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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) No. 3:20-cr-00052-SLG-MMS
)
MARCUS CATALIN ROSU,)
)
Defendant.)
)
_____)

**UNOPPOSED MOTION FOR ALTERNATIVE
VICTIM NOTIFICATION UNDER 18 U.S.C. § 3771(d)(2)**

The United States of America respectfully moves this Court, pursuant to Title 18, United States Code, Section 3771(d)(2), for authorization to employ the victim notification procedures described below, in lieu of those prescribed by section 3771(a), (b) and (c), on the grounds that the number of crime victims in this case makes it impracticable to accord

all of the crime victims the rights described in subsection 3771(a). The defendant does not oppose this motion.

The Crimes Victims' Rights Act ("the Act"), codified at 18 U.S.C. § 3771, provides certain rights to victims in federal criminal proceedings. Among these rights is the right to "reasonable, accurate, and timely notice" of public court proceedings. 18 U.S.C. § 3771(a). The Act requires "[o]fficers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation and prosecution of crime make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection [3771](a)," 18 U.S.C. § 3771(c)(1), and it instructs the Court to "ensure that the crime victim is afforded" those rights. 18 U.S.C. § 3771(b). The Act defines a crime victim as "a person directly and proximately harmed as a result of the commission of a Federal offense . . ." 18 U.S.C. § 3771(e). Importantly, the Act recognizes that for crimes involving multiple victims, the Court has discretion to adopt procedures to accord victim rights without unduly interfering with the criminal proceedings. Thus, 18 U.S.C. §3771(d)(2) provides:

In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

The Act places no limitations on the alternative procedures which a Court may fashion other than that the procedures be reasonable to effectuate the Act and that they not unduly complicate or prolong the proceedings. *Id.*

Here, the defendant, Marcus Catalin Rosu, has been charged with possession of

counterfeit access device-making equipment, which has caused financial losses to hundreds of victims, often identified by account number. Although the government has contacted a business victims, it has not yet been able to contact the hundreds of individuals victimized in this case. Additionally, the defendant has been committing these crimes in multiple states. In short, the government's investigation to date has revealed *at least* hundreds, and potentially thousands of victims, directly harmed by defendant's illegal conduct.

Accordingly, this number of victims makes compliance with the notification requirements outlined in section 3771(a), (b) and (c) impracticable. Neither the government nor the Court has the resources to accord all of the victims in this case the notice required by subsection 3771(a).

Therefore, due to the large number of victims in this case, the government intends to direct potential victims to the U.S. Attorney's Office website where all required notices will be posted: <https://www.justice.gov/usao-ak/case-updates>. The government will also issue a press release within a reasonable amount of time after the Court grants this motion informing individuals who believe they may be victims to access the U.S. Attorney's Office website for more information.

CONCLUSION

Based on the foregoing, the government requests the Court grant the motion for alternative victim notification procedures.

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RESPECTFULLY SUBMITTED this 23rd day of September, 2020, in Anchorage,
Alaska.

BRYAN SCHRODER
United States Attorney

/s/ Karen Vandergaw
KAREN VANDERGAW
Assistant U.S. Attorney
United States of America

CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2020,
a true and correct copy of the foregoing
was served electronically on all counsel of
record via the CM/ECF system.

Allen Dayan
Ben Crittenden

/s/ Karen Vandergaw
Office of the U.S. Attorney

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ORDER

Before the court is the Government’s Motion for Alternative Victim Notification Pursuant to 18 U.S.C. § 3771(d)(2), filed September 23, 2020. The Government seeks an order from the court approving the use of alternate means to provide notice to the large number of crime victims in this case. Under 18 U.S.C. § 3771(a)(2), crime victims have a right to “reasonable, accurate, and timely notice” of public court proceedings. In this case, the alleged victims of the charged crimes are former patients and their family members who were harmed by defendant’s allegedly illegal prescribing practices.

Specifically, the Government alleges that the defendant has used the account information from hundreds of people to withdraw money from hundreds of accounts. In short, the government’s investigation to date has revealed *at least* hundreds, and potentially thousands of victims, directly harmed by defendant’s illegal conduct.

Under such circumstances, 18 U.S.C. § 3771(a)(2) of the Crimes Victims' Rights Act gives the court the authority to "fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings." The Government seeks authorization to provide an alternate means to provide notice to the large number of crime victims in this case. In its motion, the Government sets out its proposed actions to comply with 18 U.S.C. § 3771. The court finds the proposal meritorious and hereby GRANTS the Government's motion.

WHEREFORE, the court finds that: (1) the "multiple victim" provisions of 18 U.S.C. § 3771(d)(2) apply to this case; (2) it is impractical, because of the number of victims, for the Government and the court to identify all the direct and proximate victims of the charged offenses, on an individual basis, without unduly complicating or prolonging the proceedings; and (3) the proposal set forth in the Government's motion is a "reasonable procedure" to give effect to the provisions of 18 U.S.C. § 3771.

Accordingly, it is hereby ORDERED that the Government is authorized to comply with the provisions of 18 U.S.C. § 3771(a)(2) in this case by providing notice of the court proceedings as provided in the proposal set forth in its motion.

IT IS SO ORDERED this ____ day of _____, 2020, at Anchorage, Alaska.

HONORABLE MATTHEW M. SCOBLE
UNITED STATES MAGISTRATE JUDGE