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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

12 Cr. 185 (LAP)

5 JEREMY HAMMOND,

6 Defendant.

7
8 New York, New York
9 May 28, 2013
10:30 a.m.

10 Before:

11 HON. LORETTA A. PRESKA,

12 Chief Judge

13 APPEARANCES

14 PREET BHARARA

15 United States Attorney for the
16 Southern District of New York

17 BY: ROSEMARY NIDIRY

18 THOMAS G.A. BROWN

Assistant United States Attorneys

19 SARAH KUNSTLER

20 ELIZABETH FINK

GRAINNE O'NEIL

21 MARGARET RATNER KUNSTLER

Attorneys for Defendant

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(In open court)

(Case called)

THE COURT: Good morning.

How would you like to proceed, Ms. Kuntsler?

MS. KUNSTLER: Today we would like to withdraw Mr. Hammond's previously entered plea of not guilty to the indictment and enter a plea of guilty to the superseding information.

THE COURT: Yes, ma'am.

Mr. Hammond, would you stand, please and raise your right hand.

(Defendant sworn)

THE COURT: Sir, do you understand that you are now under oath, and if you answer falsely, your answers may later be used against you in a prosecution for perjury or the making of a false statement?

THE DEFENDANT: Yes.

THE COURT: How old are you, sir?

THE DEFENDANT: 28.

THE COURT: Where were you born?

THE DEFENDANT: Chicago.

THE COURT: So you are a citizen of the United States?

THE DEFENDANT: Yes.

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1 THE COURT: And you read, write, speak and understand
2 English, is that right?

3 THE DEFENDANT: Yes.

4 THE COURT: How far did you go in school, sir?

5 THE DEFENDANT: Some college.

6 THE COURT: Are you currently or have you recently
7 been under the care of a doctor or a psychiatrist?

8 THE DEFENDANT: No.

9 THE COURT: Have you been hospitalized or treated
10 recently for alcoholism, narcotic addiction, or any other type
11 of drug abuse?

12 THE DEFENDANT: No.

13 THE COURT: Have you ever been treated for any form of
14 mental illness?

15 THE DEFENDANT: No.

16 THE COURT: Are you currently under the influence of
17 any substance, such as alcohol, drugs or any medication that
18 might affect your ability to understand what you are doing here
19 in court today?

20 THE DEFENDANT: No.

21 THE COURT: Do you feel well enough to understand what
22 you are doing here in court today?

23 THE DEFENDANT: Yes.

24 THE COURT: Sir, have you received a copy of the
25 superseding information against you S2 12 Cr. 185?

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1 THE DEFENDANT: Yes.

2 THE COURT: Have you gone over it with your attorneys?

3 THE DEFENDANT: Yes.

4 THE COURT: Have your attorneys explained the charges
5 against you?

6 THE DEFENDANT: Yes.

7 THE COURT: Now, sir, you understand that you are
8 under no obligation -- let me ask you this first: Do you
9 understand that you have the right to have your case presented
10 to the grand jury for indictment?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that you are under no
13 obligation to waive that right?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand that if you do not waive
16 that right and if the government wishes to prosecute you, the
17 government would have to present your case to the grand jury,
18 which might or might not indict you?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you correctly understand that after
21 speaking with your attorneys you have decided that in this
22 instance it is in your best interest to waive indictment?

23 THE DEFENDANT: Yes.

24 THE COURT: Sir, did you signify your waiver of
25 indictment by signing this form titled waiver of indictment,

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1 which is dated May 28, 2013?

2 THE DEFENDANT: Yes.

3 THE COURT: Sir, is that your signature over there on
4 the left-hand side over the word "defendant"?

5 THE DEFENDANT: Yes.

6 THE COURT: Thank you.

7 I find that Mr. Hammond is knowingly and voluntarily
8 waived his right to indictment.

9 Now, sir, you told me that your lawyers had explained
10 to you the charges against you in the superseding information,
11 correct?

12 THE DEFENDANT: Yes.

13 THE COURT: Sir, did you tell your lawyers everything
14 you know about the matters that are contained in the
15 superseding information?

16 THE DEFENDANT: Yes.

17 THE COURT: You didn't hold anything back from them,
18 did you?

19 THE DEFENDANT: No.

20 THE COURT: Now, counsel, do I correctly understand
21 that is an agreement between the defendant and the government
22 which is dated May 23, 2013, and which is signed May 28, 2013?

23 MS. KUNSTLER: Yes.

24 MS. NIDIRY: Yes.

25 THE COURT: Ms. Nidiry, would you summarize, please,

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1 the terms and conditions of the agreement.

2 MS. NIDIRY: Yes, your Honor.

3 Pursuant to the agreement the defendant agrees to
4 plead guilty --

5 THE COURT: Keep your voice up, please.

6 MS. NIDIRY: -- to plead guilty to the charge in the
7 information, which charges him with conspiracy to engage in
8 computer hacking between in or about June 2011 and March 2012
9 in connection with a hack of the computer systems used by
10 Strategic Forecasting, also known as Stratfor, and public
11 dissemination of information obtained through that hack.

12 The defendant also admits as relevant conduct to be
13 considered at the time of sentencing his involvement in a
14 series of hacks that are set out in the agreement, eight of
15 them.

16 Would you like me to go through them?

17 THE COURT: Why don't you just note the entity hacked
18 and the date on which the hack took place.

19 MS. NIDIRY: Yes, your Honor.

20 A hack of the computer systems used by Arizona
21 Department of Public Safety in June 2011; the Federal Bureau of
22 Investigation's Virtual Academy in June 2011; Brooks-Jeffrey
23 Marketing, Inc. in July 2011; Special Forces Gear, website
24 SpecialForces.com in August of 2011; Vanguard Defense
25 Industries in August of 2011; Jefferson County Alabama

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1 Sheriff's Office's computer systems in October of 2011; the
2 Boston Police Patrolman's Association website, in October of
3 2011; and of Combined Systems in February of 2012.

4 In consideration of the defendant's plea to the
5 offense as well as the hacks that I have just listed, including
6 his admission of that, the government agrees that the defendant
7 will not be further prosecuted criminally by the U.S.

8 Attorney's Office of the Southern District of New York, any of
9 the other 93 U.S. Attorney's Offices, the Criminal Division of
10 the United States Department of Justice, except for criminal
11 tax violations as set forth for the computer hacking and
12 unauthorized computer intrusion activities set forth in the
13 information in the relevant conduct and based on evidence
14 obtained from the laptop computer seized from the defendant at
15 the time of his arrest on March 5 of 2012, or based on evidence
16 obtained from the defendant's communications with a cooperating
17 witness in the course of the government's investigation of the
18 instant offense.

19 And also pursuant to this agreement the defendant
20 stipulates to a guidelines analysis that is set forth in the
21 agreement, which includes a loss amount of \$1 million to \$2.5
22 million as well as that the offense involved 250 or more
23 victims; that it involved sophisticated means, involved an
24 intent to obtain personal information or the unauthorized
25 public dissemination of personal information; that the offense,

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1 including the relevant conduct for all of these, involved a
2 computer system used by or for a government entity in
3 furtherance of the administration of justice; and that assuming
4 that the defendant complies with the plea agreement and admits
5 his responsibility he's entitled to acceptance of
6 responsibility, resulting in a guidelines analysis range of 151
7 to 188 months' imprisonment, with a maximum sentence available
8 of 10 years, or 120 months, which is the stipulated guidelines
9 sentence; and that the defendant waives any direct or
10 collateral appeal of a sentence of 120 months or below, a fine
11 of \$150,000 or below, and at that time defendant waives any
12 appeal of restitution to be directed at sentencing by the Court
13 of \$2.5 million or below.

14 THE COURT: Thank you.

15 Mr. Hammond, are those the terms and conditions of the
16 agreement as you understand them?

17 THE DEFENDANT: Yes.

18 THE COURT: Sir, have you had enough time to review
19 the agreement and to go over it with your attorneys and to have
20 all of your questions answered?

21 THE DEFENDANT: Yes.

22 THE COURT: Sir, I'm holding up the original of the
23 agreement and turning to the last page -- not the last page,
24 the next to last page.

25 Is that your signature over on the left-hand side

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1 under the words "agreed and consented to"?

2 THE DEFENDANT: Yes.

3 THE COURT: Am I correct that your willingness to
4 offer to plead guilty is in part a result of this agreement
5 between you and the government?

6 THE DEFENDANT: Yes.

7 THE COURT: Counsel, are there any additional
8 agreements between the defendant and the government that are
9 not set forth in the written plea agreement?

10 MS. NIDIRY: No, your Honor.

11 MS. KUNSTLER: No, your Honor.

12 THE COURT: Very well. Then the agreement is
13 acceptable to the Court.

14 Now, Mr. Hammond, have you been induced to offer to
15 plead guilty as a result of any fear, pressure, threat, or
16 force of any kind?

17 THE DEFENDANT: No.

18 THE COURT: Have you been induced to offer to plead
19 guilty as a result of any statements by anyone other than in
20 your written plea agreement to the effect that you would get
21 special treatment or special consideration or some kind of
22 special leniency if you pleaded guilty rather than going to
23 trial?

24 THE DEFENDANT: No.

25 THE COURT: Do you understand that you have the right

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1 to enter a plea of guilty to the superseding information and to
2 proceed to trial?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that if you do not plead
5 guilty, you have a right to a speedy and public trial by a jury
6 of 12 persons?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that you have the right
9 to be represented by an attorney at trial and at every stage of
10 the proceedings, including an appeal, and if you cannot afford
11 an attorney, one will be appointed to represent you free of
12 charge?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that if your plea of
15 guilty is accepted, there will be no further trial of any kind?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand that if you pleaded not
18 guilty and went to trial, that upon such a trial, you would be
19 presumed innocent unless and until the government proved your
20 guilt beyond a reasonable doubt to all 12 jurors?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that at such a trial you
23 would have the right to confront and cross-examine all of the
24 witnesses called by the government against you?

25 THE DEFENDANT: Yes.

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1 THE COURT: Do you understand that at such a trial you
2 could remain silent and no inference could be drawn against you
3 by reason of your silence; or, if you wanted to, you could take
4 the stand and testify in your own defense?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that at such a trial you
7 would have the right to subpoena witnesses and evidence for
8 your own defense?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that if your offer to
11 plead guilty is accepted, you give up these rights with respect
12 to this charge against you, and the Court may impose sentence
13 just as though a jury had brought in a verdict of guilty
14 against you?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that if you wanted to,
17 and if the government agreed, you could have a trial before a
18 judge without a jury, in which event the burden of proof would
19 still be on the government, and you would still have the same
20 constitutional rights?

21 THE DEFENDANT: Yes.

22 THE COURT: Sir, do you understand that upon your plea
23 of guilty to this charge, the Court has the power to impose
24 upon you a maximum sentence of 10 years' imprisonment, a
25 maximum period of supervised release of three years, a maximum

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1 fine of the greatest of \$250,000, twice the gross pecuniary
2 gain derived from the offense or twice the gross pecuniary loss
3 resulting from the offense, together with a mandatory \$100
4 special assessment?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you also understand, sir, that, in
7 addition to those other punishments that I have just mentioned,
8 upon your plea of guilty to this charge the Court must order
9 restitution to the victims of your crime?

10 THE DEFENDANT: Yes.

11 THE COURT: Sir, do you also understand that if the
12 terms and conditions of supervised release are violated, you
13 may be required to serve an additional period of imprisonment
14 which is equal to the period of supervised release with no
15 credit for time already spent on supervised release?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you discussed the sentencing
18 guidelines with your attorneys?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand that the Court will not
21 be able to determine exactly what guideline applies to your
22 case until a presentence report has been completed and you and
23 your attorneys and the government have a chance to read it and
24 to challenge the facts that are set out by the probation
25 officer?

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1 THE DEFENDANT: Yes.

2 THE COURT: Do you also understand, sir, that in
3 determining a sentence it's the Court's obligation to calculate
4 the applicable sentencing guidelines range and then to consider
5 that range, possible departures from that range under the
6 guidelines, and other sentencing factors set out in the
7 statute, 18 United States Code, Section 3553(a)?

8 THE DEFENDANT: Yes.

9 THE COURT: Sir, do you understand that under some
10 circumstances as set forth in your plea agreement, you or the
11 government might have the right to appeal whatever sentence is
12 imposed?

13 THE DEFENDANT: Yes.

14 THE COURT: And do you understand that parole has been
15 abolished so if you're sentenced to prison, you will not be
16 released on parole?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand that you will not be
19 able to withdraw your plea on the ground that your lawyer's
20 prediction or anybody else's prediction as to the applicable
21 guidelines range or as to the actual sentence turns out not to
22 be correct?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand that the offense to
25 which you are pleading guilty is a felony?

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1 THE DEFENDANT: Yes.

2 THE COURT: Are you fully satisfied with the advice,
3 counsel, and representation given to you by your attorneys,
4 Ms. Fink and Ms. Kuntsler.

5 THE DEFENDANT: Yes.

6 THE COURT: Do I correctly understand that you are
7 offering to plead guilty because you are in fact guilty?

8 THE DEFENDANT: Yes.

9 THE COURT: Sir, if you wish to plead guilty, I'm
10 going to ask you to tell me what you did.

11 As you can see, your answers will be made in the
12 presence of your attorneys and your answers will be recorded on
13 the record.

14 I remind you again that you are still under oath, so
15 if you answer falsely, your answers may later be used against
16 you?

17 Do you understand, sir?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you still wish to plead guilty?

20 THE DEFENDANT: Yes.

21 THE COURT: Tell me what you did, sir.

22 THE DEFENDANT: From about June 2011 to about March
23 2012, I agreed with other people to intentionally access
24 without authorization, or hack, computer systems used by a
25 company called Strategic Forecasting Incorporated, Stratfor,

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1 and take from those computer systems information the value of
2 which exceeded five grand. I knew what I was doing was against
3 the law. During this time, some of this information was
4 intentionally uploaded to a computer server located in New
5 York, New York.

6 In addition, from in or about January 2011 to March
7 2012 I also hacked computer systems used by other entities.

8 Specifically, in about June 2011, I hacked computer
9 systems used by the Arizona Department of Public Safety, a
10 state law enforcement agency in Arizona, which maintained the
11 website AZDPS.gov.

12 In about June 2011 I hacked computer systems used by
13 the Federal Bureau of Investigation's Virtual Academy, which
14 maintained the website fbiva.fbi.edu.

15 In about July 2011 I hacked computer systems owned by
16 Brooks-Jeffrey Marketing Incorporated, a company based in
17 Mountain Home, Arkansas, which maintained various websites,
18 including Brooks-Jeffrey.com and various law enforcement
19 related websites.

20 In about August 2011, I hacked computer systems used
21 by Special Forces Gear, a company based in California which
22 maintained the website SpecialForces.com.

23 In about August 2011 I hacked computer systems used by
24 Vanguard Defense Industries, a company based in Texas which
25 maintained the website vanguarddefense.com.

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1 In about October 2011 I hacked computer systems used
2 by the Jefferson County Alabama Sheriff's Office which
3 maintained the website jeffcosherriff.com.

4 In about October 2011 I hacked computer systems used
5 by the Boston Police Patrolman's Association, an organization
6 based in Massachusetts which maintained a website BPPA.org.

7 And in about February 2011 -- sorry, 2012, I hacked
8 computer systems used by Combined Systems Incorporated, a
9 company based in Pennsylvania, which maintained the website
10 combinedsystems.com.

11 As part of each of these hacks, I took and
12 disseminated confidential information stored on the computer
13 systems websites used by each of the above entities. For each
14 of these hacks I knew what I was doing was against the law.

15 THE COURT: Thank you, sir.

16 Is it correct to say that the combination of these
17 various hacks involved 250 or more victims?

18 Is that fair to say, sir?

19 (Counsel conferred with the defendant)

20 MS. NIDIRY: Your Honor, the government can represent
21 that our evidence would demonstrate that in terms of both the
22 victims of the particular entities as well as the entities,
23 taking all of the entities as well as the particular victims
24 that were victimized by the conduct that it would be 250
25 victims or more.

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1 THE COURT: What about the reasonable estimate of the
2 loss involved in the offense being between one million and less
3 than two and a half million dollars.

4 MS. NIDIRY: Similarly, we can represent that the
5 evidence would show that that would be the loss amount that was
6 suffered by the victims of this.

7 THE COURT: Is there anything further with respect to
8 the allocution?

9 MS. NIDIRY: Your Honor, just for the record, I'm not
10 sure if I missed this, but just to make sure that it is clear
11 for the record what the elements were, the defendant's
12 allocution met those elements, but I just want to make sure.
13 The crime of conspiracy, which is what he's charged with, the
14 elements are that there existed an agreement or implicit
15 understanding between two or more people to violate a law of
16 the United States, that the defendant knowingly and willingly
17 joined that agreement, and that any one member of the
18 conspiracy committed at least one overt act in the Southern
19 District of New York. And the object of the conspiracy here is
20 computer hacking to obtain information in violation of 18
21 U.S.C. 1030(a)(2)(A).

22 The elements of that offense are that, without
23 authorization, members of the conspiracy agreed to
24 intentionally access a computer, that they obtained information
25 from a protected computer, and that the value of the

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1 information obtained was greater than \$5,000.

2 With regard to venue, I believe that defendant said
3 that, I believe he did say that information was intentionally
4 uploaded to a server located in the Southern District of New
5 York.

6 We can represent that our evidence would demonstrate
7 that members of the conspiracy did that uploading of the
8 information to the server in the Southern District of New York.

9 THE COURT: So it's the government's position that the
10 allocution is sufficient?

11 MS. NIDIRY: Yes, your Honor.

12 THE COURT: And the government has sufficient evidence
13 to make a prima facie case?

14 MS. NIDIRY: Yes, your Honor.

15 THE COURT: Thank you. Ms. Kuntsler, do you know of
16 any valid legal defense that would prevail if Mr. Hammond went
17 to trial?

18 MS. KUNSTLER: I do not.

19 THE COURT: Do you know of any reason why he should
20 not plead guilty?

21 MS. KUNSTLER: I do not.

22 THE COURT: Very well then. The plea is accepted.
23 It's the finding of the Court in the case of the United States
24 v. Jeremy Hammond that the defendant is fully competent and
25 capable of entering an informed plea and that his plea of

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1 guilty is knowing and voluntary and is supported by an
2 independent basis in fact containing each and every essential
3 element of the offense.

4 My findings are based upon Mr. Hammond's allocution
5 and in addition upon my observations of Mr. Hammond here in
6 court today. The plea of guilty is accepted and shall be
7 entered. The defendant is now adjudged to be guilty of the
8 offense.

9 Now, Mr. Hammond, as you know, you will be required to
10 meet with the probation officer and to give the officer certain
11 information to be included in the presentence report. Your
12 lawyers may be present with you when you meet with the
13 probation officer if you wish, but certainly both you and they
14 and the government will have a chance to read the presentence
15 report prior to eventing.

16 Sentencing will be on September 6 at 10 a.m.

17 Counsel, is there anything further today?

18 MS. NIDIRY: Nothing further from the government,
19 thank you.

20 MS. KUNSTLER: Nothing further from the defense, your
21 Honor.

22 THE COURT: Yes, ma'am. Thank you. Good morning,
23 ladies and gentlemen.

24 (Adjourned)
25