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UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	CR. NO. 21-00061 JAO
	)	
Plaintiff,	)	GOVERNMENT'S RESPONSE TO
	)	MOTION TO MODIFY
vs.	)	CONDITIONS OF RELEASE 7p2;
	)	CERTIFICATE OF SERVICE
MARTIN KAO,	)	
	)	
Defendant.	)	
	)	

GOVERNMENT'S OPPOSITION TO
MOTION TO MODIFY CONDITIONS OF RELEASE 7p2

The United States hereby opposes defendant's Motion to Modify Conditions of Release 7p2 (ECF No. 38). The government had planned to respond only through oral argument, but is filing this short written memorandum to respond to factual assertions by defendant contained in the Pretrial Services Office ("PTS") report received by the undersigned through email at 8:30 am today (May 26, 2001).

As articulated to the Court at the detention hearing in October 2020, the government's primary concern is that defendant has the means and motive to flee the United States. He is a naturalized citizen who was born in Taiwan and either owns land in Taiwan or has proceeds of the sale of that land waiting for him in Taiwan. According to the PTS report, defendant disclosed that last month he closed on the sale of land in Taiwan resulting in approximately $800,000 in proceeds that awaits him in Taiwan. He asserts also that he has $560,000 (rather than the $925,000 shown in his bank statements) in cash, and real properties with a collective value of $11,955,000 subject to mortgages with a collective total of $7,350,000 for total equity of $4,605,000. Thus, based on defendant's disclosures to PTS, defendant has $5,965,000 in assets available to him.

That number is, however, dwarfed by the much greater wealth defendant disclosed to a local bank 16 days prior to his arrest in September 2020. In the Personal Financial Statement signed by defendant on September 14, 2020, defendant represented to that bank that he had a total net worth of $70,036,764. *See* Ex. 1 at 1. Among those assets were:

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- $16,868,508 in stocks and bonds (subject to an $800,000 margin loan) that appear nowhere in the most recent PTS report and appear as only $2,500,000 in the October 1, 2020 PTS report; and
- $45,730,000 in real estate (including a representation that the land in Taiwan was worth $24,630,000) with loan balances of $7,100,000 for total collective equity of $38,630,000.

See id. at 1, 3.

Setting aside the $13,838,256 in investment in business and the $1,000,000 in automobiles disclosed to the bank, as well as the $2,000,000 seized by the government from defendant's brokerage account in September 2020, defendant has $53,198,508 in assets available to him based on the wealth he reported to the bank. Additionally, defendant represented to the bank that he owned outright a residence in Japan worth $3,900,000, which he did not disclose to PTS.

In sum, defendant has either violated 18 U.S.C. § 1001 by providing false and incomplete material information to this Court through PTS, or defendant has committed additional bank fraud not yet charged against a bank that provided his company with, among other things, a line of credit personally guaranteed by defendant, *see id.* at 1, or he has done both. In any event, defendant has between $5.9 million and $53.2 million in assets—including significant assets in one or two foreign countries—available to him to flee prosecution in the United States and to support a more than comfortable lifestyle overseas.

Defendant first came before the Court after being charged with bank fraud and money laundering by Complaint. He now stands indicted for wire fraud and money laundering, and faces—if convicted—a significant imprisonment range under the advisory Sentencing Guidelines, as well as hefty fines, restitution, and forfeiture. He has ties to two foreign countries, one of which (Taiwan) does not have an extradition treaty with the United States. Defendant's own written statements to a local bank are incompatible with his statements to PTS. Under either set of numbers, he has the means and motive to flee prosecution even without a passport. The proposed modification of conditions makes it easier to flee. Consequently, defendant's motion should be denied.

DATED: May 26, 2021, at Honolulu, Hawaii.

Respectfully submitted,

JUDITH A. PHILPS
Acting United States Attorney
District of Hawaii

By */s/ Craig S. Nolan*
CRAIG S. NOLAN
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the attached was duly served upon the following person as set forth below:

Served Electronically by CM/ECF and Email:

MICHAEL JAY GREEN (michael@michaeljaygreen.com)
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Attorneys for Defendant
MARTIN KAO

DATED: May 26, 2021, at Honolulu, Hawaii.

/s/ Craig S. Nolan
CRAIG S. NOLAN
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