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 9 **UNITED STATES DISTRICT COURT**  
 10 **SOUTHERN DISTRICT OF CALIFORNIA**

<p>11 UNITED STATES OF AMERICA,          12 Plaintiff,          13 v.          14 RUBEN ANDRE GARCIA (3),          aka "Jonathan,"          15 Defendant.          16</p>	<p>Case No.: 19CR4488-JLS  <b>MOTION REGARDING RESTITUTION</b>            [REDACTED]</p>
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 18 Plaintiff, United States of America, by and through its counsel, Randy Grossman,  
 19 Acting United States Attorney, and Alexandra F. Foster and Joseph S. Green, Assistant  
 20 United States Attorneys, hereby moves this Court for an order of restitution.

21 **I. STATEMENT OF THE CASE**

22 On November 7, 2019, an indictment was filed against Ruben Andre GARCIA and  
 23 his co-Defendants on charges of sex trafficking women. On December 17, 2020, GARCIA  
 24 pled guilty to counts one and seven of the indictment charging him with one count of  
 25 conspiracy to commit sex trafficking, in violation of 18 U.S.C. Sec. 1594(c), and one  
 26 substantive sex trafficking count, in violation of 18 U.S.C. Sec. 1591(a)(1) and (2). As part  
 27 of the plea agreement, the parties agreed that restitution was mandatory under 18 U.S.C.  
 28 Sec. 1593. On June 14, 2021, this Court sentenced GARCIA, and set a restitution hearing

1 currently scheduled for October 8, 2021. At the parties' request, the Court continued the  
2 hearing to December 10, 2021.<sup>1</sup>

3 **II. FACTUAL BACKGROUND**

4 Beginning in approximately 2013 and continuing up to October 2019, GARCIA  
5 participated in a conspiracy with Michael James Pratt, Matthew Isaac Wolfe, Theodore  
6 Wilfred Gyi, Valerie Moser, and others, to recruit Victims 1-5, as identified in the  
7 Indictment, and others, to engage in commercial sex acts using force, fraud and coercion.  
8 Those sex acts were ultimately posted on GirlsDoporn.com (GDP) and girlsdotoys.com  
9 (GDT). GDP and GDT charged visitors a subscription fee to access the websites' content.  
10 The websites generated millions of dollars in revenue for the owners, Pratt and Wolfe.

11 Throughout the conspiracy, GDP and GDT received millions of views. To promote  
12 the websites, video content from both sites was posted on free porn sites such as  
13 pornhub.com, one of the world's most visited porn sites. The videos from GDP and GDT  
14 posted on pornhub.com were often viewed millions of times according to its view counters.

15 From approximately 2013 to October 2019, GARCIA was employed at GDP.  
16 GARCIA recruited women to appear in videos for GDP and GDT and appeared as the male  
17 actor in the videos for GDP. GARCIA was paid a commission for each woman that he  
18 recruited on top of an hourly rate for his employment.

19 To recruit victims to appear in videos for the websites, GARCIA, and others,  
20 including Pratt, Wolfe, Gyi, Moser and Nored, lied to the victims and told them that the  
21 videos would never be posted on-line, that the videos would never be released in the United  
22 States, and that no one who knew the women would ever find out about the video,  
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24 <sup>1</sup> Section 3664(d)(5) provides that the Court shall set a date for a final determination  
25 of the victims' losses within 90 days after sentencing. The Supreme Court, however, has  
26 held that a sentencing court retains the power to order restitution, even after the expiration  
27 of the 90 days, where the court made clear prior to the deadline's expiration that it would  
28 be ordering restitution, leaving open only the amount. *Dolan v. United States*, 560 U.S.  
605, 608 (2010).

1 representations that GARCIA and other members of the conspiracy knew were false.  
2 Hundreds of women from various cities throughout the United States and Canada were  
3 recruited to appear in videos based upon these material misrepresentations.

### 4 **III. BASIS FOR RESTITUTION ORDER**

5 Title 18, United States Code, Section 1593 provides that the Court shall order  
6 restitution for the “full amount of the victim’s losses” for any offense under Chapter 77 of  
7 Title 18 of United States Code, which includes both counts of conviction for Garcia,  
8 Sections 1591 and 1594. Section 1593(b)(3) provides that the term “full amount of the  
9 victim’s losses” has the same meaning as provided in section 2259(c)(2) “plus the greater  
10 of the gross income or value to the defendant of the victim’s services or labor or the value  
11 of the victim’s labor as guaranteed under the Fair Labor Standards Act.” 18 U.S.C. Sec.  
12 1593(b)(3). We will focus on the amount of the victims’ losses under Section 2259(c)(2)  
13 in this section. The Government is seeking three types of restitution in this matter: first, the  
14 return of the rights to the victims’ images and videos to the victims; second, restitution for  
15 the gross income as detailed in the statute; and third, restitution for the victims’ specific  
16 losses.

#### 17 **A. Return of Rights to Images and Videos**

18 18 U.S.C. Sec. 1593(b)(2) explains that “[a]n order of restitution under this section  
19 shall be issued and enforced in accordance with [18 U.S.C.] section 3664 in the same  
20 manner as an order under [18 U.S.C.] section 3663A.” Section 1593 defines a victim for  
21 purposes of this statute broadly as “the individual harmed as a result of a crime under this  
22 chapter....” Likewise, “victim” is defined under 18 U.S.C. Section 3663A(a)(2) to include  
23 all persons directly and proximately harmed as a result of the commission of an offense.  
24 “Under 18 U.S.C. § 3664, a dispute as to the proper amount of restitution must be resolved  
25 by the district court by a preponderance of the evidence.” *United States v. Waknine*, 543  
26 F.3d 546, 556 (9th Cir.2008) (citing 18 U.S.C. § 3664(e); *United States v. Clayton*, 108  
27 F.3d 1114, 1118 (9th Cir.1997)). “The government bears the burden of proving that a

1 person or entity is a victim for purposes of restitution, [*United States v.*] *Baker*, 25 F.3d  
2 [1452,] 1455 [ (9th Cir.1994), *rev'd on other grounds*, *United States v. Lawrence*, 189 F.3d  
3 838, 846 (9th Cir.1999)], and of proving the amount of the loss, 18 U.S.C. § 3664(e).”  
4 *United States v. Gamma Tech Indus., Inc.*, 265 F3d 917, 927 (9th Cir 2001).

5 Restitution clearly focuses on the victim, not the individual defendant, and seeks to  
6 compensate the victim for all the direct and proximate losses resulting from the defendant’s  
7 conduct, not only for the reasonably foreseeable losses. The purpose of restitution is to put  
8 the victim back in the position he or she would have been but for the defendant’s criminal  
9 conduct. The Ninth Circuit has explained: “[t]he purpose of restitution is twofold: (1) to  
10 restore the defrauded party to the position he would have had absent the fraud, Restatement  
11 of Restitution [§] 1, Comments a, b, c, and d (1937); (2) and to deny the fraudulent party  
12 any benefits, whether or not foreseeable, which derive from his wrongful act.” *Nelson v.*  
13 *Serwold*, 687 F.2d 278, 281 (9th Cir. 1982).

14 18 U.S.C. Sec. 3663A(b)(1)(A) provides: “The order of restitution shall require that  
15 such defendant – (a) in the case of an offense resulting in damage or loss ... of a victim of  
16 the offense – (A) return the property to the owner of the property.” The primary and  
17 overarching goal of the Mandatory Victims Restitution Act (codified in 18 U.S.C. Sec.  
18 3663A) is to make victims of crime whole. In achieving this objective, Congress intended  
19 district courts to engage in an expedient and reasonable restitution process, with  
20 uncertainties resolved with a view toward achieving fairness to the victim. *United States v.*  
21 *Gordon*, 393 F.3d 1044, 1048 (9th Cir. 2004).

22 In this case that means restitution should include returning the wrongfully and  
23 fraudulently appropriated images and videos to the individual victims of the offense. The  
24 rightful owner of each image and/or video posted on *GirlsDoporn.com* and/or  
25 *GirlsDotoys.com* (the property) is the respective woman pictured therein. Attachment A  
26 (which is filed under seal) lists all known GDP and GDT videos, and the model identified  
27 with that video/image.

1 The Government proposes that the Court issue an order as part of the restitution in  
2 this case. The order would declare that all rights, title and interest in all of the images and  
3 videos in Attachment A belong to each respective victim pictured or depicted therein; and  
4 include in that order a provision that the Court's Order and a redacted version of  
5 Attachment A may be used by each individual victim to enforce their property rights  
6 including, but not limited to, the right to seek Digital Medium Copyright Act (DMCA)  
7 Notices to remove and destroy all videos and images of each individual victim in the  
8 possession of third parties.

9 **B. Payment of GDP's and GDT's Gross Income to Victims**

10 Title 18, United States Code, Section 1593 also provides that the Court shall order  
11 restitution for the "full amount of the victim's losses" for any offense under Chapter 77 of  
12 Title 18 of United States Code, which includes both counts of conviction for Garcia,  
13 Sections 1591 and 1594. Section 1593(b)(3) provides that the term "full amount of the  
14 victim's losses" has the same meaning as provided in section 2259(c)(2), plus the greater  
15 of the gross income or value to the defendant of the victim's services or labor or the value  
16 of the victim's labor as guaranteed under the Fair Labor Standards Act. 18 U.S.C. §  
17 1593(3).

18 The gross income for GDP and GDT should be \$16,922,798, calculated as follows:<sup>2</sup>  
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27 <sup>2</sup> CCBill, Epoch, and ICF are payment processors used by GDP and GDT to collect  
28 customer payments from on-line viewers on their websites.

Summary of Monies Received from On-line Processors						
2/2013 - 6/2019						
<u>TimeFrame</u>	<u>Bank Account</u>	<u>Account Name</u>	<u>CCBILL</u>	<u>Epoch</u>	<u>ICF</u>	<u>Total</u>
2/6/2013 - 1/7/2014	JPMC 6095	BLL Media	\$ 1,191,723			\$ 1,191,723
5/31/2017 - 10/31/2018	Comerica 7867	BLL Media		\$ 1,107,191	\$ 157,679	\$ 1,264,870
10/31/2018 - 1/30/2019	**Comerica 7867	BLL Media		\$ 221,738		\$ 221,738
11/29/2013 - 5/2017	Union Bank 7613	BLL Media	\$ 423,963	\$ 89,664	\$ 20,690	\$ 534,317
5/24/2017	**Union Bank 7613	BLL Media		\$ 11,977		\$ 11,977
11/15/2013 - 1/25/2017	BOA 3976	BLL Media	\$ 7,873,242	\$ 584,502	\$ 104,679	\$ 8,562,423
12/29/2016 - 4/11/2017	US Bank 9123	BLL Media	\$ 482,340	\$ 135,197	\$ 28,191	\$ 645,728
3/1/2018 - 8/31/2018	JPMC 6590	EG Publications	\$ 1,110,476			\$ 1,110,476
9/1/2018 - 5/30/2019	***JPMC 6590	EG Publications	\$ 1,583,830			\$ 1,583,830
2/11/2019 - 6/30/2019	SDCCU 95	BLL Media		\$ 326,838	\$ 83,994	\$ 410,832
7/2/2019 - 7/17/2019	**SDCCU 95	BLL Media		\$ 46,431		\$ 46,431
4/17/2015 - 6/29/2019	**Citibank	Domi Publications		\$ 1,299,129		\$ 1,299,129
7/29/2019	****	Domi Publications			\$ 39,324	
			\$ 12,665,574	\$ 3,822,668	\$ 434,557	\$ 16,922,798
** - From Epoch.com disbursements City National Bank 8795						
*** - From Addl JPMC records received see detail on tab						
**** - From ICF Tech. July 2019 Statement						

### C. Payment of Specified Victim Losses

Title 18, United States Code, Section 2259(c)(2) provides that the term “full amount of the victim’s losses” includes any costs incurred, or that are reasonably projected to be incurred in the future, by the victim, as a proximate result of the offenses involving the victim, including: medical services relating to physical, psychiatric, or psychological care; physical and occupational therapy or rehabilitation; necessary transportation, temporary housing, and child care expenses; lost income; reasonable attorneys’ fees, as well as other costs; and any other relevant losses incurred by the victim. 18 U.S.C. § 2259(c)(2).

Section 1593(b)(2) provides that the order of restitution shall be issued and enforced in accordance with Section 3664. Any dispute as to the proper amount or type of restitution shall be resolved by the Court under a preponderance of the evidence standard. The burden

1 of demonstrating the amount of the loss sustained by a victim as a result of the offense shall  
 2 be on the attorney for the Government. 18 U.S.C. § 3664(e).

3 The Government requests that the Court enter an order directing Defendant to pay  
 4 restitution to the following victims, as specified below, under Title 18, United States Code,  
 5 Section 2259(c)(2). The requests are supported by declarations from the victims and other  
 6 evidence attached as Attachment B to this motion.

Victim	Total Restitution
[REDACTED]	\$8,200
[REDACTED]	\$37,562
[REDACTED]	\$20,000
[REDACTED]	\$200
[REDACTED]	\$62,434.88
[REDACTED]	\$41,644.47
[REDACTED]	\$92,529
[REDACTED]	\$127,610
[REDACTED]	\$600
[REDACTED]	\$14,080
[REDACTED]	\$15,000
[REDACTED]	\$27,840.04
[REDACTED]	\$8,229
[REDACTED]	\$6,176
[REDACTED]	\$43,940.48
[REDACTED]	\$15,000
[REDACTED]	\$157.400
[REDACTED]	\$52,472

1	[REDACTED]	\$316,640
2	[REDACTED]	\$2,523
3	[REDACTED]	\$4,975
4	[REDACTED]	\$6,582
5	[REDACTED]	\$2,938
6		

7  
8 **D. Additional Claims**

9 In addition to the restitution claims set forth above, victims who were plaintiffs in  
10 the related civil suit have submitted requests for restitution for amounts that the United  
11 States believes are already accounted for, or, in some cases not covered, by the applicable  
12 statutes. The claims fall into three categories: economic damages equal to the profits GDP  
13 received from the use of victims’ videos; damages for emotional distress and punitive  
14 damages; and attorney’s fees and costs related to the victims’ civil lawsuit against the  
15 operators of GDP.

16 First, certain victims have requested \$46,628.70 each in economic damages “equal  
17 to the profits GirlsDoPorn received from the use of [the victims’] video[s].”<sup>3</sup> The United  
18 States believes that these requests are already taken into consideration by 18 U.S.C. §  
19 1593(b)(1) which provides that victims are entitled to “the greater of the gross income or  
20 value to the defendants of the victim’s services.” 18 U.S.C. § 1593(b)(1). Here, the United  
21 States has identified approximately \$17 million in gross income from the scheme, which  
22 the United States believes should be allocated to the 402 victims identified in Attachment  
23 A. \$16,922,798 divided by 402 victims comes out to \$42,097 per victim.

24 Second, victims have requested payments for noneconomic damages for emotional  
25 distress, ranging from \$250,000 to \$500,000 each, and punitive damages in the amount of

26  
27 <sup>3</sup> The amount requested was based upon an expert analysis of the profits generated  
28 per video that was published on GDP.



1 \$150,000 each, equal to the amounts awarded to the victims by Judge Enright in the civil  
2 suit. Restitution, however, is generally limited to the victim's *actual losses*. *United States*  
3 *v. Bussell*, 504 F.3d 956, 964 (9th Cir. 2007). The purpose of restitution is not to punish  
4 the defendant, but to make the victim whole again by restoring to him or her the value of  
5 the losses suffered as a result of the defendant's crime. *United States v. Hunter*, 618 F.3d  
6 1062, 1064 (9th Cir. 2010). Restitution, unlike civil damages, cannot include intangible  
7 harms like pain and suffering or emotional distress. *United States v. Singh*, No. 1:15-CR-  
8 00212-AWI, 2016 WL 3407608, at \*2 (E.D. Cal. June 20, 2016). Accordingly,  
9 noneconomic damages for emotional distress and punitive damages are not recoverable in  
10 the court's restitution order.

11 Third, victims have requested payments for attorneys' costs and fees associated with  
12 the civil lawsuit. The attorneys' costs and fees requested by the victims are contingent costs  
13 and fees associated with the civil lawsuit which are payable to the attorneys who  
14 represented the victims in the civil lawsuit. The attorneys' fees have not been incurred by  
15 the victims, rather the costs and fees are owed to the attorneys out of any funds that are  
16 recovered in the civil suit pursuant to an agreement between the victims and their attorneys.  
17 The United States recognizes that 18 U.S.C. § 2259(c)(2)(E) authorizes the court to award  
18 restitution for "reasonable attorneys' fees, as well as other costs incurred;" however  
19 subsection (c)(2) of the statute refers to costs that are "incurred" or "reasonably projected  
20 to be incurred in the future, by the victim . . . ." 18 U.S.C. § 2259(c)(2). Applied here, the  
21 victims have not incurred, nor will they, incur any of the attorneys' fees or costs. Instead,  
22 the attorneys' fees and costs would be taken out of any funds recovered in the civil suit. As  
23 such, the United States does not believe that such attorneys' fees and costs are recoverable  
24 as restitution in this criminal matter.

1 **IV. CONCLUSION**

2 The Government request that the Court enter the following restitution orders.

3 **A. Restitution Order as to the Rights to Videos**

- 4 - Defendant Ruben Andre Garcia, aka “Jonathan,” has no right to use, publish, or  
5 otherwise exploit GirlsDoPorn (GDP) or GirlsDoToys (GDT) images, likenesses,  
6 or videos;
- 7 - all purported model releases and other agreements between GirlsDoPorn (GDP)  
8 and/or GirlsDoToys (GDT) and its models purporting to give GDP and/or GDT  
9 the right to use, publish, or otherwise exploit its models’ images, likenesses, or  
10 videos are void and unenforceable, having been procured by fraud;
- 11 - all transfers, licenses, or leases of the right to use, publish, or otherwise exploit  
12 the models’ images, likenesses, or videos by GDP and/or GDT to any third parties  
13 are void;
- 14 - each model listed in Attachment A holds superior right, title, and interest in all  
15 images, likenesses, and videos depicting that model produced by GDP and/or  
16 GDT;
- 17 - each model listed in Attachment A shall have and recover all property that GDP  
18 and/or GDT took from them, including images, likenesses, videos, and/or  
19 copyrights.

20 **B. Restitution Order for Distribution of Gross Income**

21 Defendant Ruben Andre Garcia, aka “Jonathan,” is ordered to pay the gross income,  
22 calculated as \$16,922,798, which will be paid to the victims identified in Attachment A.

**C. Restitution Order for Specified Victim Losses**

Defendant Ruben Andre Garcia, aka “Jonathan,” is further ordered to pay financial restitution to the victims of this offense in the amounts set forth below:

Victim	Total Restitution
[REDACTED]	\$8,200
[REDACTED]	\$37,562
[REDACTED]	\$20,000
[REDACTED]	\$200
[REDACTED]	\$62,434.88
[REDACTED]	\$41,644.47
[REDACTED]	\$92,529
[REDACTED]	\$127,610
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3 [REDACTED]	\$4,975
4 [REDACTED]	\$6,582
5 [REDACTED]	\$2,938

8 DATED: December 3, 2021

9 Respectfully submitted,

10 RANDY S. GROSSMAN  
11 Acting United States Attorney

12 *s/ Alexandra Foster/Joseph Green*

13 ALEXANDRA F. FOSTER  
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16 Attorneys for the United States