHORIZED ACCESS SPAMMING - AIDING &	06-03-2008 THROUGH 06-04-2008	NINE

As pronounced on 05-13-2013, the defendant is sentenced as provided in pages 2 through 7 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00 as to each count; total: \$600.00, for count(s) 1s, 5s through 9s, which shall be due immediately. Said special assessment shall be made payable to the Clerk, U.S. District Court.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

Signed this the 14th day of May, 2013.



JOEL A. PISANO
United States District Judge

Defendant: CHRISTOPHER RAD
Case Number: 3:11CR161(JAP)-01

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of 5 years on each count to run concurrently.

Within 72 hours of release from custody of the Bureau of Prisons, the defendant shall report in person to the Probation Office in the district to which the defendant is released.

While on supervised release, the defendant shall comply with the standard conditions that have been adopted by this court as set forth below.

Based on information presented, the defendant is excused from the mandatory drug testing provision, however, may be requested to submit to drug testing during the period of supervision if the probation officer determines a risk of substance abuse.

If this judgment imposes a fine, special assessment, costs, or restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine, assessments, costs, and restitution that remains unpaid at the commencement of the term of supervised release and shall comply with the following special conditions:

COMPUTER MONITORING

You shall submit to an initial inspection by the U.S. Probation Office, and to any unannounced examinations during supervision, of your computer equipment. This includes, but is not limited to, personal computer, personal digital assistants, entertainment consoles, cellular telephones, and/or any electronic media device which is owned or accessed by you. You shall allow the installation on your computer of any hardware or software systems which monitor computer use. You shall pay the costs of the computer monitoring program. You shall abide by the standard conditions of computer monitoring. Any dispute as to the applicability of this condition shall be decided by the Court.

COOPERATION WITH IMMIGRATION AND CUSTOMS ENFORCEMENT

You shall cooperate with Immigration and Customs Enforcement to resolve any problems with your status in the United States. You shall provide truthful information and abide by the rules and regulations of Immigration and Customs Enforcement. If deported, you shall not re-enter the United States without the written permission of the Attorney General. If you re-enter the United States, you shall report in person to the nearest U.S. Probation Office within 48 hours.

Defendant: CHRISTOPHER RAD
Case Number: 3:11CR161(JAP)-01

FINE

The defendant shall pay a fine of \$30,000.00.

This fine, plus any interest pursuant to 18 U.S.C. § 3612(f)(1), is due immediately and shall be paid in full within 30 days of sentencing .immediately. It is recommended that the defendant participate in the Bureau of Prisons Inmate Financial Responsibility Program (IFRP). If the defendant participates in the IFRP, the fine shall be paid from those funds at a rate equivalent to \$25 every 3 months. In the event the fine is not paid prior to the commencement of supervision, the defendant shall satisfy the amount due in monthly installments of no less than \$500.00, to commence 30 days after release from confinement.

This amount is the total of the fines imposed on individual counts, as follows: 5,000.00 as to each of counts 1s, 5s through 9s.

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed.
See 18 U.S.C. § 3614.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest, (7) penalties, and (8) costs, including cost of prosecution and court costs.

Defendant: CHRISTOPHER RAD
Case Number: 3:11CR161(JAP)-01

and approval of the U.S. Probation Office. You shall cooperate with the Probation Officer in the investigation of your financial dealings and shall provide truthful monthly statements of your income. You shall cooperate in the signing of any necessary authorization to release information forms permitting the U.S. Probation Office access to your financial information and records;

- (19) As directed by the U.S. Probation Office, you shall participate in and complete any educational, vocational, cognitive or any other enrichment program offered by the U.S. Probation Office or any outside agency or establishment while under supervision;
- (20) You shall not operate any motor vehicle without a valid driver's license issued by the State of New Jersey, or in the state in which you are supervised. You shall comply with all motor vehicle laws and ordinances and must report all motor vehicle infractions (including any court appearances) within 72 hours to the U.S. Probation Office;

For Official Use Only - - U.S. Probation Office

Upon a finding of a violation of probation or supervised release, I understand that the Court may (1) revoke supervision or (2) extend the term of supervision and/or modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions, and have been provided a copy of them.

You shall carry out all rules, in addition to the above, as prescribed by the Chief U.S. Probation Officer, or any of his associate Probation Officers.

(Signed) _____
Defendant Date

U.S. Probation Officer/Designated Witness Date

Defendant: CHRISTOPHER RAD
Case Number: 3:11CR161(JAP)-01

STANDARD CONDITIONS OF SUPERVISED RELEASE

While the defendant is on supervised release pursuant to this Judgment:

- 1) The defendant shall not commit another federal, state, or local crime during the term of supervision.
- 2) The defendant shall not illegally possess a controlled substance.
- 3) If convicted of a felony offense, the defendant shall not possess a firearm or destructive device.
- 4) The defendant shall not leave the judicial district without the permission of the court or probation officer.
- 5) The defendant shall report to the probation officer in a manner and frequency directed by the Court or probation officer.
- 6) The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer.
- 7) The defendant shall support his or her dependents and meet other family responsibilities.
- 8) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 9) The defendant shall notify the probation officer within seventy-two hours of any change in residence or employment.
- 10) The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute or administer any narcotic or other controlled substance, or any paraphernalia related to such substances.
- 11) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 12) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 13) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 14) The defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.
- 15) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court.
- 16) As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.
- (17) You shall cooperate in the collection of DNA as directed by the Probation Officer.

(This standard condition would apply when the current offense or a prior federal offense is either a felony, any offense under Chapter 109A of Title 18 (i.e., §§ 2241-2248, any crime of violence [as defined in 18 U.S.C. § 16], any attempt or conspiracy to commit the above, an offense under the Uniform Code of Military Justice for which a sentence of confinement of more than one year may be imposed, or any other offense under the Uniform Code that is comparable to a qualifying federal offense);

- (18) Upon request, you shall provide the U.S. Probation Office with full disclosure of your financial records, including co-mingled income, expenses, assets and liabilities, to include yearly income tax returns. With the exception of the financial accounts reported and noted within the presentence report, you are prohibited from maintaining and/or opening any additional individual and/or joint checking, savings, or other financial accounts, for either personal or business purposes, without the knowledge