

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Criminal Case No. 21-cr-00198-PAB

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. KBM GROUP, LLC,

Defendant.

**GOVERNMENT'S MOTION FOR ALTERNATIVE VICTIM NOTIFICATION
UNDER 18 U.S.C. § 3771(d)(2)**

The United States of America, through undersigned counsel, hereby respectfully moves this Court, pursuant to Title 18, United States Code, Section 3771(d)(2), for an order authorizing it to comply with the Crime Victims' Rights Act of 2004, 18 U.S.C. § 3771(a) (the "Act"), by using reasonable alternative measures for notifying millions of potential victims in the above captioned case charging conspiracy to commit mail and wire fraud in violation of 18 U.S.C. § 1349. Specifically, the United States seeks an order pursuant to 18 U.S.C. § 3771(d)(2) authorizing compliance with the Act by publishing information about the case on the Department of Justice's publicly accessible website.

Discussion

The Act provides certain rights to victims in federal criminal proceedings. 18 U.S.C. § 3771. Among the rights provided by the Act are a victim's right to "reasonable, accurate, and timely notice" of public court proceedings, and a right "to confer with the attorney for the Government in the case." See 18 U.S.C. § 3771(a).

The Act further provides that agencies of the United States “shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).” *Id.* § 3771(c)(1). The Act defines a crime victim as “a person directly and proximately harmed” as a result of the commission of a federal offense. *Id.* § 3771(e). Importantly, the Act recognizes that for crimes involving numerous victims, the Court has discretion to adopt procedures that will not unduly interfere with the criminal proceedings. Thus, 18 U.S.C. §3771(d)(2) provides:

[i]n a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

In this case, the defendant corporation, KBM Group, LLC (“KBM”) is charged with conspiracy to commit mail and wire fraud, in violation of 18 U.S.C. § 1349, by knowingly facilitating the sale of consumer data to clients engaged in fraud. KBM sold data associated with millions of American consumers to clients engaged in fraudulent mass-mailing schemes.

The United States submits that this case fits within the “multiple crime victims” exception to the Crime Victims’ Rights Act and believes it would be “impracticable” under Section 3771(d)(2) to provide personal notification by mail to millions of potential victims. Notice by website postings is a reasonable procedure that will give effect to the Act and will not unduly complicate or prolong the public court proceedings. The public website of the Consumer Protection Branch of the United States Department of Justice will provide a statement about victims’ rights, regularly updated information about the case, and will ultimately direct victims to the Claim Administrator who will report directly

to the government. The Claim Administrator will compensate victims for losses from fraudulent mass-mailing schemes operated by individuals who acquired consumer data from KBM, as described in the Information.

The rights enumerated in the Act may only be asserted by crime victims, their counsel, and government counsel. As a result, the defendant's position on this notice is not required for the Court to make a determination of whether this procedure is reasonable. See 18 U.S.C. § 3771 (d)(1).

WHEREFORE, based on the foregoing, the government requests that the Court grant this motion for alternative victim notification procedures.

Respectfully submitted this 14th day of June, 2021.

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CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2021, I electronically filed the foregoing **MOTION FOR ALTERNATIVE VICTIM NOTIFICATION** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties of record.

/s/ Rebecca S. Weber
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