

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA :
 :
 v. : **Case No. 21-cr-178 (APM)**
 :
PETER SCHWARTZ, et al. :
 :
 Defendants. :

**UNITED STATES’ UNOPPOSED MOTION FOR EXTENSION
TO RESPOND TO THE COURT’S ORDER TO SHOW CAUSE**

The United States of America (the “government”) hereby moves this Court for a two-week extension for the government to respond to the Court’s Order to Show Cause. In support of this motion, the undersigned states as follows:

1. On April 28, 2023, this Court sentenced defendant Jeffrey Scott Brown to 54 months’ incarceration and 36 months of supervised release. *See* ECF No. 214. On May 5, 2023, this Court sentenced defendant Peter Schwartz to 170 months’ incarceration and 36 months of supervised release. *See* ECF No. 219. In both cases, pursuant to the government’s request, the Court ordered the defendants to pay restitution in the amount of \$2,000.
2. After the Brown and Schwartz sentencings, the Court held sentencing hearings in other January 6-related cases. On June 9, 2023, the Court held a sentencing hearing for Markus Maly, the final defendant in this case. During Maly’s sentencing hearing, the Court now questioned whether it had the authority to award restitution for property damage to the Capitol “unless there was evidence that Maly contributed to the property damage in some proximately causal way.” Sentencing Transcript at 14. The Court declined to award restitution in Maly’s case and issued an Order to Show Cause to the

government with respect to Brown's and Schwartz's sentencings. The Court ordered the government to show cause by June 23, 2023, to explain why the Court should not vacate the \$2,000 restitution award imposed on Brown and Schwartz.

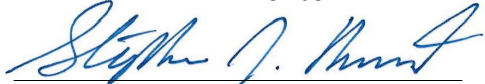
3. The government is working diligently to prepare its response to the Court but requests a two-week filing extension. The additional time is requested for the government to continue to confer with its sentencing team and management and fully address the Court's restitution concerns.
4. As the Court correctly noted in the Maly sentencing, the Mandatory Victims Restitution Act (MVRA) allows for the Court to make a final restitution determination no later than 90 days after sentencing. *See* 18 U.S.C. § 3664(d)(5). The deadline to make a final restitution determination is therefore July 27, 2023, for Brown, and August 3, 2023, for Schwartz. However, there is also an exception to the 90-day deadline: "a sentencing court that misses the 90-day deadline nonetheless retains the power to order restitution – at least where, as here, the sentencing court made clear prior to the deadline's expiration that it would order restitution, leaving open (for more than 90 days) only the amount." *U.S. v. Dolan*, 130 S. Ct. 2533, 2537 (2010).
5. The government has conferred with counsel for both Brown and Schwartz, and they are unopposed to the government's request.

WHEREFORE, the United States respectfully requests that this Court grant the government's motion for a two-week extension to respond to the Court's Order to Show Cause, and set a new filing deadline of July 7, 2023.

Respectfully submitted,

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