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UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

UNITED STATES OF AMERICA

Plaintiff,

vs.

MARTIN KAO

Defendant.

Case No: 20-MJ-01208-WRP

UNOPPOSED MOTION TO MODIFY CONDITION OF RELEASE 7m1

UNOPPOSED MOTION TO MODIFY CONDITION OF RELEASE 7m1

Defendant Martin Kao ("Mr. Kao"), by and through his undersigned counsel, respectfully moves, pursuant to 18 U.S.C. § 3142(c)(3), to modify condition of

release No. 7m1 of the Court's October 2, 2020 minute order (Dkt. 8) to allow Mr. Kao, the President and Chief Executive Officer of Martin Defense Group, LLC ("MDG"), to have contact with certain MDG officers and employees on the government's no-contact list for the limited purposes of conducting MDG business. Specifically, Mr. Kao requests that the Court modify condition of release No. 7m1 to add the following sentence to the end of the paragraph: "Notwithstanding this paragraph, the defendant may have contact with MDG officers and employees Clifford Chen, Lawrence Kahele Lum Kee, Robert Reantaso, Karen Ernst, and Duke Harrington, as necessary to conduct the business of MDG, so long as he does not have any discussions or communications with them, directly or indirectly, about the pending case, underlying subject matter, or the investigation in general." The government does not oppose this modification. In support of this Motion, Mr. Kao states as follows:

1. On September 30, 2020, Mr. Kao was arrested and charged by criminal complaint with bank fraud, in violation of 18 U.S.C. § 1344, and money laundering, in violation of 18 U.S.C. § 1957. (Dkt. 4). Mr. Kao was detained, and appeared before the Honorable Kenneth J. Mansfield for his initial appearance on October 1, 2020. (Dkt. No. 1). At a detention hearing on October 2, 2020, Magistrate Judge Mansfield ordered Mr. Kao released on certain conditions, including that Mr. Kao have no contact with co-defendants, co-conspirators, or witnesses, as defined in a

list to be provided by the government. (Dkt. No. 8). Mr. Kao was released upon payment of a secured bond on October 8, 2020.

2. The government's list of individuals with whom contact is prohibited, as provided to Mr. Kao by U.S. Pretrial Services Officer Specialist Erik S. Iverson on October 7, 2020, includes fifteen individuals. Five of the fifteen individuals include MDG officers and employees with whom it is critical that Mr. Kao be able to communicate in order to conduct MDG's day-to-day business operations.

3. Since being released, Mr. Kao has complied with all of his conditions of release, including No. 7m1, to the detriment of MDG.

4. Pursuant to 18 U.S.C. § 3142(c)(3), this Court has the authority "at any time [to] amend the [release] order to impose additional or different conditions of release." The Bail Reform Act requires the Court to determine the "least restrictive further condition or combination of conditions [that] reasonably assure the appearance of the person as required and the safety of any other person and the community…" 18 U.S.C. § 3142(c)(1)(B).

5. Mr. Kao moves this Court to modify condition of release No. 7m1 to allow him to communicate with certain of the MDG officers and employees on the no-contact list so that he can continue to operate his company in the regular course of business, and to give direction and communicate decisions to facilitate such

business. Indeed, the following individuals on the no-contact list are key MDG officers and employees with whom it is critical for Mr. Kao to be able to communicate about MDG's affairs in order to continue to run MDG: Clifford Chen, Lawrence Kahele Lum Kee, Robert Reantaso, Karen Ernst, and Duke Hartman.

6. The requested modification is limited in scope, only allows Mr. Kao to communicate with these individuals for the purpose of conducting MDG business, precludes Mr. Kao from communicating with these individuals about the pending case, underlying subject matter, or investigation in general, and serves the purpose of the Bail Reform Act as Mr. Kao has already established compliance with this condition.

7. Counsel for Mr. Kao has conferred with counsel for the government, who do not oppose the relief requested by this Motion.

8. WHEREFORE, Mr. Kao requests that this Court enter an order modifying condition of release No. 7m1 to add the following sentence to the end of the paragraph: "Notwithstanding this paragraph, the defendant may have contact with MDG officers and employees Clifford Chen, Lawrence Kahele Lum Kee, Robert Reantaso, Karen Ernst, and Duke Harrington, as necessary to conduct the business of MDG, so long as he does not have any discussions or communications

with them, directly or indirectly, about the pending case, underlying subject matter, or the investigation in general."

Dated: October 23, 2020

Respectfully submitted,

/s/ David M. Chaiken

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Attorneys for Martin Kao

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2020, a true and correct copy of the foregoing was served on counsel of record electronically through CM/ECF.

October 23, 2020

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