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12 Attorneys for Plaintiff  
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13  
14 IN THE UNITED STATES DISTRICT COURT  
15 EASTERN DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA,  
17  
Plaintiff,  
18  
v.  
19 BRYAN CONNOR HERRELL,  
20  
Defendant.

CASE NO. 1:17-CR-00301-DAD-BAM  
PLEA AGREEMENT  
DATE:  
TIME: a.m.  
COURT: Hon. Dale A. Drozd

21  
22 I. INTRODUCTION

23 A. Scope of Agreement

24 The indictment in this case charges the defendant with a violation of 18 U.S.C. § 1962(d)  
25 (conspiracy to engage in a racketeer influenced corrupt organization). This document contains the  
26 complete plea agreement between the United States Attorney's Office for the Eastern District of  
27 California (the "government"), the Computer Crime and Intellectual Property Section of the U.S.  
28

1 Department of Justice, Criminal Division, and the defendant regarding this case. This plea agreement is  
2 limited to the United States Attorney's Office for the Eastern District of California and the U.S.  
3 Department of Justice's Criminal Division and cannot bind any other federal, state, or local prosecuting,  
4 administrative, or regulatory authorities.

5 **B. Court Not a Party**

6 The Court is not a party to this plea agreement. Sentencing is a matter solely within the  
7 discretion of the Court, and the Court may take into consideration any and all facts and circumstances  
8 concerning the criminal activities of defendant, including activities that may not have been charged in  
9 the indictment. The Court is under no obligation to accept any recommendations made by the  
10 government, and the Court may in its discretion impose any sentence it deems appropriate up to and  
11 including the statutory maximum stated in this plea agreement.

12 If the Court should impose any sentence up to the maximum established by the statute, the  
13 defendant cannot, for that reason alone, withdraw his guilty plea, and he will remain bound to fulfill all  
14 of the obligations under this plea agreement. The defendant understands that neither the prosecutor,  
15 defense counsel, nor the Court can make a binding prediction or promise regarding the sentence he will  
16 receive.

17 **II. DEFENDANT'S OBLIGATIONS**

18 **A. Guilty Plea**

19 The defendant will plead guilty to 18 U.S.C. § 1962(d) (conspiracy to engage in a racketeer  
20 influenced corrupt organization). The defendant agrees that he is in fact guilty of this charge and that  
21 the facts set forth in the Factual Basis For Plea attached hereto as Exhibit A are accurate.

22 The defendant agrees that this plea agreement will be filed with the Court and become a part of  
23 the record of the case. The defendant understands and agrees that he will not be allowed to withdraw his  
24 plea should the Court not follow the government's sentencing recommendations.

25 The defendant agrees that the statements made by him in signing this Agreement, including the  
26 factual admissions set forth in the factual basis, shall be admissible and useable against the defendant by  
27 the United States in any subsequent criminal or civil proceedings, even if the defendant fails to enter a  
28 guilty plea pursuant to this Agreement. The defendant waives any rights under Rule 11(f) of the Federal

1 Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence, to the extent that these  
2 rules are inconsistent with this paragraph or with this Agreement generally.

3 **B. Sentencing Recommendation**

4 The defendant and his counsel may recommend whatever sentence they deem appropriate  
5 pursuant to 18 U.S.C. § 3553(a).

6 **C. Special Assessment**

7 The defendant agrees to pay a special assessment of \$100 at the time of sentencing by delivering  
8 a check or money order payable to the United States District Court to the United States Probation Office  
9 immediately before the sentencing hearing.

10 **D. Defendant's Violation of Plea Agreement or Withdrawal of Plea**

11 If the defendant violates this plea agreement in any way, withdraws his plea, or tries to withdraw  
12 his plea, this plea agreement is voidable at the option of the government. The government will no longer  
13 be bound by its representations to the defendant concerning the limits on criminal prosecution and  
14 sentencing as set forth herein. One way a defendant violates the plea agreement is to commit any crime  
15 or provide any statement or testimony which proves to be knowingly false, misleading, or materially  
16 incomplete. Any post-plea conduct by a defendant constituting obstruction of justice will also be a  
17 violation of the agreement. The determination whether the defendant has violated the plea agreement  
18 shall be decided under a probable cause standard.

19 If the defendant violates the plea agreement, withdraws his plea, or tries to withdraw his plea, the  
20 government shall have the right: (1) to prosecute the defendant on any of the counts to which he pleaded  
21 guilty; (2) to reinstate any counts that may be dismissed pursuant to this plea agreement; and (3) to file  
22 any new charges that would otherwise be barred by this plea agreement. The defendant shall thereafter  
23 be subject to prosecution for any federal criminal violation of which the government has knowledge,  
24 including perjury, false statements, and obstruction of justice. The decision to pursue any or all of these  
25 options is solely in the discretion of the United States Attorney's Office and the U.S. Department of  
26 Justice's Criminal Division.

27 By signing this plea agreement, the defendant agrees to waive any objections, motions, and  
28 defenses that the defendant might have to the government's decision to exercise the options stated in the

1 previous paragraph. Any prosecutions that are not time-barred by the applicable statute of limitations as  
2 of the date of this plea agreement may be commenced in accordance with this paragraph,  
3 notwithstanding the expiration of the statute of limitations between the signing of this plea agreement  
4 and the commencement of any such prosecutions. The defendant agrees not to raise any objections  
5 based on the passage of time with respect to such counts including, but not limited to, any statutes of  
6 limitation or any objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth  
7 Amendment to any counts that were not time-barred as of the date of this plea agreement.

8 In addition: (1) all statements made by the defendant to the government or other designated law  
9 enforcement agents, or any testimony given by the defendant before a grand jury or other tribunal,  
10 whether before or after this plea agreement, shall be admissible in evidence in any criminal, civil, or  
11 administrative proceedings hereafter brought against the defendant; and (2) the defendant shall assert no  
12 claim under the United States Constitution, any statute, Rule 11(f) of the Federal Rules of Criminal  
13 Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule, that statements made by  
14 the defendant before or after this plea agreement, or any leads derived therefrom, should be suppressed.  
15 By signing this plea agreement, the defendant waives any and all rights in the foregoing respects.

16 **E. Forfeiture**

17 The defendant agrees to forfeit to the United States voluntarily and immediately all of his right,  
18 title, and interest to any and all assets subject to forfeiture pursuant to 18 U.S.C. §§ 1963(a)(1) - (a)(3).  
19 Those assets include, but are not limited to, the following:

- 20 1. One cryptocurrency wallet containing approximately one Bitcoin,
- 21 2. An assortment of counterfeit "Magic: The Gathering" and sports collectible cards,
- 22 3. Approximately \$745.00 in U.S. Currency,
- 23 4. 139 gold coins, one ounce each,
- 24 5. 8 silver dollar coins, one ounce each,
- 25 6. One \$1,000 bill encased in hard plastic, and
- 26 7. One German August Schwer Cuckoo Clock.

27 The defendant agrees that the listed assets constitute property he acquired an interest in or  
28 maintained in violation of 18 U.S.C. § 1962(d); constitute property he had an interest in, security of,  
claim against, or property or contractual right of any kind affording a source of influence over any  
enterprise which the defendant established, operated, controlled, conducted, or participated in the

1 conduct of, in violation of 18 U.S.C. § 1962(d); and constitutes or is derived from proceeds which the  
2 defendant obtained, directly or indirectly, from racketeering activity in violation of 18 U.S.C. § 1962(d).

3 The defendant agrees to fully assist the government in the forfeiture of the listed assets and to  
4 take whatever steps are necessary to pass clear title to the United States. The defendant shall not sell,  
5 transfer, convey, or otherwise dispose of any of his assets, including but not limited to, the above-listed  
6 assets.

7 The defendant agrees not to file a claim to any of the listed property in any civil proceeding,  
8 administrative or judicial, which may be initiated. The defendant agrees to waive his right to notice of  
9 any forfeiture proceeding involving this property, and agrees to not file a claim or assist others in filing a  
10 claim in that forfeiture proceeding.

11 The defendant knowingly and voluntarily waives his right to a jury trial on the forfeiture of  
12 assets. The defendant knowingly and voluntarily waives all constitutional, legal, and equitable defenses  
13 to the forfeiture of these assets in any proceeding. The defendant agrees to waive any jeopardy defense,  
14 and agrees to waive any claim or defense under the Eighth Amendment to the United States  
15 Constitution, including any claim of excessive fine, to the forfeiture of the assets by the United States,  
16 the State of California or its subdivisions. The defendant waives oral pronouncement of forfeiture at the  
17 time of sentencing, and any defenses or defects that may pertain to the forfeiture.

### 18 **III. THE GOVERNMENT'S OBLIGATIONS**

#### 19 **A. Recommendations**

##### 20 **1. Incarceration Range**

21 The government will recommend that the defendant be sentenced to the low end of the  
22 applicable guideline range for his offense, as determined by the Court. The government may  
23 recommend whatever it deems appropriate as to all other aspects of sentencing.

##### 24 **2. Acceptance of responsibility**

25 The government will recommend a three-level reduction in the computation of defendant's  
26 offense level if he clearly demonstrates acceptance of responsibility for his conduct as defined in  
27 U.S.S.G. § 3E1.1. This includes the defendant meeting with and assisting the probation officer in the  
28 preparation of the pre-sentence report, being truthful and candid with the probation officer, and not

1 otherwise engaging in conduct that constitutes obstruction of justice within the meaning of U.S.S.G  
2 § 3C1.1, either in the preparation of the pre-sentence report or during the sentencing proceeding.

3 **B. Use of Information for Sentencing**

4 The government is free to provide full and accurate information to the Court and the United  
5 States Probation Office (“Probation”), including answering any inquiries made by the Court and/or  
6 Probation, and rebutting any inaccurate statements or arguments by the defendant, his attorney,  
7 Probation, or the Court. The defendant also understands and agrees that nothing in this Plea Agreement  
8 bars the government from defending on appeal or collateral review any sentence that the Court may  
9 impose.

10 **IV. ELEMENTS OF THE OFFENSE**

11 At a trial, the government would have to prove beyond a reasonable doubt the following  
12 elements of the offense to which the defendant is pleading guilty, 18 U.S.C. § 1962(d) (conspiracy to  
13 engage in a racketeer influenced corrupt organization):

- 14 1. The charged enterprise – the AlphaBay Organization in this case – was or would be  
15 established;
- 16 2. The enterprise was or would be engaged in, or its activities affected or would affect,  
17 interstate or foreign commerce;
- 18 3. The defendant knowingly agreed that a conspirator would be associated with the  
19 enterprise;
- 20 4. The defendant knowingly agreed that a conspirator would conduct or participate, either  
21 directly or indirectly, in the conduct of the enterprise’s affairs through a pattern of racketeering activity;  
22 and
- 23 5. The defendant knowingly agreed that a conspirator would commit at least two acts of  
24 racketeering activity.

25 **V. MAXIMUM SENTENCE**

26 **A. Maximum penalty**

27 The maximum sentence that the Court can impose is 20 years of incarceration, a fine of \$250,000  
28 or twice the proceeds of the offense, a three-year period of supervised release, and a special assessment

1 of \$100. In addition, the defendant may be ineligible for certain federal and/or state assistance and/or  
2 benefits, pursuant to 21 U.S.C. § 862. By signing this plea agreement, the defendant also agrees that  
3 the Court can order the payment of restitution for the full loss caused by the defendant's wrongful  
4 conduct. The defendant agrees that the restitution order is not restricted to the amounts alleged in the  
5 specific count to which the defendant is pleading guilty. The defendant further agrees, as noted above,  
6 that he will not attempt to discharge in any present or future bankruptcy proceeding any restitution  
7 imposed by the Court.

8 **B. Violations of Supervised Release**

9 The defendant understands that if he violates a condition of supervised release at any time during  
10 the term of supervised release, the Court may revoke the term of supervised release and require the  
11 defendant to serve up to two years of additional imprisonment.

12 **VI. SENTENCING DETERMINATION**

13 **A. Statutory Authority**

14 The defendant understands that the Court must consult the Federal Sentencing Guidelines and  
15 must take them into account when determining a final sentence. The defendant understands that the  
16 Court will determine a non-binding and advisory guideline sentencing range for this case pursuant to the  
17 Sentencing Guidelines and must take them into account when determining a final sentence. The  
18 defendant further understands that the Court will consider whether there is a basis for departure from the  
19 guideline sentencing range (either above or below the guideline sentencing range) because there exists  
20 an aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into  
21 consideration by the Sentencing Commission in formulating the Guidelines. The defendant further  
22 understands that the Court, after consultation and consideration of the Sentencing Guidelines, must  
23 impose a sentence that is reasonable in light of the factors set forth in 18 U.S.C. § 3553(a).

24 **B. Guideline Calculations**

25 The government and the defendant agree that the following is their present best estimate of the  
26 sentencing guidelines variables. These estimates shall not be binding on the Court, the Probation Office,  
27 or the parties:  
28

1 Base Offense Level: (based on drug quantities) +38 § 2E1.1(a)(1)  
2 § 2D1.1(a)(5) & (c)(1)

3 Specific Offense Characteristics:  
4 Interactive computer service +2 § 2D1.1(b)(7)

5 Acceptance of Responsibility: -3

6 *Criminal History Category: II*

7 **Sentencing Range:** 37/II = 235 to 293 months

8 The parties agree that they will not seek or argue in support of any other specific offense  
9 characteristics, Chapter Three adjustments (other than the decrease for “Acceptance of Responsibility”),  
10 or cross-references, except that the government may move for a departure or adjustment based on  
11 defendant’s post-plea obstruction of justice (§3C1.1). Both parties agree not to move for, or argue in  
12 support of, any departure from the Sentencing Guidelines.

13 The defendant is free to recommend to the Court whatever sentence he believes is appropriate  
14 under 18 U.S.C. § 3553(a). The government is not obligated to recommend any specific sentence.

15 **VII. WAIVERS**

16 **A. Waiver of Constitutional Rights**

17 The defendant understands that by pleading guilty he is waiving the following constitutional  
18 rights: (a) to plead not guilty and to persist in that plea if already made; (b) to be tried by a jury; (c) to  
19 be assisted at trial by an attorney, who would be appointed if necessary; (d) to subpoena witnesses to  
20 testify on his behalf; (e) to confront and cross-examine witnesses against him; and (f) not to be  
21 compelled to incriminate himself.

22 **B. Waiver of Appeal and Collateral Attack**

23 The defendant understands that the law gives the defendant a right to appeal his guilty plea,  
24 conviction, and sentence. The defendant agrees as part of his plea/pleas, however, to give up the right to  
25 appeal the guilty plea, conviction, and the sentence imposed in this case. The defendant understands  
26 that this waiver includes, but is not limited to, any and all constitutional and/or legal challenges to the  
27 defendant’s conviction and guilty plea, including arguments that the statutes to which defendant is  
28 pleading guilty are unconstitutional, and any and all claims that the statement of facts attached to this



1 agreement is insufficient to support the defendant's plea of guilty. The defendant specifically gives up  
2 the right to appeal any order of restitution the Court may impose.

3 Notwithstanding the defendant's waiver of appeal, the defendant will retain the right to appeal if  
4 one of the following circumstances occurs: (1) the sentence imposed by the District Court exceeds the  
5 statutory maximum; and/or (2) the government appeals the sentence in the case. The defendant  
6 understands that these circumstances occur infrequently and that in almost all cases this Agreement  
7 constitutes a complete waiver of all appellate rights.

8 In addition, regardless of the sentence the defendant receives, the defendant also gives up any  
9 right to bring a collateral attack, including a motion under 28 U.S.C. § 2255 or § 2241, challenging any  
10 aspect of the guilty plea, conviction, or sentence, except for non-waivable claims.

11 If the defendant ever attempts to vacate his plea, dismiss the underlying charges, or modify or set  
12 aside his sentence on any of the counts to which he is pleading guilty, the government shall have the  
13 rights set forth in paragraph II.D (Defendant's Violation of Plea Agreement) herein.

14 **C. Waiver of Attorneys' Fees and Costs**

15 The defendant agrees to waive all rights under the "Hyde Amendment," Section 617, P.L. 105-  
16 119 (Nov. 26, 1997), to recover attorneys' fees or other litigation expenses in connection with the  
17 investigation and prosecution of all charges in the above-captioned matter and of any related allegations  
18 (including without limitation any charges to be dismissed pursuant to this plea agreement and any  
19 charges previously dismissed).

20 **VIII. ENTIRE PLEA AGREEMENT**

21 Other than this plea agreement, no agreement, understanding, promise, or condition between the  
22 government and the defendant exists, nor will such agreement, understanding, promise, or condition  
23 exist unless it is committed to writing and signed by the defendant, counsel for the defendant, and  
24 counsel for the United States.

25 **IX. APPROVALS AND SIGNATURES**

26 **A. Defense Counsel**

27 I have read this plea agreement and have discussed it fully with my client. The plea agreement  
28 accurately and completely sets forth the entirety of the agreement. I concur in my client's decision to

1 plead guilty as set forth in this plea agreement.

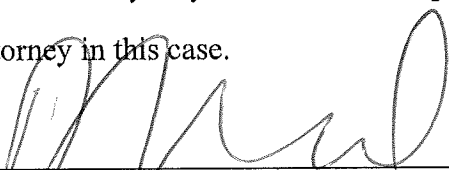
2  
3 Dated: 1-2-20

  
JEFFREY T. HAMMERSCHMIDT  
Counsel for Defendant

4  
5 **B. Defendant**

6 I have read this plea agreement and carefully reviewed every part of it with my attorney. I  
7 understand it, and I voluntarily agree to it. Further, I have consulted with my attorney and fully  
8 understand my rights with respect to the provisions of the Sentencing Guidelines that may apply to my  
9 case. No other promises or inducements have been made to me, other than those contained in this plea  
10 agreement. In addition, no one has threatened or forced me in any way to enter into this plea agreement.  
11 Finally, I am satisfied with the representation of my attorney in this case.

12  
13 Dated: 1-2-20

  
BRYAN CONNOR HERRELL,  
Defendant

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15 **C. Attorney for the United States**


16 I accept and agree to this plea agreement on behalf of the government.  
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Dated:

1/27/2020

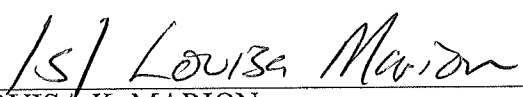
McGREGOR W. SCOTT  
United States Attorney

By:   
PAUL HEMESATH  
Assistant United States Attorney

Dated:

1/27/2020

BRIAN BENCZKOWSKI  
Assistant Attorney General

By:   
LOUISA K. MARION  
Senior Counsel  
Computer Crime and Intellectual Property Section

**EXHIBIT "A"**  
**Factual Basis for Plea**

If this matter proceeded to trial, the United States would establish the following facts beyond a reasonable doubt:

**A. Introduction**

Defendant BRYAN CONNOR HERRELL moderated thousands of illegal transactions on the AlphaBay Market ("AlphaBay"), a website on the Darkweb that was administered by a criminal enterprise.

**B. The Darkweb, Tor, and Bitcoin**

The Darkweb is a part of the World Wide Web accessible only through The Onion Router ("Tor") network, a special network of computers on the internet designed to conceal the true IP addresses of the computers on the network. As such, the true IP addresses of the users of AlphaBay, as well as the AlphaBay site, were anonymized through the Tor network, making it difficult for law enforcement to identify those users and the site's operators.

AlphaBay permitted its users to transact only in digital currencies, predominantly in Bitcoin. Digital currencies are electronically-sourced units of value that can be used as a substitute for government-issued currency.

Transactions on AlphaBay occurred through digital currency addresses hosted and controlled by the site. To purchase illegal goods and services, users transferred funds into the site's digital currency addresses, where the funds were usually held in escrow until the buyer reported he or she had received the illegal goods or services. AlphaBay collected a 2 to 4 percent commission (approximately) for its role in hosting the platform on which buyers and vendors would transact.

**C. Illegal Goods and Services Sold on AlphaBay**

From 2016 through July 2017, AlphaBay was the world's largest online black market. Shortly before it was shut down on July 4, 2017, the AlphaBay site:

- hosted approximately 368,810 listings for the sale of various categories of illicit goods;
- hosted approximately 350,000 active buyer accounts; and
- hosted over 9,000 active vendor accounts.

Vendors categorized their listings among various standardized categories, the vast majority of which were immediately recognizable as illegal to sell, purchase, or possess in the United States and most countries. The AlphaBay homepage listed these under "Browse Categories," which included: Fraud; Drugs & Chemicals; Guides & Tutorials; Counterfeit Items; Digital Products; Jewels & Gold; Weapons; Carded Items; Services; Other Listings; Software & Malware; and Security & Hosting. The majority of items for sale on AlphaBay were illegal drugs of all kinds.

AlphaBay also advised buyers and vendors how to avoid law enforcement detection and explicitly acknowledged that the site's activities were illegal. For example, AlphaBay's Frequently

1 Asked Questions, accessible from the home page, listed the question “Is AlphaBay Market Legal?” and  
2 the response “Some people have really asked this question. Of course not. We are an anonymous  
3 marketplace selling drugs, weapons and credit cards. Make sure you access the website through Tor or  
4 through a VPN to ensure anonymity. We take no responsibility if you get caught, so protecting yourself  
5 is your responsibility.”

#### 6 **D. The Founding of AlphaBay**

7 Between July and December 2014, an individual using the moniker “Alpha02” (referred to as  
8 CO-CONSPIRATOR-1 in the indictment) created and launched AlphaBay. According to AlphaBay’s  
9 publicly posted FAQs, “AlphaBay Market . . . [was] founded by alpha02, reputable member on most  
10 carding forums and experienced carders [sic].” After some time helping others on carding forums, he  
11 decided to start his own marketplace and allow sellers from around the world to sell goods to buyers  
12 worldwide.” Early pages of the AlphaBay site listed a “copyright” mark indicating that the site was  
13 “proudly designed by Alpha02.” The site went live in December 2014.

#### 14 **E. How to Buy Illegal Goods on AlphaBay**

15 The ordinary purchase process on AlphaBay was much like purchasing goods on any  
16 e-commerce site: the buyer browsed to the vendor’s page, selected an item for purchase, and clicked the  
17 purchase button. The website next verified that the user had sufficient Bitcoin (or other digital  
18 currency) in his or her account for the purchase. If so, the site’s internal ledger adjusted, the buyer’s  
19 account was debited the purchase price, and funds were moved (at least on AlphaBay’s internal ledger)  
20 into an AlphaBay “escrow” wallet. Once the buyer confirmed that the item had been delivered or  
21 service had been completed, the internal ledger was again adjusted, the vendor’s AlphaBay account was  
22 credited the sales price, and the transaction was deemed completed, after which the seller could  
23 withdraw his/her newly earned Bitcoin (or other digital currency) from AlphaBay into an address he/she  
24 controlled using a PIN code.

25 AlphaBay and its administrator, Alpha02 profited from every transaction conducted on the  
26 website. Specifically, the website imposed a commission for every transaction on the site. The  
27 commission rate appeared to vary based on the seller’s history, volume, and trust level on the site.

#### 28 **F. AlphaBay’s Organization Was an Enterprise**

AlphaBay’s day-to-day operations were run by a staff of 8 to 10 individuals, including a security  
administrator, a public relations manager, and “ScamWatch” personnel (who would watch out for  
“phishing” attempts and other scams targeting AlphaBay users). AlphaBay also employed a number of  
“Moderators,” who reviewed and moderated disputes among vendors and buyers. The Moderators had  
the ability to change users’ PIN numbers, had discretion to refund buyers’ digital currency if they  
concluded the dispute required it, had visibility into staff-only discussion forums, and could view all  
AlphaBay users’ digital currency balances at any moment. The Moderators included (at least): “Raspi,”  
“Disc0,” “Russ0,” “Botah,” “BigMuscles,” “MountainHigh9,” and “Atlas.” Each was paid a salary  
through the site for his or her work administering AlphaBay.

AlphaBay constituted an enterprise in that it was an ongoing organization in which its various  
associates functioned as a continuing unit. The participants of AlphaBay, including HERRELL,  
operated together in a coordinated manner in furtherance of a common purpose, that is, to gain money  
through the illegal sales of drugs, stolen identities, firearms, and other items, through an anonymous

1 Internet platform known as AlphaBay, which operated on the Darkweb, and using payment systems  
2 known generally as digital currencies. The participants of AlphaBay, including HERRELL, agreed that  
3 they would conduct the affairs of the AlphaBay enterprise through a pattern of racketeering activity,  
4 including the trafficking of narcotics, among other crimes, as described herein. The AlphaBay  
5 enterprise engaged in or affected interstate or foreign commerce through causing the sale and transport  
6 of illegal goods to and from the United States and various countries, including the Netherlands, the  
7 United Kingdom, and Canada.

8 **G. Defendant HERRELL Was a Moderator on AlphaBay**

9 HERRELL was a well-known presence in the Darkweb using the monikers "Penissmith,"  
10 "Realpenissmith," "Cooked," and "Botah," among others. Using these monikers, HERRELL engaged in  
11 a number of illegal schemes on the Darkweb. Penissmith's reputation earned HERRELL a position as a  
12 Moderator on AlphaBay. As a Moderator (as discussed above), HERRELL adjudicated disputes  
13 between buyers and vendors on AlphaBay. As a Moderator, Penissmith/Botah was paid four bitcoins  
14 per week for his assistance in administrating aspects of AlphaBay, had full visibility and awareness of  
15 the criminal activities conducted on the website, and in many instances directly facilitated these criminal  
16 activities through his moderation of disputes. Bitcoin was worth about \$2,000 per coin in May 2016,  
17 and about \$2,600 in July of 2017.

18 **H. Defendant HERRELL Moderated Thousands of Disputes and Foresaw Hundreds of  
19 Thousands More, Which Constituted Acts of Racketeering**

20 Records seized from the AlphaBay website show that, using the moniker Botah, HERRELL  
21 moderated over 20,000 disputes involving illegal transactions. For example, among the recorded  
22 disputes, 709 were designated in the category "meth." While some of the transactions in the "meth"  
23 category identified sales for methamphetamine of one gram or less, many of the disputes involved large  
24 amounts of methamphetamine. The title of one listing read as follows:

25 1000 GRAMS HIGH QUALITY CRYSTAL METHAMPHETAMINE -  
26 FREE SHIPPING 50% ESCROW

27 In the "heroin" category, HERRELL moderated 888 disputes. While some of the transactions in  
28 this category identified sales of heroin for one gram or less, many of the disputes involved large amounts  
of heroin. The title of one listing read:

!! CHINA WHITE 500G - SYNTHETIC HEROIN !!! FREE SAMPLE  
FOR NEW CUSTOMER

In the "cocaine" category, HERRELL moderated 1,705 disputes. While some of the transactions  
in this category identified sales of cocaine for one gram or less, many of the disputes involved large  
amounts of cocaine. The title of one listing read:

500 Grams - FISHSCALE COLOMBIAN COCAINE - DISCO SHIT!  
( (BEST QUALITY/PRICE ON ALPHA -ESCROW 50%)

HERRELL, acting as Botah, moderated disputes in the following additional, exemplar  
categories:

