UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE APPLICATION OF USA FOR 2703(d) ORDER FOR SIX EMAIL ACCOUNTS SERVICED BY GOOGLE FOR INVESTIGATION OF VIOLATION OF 18 U.S.C. §§ [redacted]	**SC No. 20-sc-3361** **Filed Under Seal**

SECOND MOTION TO MODIFY ORDER

The United States of America, moving by and through its undersigned counsel, respectfully submits under seal this second *ex parte* Motion to Modify the nondisclosure provision in the Order in this matter.

On January 5, 2021, this Court issued an Order pursuant to 18 U.S.C. § 2703(d), that included a nondisclosure provision that forbade Google LLC ("Google"), the Provider, from providing notice of the legal process to any person "except attorneys for PROVIDER for the purpose of receiving legal advice." That Order was promptly served on Google. After consulting with Google, the United States moved to modify the nondisclosure order. On March 3, 2021, this Court granted the motion and permitted Google to share the Order with the Deputy General Counsel for the New York Times, [redacted] and extended the period for Google's production of records to March 11, 2021. The United States has since spoken to [redacted] who requested that: (1) the nondisclosure be further modified so that [redacted] can notify his supervisor, General Counsel for the New York Times [redacted] and outside counsel, [redacted] of the [redacted] aw firm, (2) and that the production of records date for Google be extended 21 days from the execution of the modified nondisclosure order.

Without conceding any legal position, the United States is amenable to a limited

modification of the nondisclosure provision to provide notice solely to the above persons (and any other yet-to-be identified legal staff at [redacted] who are assigned to this matter) and for the extension of time. A draft proposed Order is attached to this motion.

This matter is already under seal, and the United States further requests that this Motion and proposed Order be filed under seal. The Court has the inherent power to seal court filings when appropriate, including the proposed Order. *United States v. Hubbard*, 650 F.2d 293, 315-16 (D.C. Cir. 1980) (citing *Nixon v. Warner Commn'ns, Inc.*, 435 U.S. 589, 598 (1978)). More particularly, the Court may seal the materials to prevent serious jeopardy to an [redacted] investigation when such jeopardy creates a compelling governmental interest in confidentiality. *See Washington Post v. Robinson*, 935 F.2d 282, 287-89 (D.C. Cir. 1991). For the reasons stated previously, the United States has a compelling interest in confidentiality to justify continued sealing of the motion and proposed Order.

CONCLUSION

Based on the foregoing, the United States requests that the Court grant the proposed Order.

Respectfully submitted,

CHANNING D. PHILLIPS
Acting United States Attorney

[redacted]