

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA \* CRIMINAL NO. 19-114  
v. \* SECTION: T  
GARY PETER SIMON, JR. \*

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FACTUAL BASIS

The defendant, **GARY PETER SIMON, JR.**, (hereinafter, the “defendant” or “**SIMON**”), has agreed to plead guilty as charged to the Bill of Information now pending against him, charging him with intentionally accessing a protected computer without authorization and recklessly causing damage resulting in loss of more than \$5,000 during one year, in violation of Title 18, United States Code, Section 1030(a)(5)(B). Both the Government and the defendant, **GARY PETER SIMON, JR.**, do hereby stipulate and agree that the following facts set forth a sufficient factual basis for the crimes to which the defendant is pleading guilty. The Government and the defendant further stipulate that the Government would have proven, through the introduction of competent testimony and admissible, tangible exhibits, the following facts, beyond a reasonable doubt, to support the allegations in the Bill of Information now pending against the defendant:

The Government would establish that the United States Department of Energy (DOE) was a cabinet-level department of the Executive Branch of the United States government concerned with, among other things, the United States’ policies regarding energy and safety in handling nuclear material. The Strategic Petroleum Reserve Office (SPRO) was a component of the DOE that was responsible for, among other things, overseeing and maintaining the readiness of the United States’ stockpile of emergency crude oil, which was stored along the coastline of the Gulf of Mexico.

AUSA JG  
Defendant [Signature]  
Defense Counsel [Signature]

The Government would further establish that DOE SPRO operated a cloud-based computer system, WebEOC, to handle two primary functions. First, it facilitated and supported emergency operations management of the SPRO facilities, such as during hurricanes. Second, it allowed Control Room Operators at the four different SPRO facility locations (with two each in Louisiana and Texas) to document their daily activity electronically through individual user log views. Individuals affiliated with SPRO could access WebEOC internally, at SPRO locations, and externally, outside SPRO facilities. The DOE SPRO WebEOC system was a computer system of and operated by a department of the United States that was exclusively for the use of the United States and was used by and for the United States. As such, the DOE SPRO WebEOC system constituted a “protected computer,” as that term is defined in Title 18, United States Code, Sections 1030(e)(1) and 1030(e)(2).

The Government would further establish that the WebEOC program had an “Administrator account,” which was a built-in WebEOC account that had unique privileges on and access to other parts of the WebEOC system. In particular, the Administrator account had full access and control, through a web portal, to alter, update, or delete any other user account or password on the WebEOC system without limitation or restriction. External access to WebEOC by the WebEOC Administrator Account required a username and password. However, access to WebEOC from the SPRO internal network requires two-factor authentication. In other words, a user must provide a username, password, and specific RSA secure token specifically assigned to the SPRO employee to access the system through the network.

The Government would further establish that from about September 4, 2007 until August 24, 2018, SIMON was employed with the New Orleans, Louisiana, SPRO facility. SIMON was initially hired under a previous contractor, DynMcDermott Petroleum Operations, Co

("DynMcDermott"). Subsequently, another contractor, Fluor Federal Petroleum Operations ("Fluor"), took over the DynMcDermott SPRO contract on April 1, 2014, at which time **SIMON** was transferred to Fluor. In his role as a contractor at the New Orleans DOE SPRO facility, **SIMON** worked in the Emergency Management Directorate and was responsible for, among other things, implementing the WebEOC system for daily use by Control Room Operators (CRO), Information Technology (IT) management of SPRO network applications, and general emergency management at SPRO. In his employment capacity, **SIMON** was assigned as a WebEOC Administrator and had access to the DOE SPRO WebEOC Administrator Account. He was one of only two individuals who knew that username and password of the Administrator Account between about August 2018 and November 2018. On about August 24, 2018, **SIMON** resigned from his employment with Fluor and, by extension, DOE SPRO. Consequently, as of not later than August 24, 2018, **SIMON** no longer was authorized to access the DOE SPRO WebEOC system or add or edit system content.

The Government would further establish, through the introduction of documentary evidence and the testimony of Federal Bureau of Investigation (FBI) Special Agent Alena Cristina Jaime-Ramirez, that on about October 21, 2018, **SIMON** intentionally accessed the DOE SPRO WebEOC system externally, without authorization, from his residence in Mandeville, Louisiana, within the Eastern District of Louisiana. After obtaining access to the DOE SPRO WebEOC system, **SIMON** altered and deleted various WebEOC files stored within the WebEOC system utilized by SPRO Control Room Operators. As a result of the intrusion and subsequent manipulation of protected data, operators were unable to access their log views on the WebEOC system, and they could not annotate work they completed electronically. The WebEOC system remained compromised for approximately 2-3 hours after the discovery of the unauthorized access.

Thereafter, **SIMON** used the account of a current SPRO employee without that employee's authorization, to make changes to log views and to attempt to delete audit logs files.<sup>1</sup> By engaging in the actions described above, **SIMON** recklessly caused damage, namely the impairment to the integrity and availability of data, a program, a system, and information, as defined in Title 18, United States Code, Section 1030(e)(8). The Government would establish that **SIMON'S** actions resulted in loss to the DOE, in the form of costs associated with responding to the offense, conducting a damage assessment, and restoring data, program, system, and information to its pre-offense condition, in the amount of approximately \$23,200 within one year.


The above facts originate from an investigation conducted by, and would be proven at trial by credible testimony from, Special Agents from the Federal Bureau of Investigation, representatives of DOE SPRO, and documents and tangible exhibits in the custody of the Federal Bureau of Investigation, and the statements of the defendant, **GARY PETER SIMON, JR.**

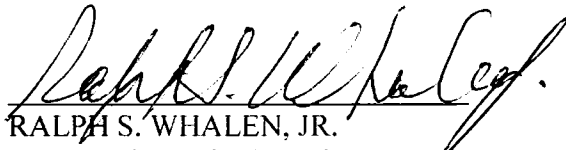
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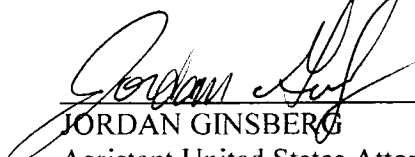
<sup>1</sup> An audit log is a document that records an event in an information technology (IT) system, such as what resources were accessed, destination and source Internet Protocol (IP) address, a timestamp and user login information.

**Limited Nature of Factual Basis**

This proffer of evidence is not intended to constitute a complete statement of all facts known by **DEFENDANT** and/or the Government. Rather, it is a minimum statement of facts intended to prove the necessary factual predicate for his guilty plea. The limited purpose of this proffer is to demonstrate that there exists a sufficient legal basis for the pleas of guilty to the charged offenses by **DEFENDANT**.

  
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GARY PETER SIMON, JR.  
Defendant

  
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