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11 IN THE UNITED STATES DISTRICT COURT  
12 DISTRICT OF ARIZONA

13 United States of America,  
14 Plaintiff,  
15 vs.  
16 Thomas Mario Costanzo,  
17 Defendant.

No. CR-17-00585-001-PHX-GMS

**NOTICE OF JOINDER  
AS TO DKT. #57**

18 Thomas Mario Costanzo hereby gives Notice of Joinder in co-  
19 defendant Peter Nathan Steinmetz's Motion to Sever Counts 1 and 2 from Counts  
20 3 through 8 (Dkt. # 57), filed November 1, 2017. Defendant joins in the  
21 following argument presented in co-defendant Steinmetz's Motion to Sever:

22 That the alleged violations of 18 U.S.C. §§ 371 and 1960, Counts 1 and 2  
23 of the present indictment, are regulatory in nature (i.e., *mala prohibita*) and  
24 that joinder of these counts with the more serious § 1956 allegations under  
25 the statute's "sting" provision, are by contrast *mala in se*. Trying these  
26 counts together confuses and misdirects potential jurors, thus irreparably  
27 prejudicing defendants. Mr. Costanzo thus agrees that joinder of Counts 1  
28 and 2 with Counts 3 through 8 under these circumstances is improper under  
Fed. R. Crim. P. 8(b), or in the alternative, impermissively prejudicial  
under Fed. R. Crim. P. 14, albeit for different factual reasons than those set  
forth in co-defendant's motion.

1                   In addition, Mr. Costanzo joins in any hearings held before this  
2 Honorable Court concerning the issue of severance of Counts 1 and 2 form  
3 Counts 3 through 8 of the present indictment.

4                   It is expected that excludable delay under Title 18 U.S.C. Section  
5 3161(h)(1)(F) may occur as a result of this motion or from an order based  
6 thereon.

7                   Respectfully submitted: November 1, 2017.

8   JON M. SANDS  
9   Federal Public Defender

10     
11   *s/Maria T. Weidner*  
12   MARIA T. WEIDNER  
13   Asst. Federal Public Defender

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1 Copy of the foregoing transmitted  
2 by ECF for filing November 1, 2017, to:

3 CLERK'S OFFICE  
4 United States District Court  
5 Sandra Day O'Connor Courthouse  
6 401 W. Washington  
7 Phoenix, Arizona 85003

8 MATTHEW BINFORD  
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15 LEE STEIN  
16 MICHAEL MORRISSEY  
17 Attorneys for Peter Nathan Steinmetz

18 Copy mailed to:

19 THOMAS MARIO COSTANZO  
20 Defendant

21 s/yc