

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA	)	
	)	Criminal No.
v.	)	
	)	<u>FILED UNDER SEAL</u>
NICHOLAS R. OCHS,	)	
	)	
Defendant.	)	

**MOTION TO SEAL WARRANT AND RELATED DOCUMENTS**

The United States of America, by and through its undersigned counsel, respectfully submits under seal this *ex parte* application for an Order placing the above-captioned arrest warrant, complaint, and the application and affidavit in support thereof, and all attachments thereto and other related materials (collectively, the “Warrant”) under seal.

**JURISDICTION**

1. This Court has jurisdiction to issue the requested order because it is a “court of competent jurisdiction” as defined by 18 U.S.C. § 2711. Specifically, the Court is a “district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i). As discussed more fully below, acts or omissions in furtherance of the offenses under investigation occurred within Washington., D.C.

**FACTUAL BACKGROUND**

2. Execution of the Warrant is part of the Government’s ongoing criminal investigation into possible violations of 18 U.S.C. 1341 and related statutes. Specifically, this investigation concerns allegations that the defendant engaged in a scheme to defraud a law firm that was employing him at the time by using the law firm purchasing credit card to make unauthorized personal purchases, payments of personal expenses, and payments to his personal

account(s). It is alleged that for the purpose of executing this scheme, the defendant knowingly caused to be delivered certain proceeds of this fraud scheme via interstate commercial carriers.

### **POINTS OF LEGAL AUTHORITY**

3. In this matter, the Government also requests that the Warrant, this application, and the Order all be filed under seal. The Court has the inherent power to seal court filings when appropriate, including the Warrant. *United States v. Hubbard*, 650 F.2d 293, 315-16 (D.C. Cir. 1980) (citing *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978)). More particularly, the Court may seal the Warrant and related filings to prevent serious jeopardy to an ongoing criminal investigation when, as in the present case, such jeopardy creates a compelling governmental interest in preserving the confidentiality of the Warrant. *See Washington Post v. Robinson*, 935 F.2d 282, 287-89 (D.C. Cir. 1991).

### **REQUEST FOR SEALING**

4. In this matter, the government requests that the Warrant be sealed until further order of the Court.

5. Such an order is appropriate because the Warrant relates to an ongoing criminal investigation that is neither public nor known to the subject(s) of the investigation. Accordingly, disclosure may reveal the existence, scope, and direction of the Government's ongoing and confidential investigation. Once alerted to this investigation, potential subject(s) could be immediately prompted to flee from prosecution, and destroy or conceal incriminating evidence.

6. Therefore, there exists a compelling governmental interest in confidentiality to justify the sealing the Warrant, this application, and this Order. *See Robinson*, 935 F.2d at 287-89.

ACCORDINGLY, it is respectfully requested that the above-captioned warrant, the application and affidavit in support thereof, and all attachments thereto and other related materials (including this application) be placed under seal until further Order of the Court, except that copies of these documents may be showed to members of law enforcement in order to aid in the apprehension of the defendant.

Respectfully submitted,

MICHAEL R. SHERWIN  
ACTING UNITED STATES ATTORNEY

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**ORDER**

This matter having come before the Court pursuant to the application of the United States to seal the above-captioned warrant and related documents, including the application and affidavit in support thereof and all attachments thereto and other related materials (collectively the “Warrant”), the Court finds reasonable grounds to believe that disclosure of the Warrant will result in flight from prosecution, and destruction of or tampering with evidence. The Court further finds that, because of such reasonable grounds to believe the disclosure will so impact the investigation, the United States has established that a compelling governmental interest exists to justify the requested sealing.

1. IT IS THEREFORE ORDERED that the application is hereby GRANTED, and that the Warrant, the application and affidavit in support thereof, all attachments thereto and other related materials, the instant application to seal, and this Order are sealed until otherwise ordered by the Court, except that the Warrant and related materials may be provided to law enforcement to aid in the apprehension of the defendant.

2. IT IS FURTHER ORDERED that the Clerk's office shall not make any entry on the public docket of the Warrant until further order of the Court.

Date: 1/07/2021

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G. MICHAEL HARVEY  
UNITED STATES MAGISTRATE JUDGE

cc: Kathryn L. Rakoczy  
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