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8 Attorneys for Plaintiff
9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 ANDREW MARNELL,

16 Defendant.

2:20-CR-319-RGK

STIPULATION AND JOINT REQUEST FOR
A PROTECTIVE ORDER REGARDING
DISCOVERY CONTAINING PERSONAL
IDENTIFYING INFORMATION, MEDICAL
INFORMATION, AND PRIVACY ACT
INFORMATION

PROPOSED ORDER FILED SEPARATELY

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19 Plaintiff, United States of America (the "government"), by and
20 through its counsel of record, the United States Attorney for the
21 Central District of California and Assistant United States Attorney
22 Kerry L. Quinn, and defendant ANDREW MARNELL ("defendant"), by and
23 through his counsel of record, Deputy Federal Public Defender
24 Adithya Mani (collectively the "parties"), for the reasons set forth
25 below, request that the Court enter the proposed protective order
26 (the "Protective Order") governing the use and dissemination of
27 (1) personal identifying information ("PII") of real persons;
28 (2) other confidential information concerning third parties; and (3)

1 material that may contain information within the scope of the
2 Privacy Act.

3 The bases for this stipulation and application are as follows:

4 1. Defendant is charged in this matter with violations of 18
5 U.S.C. § 1344(2) (bank fraud). Defendant is detained pending trial.

6 2. A protective order is necessary because discovery in this
7 case includes PII and other confidential information concerning
8 third parties, including, among other things, financial records,
9 passport records, criminal history records, and proprietary business
10 information, and may include medical records and other confidential
11 materials and information protected by the Privacy Act, 5 U.S.C.
12 § 552a, provisions of 45 C.F.R. §§ 164.102-164.534, and/or
13 provisions of 42 U.S.C. § 1306, and other statutes. The government
14 believes disclosure of this confidential information without
15 limitation may compromise the privacy, security, and confidentiality
16 of third parties, and absent court order could otherwise be
17 prohibited or restricted by statute. Further, documents that
18 contain confidential information make up a significant portion of
19 discovery in this case, and confidential information itself may have
20 investigative or evidentiary value. In this situation, redaction of
21 all of the confidential information from discovery, in addition to
22 being prohibitively time consuming and infeasible, may interfere
23 with defense counsel's ability to evaluate the case, provide advice
24 to defendant, and prepare for trial.

25 3. The purpose of the Protective Order is to (a) allow the
26 government to comply with its discovery obligations while protecting
27 confidential information, and (b) provide the defense counsel with
28 information necessary to represent defendant.

1 4. Accordingly, the parties hereby stipulate and ask the
2 Court to issue a protective order for discovery under the following
3 terms:

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

10 b. 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 c. The government is authorized to provide defense
21 counsel 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 d. The defense team shall not permit anyone other than
4 the defense team to have possession of Confidential Materials,
5 including defendant, while outside the presence of the defense team.

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

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

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

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

21 j. 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 k. In the event a party needs to file Confidential
6 Materials with the Court, the party seeking to file such documents
7 shall provide advance written notice to the other party to afford
8 such 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 l. In the event that there is a substitution of counsel,
21 new 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
28

1 Confidential Materials and assume all obligations of defense counsel
2 under this stipulation and the Protective Order.

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

8 n. Defense Counsel has conferred with defendant
9 regarding this stipulation and the proposed order thereon, and
10 defendant agrees to the terms of the proposed order.

11 IT IS SO STIPULATED.

12 DATED: August 6, 2020

NICOLA T. HANNA
United States Attorney

14 BRANDON D. FOX
Assistant United States Attorney
15 Chief, Criminal Division

16 /s/ Kerry L. Quinn
17 KERRY L. QUINN
Assistant United States Attorney

18 Attorneys for Plaintiff
19 UNITED STATES OF AMERICA

20
21 DATED: August 6, 2020

/s/ by email permission
22 ADITHYA MANI
Deputy Federal Public Defender
23 Attorney for Defendant
ANDREW MARNELL