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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANDREW MARNELL,

Defendant.

2:20-CR-319-RGK

[PROPOSED] PROTECTIVE ORDER FOR
DISCOVERY

The Court has read and considered the Stipulation and Application for a Protective Order for Discovery (the "Stipulation") filed on August 6, 2020. The Court hereby incorporates the Stipulation into this Protective Order for Discovery and finds that the Stipulation establishes good cause for entry of an order: (1) protecting confidential information in discovery pursuant to Rule 16(d)(1) of the Federal Rules of Criminal Procedure; (2) authorizing disclosure, pursuant to 5 U.S.C. § 552a(b)(11), of materials otherwise protected by the Privacy Act; and (3) allowing disclosure of materials whose disclosure and dissemination might

1 otherwise be restricted by applicable law, statute, or other legal
2 regulation or restriction.

3 THEREFORE, IT IS HEREBY ORDERED as follows:

4 1. The term "defense team" refers to defendant's counsel of
5 record ("defense counsel") and other defense attorneys, paralegals,
6 assistants, investigators, or experts who assist defense counsel in
7 this case. The term "defense team" does not include defendant,
8 defendant's family members, or any other associates of defendant, or
9 other witnesses or third parties.

10 2. The term "Confidential Information" refers to PII and
11 other confidential information of third parties, including, among
12 other things, financial records, passport records, criminal history
13 records, and proprietary business information, and may include
14 medical records and other confidential materials and information
15 protected by the Privacy Act, 5 U.S.C. § 552a, provisions of 45
16 C.F.R. §§ 164.102-164.534, and/or provisions of 42 U.S.C. § 1306,
17 and other statutes. The term "Confidential Materials" refers to any
18 document, file, or other item of discovery that contains
19 Confidential Information.

20 3. The government is authorized to provide defense counsel
21 with Confidential Materials. The government shall label any
22 Confidential Materials subject to this protective order as
23 "CONFIDENTIAL," "SUBJECT TO PROTECTIVE ORDER," or otherwise identify
24 such materials by Bates Number, by discovery disc number, or by some
25 other identifiable means, such as by labeling a file name with the
26 term "CONFIDENTIAL." If a defendant objects to such a designation
27 with respect to any materials, the defendant may file a motion with
28 the Court challenging the designation. However, before filing any

1 such motion, defendant must first meet and confer with the
2 government regarding any objections to the designation of materials.

3 4. The defense team shall not permit anyone other than the
4 defense team to have possession of Confidential Materials, including
5 defendant, while outside the presence of the defense team.

6 5. Defendant may review Confidential Materials only in the
7 presence of a member of the defense team, who shall ensure that
8 defendant is never left alone with any Confidential Materials. At
9 the conclusion of any meeting with defendant at which defendant is
10 permitted to view Confidential Materials defendant must return any
11 Confidential Materials to the defense team, and the member of the
12 defense team present shall take all such materials with him or her.
13 Defendant may not take any Confidential Materials out of the room in
14 which defendant is meeting with the Defense Team.

15 6. Defendant may see and review Confidential Materials as
16 permitted by this Protective Order, but defendant may not copy,
17 keep, maintain, or otherwise possess any Confidential Materials in
18 this case at any time. Defendant also may not write down or
19 memorialize any data or information contained in the Confidential
20 Materials.

21 7. The defense team may review Confidential Materials with a
22 witness or potential witness in this case, including defendant. A
23 member of the defense team must be present if Confidential Materials
24 are being shown to a witness or potential witness and must, before
25 showing them any Confidential Materials, inform the witness or
26 potential witness of the requirements of the Protective Order, and
27 obtain their agreement to be bound by its terms. No member of the
28 defense team shall permit a witness or potential witness to retain

1 Confidential Materials or to make or retain any notes of
2 Confidential Materials.

3 8. The defense team shall maintain Confidential Materials
4 safely and securely, and shall exercise reasonable care in ensuring
5 the confidentiality of Confidential Materials by (1) not permitting
6 anyone other than members of the defense team, defendant, witnesses,
7 and potential witnesses, as restricted above, to see Confidential
8 Materials; (2) not divulging to anyone other than members of the
9 defense team, defendant, witnesses, and potential witnesses, the
10 contents of Confidential Materials; and (3) not permitting
11 Confidential Materials to be outside the defense team's offices,
12 homes, vehicles, or personal presence.

13 9. To the extent that defendant, the defense team, witnesses,
14 or potential witnesses create notes that contain, in whole or in
15 part, Confidential Materials, or to the extent that copies or
16 reproductions of Confidential Materials are made for authorized use
17 by members of the defense team, such notes, copies, or reproductions
18 become Confidential Materials subject to the Protective Order and
19 must be handled in accordance with the terms of the Protective
20 Order.

21 10. Members of the defense team shall use any and all
22 discovery produced in this case, including Confidential Materials,
23 only for the preparation, investigation, and litigation of this
24 matter, and for no other purpose. Litigation of this matter
25 includes any appeal filed by defendant and any motion filed by
26 defendant pursuant to 28 U.S.C. § 2255. Within 30 days of the
27 conclusion of the case including appellate and post-conviction
28 proceedings, defense counsel shall return Confidential Materials to

1 the government, certify that all Confidential Materials have been
2 destroyed, or certify that Confidential Materials are being kept
3 pursuant to the Business and Professions Code and the Rules of
4 Professional Conduct.

5 11. In the event a party needs to file Confidential Materials
6 with the Court, the party seeking to file such documents shall
7 provide advance written notice to the other party to afford such
8 party an opportunity to object or otherwise respond to such
9 intention. If the other party does not object or respond, the party
10 seeking to file such Confidential Materials shall make reasonable
11 attempts to limit disclosure of Confidential Information, including
12 by redacting Confidential Information as required by court rules
13 including Federal Rule of Criminal Procedure 49.1 and Local Criminal
14 Rule 49.1-1, but the party need not request the entire filing be
15 sealed, although it is not precluded from doing so. If the parties
16 disagree about the treatment of Confidential Information with regard
17 to public filing, they may apply to the Court for appropriate
18 relief, but not before making a reasonable attempt to meet and
19 confer on the issue.

20 12. In the event that there is a substitution of counsel, new
21 defense counsel must be informed of, and agree in writing to be
22 bound by, the requirements of the Protective Order before the
23 undersigned defense counsel transfers any Confidential Materials to
24 the new defense counsel. New defense counsel's written agreement to
25 be bound by the terms of the Protective Order must be returned to
26 the Assistant United States Attorney assigned to the case. New
27 defense counsel then will become the defense team's custodian of
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1 Confidential Materials and assume all obligations of defense counsel
2 under this stipulation and the Protective Order.

3 13. Defense counsel shall advise defendant and all members of
4 the defense team of their obligations under the Protective Order and
5 ensure their agreement to follow the Protective Order, prior to
6 providing defendant and members of the defense team with access to
7 any Confidential Materials.

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10 Dated: August __, 2020

HONORABLE R. GARY KLAUSNER
UNITED STATES DISTRICT JUDGE

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12 Presented by:

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14 /s/
KERRY L. QUINN
15 Assistant United States Attorney
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