IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA, Plaintiff, vs. MICHAEL J. MISKE, JR., (01) aka "Bro," Defendant.	)	CR. NO. 19-00099-01 DKW MEMORANDUM IN SUPPORT OF MOTION TO DETAIN DEFENDANT MICHAEL J. MISKE, JR.

MEMORANDUM IN SUPPORT OF MOTION
TO DETAIN DEFENDANT MICHAEL J. MISKE, JR.

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MEMORANDUM IN SUPPORT OF MOTION
TO DETAIN DEFENDANT MICHAEL J. MISKE, JR.

The United States of America respectfully submits this memorandum in support of its motion to detain Defendant MICHAEL J. MISKE, JR., aka "Bro," pending trial. As alleged in the Superseding Indictment, and as the government proffers for purposes of a detention hearing, MISKE:

- For years, was the unquestioned leader of a racketeering enterprise which routinely committed violent crimes and assaults and used threats and intimidation to protect the illegal activities which enriched and furthered the interests of MISKE and the enterprise.
- Directed, ordered and facilitated the commission of the following offenses in furtherance of his interests and that of the enterprise:
    i. Drug Trafficking
    ii. Kidnapping
    iii. Assault
    iv. Extortion
    v. Chemical Weapons attacks
    vi. Hobbs Act Robberies
    vii. Firearms Offenses
    viii. Murder for Hire Conspiracy
    ix. Attempted Murder
    x. Kidnapping and murder of Johnathan Fraser
- Placed a "hit" on an individual MISKE believed was cooperating with law enforcement.

- Tampered with, intimidated and threatened witnesses in an effort to avoid apprehension for his crimes
- Took numerous steps, including the surreptitious placement of GPS devices, to track the movement of rivals and others he perceived as threats to himself, his interests and that of the enterprise.

This conduct shows MISKE is a clear and present danger to the community.

MISKE faces three death-eligible charges in Counts 2, 4 and 5 of the Superseding Indictment which charge MISKE with Murder in Aid of Racketeering, Murder-for-Hire Conspiracy Resulting in Death and Kidnapping Using a Facility of Interstate Commerce Resulting in Death. MISKE additionally faces 10-year mandatory minimum sentences if convicted of either Count 15 or 16 of the Superseding Indictment which charge him with conspiring to distribute controlled substances. These mandatory and possible sentences alone render MISKE a flight risk.

Additionally, MISKE has access to vast financial resources including millions of dollars in assets such as the three real properties noticed for forfeiture in the Superseding Indictment. In addition, MISKE possesses significant assets which are liquid or readily liquid. The sheer amount of the assets available to MISKE make him a flight risk in addition to being a danger to the community.

Under the Bail Reform Act, each of the drug charges against MISKE (Counts 15 and 16 of the Superseding Indictment) as well as the Title 18 U.S.C.

§ 924(c) charge (Count 9 of the Superseding Indictment) singularly invoke a presumption of detention as both a flight risk and a danger to the community.

MISKE is the owner of Kama'aina Termite Pest & Control (KTPC), among several other local businesses, and he may attempt to argue that this position should weigh in favor of his pretrial release. However, as alleged in the Superseding Indictment, while KTPC does provide some legitimate pest control services, it has also served as the headquarters of the MISKE criminal enterprise. As such, there is insufficient evidence to overcome the presumptions of detention.

For all these reasons, which are discussed more fully below, the United States respectfully requests this Court to detain Defendant MISKE without bail pending trial in this matter.

I. PROCEDURAL AND FACTUAL BACKGROUND

On July 19, 2019, a grand jury returned a sealed indictment against MISKE and Michael Buntenbah in CR. No. 19-00099 DKW charging them with conspiracy to distribute and possess, with intent to distribute, five kilograms or more of cocaine. That indictment remained sealed and, on June 18, 2020, a second grand jury returned a sealed Superseding Indictment charging MISKE and ten other defendants with a variety of federal offenses including their conspiring to

participate in a racketeering organization. In the Superseding Indictment, MISKE is charged in 17 separate counts with:

- Participating in a racketeering conspiracy, referred to in the Superseding Indictment as the "Miske Enterprise," in violation of Title 18, United States Code, Section 1962(d) (Count 1);
- Murder in aid of racketeering, in violation of Title 18, United States Code, Section 1959(a)(1), in connection with the murder of Johnathan Fraser (Count 2);
- Conspiracy to commit murder in aid of racketeering, in violation of Title 18, United States Code, Section 1959(a)(5), in connection with the murder of Johnathan Fraser (Count 3);
- Murder-for-hire conspiracy resulting in death, in violation of Title 18, United States Code, Section 1958, in connection with the kidnapping and murder of Johnathan Fraser (Count 4);
- Kidnapping using a facility of interstate commerce resulting in death, in violation of Title 18, United States Code, Section 1201(a)(1), in connection with the kidnapping and killing of Johnathan Fraser (Count 5);
- Conspiracy to commit kidnapping using a facility of interstate commerce, in violation of Title 18, United States Code, Section 1201(c), in connection with the kidnapping of Johnathan Fraser (Count 6);
- Murder-for-hire conspiracy, in violation of Title 18, United States Code, Section 1958, in connection with the plot to murder "Victim-1," whom Miske suspected of cooperating with law enforcement (Count 7);
- Assault and attempted murder in aid of racketeering, in violation of Title 18, United States Code, Sections 1959(a)(3) and 1959(a)(5), in connection with the assault and attempted murder of "Victim-2" (Count 8);

- Carrying and using a firearm during and in relation to the crime of violence charged in Count 8, in which a firearm was discharged, in violation of Title 18, United States Code, Section 924(c)(1)(A)(iii) (Count 9);

- Conspiring to commit assault in aid of racketeering, in violation of Title 18, United States Code, Section 1959(a)(6) (Count 10);

- Conspiracy to commit kidnapping using a facility of interstate commerce, in violation of Title 18, United States Code, Section 1201(c), in connection with the kidnapping of "Victim-3" (Count 11);

- Conspiracy to use a chemical weapon, in violation of Title 18, United States Code, Section 229(a)(3), in connection with the release of chloropicrin into nightclubs in Honolulu (Count 12);

- Using a chemical weapon, in violation of Title 18, United States Code, Sections 229(a)(1) and 229(a)(2), in connection with the conspiracy to release chloropicrin into "Nightclubs 1 and 2" (Counts 13 and 14);

- Conspiracy to distribute and possess, with intent to distribute, five kilograms or more of cocaine, in violation of Title 21, United States Code, Sections 846 and 841(b)(1)(A) (Count 15);

- Conspiracy to distribute and possess, with intent to distribute: (1) 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine; (2) five kilograms or more of cocaine; (3) a quantity of oxycodone; and (4) a quantity of marijuana, in violation of Title 21, United States Code, Sections 846, 841(b)(1)(A), 841(b)(1)(C), and 841(b)(1)(D) (Count 16);

- Bank Fraud, in violation of Title 18, United States Code, Section 1344(2) (Count 22).

On July 15, 2020, MISKE was arrested and the Indictments were unsealed.

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II. APPLICABLE LAW

Under the Bail Reform Act, a court must detain a defendant pending trial if "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community." 18 U.S.C. § 3142(e).

When a defendant is charged in a drug case in which the maximum sentence is ten years or more, there is a rebuttable presumption that there is no condition or combination of conditions that will reasonably assure the appearance of the person as required and the safety of the community. *See* 18 U.S.C. § 3142(e)(3)(A). MISKE is charged as such in Counts 15 and 16 of the Superseding Indictment. The same presumption applies if a defendant is charged with violating Title 18 U.S.C. §924(c) as MISKE is in Count 9 of the Superseding Indictment. *See* 18 U.S.C. § 3142(e)(3)(B).

The defendant bears the burden of producing evidence to rebut that presumption. *See United States v. Hir*, 517 F.3d 1081, 1086 (9th Cir. 2008). Even if the defendant satisfies that burden of production, the presumption does not vanish; instead, it "remains in the case as an evidentiary finding militating against release, to be weighed along with other evidence relevant to factors listed in § 3142(g)." *Id.* (quoting *United States v. Dominguez*, 783 F.2d 702, 707 (7th Cir.

1986)). The government retains the ultimate burden of persuasion by clear and convincing evidence that the defendant presents a danger to the community, *see* 18 U.S.C. § 3142(f)(2)(B), and by the lesser standard of a preponderance of the evidence that the defendant presents a risk of flight. *See United States v. Aitken*, 898 F.2d 104, 107 (9th Cir. 1990) (citing *United States v. Motamedi*, 767 F.2d 1403, 1406 (9th Cir. 1985)).

Section 3142(g) lists the following factors that a court must consider in determining whether detention is required:

> (1) the nature and circumstances of the offense charged, including whether the offense is a crime of violence . . . or involves . . . a controlled substance [or] firearm . . . ;
>
> (2) the weight of the evidence against the person;
>
> (3) the history and characteristics of the person, including—
>
> (A) the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and
>
> (B) whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under Federal, State, or local law; and
>
> (4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release.

18 U.S.C. §§ 3142(g)(1)-(4).

III. DISCUSSION

MISKE is charged with violating Title 18 U.S.C. § 924(c) and two drug trafficking offenses in Counts 9, 15 and 16, respectively, of the Superseding Indictment. Each of those three counts alone invokes the rebuttable presumption under Section 3142(e)(3)(A) that there is no condition or combination of conditions that will reasonably assure the appearance of MISKE and the safety of the community.

A. MISKE is a Grave Danger to the Community

The factors set forth in Section 3142(g) weigh strongly in favor of MISKE's pretrial detention on the grounds of dangerousness.

1. The Nature and Circumstances of MISKE's Offenses

The charges against MISKE include crimes of violence, the trafficking of controlled substances and the use of a firearm in relation to a violent crime – all offenses specified in Section 3142(g)(1) as indicative of detention.

The use and threat of violence and firearms was a signature of MISKE and the Enterprise as evidenced in the Superseding Indictment which outlines the campaign of violence waged by MISKE on his rivals, competitors and innocent members of this community over a period spanning years, if not decades. In so

doing, MISKE participated in, directed and facilitated numerous assaults, kidnapping, extortion, the use of firearms, attempted murder and murder for hire.

Nothing demonstrates MISKE's penchant for violence more than his meticulously planned and premeditated abduction, kidnapping and murder of Johnathan Fraser in July 2016, the subject of Counts 2-6 of the Superseding Indictment. In planning Fraser's murder (as retribution for MISKE's mistaken belief that Fraser was the driver of a vehicle involved in a serious accident from which MISKE's son, Caleb, eventually died as a result), MISKE purchased a $425,000 boat to dispose of Fraser's body and arranged to have the vessel's GPS tracking system disabled prior to the murder; provided Fraser a place to live where MISKE could keep tabs on him in the days leading up to the murder; employed a plan to lure Fraser's pregnant girlfriend away from Fraser on the day of his disappearance; and directed other members of the Enterprise to obtain a van to abduct Fraser and then abandon and set fire to the van to destroy any evidence. The nature of those offenses alone should mandate MISKE's detention.

The drug charges in the Superseding Indictment relate to MISKE's role as the financier of a $400,000/ten kilogram cocaine deal in 2014 with Mexican cartel members from California and his and the Enterprise's continued involvement in the trafficking of methamphetamine, cocaine, oxycodone and marijuana. In the

Bail Reform Act, Congress declared that drug trafficking is a danger to the community. *Sen. Comm. on Judiciary, Comprehensive Crime Control Act of 1983*, S. Rep. No. 98-225, 98th Cong., 1st Sess. 24, 25 (1983)(drug dealers engage in continuing patterns of criminal activity; they pose a "significant" risk of pretrial recidivism.) "Safety" as comprehended by the Bail Reform Act includes a reasonable assurance that drug dealing will not continue. *United States v. Perry*, 788 F.2d 100, 12-13 (3rd Cir.), *cert. denied*, 479 U.S. 864 (1986). "The distribution of drugs is a serious offense," and, indeed, "it is for this reason that the [Bail Reform] Act imposes a rebuttable presumption of danger to the community for certain drug related offenses ... ." *United States v. Christie*, Crim. No. 10-00384-SOM, 2010 WL 2900371, at *4 (D. Haw. July 20, 2010). *See also, United States v. Hare*, 873 F.2d 796 (5th Cir. 1989) (holding that a district court could approve of a detention order based on a risk of dangerousness to the community from the likelihood that the defendant would continue drug dealing if he were released pending trial).

MISKE's drug activity falls squarely within the concerns contemplated both by the Bail Reform Act and 18 U.S.C. § 3142(e). Coupled with the statutory presumption, the amount of drugs involved and the Enterprise's reliance on the cash obtained from drug trafficking, there is clear and convincing evidence that

MISKE poses a real and serious threat to this community based on the drug charges alone.

Count 9 of the Superseding Indictment charges MISKE with the use of a firearm in relation to a crime a violence (Attempted Murder and Assault with a Dangerous Weapon), yet another circumstance weighing in favor of detention. *Accord* 18 U.S.C. § 3142(g)(1). That MISKE's firearm-related conduct was in relation to an attempted murder he ordered is only further evidence of the danger MISKE poses and which only detention can adequately address.

a. The Remaining Charges Also Weigh in Favor of Detention

MISKE is also charged in the Superseding Indictment with specific counts of kidnapping, conspiracy to commit assault and chemical weapons attacks. These crimes were typical responses by MISKE to those who "dared" to cross or challenge him, his businesses or the Enterprise. The additional charges are serious and include violent assaults committed at MISKE's direction in which victims were hospitalized or otherwise seriously injured as well as chemical weapons attacks carried out against two rival nightclubs. Those offenses also weigh strongly in favor of detention.

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2. The Weight of the Evidence Counsels in Favor of Detention

Although the Ninth Circuit has described the weight of the evidence as the "least important" factor in considering a motion to detain, *United States v. Gebro*, 948 F.2d 1118, 1121 (1991), the weight of the evidence here further supports detention.

The evidence against MISKE and the Enterprise is powerful and abundant and includes: (i) forensic extractions of multiple cellular telephones in which direct communications were uncovered between MISKE and other Enterprise members as well as with victim Johnathan Fraser; (ii) the grand jury testimony of dozens of witnesses including numerous cooperating defendants, several of whom have either already pled guilty or have agreed to do so in the future; (iii) the results of search warrants on email, cloud and social media accounts including those of MISKE; (iv) audio recordings of controlled purchases of drug transactions which transpired at KTPC; (v) court-authorized Title III wiretap interceptions of wire and electronic communications on Enterprise members' cellphones; (vi) the results of search warrants executed at physical locations and on vehicles which resulted in the seizure of drugs, firearms, handcuffs, zip ties, police issued body armor, ski masks, a gun scope, ammunition, duct tape and chloropicrin, the chemical used in the nightclub attacks; and (vi) hours of physical and electronic surveillance

conducted by law enforcement on MISKE and Enterprise members. These items corroborated, in many ways, the grand jury testimony of victims, civilian witnesses and cooperating defendants, many of whom the United States expects will testify at any trial against MISKE and the Enterprise.

3. MISKE's History and Characteristics Favor Detention

Although MISKE does have local family and community ties, his history and characteristics on the whole weigh strongly in favor of detention.

(A) MISKE has six prior state felony convictions for kidnapping, assault in the first degree, fraudulent use of a credit card and three separate counts of theft in the second degree. MISKE also has three state misdemeanor convictions for assault in the second degree, driving without a license, and theft in the third degree.

(B) On May 28, 2013, MISKE was charged with Assault in the Second Degree, Criminal Property Damage in the Second Degree and Assault in the Third Degree relating to a vicious assault he committed, and directed others to participate in, on December 15, 2012 just outside his "M" nightclub. MISKE is currently on release pending trial in that matter which has been continued repeatedly. This weighs heavily in favor of detention. *See* 18 U.S.C. § 3142(g)(3)(B) (requiring consideration of

> "whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial"); *see also, United States v. Acevado-Ramos*, 755 F.2d 203, 207 (1st Cir. 1985) (noting that the concept of "dangerousness" under the Bail Reform Act includes the concern that a defendant may commit a crime while released on bail).

In addition, MISKE has both a history and reputation for obstructing justice by tampering with, threatening and attempting to intimidate witnesses against him. For example, after learning one of the individuals involved in the March 2017 nightclub chemical weapons attacks was approached by police, MISKE insisted on meeting the individual in person and warned them not to speak with law enforcement.

MISKE's attempts to threaten, intimidate and obstruct even extend to law enforcement officers who have contact with him. On November 13, 2015, MISKE was observed by Honolulu police using a cellular phone while driving a Cadillac Escalade in violation of state law. After the police officer directed MISKE to pull over, MISKE initially began to comply but then refused to do so and left the scene. In the early morning hours the next day, Honolulu police went to MISKE's nightclub, the "M" nightclub, to locate MISKE for refusing to obey a lawful command. Club staff initially told police that MISKE was present, but later stated

he was not at the club. Police then tried several times to contact MISKE by phone but the calls were not answered.

At about 4:30 a.m. that same morning, the officer who attempted to cite MISKE received an incoming phone call on his personal cell phone from a blocked number. The officer answered and the caller identified himself as MISKE and referred to the officer by his first name. The officer placed the phone on speaker so other officers who were present could hear and was able to record the majority of the conversation. During the recorded call, MISKE stated:

> "Don't be going over there throwing you guys weight around…I can press charges just as much as you can, bruddah. Listen, I gon' go to the top of the food chain, trust me [calls officer by first and last name], you going get me for a traffic warrant? Big deal. I'll pay that all day. I don't care about that. Don't you go to my place of business and act a fool. I swear, I'll have everybody over there put a TRO on you. You better be careful for the threats you made, [calls officer by last name]. You are making threats over there and I'm telling you, don't do that. Come on, this is one traffic violation bro. I told you, when my attorney comes back, I turning myself in. Bruddah, don't need to make this one big deal, bruddah."

MISKE ended the phone call and never turned himself into Honolulu police. The officer who received the call does not know how MISKE obtained his personal cell phone number. This incident gives a clear view into the "above the law" mindset of MISKE, that he is untouchable and no one, not even a police officer, can tell him what to do.

A forensic search of a cellular phone seized by law enforcement revealed What'sApp messages between MISKE and another Enterprise member discussing "Victim-2," the individual targeted in the failed murder attempt which is the basis of Count 8 of the Superseding Indictment. The following is a portion of an exchange which occurred between the two in December 2017:

Enterprise member: "Fuck this fagget. I promise over everything I see him I going turn his fuckn jaw. . ." and "I going knock him out fuckn cold."

MISKE: "and not stop."

Enterprise member: "Yup I going fuckn knock his fuckn teeth out his mouth."

MISKE: "Not enuf."

Enterprise member: "I know."

This exchange supports information provided by witnesses cooperating with the Government that over the years MISKE ordered so many of these types of violent attacks that he developed a coded system to describe the level of harm he wanted to inflict upon his victim. "Twenty percent" meant sufficient force to intimidate a victim; "50 percent" meant sufficient force to cause a physical injury; "80 percent" meant sufficient force to cause injuries that required hospitalization; and "100 percent" meant murder.

MISKE also threatened individuals with murder. For example, in approximately 2003, MISKE told a business rival with whom he had a dispute that he had "dangerous friends" who knew where the individual lived and that MISKE would "take matters into his own hands." MISKE boasted, "You don't know who you are dealing with, I have a past and in Hawaii, things are handled different."

Similarly, in 2015, when a customer of KTPC stated he would alert the Environmental Protection Agency (EPA) if KTPC would not answer his questions about what pesticides they were using, MISKE personally called the customer and warned him that in Hawaii, people "disappear."

In fact, throughout his direction of the Enterprise, MISKE ordered attacks at every level of his "percentage" system including the "100 percent" murder of Johnathan Fraser.

4. Nature and Seriousness of Danger Posed by Miske

As discussed above, MISKE has proven himself to be a danger, in a number of different ways, to both specific individuals and the community in general.

The murder for hire charge indicates that MISKE is willing to order a "hit" on someone he believes is cooperating with law enforcement. Of course, MISKE has further shown he is willing and capable of having such a "hit" carried out just as he did against Johnathan Fraser. MISKE is willing to direct attacks of all levels

from threats to violent assaults resulting in serious injuries to kidnappings, attempted murder and chemical weapons attacks. The Enterprise's routine use and access to firearms further underscores that danger. Like every other factor this Court must consider, the nature and seriousness of the danger posed by MISKE can only point to his detention.

B. MISKE is a Certain Flight Risk

To start, narcotics trafficking, in general, poses a risk of flight as Congress has explained:

> Flight to avoid prosecution is particularly high among persons charged with major drug offenses . . . these persons have both the resources and foreign contacts to escape to other countries with relative ease . . . even the prospect of forfeiture of a bond in the hundreds of thousands of dollars has proven to be ineffective in assuring the appearance of major drug traffickers.

S. Rep. No. 225, 98th Cong., 2nd Sess. 12-12, reprinted in 1984 U.S. Code Cong. & Ad. News 3182, 3195-96, 3203.

As shown by MISKE's financing of a $400,000 cocaine purchase along with the Enterprise's continued drug distribution activity, MISKE is precisely the type of individual Congress envisioned when enacting this presumption of detention.

1. MISKE Faces a Potential Death Sentence

One of the biggest factors in assessing an individual's likelihood to flee is their sentencing exposure. Counts 2, 4 and 5 of the Superseding Indictment charge MISKE with Murder in Aid of Racketeering, Murder-for-Hire Conspiracy

Resulting in Death and Kidnapping Using a Facility of Interstate Commerce Resulting in Death - all death penalty-eligible counts. Whether or not the United States seeks the death penalty will be determined by the Attorney General at a later time. However, the fact it is even a possibility, by itself, makes MISKE the most severe flight risk.

2. MISKE Faces Two 10-year Mandatory Minimum Sentences

MISKE additionally faces 10-year mandatory minimum sentences if convicted of either Count 15 or 16 of the Superseding Indictment. That alone would typically render MISKE to be a flight risk when weighed against the low burden of proof applicable here - a preponderance of the evidence. Coupled with the death penalty eligible counts referenced above, there is no doubt MISKE is a certain flight risk.

3. MISKE has Vast Financial Resources

The essential ingredient of any Defendant's ability to flee prosecution is the financial resources they possess or to which they have access. MISKE has no shortage of either. A review of financial transactions conducted by MISKE from 2010 through 2017 showed he spent approximately $15,821,963 on major expenditures. In addition to these major expenditures, insurance records show that

MISKE also acquired luxury vehicles valued at over $100,000 as well as luxury watches, jewelry and art valued at over $200,000 during that same time period. In 2010, MISKE purchased a 0.87 acre oceanfront property near Spitting Cave in Portlock for $2,235,000. Only $1,175,000 of the purchase price was financed pursuant to a three year loan with monthly payments of $32,639.

However, a review of MISKE's individual tax returns for this same period showed that MISKE had "only" $7,921,506 available to spend on personal expenses after taxes. Thus, MISKE spent nearly $8,000,000 in additional, unexplained income during that period.

MISKE's current and recent financial situation shows more of the same. MISKE built a lavish residence on the Portlock property which is now estimated to be worth as much as $7,000,000 and is one of three real properties owned by MISKE which are noticed for forfeiture in the Superseding Indictment along with a house in Kailua and a condominium in Hawaii Kai.

On May 22, 2020, MISKE sold a real property on William Henry Road in Kaneohe which resulted in a net profit of $392,926.14 in proceeds which are currently held in an Old Republic Exchange escrow account. Miske can access those funds at any time subject to applicable tax obligations.

On approximately May 30, 2020, MISKE, through one of his companies, Hawaii Partners, LLC, purchased a 2017 Ferrari F12 Berlinetta for $219,000 with $217,000 cash down that was transferred from his KTPC savings account to his Hawaii Partners LLC bank account.

Clearly, MISKE possesses or has access to millions of dollars in assets - at least hundreds of thousands of dollars of which appear to be liquid or readily liquid. His access to cash has been further corroborated by a cooperating witness that MISKE utilized trusted associates to secretly store large amounts of cash on his behalf. Not only has the United States noticed three of MISKE's real properties for forfeiture, as referenced previously, that forfeiture notice also includes the proceeds and interest in any property MISKE has acquired as a result of his racketeering activity. MISKE's detention would not only eliminate the overwhelming risk of his flight from prosecution if released on bail, it would also prevent MISKE from retrieving, accumulating and diverting as much cash and liquid assets as possible in order to avoid their forfeiture.

When MISKE's vast financial resources are combined with two mandatory minimum 10-year counts and three death eligible counts, there is no question MISKE is a flight risk and must be detained.

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4. "Time to Go Dark"

Over the course of the investigation into the Enterprise, MISKE has made a concerted and comprehensive effort to disassociate himself from KTPC and the other companies he controls in order to avoid prosecution and tracing of his assets. MISKE attempted to do so by listing "straw" individuals as president, vice-president, etc. of KTPC and other entities and removing himself as a signer on the company bank accounts. A specific example of this occurred in October, 2016 when MISKE sent those very instructions, via text message, to his accountant at the time after Central Pacific Bank severed its business relationship with MISKE and his companies. In the messages, MISKE stated, "Time to go dark" and "I believe it's the Feds and their subpoenas just trying to make my life hard."

This is another important component for the Court to consider in finding MISKE to be a flight risk as he has demonstrated a pattern of attempting to cover any paper trails leading back to him. The United States expects this would only be accelerated if MISKE is not detained.

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IV. CONCLUSION

For all the foregoing reasons, the United States of America respectfully requests that this Court grant the motion to detain defendant MICHAEL J. MISKE, JR. pending trial as both a flight risk and a danger to the community.

DATED: July 15, 2020, at Honolulu, Hawaii.

Respectfully Submitted,

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