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10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION  
13

14 UNITED STATES OF AMERICA, ) Case No. CR 18-00577 CRB  
15 Plaintiff, )  
16 v. ) DECLARATION OF ROBERT S. LEACH IN  
17 MICHAEL LYNCH, ) SUPPORT OF EXTRADITION REQUEST  
18 Defendant. ) SUBMITTED TO THE UNITED KINGDOM  
19

20 I, Robert S. Leach, declare as follows:

21 1. I am a citizen of the United States of America and a resident of the State of California.

22 2. I graduated from UCLA School of Law in 1997. From October 2012 to the present, I  
23 have been employed by the United States Department of Justice as an Assistant United States Attorney  
24 for the Northern District of California in San Francisco and Oakland, California. I have been a federal  
25 prosecutor for the United States since 2012. My duties are to prosecute persons charged with criminal  
26 violations of the laws of the United States. During my practice as an Assistant United States Attorney, I  
27 have become knowledgeable about the criminal laws and procedures of the United States.

28 3. In the course of my duties, I have become familiar with the charges and evidence in the

DECLARATION OF ROBERT S. LEACH FOR EXTRADITION REQUEST SUBMITTED TO THE UNITED KINGDOM

1 case of *United States v. Michael Richard Lynch and Stephen Keith Chamberlain*, Case No. 18-CR-577  
2 (CRB).

3 4. Since November 2012, I have been working on a federal investigation in the United  
4 States relating to Autonomy Corporation plc (“Autonomy”) and certain of its executives. I am one of  
5 prosecutors personally involved in prosecution of *United States v. Lynch and Chamberlain*, Case No.  
6 18-CR-577 (CRB), which is pending in the United States District Court for the Northern District of  
7 California (“District Court”).

8 5. The Government of the United States (“the Government”) seeks the extradition of Dr.  
9 Michael Lynch (“Dr. Lynch”) to stand trial on a Superseding Indictment alleging (i) one count of  
10 conspiracy to commit wire fraud (Count 1); (ii) fourteen counts of wire fraud and aiding and abetting  
11 wire fraud (Counts Two through Fifteen); one count of securities fraud and aiding and abetting securities  
12 fraud (Count 16); and conspiracy to conceal the above (Count 17). I have been made aware that Dr.  
13 Lynch is raising various arguments in opposition to extradition, including arguments founded on the  
14 delay in issuing the extradition request, the “forum bar” under sections 83A-E of the UK Extradition  
15 Act, and the prison conditions within which Dr. Lynch may be detained if he is extradited. I understand  
16 that it is also contended on behalf of Dr. Lynch that “the Government has presented and relies upon a  
17 significantly distorted picture [in the extradition request], including inter alia: (i) misleading content,  
18 (ii) material omissions, and (iii) jurisdiction” (Defense Statement of Issues, para 5e). So far as the forum  
19 argument is concerned, I have been provided with the “interests of justice” factors listed in s83A(3) of  
20 the UK Act. I understand that the UK court will have regard to these factors when deciding upon the  
21 extradition request, and that it will also be necessary for the court to assess whether a “substantial  
22 measure” of Dr. Lynch’s “relevant activity” was performed in the UK.

23 6. I address some of the matters raised on behalf of Dr. Lynch in this statement. The facts  
24 and matters set out in the statement are true to the best of my knowledge and belief based on documents  
25 and witness statements available to the Government, as well as my own personal knowledge of the case.

26 7. For the avoidance of doubt, the Government strongly refutes any suggestion that the  
27 extradition request contains misleading content or material omissions, or that the charges Dr. Lynch  
28 faces in the United States lack a sound jurisdictional basis.

1           **The Criminal Charges Against Dr. Lynch and the Proceedings to Date in the United States**

2           8.       On November 29, 2018, a grand jury in the Northern District of California returned an  
3 Indictment against Dr. Lynch and Mr. Chamberlain alleging one count of conspiracy to commit wire  
4 fraud in violation of Title 18, United States Code, Section 1349 (Count One); fourteen counts of wire  
5 fraud and aiding and abetting wire fraud, in violation of Title 18, United States Code, Sections 1343 and  
6 2 (Counts Two through Fifteen); and one count of securities fraud and aiding and abetting securities  
7 fraud, in violation of Title 18, United States Code, Sections 1348 and 2 (Count Sixteen).

8           9.       On March 21, 2019, the grand jury returned a Superseding Indictment alleging the same  
9 offenses and an additional count: conspiracy, in violation of Title 18, United States Code, Section 371  
10 (Count Seventeen).

11          10.       During 2009 to 2011, Dr. Lynch was the Chief Executive Officer (“CEO”) of Autonomy,  
12 a technology company with dual headquarters in San Francisco, California, in the United States, and  
13 Cambridge in the United Kingdom. Mr. Chamberlain was Autonomy’s Vice President, Finance.

14          11.       The Superseding Indictment generally alleges that Dr. Lynch, Mr. Chamberlain, and  
15 others engaged in an elaborate scheme to defraud designed to make Autonomy falsely appear to be  
16 worth more than it really was. Initially, the scheme was designed to defraud purchasers and sellers of  
17 Autonomy securities and the research analysts who advised them. Eventually, the scheme defrauded  
18 Hewlett-Packard Company (“HP”), which announced an offer to purchase all outstanding Autonomy  
19 securities on or about August 18, 2011, as well as HP’s shareholders. HP was incorporated in the  
20 United States and maintained its principal executive office in Palo Alto, California, in the United States.

21          12.       The Superseding Indictment also generally alleges that, after the scheme to defraud, Dr.  
22 Lynch, Mr. Chamberlain, and others conspired to cover up, conceal, influence witnesses, and otherwise  
23 obstruct investigations of the scheme to defraud, by, among other things, (a) falsifying, destroying, and  
24 stealing business records of HP, (b) altering, destroying, mutilating, and concealing records, documents,  
25 and objects with intent to impair their integrity and availability for use in official proceedings, (c) paying  
26 hush money and other benefits to influence, delay, and prevent the testimony of persons in official  
27 proceedings, (d) otherwise obstructing, influencing, and impeding official proceedings, and  
28 (e) laundering the proceeds of the Autonomy acquisition.

1           13.     Mr. Chamberlain, who is a United Kingdom citizen residing in the United Kingdom,  
2 voluntarily came to the United States to answer the charges in the indictment and made an initial  
3 appearance on February 4, 2019. He was granted bail by Judge Charles R. Breyer while awaiting trial.  
4 Under Judge Breyer’s order setting his release conditions, Mr. Chamberlain may travel to and from the  
5 United States and the United Kingdom. He has entered a not guilty plea and his next court appearance is  
6 scheduled for February 3, 2021. The District Court stated at the February 4, 2019 hearing: “I would  
7 rather not have three trials in this case. . . . [I]n the normal course, I would want to try Mr. Chamberlain  
8 and Dr. Lynch at the same time.” This echoed comments the District Court made at a January 14, 2019  
9 hearing: “I won’t have three trials.”

10           14.     With the exception of Count 17, the charges against Dr. Lynch and Mr. Chamberlain  
11 mirror those brought in the United States against Sushovan Hussain, the former Chief Financial Officer  
12 (“CFO”) of Autonomy. Mr. Hussain is a United Kingdom citizen and resided in the United Kingdom at  
13 all relevant times. Mr. Hussain was initially charged by a grand jury in the Northern District of  
14 California on November 10, 2016. Mr. Hussain voluntarily came to the United States to defend against  
15 the charges in the indictment and proceeded to trial. He was granted bail by Judge Breyer and, through  
16 the trial, Judge Breyer’s order setting release conditions permitted Mr. Hussain to travel to and from the  
17 United States and the United Kingdom.

18           15.     A fourth individual, Christopher (“Stouffer”) Egan, was charged in an information filed  
19 on November 27, 2017, in the Northern District of California. Egan is a United States citizen residing in  
20 the United States, and during 2009 to 2011 served as Autonomy’s Head of Sales in the United States and  
21 worked principally at Autonomy’s headquarters in San Francisco, California. On November 27, 2017,  
22 Egan entered into a Deferred Prosecution Agreement with the Government, whereby Egan agrees to  
23 cooperate fully and in good faith with the Government and the Government agrees to dismiss the  
24 information based on Egan’s promise to cooperate. The agreement states: “The defendant promises to  
25 cooperate fully and in good faith with this Office [the United States Attorney’s Office for the Northern  
26 District of California], and with any other agency designated by this Office, regarding all the facts and  
27 circumstances of this case and any other matters arising out of the investigation that led to the instant  
28 Information. In particular, the defendant agrees that his cooperation shall include, but is not limited to,

1 the following: (a) Meeting with this Office when requested to do so and providing complete and truthful  
2 information in response to any question raised by this Office . . . (c) Appearing at any trial or other  
3 proceeding when requested to do so by this Office and providing complete and truthful testimony . . . .”

4 16. In April 2018, after a 29-day trial in which the Government called 37 witnesses,  
5 including Mr. Egan, a jury found Mr. Hussain guilty on all counts. In May 2019, Mr. Hussain was  
6 sentenced to 60 months’ imprisonment. He was also ordered to pay a \$4 million fine and \$6.1 million in  
7 restitution. Mr. Hussain appealed his conviction to the Ninth Circuit Court of Appeals (“Court of  
8 Appeals”). On August 26, 2020, the Court of Appeals unanimously affirmed Mr. Hussain’s convictions  
9 and sentence in full in a published opinion and a concurrently filed memorandum disposition. *See*  
10 *United States v. Hussain*, 972 F.3d 1138 (9th Cir. Aug. 26, 2020) & 818 Fed. Appx. 765. Mr. Hussain  
11 declined to seek rehearing of the decision and advised the District Court he has decided to forgo further  
12 appellate remedies. He has been ordered to report to the United States Bureau of Prisons on October 28,  
13 2020.

14 17. On May 1, 2019, the United States said, in a submission filed with the District Court, that  
15 this case was an “\$11.7 billion wire fraud,” “the largest fraud in the history of the Northern District of  
16 California. It is one of the largest frauds ever prosecuted by the United States Department of Justice.”

17 18. Dr. Lynch, who through entities employed or employs Mr. Hussain and Mr. Chamberlain  
18 for considerable periods of time, and who through Autonomy employed Mr. Egan, is the sole defendant  
19 in these related proceedings who has not appeared in the United States to answer the charges against  
20 him.

21 **Dr. Lynch and Autonomy’s Substantial Ties to and Activity Within the United States**

22 19. Autonomy maintained what Dr. Lynch described as “dual headquarters” in San  
23 Francisco, California, in the United States, and Cambridge in the United Kingdom. Dr. Lynch bragged  
24 about its San Francisco headquarters. According to testimony by Mr. Egan in the *Hussain* trial: “We  
25 touted the fact that we were dual headquartered in Cambridge and San Francisco . . . . San Francisco or  
26 the Bay Area was kind of where . . . most of the best or biggest software companies were  
27 headquartered[.]”

1           20.     Autonomy’s major subsidiaries included several San Francisco Bay Area software  
2 companies. Headquartering in California facilitated Autonomy’s ability to expand aggressively into the  
3 Silicon Valley tech sector. In 2003, Autonomy bought Virage, Inc., in San Mateo, California; in 2005, it  
4 acquired Verity, Inc., in Sunnyvale, California; in 2007, it took over ZANTAZ, Inc., in Pleasanton,  
5 California; and, in 2009, it acquired Interwoven, Inc., in San Jose, California. According to an August  
6 19, 2019 article in the *Financial Times*, Dr. Lynch and a co-founder of Autonomy “took turns living in  
7 Silicon Valley, often for six months at a time,” in the days after the Verity acquisition. The article  
8 quoted him as saying: “One of the key driving forces of the company was to go and live out there [in the  
9 Silicon Valley, in the United States].”

10           21.     The same *Financial Times* report stated that, as of August 2009, Dr. Lynch retained a  
11 home in San Francisco. The Government is aware that, during the relevant period, 2009-2011, Dr.  
12 Lynch’s wife, Angela Bacares, was a United States citizen. Ms. Bacares renounced her United States  
13 citizenship on May 21, 2013, only during this criminal investigation.

14           22.     As of July 2011, 1744 of Autonomy’s 2704 employees (about 65%) were in the United  
15 States. Autonomy’s United States employees carried out sales, marketing, finance, operations, legal,  
16 research and development, technology, and other functions on behalf of the company.

17           23.     Besides its San Francisco headquarters and other United States offices, Autonomy had  
18 United States shareholders, including TIAA-CREF, Fidelity Investments, and Vanguard Group. At the  
19 end of July 2011, approximately 47% of Autonomy shares were owned in the United States.

20           24.     Autonomy had many United States customers, ranging from Bank of America to federal  
21 government agencies like the United States Department of the Interior. By 2010, approximately \$592  
22 million of Autonomy’s approximately \$870 million in (alleged) total revenues – more than 68% – was  
23 generated in the United States from sales managed by its One Market Street headquarters in downtown  
24 San Francisco, California.

25           25.     During the fraud scheme (2009 through September 2011), Dr. Lynch travelled to the  
26 United States no fewer than eight times and spent no fewer than 129 days in the United States. He  
27 traveled each January to Miami, Florida, for Autonomy’s annual sales kick off. He spent the better part  
28

1 of March and April each year in the United States. And he traveled twice to San Francisco after the HP  
2 deal was announced but before it closed.

3 26. Dr. Lynch committed multiple overt acts in furtherance of the alleged conspiracy while in  
4 the United States. For example on or about April 21, 2010, while in the United States, Dr. Lynch stated  
5 on a phone call for analysts and investors following Autonomy securities “[w]e have very little interest  
6 in just selling hardware . . . what we are not doing here is acting as a generic company that resells  
7 hardware like Morse or something like that. Obviously, those people do that business and we have no  
8 interest in it.” In truth, Autonomy was selling millions of stand-alone hardware at a loss. In late March  
9 2010, from the United States, Dr. Lynch emailed Mr. Hussain and Mr. Egan multiple times to pressure  
10 them to meet sales forecasts. And, as described below, Dr. Lynch met in the United States with at least  
11 three potential buyers of Autonomy, including Cisco Systems, Inc. (“Cisco”), Oracle Corporation  
12 (“Oracle”), and HP.

13 27. Mr. Hussain, Dr. Lynch’s co-conspirator, also made frequent trips to the United States to  
14 carry out the fraud. In 2009 and 2010, for example, Mr. Hussain participated in road shows with  
15 investors in the United States as part of the scheme. In October 2009, to further the scheme, Mr.  
16 Hussain traveled to San Francisco to acquire (and overpay for) a United States reseller whose debts  
17 Autonomy needed to erase. That month, Mr. Hussain met with Mr. Egan in San Francisco to approve  
18 payments related to the fraud scheme. In the fourth quarter of 2009, as part of the scheme, Mr. Hussain  
19 met in the United States with Morgan Stanley, a key counterparty, hardware purchaser, and investor.

20 28. In November 2010, Mr. Hussain met in the Bay Area with Joel Scott, Autonomy’s United  
21 States-based general counsel, and discussed the pressure Mr. Hussain was under to hit revenue numbers  
22 at the expense of Autonomy’s long-term planning. The same month, Mr. Hussain met with Mr. Scott  
23 and a United States counterparty in New York to discuss the scheme. In December 2010, Mr. Hussain –  
24 together with Mr. Scott and Mr. Egan – met in New York with Bank of America about a deal on which  
25 Autonomy wrongly recognized revenue.

26 29. While in New York in February 2011, Mr. Hussain ordered that a false management  
27 representation letter be signed and sent to Autonomy’s outside auditors. In April 2011, Mr. Hussain  
28 traveled to San Francisco to calm down a counterparty who feared consequences from a backdated

1 agreement with Autonomy in the United States. In August 2011, Mr. Hussain and Mr. Scott had another  
2 fraud-related meeting in San Francisco.

3 30. The Superseding Indictment charges fourteen wires that originated from or terminated in  
4 the United States. But those are just a small subset of the wires to or from the United States that  
5 furthered the scheme. The jury in the Hussain trial had more than a hundred emails between Mr.  
6 Hussain and United States contacts. Dr. Lynch likewise emailed contacts in the United States as part of  
7 the scheme, including emails with HP's senior management during HP's due diligence process between  
8 June and August 2011, as discussed below. Autonomy employees under Dr. Lynch and Mr. Hussain  
9 emailed repeatedly with United States "value-added resellers," whose participation was essential to the  
10 fraud.

11 31. When ties to Silicon Valley served his purposes, Dr. Lynch was keen to emphasize them.  
12 According to the August 19, 2009 *Financial Times* article, Dr. Lynch said: "I am on the phone to US  
13 management 20 times a day." Mr. Egan, from the United States, testified at the *Hussain* trial that he had  
14 a "high level of interaction" with Dr. Lynch. Mr. Hussain had more than a thousand phone calls with  
15 Mr. Egan during the fraud.

16 32. On top of the emails and phone calls by Dr. Lynch and Mr. Hussain, Autonomy  
17 engineered and executed more than a dozen fraudulent end-of-quarter transactions with United States-  
18 based companies. Each transaction required emails and calls to, from, and within the United States;  
19 each involved transfers to or from United States bank accounts. For example, as part of the fraud, in or  
20 about January 2010, Dr. Lynch had Autonomy buy MicroLink, which was based in the United States.  
21 Marc Geall, who handled investor relations for Autonomy, testified in the *Hussain* trial that MicroLink  
22 was a United States "federally cleared business . . . [that] would enable Autonomy to sell more  
23 effectively into the U.S. Government."

24 33. In addition, to further this scheme, Dr. Lynch and Mr. Hussain retaliated against United  
25 States employees who raised questions. In or about July 2010, Lynch, by phone, induced Mr. Scott,  
26 Autonomy's United States-based general counsel, to fire a United States employee named Brent  
27 Hogenson, who Dr. Lynch thought was a whistleblower. Mr. Hussain personally ordered the firing of  
28 two lower-level accountants in the United States who appeared to be affiliated with Mr. Hogenson.



1 34. Finally, as detailed further below, much of the activity regarding the acquisition of  
2 Autonomy by HP took place in the United States. Dr. Lynch negotiated with HP representatives in the  
3 United States, Autonomy entered into agreements with HP to complete the acquisition, the vast majority  
4 of HP's due diligence was conducted by HP executives in the United States, and virtually all of the  
5 relevant decision-makers on HP's end made their decisions from the United States.

6 **Chronology of the acquisition**

7 35. To assist further on where the "substantial measure" of Dr. Lynch's "relevant activity"  
8 was performed, and also because it has relevance to where the loss or harm occurred and was intended  
9 to incur, as well as other forum bar factors, we provide the following chronology relating to the  
10 acquisition.

11 36. Frank P. Quattrone, a United States investment banker with Qatalyst Partners, who  
12 specializes in technology companies, played a significant role in bringing about the HP acquisition of  
13 Autonomy.

14 37. On or about October 6, 2010, Autonomy announced it would miss its third quarter 2010  
15 projected earnings and downgraded expectations for the fourth quarter of 2010. That day, one of Mr.  
16 Quattrone's associates alerted others at Qatalyst: "Spoke to one of Autonomy's major shareholders.  
17 Message: If you wanted to get hired by [Autonomy], TODAY is the day to have FPQ [i.e., Quattrone]  
18 email Mike [Lynch] and offer some help. UK institutions would sell at a 'regular' premium now, and  
19 Mike is sh... scared that he could miss Q4, not be able to announce an acquisition in the USA, and have  
20 his [s]tock continue to drift." Later that day, Qatalyst identified potential buyers as IBM, Microsoft, HP,  
21 Oracle, EMC, Google, Cisco, and Dell – all United States-based technology companies.

22 38. Mr. Quattrone reached out to Dr. Lynch that day, and Dr. Lynch replied "who is going to  
23 come knocking." When Mr. Quattrone suggested top buyers might pay a 70% premium, Dr. Lynch  
24 replied "the strategy should be far more about coaxing the right buyer than any futile attempt at bid  
25 defence." He suggested that if a buyer were to offer cash of over £26 per share, it would be like  
26 "offering a native American[] chief [three] rifles and some firewater in return for Dakota [meaning] the  
27 shareholders would not allow the deal to be stopped."  
28

1           39.     In or about November 2010, Dr. Lynch authorized Mr. Quattrone to solicit interest in  
2     Autonomy from major technology companies headquartered and incorporated in the United States and  
3     traded on United States exchanges.

4           40.     On or around December 22, 2010, Mr. Quattrone met with Ned Hooper, the Chief  
5     Strategy Office of Cisco. At the time, Cisco was incorporated in the United States and maintained a  
6     principal place of business in San Jose, California, and its shares were publicly traded on a United States  
7     exchange. In advance, Qatalyst prepared a 22-page PowerPoint touting Autonomy’s “key financial  
8     metrics,” “key fundamental differentiators,” and “competitive positioning” and culminating in a slide  
9     titled “Cisco acquires Autonomy.” At the meeting, Mr. Quattrone “pitched [Autonomy] as potentially  
10    the most important asset that will make a difference to the next decade of leadership among system  
11    vendors, and a chance to buy the Oracle of the next generation given the importance of unstructured  
12    data.” Mr. Quattrone noted that Mr. Hooper was “interested in meeting Lynch (getting dates from Mike  
13    for possible US visit).”

14          41.     On or about December 22, 2010, Mr. Quattrone emailed Dr. Lynch regarding Qatalyst’s  
15    fees based on “the size of the potential transactions” and stated that he was “[l]ooking forward to getting  
16    some dates for your next visit to the US.”

17          42.     On or about January 13, 2011, Dr. Lynch spoke to Mr. Quattrone. Dr. Lynch affirmed  
18    that “[h]e is OK with [Qatalyst] reaching out to buyers.” Dr. Lynch said: “He will be in the US for a  
19    month starting around March 11 and could pop over easily if there is something serious to discuss.” He  
20    also stated: “He thinks HP is the best buyer . . . [and] Dell, Intel and Cisco are interesting.”

21          43.     On or about January 24, 2011, Mr. Quattrone emailed Mr. Hooper, the Cisco senior  
22    executive: “Have you given more thought to Autonomy . . . . Mike Lynch (CEO) will spend a month in  
23    the US starting in March and we can arrange a meeting then if not before.”

24          44.     On or about January 26, 2011, Mr. Quattrone emailed the President of Oracle two  
25    PowerPoint presentations touting Autonomy and stating “I believe [Autonomy is] a very strategic asset  
26    that could alter the balance of power in the industry for whoever might acquire it. And . . . it trades at  
27    less than 20x earnings . . . . Please let me know if you would like me to follow up . . . .” Oracle was  
28

1 incorporated in the United States and maintained a principal place of business in Redwood City,  
2 California, and its shares were publicly traded on a United States exchange.

3 45. On or about January 26, 2011, Mr. Quattrone emailed Ray Lane, the Chairman of the  
4 Board of Directors of HP, attaching two PowerPoints touting Autonomy. Mr. Quattrone said: “Hi Ray,  
5 nice to catch up with you. Here are the slides as discussed. Please let me know how best to follow up.”  
6 One PowerPoint, entitled “Autonomy Overview,” described the company and summarized its recent and  
7 projected financial results. The other, titled “Autonomy Trading and Financial Statistics,” showed  
8 Autonomy’s stock price performance and set out various metrics, including the implied premiums and  
9 multiples if it were purchased at different prices.

10 46. HP’s Chairman forwarded the PowerPoints to Shane Robison, HP’s Chief Strategy and  
11 Technology Officer. That same day, Mr. Quattrone emailed Mr. Robison separately stating: “When we  
12 met late last year you suggested that we give you an early warning about specific situations where we  
13 have some unique insight that things may be changing. There is one I would like to discuss with you  
14 confidentially.”

15 47. On or about February 1, 2011, Mr. Quattrone emailed Mr. Robison a link to Autonomy’s  
16 press release announcing its 2010 financial results.

17 48. On or about February 3, 2011, Autonomy and HP conducted a video conference. On the  
18 Autonomy side, Dr. Lynch and Mr. Hussain participated, as did Mr. Quattrone. On the HP side, several  
19 executives in Palo Alto participated, including Mr. Robison, Brian Humphries (the head of HP’s  
20 Corporate Development Team), and Andy Johnson. Dr. Lynch gave a presentation including basics  
21 about the company and some high-level discussion about Autonomy’s financial performance.  
22 Following the video conference, Mr. Quattrone sent Mr. Robison updated versions of the two  
23 PowerPoints he had sent previously; the updated PowerPoints took account of Autonomy’s 2010  
24 financial results, which had been issued on February 1. (This video conference was one of the wires for  
25 which Mr. Hussain was convicted, meaning the jury found beyond a reasonable doubt it was for the  
26 purpose of executing the scheme to defraud.)

27 49. Following the videoconference, Mr. Robison told Leo Apotheker, HP’s CEO: “Just  
28 finished with CEO. Very interesting conversation. Would love to get some time to discuss . . . .”

1           50.     On or about February 9, 2011, Mr. Quattrone reported to Qatalyst: “SR [i.e. Robison] had  
2 a good talk w[ith] his CEO, they are interested in proceeding, would like to engage and get going, would  
3 like to do another video conf.” He added: “I just updated our client [i.e. Dr. Lynch] and said that with  
4 this news we should create a bit more of a sense of urgency with other buyers, to which he agreed.”

5           51.     On or about February 10, 2011, Qatalyst reached out to Mr. Humphries in the United  
6 States and stated or suggested a “formal process” “is likely to be initiated in the coming weeks.” Mr.  
7 Humphries concluded: “Looks like Atlantis [HP’s code word for Autonomy] is ready to listen to offers.”

8           52.     On or about March 2, 2011, Mr. Quattrone arranged for Dr. Lynch to meet further with  
9 Hooper (the Cisco representative) in the United States.

10          53.     On or about March 3, 2011, HP and Autonomy entered into a mutual non-disclosure  
11 agreement. The agreement stated that Autonomy “and HP are evaluating entering into a potential  
12 business transaction . . . under which each may disclose certain information . . . to the other.”

13          54.     On or about March 4, 2011, Dr. Lynch participated in a second video conference call  
14 with at least six HP executives in Palo Alto, including Mr. Robison, Mr. Humphries, and Mr. Johnson.  
15 Mr. Hussain attended in person in Palo Alto, along with Mr. Quattrone. Prior to the meeting, Dr. Lynch  
16 directed Mr. Hussain to prepare answers to HP’s questions about Autonomy’s lines of business and  
17 financial statements. Mr. Quattrone advised Dr. Lynch and Mr. Hussain: “above all, feed off their  
18 intense rivalry with Oracle by planting seeds wherever possible that you could uniquely enable them to  
19 outflank and crush Oracle over the next 10-20 years :).” Mr. Quattrone provided a lengthy PowerPoint  
20 prepared by Autonomy management touting its financial performance and other metrics. During the  
21 meeting, Mr. Robison emailed Mr. Apotheker that he was hearing “[p]retty compelling stuff” about  
22 Autonomy. (This video conference was one of the wires for which Mr. Hussain was convicted, meaning  
23 the jury found beyond a reasonable doubt it was for the purpose of executing the scheme to defraud.)

24          55.     On or about March 18, 2011, HP employees based in Palo Alto prepared, and shared with  
25 Mr. Apotheker, financial analyses comparing possible acquisitions of Autonomy and another software  
26 company based in the United States, Tibco Software, Inc. (“Tibco”).

1           56.     On or about April 1, 2011, Dr. Lynch and Mr. Quattrone met in the San Francisco Bay  
2 Area with Oracle’s head of Mergers and Acquisitions and its President. Oracle considered the  
3 PowerPoint it had been provided to be a “sales pitch” and that “Autonomy had been shopped to Oracle.”

4           57.     On or about April 1, 2011, Mr. Quattrone emailed Mr. Robison regarding “Mike Lynch”  
5 to “check in with you about possible next steps.” He noted Dr. Lynch was in California through April  
6 14. Mr. Robison and Mr. Quattrone ultimately scheduled a meeting between Dr. Lynch and Mr.  
7 Apotheker. Mr. Quattrone added: “I was planning to accompany Mike but let me know if you think it  
8 would be more effective to have it be just the two of them.”

9           58.     On or about April 8, 2011, Dr. Lynch met in the San Francisco Bay Area with Bill  
10 Veghte, HP’s Executive Vice President for HP Software. Mr. Veghte reported to Mr. Robison and  
11 others: “[Dr. Lynch] clearly sees that HP’s lack of assets gives us maneuvering room to do something  
12 really exciting. He of course feels that there is natural alignment as a result whether it be partnering or  
13 whatever.”

14           59.     On or about April 12, 2011, Dr. Lynch met for about an hour in HP’s Palo Alto office  
15 with Mr. Apotheker. The meeting was arranged by Mr. Quattrone. Dr. Lynch and Mr. Apotheker  
16 exchanged views about the state of the software business. Dr. Lynch spoke about Autonomy’s strong  
17 financial performance and how proud he was of its recently announced 2010 results. Among other  
18 things, Dr. Lynch talked about Autonomy’s strong organic growth, its high margins, and its “pure  
19 software” model. Mr. Apotheker came away with the impression that Autonomy was a well-run, very  
20 successful company, and was impressed with Dr. Lynch’s description of Autonomy’s technology and  
21 his understanding of the software industry.

22           60.     Mr. Quattrone reported on the meeting as follows: “Mike and Leo just met 1 on 1. Mike  
23 called me with a recap, thought mtg went very well. Leo was charming and his vision was spot on  
24 according to Mike who rarely says that about anyone. Leo was positively surprised by A[utonomy]’s  
25 positioning as managing the world’s largest legally compliant cloud and its position of trust/highly  
26 secure with financial services sector. Leo is humming the mantra that the cloud is more important than  
27 he thought. By the end of the meeting Leo was basically in sell mode, said he wants to do the deal but  
28

1 can't start a conversation on it for 2 months (did not explain why). I will circle back with Shane (who  
2 did not attend) to get their side of it.”

3 61. On or about April 15, 2011, when asked by Mr. Apotheker about acquisition possibilities,  
4 Mr. Robison, in Palo Alto, stated: “My gut would be to get Atlantis [Autonomy] done asap and work on  
5 Singapore [Software AG, another acquisition candidate for HP] on a more delayed schedule. Time may  
6 also bring Tacoma [Tibco] back around. I view all of Atlantis as goodness and view some of the  
7 Singapore portfolio as a questionable.” Mr. Apotheker replied stating “[w]e need to have a structured  
8 discussion and decision on our capital options[] and then move on the decisions. Please gather [CFO]  
9 Cathie [Lesjak] and . . . let's discuss the list of all our M+A needs, prioritize them for execution.”

10 62. In April and May 2011, HP employees based in Palo Alto reviewed Autonomy's publicly  
11 available financial statements and developed models of possible synergies HP could achieve by  
12 acquiring Autonomy and comparing possible acquisitions of Tibco, Software AG, and Autonomy.

13 63. On or about April 26, 2011, Mr. Quattrone emailed Dr. Lynch: “Very good update call  
14 with Shane [Robison] just now. Will cover details with you live but for the time being, no need to  
15 provide any follow up support prior to its upcoming board meeting (third week in May). Your name  
16 came up in another conversation earlier today as well. . . . you are a busy boy!”

17 64. HP's Strategy and Corporate Development (“SCD”) group, based in Palo Alto, developed  
18 detailed presentations on Autonomy and Software AG for use by the Technology and Finance and  
19 Investment Committees of HP's Board of Directors. On or about May 25, 2011, in Palo Alto, both  
20 committees discussed Autonomy as a potential acquisition target for HP. On or about May 26, 2011, in  
21 Palo Alto, HP's Board of Directors discussed “potential divestitures coupled with acquisitions such as  
22 [Autonomy]” and “supported the exploration by management of certain transformative initiatives.”

23 65. In late May 2011, Dr. Lynch inquired by email of Mr. Quattrone: “Any updates from  
24 Palo Alto?”

25 66. On or about May 26, 2011, Mr. Quattrone alerted Dr. Lynch: “Just heard from Palo Alto,  
26 are you able to chat now?” Mr. Quattrone subsequently reported that Mr. Robison wanted to come and  
27 see Dr. Lynch and “spend time on his vision and answering any questions you have the company, vision,  
28

1 strategy and their process forward. He is looking to have a chance to bond with you and build a  
2 personal relationship, and will ask questions about your desired process/constraints.”

3 67. On or about May 29, 2011, Mr. Apotheker directed HP employees in Palo Alto to prepare  
4 a financial analysis of various options available to HP that included either an acquisition of Autonomy,  
5 Software AG, or both.

6 68. On or about May 31, 2011, Dr. Lynch made arrangements to meet with Mr. Robison at  
7 Hartwell House in the London area.

8 69. On or about May 31, 2011, Mr. Robison wrote Mr. Apotheker: “Just talked to Frank,  
9 planning for my meeting with Mike on Thursday in London. One question he is pushing is timing. I  
10 told him we have a lot of work to do and thought best case we should try and get prepared to present a  
11 comprehensive case to our BOD in July when they meet. He seemed ok with that.”

12 70. On or about June 2, 2011, Dr. Lynch met with Mr. Robison at Hartwell House in the  
13 United Kingdom. Mr. Robison described it to Mr. Quattrone as a “[v]ery good meeting.”

14 71. On or about June 9, 2011, Mr. Robison made arrangements for Mr. Apotheker to meet  
15 further with Dr. Lynch. Those efforts culminated on June 16, 2011, when the two met in Paris for about  
16 1.5 to 2 hours. The two discussed the possibility of a combination (e.g., a merger) between HP and  
17 Autonomy. Dr. Lynch said that Autonomy had completed a very successful first quarter (of 2011) and  
18 that its second quarter (then in progress) was looking good. At this meeting or on another occasion, Dr.  
19 Lynch and Mr. Apotheker discussed Autonomy’s appliance sales; Dr. Lynch, though, did not mention  
20 non-appliance hardware sales. Dr. Lynch made it clear he viewed HP as the ideal partner. He also  
21 expressed concerns about interlopers – i.e., companies that could attempt to derail any deal.

22 72. On or about June 17, 2011, HP and Autonomy scheduled an in-person partnership  
23 discussion for June 29, 2011 in London.

24 73. On or about June 27, 2011, Mr. Robison emailed Dr. Lynch a set of due diligence  
25 questions for the upcoming partnership discussion. He noted that he and four other HP employees (all  
26 based in Palo Alto) were coming from the HP side.

27 74. On or about June 29, 2011, Dr. Lynch met with the Palo Alto-based HP executives,  
28 including Mr. Robison and Manish Sarin, in London. Mr. Robison reported to Mr. Apotheker: “We had

1 a REALLY good meeting today. More opportunity than I thought. They have a very good team! Over  
2 dinner Mike had two interesting concerns/questions. One, Bill [Veghte, HP's software head]. Seems he  
3 has had a less than good experience there. I told him not to worry . . . . Second, surprisingly, what am I  
4 going to do . . . . We discussed the plan to get his shares . . . don't think that is a problem. We really  
5 need to get a clear answer coming out of the BOD in July. Will organize meetings between now and  
6 then to continue to build out a plan. He likes Marge [Breya, an HP employee in the United States] and I  
7 will ask her to visit them for a session on how to position going forward. This is our deal if we want it.  
8 Mike needs to be in a clear leadership role which I think is a GOOD thing. I would fold Vertica into this  
9 going forward and have a REAL leadership position on a combination of search and analytics . . . .”

10 75. On or about July 14, 2011, Mr. Quattrone reported to his Qatalyst colleagues: “Shane  
11 says they have everything they need, tweaking assessment of synergies, excitement about moving  
12 forward is increasing. Hopes post board meeting next week to move forward to a formal engagement  
13 and move ‘very fast’ to detailed due dil with goal of announcing transaction by August 18, date of  
14 earnings announcement. Spoke to Mike, told him we should plan to discuss due dil prep plus a plan to  
15 deal with other potential suitors.”

16 76. On or about July 19 to 21, 2011, HP's board, in Palo Alto, authorized Mr. Apotheker to  
17 pursue an acquisition of Autonomy with a maximum acquisition price of \$11.7 billion.

18 77. That day, Mr. Quattrone reported to a Qatalyst colleague: “[HP] got approval to proceed,  
19 wants to start detailed due dil next week in UK. I asked about price and he said consistent w[ith] what  
20 he had told CEO before. Start conversation at normal UK premium range of 30-35 pct. I told him that  
21 sounded lower than what I believe would get them excited. He said he had told CEO that range before  
22 and he hadn't pushed back. Told him that was not consistent with my understanding, that I would have  
23 a chat w[ith] CEO and get back to him.”

24 78. On or about July 22, 2011, Mr. Quattrone “[h]ad another chat w[ith] buyer . . . . Told  
25 him client wouldn't be interested at that range and needs to know in advance they are committed at  
26 much higher level before taking any next steps. . . . Reminded him that when we got started in late  
27 Jan/early Feb, with target stock at 15-15.50, that it would take at least \$10B check (and maybe more if  
28 competitive), and to think about 25 or better, and he said \$10B yes, want to make sure it wouldn't take



1 \$15B. 25 implied 60-68% premium at the time. . . . Told him at that price deal would be accretive  
2 before synergies and my opinion that it would be viewed as home run as they would have acquired one  
3 of the most strategic SW cos [i.e. software companies] on planet for a price below which the other  
4 darlings trade before any premium. Told him we wanted to hear back prior to end of Tues as co is  
5 reporting Weds.”

6 79. On or about July 22, 2011, Mr. Apotheker spoke to Dr. Lynch by phone and told him Mr.  
7 Robison would set up a meeting among the three of them.

8 80. On or about July 23, 2011, HP began to engage Palo Alto-based professionals at KPMG  
9 to advise it on the acquisition.

10 81. On or about July 24, 2011, Mr. Quattrone reported to his Qatalyst colleagues: “Buyer  
11 CEO called [Dr. Lynch], very friendly, big believer in combination, very positive and reassuring  
12 message but no specifics on price.”

13 82. On or about July 26, 2011, Mr. Robison emailed Dr. Lynch detailed written due diligence  
14 questions.

15 83. That day, Mr. Quattrone reported that “[Mr. Robison] is proposing to fly over Weds night  
16 and take our CEO to meet him in Normandy on Thursday, requesting no bankers. If discussions go  
17 well, will ask buyer for LOI [i.e., letter of intent] with price range and take that to board, and may start  
18 dd late this week. Still no specific price confirmation from buyer whom I will chase today.”

19 84. On or about July 27, 2011, Mr. Quattrone emailed Mr. Robison a copy of a press release  
20 announcing Autonomy’s second quarter 2011 financial results. Mr. Quattrone boasted: “Stock up 6%  
21 as of now to 17.60.”

22 85. On or about July 28, 2011, Dr. Lynch met with Mr. Apotheker and Mr. Robison in  
23 Deauville, France. The meeting lasted a few hours. They discussed the reasons why an acquisition  
24 would make sense for both sides and other matters, including Dr. Lynch leading HP’s other software  
25 programs. The parties also discussed price. Dr. Lynch pushed for £27 per share. Ultimately, the parties  
26 agreed that further discussions would be held within a price range between £24.94 and £26.94. The  
27 figures were subject to due diligence efforts and board approval.

1           86.     That day, Mr. Robison reported to Mr. Sarin: “we are moving forward aggressively. [Dr.  
2 Lynch] thinks we can do a lot of the work next week from a data room and conference calls so you guys  
3 should be able to work from home [in Palo Alto]. We need to take a look at the diligence list and trim  
4 the things we have already covered or don’t really need.”

5           87.     On or about July 28, 2011, Mr. Quattrone emailed Dr. Lynch: “Any update?” Mr.  
6 Quattrone reported later: “Highly confidential. Handshake reached, awaiting LOI. Stay tuned, no action  
7 item yet.”

8           88.     On or about July 28, 2011, Mr. Robison signed and provided to Autonomy a non-binding  
9 proposal indicating HP was prepared to make an all-cash offer to buy Autonomy’s shares at a price  
10 between £24.94 and £26.94. The agreement read: “Hewlett-Packard Company (‘HP’) . . . [is] pleased to  
11 submit this indicative non-binding proposal . . . . HP is the world’s largest information technology  
12 company . . . . We are excited by the opportunities for Autonomy and see prospects to accelerate the  
13 Company’s development as part of HP’s global platform. . . . Subject to the pre-conditions set out  
14 below, HP would be prepared to make an all cash offer . . . . We envisage that an offer would be funded  
15 from HP’s existing cash resources and new and existing debt facilities.”

16           89.     On or about July 29, 2011, Mr. Quattrone wrote to his partners: “Buyer is worried we  
17 will shop deal and particularly worried about O [i.e., Oracle] as an interloper . . . . Client does not want  
18 us to discuss with third parties. Very important we say absolutely nothing to anyone about this. Parties  
19 reached handshake on range between 26 and 27—anything at/above 26 has our client’s support, target is  
20 to announce Aug. 18. Final price to be determined by estimate at last moment on what will be required  
21 to ensure shareholder support . . . . Draft LOI will have a somewhat wider range (approx. 25-27). Buyer  
22 committed to put an initial bid of at least 25. According to our client, Buyer is being ill-advised by local  
23 banker to put in lower initial bid and then add to it rather than bid its best price preemptively. Our client  
24 trying to talk them out of it and imply put in best price and get irrevocables. . . . Principals met today to  
25 outline schedule going forward and being to address main high level topics. Data room being put  
26 together by mid day Monday . . . .”

1           90.     On or about July 29, 2011, Mr. Robison wrote Mr. Sarin and two other HP executives: “It  
2 looks like we may be able to do what we need from Palo Alto next week using the Data Rooms and  
3 conference calls.”

4           91.     That day, Mr. Robison, Mr. Sarin, and others met with Dr. Lynch, Mr. Hussain, Andrew  
5 Kanter (Autonomy’s General Counsel), and Pete Menell (another Autonomy executive) at the Berkeley  
6 Hotel in London. The meeting lasted about four hours. The group decided that due diligence would be  
7 conducted by HP from California, and the meeting would be used to decide how and when information  
8 would be delivered to HP, rather than as a substantive discussion of the information itself. Mr. Sarin  
9 went through HP’s due diligence question list with Dr. Lynch and the others.

10          92.     Beginning August 1, 2011, HP executives located in the United States conducted  
11 extensive daily due diligence calls with Autonomy executives. Dr. Lynch participated in some of the  
12 diligence calls. The vast amount of HP’s due diligence was performed by HP executives in the United  
13 States.

14          93.     On or about August 3, 2011, HP and Autonomy executed an agreement prohibiting  
15 Autonomy from soliciting another buyer. The agreement provided that “[i]n the event that HP is unable  
16 to confirm promptly upon request at any time by Autonomy that its intended offer price in relation to the  
17 Proposed Transaction is within the range set out in . . . its indicative non-binding proposal dated 28 July  
18 2011” the non-solicitation provision shall terminate.

19          94.     On or about August 3, 2011, Mr. Robison and Dr. Lynch spoke by phone to discuss the  
20 proposed transaction.

21          95.     On or about August 5, 2011, HP’s board met. A steep decline in Autonomy’s share  
22 trading price had begun in early August and caused the premium over the share price implied by the  
23 price range discussed in Deauville to change significantly. At the conclusion of the meeting, despite the  
24 volatility, the Board agreed that negotiations should go forward within the range that Mr. Robison and  
25 Mr. Apotheker discussed with Dr. Lynch in Deauville.

26          96.     On or about August 8, 2011, Dr. Lynch and Mr. Robison met in London. After the  
27 meeting, Mr. Robison advised Mr. Apotheker: “Dinner was an interesting experience...I did leave Mike  
28 with the notion that the current market conditions are a serious problem for the deal. He told me that the

1 deal rumor has resurfaced but is not specific enough to take action yet. We agreed to meet more this  
2 week to discuss both.”

3 97. On or about August 9, 2011, Dr. Lynch emailed Mr. Robison with a due diligence update.  
4 The update indicated that “we’ve had 28 group calls covering at least as many hours. . . . Documents  
5 provided total over 750 and documents alone (no video demos) are over 1gb.”

6 98. On or about August 12, 2011, HP’s Board met to discuss the possible Autonomy  
7 acquisition. The Board was advised the due diligence process was continuing and no material issues had  
8 been identified. The Board agreed that HP should continue to pursue Autonomy, but in a price range of  
9 £25 to £25.50.

10 99. On or about August 14, 2011, Mr. Apotheker and Mr. Robison spoke further to Dr.  
11 Lynch about price. Dr. Lynch wanted £26.00 per share. Mr. Apotheker refused. Eventually, Dr. Lynch  
12 agreed that he would recommend £25.50 to the Autonomy board and said that he expected the offer  
13 would be accepted.

14 100. On or about August 14, 2011, Dr. Lynch emailed Robison and Apotheker stating “I have  
15 spoken to some of the board members and I can confirm that I believe the following would be a  
16 transaction that our board would consider and recommend . . . Price of 2550p per share for a transaction  
17 announced on the 18<sup>th</sup> of August, this price now being fixed.”

18 101. On or about August 16, 2011, HP’s Board met to discuss the Autonomy acquisition. It  
19 received an update on the due diligence that had been performed from Palo Alto over the last few weeks.  
20 Lesjak, HP’s CFO, and Michael Holston, its General Counsel, voiced concerns about proceeding with  
21 the acquisition. Ms. Lesjak has testified: “I had some reservations about the timing and price of the  
22 proposed acquisition, particularly with respect to how stockholders might react and other challenges  
23 facing the Company at that point in time.” The meeting adjourned without the Board taking action on  
24 the Autonomy acquisition, though, according to the minutes, “the Board signified its consensus support  
25 to proceed[ing].”

26 102. On or about August 17, 2011, Autonomy’s stock price was £15.58, which equates to a  
27 market capitalization of approximately \$6.3 billion.

1           103. On or about August 18, 2011, HP’s Finance and Investment Committee met and was  
2 provided a presentation on the terms of the offer for Autonomy and information on the due diligence  
3 findings. The committee reviewed how the contemplated Autonomy offer was to be financed and  
4 received confirmation HP had the necessary financial resources to enable it to implement the offer. The  
5 Finance and Investment Committee approved going forward with the acquisition.

6           104. After that meeting, HP’s full Board convened. The Board was provided valuation  
7 information prepared by HP management (based on Autonomy’s falsified financial statements), which  
8 valued Autonomy at \$9.5 billion on a standalone basis and \$17.08 billion when “synergies” – HP  
9 management’s assessment of increased value that could be achieved through a combination of the two  
10 companies – were considered. The Board unanimously approved the acquisition.

11           105. On or about August 18, 2011, HP and Autonomy announced the offer to buy all  
12 Autonomy shares for £25.50 (\$42.11) per share, or \$11.7 billion. The announcement stated that the  
13 offer “will be funded from a combination of HP’s existing cash resources and debt financing [described  
14 in the following paragraph] which has been arranged by Barclays Capital.” The announcement  
15 explained the potential strategic and financial benefits to HP, including “enhanc[ing] HP’s financial  
16 profile” and being “[a]ccretive to HP’s Earnings.”

17           106. On or about August 18, 2011, HP entered into a new £5,000,000,000 364-Day Bridge  
18 Credit Agreement with Barclays Bank plc (“Barclays”), as administrative agent. The agreement  
19 provides that “Borrower [HP, not HP Vision, referred to below] has requested that the Lenders [i.e.,  
20 Barclays] provide a term loan credit facility to the Borrower to finance its acquisition of the Target [i.e.,  
21 Autonomy] in an amount equal to £5,000,000,000.” The agreement provided limits on the use of  
22 proceeds for the Autonomy acquisition. The agreement was to be governed by the law of the State of  
23 New York.

24           107. To complete the acquisition, HP used Hewlett-Packard Vision B.V. (“HP Vision”), an  
25 indirect, wholly owned subsidiary of HP. HP Vision was a “Bidco,” i.e., an acquisition vehicle, formed  
26 for the purpose of this specific transaction and with no funds, assets, or operations of its own. HP  
27 Vision was incorporated under the laws of The Netherlands on August 15, 2011 – three days before the  
28 public announcement of HP’s offer.

1           108. In connection with the acquisition, Dr. Lynch and Mr. Hussain signed letters committing  
2 to sell their shares in the contemplated HP acquisition. Each represented and warranted that “any  
3 information provided by me for inclusion in the Press Announcement, the Offer Document, and any  
4 other announcement made or document issued in connection to the Offer, is and will be true and  
5 accurate in all respects and not misleading in any respect.” On August 18, 2011, HP incorporated false  
6 and misleading information provided by Dr. Lynch and Mr. Hussain in a press release it made to the  
7 public. Among other things, the release stated: “Autonomy’s strong growth and profit margin profile  
8 complements HP’s efforts to improve its business mix by focusing on enterprise software and solutions.  
9 Autonomy has a consistent track record of double-digit revenue growth, with 87 percent gross margins  
10 and 43 percent operating margins in calendar year 2010.” The Offer Documents also stated:  
11 “Autonomy continues to grow strongly and profitably, reporting record revenue in Q2 2011 of \$256  
12 million. For the six months to 30 June 2011, Autonomy reported revenue of \$476 million . . . . For the  
13 full year ended 31 December 2010, Autonomy reported revenue of \$870 million . . . .”

14           109. On or about September 27, 2011, before the Autonomy acquisition closed, Oracle stated  
15 publicly that Autonomy had been shopped to it and that it declined because the price was absurdly high.  
16 In response, Dr. Lynch said publicly “[i]f some bank happened to come with us on a list, that is nothing  
17 to do with us” and that Oracle’s statement was inaccurate. Some within Qatalyst expressed incredulity  
18 that Dr. Lynch “said what he said after he had a mtg with O [i.e., Oracle].” Mr. Quattrone told Dr.  
19 Lynch “[t]he last thing we need right now is any reason to slow down or derail the HP deal, so I would  
20 advise whatever response you may or may not choose to make be considered with that objective in  
21 mind. Sometimes discretion is the better part of valor.”

22           110. On or about October 3, 2011, sufficient Autonomy shareholders had accepted the offer,  
23 effectively closing the acquisition and triggering the payment obligations under the offer. Payments  
24 were approved by, among others, HP employee Andy Johnson in Palo Alto.  
25  
26  
27  
28

1 **The Forum Bar Factors Weigh in Favor of Extradition**

2 ***"The Place Where Most of the Loss or Harm Resulting from the Extradition Offences Occurred***  
3 ***or Was Intended to Occur"***

4 **(i) Loss and harm caused to HP and its shareholders**

5 111. The overwhelming majority of the loss or harm resulting from the extradition offenses  
6 occurred in the United States, in significant part because Dr. Lynch's and his co-conspirators' fraudulent  
7 statements ultimately induced HP, based in the United States and listed on the New York Stock  
8 Exchange, to affect the acquisition of Autonomy, at an overvalue measured in the billions of US dollars.

9 112. During the *Hussain* trial, one of the arguments advanced by the defense was that the  
10 impugned conduct on the part of Mr. Hussain and others was not material to the acquisition, and that HP  
11 would have proceeded with the acquisition even if it had been aware of it. This argument was roundly  
12 rejected by the trial judge, Judge Charles R. Breyer, when sentencing Mr. Hussain:

13 "The criminal conduct, as far as I'm concerned, as far as the jury was concerned,  
14 preceded the acquisition; and, in my view, had it been disclosed, the transaction itself  
15 would never have occurred. And, indeed, indeed I base that not only on the evidence in  
16 the record but based upon my [...] 50 years of experience of watching how corporate  
17 America proceeds, which is there are a system of basic checks and balances that exist in  
18 large corporations that ensure some degree of integrity and certainty in an uncertain  
19 process, and those checks and balances didn't work in this case. [...] [H]ad they worked,  
20 had it [i.e., the fraud] been disclosed, this transaction wouldn't have occurred because I  
21 can't imagine a large corporation acquiring an entity, paying the type of money that  
22 they're paying or paying something close to it, or even less, where they are aware that the  
23 books and records of that entity that is being acquired have been falsified..." See  
24 Transcript of Proceedings, *United States v. Hussain*, No. CR 16-462 (N.D. Cal. May 14,  
25 2019), ECF No. 562 at 46.

26 113. Autonomy underperformed during the first two quarters after the HP acquisition. Dr.  
27 Lynch was fired in or around May 2012.

28 114. On or about November 20, 2012, HP announced it had recorded an approximately \$8.8  
billion charge for impairment of goodwill and intangible assets within its software segment. HP stated  
the impairment charge was linked to serious accounting improprieties, disclosure failures and outright  
misrepresentations at Autonomy that occurred prior to HP's acquisition of Autonomy and the associated  
impact of those improprieties, failures and misrepresentations on the expected future financial  
performance of the Autonomy business over the long-term.

1 115. The loss and harm caused to HP by the fraud was a topic that was explored at some  
2 length during the sentencing process following Mr. Hussain’s conviction. On or about July 18, 2018,  
3 HP submitted a letter to the District Court describing “the impact that Mr. Hussain’s crimes have had on  
4 HP and our employees, management, and shareholders.” The letter described in relevant part:

5 “Founded in 1939 in Palo Alto, California, HP was one of the world’s best-known  
6 technology companies. In 2011, when HP acquired Autonomy Corporation plc  
7 (‘Autonomy’), it employed more than 349,000 men and women . . . . Hussain’s scheme  
8 to defraud caused HP to incur significant financial losses, but his fraud also damaged the  
9 trust that HP’s customers and shareholders had in the Company and its management. It  
has been a costly – and frankly, painful – process for the Company to work at restoring  
its brand and regaining the trust of its employees, shareholders, and the public. And the  
Company has expended tremendous resources to shine a light on the truth and achieve  
justice.

10 . . . .

11 “HP expended significant resources to evaluate – and ultimately, offer to acquire –  
12 Autonomy. HP’s due diligence team invested hundreds of hours in a good-faith  
13 effort to prepare and revise valuation models to estimate Autonomy’s value with and  
14 without HP’s synergies. Additionally, HP retained outside accountants and financial  
15 advisors to provide external analyses of Autonomy. In deriving these models and  
16 analyses, HP and its advisors relied on the accuracy, completeness, and truthfulness  
of Autonomy management’s representations about its business and its historical  
financial performance.

17 . . . .

18 Under no circumstances would HP have purchased Autonomy had HP known of  
19 Autonomy’s fraudulent conduct, much less the extensive nature of the conduct that  
20 Mr. Hussain and other former members of Autonomy management engaged in and  
concealed from HP. Former HP CFO Cathie Lesjak made that point crystal clear in  
her testimony, which occurred during the defense case-in-chief: *“I’m confident that if  
I had known about the fraud and that Leo [Apotheke] had known about the fraud,  
we wouldn’t have done the deal.”* Trial Tr., Apr. 18, 2018, at 5581:17- 19 (emphasis  
added).

21 . . . .

22 Mr. Hussain’s (and his co-conspirators’) fraudulent scheme had a substantial impact  
23 on HP. Not only did the fraud cause HP to overpay for Autonomy, but it also visited  
on HP lasting reputational injury.

24 On November 20, 2012, after discovering serious accounting improprieties at  
25 Autonomy, HP wrote down \$8.8 billion of the Autonomy asset. When HP  
26 announced the impairment, it disclosed that at least a majority of the impairment was  
attributable to Autonomy management’s fraud. HP’s shareholders were immediately  
27 harmed by the write down, with HP’s shares falling 13% on the day of the  
announcement.

28 The public’s reaction to the write-down announcement was swift and harsh. Without  
knowing any details about the fraud that Mr. Hussain and other former members of  
senior Autonomy management orchestrated (which, indeed, took years to uncover



1 fully), the media lambasted HP and its management, calling HP the “world’s biggest  
2 deflater” and stating that its handling of the acquisition was “the worst, most value-  
3 destroying deal in the history of corporate America.” At the time, the media also  
4 ridiculed HP for its explanation that Autonomy’s accounting improprieties were to  
5 blame for the write-down. Even though Mr. Hussain’s trial has now vindicated HP  
6 by showing that HP was, in fact, the victim of a sophisticated and carefully-plotted  
7 scheme to defraud, the damage has already been done. The fallout caused immediate  
8 harm to HP’s reputation.

9 It has been a time-consuming and resource intensive process for HP to vindicate  
10 itself and repair its reputation. . . . Relatedly, HP has incurred substantial costs  
11 associated with the investigation, including attorneys’ fees and forensic accounting  
12 fees, and has been forced to divert resources away from business operations, in  
13 responding to government queries and requests during the multi jurisdictional, multi-  
14 year investigations into Mr. Hussain’s fraud.

15 Mr. Hussain’s fraud has cost HP billions of dollars. . . . At a minimum, Mr.  
16 Hussain’s fraudulent conduct resulted in HP paying \$11.7 billion to acquire  
17 Autonomy, which was an overinflated price that Autonomy was only able to secure  
18 through the misrepresentations and concealments that Mr. Hussain and others made.”

19 116. In connection with the *Hussain* sentencing, the Government requested HP to calculate  
20 what the stand-alone value for Autonomy would have been, according to HP’s deal models, if  
21 Autonomy’s financial statements had been correctly stated, per the evidence presented in the trial.  
22 Using the correct accounting (as proven in the trial) rather than the false accounting reflected in  
23 Autonomy’s public filings, and making no adjustment for “synergies,” resulted in a \$1.7 billion to \$2.7  
24 billion reduction in the standalone value rendered by HP’s valuation model. In other words, based on  
25 this simple substitution of revenue figures (and without importing any other judgments or assumptions)  
26 Hussain’s fraudulent behavior induced HP to overvalue Autonomy by \$1.7 billion to \$2.7 billion.

27 117. At Mr. Hussain’s sentencing hearing on May 13, 2019, John Shultz, the General Counsel  
28 of HP addressed the District Court as follows:

“HP was the victim of an extensive conspiracy carried out by Mr. Hussain and other  
former Autonomy executives, including former CEO Mike Lynch and former VP of  
finance Steve Chamberlain, both of who have been indicted since Mr. Hussain’s  
conviction. Together they defrauded and deceived HP into believing that Autonomy was  
exponentially more valuable and more profitable than it actually was resulting in HP  
paying \$11 billion for the company.

.....

We concluded that Autonomy was actually worth billions of dollars less than what Mr.  
Hussain and the other Autonomy executives had falsely represented to HP. The billions  
of dollars that Mr. Hussain fraudulently induced HP to pay are not merely theoretical  
dollars paid out by some faceless corporation. It’s real money in every respect and it  
deprived the company of the ability to pursue other opportunities to enhance its business

1 through other types of acquisitions and enhance its business through investments and  
2 research and development or the hiring of additional employees that would have pushed  
forward that next innovation, that next business opportunity.

3 But while the quantifiable financial harm that Mr. Hussain caused through his fraud is  
4 significant, it pales in comparison to the deep, unquantifiable damages that his crimes  
5 have cost us. In fact, it's impossible for me standing here today to explain the full extent  
of those harms, but I do want to take a few moments to share a few reflections to give  
you a sense of that.

6 . . . .

7 [T]he amount of time, resources, and energy that the company devoted to the Autonomy  
8 investigation and all the aftermath, it is staggering and it is all a result of the damage  
inflicted by Mr. Hussain and Dr. Lynch.

9 As an executive officer and the most senior member of HP's Legal Department, I know  
10 firsthand how extremely frustrating and time-consuming and how distracting all of this  
11 work was again as a result of Mr. Hussain's fraud. The Executive Team and the Board of  
12 Directors spent countless hours on this matter managing the investigation, responding to  
13 requests from customers, shareholders, employees, partners. Everyone wanted to know  
14 what had happened, why it had happened, and what impact it was going to have on the  
15 company going forward. We spent significant amount of time responding to requests  
from multiple jurisdictions and multiyear investigations into Mr. Hussain and his co-  
conspirators' fraud. We've reviewed and produced millions of documents in response to  
hundreds of legal requests from various regulators and law enforcement authorities in the  
U.S. and overseas; and we've spent a considerable amount of time, money, and other  
resources defending multiple shareholder lawsuits, class actions and derivative actions,  
some of which have been here before Your Honor.

16 Mr. Hussain's fraud also deprived us of untold opportunities. The vast resources that we  
17 expended in not only overpaying but in dealing with Mr. Hussain's fraud, including the  
18 management and executive bandwidth that could have been spent on HP's core  
19 businesses and technologies further strengthening customer relationships and pursuing  
20 other strategic objectives, is untold. They robbed HP of those opportunities, and we will  
21 never know the full extent of that loss. I understand the Defense counsel has argued that  
22 even if HP had known of the fraud, it would have moved forward with the acquisition  
anyway. That's simply not true. HP would never have purchased Autonomy if we knew  
about the fraud and we knew about the misdeeds of Mr. Hussain and Dr. Lynch and the  
other co-conspirators. As we said from the very beginning, we have fully relied on  
Autonomy's assurances that its representation and audited financial reports were accurate  
and reliable, so much so that we were surprised when Autonomy's business performance  
began to fail after the acquisition.

23 . . . .

24 So I say the notion that HP or any publicly traded company would approve an acquisition  
25 knowing that the target's financial documents were false and fraudulent is simply  
26 ludicrous. I know our officers would never have recommended such an acquisition. Our  
27 board would never have approved it. We would never have done business with a  
company that cooked its books knowing the damage it can cause and the damage it has  
caused us over these many years.

28 As I said, Mr. Hussain's fraud has inflicted immeasurable harm to us, to our reputation,  
and to our brand. Founded almost 80 years ago, HP is an iconic institution in Silicon  
Valley and we spent decades earning the trust of our employees and our customers and

1 our investors. Unfortunately, the Autonomy incident is one of the greatest blemishes on  
2 that legacy.

3 The aftermath of the acquisition and the disclosure of the fraud, public reaction to HP's  
4 write-down of Autonomy was swift and harsh. In fact, to protect himself, Mr. Hussain's  
5 co-conspirator, Dr. Lynch, began a smear campaign against us in an effort to undermine  
6 the truth of what it was we had said, the truth that ultimately was found here in this court.

7 The Autonomy fraud has cast a long shadow on our company and has only been  
8 diminished by the passage of time, the sustained and tireless efforts of our tremendous  
9 employees, the executive team, and the Board of Directors, and by results in this  
10 courtroom that bring justice."

11 118. The District Court was asked by the Government (and the victim, HP) to enter an order of  
12 restitution (i.e., compensation), in addition to the \$4 million fine and the \$6.1 million forfeiture order  
13 made against Hussain. The District Court declined to do so. However, the District Court was at pains to  
14 stress that this was *not* because the Court considered that no loss or harm had been sustained by HP, but  
15 rather due to the difficulties in precisely quantifying that loss: "I want to, however, give a caveat; that  
16 because I am unable or unwilling to set restitution does not mean and cannot be interpreted to mean  
17 there was no loss in the case. There was an enormous loss in the case but because I can't quantify it to  
18 the certainty that I think either mathematics or logic or fairness requires, I choose not to enter an order of  
19 restitution." See Transcript of Proceedings, *United States v. Hussain*, No. CR 16-462 (N.D. Cal. May  
20 14, 2019), ECF No. 562 at 6.

21 119. On appeal, in affirming Hussain's convictions and sentence, the Court of Appeals  
22 emphasized that "Hussain defrauded a domestic victim" – i.e., HP in the United States. 972 F.3d 1138,  
23 2020 WL 5035816, at \*4 n.2 (9th Cir. Aug. 26, 2020). The Court of Appeals also stated that Mr.  
24 Hussain's conduct was sufficiently domestic because the use of wires to defraud HP was a core  
25 component of his fraud. *Id.*

26 120. I note that at paragraph 84 of Kelwin Nicholls' witness statement, it is suggested that,  
27 since HP used a Dutch Bidco to affect the acquisition of Autonomy (see above para 107), then "[a]ny  
28 financial harm suffered by HP would have been felt outside the US". This contention is misconceived.  
As explained above, HP Vision was an indirect, wholly owned subsidiary of HP. As the witness  
statement of Stephen Ogden shows, the acquisition was funded by HP, and the financial harm suffered  
as a consequence of the fraud perpetrated in connection with that acquisition was felt by HP. The

1 precise way in which the deal was structured, and in particular the use of a Bidco in another jurisdiction  
2 (which is not uncommon), makes no difference to the reality of the situation, namely that HP, a US  
3 company, was the principal victim of the fraud and directly suffered the financial and other  
4 consequences of it.

5 121. The harm that resulted from the Autonomy acquisition also fell on HP's shareholders at  
6 the time of the acquisition. Based on information provided to me by the United States Securities and  
7 Exchange Commission, at July 31, 2011 (about 19 days before the Autonomy acquisition was  
8 announced), 79.41% of HP shareholders were based in the United States. Only approximately 4.145%  
9 of HP shares were owned in the United Kingdom. Accordingly, the losses that impacted HP were felt  
10 directly by HP shareholders, the vast majority of whom were in the United States.

11 122. In addition, those that purchased HP shares on or after August 18, 2011, pursuant to and  
12 following HP's announcement of its intended acquisition of Autonomy, were victims of the fraud here.  
13 For example, in the Hussain trial, the Government called two individuals, who reside in the United  
14 States, who testified that they bought HP shares relying on HP's August 18, 2011 press release's specific  
15 false and misleading information about Autonomy. One of the investors, an HP employee, lost  
16 approximately \$13,289.69. Likewise, an analyst testified that he recommended HP securities based  
17 partly on the false and misleading press release and on misinformation about Autonomy. On top of this,  
18 *any* HP investor who bought shares of HP on or after August 18, 2011, and held their shares through the  
19 announcement of the writedown, realized losses. Collectively, these are the additional losers to whom  
20 Count 16 is aimed.

21 **(ii) Intended loss**

22 123. In addition to the loss and harm *actually* caused to HP and its shareholders, the  
23 extradition offenses also entailed *intended* loss or harm to other US entities, namely other US  
24 technology companies who were approached before or alongside HP as potential buyers of Autonomy.  
25 During the period October 2010 to August 2011, Dr. Lynch and others sought out and met with multiple  
26 potential buyers in the United States, as set out in further detail above. Further, even if the artificial  
27 defense argument about HP Vision had merit (which it does not), until the incorporation of HP Vision  
28 on or about August 15, 2011, Dr. Lynch could have intended loss *only* on HP. Finally, because the vast

1 majority of HP shareholders were in the United States, Dr. Lynch also intended losses with respect to  
2 those subsequently investing in HP in the United States (i.e., Dr. Lynch knew that those purchasing HP  
3 shares on news of the Autonomy acquisition, i.e. those referred to in Count 16, were likely to be based  
4 in the United States).

5 **(iii) Loss and harm felt in the United Kingdom**

6 124. I note that at paragraph 81 of Mr. Nicholls' statement it is contended "it should be  
7 apparent to the Government that any effects of the conduct relating to Counts 1 – 16 were felt in the UK  
8 and not the US." The Government strongly disputes this. Of course, because Autonomy was traded on  
9 the London Stock Exchange, the market in the United Kingdom, in an abstract sense, was deceived and  
10 distorted and its reputation damaged by its facilitation of Dr. Lynch's fraudulent conduct. Likewise, the  
11 fact that the accountancy standards that were applied to Autonomy's financial statements were UK  
12 standards will no doubt have some abstract damaging reputational consequences for the UK (although it  
13 bears emphasis that during the scheme to defraud Dr. Lynch and Mr. Hussain boasted that their financial  
14 statements also complied with US standards, which was important to further their image as a growing  
15 software company). But ultimately, because the fraud was not uncovered until after HP acquired  
16 Autonomy, the abstract deception of the UK market is dwarfed by the financial loss that HP actually  
17 suffered through the acquisition. HP, a US company with predominantly US shareholders, was the one  
18 holding the financial bag at the time the fraud was discovered.

19 125. Finally, I note that Mr. Nicholls references Autonomy's auditors in the United Kingdom,  
20 Deloitte LLP. While Autonomy's auditors were based in the United Kingdom, several facts are  
21 noteworthy. First, Deloitte engaged its United States affiliate to perform some of the audit work in the  
22 United States, and Deloitte's engagement partner, Nigel Mercer, traveled to the United States in January  
23 2011 as part of the 2010 audit to review Autonomy's United States operations. Second, as alleged in the  
24 Superseding Indictment, on or about February 22, 2011, Dr. Lynch's co-conspirator, Mr. Hussain, while  
25 in the United States, directed an Autonomy officer to sign on Mr. Hussain's behalf, a management  
26 representation letter to Deloitte. Deloitte would not render a clean audit opinion without such a letter.  
27 As proved at the *Hussain* trial, the management representation letter falsely stated, among other things,  
28 that there were no side letters excluded from Autonomy's signed sales contracts. Third, a Deloitte

1 partner and a former Deloitte manager testified in the United States in the *Hussain* trial to the effect that  
2 relevant matters were concealed from and/or misrepresented to them in the course of Deloitte’s audits.  
3 Fourth, Deloitte has recently been fined £15 million by the UK’s Financial Reporting Council  
4 disciplinary tribunal for “serious and serial failures” in its auditing of Autonomy<sup>1</sup>. Finally, Deloitte and  
5 certain of its partners entered into an agreement to cooperate with my Office and appear in person at any  
6 trial or other proceeding in the United States as requested by the Office and testify truthfully and  
7 completely.

8 ***“The Interests of Any Victims of the Extradition Offences”***

9 126. For all of the reasons set out above, the “victims” of the criminal conduct alleged in the  
10 Superseding Indictment are HP and its shareholders. Their interests are best served by this matter being  
11 brought to trial in the criminal jurisdiction in which they are located, the United States, and as quickly as  
12 possible. For reasons discussed below, I also believe that certain witnesses may be unavailable in a UK  
13 prosecution which could, if extradition were not to be ordered, potentially frustrate the interests of the  
14 victims altogether.

15 ***“Whether Evidence Necessary to Prove the Offences Is or Could Be Made Available in the United  
16 Kingdom”***

17 127. Much of the evidence that will be put forward at the criminal trial of Dr. Lynch is located  
18 in the United States. Most significantly, the substantial majority of the witnesses are in the United  
19 States. The Government called 37 witnesses in the *Hussain* trial. Twenty-five of those witnesses reside  
20 outside of the United Kingdom. Based on experience gained from the *Hussain* trial, the Government  
21 reasonably anticipates that many United States witnesses, particularly those not affiliated with HP, may  
22 be unwilling to voluntarily appear in court at all. The United States courts possess ample powers of  
23 subpoena to compel United States-based witnesses to appear and testify to facts to which they have  
24 knowledge. To the best of my knowledge, the United Kingdom courts possess no similar powers to  
25 compel *United States witnesses* to attend a court in the United Kingdom.  
26

27 <sup>1</sup> See <https://www.fnlonon.com/articles/deloitte-hit-with-record-15m-fine-for-serious-failures-in-autonomy-audits-20200917> & [https://www.frc.org.uk/news/september-2020-\(1\)/sanctions-against-deloitte-and-two-audit-partners](https://www.frc.org.uk/news/september-2020-(1)/sanctions-against-deloitte-and-two-audit-partners).

1           128. Relatedly, the prosecution against Dr. Lynch will include testimony from cooperating  
2 witnesses, each of whom already is or will at the time of trial be located in the United States. These are  
3 witnesses who can give first hand evidence of inter alia dishonesty on the part of Dr. Lynch and his  
4 conspirators. As noted above, for example, Mr. Egan, Autonomy’s Head of Sales in the United States,  
5 has entered into a deferred-prosecution agreement with my Office, and will testify at the trial against Dr.  
6 Lynch. Another witness, Antonia Anderson, a former Deloitte manager and Autonomy employee,  
7 entered into an agreement to cooperate with my Office whereby she agreed to “testify completely and  
8 truthfully before any grand jury and at any hearing or trial at which she is requested to testify by this  
9 Office.” Deloitte and certain of its partners entered into an agreement to cooperate with my Office and  
10 appear in person at any trial or other proceeding in the United States as requested by the Office and  
11 testify truthfully and completely. As also stated above, the agreements that Mr. Egan and other  
12 witnesses have entered into with the United States Attorney’s Office require their cooperation with the  
13 United States Attorney’s Office and the Federal Bureau of Investigation. Mr. Egan would not be  
14 compellable by, for example, the Serious Fraud Office (“SFO”). The agreement with Mr. Egan does not  
15 expressly provide for Mr. Egan to testify in foreign proceedings outside the United States, nor when the  
16 parties entered into the agreement did the Government anticipate it would require Mr. Egan to appear in  
17 a criminal trial in a foreign country. In my experience, I am not aware of situations where the  
18 Government has required a defendant, as part of his cooperation agreement such as this, to provide  
19 foreign evidence in a tribunal that does not apply the same rules on, for example, privilege and self-  
20 incrimination.

21           129. In addition, at the *Hussain* trial, two other witnesses, including Joel Scott, Autonomy’s  
22 general counsel in the United States, invoked their right against self-incrimination and required court-  
23 ordered immunity before testifying. The Government anticipates those witnesses will be likewise  
24 unwilling to testify in the United Kingdom without such court-ordered immunity. It is anticipated that  
25 Mr. Scott would testify about Dr. Lynch’s influence in the firing of Brent Hogenson, the whistleblower,  
26 which is one of the overt acts alleged in the conspiracy and a fact of weight in the United States  
27 prosecution. The second witness, Alan Rizek, directly implicated Mr. Hussain, one of Dr. Lynch’s  
28 conspirators in Autonomy’s falsification of revenue. To the best of my knowledge, the United Kingdom

1 courts possess no powers to confer immunity from suit *in the United States* to such witnesses based on  
2 admissions they might make against interest.

3 130. Finally, the Government notes that Mr. Hogenson, who was not called in the *Hussain*  
4 trial, may be a witness in the *Lynch* trial. Mr. Hogenson resides in Panama. Because he is a United  
5 States citizen, the Government can compel his attendance at trial in the United States. The Government  
6 is unaware of similar compulsory process in the United Kingdom.

7 ***“Any Delay that Might Result from Proceeding in One Jurisdiction Rather Than Another”***

8 131. After HP announced its \$8.8 billion impairment charge in November 2012, the SFO  
9 commenced an investigation.

10 132. On or about January 19, 2015, the SFO announced it had ceded that investigation to the  
11 United States. More than five years have passed since the SFO’s closure. In that time, the United  
12 States’ investigation has proceeded forward and has been significant in terms of both its breadth and the  
13 resources which have been afforded to it. It has led, as detailed above, to charges against Mr. Hussain in  
14 November 2016, against Mr. Egan in November 2017, and against Dr. Lynch and Mr. Chamberlain in  
15 November 2018, superseded in March 2019. The United States has proceeded to trial in respect of Mr.  
16 Hussain. It is ready to proceed in respect of Dr. Lynch and Mr. Chamberlain.

17 133. Proceeding against Dr. Lynch in the United Kingdom now, instead of the United States,  
18 would cause an enormous and avoidable delay, in case where the events date back to at least 2009.  
19 There would be significant practical hurdles in transferring five years’ worth of evidence accumulated in  
20 the United States since 2013 to the United Kingdom, and some of those hurdles, including compelling  
21 certain witnesses to testify, may be impossible to overcome. In addition, there would have to be an  
22 indeterminate delay to allow for prosecutors in a new jurisdiction to master the large universe of facts  
23 gathered in connection with the United States investigation. The volume of discovery in the United  
24 States case is very large and would take another prosecuting jurisdiction a long time to master.  
25 Transferring the jurisdiction in which the investigation and prosecution of Dr. Lynch occurs would  
26 severely undermine the efficiency of the proceedings against him, and would weaken the case against  
27 him in light of the fact that evidence has been gathered in a way that was deliberately geared toward a  
28 United States-based prosecution.





1 desire to try Dr. Lynch and Mr. Chamberlain together and has continued (adjourned) his proceedings  
2 with an eye to that happening.

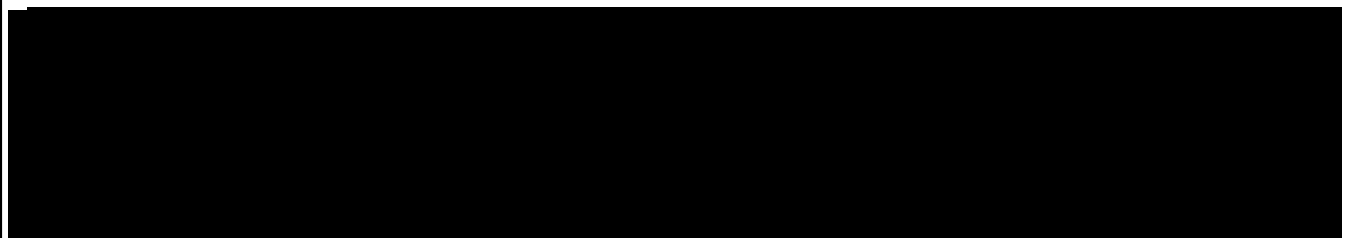
3 137. Trying Dr. Lynch in the United Kingdom, but Mr. Chamberlain in the United States,  
4 heightens the risk of inconsistent outcomes. In addition, Dr. Lynch is alleged to have conspired to cover  
5 up, conceal, influence witnesses, and obstruct investigations of the scheme to defraud and, in furtherance  
6 of the conspiracy, purchased shares of an ICP London Limited (“Invoke”) affiliate from Mr. Hussain. It  
7 would be anomalous, to say the least, for Dr. Lynch’s paid subordinates to stand trial in the United  
8 States but Dr. Lynch himself to evade the jurisdiction. Indeed, my understanding is that SFO believes it  
9 lacks authority to prosecute Dr. Lynch for conspiring to obstruct official proceedings in the United  
10 States.

11 138. Regarding witnesses, it will cause witnesses – many of whom have testified or been  
12 interviewed on numerous occasions – to testify in different forums and incur considerable additional  
13 expense and inconvenience. In the Hussain trial, 25 of the 37 witnesses resided outside of the United  
14 Kingdom. In the United Kingdom civil proceeding, 13 of the 24 non-expert witnesses called by the HP  
15 claimants resided in the United States.

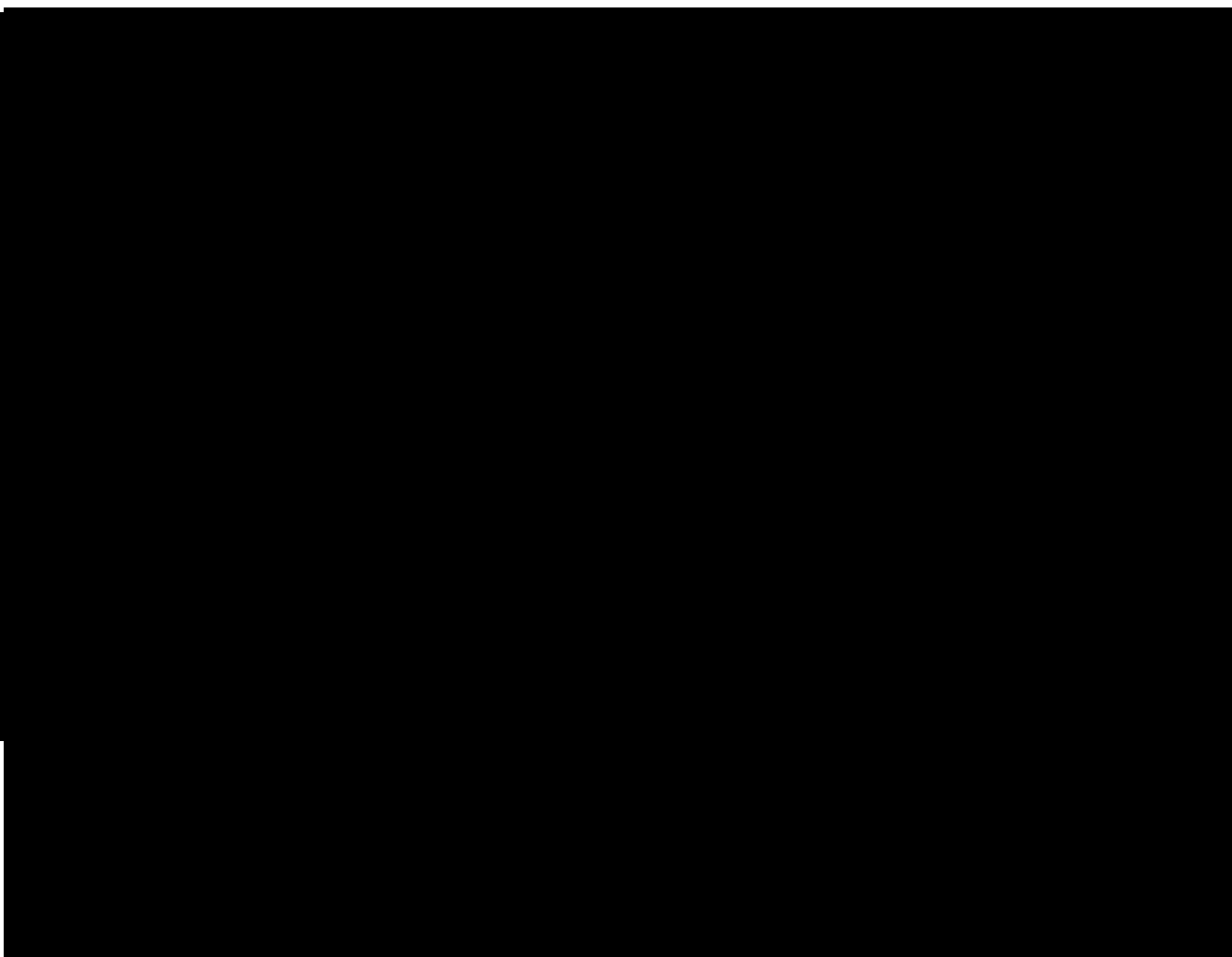
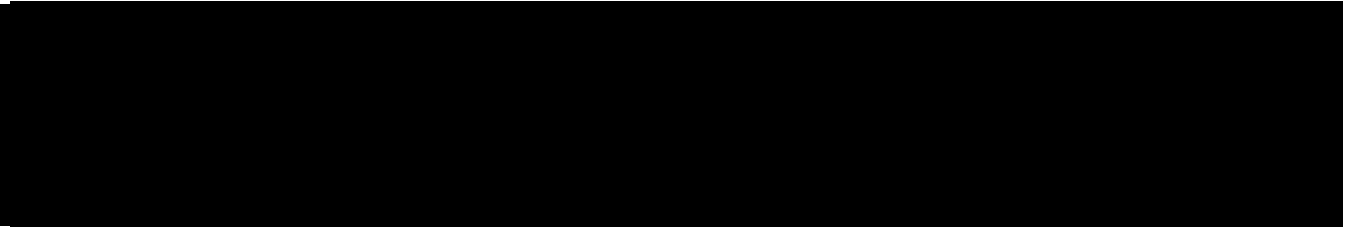
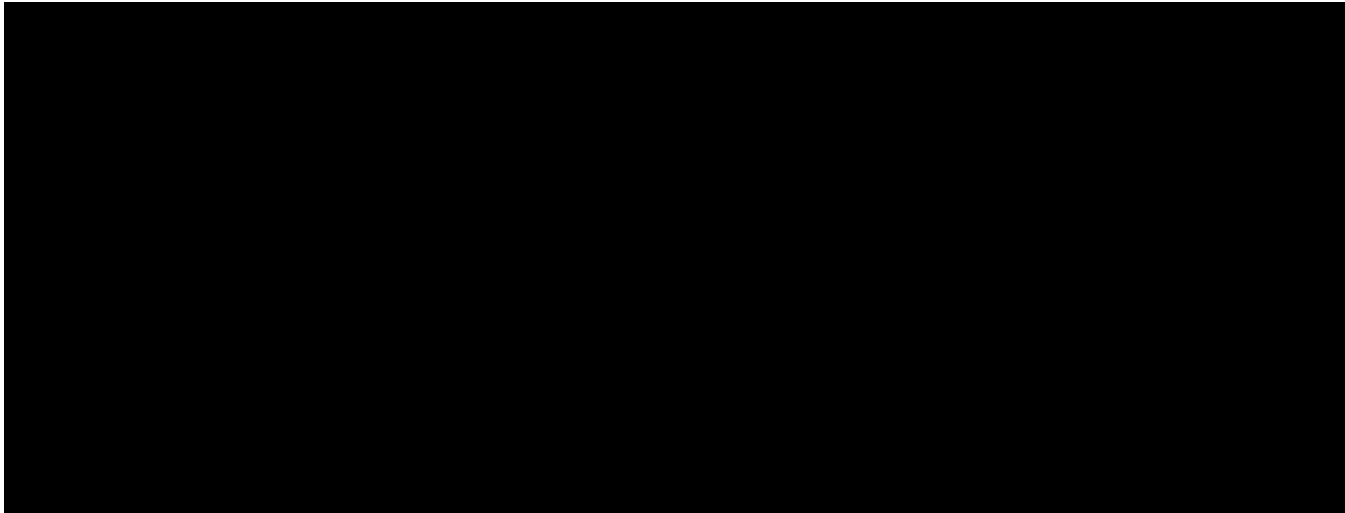
16 *Lynch’s Connections with the United States*

17 139. Whilst he no doubt has strong connections to the United Kingdom, Dr. Lynch has also  
18 had substantial connections to the United States. During the period 2009 to 2011, Dr. Lynch was  
19 married to a United States citizen. His wife, Angela Bacares, renounced her United States citizenship  
20 only during the government’s investigation. At the time of the events the subject of this prosecution, the  
21 *Financial Times* reports Dr. Lynch retained a home in San Francisco. During the fraud scheme, Dr.  
22 Lynch travelled to the United States no fewer than eight times and spent no fewer than 129 days in the  
23 United States. He spent the better part of March and April each year in the United States.

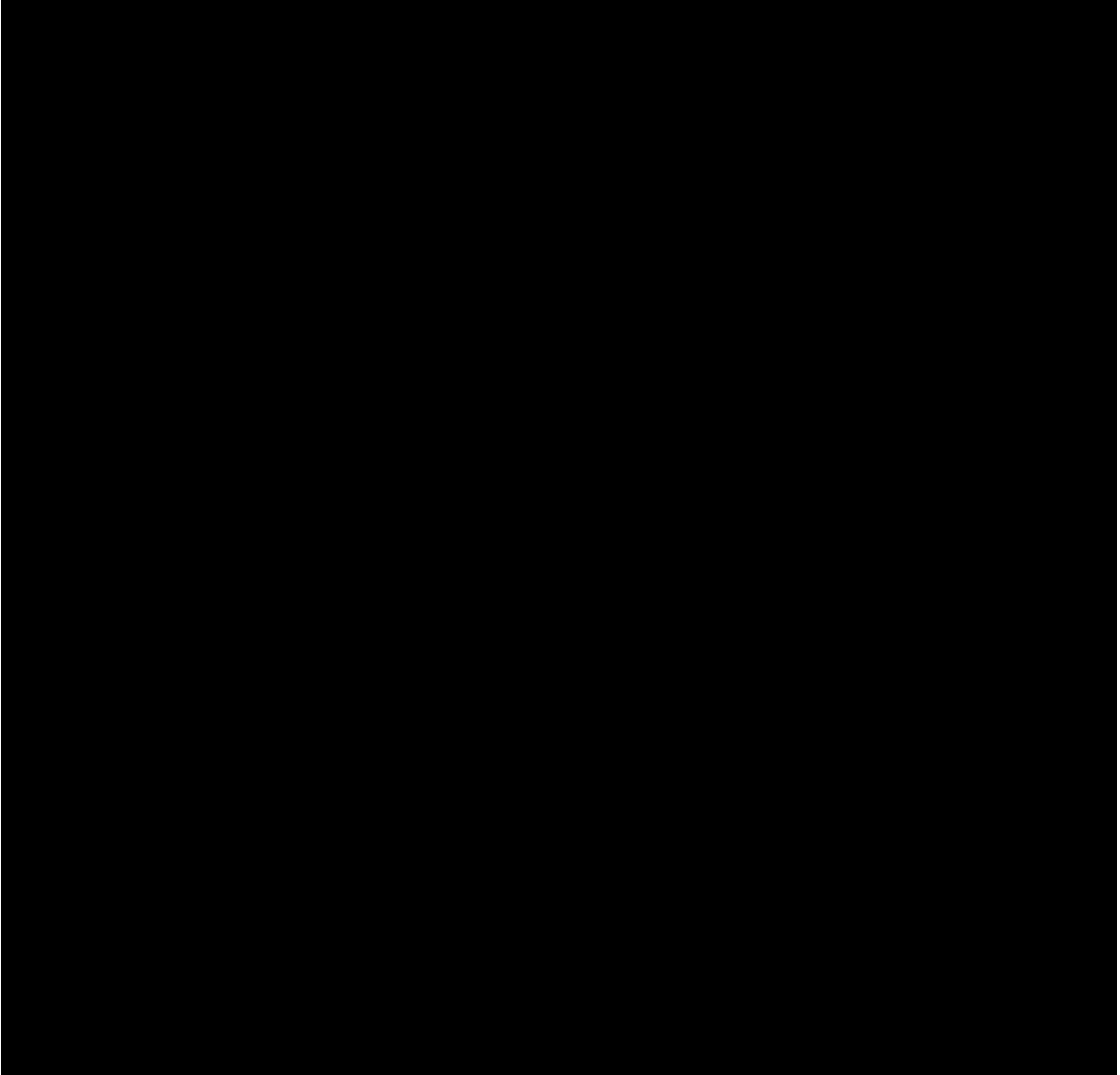
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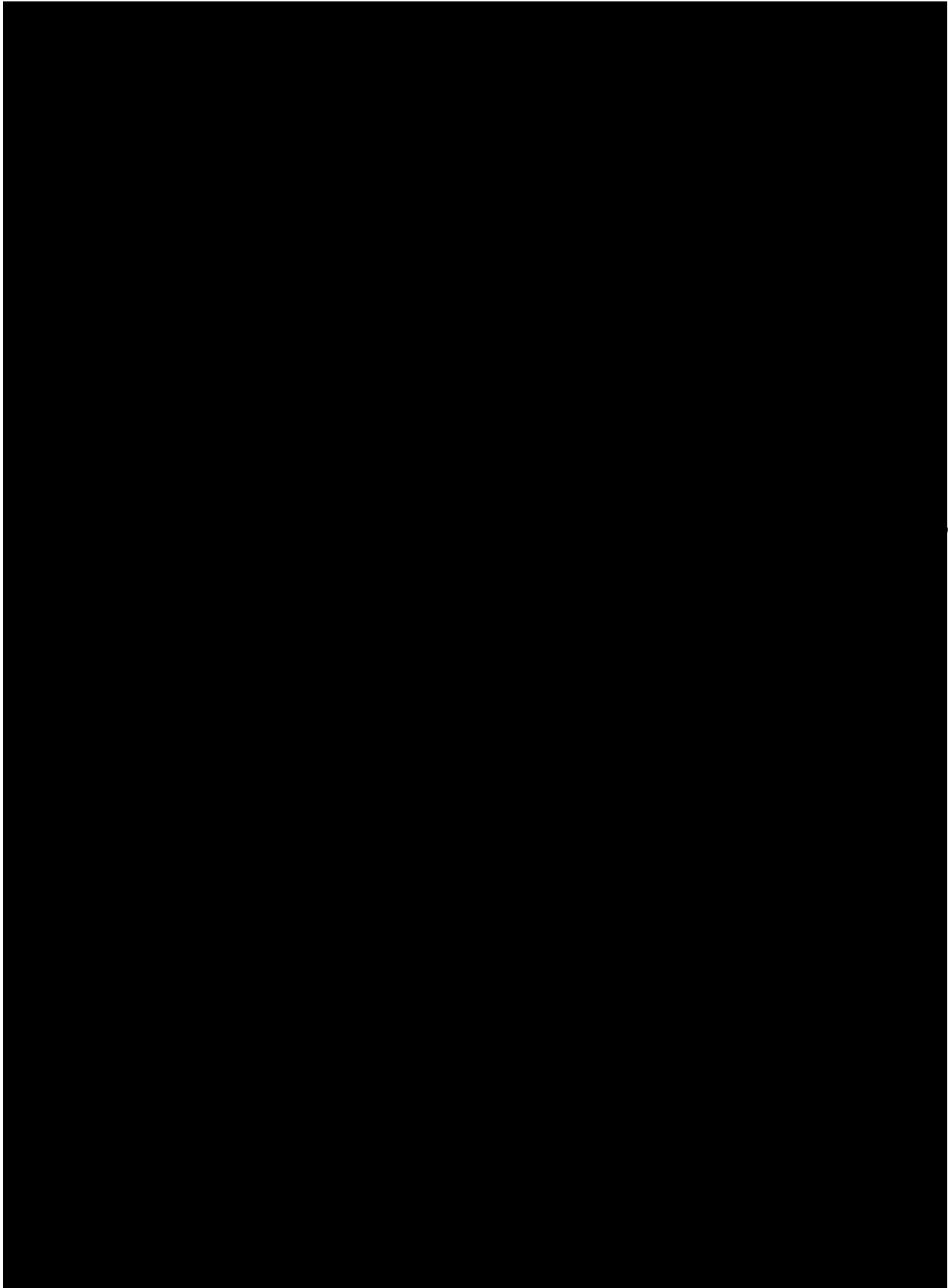
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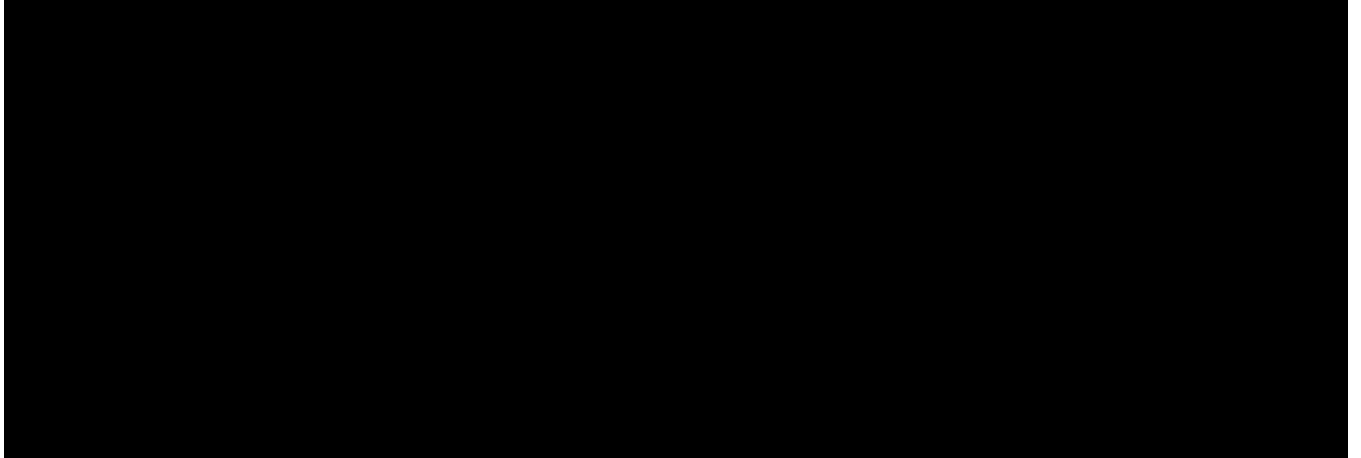
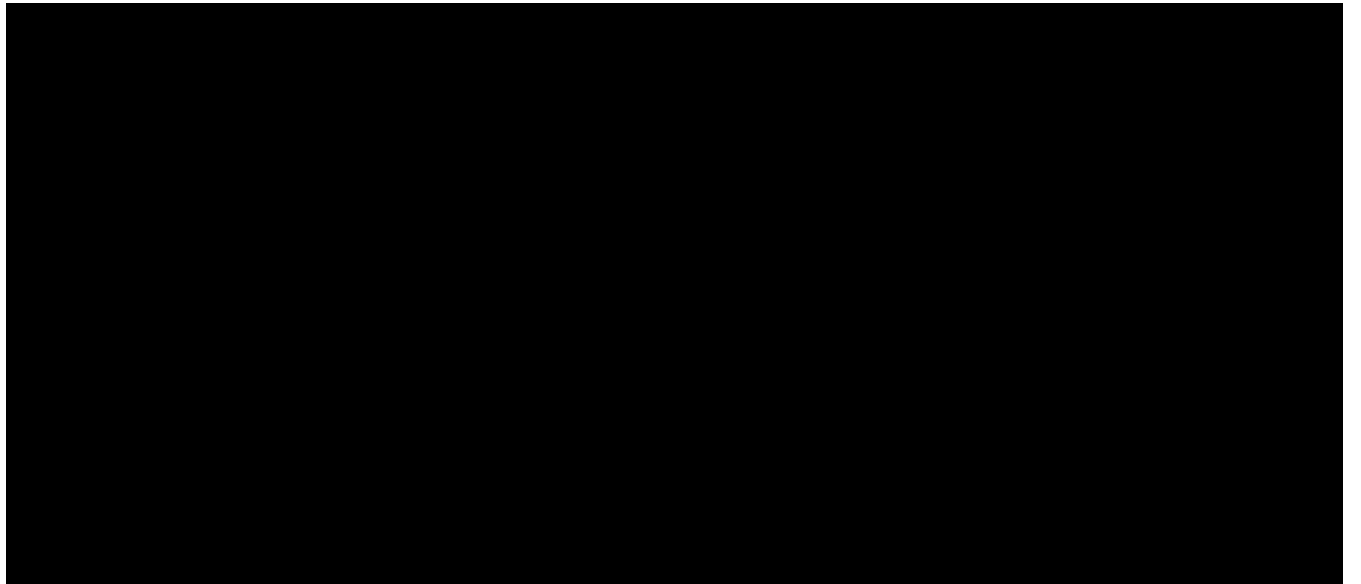
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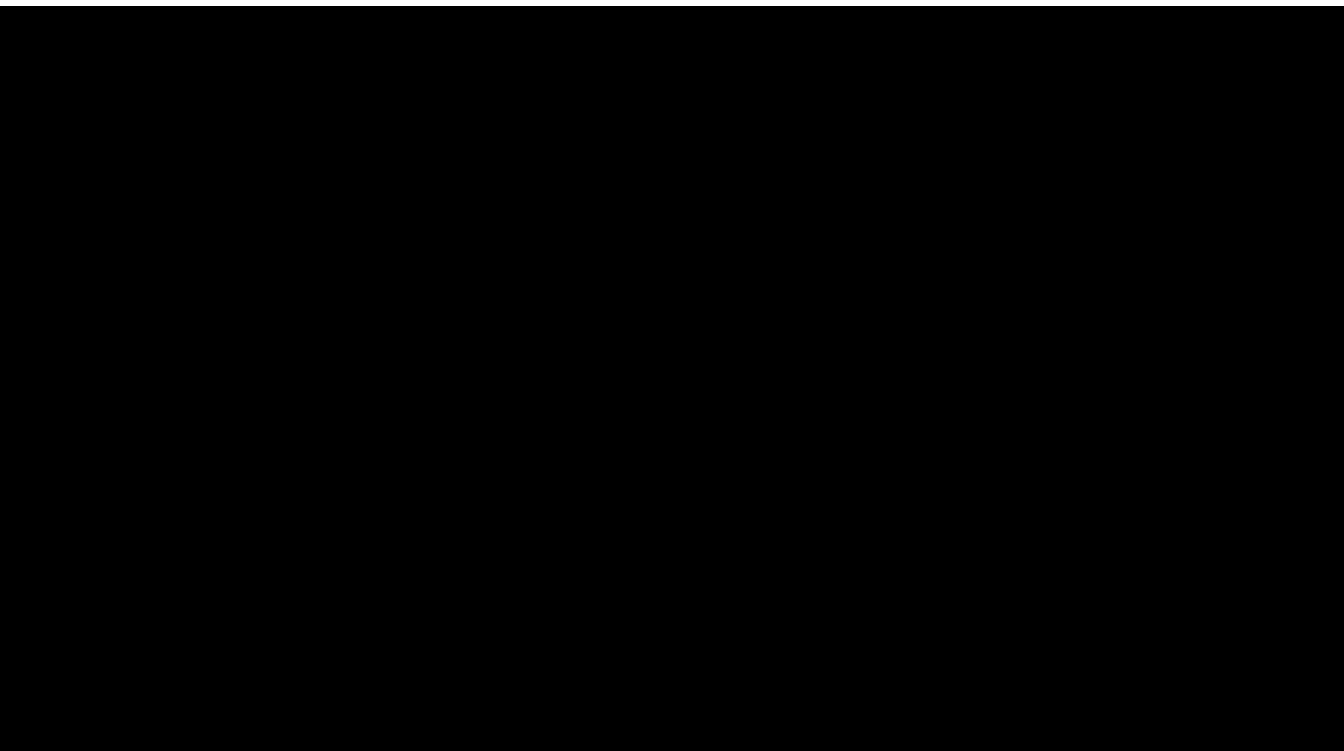
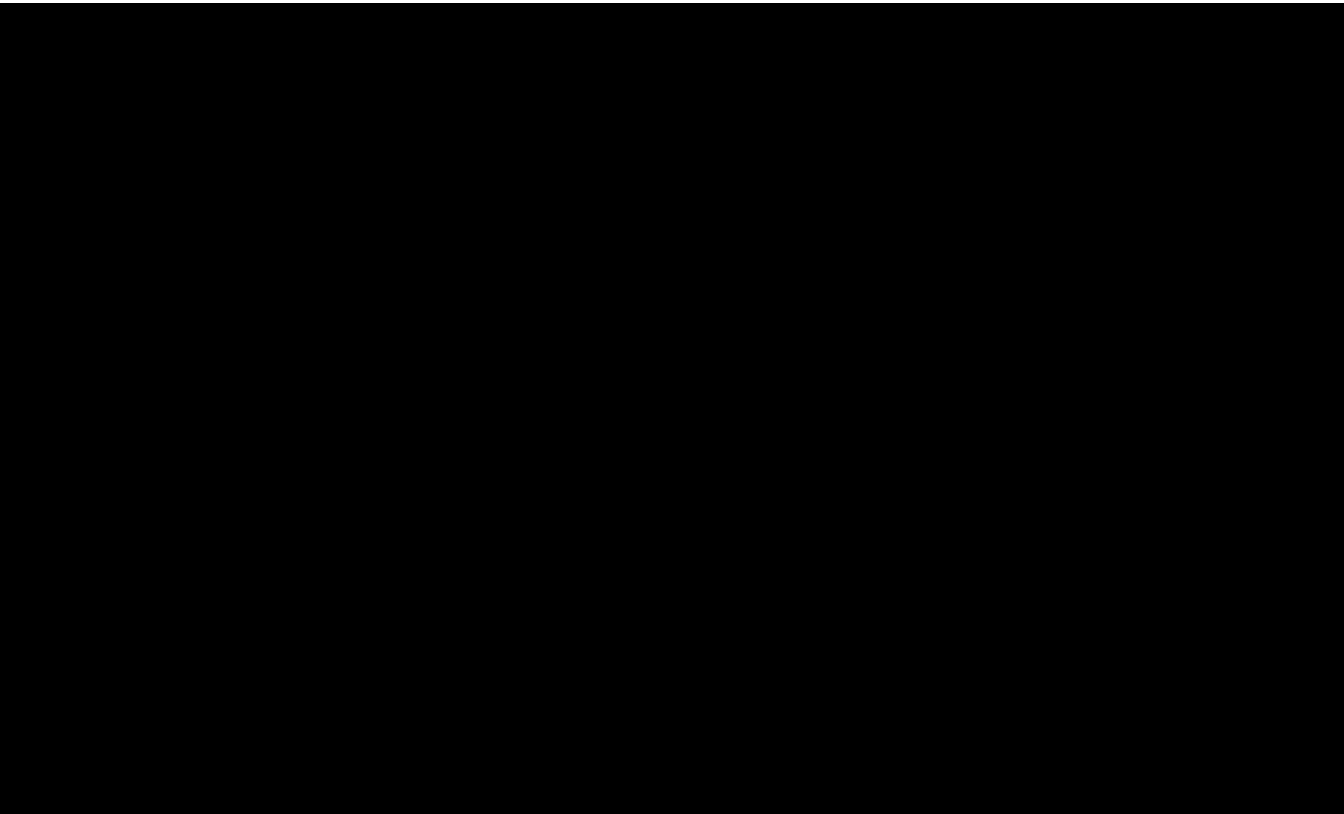
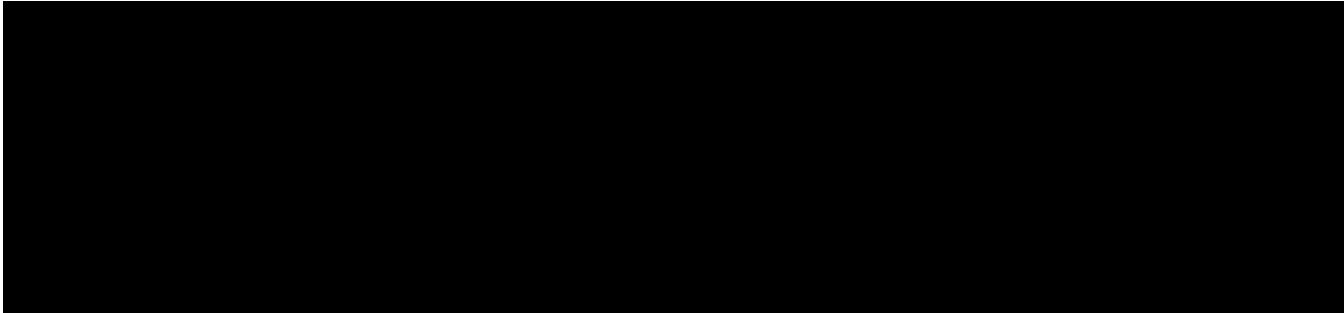
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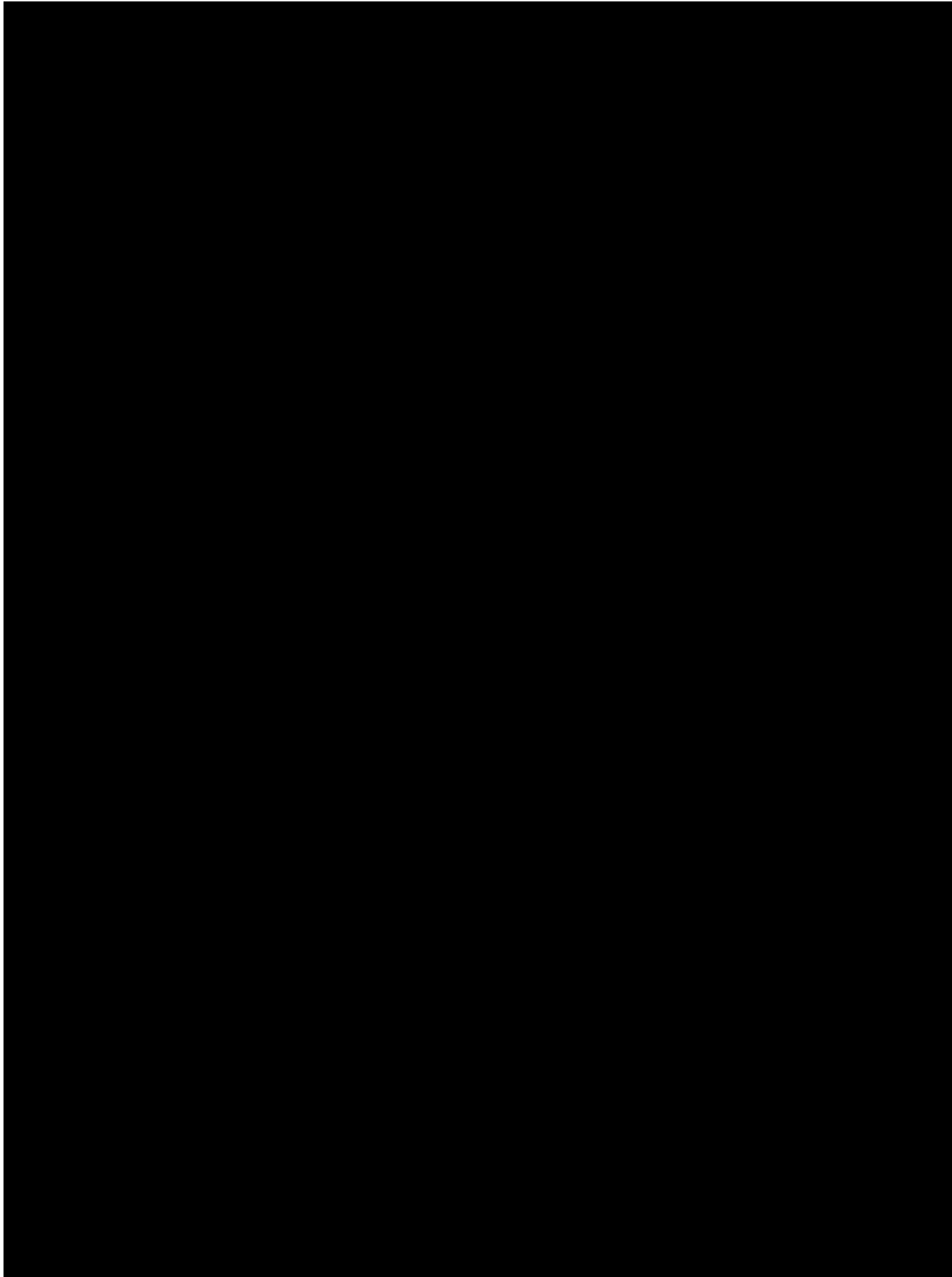
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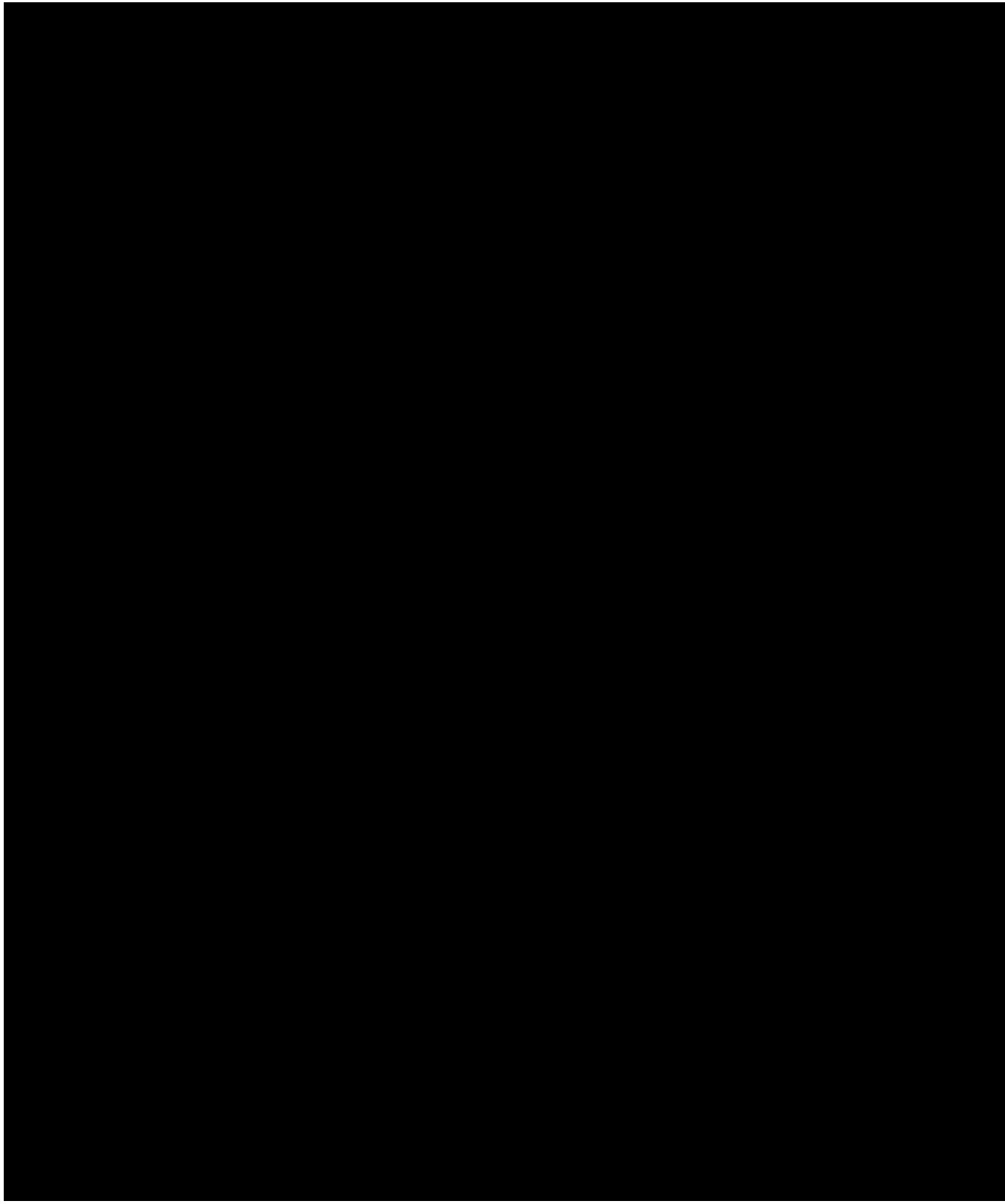


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**Matters Relating to Detention Pre-Trial or During Trial**

27           171. I also understand that Dr. Lynch argues extradition should be denied because of the  
28 conditions he may face in custody while awaiting and during trial. For the reasons that follow, there is  
DECLARATION OF ROBERT S. LEACH FOR EXTRADITION REQUEST SUBMITTED TO THE UNITED KINGDOM

1 no appreciable risk of Dr. Lynch being detained prior to or during his trial in this matter.

2 172. In the United States, release or detention of a defendant pending and during trial is  
3 governed by Title 18, United States Code, Section 3142. Generally, a court must order the pretrial  
4 release of the defendant subject to the least restrictive condition, or combination of conditions, that will  
5 reasonably assure the appearance of the defendant as required and the safety of any other person and the  
6 community. Such conditions may include monetary bail, agreements to forfeit property upon failing to  
7 appear, and travel restrictions.

8 173. As describe above, both Mr. Hussain and Mr. Chamberlain were granted bail by Judge  
9 Breyer in advance of trial, and Mr. Hussain’s bail was further maintained by the court both during trial  
10 and even post-conviction while he pursued his appeal.

11 174. With respect to Dr. Lynch, on October 7, 2020, the Government advised Judge Breyer in  
12 writing that it “does not intend to move for detention despite [Dr.] Lynch fighting extradition and  
13 believes this Court can craft conditions of release that will reasonably assure the appearance of the  
14 defendant and not endanger the safety of any other person or the community. *See* 18 U.S.C. § 3142(c).”  
15 Following a hearing on October 7, 2020, and at the Government’s request, Judge Breyer issued an order  
16 stating: “Good cause appearing therefore, the Court hereby finds that, based on the information currently  
17 available to the Court and the government, in the event of defendant’s extradition to the United States,  
18 there are conditions of release that can be imposed pursuant to 18 U.S.C. § 3142(c) which will  
19 reasonably assure the appearance of defendant and the safety of any other person and the community,  
20 such that pretrial detention shall not be required.” Judge Breyer has overseen all of the bail proceedings  
21 in the *Hussain*, *Chamberlain*, and *Lynch* matters to date; the Government has every expectation he will  
22 continue to do so; and as the District Judge overseeing the case all bail decisions by whomever made are  
23 in any event ultimately appealable to him. Accordingly, absent the emergence of some significant and  
24 dramatic hitherto unknown fact about Dr. Lynch (such as a concealed foreign criminal conviction),  
25 which I have no reason to suspect will occur given my long involvement in this lengthy and extensive  
26 investigation, or some breach by him of any release conditions that will be imposed by the District  
27 Court, Dr. Lynch will not be detained through the trial.



1 The statute provides that the judicial officer shall order a person who has been found guilty detained  
2 unless the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial  
3 will be granted and finds by clear and convincing evidence that the person is not likely to flee or pose a  
4 danger. Mr. Hussain was granted bail while he pursued his appeal. In part because I do not know the  
5 issues Dr. Lynch may raise following a trial, I am not able to take a position on bail following a guilty  
6 verdict. I note, however, the Federal Rules of Criminal Procedure provide that the “court must impose  
7 sentence without necessary delay.” Under the District Court’s rules, sentencing may occur as early as  
8 75 days from the verdict, and defendants may seek immediate or expedited sentencing.

9 178. Defendants convicted after trial in federal court sentenced to a term of imprisonment  
10 generally are committed to the custody of the United States Bureau of Prisons (“BOP”). It is not known  
11 or knowable what facility Dr. Lynch would be assigned to. The Government is submitting a separate  
12 declaration from Dr. James Pelton regarding BOP’s ability to provide appropriate medical care to Dr.  
13 Lynch should he be placed in BOP custody.

14 179. I have reviewed the witness statement of Joel Sickler. I note that Mr. Sickler was also  
15 retained by Mr. Hussain to provide evidence relating to Mr. Hussain’s sentence. As he does in these  
16 extradition proceedings, Mr. Sickler there made allegations about the conditions of confinement and  
17 exposure to the potential of violence in BOP facilities, which the Government strongly disputes. In the  
18 *Hussain* proceeding, the Government presented evidence from a BOP employee, Chris Liwag, whose  
19 declaration I attach and request be considered. BOP strictly complies with carefully crafted policies to  
20 ensure federal offenders serve their sentence in facilities that are safe, humane, cost-efficient, and  
21 appropriately secure, and provide reentry programming to ensure their successful return to the  
22 community. See <https://www.bop.gov/about/agency/> & [https://www.bop.gov/resources/  
23 policy\\_and\\_forms.jsp](https://www.bop.gov/resources/policy_and_forms.jsp). BOP provides “progressive and humane treatment and services to federal  
24 inmates and implement programs that facilitate their successful reintegration into society.” See  
25 [https://www.bop.gov/inmates/custody\\_and\\_care/](https://www.bop.gov/inmates/custody_and_care/). In addition, there are regulatory, statutory, and  
26 constitutional remedies for inmates seeking to challenge their conditions of confinement. For these  
27 reasons, and based on my experience as a prosecutor, I do believe BOP is fully capable of providing safe  
28 and humane custody to Dr. Lynch as well as other defendants.

1           180. At Mr. Hussain’s sentencing, Judge Breyer considered Mr. Sickler’s evidence and  
2 sentenced Mr. Hussain to 60 months’ imprisonment. The 60-month sentence was below the  
3 recommendation of the advisory Guidelines as determined by the District Court (87 to 108 months).  
4 The District Court varied downward because of a concern that Mr. Hussain would serve his sentence at a  
5 low-security facility rather than a minimum-security camp, unlike similarly situated offenders.

6           Executed this 15th day of October 2020, in the Northern District of California, United States of  
7 America.

*/s Robert S. Leach*

8  
9           ROBERT S. LEACH  
10          Assistant United States Attorney  
11          Northern District of California  
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