

15 GRIM. MISC.

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

In Re Grand Jury Subpoena to Reason.com Dated June 2, 2015, USAO Reference No. 2015R00284

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Application for § 2705(b) Grand Jury Non-Disclosure Order to Service Provider

SEALED

STATE OF NEW YORK) ss COUNTY OF NEW YORK)

NIKETH VELAMOOR, pursuant to Title 28, United States Code, Section 1746, hereby affirms under penalty of perjury the truth of the facts set forth herein:

- 1. I am an Assistant United States Attorney in the Office of the United States Attorney for the Southern District of New York and am familiar with the investigation underlying this request. I respectfully submit this application under 18 U.S.C. § 2705(b) for an order to Reason.com ("Service Provider"), headquartered at 5737 Mesmer Ave., Los Angeles, CA 90230, not to notify any person (including the subscribers, customers or users listed and/or identified in the attached subpoena) of the existence of the attached subpoena for a period of 180 days from the date of the non-disclosure order herein requested.
- 2. Service Provider is a provider of an electronic communication service or a remote computing service in the sense of 18 U.S.C. §§ 2510(15) & 2711(2). Section 2703(c)(2) of Title 18 authorizes the Government to obtain enumerated subscriber information and telephone connection or session-time information from a provider of an electronic communication service or a remote computing service via grand jury subpoena. The Government has served a grand

jury subpoena, a copy of which is attached to the accompanying proposed Non-Disclosure Order, on Service Provider directing it to disclose information within those categories.

3. When the Government seeks such information via grand jury subpoena, 18 U.S.C. § 2705(b) authorizes the Court to issue

an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in--

- (1) endangering the life or physical safety of an individual;
- (2) flight from prosecution;
- (3) destruction of or tampering with evidence;
- (4) intimidation of potential witnesses; or
- (5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

4. In this case, such an order would be appropriate because the attached subpoena relates to an ongoing criminal investigation that is neither public nor otherwise known to all targets of the investigation, the account holder is suspected of being involved in or associated with persons involved in the conduct under investigation, and disclosure of the subpoena to the account owner or to any other person may alert subjects or targets of the ongoing investigation. Accordingly, there is reason to believe that notification of the existence of the attached subpoena will seriously jeopardize the investigation, including by giving targets an opportunity to flee or avoid prosecution, or tamper with evidence, including electronically stored information that is easily tampered with. Given the amount of time a criminal investigation commonly lasts and the particular circumstances presented here, the Government respectfully submits that 180 days is an appropriate delay of notice period for the Court to order.

5. For the reasons set forth above, the Government further requests that the Court order that this Application and any resulting order be sealed until further order of the Court, except that the Government may provide copies of the application and order as need be to personnel assisting the Government in the investigation and prosecution of this matter, and may disclose these materials as necessary to comply with discovery and disclosure obligations in any prosecutions related to this matter.

6. No prior request for the relief set forth herein has been made.

WHEREFORE the Government respectfully requests the Court to enter the accompanying proposed 2705(b) Non-Disclosure Order.

Dated: New York, New York June 4, 2015

NIKETH VELAMOOR

Assistant United States Attorney

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