

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA)
) Criminal No.
 v.)
) (18 U.S.C. § 1343)
JOVANY DESIR)

INDICTMENT

The grand jury charges:

Introduction

1. At all times material to this indictment, the defendant, JOVANY DESIR, resided in Miami, Florida, and was a student at Florida International University.

2. At all times material to this indictment, the defendant, JOVANY DESIR, ran web hosting services under the names dhosting.mine.nu, dhosting.sytes.net, databit.sytes.net and dhosting.datacenter.cc.

3. At all times material to this indictment, the defendant, JOVANY DESIR, used the Internet nicknames "Databit", "Databond" and "Datalar" in Internet Relay Chat (IRC) communications.

The Scheme and Artifice

4. From in and around July 2005 to in and around October 2005, in the Western District of Pennsylvania and elsewhere, the defendant, JOVANY DESIR, did devise, and intend to devise, a scheme and artifice to defraud and to obtain money and property through the preparation, design and distribution of fraudulent web sites, known as "phishing" sites, designed to deceive persons who believed

they were dealing with legitimate web site locations for banks, charitable organizations, and online auction and payment services.

5. It was a part of the scheme and artifice that the defendant, JOVANY DESIR, designed phishing web sites that mimicked the appearance of legitimate web sites by pulling graphics and photographs from the legitimate web sites, and which would record personal financial information of individuals deceived into believing they were providing the information on the legitimate web site, including customer names, addresses, credit card numbers, bank account numbers, passwords, PIN numbers, Credit Verification Values (CVVs), and related information for bank accounts, credit cards and online auction and payment services, for the purposes of obtaining, and assisting others to obtain, money and property from bank, online auction, and credit card accounts.

6. It was further a part of the scheme and artifice that the the defendant, JOVANY DESIR, created the text of phishing email solicitations to be used in connection with the fraudulent phishing web sites, in order to direct the email recipient to the phishing website.

7. It was further a part of the scheme and artifice that the the defendant, JOVANY DESIR, sold the aforementioned phishing web sites, with accompanying phishing emails, in "phishing kits" for approximately \$150 each to other individuals seeking to defraud the public, banks, online auction services, and credit card providers,

and in connection therewith provided assistance to said individuals in establishing the phishing web sites on computer servers connected to the Internet, from which they could operate the designed phishing scheme.

8. It was further a part of the scheme and artifice that, between in and around July 2005 and in and around October 2005, the exact date being unknown, the defendant, JOVANY DESIR, designed and sold to a person unknown to the grand jury a phishing web site mimicking the legitimate website of eBay, an Internet Auction Service.

9. It was further a part of the scheme and artifice that, between in and around July 2005 and in and around October 2005, the exact date being unknown, the defendant, JOVANY DESIR, designed and sold to a person unknown to the grand jury a phishing web site mimicking the legitimate website of PayPal, an online payment service that allows individuals to conduct payment transactions over the Internet in a secure manner.

10. It was further a part of the scheme and artifice that, in and around September 2005, the defendant, JOVANY DESIR, designed, sold to a person not known to the grand jury, and hosted a phishing web site mimicking the legitimate website of Banque Nationale, a Canadian Bank, which site thereafter received approximately 8,500 "hits" on the web site from individuals apparently attempting to access the legitimate Banque Nationale site.

11. It was further a part of the scheme and artifice that, in and around September and October 2005, the defendant, JOVANY DESIR, designed and sold to a person not known to the grand jury a phishing web site mimicking the legitimate website of Desjardins Credit Union, a Canadian financial services cooperative.

12. It was further a part of the scheme and artifice that, in and around September and October 2005, the defendant, JOVANY DESIR, designed and sold to a person known to the grand jury a phishing web site mimicking the legitimate website of the American Red Cross that had been set up by the Red Cross to receive donations for Hurricane Katrina disaster relief, which phishing web site the defendant later put on the Internet for free downloading in order to demonstrate his skill in developing phishing kits and generate more sales, resulting in said phishing site being downloaded by approximately 56 persons unknown to the grand jury.

13. It was further a part of the scheme and artifice that, in and around September and October 2005, the defendant, JOVANY DESIR, designed, sold to a person known to the grand jury, and installed on a computer server, a phishing web site mimicking the legitimate website of PNC Bank, including by downloading graphic elements and trademarks therefrom, said bank being a federally insured bank that allows its customers to conduct banking transactions over the Internet in a secure manner, and which bank was affected by said design, sale and installation of the phishing web site.

14. It was further a part of the scheme and artifice that, in and around September and October 2005, the defendant, JOVANY DESIR, engaged in interstate wire communications over the Internet through Internet Relay Chat with would-be downloaders of the aforementioned phishing sites for American Red Cross Hurricane Katrina relief and PNC Bank.

15. It was further a part of the scheme and artifice that, on or about October 7, 2005, the defendant, JOVANY DESIR, caused to be transmitted over interstate wires from his residence in Florida computer files and commands necessary to install the aforementioned phishing sites for American Red Cross Hurricane Katrina relief and PNC Bank on a computer server located within the Western District of Pennsylvania.

16. On or about the dates listed below, in the Western District of Pennsylvania and elsewhere, for the purpose of executing the aforesaid scheme and artifice, the defendant, JOVANY DESIR, using a computer located in Florida, did cause to be transmitted to computers located in the Western District of Pennsylvania by wire in interstate commerce certain writings, signs, and signals described below, each such use of the interstate wires identified hereafter being a separate count of this Indictment and incorporating the scheme and artifice set forth in paragraphs 1 through 15 hereof, as if set forth in full:

| <u>COUNT</u> | <u>DATE (ON OR ABOUT)</u> | <u>SENDER</u> | <u>ACTIVITY</u> |
|--------------|---------------------------|--------------------------------|---|
| 1. | 9/28/05 | Jovany Desir Miami, Florida | Internet communication with prospective downloader of American Red Cross Hurricane Katrina relief phishing site. |
| 2. | 9/29/05 | Jovany Desir Miami, Florida | Internet Communication with prospective downloader of PNC Bank phishing site. |
| 3. | 10/04/05 | Jovany Desir Miami, Florida | Internet Communication with prospective downloader of PNC Bank phishing site. |
| 4. | 10/07/05 | Jovany Desir Miami, Florida | Transmission of computer files and commands for installation on computer server of American Red Cross Hurricane Katrina relief phishing site. |
| 5. | 10/07/05 | Jovany Desir Miami, Florida | Transmission of computer files and commands for installation on computer server of PNC Bank phishing site. |

In violation of Title 18, United States Code, Section 1343.

A True Bill,

FOREPERSON

MARY BETH BUCHANAN
United States Attorney
PA ID NO. 50254