

1 PAUL ANTHONY MARTIN
2 Acting United States Attorney
3 District of Arizona

4 RAYMOND K. WOO
5 Arizona State Bar No. 023050
6 E-mail: Raymond.woo@usdoj.gov
7 JAMES R. KNAPP
8 Arizona State Bar No. 021166
9 E-mail: james.knapp2@usdoj.gov
Assistant U.S. Attorney
Two Renaissance Square
40 North Central Avenue, Suite 1800
Phoenix, Arizona 85004-4408
Telephone: (602) 514-7500
Attorneys for Plaintiff

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF ARIZONA

12 United States of America,
13
14 Plaintiff,

15 vs.

16 Austin Ryan Steinbart,
17 Defendant.

No. CR-20-0485-PHX-SPL

**GOVERNMENT'S SENTENCING
MEMORANDUM**

18 The United States requests that the Court accept the proposed plea agreement and
19 sentence Defendant Austin Steinbart to time served, followed by one year of supervised
20 release. As explained below, a sentence of time served is consistent with the anticipated
21 advisory guideline range (0-6 months) and supported by the relevant 18 U.S.C. § 3553
22 sentencing factors. If the Court accepts the plea agreement, the United States recommends
23 that the Court waive the presentence investigation report and impose sentence on the day
24 of the change-of-plea hearing. This Memorandum is provided for the Court to
25 “meaningfully exercise its sentencing authority under 18 U.S.C. § 3553” in the absence of
26 a presentence investigation report, in accordance with Fed. R. Crim. Proc. 32(c)(1)(A)(ii).

27 **I. Background**

28 Defendant Austin Steinbart is a longtime Arizona resident and IT contractor with

1 no prior criminal convictions. As alleged in the Indictment and discussed in numerous
2 pretrial motions, Steinbart engaged in a bizarre series of criminal acts that involved the
3 disclosure of sensitive medical information, extortionate threats, and false statements. (*See*,
4 *e.g.*, CR 3 (Complaint), 63 (Indictment), 125 (Order Denying Reconsideration of Pretrial
5 Detention), 130 (Order Denying Motion to Suppress).)

6 *Disclosure of sensitive medical information*

7 Counts 5-7 allege identity theft in violation of 18 U.S.C. § 1028(a)(7). On March
8 13, 2020, Steinbart posted a video to his YouTube channel claiming he hacked “famous
9 peoples’ medical records.” The video contained a cell phone recording of him at a computer
10 terminal accessing the “Patient Archive” at a California medical facility and exhibiting
11 patient records. The facility learned of the video and asked him to remove the sensitive
12 content from YouTube. Steinbart refused. In response to complaints, FBI agents visited
13 Steinbart at his Chandler home on March 19, 2020. The FBI asked Steinbart to remove the
14 videos and he again refused.

15 *Threats to “blockade” a file storage business*

16 Counts 1-3 allege wire fraud in violation of 18 U.S.C. § 1343 and Count 4 alleges
17 interstate communications with intent to extort in violation of 18 U.S.C. § 875(d). On
18 March 21, 2020, Steinbart posted another video to his YouTube channel, this time
19 threatening to destroy the operations of a Connecticut-based file storage and file sharing
20 company. The company received a complaint that Steinbart posted sensitive third-party
21 information to a public folder in violation of the terms of service; when Steinbart failed to
22 respond to their inquiry, the company suspended his account. Steinbart retaliated by
23 directing his YouTube subscribers to flood the company’s tech support line with fictitious
24 emails and phone calls in an attempt to “chok[e] off more and more their ability to operate
25 their business every day until they either give us our files back or go out of business, their
26 choice.” As a result, the company received thousands of fictitious emails and support
27 requests, briefly disrupting its ability to serve its legitimate customers and costing it
28 thousands of dollars. Steinbart also threatened via Twitter to “send some PSYCHOS” to

1 visit the company’s CEO in person if he didn’t get his account reinstated.

2 *Arrest date, pretrial release violations, and credit for time served*

3 Steinbart was first arrested on March 31, 2020, based on a criminal complaint and
4 arrest warrant alleging one count of extortion in violation of 18 U.S.C. § 1030(a)(7)(C).
5 (CR 3 (Complaint); CR 14 (Arrest Warrant).) He was released on conditions on April 3,
6 2020, but after several pretrial release violations his release was revoked and he has been
7 in custody since September 1, 2020. (CR 57, 61.) Steinbart will have approximately 198
8 days of credit for time served on March 8, 2021.

9 **II. Sentencing Calculations**

10 The United States anticipates that Steinbart will have an adjusted offense level of 7
11 based on a guilty plea to Count 4 of the Indictment, interstate communications with intent
12 to extort in violation of 18 U.S.C. § 875(d):

13 Count 4, Interstate Communications with Intent to Extort

14 U.S.S.G. § 2B3.3	Base Offense Level:	9
15 U.S.S.G. § 3E1.1(a)	Acceptance of Responsibility:	-2
	Total Adjusted Offense Level:	7

16 The United States also anticipates—based on the discovery and the pretrial services
17 report—that Steinbart has no prior criminal convictions and would be in criminal history
18 category I. This would result in an advisory range of 0-6 months of imprisonment.

19 If Steinbart were to instead plead guilty to one of the wire fraud or identity theft
20 counts, his advisory sentencing range would probably be similar:¹

21 _____
22 ¹ If Steinbart were convicted of all counts at trial, his sentencing range would be
23 higher. He would not receive a reduction under U.S.S.G. § 3E1.1, plus he would have two
24 separate count groups resulting in a total offense level of 11 under U.S.S.G. § 3D1.4. It’s
25 also possible the wire fraud sentencing range would be increased due to a loss amount
26 adjustment, and the sentencing range for extortion would be higher if calculated under
27 U.S.S.G. § 2B3.2 (extortion by threat of injury). *See, e.g.*, U.S.S.G. § 2B3.2 cmt. 2 (“This
28 guideline applies if there was any threat, express or implied, that reasonably could be
interpreted as one to injure a person or physically damage property, or any comparably
serious threat, such as to drive an enterprise out of business.”); *United States v. Douglas*,
634 F.3d 852, 861-63 (6th Cir. 2011) (discussing applicability of § 2B3.2 versus 2B3.3
based on severity of threat to victim company); *United States v. Tobin*, 155 F.3d 636, 643-
44 (3d Cir. 1998) (“in determining whether § 2B3.2 should be applied, the focus is on the
economic effect on the particular victim”).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Counts 1-3, Wire Fraud

U.S.S.G. § 2B1.1(a) Base Offense Level: 7
U.S.S.G. § 2B1.1(b)(9) Misrepresentation of Gov’t Agency +2

Counts 5-7, Identity Theft

U.S.S.G. § 2B1.1(a) Base Offense Level: 6

II. Sentencing Recommendation

The United States requests that the Court accept the proposed plea agreement and sentence Defendant Austin Steinbart to time served, followed by one year of supervised release. Steinbart has no prior criminal history, and it appears he did not engage in the offense with a profit motive. *See* 18 U.S.C. § 3553(a)(1). Moreover, his crimes—while serious—were committed over a short time frame and through a small number of social media posts. *See* 18 U.S.C. § 3553(a)(2)(A). The file storage business Steinbart targeted experienced a significant increase of fraudulent email and phone activity for several days, but it effectively countered the activity to resume normal operations. And Steinbart’s YouTube channel has since been deactivated,² so the need to protect the public from similar antics in the future is mitigated. *See* 18 U.S.C. § 3553(a)(2)(C).

A felony conviction and a sentence of time served—roughly six and a half months of custody—should serve to deter Steinbart and others from engaging in similar criminal conduct in the future. The plea agreement contemplates a payment of restitution to any victims, although at the time of this filing the United States does not anticipate a restitution request. *See* 18 U.S.C. § 3553(a)(7).

For all these reasons, the United States requests that the Court accept the plea agreement and sentence Defendant Austin Steinbart to time served.

//
//

² *See* www.youtube.com/channel/UC3SB8FR3144M3DKCZPBXcHg (last visited March 1, 2021).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Respectfully submitted this 1st day of March 2021.

PAUL ANTHONY MARTIN
Acting United States Attorney
District of Arizona

s/ Raymond K Woo
s/ James R Knapp

RAYMOND K. WOO
JAMES R. KNAPP
Assistant United States Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on today's date, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System and caused a copy to be mailed to the following:

Austin Ryan Steinbart
#35841-508
Florence-AZ-Florence-CADC-6300
Central Arizona Detention Center
P.O. Box 6300
Florence, AZ 85132

s/ James Knapp