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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.

RICHARD AYVAZYAN,
aka "Richard Avazian" and
"Iuliia Zhadko,"
MARIETTA TERABELIAN,
aka "Marietta Abelian" and
"Viktoria Kauichko,"
ARTUR AYVAZYAN,
aka "Arthur Ayvazyan," and
TAMARA DADYAN,
Defendants.

No. CR 20-579-SVW

[PROPOSED] PROTECTIVE ORDER
REGARDING DISCOVERY CONTAINING
PERSONAL IDENTIFYING INFORMATION,
ACCESS DEVICE MATERIALS, AND
PRIVACY ACT INFORMATION

1 The Court has read and considered the government's ex parte
2 application for a protective order regarding discovery containing
3 personal identifying information, access device materials, and
4 privacy act information, filed by the government in this matter,
5 which this Court incorporates by reference into this order, and FOR
6 GOOD CAUSE SHOWN the Court hereby FINDS AND ORDERS as follows:

7 1. The government's discovery in this case relates to the
8 alleged crimes of defendant RICHARD AYVAZYAN ("R. AYVAZYAN"),
9 defendant MARIETTA TERABELIAN, defendant ARTUR AYVAZYAN
10 ("A. AYVAYZAN"), and defendant TAMARA DADYAN, that is, violations of
11 18 U.S.C. § 1349 (conspiracy to commit wire and bank fraud); 18
12 U.S.C. § 1343 (wire fraud); 18 U.S.C. § 1344(2) (bank fraud); and 18
13 U.S.C. § 1028A(a)(1) (aggravated identity theft).

14 2. A protective order for the discovery is necessary so that
15 the government can produce to the defendants' counsel materials
16 containing third parties' PII, including PII relating to witnesses
17 and alleged victims, as well as materials constituting unauthorized
18 or counterfeit access devices. The Court finds that disclosure of
19 this information without limitation risks the privacy and security
20 of the information's legitimate owners, may expose victims and
21 witnesses to potential safety risks, and poses a significant risk of
22 harm to third-parties and the public in general. Because the
23 government has an ongoing obligation to protect third parties' PII,
24 the government cannot produce to defendants unredacted sets of
25 discovery containing this information without this Court entering
26 the Protective Order. Moreover, PII makes up a significant part of
27 the discovery in this case and such information itself, in many
28 instances, has evidentiary value. If the government were to attempt

1 to redact all this information in strict compliance with Federal
2 Rule of Criminal Procedure 49.1, the Central District of
3 California's Local Rules regarding redaction, and the Privacy Policy
4 of the United States Judicial Conference, the defense would receive
5 a set of discovery that would be highly confusing and difficult to
6 understand, and it would be challenging for defense counsel to
7 adequately evaluate the case, provide advice to defendant, or
8 prepare for trial.

9 3. An order is also necessary because the government intends
10 to produce to the defense materials that may contain information
11 within the scope of the Privacy Act, 5 U.S.C. § 552a ("Privacy Act
12 Information"). The Court finds that, to the extent that these
13 materials contain Privacy Act information, disclosure is authorized
14 pursuant to 5 U.S.C. § 552a(b)(11).

15 4. The purpose of this Protective Order is therefore to
16 (a) allow the government to comply with its discovery obligations
17 while preventing the unauthorized dissemination, distribution, use
18 of this sensitive information; and (b) provide the defense with
19 sufficient information to adequately represent defendant.

20 5. Accordingly, the discovery that the government will
21 provide to each defendant's counsel in the above-captioned case will
22 be subject to this Protective Order, as follows:

23 a. As used herein, "PII Materials" includes any
24 information that can be used to identify a person, including a name,
25 address, date of birth, Social Security number, driver's license
26 number, telephone number, account number, email address, personal
27 identification number, and financial information.

1 b. As used herein, "Access Device Materials" includes
2 any materials that constitute or depict unauthorized or counterfeit
3 access devices, as defined in 18 U.S.C. § 1029(e).

4 c. "Confidential Information" refers to any document or
5 information containing PII Materials or Access Device Materials that
6 the government produces to the defense pursuant to this Protective
7 Order and any copies thereof.

8 d. "Defense Team" includes (1) defendant's counsel of
9 record ("defense counsel"); (2) other attorneys at defense counsel's
10 law firm who may be consulted regarding case strategy in this case;
11 (3) defense investigators who are assisting defense counsel with
12 this case; (4) retained experts or potential experts; and
13 (5) paralegals, legal assistants, and other support staff to defense
14 counsel who are providing assistance on this case. The Defense Team
15 does not include defendant, defendant's family members, or any other
16 associates of defendant.

17 e. The government is authorized to provide defense
18 counsel with Confidential Information marked with the following
19 legend: "CONFIDENTIAL INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE
20 ORDER." The government may put that legend on the digital medium
21 (such as DVD or hard drive) or simply label a digital folder on the
22 digital medium to cover the content of that digital folder. The
23 government may also redact any PII contained in the production of
24 Confidential Information.

25 f. If defendant objects to a designation that material
26 contains Confidential Information, the parties shall meet and
27 confer. If the parties cannot reach an agreement regarding
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1 defendant's objection, defendant may apply to this Court to have the
2 designation removed.

3 g. Defendant and the Defense Team shall use the
4 Confidential Information solely to prepare for any pretrial motions,
5 plea negotiations, trial, and sentencing hearing in this case, as
6 well as any appellate and post-conviction proceedings.

7 h. The Defense Team shall not permit anyone other than
8 the Defense Team to have possession of Confidential Information,
9 including defendant, while outside the presence of the Defense Team.

10 i. At no time, under no circumstance, will any
11 Confidential Information be left in the possession, custody, or
12 control of defendant, regardless of defendant's custody status.

13 j. Defendant may review PII Materials or Access Device
14 Materials only in the presence of a member of the Defense Team, who
15 shall ensure that defendant is never left alone with any PII
16 Materials or Access Device Materials. At the conclusion of any
17 meeting with defendant at which defendant is permitted to view PII
18 Materials or Access Device Materials, defendant must return any PII
19 Materials or Access Device Materials to the Defense Team, and the
20 member of the Defense Team present shall take all such materials
21 with him or her. Defendant may not take any PII Materials or Access
22 Device Materials out of the room in which defendant is meeting with
23 the Defense Team.

24 k. Defendant may see and review Confidential Information
25 as permitted by this Protective Order, but defendant may not copy,
26 keep, maintain, or otherwise possess any Confidential Information in
27 this case at any time. Defendant also may not write down or
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1 memorialize any data or information contained in the Confidential
2 Information.

3 1. The Defense Team may review Confidential Information
4 with a witness or potential witness in this case, including
5 defendant. A member of the Defense Team must be present if PII
6 Materials or Access Device Materials are being shown to a witness or
7 potential witness. Before being shown any portion of Confidential
8 Information, however, any witness or potential witness must be
9 informed of, and agree in writing to be bound by, the requirements
10 of the Protective Order. No member of the Defense Team shall permit
11 a witness or potential witness to retain Confidential Information or
12 any notes generated from Confidential Information.

13 m. Due to the impact of the COVID-19 pandemic, the
14 Defense Team may use secure video conferencing applications, such as
15 Zoom, WebEx, Microsoft Teams, or Blue Jeans, to review Confidential
16 Information with a defendant or witness, provided that the Defense
17 Team certifies in writing that there is no way for the defendant or
18 witness to (i) maintain electronic copies of the Confidential
19 Information once the video conference is over; or (ii) photograph,
20 record, write down or otherwise memorialize any data or information
21 contained in the Confidential Information.

22 n. The Defense Team shall maintain Confidential
23 Information safely and securely, and shall exercise reasonable care
24 in ensuring the confidentiality of those materials by (1) not
25 permitting anyone other than members of the Defense Team, defendant,
26 witnesses, and potential witnesses, as restricted above, to see
27 Confidential Information; (2) not divulging to anyone other than
28 members of the Defense Team, defendant, witnesses, and potential

1 witnesses, the contents of Confidential Information; and (3) not
2 permitting Confidential Information to be outside the Defense Team's
3 offices, homes, vehicles, or personal presence.

4 o. To the extent that defendant, the Defense Team,
5 witnesses, or potential witnesses create notes that contain, in
6 whole or in part, Confidential Information, or to the extent that
7 copies are made for authorized use by members of the Defense Team,
8 such notes, copies, or reproductions become Confidential Information
9 subject to the Protective Order and must be handled in accordance
10 with the terms of the Protective Order.

11 p. The Defense Team shall use Confidential Information
12 only for the litigation of this matter and for no other purpose.
13 Litigation of this matter includes any appeal filed by defendant and
14 any motion filed by defendant pursuant to 28 U.S.C. § 2255. In the
15 event that a party needs to file Confidential Information with the
16 Court or divulge the contents of Confidential Information in court
17 filings, the filing should be made under seal. If the Court rejects
18 the request to file such information under seal, the party seeking
19 to file such information publicly shall provide advance written
20 notice to the other party to afford such party an opportunity to
21 object or otherwise respond to such intention. If the other party
22 does not object to the proposed filing, the party seeking to file
23 such information shall redact any PII Materials or Access Device
24 Materials and make all reasonable attempts to limit the divulging of
25 PII Materials or Access Device Materials.

26 q. Any Confidential Information inadvertently produced
27 in the course of discovery prior to entry of the Protective Order
28 shall be subject to the terms of this Protective Order. If

1 Confidential Information was inadvertently produced prior to entry
2 of the Protective Order without being marked "CONFIDENTIAL
3 INFORMATION -- CONTENTS SUBJECT TO PROTECTIVE ORDER," the government
4 shall reproduce the material with the correct designation and notify
5 defense counsel of the error. The Defense Team shall take immediate
6 steps to destroy the unmarked material, including any copies.

7 r. Confidential Information shall not be used by any
8 member of the defense team, in any way, in any other matter, absent
9 an order by this Court. All materials designated subject to the
10 Protective Order maintained in the Defense Team's files shall remain
11 subject to the Protective Order unless and until such order is
12 modified by this Court. Upon request by the government, defense
13 counsel shall return all PII Materials and Access Device Materials,
14 certify that such materials have been destroyed, or certify that
15 such materials are being kept pursuant to the California Business
16 and Professions Code and the California Rules of Professional
17 Conduct.

18 s. In the event that there is a substitution of counsel
19 prior to when such documents must be returned, new defense counsel
20 must be informed of, and agree in writing to be bound by, the
21 requirements of the Protective Order before defense counsel
22 transfers any Confidential Information to the new defense counsel.
23 New defense counsel's written agreement to be bound by the terms of
24 the Protective Order must be returned to the Assistant U.S. Attorney
25 assigned to the case. New defense counsel then will become the
26 Defense Team's custodian of materials designated subject to the
27 Protective Order and shall then become responsible, upon the
28 conclusion of appellate and post-conviction proceedings, for

1 returning to the government, certifying the destruction of, or
2 retaining pursuant to the California Business and Professions Code
3 and the California Rules of Professional Conduct all PII Materials
4 or Access Device Materials.

5 t. Defense counsel shall advise defendant and all
6 members of the Defense Team of their obligations under the
7 Protective Order and ensure their agreement to follow the Protective
8 Order, prior to providing defendant and members of the Defense Team
9 with access to any materials subject to the Protective Order.

10 IT IS SO ORDERED.

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12 DATE

HONORABLE STEPHEN V. WILSON
UNITED STATES DISTRICT JUDGE

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14 Presented by:

15 /s/

16 JULIAN L. ANDRÉ
17 Assistant United States Attorney
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