

# United States District Court

FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

<b>FILED</b>
Sep 04 2020
SUSAN Y. SOONG CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO

UNITED STATES OF AMERICA,

V.

JOSEPH SULLIVAN,

DEFENDANT(S).

## INDICTMENT

18 U.S.C. § 1505 – Obstructing Proceedings of the Federal Trade Commission;  
18 U.S.C. § 4 – Misprision of a Felony

\_\_\_\_\_  
A true bill.

\_\_\_\_\_  
*/s/* Foreperson of the Grand Jury



\_\_\_\_\_  
Foreman

\_\_\_\_\_  
Filed in open court this 3rd day of

\_\_\_\_\_  
September, 2020

\_\_\_\_\_  
*Virginia K. DeMarchi*

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Bail, \$ No process

**FILED**  
Sep 04 2020  
SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO

1 DAVID L. ANDERSON (CABN 149604)  
United States Attorney

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, ) CASE NO. CR20-337 WHO  
Plaintiff, )  
v. ) VIOLATIONS:  
JOSEPH SULLIVAN, ) 18 U.S.C. § 1505 – Obstructing Proceedings of the  
Defendant. ) Federal Trade Commission; 18 U.S.C. § 4 –  
Misprision of a Felony  
SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

Introductory Allegations

At all times relevant to this Indictment:

1. The United States Federal Trade Commission (“FTC”) was an independent agency of the United States. The FTC’s Division of Privacy and Identity Protection oversees and investigates, among other things, issues related to consumer privacy, identity theft, and information security.

2. In or about February 2015, Uber Technologies, Inc. (“Uber”) informed the FTC that it had learned of a data breach it had suffered in September 2014. In or about March 2015, the FTC informed Uber that the FTC was evaluating Uber’s data security program and practices. On or about May 21, 2015, the FTC issued a Civil Investigative Demand to Uber, which contained a series of interrogatories and document requests. Over the subsequent months, and continuing into 2017, Uber

1 provided responses to the FTC's formal and informal requests for information related to the FTC's  
2 investigation.

3 3. In or about June 2016, the FTC issued another Civil Investigative Demand to Uber,  
4 which included a requirement that Uber designate one or more officers, directors, or managing agents to  
5 testify on behalf of the company on a variety of topics. Uber designated SULLIVAN as its witness, and  
6 SULLIVAN provided sworn testimony on or about November 4, 2016.

7 4. On or about November 14, 2016, approximately ten days after his testimony,  
8 SULLIVAN learned that hackers had gained unauthorized access to Uber data containing personally  
9 identifiable information related to Uber's users and drivers. In other words, Uber had suffered another  
10 data breach.

11 5. Thereafter, SULLIVAN engaged in a scheme designed to ensure that the data breach did  
12 not become public knowledge, was concealed, and was not disclosed to the FTC. SULLIVAN arranged  
13 for the hackers to be paid a substantial sum of money in exchange for, among other things, their written  
14 agreement not to disclose the data breach. Moreover, the written agreement misrepresented the  
15 circumstances of the data breach. SULLIVAN also withheld information regarding the breach from  
16 others at Uber who were in a position to disclose the breach to the FTC and would have been aware of  
17 the relevance of the data breach to the FTC's investigation. Months later, when Uber hired a new CEO,  
18 SULLIVAN misrepresented the circumstances of the data breach to the CEO. At the time of that  
19 misrepresentation, the FTC investigation was not yet fully resolved, and the FTC remained unaware of  
20 the 2016 data breach.

21 COUNT ONE: (18 U.S.C. § 1505 – Obstruction of Proceedings before the Federal Trade  
22 Commission)

23 6. Paragraphs 1 through 5 are realleged as if set forth fully here.

24 7. Beginning on or about November 14, 2016, and continuing through in or about  
25 November 2017, in the Northern District of California and elsewhere, the defendant,

26 JOSEPH SULLIVAN,

27 did corruptly influence, obstruct, and impede, and endeavored to influence, obstruct, and impede, and  
28 any applicable combination, the due and proper administration of the law under which a pending

1 proceeding was being had before a department or agency of the United States, namely, the FTC and its  
2 investigation into Uber's data security program and practices, all in violation of Title 18, United States  
3 Code, Section 1505.

4 COUNT TWO: (18 U.S.C. § 4 – Misprision of a Felony)

5 8. Paragraphs 1 through 7 are realleged as if set forth fully here.

6 9. Beginning on or about November 14, 2016, and continuing through in or about  
7 November 2017, in the Northern District of California and elsewhere, the defendant,

8 JOSEPH SULLIVAN,

9 having knowledge of the actual commission of a felony cognizable by a court of the United States, to  
10 wit, intentionally accessing a computer without authorization or exceeding authorized access, and  
11 thereby obtaining information from a protected computer, in violation of 18 U.S.C. § 1030(a)(2)(C), and  
12 conspiracy to commit extortion involving computers in violation of 18 U.S.C. §§ 1030(a)(7)(B), (b), and  
13 (c)(3)(A), did conceal the same, and did not as soon as possible make known the same to some judge or  
14 other person in civil or military authority under the United States, all in violation of Title 18, United  
15 States Code, Section 4.

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18 DATED:

A TRUE BILL.

19  
20 9/3/2020



\_\_\_\_\_  
FOREPERSON

21  
22 DAVID L. ANDERSON  
United States Attorney

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24 

25 ANDREW F. DAWSON  
KATHERINE L. WAWRZYNIAK  
26 Assistant United States Attorneys

**FILED**

Sep 04 2020

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION -**

BY:  COMPLAINT  INFORMATION  INDICTMENT  
 SUPERSEDING

**OFFENSE CHARGED**

Count One: 18 U.S.C. 1505 - Obstruction of Justice  Petty  
Count Two: 18 U.S.C. 4 - Misprision of a Felony  Minor  
 Misdemeanor  
 Felony

PENALTY: Count One: 5 years in prison; \$250,000 fine; 3 years' supervised release; \$100 special assessment; restitution; forfeiture  
Count Two: 3 years in prison; \$250,000 fine; 1 year supervised release; \$100 special assessment; restitution; forfeiture

Name of District Court  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO

**DEFENDANT - U.S.**

▶ JOSEPH SULLIVAN

DISTRICT COURT NUMBER  
**CR20-337WHO**

**PROCEEDING**

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:  
 U.S. ATTORNEY  DEFENSE

SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

} 3:20-71168

Name and Office of Person Furnishing Information on this form David L. Anderson

U.S. Attorney  Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned) Andrew Dawson; Katherine W...

**DEFENDANT**

**IS NOT IN CUSTODY**

- Has not been arrested, pending outcome this proceeding.
- 1)  If not detained give date any prior summons was served on above charges
  - 2)  Is a Fugitive
  - 3)  Is on Bail or Release from (show District)

N.D. Cal.

**IS IN CUSTODY**

- 4)  On this charge
  - 5)  On another conviction }  Federal  State
  - 6)  Awaiting trial on other charges
- If answer to (6) is "Yes", show name of institution

Has detainer been filed?  Yes  No

} If "Yes" give date filed

**DATE OF ARREST** ▶ Month/Day/Year  
N/A

Or... if Arresting Agency & Warrant were not

**DATE TRANSFERRED TO U.S. CUSTODY** ▶ Month/Day/Year

This report amends AO 257 previously submitted

**ADDITIONAL INFORMATION OR COMMENTS**

**PROCESS:**

SUMMONS  NO PROCESS\*  WARRANT

Bail Amount: \_\_\_\_\_

If Summons, complete following:

Arraignment  Initial Appearance

\* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Defendant Address:

Date/Time: \_\_\_\_\_ Before Judge: \_\_\_\_\_

Comments:

**FILED**

Sep 04 2020

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA****CRIMINAL COVER SHEET**

**Instructions:** Effective November 1, 2016, this Criminal Cover Sheet must be completed and submitted, along with the Defendant Information Form, for each new criminal case.

**CASE NAME:**

USA v. JOSEPH SULLIVAN

**CASE NUMBER:**

CR 20-337WHO

**Is This Case Under Seal?**Yes No **Total Number of Defendants:**1  2-7 8 or more**Does this case involve ONLY charges under 8 U.S.C. § 1325 and/or 1326?**Yes No **Venue (Per Crim. L.R. 18-1):**SF  OAK SJ**Is this a potential high-cost case?**Yes No **Is any defendant charged with a death-penalty-eligible crime?**Yes No **Is this a RICO Act gang case?**Yes No **Assigned AUSA****(Lead Attorney):** Andrew Dawson**Date Submitted:** 9/3/2020**Comments:**

The defendant, Mr. Sullivan was previously charged by Criminal Complaint; US v. Joseph Sullivan, case number 3:20-mj-71168-JCS.

RESET FORM

SAVE PDF