BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: John Clarence Giacomini, M.D. Physician's and Surgeon's Certificate No. C 37952 Respondent.	MBC Case No. 800-2018-049834

ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN "EFFECTIVE DATE" PORTION OF DECISION

On its own motion, the Medical Board of California (hereafter "Board") finds that there is a clerical error in the Decision in the above-entitled matter and that such clerical error should be corrected.

IT IS HEREBY ORDERED that the Decision in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the Order to reflect that the effective date of the Notice of Automatic Revocation of License is *August 3, 2022.*

August 11, 2022

William Prasifka
Executive Director

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General
THOMAS OSTLY
Deputy Attorney General
State Bar No. 209234
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3871
Facsimile: (415) 703-5480
Attorneys for Complainant

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **JOHN CLARENCE GIACOMINI** **67 Jennings Ln.** **Atherton, CA 94027-3017** **Physician's and Surgeon's Certificate No. C 37952** Respondent.	Case No. 800-2018-049834 OAH No. 2022040552 **NOTICE OF AUTOMATIC REVOCATION OF LICENSE**

TO: RESPONDENT **JOHN CLARENCE GIACOMINI**, M.D.:

YOU ARE HEREBY NOTIFIED that the Medical Board of California, Department of Consumer Affairs (Board), has automatically revoked Physician's and Surgeon's Certificate No. C 37952 by operation of law after having received and reviewed a copy of the record of conviction(s) described below:

1. On July, 14, 2022, Judgment in a Criminal Case was entered in a case entitled United States of America v. John Giacomini, Case No. CR-20-00134-001 BLF, in the United States District Court Northern District of California.

2. The record establishes that on March 8, 2022, John Giacomini pleaded guilty to Abusive Sexual Contact, in violation of 18 U.S.C. § 2244(b). The criminal case involved Respondent's work as a physician with the Veteran's Administration.

3. On July 14, 2022 Judgment in a Criminal Case was entered by the Court. Respondent was committed to the custody of the Federal Bureau of Prisons to be imprisoned for a term of 8 months, followed by a one year period of supervised release. The Court further required Respondent to register as a sex offender under the Sex Offender Registration and Notification Act (34 U.S.C. §20901, *et. seq.*) or any applicable state sex offender registration.

4. Attached hereto and incorporated by reference are documents from Case No CR-20-00134-001 BLF supporting these findings:

Attachment A: Indictment

Attachment B: Plea Agreement

Attachment C: Judgment in a Criminal Case.

SEX OFFENDER REGISTRATION: AUTOMATIC REVOCATION

5. Section 2232 of the Code states in pertinent part:

"(a) Except as provided in subdivisions (c), (d), and (e), the board shall automatically revoke the license of any person who, at any time after January 1, 1947, has been required to register as a sex offender pursuant to the provisions of Section 290 of the Penal Code, regardless of whether the related conviction has been appealed. The board shall notify the licensee of the license revocation and of his or her right to elect to have a hearing as provided in subdivision (b).

"(b) Upon revocation of the physician's and surgeon's certificate, the holder of the certificate may request a hearing within 30 days of the revocation. The proceeding shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part I of Division 3 of Title 2 of the Government Code)."

WHEREFORE, THE MEDICAL BOARD OF CALIFORNIA, DEPARTMENT OF CONSUMER AFFAIRS, HEREBY NOTIFIES YOU THAT, by virtue of said conviction and requirement to register as a sex offender, Physician's and Surgeon's Certificate No. C 37952 issued to John Clarence Giacomini, M.D. is automatically revoked by operation law, effective July ___, 2022, pursuant to Business and Professions Code section 2232. You shall cause to be delivered to the Board both your wall and pocket license certificate within 15 days from the date of the service of this Order.

YOU ARE FURTHER NOTIFIED THAT you have a right to a hearing as provided by Business and Professions Code section 2232, subdivision (b), as set forth above. A request for a hearing may be made by delivering or mailing such a request to: Thomas Ostly, Deputy Attorney General, Department of Justice, Office of the Attorney General, 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102. This Notice is being served by a designee of the Board upon John Clarence Giacomini, M.D. at his designated address of record with the Medical Board.

DATED: AUG 03 2022

WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

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UNITED STATES DISTRICT COURT

SEALED BY ORDER OF THE COURT

FILED

MAR 12 2020

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

THE UNITED STATES OF AMERICA

vs

JOHN GIACOMINI

BLF

CR 20 00134 VKD

INDICTMENT

COUNT ONE: 18 U.S.C. § 2244(b) — Abusive Sexual Contact

A true bill.

Foreperson

Filed in open court this 12th *day of* March *A.D. 202*0

United States Magistrate Judge

Bail. $ No bail arrest warrant

1 cfe

SEALED BY ORDER OF THE COURT

DAVID L. ANDERSON (CABN 149604)
United States Attorney

FILED
MAR 12 2020
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

BLF
VKD

UNITED STATES OF AMERICA, Plaintiff, v. JOHN GIACOMINI, Defendant.	CR 20 00134 VIOLATION: 18 U.S.C. § 2244(b)—Abusive Sexual Contact **SAN JOSE VENUE**

INDICTMENT

The Grand Jury charges:

COUNT ONE: (18 U.S.C. § 2244(b)—Abusive Sexual Contact)

On or about December 20, 2017, in the Northern District of California, the defendant,

JOHN GIACOMINI

within the special maritime and territorial jurisdiction of the United States, did knowingly engage in sexual contact with Victim 1 without Victim 1's permission, in violation of Title 18, United States Code, Section

///

///

///

///

2244(b).

DATED: 3-12-20

A TRUE BILL.

FOREPERSON
San Jose

DAVID L. ANDERSON
United States Attorney

JEFFREY NEDROW
MARISSA HARRIS
Assistant United States Attorneys

SEALED BY ORDER OF THE COURT

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT ☐ SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

OFFENSE CHARGED

18 U.S.C. § 2244(b) – Abusive Sexual Contact

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY: See attachment

DEFENDANT - U.S

JOHN GIACOMINI

DISTRICT COURT NUMBER

CR 20 00134 BLF VKD

PROCEEDING

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

VA - Special Agent Nicholas J. Sanzone

☐ 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

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under } MAGISTRATE CASE NO.

DEFENDANT

IS *NOT* IN CUSTODY

1) ☒ Has not been arrested, pending outcome this proceeding. 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)

FILED
MAR 12 2020
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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

Or... if Arresting Agency & Warrant were not

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

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): AUSA Marissa Harris

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

☐ SUMMONS ☐ NO PROCESS* ☒ WARRANT Bail Amount: None

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:

U.S. v. JOHN GIACOMINI
PENALTY SHEET:

Count 1: 18 U.S.C. § 2244(b) (Abusive Sexual Contact)

Penalties:

- Maximum Prison Term: 2 years
- Maximum Fine: $250,000
- Maximum Supervised Release: 1 year
- Special Assessment Fee: $100 (additional $5,000 special assessment fee for non-indigent defendants per 18 U.S.C. § 3014)
- Restitution

SEALED BY ORDER
OF THE COURT

FILED
MAR 12 2020
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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. JOHN GIACOMINI

CASE NUMBER:

CR 20 00134 BLF

VKD

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): Marissa Harris

Date Submitted: 03/12/2020

Comments:

RESET FORM | SAVE PDF

STEPHANIE M. HINDS (CABN 154284)
United States Attorney

THOMAS A. COLTHURST (CABN 99493)
Chief, Criminal Division

MARISSA HARRIS (NYBN 4763025)
JEFFREY D. NEDROW (CABN 161299)
Assistant United States Attorneys

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San Jose, California 95113
Telephone: (408) 535-5061
FAX: (408) 535-5066
marissa.harris@usdoj.gov

Attorneys for United States of America

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. JOHN GIACOMINI, Defendant.	NO. 20-CR-00134 BLF PLEA AGREEMENT

I, JOHN GIACOMINI, and the United States Attorney's Office for the Northern District of California (hereafter "the government") enter into this written Plea Agreement (the "Agreement") pursuant to Rule 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal Procedure:

The Defendant's Promises

1. I agree to plead guilty to the captioned Indictment charging me with Abusive Sexual Contact, in violation of 18 U.S.C. § 2244(b). I agree that the elements of the offense are as follows: (1) Within the special maritime or territorial jurisdiction of the United States; (2) I knowingly engaged in sexual contact with the Victim; (3) the sexual contact was without the Victim's permission; and (4) I knew I did not have the Victim's permission to engage in sexual contact with her.

I agree that the maximum penalties for a violation of 18 U.S.C. § 2244(b) are as follows:

a.	Maximum prison term:	2 years
b.	Maximum fine:	$250,000
c.	Restitution	TBD
d.	Maximum supervised release term	1 year
e.	Potential Deportation	
f.	Mandatory special assessment	$100 per felony count (additional $5,000 special assessment fee for non-indigent defendants per 18 U.S.C. § 3014)

I acknowledge that it is virtually certain that pleading guilty will have consequences with respect to my immigration status if I am not a natural born citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including the offense to which I am pleading guilty. Removal and other immigration consequences are the subject of a separate proceeding, however, and I understand that no one, including my attorney or the district court, can predict to a certainty the effect of this conviction on my immigration status. I nevertheless affirm that I want to plead guilty regardless of any immigration consequences that may result from my guilty plea, even if the consequence is my automatic removal from the United States. I also acknowledge that there are no identical or substantially similar charges to non-removable offenses to which the government would agree.

2. I agree that I am guilty of the offense to which I am pleading guilty, and I agree that the following facts are true:

a) From 1985 until 2018, I was the Chief of the Cardiology Section at the Veterans Affairs (VA) Hospital in Palo Alto, California. I occupied a position of significant authority, prestige, and influence within the VA Healthcare System, at Stanford, where I also had a faculty appointment in the School of Medicine, and within the medical profession, where I had practiced medicine and cardiology for over 30 years.

b) As the Chief of the Cardiology Section within the VA, I also occupied a position of public trust, with overall responsibility for meeting the needs of the patient population. This

broadly included obtaining resources and staff positions from the administration and the authority to recruit qualified personnel to fill those positions. I supervised and managed over 30 federal employees in the Cardiology Section, including physicians, nurse-practitioners, nurses, and specialists.

c) As is required for all federal employees, I attended the required online trainings throughout my career on the prevention of sexual assault, sexual harassment, and unlawful retaliation in the workplace. From these trainings, I knew that non-consensual sexual contact between supervisors and subordinates is coercive, unethical, and unlawful. I also knew that inappropriate touching, unwanted gifts, and unwelcome and non-consensual sexual comments and behaviors can create an intimidating, hostile, or offensive working environment that unreasonably interferes with the victim employee's work performance and adversely affects the victim's employment opportunities. As a supervisor and manager, I had an obligation to my agency and to my subordinates to prevent workplace sexual harassment and sexual assault and to report and disclose any such behavior of which I became aware.

d) From August 2016 until 2018, Victim was an electrophysiologist at the VA in Palo Alto, and as head of the Section, I was Victim's superior. I created the position for her and advocated for her hiring. I was also one of the attending physicians who supervised certain aspects of Victim's cardiology fellowship.

e) Beginning in the fall of 2017, about a year after Victim became a full-time VA employee in the electrophysiology unit of the Cardiology Section, both of which fell under my supervision, I subjected Victim to inappropriate sexual touching, which included long hugs, rubbing on the back and buttocks, and kissing on the neck. This hugging, rubbing, and kissing occurred in our respective offices at the VA.

f) On or about November 10, 2017 (Veterans Day), I met with Victim in her office to discuss work-related issues. At the end of the meeting, as Victim rose to leave, I hugged her and started kissing her neck. Victim then moved away from me and explicitly told me that she was not interested in a romantic or sexual relationship with me. She then specified the non-sexual, friendly touching she would accept within the boundaries of our professional

relationship. I heard Victim's statements on November 10, 2017 and understood them.

g) Nonetheless, I did not abide by the professional and personal boundaries that Victim set. After my meeting with Victim on November 10, 2017, I continued to subject Victim to unwanted sexual contact, to include intimate hugs, kissing on the neck, and touching her breasts, crotch, and buttocks outside of her clothes. On two occasions, I attempted to kiss Victim on the mouth, which she resisted by turning her head down. All of this sexual contact occurred in our respective offices at the VA.

h) On or about December 20, 2017, I visited Victim in her office at the VA. Victim was wearing scrubs after completing a medical procedure on a patient. After a few minutes of conversation, I turned out the lights, pulled Victim out of her chair, and released the drawstring on her scrub pants. I then reached inside her underwear, fondled her buttocks, and touched her vagina. I reached inside Victim's bra with my other hand and fondled her breast and nipple. Shortly thereafter, a janitor attempted to come into Victim's office and immediately closed the door. I then resumed touching Victim until the janitor again attempted to enter Victim's office. I told the janitor to leave and invited Victim back to my office. Victim refused my invitation and we both left.

i) Victim later resigned from her position at the VA, citing my behavior as her principal reason for leaving.

j) I admit that my touching of Victim's breast, groin, vagina, and buttocks constitutes sexual contact within the meaning of 18 U.S.C. § 2246(3).

k) I agree that the VA Hospital in Palo Alto is a federal enclave within the special maritime and territorial jurisdiction of the United States and that the sexual conduct described above happened on VA premises.

l) I admit that I did not have Victim's permission to engage in sexual contact with her at any point after November 10, 2017. I knew that I did not have Victim's permission because Victim explicitly told me that she did not want to engage in a romantic or sexual relationship with me on November 10, 2017. Furthermore, I acknowledge that it is inappropriate for a supervisor to engage in any inappropriate relationship with a person in a subordinate

position. As Victim's supervisor, I knew that it was coercive, unethical, and unlawful to subject my subordinate to unwelcome sexual contact and sexual advances in our federal workplace.

3. I agree to give up all rights that I would have if I chose to proceed to trial, including the rights to a jury trial with the assistance of an attorney; to confront and cross-examine government witnesses; to remain silent or testify; to move to suppress evidence or raise any other Fourth or Fifth Amendment claims; to any further discovery from the government; and to pursue any affirmative defenses and present evidence.

4. I agree to give up my right to appeal my conviction, including constitutional challenges to the statute of conviction. I agree to give up my right to appeal the judgment and all orders of the Court. I also agree to give up my right to appeal any aspect of my sentence, including any orders relating to forfeiture and/or restitution, reserving only my right to claim that my sentence violated this plea agreement, applicable law, or the Constitution. I reserve my right to claim that my counsel was ineffective. I understand that this waiver includes, but is not limited to, any and all constitutional or legal challenges to my conviction and guilty plea, including arguments that the statute to which I am pleading guilty is unconstitutional, and any and all claims that the statement of facts provided herein is insufficient to support my plea of guilty.

5. I agree not to file any collateral attack on my conviction or sentence, including a petition under 28 U.S.C. § 2255 or 28 U.S.C. § 2241, except that I reserve my right to claim that my counsel was ineffective. I acknowledge that the Sentencing Commission may in the future amend the Sentencing Guidelines and I agree not to seek relief under 18 U.S.C. § 3582(c)(2).

6. I agree not to ask the Court to withdraw my guilty plea at any time after it is entered. In the event I violate any of the terms of the Agreement, I agree that the facts set forth in Paragraph 2 of this Agreement and, if applicable, the fact that I made a sworn admission to them in a previous court proceeding, shall be admissible against me in any subsequent proceeding, including at trial. In any subsequent proceeding conducted after I violate any of the terms of the Agreement, I expressly waive any and all rights under Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410 with regard to the facts set forth in Paragraph 2 of the Agreement and, if applicable, the fact that I made a sworn admission to them at a previous court proceeding.

7. I understand that the Court must consult the United States Sentencing Guidelines and take them into account when sentencing, together with the factors set forth in 18 U.S.C. § 3553(a). I also understand that the Court is not bound by the Guidelines calculations below; the Court may conclude that a higher Guidelines range applies to me, and, if it does, I will not be entitled, nor will I ask, to withdraw my guilty plea. I further agree that regardless of the sentence that the Court imposes on me, I will not be entitled, nor will I ask, to withdraw my guilty plea. I agree that the Sentencing Guidelines offense level should be calculated as set forth below, and that I will not request a downward departure under the Sentencing Guidelines from that offense level although I reserve the right to seek a downward variance based on the factors set forth in 18 U.S.C. § 3553(a). I understand that the government is free to oppose any such request. The parties have reached no agreement regarding my Criminal History Category.

a.	Base Offense Level, USSG § 2A3.4(a)(3):	12
b.	Specific offense characteristics under USSG Ch. 2	None
c.	Adjustments under USSG Ch. 3 (*e.g.*, role in the offense)	
	USSG § 3B1.1: Abuse of position of trust	+2
d.	Acceptance of Responsibility:	- 2
	If I meet the requirements of USSG § 3E1.1, I may be entitled to a two-level reduction for acceptance of responsibility, provided that I forthrightly admit my guilt, cooperate with the Court and the Probation Office in any presentence investigation ordered by the Court, and continue to manifest an acceptance of responsibility through and including the time of sentencing.	
e.	Adjusted Offense Level:	12

8. I agree that regardless of any other provision of this Agreement, the government may and will provide the Court and the Probation Office with all information relevant to the charged offense and the sentencing decision, including Victim Impact Statements. I agree that, based on the nature of the offense, the Court should impose the following special condition of supervised release which is reasonably related to deterrence and rehabilitation:

> Special Condition (Searches)
> The defendant shall submit his person, residence, office, vehicle, electronic devices and their data (including cell phones, computers, and electronic storage media), and any property under defendant's control to a search. Such a search shall be conducted by a

United States Probation Officer or any federal, state, or local law enforcement officer at any time, with or without suspicion. Failure to submit to such a search may be grounds for revocation; the defendant shall warn any residents that the premises may be subject to searches.

9. I agree that I will make a good-faith effort to pay any fine, forfeiture, or restitution I am ordered to pay. I agree to pay the special assessment at the time of sentencing.

I agree to pay full restitution for all losses caused by all the schemes or offenses with which I was charged in this case, and I understand that the amount of restitution will not be limited to the loss attributable to the count to which I am pleading guilty, pursuant to 18 U.S.C. § 3663(a)(3). I understand that the Court will not consider my economic circumstances in determining the restitution amount. I agree to pay restitution in an amount to be set by the Court at the time of sentencing, but no greater than $10,000.

Any restitution payments shall be paid through the Office of the Clerk of the District Court by bank or cashier's check or money order made payable to the "Clerk, United States District Court."

I understand that the restitution described above creates a lien in favor of the United States on all property and rights to property I may possess upon entry of judgment and continues for the later of 20 years from the entry of judgment or 20 years after release from imprisonment or until the debt is paid in full. I further understand the government will record a notice of the lien in any county where I reside or have property. I further understand that this order of restitution cannot be discharged in bankruptcy and that if I default on the payment of a fine or restitution, the Court may revoke probation or a term of supervised release, modify the terms or conditions of probation or supervised release, resentence me, hold me in contempt of court, order the sale of property, enter or adjust a payment schedule, or take any other action necessary to obtain compliance.

Within thirty days of the execution of this Plea Agreement, if asked by the Financial Litigation Unit ("FLU") of the United States Attorney's Office, I agree to complete, under penalty of perjury, a financial statement provided by the U.S. Attorney's Office and to update that statement with material changes within seven days of the change. I understand that I must identify all assets and financial interests valued at more than $1,000. I further understand that these assets and financial interests include all assets and financial interests in which I have an interest, direct or indirect, whether held in

my own name or in the name of another, in any property, real or personal.

I agree to surrender assets I obtained as a result of my crimes, and release funds and property under my control in order to pay any fine, forfeiture, or restitution. I further agree to notify the FLU before transferring any interest in property owned directly or indirectly by me, including any interest held or owned under any other name or entity, including trusts, partnerships, and/or corporations. I also agree to notify the FLU of any interest in property I may obtain, directly or indirectly, which is valued at more than $1,000, and which includes any interest obtained under any other name, or entity, including a trust, partnership, or corporation, after the execution of this Plea Agreement until the fine or restitution is paid in full.

I agree that any fine, forfeiture, or restitution imposed by the Court against me will be due immediately and subject to immediate enforcement by the government as authorized by 18 U.S.C. § 3613. I further understand that the government may seek immediate collection of the entire fine, forfeiture, or restitution from any assets without regard to any schedule of payments imposed by the Court or established by the Probation Office and that monetary penalties imposed by the Court will be submitted to the Treasury Offset Program so that any federal payment or transfer of returned property I receive may be offset and applied to federal debts.

10. I agree not to commit or attempt to commit any crimes before sentence is imposed or before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial release; not to intentionally provide false information to the Court, the Probation Office, Pretrial Services, or the government; and not to fail to comply with any of the other promises I have made in this Agreement.

11. I agree not to have any contact with any victims or witnesses in this case, either directly or indirectly, before and after I am sentenced. This includes, but is not limited to, personal contact, telephone, mail, or electronic mail contact, or any other written form of communication, and includes any harassing, annoying, or intimidating conduct by me directed to any victims or witnesses. I agree that the Court may also include this no-contact provision as a condition of my supervised release term.

12. I agree that if I fail to comply with any promises I have made in this Agreement, then the government will be released from all of its promises in this Agreement, including those set forth in The Government's Promises Section below, but I will not be released from my guilty plea.

13. I agree that this Agreement contains all of the promises and agreements between the government and me, and I will not claim otherwise in the future. No modification of this Agreement shall be effective unless it is in writing and signed by all parties.

14. I agree that the Agreement binds the U.S. Attorney's Office for the Northern District of California only, and does not bind any other federal, state, or local agency.

The Government's Promises

15. The government agrees not to file any additional charges against the defendant that could be filed as a result of the investigation that led to the captioned Indictment.

16. The government agrees to recommend a sentence at the low end of the range associated with the Guidelines calculation set out in Paragraph 7 above, unless the defendant violates the terms of the Agreement above or fails to accept responsibility.

The Defendant's Affirmations

17. I confirm that I have had adequate time to discuss this case, the evidence, and the Agreement with my attorney and that my attorney has provided me with all the legal advice that I requested.

18. I confirm that while I considered signing this Agreement, and at the time I signed it, I was not under the influence of any alcohol, drug, or medicine that would impair my ability to understand the Agreement.

19. I confirm that my decision to enter a guilty plea is made knowing the charge that has been brought against me, any possible defense, and the benefits and possible detriments of proceeding to trial. I also confirm that my decision to plead guilty is made voluntarily, and no one coerced or threatened me to enter into this Agreement.

Dated: 8 March 2022

JOHN GIACOMINI
Defendant

STEPHANIE M. HINDS
United States Attorney

Dated: 3/8/2022

MARISSA HARRIS
JEFFREY D. NEDROW
Assistant United States Attorneys

20. I have fully explained to my client all the rights that a criminal defendant has and all the terms of this Agreement. In my opinion, my client understands all the terms of this Agreement and all the rights my client is giving up by pleading guilty, and, based on the information now known to me, my client's decision to plead guilty is knowing and voluntary.

Dated: 3/8/2022

ANTHONY BRASS
EMILY L. DAHM
Attorneys for Defendant

UNITED STATES DISTRICT COURT
Northern District of California

UNITED STATES OF AMERICA	) **JUDGMENT IN A CRIMINAL CASE**
v.	)
John Giacomini	) USDC Case Number: CR-20-00134-001 BLF
	) BOP Case Number: DCAN520CR00134-001
	) USM Number: 26266-111
	) Defendant's Attorney: Anthony John Brass (Retained)

THE DEFENDANT:

☑ pleaded guilty to count: One of the Indictment

☐ pleaded nolo contendere to count(s): which was accepted by the court.

☐ was found guilty on count(s): after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 2244(b)	Abusive Sexual Contact	December 20, 2017	One

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s):

☐ Count(s) dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

7/12/2022
Date of Imposition of Judgment

Beth Labson Freeman
Signature of Judge
The Honorable Beth Labson Freeman
United States District Judge
Name & Title of Judge

July 14, 2022
Date

I hereby certify that the annexed instrument is a true and correct copy of the original on file in my office.
ATTEST:

Clerk, U.S. District Court
Northern District of California
By SHETLA [illegible]
Deputy Clerk
Date JUL 29 2022

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 8 months.

The appearance bond is hereby exonerated, or upon surrender of the defendant as noted below. Any cash bail plus interest shall be returned to the owner(s) listed on the Affidavit of Owner of Cash Security form on file in the Clerk's Office.

☐ The Court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

- ☐ at on (no later than 2:00 pm).
- ☐ as notified by the United States Marshal.

☑ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- ☑ on 9/28/2022 (no later than 2:00 pm).
- ☐ as notified by the United States Marshal.
- ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____, with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: One year.

MANDATORY CONDITIONS OF SUPERVISION

1) You must not commit another federal, state or local crime.
2) You must not unlawfully possess a controlled substance.
3) You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
   - ☑ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4) ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5) ☑ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6) ☑ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7) ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court, and bring about improvements in your conduct and condition.

1) You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of RELEASE, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2) After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3) You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4) You must follow the instructions of the probation officer related to the conditions of supervision.
5) You must answer truthfully the questions asked by your probation officer.
6) You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with, for example), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
7) You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by these and the special conditions of your supervision that he or she observes in plain view.
8) You must work at least part-time (defined as 20 hours per week) at a lawful type of employment unless excused from doing so by the probation officer for schooling, training, community service or other acceptable activities. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
9) You must not communicate or interact with someone you know is engaged in criminal activity. You must not associate, communicate, or interact with any person you know has been convicted of a felony, unless granted permission to do so by the probation officer.
10) If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
11) You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12) You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).

☐ If the probation officer determines that you pose a risk to a third party, the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk. *(check if applicable)*

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision upon a finding of a violation of probation or supervised release.

(Signed) _____ _____
Defendant Date

_____ _____
U.S. Probation Officer/Designated Witness Date

SPECIAL CONDITIONS OF SUPERVISION

1. You have no contact with the victim (S.P.) or the witness (P.N.) in this case, or their families, unless otherwise directed by the probation officer.

2. You must pay any fine and special assessment that is imposed by this judgment and that remains unpaid at the commencement of the term of supervised release.

3. You must not open any new lines of credit and/or incur new debt without the prior permission of the probation officer.

4. You must provide the probation officer with access to any financial information, including tax returns, and must authorize the probation officer to conduct credit checks and obtain copies of income tax returns.

5. You must cooperate in the collection of DNA as directed by the probation officer.

6. You must submit your person, residence, office, vehicle, electronic devices and their data (including cell phones, computers, and electronic storage media), or any property under your control to a search. Such a search must be conducted by a United States Probation Officer or any federal, state or local law enforcement officer at any time with or without suspicion. Failure to submit to such a search may be grounds for revocation. You must warn any residents that the premises may be subject to searches.

7. You must register with the state sex offender registration agency as required by state law. You must provide proof of registration to the Probation Officer within three days of release from imprisonment/placement on supervision. In any state that has adopted the requirements of the Sex Offender Registration and Notification Act (42 USC sec. 16901 et seq.), you must also comply with all such requirements as directed by the Probation Officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, are a student, or were convicted of a qualifying offense.

8. You must undergo an assessment for sex offender-specific treatment. If services are deemed appropriate, then you are to pay part or all of the cost of this treatment, at an amount not to exceed the cost of treatment, as deemed appropriate by the probation officer. The actual co-payment schedule must be determined by the probation officer. The probation officer may release all previous mental health evaluations to the treatment provider.

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments.

	Assessment	Fine	Restitution	AVAA Assessment*	JVTA Assessment**
TOTALS	$ 100	$ 15,000	N/A	N/A	$ 5,000

☐ The determination of restitution is deferred until. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage
TOTALS	$ 0.00	$ 0.00	

☐ Restitution amount ordered pursuant to plea agreement $

☐ The defendant must pay interest on restitution and a fine of more than $2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the.

☐ the interest requirement is waived for the is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows*:

A ☐ Lump sum payment of _____ due immediately, balance due

☐ not later than , or
☐ in accordance with ☐ C, ☐ D, or ☐ E, and/or ☐ F below); or

B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or

C ☐ Payment in equal (e.g., weekly, monthly, quarterly) installments of _ over a period of (e.g., months or years), to commence (e.g., 30 or 60 days) after the date of this judgment; or

D ☐ Payment in equal (e.g., weekly, monthly, quarterly) installments of _ over a period of (e.g., months or years), to commence (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☑ Special instructions regarding the payment of criminal monetary penalties:
It is further ordered that the defendant shall pay to the United States a special assessment of $100, a JVTA assessment of $5,000 and a fine of $15,000. Payments shall be made to the Clerk of U.S. District Court, 450 Golden Gate Ave., Box 36060, San Francisco, CA 94102. During imprisonment, payment of criminal monetary penalties are due at the rate of not less than $25 per quarter and payment shall be through the Bureau of Prisons Inmate Financial Responsibility Program. Once the defendant is on supervised release, the fine must be paid in monthly payments of not less than $2,000 or at least 10 percent of earnings, whichever is greater, to commence no later than 60 days from placement on supervision. Notwithstanding any payment schedule set by the court, the United States Attorney's Office may pursue collection through all available means in accordance with 18 U.S.C. §§ 3613 and 3644(m).

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

* Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

☐ The Court gives notice that this case involves other defendants who may be held jointly and severally liable for payment of all or part of the restitution ordered herein and may order such payment in the future, **but such future orders do not affect the defendant's responsibility for the full amount of the restitution ordered.**