

1 BRIAN J. STRETCH (CABN 163973)  
United States Attorney

2 BARBARA J. VALLIERE (DCBN 439353)  
3 Chief, Criminal Division

4 CHRISTINA McCALL (CABN 234139)  
Assistant United States Attorney

5 1301 Clay Street, Suite 340S  
6 Oakland, California 94612  
7 Telephone: (510) 637-3680  
8 FAX: (510) 637-3724  
christina.mccall@usdoj.gov

9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 OAKLAND DIVISION

13 UNITED STATES OF AMERICA, ) No. CR 16-00515 YGR (JSC)  
14 Plaintiff, )  
15 v. ) STIPULATION AND [~~PROPOSED~~] ORDER RE  
16 KENNETH BRESLIN, ) PAYMENT OF CRIMINAL MONETARY  
17 Defendant. ) PENALTIES INTO COURT REGISTRY BEFORE  
18 ) SENTENCING

19 I.

20 INTRODUCTION

21 On December 21, 2016, Defendant, Kenneth Breslin, (hereafter “Breslin”), was released from  
22 custody following the federal grand jury’s indictment for possession of pornography. The Court set  
23 certain conditions on Defendant’s release, pursuant to 18 U.S.C. § 3142. Defendant’s sister, Elizabeth  
24 Breslin, agreed to serve as his surety and custodian. Defendant and Elizabeth Breslin both signed the  
25 \$150,000 bond, and acknowledged the conditions the Court set. The bond provided: “Δ shall not access  
26 the internet & shall not use or possess any computer.” During the detention hearing, Magistrate Corley  
27 confirmed that Defendant may not use a smart phone, or anything capable of accessing the internet.  
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1 By April 7, 2017, Pretrial Services Officer Anthony Granados had reason to believe that Breslin  
2 might be accessing the internet. Pretrial Services' Violation Memorandum, case CR16-0515 YGR,  
3 dated April 13, 2017. During an unannounced home visit on April 12, 2017, Officer Granados asked to  
4 inspect Breslin's mobile phone. *Id.* Breslin handed Officer Granados an iPhone and granted permission  
5 to inspect it. *Id.* The iPhone was fully functional and able to access the internet and email. *Id.* Breslin  
6 admitted to Officer Granados that he had been using the iPhone regularly to access the internet but  
7 denied he was using it for anything illegal. *Id.* During multiple hearings that resulted from the bond  
8 violation, Magistrate Corley found that Breslin had violated the condition that he not access the internet  
9 by clear and convincing evidence. The government announced its intention to file a motion to forfeit the  
10 bond; the deadline for filing the motion is July 13, 2017.

11 The United States Attorney's Office has already received more than six requests for restitution  
12 from victims of the child pornography materials Breslin possessed, and more restitution requests are  
13 expected. The parties have not reached any agreement about the amount of restitution the Court should  
14 order, and this stipulation does not indicate that Breslin agrees to pay any particular amount of  
15 restitution to any victim in the case. Additionally, a \$5,100 special assessment applies in this case,  
16 pursuant to 18 U.S.C. §§ 3013 and 3014. As part of the judgment in this case, the District Court may  
17 also impose a fine and forfeiture of certain assets.

18 II.

19 STIPULATION

20 The United States, through its counsel, Christina McCall, Defendant, through his counsel, Mark  
21 Goldrosen, and surety Elizabeth Breslin, through her counsel, Geoffrey Rotwein, hereby enter into the  
22 following stipulation as a proposed resolution to the bond violation and bond forfeiture issue:

- 23 1. The government and Kenneth Breslin agree that he shall deposit \$100,000 into the Northern  
24 District of California's Clerk's Office registry no later than 30 days prior to the sentencing  
25 hearing. Breslin shall submit checks or money orders in the amount of \$100,000, made  
26 payable to "Clerk, United States District Court," to:

27 U.S. District Court  
28 Attn: Finance Section  
450 Golden Gate Avenue  
P.O. Box 36060

San Francisco, CA 94102.

- 2. The government and Breslin agree that the money Breslin deposits into the Clerk’s Office registry will be applied to pay any Court-ordered restitution, criminal monetary penalties, and special assessments in this case.
- 3. The government and Breslin agree that after all restitution, criminal monetary penalties, and special assessments in this case are paid, any remaining balance of the \$100,000 that Breslin will deposit shall be returned (along with any remaining interest) to him.
- 4. The government and Breslin therefore jointly request that the Court issue this Proposed Order authorizing the Clerk to accept the \$100,000 payment made by Breslin and hold the funds to be applied toward Court-ordered restitution, criminal monetary penalties, and special assessments in this case.
- 5. The government agrees not to pursue any additional funds pursuant to a forfeiture motion against Kenneth Breslin or Elizabeth Breslin -- either civil or criminal -- of assets related to this bond or arising out of this case, unless Breslin commits a different violation of his pretrial release conditions.

It is so stipulated.

DATED: July 18, 2017

Respectfully submitted,

BRIAN J. STRETCH United States Attorney  <u>/s/ Christina McCall</u> CHRISTINA McCALL Assistant U. S. Attorney	<u>/s/ Mark Goldrosen</u> MARK GOLDROSEN Attorney for Kenneth Breslin	<u>/s/ Geoffrey Rotwein</u> GEOFFREY ROTWEIN Attorney for Elizabeth Breslin
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**[PROPOSED] ORDER**

The Court, having considered the Stipulation Regarding Payment of Criminal Monetary Penalties Into Court Registry Before Sentencing, the Stipulation having been executed by the United States and defendant’s counsel and the surety/custodian’s counsel, and good cause appearing, **IT IS HEREBY ORDERED:**

1. The Clerk of Court for the Northern District of California shall accept from the defendant checks or money orders totaling \$100,000, made payable to “Clerk, United States District Court,” and shall hold such funds in the Clerk’s Registry, including interest earned thereon, for crediting towards the defendant’s restitution obligation, other criminal monetary penalties, and special assessments, and pending the further order of this Court.
2. Any remaining balance from the defendant’s \$100,000 deposit, after all of the defendant’s Court-ordered restitution, criminal monetary penalties, and/or special assessments are paid, shall be returned (with interest) to the defendant.

Dated: July 18, 2017

  
 YVONNE GONZALEZ ROGERS  
 United States District Judge